Towards a Sustainable Land Administration and Management System in Myanmar

Land Sector Needs Assessment; Thematic Policy Notes

September 2017

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Introduction

This policy note on Land Policy and Regulatory Framework in Myanmar is the first of five policy notes prepared under the Land Sector Needs Assessment technical assistance initiative between the World Bank and the Ministry of Agriculture, Livestock and Irrigation, the Ministry of Natural Resources and Environmental Conservation and the General Administration Department of the Ministry of Home Affairs, and the Yangon City Development Committee. It is intended to assess and inform the land related discourse in Myanmar on the status of governance and administration of land with strategic options and recommendations on the way forward. The policy notes aim to promote consensus over priorities under the following five key themes of the land sector: (i) Land Policy and Regulatory Framework; (ii) Forestland Administration and Management; (iii) Land Administration; (iv) Geospatial Infrastructure and Services; and (v) Property Valuation and Taxation.

Executive Summary

Key elements for effective policy and regulatory framework on land that should be developed are:

- Developing an effective land governance system should begin by using of the current legal framework to implement new land policies such as: (i) protections for customary users’ tenure rights; (ii) the promotion of diverse agricultural practices such as livestock breeding and aquaculture; (iii) directing land allocation policies to improve land access for marginal farmers and landless households; (iv) and establishing programs such as a model land office to guide the development of a national land administration system that covers all areas (rural, urban, forest) and all tenure types (individual, group, communal).

- The establishment of a union-level body or council to carry out the National Land Use Policy and allow land sector coordination between land related line ministries.

- The amendment of current land laws to expand the roles of farmers and community members in land use decision making.

- The promotion of the revised community forest instruction, which broadly reinterpreted the forest law to remove restrictions on shifting cultivation to protect customary land

NOTE: Stakeholder and governmental consultations/workshop will be held for reviewing the draft policy notes in September, 2017 in Yangon and in Nay Pyi Taw, and the policy notes will be finalized by the end of 2017.
rights and to protect in community decision making on land use, allocation and possible conversion to commercial use; including promotion of community forests and commercialization for inclusive economic growth at the grassroots level.

- The establishment of an open, multi-stakeholder process for making land governance decisions that includes civil society organizations, farmers’ unions and citizens, in addition to government officials and other stakeholders.
- Finally, the drafting of a new national land law that incorporates the findings from earlier land administration work.

**Introduction of Land Policy and Regulatory Framework**

This study considers existing land laws, land use rights, and policies that impact smallholder farming and agricultural development, and urban and forest land use.\(^1\) Its findings indicate the need for an overhaul of the legal framework that will better ensure land tenure security of all land users and promote Myanmar’s sustainable growth.

**Land Sector Institutional Structure**

Current land use laws in Myanmar restrict the use of land for certain purposes and in certain ways. These laws are implemented by a system of government bodies that are headed by the Ministry of Agriculture, Livestock, and Irrigation (MOALI) and its Department for Agricultural Land Management Statistics (DALMS). In addition, the General Administration Department of the Ministry of Home Affairs (MOHA) provides initial and updated to grant land leases (and other less common urban titles) to town and village lands, and it chairs a number of key land-related committees. The Survey Department of the Ministry of Natural Resources and Environmental Conservation (MONREC) produces topographic maps in a range of map scales and supports the first and second order geodetic network of the country. The Forestry Department of MONREC issues rights to forest land in the form of Community Forest Certificates (30 years) and Concessions. Finally, City Development Committees provide land services in Myanmar’s 3 main cities instead of GAD and DALMS.

**Policy and Legal Framework on Farmlands**

Several key laws and policies that affect agricultural land use are:

- **The Farmland Law of 2012**, which revived landholder rights to inherit and transfer the right of use and occupancy of land in one’s possession. The law stipulates the right to farm as well as the right to sell, mortgage, exchange, lease, or donate the land held under a Land Use Certificate that is issued by the local farmland management committee at the township level. While this law focuses on land tenure security, shortcomings to said security remain: for example, there is no representation of farmers in the farmland management bodies that implement this law, and both the law and its implementing regulations restrict the right to farm broadly, including the freedom of agricultural production on agricultural lands, crop choice freedom, and fallowing practices.

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\(^1\) Land Use Policy and Legal Framework in Myanmar, Companion Document by U San Thein
Broadly, the current legal framework restricts agricultural freedoms on matters such as livestock breeding including poultry and water fowl, aquaculture, and crop choice. These constraints, and the crop choice restriction in particular, are a vestige of rice-biased policies that were designed to ensure rice self-sufficiency across Myanmar, which is now no longer at risk. Today, the restriction and other constraining land use classifications deter smallholder agricultural productivity, as many farmers are unable to engage in aquaculture or grow a variety of crops that would best support their livelihoods. The current restrictions on crop choice, agricultural land use designation and fallowing practices should be reassessed, as they negatively impact land tenure security and stunt the use of alternative crops or integrated cropping approaches that could foster greater productivity.

- **The Vacant, Fallow, and Virgin Land (VFV) Law of 2012** legalized land concessions of “unused” land, which are often large grants given to investors or companies for commercial cultivation. The law also allows small-scale concessions to smallholder farmers, though these latter concessions are rare. Under this law, land designated as vacant, fallow or virgin by the government can be converted to agricultural use; if it is not converted within a certain timeframe or for the stated concession purpose, the land reverts to the government. If an individual produces crops on such land for a certain amount of time, the farmer can apply to change the land designation from vacant to farmland. Once the land designation is changed to farmland, the farmer can enjoy the same rights enumerated above under the Farmland Law. Despite its potential, the VFV Law has not achieved its stated purpose of increasing productivity; cultivation of VFV land amounts to only 14.9% of the total land allocated under the law. Furthermore, large-scale land acquisitions that are more characteristic of this law’s implementation have led to conflicts with local communities that use the land for non-traditional farming purposes.

- **Village Development Plans (VDPs)** have been developed with the support of the Department of Rural Development (DRD) of MOALI. It is an example of participatory policymaking: the planning process includes many villagers voicing ideas of how to work with MOALI to improve the community through common area tenure security and agricultural development. The VDPs run counter to past mismanagement in which village common lands were often lost in processes lacking in transparency and community participation.

Land access is a critical concern under the current system. Many forms of property tenure and the claimants to these, including those in industry, farmers, and customary tenure holders such as forest communities, lack proper land use rights, and many rural households do not have access to land at all. The current legal framework has no classification for seasonal or communal uses of land. Communities often use forests to gather firewood or graze livestock, but this land can be reallocated to people outside the community due to the community’s lack of formal security of tenure. Similarly, seasonal cultivation of paddy and fisheries often utilize an area for only part of the year. Broad land governance reform must consider varying uses of land in order to succeed.

**Recommendations**

The National Land Use Policy (NLUP), which was developed through an open, consultative, multi-stakeholder process, was endorsed by the outgoing President in January 2016. The NLUP was intended to be a living, foundational document to be built upon, with lessons learned from pilot activities
incorporated into issue specific land governance policies that can be operationalized are developed over time. The NLUP established policies to manage, administer, and use the land resources of Myanmar for the purposes of “livelihood improvement of the citizens and sustainable development of the country”. NLUP was intended to be a living document that could be built on over time, a foundational document to guide prioritisation and incremental actions. To launch the implementation of NLUP, Myanmar must develop a comprehensive legal and regulatory framework that ensures a land governance system that is fair and inclusive, and pilot and test approach for its implementation. The following recommendations have been developed with this goal in mind:

- **Use the current legal framework to implement new land policies.** Current laws, while failing to provide strong protections for smallholder farmers and communities, can be used to implement the reforms laid out in the NLUP. In practice, much can be done with the existing primary legislation by making changes to the implementing rules and guidelines, or changing emphasis of implementation. For example, the Vacant, Fallow, and Virgin Land (VFV) Law of 2012 has been used historically to allocate land to large-holders without careful audits made of the available land and with little scrutiny of the recipient’s compliance with the law’s requirements. As written, the VFV Law could be used to improve land access to poor and marginal groups, farmers with small land holdings, and landless households and could be carried out through a careful, transparent, multi-stakeholder consultative process, especially consulting with the local community to guard against further land conflicts due to overlapping claims. This process would ensure that Myanmar’s cultivable land supports poverty alleviation as well as agricultural productivity under policies that follow good governance practices. A second approach to using the existing legal framework would include issuing Ministry instructions to clarify the rights of farmers under the Farmland Law. For example, obtaining the right to use farmland for aquaculture currently requires farmers to engage in a prohibitively complex, costly, and time-consuming process to change the land use title to a La Na 39. Through a MOALI instruction that clarifies that farming restrictions under Section 12(g) of the Farmland Law do not prohibit the use of farmland for aquaculture, the Ministry could recognize a practice that already exists (many farmers practice aquaculture without a La Na 39) while extending it to more farmers. Moreover, such an instruction should also clarify the freedom to farm, including all farming uses of agricultural land, such as livestock breeding and crop choice. A third approach to using the existing legal framework to implement new land policies would be the establishment of model programs, such as a Model Land Office to demonstrate a holistic approach to land administration reform (see Model Land Administration box). Using the current legal framework in ways such as these will allow land administration officials to learn from the strengths and weaknesses of these laws, identify areas ripe for amendment and developing best practices for a new Land Law.

- **Form a union-level council to carry out the National Land Use Policy (NLUP).** The Council would not be required for administrative functions, but act as a guiding and coordinating body for the development and implementation of land reform and land administration system development in the country. This council would include a “technical advisory body that includes representatives from different stakeholders’ groups, such as farmer associations, ethnic nationalities, civil society, academia, the private sector and others”. Without a union-level body, carrying out the NLUP will be difficult because fragmented groups attempt to implement the policy in different ways. Moreover, without a central body, the government will miss the opportunity to learn from
reforms carried out during the transitional years under the current legal framework. The council would be tasked with narrowing policy gaps between local administrative bodies and union-level directions.

- **Amend outdated laws to expand the roles of farmers and communities in land use.** Current land laws, such as the Farmland Law or the VFV Law, prohibit farmers from making decisions about crop choice or growth cycles, which puts them at risk of losing their land. As they are currently enforced, these laws limit farmers rather than protect them. Minor amendments to these laws that establish greater farmer freedoms and clarify the farming rights of women could provide critical land tenure security in the interim period before a comprehensive land law is written, while also providing foundational elements for the future land law. Amendments to the Land Acquisition Act and in particular to its operational guidelines could allow for more community involvement in decision-making and better protections, such as stronger regulatory requirements for notice, comment and appeal procedures in proposed land acquisitions.

- **Promote community forest instruction to protect customary land rights.** Under the revised Community Forest Instruction (CFI) of 2016, the Forest Law has been interpreted to allow for greater protections by customary users of forestland. While the Forest Law was previously interpreted to forbid shifting cultivation and gardening, the newly revised CFI lifted these bans through a changed policy rather than an amendment to the law itself. This newly-revised CFI should be promoted by the concerned ministries and departments at the Union and State and Region levels to ensure that communities understand and can take advantage of the greater protections accorded to community forest users. The effects of the CFI and other efforts to protect customary land rights can inform the drafters of the comprehensive Land Law. It is of equal importance that the new CFI does not restrict the use of communal lands for commercial purposes upon need and will, to ensure communities can support local livelihoods and inclusive economic growth at the grassroots level for forest dependent communities. CFI revision can support the implementation of protective policies quickly rather than prolonging inaction until the Land Law is finalized.

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**Model Land Administration**

Investment in the development of the existing Township offices of the MOALI Department of Agricultural Land Management and Statistics, which allows for a holistic approach to improving the functions of land administration, should be done initially through the development of Townships that are selected as “model land offices”. Based on several years of assessment and work through past programs such as LAMP, there are many good lessons and tools on which to base the improvements. Such a developmental approach would include both the re-engineering of existing processes and the re-organization of the DALMS Township Office to improve the efficiency and responsiveness of land services to its clients. Such an approach is not unique to Myanmar: most major land titling and land administration reforms in the region have entailed re-engineering and re-organization at one stage in the country’s development for real improvement to support both social and economic change. New tools alone cannot be effective without new procedures and work flows, new organization, new skills and job descriptions along with new performance and reporting standards.

- **Establish an open, multi-stakeholder process for drafting the new Land Law.** Any successful land governance framework must be developed by a broad and inclusive group of stakeholders and
the administration that supports this framework should continue to maintain an open, consultative process. This multi-stakeholder engagement should ensure that input is received from farmers’ unions, civil society organizations, communities that will be affected by land laws and policies, representatives of ethnic nationalities, women and other vulnerable groups. Without a truly inclusive process, land governance decisions, particularly regarding the drafting of the Land Law, will be questioned and challenged, resulting in less efficiency and trust.

- **Develop a comprehensive Land Law.** Eventually, drawing upon findings from both the implementation of programs based on the current legal framework and the process of issuing clarifying instructions and land law amendments in the near term, a comprehensive land law should be planned and drafted through an open, multi-stakeholder, consultative process. Such a comprehensive law can follow the NLUP directives and provide a broad framework to safeguard the initial steps taken to ensure land tenure security for smallholder farmers, land access for marginal farmers and landless families, the customary land rights of ethnic nationalities, and the protection of women’s land rights in Myanmar.
POLICY NOTE 2

Forestland Administration and Management

Introduction

This policy note on Forestland Administration and Management in Myanmar is the second of five policy notes prepared under the Land Sector Needs Assessment technical assistance initiative between the World Bank and the Ministry of Agriculture, Livestock and Irrigation, the Ministry of Natural Resources and Environmental Conservation and the General Administration Department of the Ministry of Home Affairs, and the Yangon City Development Committee. It is intended to assess and inform the land related discourse in Myanmar on the status of governance and administration of land with strategic options and recommendations on the way forward. The policy notes aim to promote consensus over priorities under the following five key themes of the land sector: (i) Land Policy and Regulatory Framework; (ii) Forestland Administration and Management; (iii) Land Administration; (iv) Geospatial Infrastructure and Services; and (v) Property Valuation and Taxation.

Executive Summary

The protected nature of the forest sector and outdated administrative systems and procedures result in competing claims on land and forest use, which pose a considerable challenge to Myanmar’s forestland policy and regulatory framework.

Myanmar’s forest policy is gradually shifting from promoting the trade of forest products to addressing tenure rights, biodiversity, and climate change. This is reflected in the Myanmar Investment Law (2016), revisions to the Community Forest Instructions (2016), and most recently, in the commitments made at the Panglong Peace Conference (2017). The Forest Law recognizes tenure rights to forests and allows reclassification of forest lands to accommodate actual use, but implementation is pending.

The following recommendations are for building a robust forestland administration and management system, to provide comprehensive tenure security and socio-economic benefits:

- Update and improve regulatory processes, procedures, and oversight mechanisms for forestland administration and management, and enforce Forest Law implementation rules and guidelines.
- Prepare an action plan for implementing the National Land Use Policy (NLUP) and accelerating commitments made at the Panglong Peace Conference.
- Emphasize the rights of all stakeholders in revised arrangements for cost-effective administration and a reliable grievance redressal mechanism.
- Prepare an Action Plan to implement Community Forestry Instructions (2016).

Forest tenure administration and management needs re-engineering but structural impediments abound. Existing administrative mechanisms are in needs of major reforms.

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- Implement **decentralized forest tenure governance arrangements** to include appropriate training and capacity building programs.
- Develop reliable **forestland data and link it to national land information system(s)** and geoportal, allowing public access.
- **Set targets for forestland use** and periodically track progress, reporting on implementation, challenges, and best practices and support the benchmarking of priority forestland governance indicators for monitoring.

**Introduction: Forestland Administration and Management**

Myanmar’s forestland administration and management (comprising reserved forest, protected public forest areas, protected wildlife areas, and botanical gardens) have long suffered due to political complexities, outdated policies and implementation rules and guidelines, deficient infrastructure, and weak planning and institutional capacities. This undermines its bountiful natural endowments and immense forest potential, perpetuates poverty for many rural and upland communities, and prevents transparent and responsible private investments and sustainable development of forest resources. This note focuses on tenure issues in Forests and Forest Law and related instruments vis-à-vis opportunities for smallholders, forest-dependent and local communities, and other vulnerable groups. It is based on an understanding that forestland reforms will have a significant impact on better land administration and management in Myanmar and strategic implementation of existing policies and laws to promote public and private investment in forestry, agriculture, and livelihood sustainability.

**Policy and Legal Framework**

The forest sector is becoming more sensitive to multiple forest use as demonstrated by the new Investment Law and its implementing rules/guidelines that provide an opportunity for tenure reforms. The 1992 Forest Law supports conservation, sustainable forestry, and socio-economic benefits. It decentralizes forest management to some degree and encourages private sector and community participation in forest management. Sixty-nine districts have prepared 10-year forest management plans according to the new approach. Access and use rights for various forestland areas and zones are also identified by these instruments and in an array of supplemental regulations, all of which recognize customary practices and traditional arrangements. The recent adoption of the NLUP, Myanmar Investment Law, and related...

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2 The Forestry Department of the Ministry of Natural Resources and Environmental Conservation (MONREC) categorizes forests based on use, protection, and production value. The Forest Law sets up a framework for classifying lands directly related to the forest sector, which link to and overlap with land classifications in other highly relevant laws, such as the Farmland and Vacant, Fallow and Virgin Lands Management Laws. (1) **Reserved Forest:** Lands set aside primarily for the commercial production of forest products, though they may also serve other important social or environmental services. These lands fall within the broader Forest Land definition and are considered part of the Permanent Forest Estate. (Articles 2 & 4). (2) **Protected Public Forest:** Lands set aside primarily for environmental conservation purposes, though they may also be used for sustainable production of forest products. These lands fall within the broader Forest Land definition and are considered part of the Permanent Forest Estate. (Articles 2 & 5). (3) **Forest Land:** Land including Reserved Forest and Protected Public Forest. This land is also commonly referred to as the Permanent Forest Estate. Forest Land does not include land at the disposal of the Union Government, otherwise referred to as Virgin Land, Unclassified Forest or Public Forest. (Article 2). (4) **Land at the disposal of the (Union) Government:** Any land other than Forest Land, with the exception of land in which a government department, organization or any person has acquired a right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, heritable right or transferable right under any existing law. This land is also commonly referred to as Vacant, Fallow and Virgin Land, or Wasteland. (Article 2). Refer to Forest Law (1992) Tenure Opportunities Analysis and Quick Reference Guide, USAID (June 2017).

3 Historically forest land management has focused on mobilizing revenues from the forests as a State-owned asset.
implementation guidelines could have a significant impact in building a robust forestland administration and management system. But without adequate implementation support, these policies and laws will remain insufficient for building a better forestland administration and management system. Forest management needs to be improved urgently, in terms of environmental conservation, as large forest areas have been and are being converted to rubber and palm oil plantations, and many mangrove forests to aquaculture ponds. As a first step, it is necessary to update the Forest Policy, Forest Law and its implementing guidelines/rules, in line with the NLUP.

**Challenges and Opportunities**

**Insufficient economic and social returns and growing concerns about State land concessions (or land-use permits) for forestlands.** Commercially important forests in Myanmar have been managed under the Myanmar Selection System (MSS) by the Forest Department’s Myanmar Timber Enterprises (MTE). However, excessive logging has hampered tasks under MSS. The government is working with the European Union to implement the Forest Law Enforcement, Governance and Trade (FLEGT) Program and guidelines. Sustained work on FLEGT measures should help tackle forestland conversion to agricultural land producing rubber, coffee, cocoa, and other crops. Positively, the National Forestry Master Plan (NFMP) and district-wide forest management plans have been formulated to ensure the supply of tangible and intangible benefits from forests for present and future generations. Additionally, regulations and disclosure requirements under the Myanmar Investment Rules (MIR) mandate land-use permits, but a mechanism for the administrative review of processes to enforce provisions and compliance is lacking. The policy of granting land-use permits for forest estates has had limited success because of the perceived low tenure security underlying the arrangements. As a result, investors have been reluctant to invest in forest lands other than aiming for short-term benefits.

**Protection and recognition of long-term forestland use lacking.** There is no formal system to secure tenure for the generations of forestland use by local communities. However, there are different pathways in the existing Forest Law for recognition of land resource tenure rights such as commercial community forestry in natural forest areas, smallholder/community commercial plantation, village firewood plantation, and reclassification of Forest Land and registration of rights under Farmland Law. Currently, most taungya and grazing land are not mapped or registered. In many upland areas, land classification is further complicated by internal conflict between the government and armed ethnic groups. The provisions of NLUP and the Farmland Law of 2012 (and to an extent, Vacant, Fallow and Virgin Lands Law of 2012) allow a way forward to protect and recognize forestland rights or rights over degraded forestland, some of which should come under plantation forest arrangements (held by private sector or communities). Their implementation demands not only political support but also active participation of different ministries and agencies.

**Objective assessment of forestland tenure and forest governance hindered by lack of quality data.** Myanmar lacks a unified and complete land record and cadastral. Government-maintained (DALMS/MOALI) deeds registry, revenue records and cadastral maps are not up-to-date and do not focus on forest land parcels. Thus, available information is often outdated, ad hoc, or conflicting. Major data discrepancies in forestland use (trade data including wood products) make in-depth analysis difficult. This has affected the government’s ability to respond to grievances and discontent over State land leases on forests. A large backlog in formal delineation of forest and non-forest land adds to the challenges in recording relevant data. The government’s recent focus on One Map (and the National Spatial Data Infrastructure, NSDI) is encouraging in terms of unifying and standardizing geospatial information to a common platform and contact point.
Decentralized forest administration and management implementation remain constrained. The seemingly centralized forest administration and management system is fragmented and characterized by opaque decision-making procedures and weak governance. Decentralization to state and regional levels has been limited, hampering engagement in forest land management. Moreover, territorial and ethnic groups address forest issues without interactions with central authorities. A successful forestland administration and management system requires clarity over the roles, mandates, and duties of central, state, regional, and other local governments and groups.

Successes with community forestry prove socioeconomic benefits and tenure protection are feasible. Recent community forestry experiences show that despite a weak regulatory environment and field level challenges, participatory efforts help to scale-up people’s access to and use of forest resources and the recognition of their tenure rights. Drawing from experiences and lessons learned, the government revised the Community Forestry Instructions in 2016, shifting focus from subsistence to commercialization of forestland. This could help to: (i) reduce poverty; (ii) reduce overuse of forest products; and (iii) empower communities to be more proactive in forest management. Implementation demands context-specific management plans. Community forestry commercialization depends on collaboration with public and private sector partners.

Recommendations

Develop action plans and guidelines for implementing the NLUP and Forest Law. The NLUP provides a platform for implementing transparent and sustainable forest tenure arrangements with accompanying land-use plans and capacity building on a national scale. The Forest Law provides sufficient flexibility to streamline procedures and processes to support responsible investments in forestland (commercial tenure) and formal recognition of land resource tenure rights, and delegation of authority to the local level in the forest sector. Ongoing discussions to prepare an action plan and guidelines for implementing NLUP and Forest Law should be accelerated with adequate technical and financial resources.

Recognize and gradually formalize customary rights and use and existing land tenure agreements. A range of customary rights could be issued to protect the land rights of traditional land users (and customary tenure holders), including those associated with community forestry projects, those working under community conservation agreements, those involved in shifting farming, and for land associated with grazing and forest products. Appropriate solutions must be developed through experimentation to encourage gradual, voluntary, and transparent progress from traditional, customary systems to more formal land-tenure regimes. This should include, as part of NLUP implementation, the development of a policy, formal regulations, and guidelines on the recognition and protection of customary tenure.

Develop reliable forestland data and link it to national land information system and geoportal, allowing public access. Data on land concessions and leases (and related land-use permits) should be gathered and reviewed systematically and transparently. The ongoing pilot work on a forestland database provides a way forward. Clear and approved standards and procedures and modern technology are needed. Eventually, forestland data should be integrated to a unified land registry and cadaster maps in Myanmar. Access to nationally consistent and complete geospatial data and land records would substantially improve land governance as well as the use and protection of forest resources.

Support development of local dispute resolution mechanisms. Myanmar has numerous land-related disputes but lacks effective mechanisms to provide redress on forestland-related issues. It needs legally enforceable and realistic mechanisms for forestland dispute resolution, underscoring the importance of highly trained land resource dispute agencies. Such alternative mechanisms should be established by law.
(for example based on the Access to Justice model applied in several Southeast Asian countries). They can be independent administrative mechanisms, separate from the judiciary. They need to be accessible, affordable, and legitimate.

**Complementary Recommendations**

**Improve land classification and administrative area demarcation.** Forestland tenure issues often relate to community boundaries (mapped and delineated by communities, shifting cultivation areas) rather than administrative demarcations based on land classifications, especially in state reserve forest areas and where customary tenure arrangements dominate. The government should develop criteria for creating village administrative boundaries based on current land use and methods to reconcile differences between current land use and official records. This will aid better management of forestland and informally enhance tenure security among forest-dependent communities.

**Facilitate better implementation of existing procedures/guidelines and improved land management.** In line with the new Investment Law and related instruments, updated procedures should be developed and regulations enacted on pre-concession criteria in accordance with provisions enshrined in the Forest Policy and post-concession management. These include steps for compulsory land conversion measures and consideration of: (i) a legally binding provision for appropriate public disclosures, including compliance with Free, Prior and Informed Consent (FPIC) principles; and (ii) periodic review and compliance by a central, independent inter-ministerial mechanism with powers to enforce sanctions in case of deviation. A moratorium on new land-use permits for forestlands could help compile an up-to-date, comprehensive, and transparent inventory for existing land-use permits/concessions. In addition, measures are needed to build the capacity of government agencies, review permits/concession applications, monitor those granted, involve stakeholders in management and benefit sharing, and improve overall land governance.

**Support the full implementation of Myanmar’s law that regulates investment in land (forest and non-forest) and protection of affected people.**

- Land investment under the purview of Articles 3 and 5 of the 2016 MIR must be subject to obtaining permits from the Myanmar Investment Commission and be fully disclosed as project summaries and a public annual sustainability report, in keeping with Article 45 and 196, respectively.
- Where such investments meet thresholds in Annex 1 of Myanmar’s 2015 Environmental Impact Assessment (EIA) Procedure, the requirements for public participation and disclosure should also be applied.
- In accordance with Article 7 of the EIA Procedure, investments involving involuntary resettlement should adhere to international good practices and bear full legal and financial responsibility for Project Affected Persons (PAPs) as specified, in accordance with Article 102 of the EIA Procedure.

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4 Locally managed, community-based resolution mechanisms are generally simple, fast, culturally relevant, and context-appropriate. Local leaders remain the closest form of authority for most landholders and are the first contact for most government concerns including land and access to and use of forest resources. NLUP includes provisions for implementing such a dispute-resolution arrangement. However, it is currently contested in Parliament and awaits final decision.

5 As per current provisions, forest areas can be opened to community grazing after trees reach a certain age.

6 One option is to revive Annual Allowable Cut system. However, Myanmar has large tracts of degraded forestland, most of which should come under plantation forest arrangements (either by private sector or communities).

7 Refer to Involuntary Resettlement such as Performance Standard 5 of the World Bank’s International Finance Corporation.
Upscale community forestry and forest user group approaches. Further work on this will strengthen forestland administration in two ways. First, it will increase local incomes and government revenues, reducing poverty. The financial incentive in projects like community forestry will encourage local communities to manage and restore forests. Community forestry should be allowed in unclassified Forest Areas (also known as Public Forest, or Virgin Land, or Land at the disposal of the Union Government) along with a mechanism for verification of other tenure-related information. Second, the measure will enlist the help of the private sector to work with rural communities.

Strengthening forest reforms and the peace process. The peace process and resolutions adopted at the Panglong Peace Conference (May 2017) have significant implications for land management, particularly the extent of legislative revision likely for Forest Policy in general and comprehensive statutory recognition of customary tenure. This acknowledges the diversity of customary forest practices in the country. Thus, the peace process should be adopted as another vehicle for promoting recognition of actual use and users of land and forests, be it customary, communal, or individual.

Support benchmarking of priority forestland governance indicators for monitoring. This will assess and prioritize indicators for national-level monitoring. Indicators should track progress in implementing forestland-governance and achieving the country’s priority development goals. This process should be linked to the implementation of the NLUP and programs like Reducing Emissions from Deforestation and Forest Degradation (REDD+) and FLEGT.

Myanmar is undergoing multiple political-social-economic transitions that are creating immense opportunities for change. Establishing secure arrangements for forestland administration and reliable land-use plans are fundamental to their sustainable management. This demands political commitment and community engagement in land-use planning and allocation of rights of secure tenure. Given the government’s commitment to improve land governance, a flexible approach and interpretation of existing legal tools will help utilize the opportunities presented by the existing policy and legal instruments and the peace process and recognition of legitimate land tenure rights.
**Introduction**

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**Executive Summary**

Many kinds of land tenure are not formally recognized. Myanmar’s citizens have possessed, used and nurtured these lands undisputed over the long term, but without formal documents and thus their land rights are not secure causing fundamental vulnerability.

**Land sector services** are mostly provided through three Government organizations: DALMS, GAD and the Survey Department in addition to the three City Development Committees (CDCs). Their activities are usually not well coordinated and the institutions’ records are not shared, exchanged or harmonized. Land administration must serve all varieties of land tenures and people, both rural and urban, and should not only be concerned with agricultural land. DALMS takes most of responsibility for land services and currently has inadequate human resources dedicated to land administration functions. Allocating more resources to these functions in DALMS without increasing staff numbers and while also still performing its other tasks is feasible but will require very careful change management. At the Township level, this will include: (i) process re-engineering and better use of technology; (ii) internal re-organisation; and (iii) new staff job descriptions and capacity building. However, these measures do solve institutional sustainability challenges including resources and remuneration, which have direct impact to performance.

There is a concern over weaknesses with land services. The land records are in poor condition and people often choose not to register land transactions. The land records’ coverage and level of updating...
compromises their capacity help to avoid disputes. **Land use certificates (LUC) contain** many errors and inconsistencies occur in land records. As a result, many Kwin maps must be updated and many LUCs must be replaced. **Awareness and knowledge** regarding land laws, land policy and land regulations by government staff, business, civil society and professionals is not consistent and contributes to disputes, conflict and confusion.

Much improvement can be achieved in the short and medium terms even before there are new land related laws and a new land policy. **There is no need to wait.** However, there is a **large task ahead** in order catch up on properly restoring the land services and rejuvenating the land records. This will require leadership and much patience by the Government and investment in a large incremental cost for years. With proper planning, the roll-out across all Townships for the rejuvenation of records and services can be realized on a priority area basis over a **10-year period**. Once the land records are re-established, the cost and effort in maintenance and provision of land services will be lower.

There are many **civil society organisations** of good will and capacity that are ready to cooperate with the Government in order to rectify land records, as demonstrated by the development of the NLUP.

**Recommended actions** for the improved land administration services are the following:

- **An initial group of DALMS Township Offices should be established as “model land offices” with a focus on the delivery of good quality land administration services.** This will require the reorganisation and re-engineering of all four DALMS programs at the Township level, including a dedicated work program for all land tenure functions.
- **The crop statistics function** should either be transferred to another department or be re-engineered so that DALMS’ focus can be improved and Myanmar can have an organization dedicated to land administration.
- **Conversion of paper records to a digitized format.** A large initial investment will be required at the start of the reforms in each Township and will consist of the following: the conversion of all paper records to a digital format, new land surveys, the updating of maps and registers, establishing a suitable building and record storage facility and forming a service-oriented office.
- **Partnerships with civil society in Information, Education and Communication programs (IEC) and training programs could be part of the new arrangements.** The new technology methods and learning packages that were developed with the support of the recently closed Land Administration and Management Project (LAMP) of UN-HABITAT can be used to ensure low unit cost for each service and for staff training. Once the initial group of “model land offices” are well established, the lessons and new organization arrangements can be replicated across the country in a roll-out program that is guided by a long-term plan.
- **Perform a functional review of the land administration institutions in Myanmar and develop an institutional development/reform plan that is implementable in 5 years with the objective of creating sustainable land administration institutions and services.** Consideration be given to **integrating the land functions** of the Departments of GAD, DALMS and the Survey Department and possibly the creation of a National Land Agency to achieve greater consistency in land records, better efficiency in service delivery and higher transparency and accountability. There are two options for this process (see Attachment 1).
- **Prepare a 10-year land administration long-term development plan (LTDP).** This should start with the preparation and approval of a strategic plan for land administration services.
Challenges with Land Administration

Myanmar has moved to a market-led economy relatively recently and there are consequential adjustments needed for the governance of resources and land administration services. The 2008 Constitution stipulates that land is owned by the State and that citizens have property rights. These rights need to be secured because due to a vibrant, countrywide land market. The former colonial system of land administration was established in rural areas to support the expansion of orderly farming, but it was not aimed at securing the tenure of farmers. The system was not well maintained after the end of World War II. For these reasons, the land sector was not ready for the enormous pressures placed upon it after the sudden emergence of an active land market following the 2008 Constitution.

8 million LUCs were issued in 2013-14 based on outdated Kwin maps. The replacement of many of the LUCs is needed but the procedures are yet to be issued. In the meantime, the staff of DALMS have great difficulty meeting the demands and expectations of the public. The weakly planned and controlled expansion of towns and villages over the past 50 years has created informal settlements that have inadequate roadways, access ways and public spaces. The unclear tenure situation makes the on-going process of issuance of grant leases by GAD in rural villages vulnerable and potentially harmful. In town land, the surveys and maps have not been properly maintained and the stipulated deed registers for updating ownership of town land plots are rarely used.

News and disputes concerning alleged land grabbing are frequent and widespread countrywide. The historical and up-to-date land records should provide a foundation for resolving these and other disputes. But because the land records have not been well up-to-dated for decades, with many records dilapidated and lost, the records are often not helpful. As the direct consequence of the issues with records, government staff spends a lot of time working on solving individual cases, which results in less time for inefficient routine work. The public is not satisfied with the services choosing to avoid them and thus the records’ deterioration continues and the service weakens become vulnerable to malpractices.

Land Governance must be people-centered and its performance must be routinely measured, reported and continually improved.

Figure 1: Land-to-People Relationships are at the Heart of the Land Administration System

Land administration services should support all types of land tenure and should be accessible for all people, including women, minors and the disadvantaged. Challenges in Myanmar include customary tenure, informal settlements and un-surveyed areas were people do not have access to formal security of tenure. Also, use rights to public lands such as for grazing land, water access and forest rights are not well established or clarified.
Institutional Framework for Land Administration

GAD provides initial and updated to grant land leases (and other less common urban titles) to town and village lands, and it chairs a number of key land-related committees. The Survey Department produces topographic maps in a range of map scales and supports the first and second order geodetic network of the country. The Forestry Department issues rights to forest land in the form of Community Forest Certificates (30 years) and Concessions. CDCs provide land services in Myanmar’s 3 main cities instead of GAD and DALMS.

DALMS is responsible for the majority of land administration services, as shown in the table below. The main problem is that DALMS has inadequate resources for providing its 8 land administration services. Also, its mandate does not cover all land tenures. To jumpstart the rejuvenation of land administration in Myanmar, one Land Register should be established at the Township level to record all rights in all tenures, and each land tenure with its own peculiar rights, restrictions and conditions. While the recording of the rights would be maintained by DALMS, the actual “allocation” of the rights could continue to follow the various laws that govern the operations of various committees (e.g., Farmland Committee, VFV Committee) and departments (e.g., GAD, Forest Department).

Table 1: Land Administration Services of DALMS

<table>
<thead>
<tr>
<th>No</th>
<th>Land Administration Sub-Programs</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Update Kwin Maps to show farm holdings</td>
<td>DALMS should perform its duties for these 8 functions of land administration according to its mandate. The services should be provided across the country. To meet the needs of the public, other land tenures such as customary, informal, grazing, water, and possibly forest rights should be registered as well. Each tenure type would have its own set of rights, restrictions and conditions.</td>
</tr>
<tr>
<td>2</td>
<td>Maintain the Farmland Register (Form 5)</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Deed Registration</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Create Village Block Maps of Land Plots</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Update Block maps in towns and cities</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Maintain Urban Register of Grant Leases</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Other land tenures for agricultural land</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Third Order Survey Control Network</td>
<td></td>
</tr>
</tbody>
</table>

Figure 2: Existing and Un-Surveyed Kwin Maps in Farmlands

The farmland Kwin maps are the basis for settlement planning and management, land tax collection, crop statistic data compilation and land rights allocation and mutation. These important maps have deteriorated for many decades. It is estimated that at least 80% of land must be re-surveyed. In addition, there are agricultural areas that are not yet covered by Kwin maps, although permanent agriculture has persisted for many years. Together there is a large amount of field and office work that will be needed to make the maps up-to-date once again. The method should be based on modern digital technology so that future maintenance of the maps will require less labor at lower cost and will be achieved in less time.

About 8 million LUCs on farmlands were issued in 2013-14 by SLRD (DALMS). However, the quality of these certificates and the record of ownership, the reference to the holding number and the land area
are often unreliable and in practice they need to be renewed and new LUCs need to be issued. Such a process should entail building a database for the purposes of: (i) making the identification of errors easier and complete; and (ii) making future entries easier and more accurate. The LAMP Project developed such database software (see Attachment 2). The technical process must be accompanied by information and education and communication to the farmers, CSOs and government staff. The proposed changes to LUC would have to be advertised locally in case objections are raised.

**Deed registration is barely operational in towns and has not yet started in farmlands.** Formal grant leases in town land have been out-of-date for many years. In the short term, the deed registration system can be streamlined for townland and in the longer term it should be replaced by a suitable registration process that allows for administrative updating of the land register based on a simple application by the two parties to the transaction. The overall process currently requires several visits to GAD and DALMS offices, as well as the Department of Finance, and this must be streamlined for grant leases. For farmlands, deed registration operation has not yet started, resulting in many transactions not being captured formally. New streamlined system should be considered resulting to an affordable and sustainable land register process and services.

**The transfer tax on property should be changed.** The tax rate is too high and is as high as 30 percent on town land and results to disincentive for registering transactions. It is suggested to eliminate the tax, or reduce the tax to no more than 2 percent, and to grant amnesty in order to allow past informal transactions to be registered. More information can be found in the land taxation policy note.

**Figure 3: Estimate of Number of Urban Block Maps in the Whole Country for Various Land Types**

Villages have never been surveyed for land tenure purposes.

For the first time, a huge effort is required for the issuance of grant land leases in villages that were pilot tested in 2015 and 2016. About 45,000 block maps in rural villages need to be created. Many of the villages have plots outside of the formal village boundary. Typically, one finds in these areas inadequate roads, “land locked” plot without any means of access, and public space is inadequate. Flooding also occurs due to inadequate drainage. Prior to land surveys for making block maps, there should be a regularization of the village and this should be participatory. People should be willing to allow access routes to be expanded with the incentive of issuing a grant lease later. In worst case scenarios where essential regularization is stopped by the community, the land survey and lease issuance should not proceed.

Note: a suitable survey technique should be used rather than expensive land surveys lest the cost and time for this work becomes too much.
For Townland outside Myanmar’s 3 largest cities, DALMS is responsible for land surveys and preparation and the updating of the block maps (usually on a scale of 64 inches to the mile or 1:990) as indicated in the figure above. An example is shown to the right. The block map is required to accompany application for the initial grant lease and each registration of a transaction on a grant lease.

The reality is that there are many problems with the quality and completeness of the block maps and very few DALMS staff have ever practiced creating them. This is due to: (i) informal expansion of the townland to agricultural land without any planning and block map surveys; (ii) informal sub-divisions of land plots; (iii) poor quality of the original block maps; (iv) loss of skills and knowledge of DALMS staff regarding block map surveys; (v) local disputes on land, especially regarding land boundaries between neighbors; and (vi) informal settlers encroaching on other people’s land. This function needs to be re-specified in work instructions and staff must be trained and organized. This requires a specific partnership between DALMS and GAD to perform these works, which adds to complexity and delays. This indicates a need for the rationalization of the functions of DALMS and GAD on town land matters and, simultaneously, on village land.

A register of grant leases is kept separately at both GAD and DALMS. This is one of the oldest records kept at DALMS and many leases are nearly unreadable. The Register books are not up-to-date, as the updating of the entries occurs after the function of deed registration. It is estimated that there are up to 2.6 million plots in town land, excluding the 3 main cities. Of the 1.5 million plots that are already titled, many are not up-to-date regarding real ownership. It is necessary to computerize these entries before they are lost and to update the registry. It would be most meaningful to perform this task in combination with revamping / replacing deed registration, removing the transfer tax and informing the public via a massive information campaign so that future transactions are registered.

The rationalization of GAD and DALMS functions could remove the duplication of the Register of Grant Leases (and other urban titles).
Other land tenures are not well registered and secured (see the land to people relationship figure). Customary land should be recognized in the law for registration to the land register and have its own special form of tenure with flexible rights, restrictions and conditions assigned by local decision-making. Ownership of the rights should be assigned to groups, families, communities or individuals as appropriate for the particular situation. The spatial entity subject to customary title registration can enclose one or more plots and should be described as appropriate and mapped sufficiently to ensure that there can be no encroachment or ambiguity so that the boundary is meaningful to the community and its neighbors while not becoming too expensive. Once this tenure is formally recognized, it should be added to the land register. Similarly, communal grazing land, water rights, forest rights, National Government land and Local Government land and informal urban settlements should all have their rights regularized/registered and secured in the land register; each with their own unique set of rights, restrictions and conditions. By using an unified land register, it can be assured that the land rights cannot overlap; this is a powerful and necessary step to move out of the current confusing situation.

To guarantee that land parcels do not overlap, there must be one standardized coordination system across the country that is used to map the parcels of all land tenures at all various map scales and land survey standards. Currently, there is no dense control network or easily accessible CORS network to realize this key requirement. DALMS has started a third order network but has difficulty accessing information on the second order network of the Survey Department (SD). Adoption of a joint national coordinate reference system for land administration is a key priority towards integrated and coordinated land administration services.

The Survey Department prepares topographic maps of the whole country, which should be a public asset and used by planners and administrators in government and businesses as well as the general public. This is a very valuable basic infrastructure and asset that is needed to be released to impact development in multiple sectors.

Four Programs of Work of DALMS at Township Level

There are four programs of work at DALMS at the Township level and historically very little human resources were ever expended on land tenure (there are 8 sub-programs which are described above). The land tax function and crop statistics function are manpower intensive and consume almost all resources at the Township level. There can be no meaningful progress on the 8 sub-programs of land tenure work without the re-engineering of processes and the re-organization at the Township office of DALMS so that human resources may be released to serve land tenure. This is a key reality to underpin the new LAS Strategy.

Pilot testing of re-engineering is already using computer tools on both programs and has indicated that large savings in manpower is possible. The possibility of moving the crop data function to another organization should be considered because it is not a function of land administration. A good rule of management is to assign it to the organization that benefits from it the

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8 With boundary definition by general boundaries, the land surveys can be very low-cost and the demands regarding the rural mapping of land parcels is much less than fixed boundaries.
most so that the new organization may assign resources more attuned to the value of the benefit of having the data.

**Challenges and Opportunities**

The staff and infrastructure of maps, surveys, land records and facilities are both a strength and a weakness; the topographic maps are up-to-date and in digital form but are only accessible to the military. The cadastral maps (Kwin maps and block maps) are not up-to-date and are not accessible to any clients. Regular land surveys were last performed years ago. Land records are not up-to-date, especially for town land, resulting in many errors and conflicting records. DALMS buildings exist in 300 Townships, but many are inadequate and in disrepair and lack proper rooms for document storage. Staff are trained but most do not have training or education in modern land surveying, land management, ICT and GIS.

Advantageously, DALMS and GAD serve the public at the local level through Township offices. However, ordinary people are not accustomed to seeking land-related services and are not familiar with the law and procedures. Moreover, the services are not well advertised and the staff are not trained to serve clients. The land administration services are primarily delivered through 3 different Ministries: GAD in MOHA; DALMS in MOALI; the Survey Department in MONREC. This makes cooperation and coordination more complex, less responsive and less complete. The legal framework is outdated. However, the NLUP was approved and provides a sound policy framework for updating the land related laws. The ADS and other strategies and plans provide a framework for new government programs. The Government has overarching policies such as e-Governance and One Map that will help to underpin any reform in land administration.

**International Best Practices**

The FIG⁹ is the peak professional body for land surveyors. There are 6 key statements on Cadastre 2014 and each has relevance to Myanmar:

Table 2: Statements of the Modern Cadastre Promoted by FIG in “Cadastre 2014 and Beyond”

<table>
<thead>
<tr>
<th>No</th>
<th>Principle</th>
<th>Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Show the complete legal situation of land including public rights and restrictions.</td>
<td>All facts about the land must be made obvious to ensure security of tenure.</td>
</tr>
<tr>
<td>2</td>
<td>The separation of maps and registers to be removed.</td>
<td>It is essential for the integrity of land administration that the spatial entity—the land parcel—is linked to ownership.</td>
</tr>
<tr>
<td>3</td>
<td>The spatial description of a land parcel will be determined according to need and not according to the kind of mapping.</td>
<td>Land parcel definition policy must be paramount and must not be dictated by technical matters. This will avoid over-servicing and high cost. On the other hand, mapping the land parcels will allow the multi-use of the cadastral data, as the requirements will be specified from the needs of all sectors, including planners and modelers.</td>
</tr>
<tr>
<td>4</td>
<td>Using computer technology will no longer be optional.</td>
<td>Efficiency and multi-use concerns have dictated that cadastral data will always be computer-based.</td>
</tr>
</tbody>
</table>

⁹ Federation International Geodetic
The private sector will do more to maintain the cadaster and provide services. The government sector will have a key role in regulating and setting standards and making land information easily accessible. However, the actual workload will increasingly fall upon the private sector, as it is more efficient and more flexible.

Cost recovery is key to keeping the cadaster up-to-date in order to protect tenure security. Both government and private sector costs must be recovered from fees for services. This includes operating costs and initial investment costs. All internal costs and indirect costs should be identified. In developing countries, the transfer tax must be low or else people will not remain in the formal system.

The land administration system should enable secure land rights for all and cover all land types as a basis for securing rights, for land valuation and for land use control (see the Voluntary Guidelines on Governance of Tenure, VGGT, promulgated by the UN in 2012). It must also secure the rights of land that is held by the state. At the outset, the land administration system may differ from place to place, being very simplistic in some (rural) areas of the country (e.g., uplands) while other (densely populated) areas may be covered by more accurate and legally complete surveys and more complex transactions (mortgages, strata title etc.), especially where land is of high value and in short supply. Through updating procedures, the system can develop into a modern and fully integrated system for land information and administration.

<table>
<thead>
<tr>
<th>No</th>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>General boundaries rather than fixed boundaries.</td>
<td>Using general boundaries to delineate land parcels will be sufficient for most land administration purposes, especially in rural and semi-urban areas. In the present context, the term “general boundary” means one whose position has not been precisely determined, although delineation usually relates to physical features in the field.</td>
</tr>
<tr>
<td>2</td>
<td>Aerial imagery rather than field surveys.</td>
<td>The use of high resolution satellite / aerial imagery is sufficient for most land administration purposes. This approach is three to five times cheaper than survey instrument-based field surveys.</td>
</tr>
<tr>
<td>3</td>
<td>Accuracy relates to purpose rather than technical standards.</td>
<td>Accuracy of land information should be understood as a relative issue related to the use of spatial information.</td>
</tr>
<tr>
<td>4</td>
<td>Opportunities for updating, upgrading and improvement.</td>
<td>Building the spatial framework should be seen in a perspective of opportunities for on-going updating, sporadic upgrading, and incremental improvement whenever it is relevant or necessary for fulfilling land policy aims and objectives.</td>
</tr>
</tbody>
</table>

It should be noted that three major concepts are already embedded in DALMS regulations and operational guidelines: (i) the general boundaries principle used for describing land parcels; (ii) land parcel-based record management; and (iii) the multi-purpose cadastre. These are three powerful practices that will contribute greatly to the efficiency and effectiveness of Myanmar’s future LAS. Any attempt to over-service should be avoided.

10 Source: FIG 2015; ISSN 2311-8423
### Appendix 1: Recommended Options for Rationalizing the Land Service Functions

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>OPTION 1: Land Related Organizations Remain As Is</th>
<th>OPTION 2: Integration of Land Related Organizations into One New Agency</th>
<th>Existing Mandate of Three Land Related Organizations</th>
</tr>
</thead>
</table>
| **Organization Reform** | Existing organizations of DALMS, GAD, SD remain as they are; DALMS internal re-organization at Township level; DALMS renamed to reflect its mandate on land administration in all tenures; establish a steering committee to oversight implementation of LAS reform and also create a stakeholder platform for monitoring LAS performance. | Integration of land related functions of GAD, DALMS, SD into one new agency attached to a suitable Ministry; The new land agency is quasi-governmental with a Governing Board and an Advisory Stakeholder Panel. | GAD                                                      
  • Grant Lease (& other urban rights) Issuance  
  • Town land  
  • Village land  
  • Land Tax Collection  
  • Town land  
  • Farmlands  
DALMS                                                      
  • Deed Registration  
  • Town / Village  
  • Farmland  
  • Lease Register  
  • Town & Villages  
  • Land Tax Collection  
  • Land Data  
  • Tax Roll & Vouchers  
  • Farmland Title (LUC)  
  • Register of LUC  
  • Issuance of LUC  
  • Survey & Mapping of Parcels  
  • Town & Villages  
  • Farmlands  
  • Third order control  
Survey Dept                                               
  • National Survey & Mapping  
  • First & Second Order Geodetic Network  
  • Topographic Maps  
  • Height Datum |
| **Vehicle of Reform**   | Creation of model land office based on re-organization of the existing Township DALMS office; Replication of model land office throughout the country. | Integration of GAD and DALMS Township level offices. Creation of model integrated land office. Integration in central office & others. |                                                      |
| **Institutional Reform** | Change attitudes of staff to a client service focus and to professional standards. Existing staff re-trained on modern technology. | New offices at Township level. Change of institutional culture from bureaucratic to service orientation. Recruitment of new staff. |                                                      |
| **Business Model**      | Government funded organization with most land services delivered through Township level offices. Land information updated regularly to government portal for web access by the public and government. Small fee for services. | In long term the new agency is self-funding. Land information available for a small fee or no fee. |                                                      |
| **Functions**           | Existing functions of GAD, DALMS & Survey Department, except:  
  • In medium to long term the crop statistics functions is moved to a more suitable organization;  
  • DALMS name is changed to reflect the fact that it has key functions on land tenure other than agricultural land. | The new land agency has all land-related functions transferred from the existing three departments except:  
  • Crop statistics remains at MOALI;  
  • Land Tax Collection remains with GAD (land tax calculation by the lands agency). |                                                      |
Appendix 2: Kwin Map Digitizing and Spatial Data Processing under LAMP Pilot Project in Two DALMS Townships Using the Land Record Management System (2013-15)

There was already a pilot LAS computer system and database developed and tested at the Township level during the LAMP Project that is suitable for long term use and development. The new spatial data process includes: (i) map scanning; (ii) image enhancement to make it readable; (iii) geo-referencing the Kwin map; (iv) digitizing each holding shown in the Kwin map; (v) digitizing the equivalent holding boundary off the imagery and labelling with the holding number and calculating the land area; and (vi) preparation of field maps prior to visiting the field. An open source software GIS system is used. The methodology could be reasonably rolled out across the country without expenses for GIS. The first-time digitizing of the Kwin maps performed very well by the open source software GIS; it was configured for compatibility with LRMS and for ease of use and for making checks on spatial topology.

The digitized data is plotted out in two colors to highlight any significant differences:

Holding Boundaries in Myingyan
(Red Line: Kwin Map / Blue Line: Satellite Image)

The land records are compared on the quality control screen for identifying errors:

Checking Land Records (example of conflicting name of owner on two land records)

Each line in the image above is a land holding entry. The surveyor can easily check for inconsistencies or missing records such as if the owner’s name is not the same on the LUC as it is in the Land Register. The errors can be resolved in many cases prior to going to the field. Outputs include tailored maps and tables.

Tailored maps prepared ahead of the field work
The linking and matching results are best shown in a combination of tabular and map formats. They are printed out and taken to the field for updated surveys, which make the process of field work run more smoothly.

One of the more common errors are cases in which the LUC title was issued on a holding that does not exist on the Kwin map but exists on Form 105 in the case file. There are situations where the LUC was issued based on an "office sub-division" that was not shown on the Kwin map. The GIS makes the errors very obvious for follow-up in the field survey (see below).

In many Kwin maps during the last 50 years, there have been engineering works such as roads and canals that have neither been shown on the Kwin maps nor have the holdings been sub-divided. In the vast majority of cases, the sub-divisions were never made ahead of issuing the LUC title due to time pressures. Consequently, there are a large number of erroneous titles. The LAMP LRMS system allows for a straightforward process for updates by first validating the new boundaries in the field, editing the spatial data, creating new parcels and validating the new Kwin map by public display before uploading the changes to the database and setting a transaction for issuing a replacement title (after authorization by the FAB).
Introduction

This policy note on Geospatial Infrastructure and Services in Myanmar is the fourth of five policy notes prepared under the Land Sector Needs Assessment technical assistance initiative between the World Bank and the Ministry of Agriculture, Livestock and Irrigation, the Ministry of Natural Resources and Environmental Conservation and the General Administration Department of the Ministry of Home Affairs, and the Yangon City Development Committee. It is intended to assess and inform the land related discourse in Myanmar on the status of governance and administration of land with strategic options and recommendations on the way forward. The policy notes aim to promote consensus over priorities under the following five key themes of the land sector: (i) Land Policy and Regulatory Framework; (ii) Forestland Administration and Management; (iii) Land Administration; (iv) Geospatial Infrastructure and Services; and (v) Property Valuation and Taxation.

Executive Summary

Peace building, food security, poverty eradication, sustainable economic development, disaster and climate resilience are all topical government challenges that can be resolved most efficiently and effectively when governance decisions are informed by authoritative, high-quality location information. Modern geospatial (digital mapping) infrastructure and location services have a high potential to bring about valuable socio-economic benefits. Governments play a leading role in setting up geospatial infrastructure as a public good.

The National Land Use Policy (NLUP, 2016) of Myanmar outlines a common vision among Myanmar’s government actors, civil society, businesses and academia for building the infrastructure to provide institutionally sanctioned, automated means for easy access and sharing of authoritative geospatial information and delivering land related e-services. Nascent geospatial infrastructure and services in Myanmar should be systematically supported to underpin peace building, NLUP implementation and e-governance advancement. The demand for better geospatial information and services can be met gradually in a systematic process of developing national spatial data infrastructure (NSDI) and ensuring overall efficiency and effectiveness. In contrast, prevailing procedures, regulations, traditional rules and standing laws prevent easy access to sharing and dissemination of digital geospatial information.

Myanmar is on the verge of launching digital geospatial services and has an opportunity for rapid progress and catch up by using the experiences and lessons learned of geospatially-advanced countries. As the first steps, key government departments should agree on common standards and take pragmatic steps to

NOTE: Stakeholder and governmental consultations/workshop will be held for reviewing the draft policy notes in September, 2017 in Yangon and in Nay Pyi Taw, and the policy notes will be finalized by the end of 2017.

Nascent geospatial infrastructure and services in Myanmar should be systematically supported to underpin peace building, land use policy implementation and e-governance advancement.
improving their geospatial systems aiming to short term gains while following the longer-term vision of NLUP.

Positively, the One Map initiative of the Government of Myanmar already involves 25 land-related government agencies, civil society organizations and academia, and paves the way for a unified digital map that is accessible on the web for government and public use.

International good practices and trends are well documented on the establishment of geospatial infrastructure, mostly in association with the modernization of land administration and management systems. Many countries have already established NSDIs or have ongoing NSDI initiatives providing a repository of knowledge that Myanmar can benefit from.

Investment in technological innovation of the core land administration and management institutions provides a concrete way forward and with capacity building can forerun the legal and institutional reforms and drive change in the future. International development partners have shown interest in supporting the sector.

Stakeholders’ participation at every level of society, mindset development towards transparency and open data and interoperability, as well as institutional coordination/integration and systematic approaches are necessary for progress.

**Introduction of Geospatial Infrastructure and Services**

Peace building, food security, poverty eradication, sustainable economic development, disaster and climate resilience are all topical challenges that are resolved most efficiently and effectively when governance decisions are informed by authoritative, high-quality location information which is provided through digital cartography.

Digital geospatial (mapping) information, technology and services are critical for evidence-based decision-making and good governance. Modern geospatial infrastructure and corollary location-based services have a high potential to bring about socioeconomic benefits. Governments play a leading role in setting up geospatial infrastructure as public good, as well as generating and maintaining core geospatial data sets.

Digital Revolution is changing our world. Half of the world's population was connected to the internet in 2016. Communities are now more information dependent. E-governance is rampant. Timely, reliable digital information is a valuable asset and a unique resource. The information weaved into service-delivery or decision-making also remains intact after multiple usage!

A **National Spatial Data Infrastructure** (NSDI) is a framework of policies and laws, institutional arrangements, technologies, geospatial information, and a community of data and service providers and users. It enables the exchange, sharing, effective use and management of geospatial information and technologies. NSDI allows geospatial data to be combined from various sources and disciplines for a range of uses by creating reliable, intelligent, interactive, unified electronic maps, where each map layer is maintained independently by its authorized agency. NSDI improves data quality, reduces duplication of efforts and resource waste, it lowers costs to society while making geospatial information more accessible, it increases the benefits of using and re-using data, and builds partnerships at the international, central and decentralized levels between government actors, civil society, businesses and academia.

In line with global e-governance and geospatial trends, Myanmar is committed to going digital and is experimenting with a nascent geospatial infrastructure. A common vision among Myanmar’s government...
actors, civil society, businesses and academia prioritizes NSDI to provide institutionally sanctioned, automated means so that information and service providers / users can post, discover, evaluate, exchange and share geospatial information.

Key NSDI building blocks are: apt geospatial policies and legal framework; strong coordinating body; enforceable interoperability standards; efficient access mechanisms (e.g. geo-portal); core geospatial datasets and e-services; adequate capacity and resources to operate the NSDI; and a sustainable business model.

Main NSDI principles: data interoperability (implying open standards, common geo-reference frame and easy / open access); data discoverability by using search engines (requires catalogue of metadata); one-time collection and multiple re-use; efficient data stewardship (datasets are kept by the agency liable for their quality); free, transparent, accessible core data sets; information sharing among all levels / scales; streamlined coordination.

Policy and Legal Framework

The vision and priority of geospatial infrastructure and services in Myanmar are broadly framed in NLUP and the e-Governance Master Plan (eGMP 2016-2020). NLUP and eGMP are interrelated, complementary and consistent with Myanmar’s pressing geospatial needs.

In the context of land use and in line with international good practices, several NLUP chapters spell out fundamental demands for coordination, systematic land information management led by a dedicated entity, and geospatial information sharing across all stakeholders and governance levels. NLUP dictates equal access and transparency, map digitizing and transformation, timely updates, acquisition and mastering of modern geospatial technology (including evidence-based satellite imagery), and geographic information systems (GIS). Furthermore, NLUP prioritizes authoritative, high-quality (i.e. complete, up-to-date, precise, accurate) location information that can be verified on the ground with inclusive, participatory, gender- and ethnicity-sensitive mapping approaches. NLUP outlines the core national datasets (e.g. administrative boundaries, land classification, land tenure (incl. customary), land use, land cover, urban and rural planning, etc.) and promotes a single-window public land information services mechanism. NLUP also calls for adequate capacity and sufficient resources to be channeled through a specialized fund that encourages piloting and research. Under NLUP, the One Map Myanmar initiative is already piloting several of the land use policy guidelines to draft a One Map policy that specifies and details a geospatial infrastructure and service policy in line with Myanmar’s pressing needs.

Implicitly, all these fundamental demands under NLUP fall in the field of geospatial infrastructure and services. They can be met gradually in a systematic process of developing NSDI that ensures overall efficiency and effectiveness. The first steps have been made to establish land use bodies at all governance levels, which are charged with geospatial information sharing and maintenance. Notably, a National Land Law is to be drafted that falls in line with NLUP and a Land Survey Act is being conceived, which will harmonize several old laws and sectoral legislation and address geospatial issues holistically. Also, the One Map Myanmar initiative will generate experience and knowledge aiming to outline and recommend relevant reforms in the geospatial sector.

In the broader context of Myanmar’s e-governance, eGMP emphasizes the fundamental importance of common and shared geospatial information (maps, land records, roads, administrative-territorial hierarchy, GIS) and services, as well as the pioneering role of the One Map Myanmar initiative (among others). In parallel, eGMP recommends the use of open source and open standards, which should be a key consideration for NSDI development that is in line with international trends. Moreover, eGMP
promotes shared applications and common data services and specifically prioritizes applications and data for natural resource utilization and management in both the national map / GIS and land administration (cadastre and land registry) system. eGMP’s recommendations are in line with urban and rural development priorities, governmental strategies for attracting foreign investment and the Agricultural Development Strategy (ADS).

Nevertheless, recent analyses of the legal framework in Myanmar identify complexities, gaps, departmental fragmentation and shortcomings in the standing laws in terms of failing to set standards and norms for the geospatial infrastructure. The framework is not fully conducive to a change towards modern information and communication technology (ICT) and do not adequately support the development of e-Governance and NSDI. Most official procedures, regulations and traditional rules prevent any practices of easy access to geospatial information sharing and dissemination, even if no laws explicitly disallow this or pose secrecy restrictions. The legal framework fails to encourage equal access to and dissemination of digital geospatial information. Further, it does not provide for adequate digital data security, privacy, copyright protection and cybercrime prevention. However, detailed NSDI strategy documents identifying legislative needs for geospatial standardization and interoperability are in the process of being developed, as part of the One Map Myanmar effort.

### Challenges and Opportunities

Myanmar has the right vision towards a highly demanded informatization of its governance, land administration and mapping sector, yet it is only on the verge of going digital with geospatial infrastructure and services. Currently, Myanmar’s NSDI elements are in their conceptual phase. This is an opportunity for rapid progress and catch up, as Myanmar can benefit from the ample experience and lessons learned of countries with advanced geospatial industry and avoid mistakes that others made in developing their geospatial sectors. In anticipation of translating Myanmar’s geospatial and e-governance vision into concrete geospatial strategy, road map, institutional and legislative reforms (which are being discussed and agreed upon as part of the One Map initiative), the stakeholders should be proactive in solving the many practical challenges. Key government departments should take a pragmatic approach to improving their internal systems and finding partners for advancing short-term geospatial improvements. With a strong focus on capacity building, technological innovation, transparency and compliance with the concept of NSDI, various technical interventions should proceed, as they require no immediate legal or institutional reforms and can operate in harmony with each other. International development partners have shown interest in supporting such interventions.

The ongoing One Map Myanmar project\(^\text{11}\) (that actively involves 25 land-related government agencies, civil society organizations and academia) targets the creation of an online open access geospatial data platform and a national digital mapping system as embryo NSDI. It aims to unify and make accessible all government held, land-related spatial data sets for government and public use. With its multi-stakeholder and participatory consultation approach, the One Map Myanmar is already building strong consensus on the way forward with geospatial infrastructure and services. The One Map technical unit supports the government departments producing core geospatial datasets and facilitates their capacity development. The initiative deserves high priority and high-level political backing.

One serious practical limitation for geospatial progress is the scarcity of digital data in Myanmar. In fact, authoritative land records and maps in Myanmar are still predominantly paper-based and are not fully

\(^{11}\) with support by the Swiss Agency for Development and Cooperation (SDC), 2015 - 2023
covering their potential target territories. They suffer from varying quality, compatibility, accessibility and usability issues. Key government stakeholders have piloted updating and digitized map products (e.g. the national topographic maps, rural and urban cadastral maps and forestry maps in pilot locations, administrative units, etc.) and plan for the expansion of cadastral mapping coverage. Their efforts need more support to become systematic and to scale up a national digital mapping program that aims to accelerate the process of comprehensive coverage of Myanmar’s territory with core map layers. In parallel, the non-profit sector has demonstrated that much can be achieved in producing and disseminating geospatial information and services via a web portal within the current legal framework.

Another practical limitation refers to the poor variety of up-to-date base mapping products. Myanmar’s national mapping system has a gap in its base map series, especially for purposes such as land use management and planning at local levels (township / village tract / village, i.e. in scales 1:10,000 - 1:15,000). Digital aerial or satellite ortho-images are a very useful mapping product that satisfies most potential users compared to the slow and more costly production of topographic line maps. Such innovation of base mapping on a national scale can practically solve shortages of up-to-date base maps in priority areas. Combined with the potential establishment of an open geospatial imagery bank and mechanism for coordinated acquisition of satellite and aerial imagery for everybody’s benefit, this may be a valuable upfront input in Myanmar’s geospatial infrastructure.

The application of a variety of map projections, coordinate systems and geodetic reference frameworks pose the core obstacle for the interoperability of geospatial data in Myanmar. While the Myanmar Datum 2000, which was established to become the national standard, may have deficiencies that should be addressed (e.g. non geo-centricity which deviates from international good practice) it should be applied as the standard to all geospatial data production. This should be facilitated by the development of adequate ground control networks and continuously operating reference stations (CORS) to serve governmental and private sector mapping. The application of a joint coordinate system should be solved immediately as the first practical priority allowing full usability of all new products and information.

Also, weaknesses in geospatial knowledge and capacities among stakeholders at all levels pose a challenge. All analyses indicate a shortage of skilled persons and a lack of sufficient capacity among civil staff in ICT along with geospatial knowledge in many government departments. Geospatial education, research and development, and academic institutions in Myanmar are missing. This is a field where actions should forerun the legal framework and institutional reforms, thus making it worthwhile to invest in said field. Targeted resources are needed to support training, capacity development and knowledge transfer.
Overall, the coordination of the geospatial activities is challenging. A concrete geospatial strategy, road map, institutional and legislative reforms should be designed, which clarify and define the roles of all stakeholders. The government should identify and empower champions to drive the changes ahead.

**International Good Practice and Trends**

Over the last two decades, the importance of geospatial infrastructure and services has been widely recognized and highlighted along with the tremendous growth of geospatial technologies and solutions all over the world. The international evidence shows the significant value of geospatial services that leverage decision supports, planning and operations across a wide variety of industry sectors, including crucial changes in land administration and management. Many countries have established or already have ongoing NSDI initiatives. With the growth of awareness, more governments now launch national geospatial infrastructure as a fundamental information service of their country.
The United Nations Committee of Experts on Global Geospatial Information Management (UN-GGIM) reiterates that “Due to their many benefits, National Location Strategies and National Spatial Data Infrastructures have become more prevalent, and will continue to grow over the next five to ten years. Some of the benefits include the ability to make location data and processing services available to a wider audience, and proven return on investment capital.” In the line with this, a land information system (LIS), as one pillar that buttresses NSDI, plays a core role in securing tenure rights and supporting the real property markets with reliability, transparency and efficiency.

The practices of Pakistan and Korea that link successful LIS with public e-services are particularly relevant.

In **Pakistan**, agriculture is at the heart of rural livelihoods, particularly in Punjab Province where 102 million inhabitants (56 percent of Pakistan’s total population and 70 percent of the province’s population) live in rural areas. Pakistan has a paper-based land administration system inherited from the British, involving rules and regulations for the sale, purchase and use of land linked mainly to land tax collection.

The dispersed and duplicative nature of Punjab’s land records made land rights uncertain, adversely impacted economic development and threatened the vulnerable and poor, whose rights were virtually unprotected. Well-defined land rights are crucial for productive development and functioning factor markets including credit. Therefore, the Land Records Management and Information System (LRMIS) has been established, for computerization of rural land records (see [http://plra.punjabzameen.gov.pk](http://plra.punjabzameen.gov.pk)), aiming to improve and modernize the maintenance of land revenue records and provide land record related services to the public. Parcel data of 1,729,776 parcels is available on the website, of which 90% matches LRMIS records. Overall, 3,487,922 page views by 406,733 users occurred as of February 2017.

LRMIS has revolutionized the process of keeping land records in Punjab. The computerized land record keeping offers numerous advantages over the older manual system. There are fewer delays in the processing of transactions, more inclusion for women, less scope for corruption and no risk of battered or missing records. The new process of transaction is considerably simpler for citizens and holds great potential for sustainability.

The **Republic of Korea** digitized and unified its land information systems over the last decade to have comprehensive data on rights, parcels, and land use. The Parcel Based Land Information System (PBLIS) and the Land Management Information System (LMIS) were integrated in 2006 to become the new Korea Land Information System (KLIS) with efficient services and easy access for clients. KLIS is the very foundation of NSDI that combines agricultural land information, urban planning, environment, forest, and cultural assets, playing a core role as an infrastructure for land-related administrative affairs and civil services. (see [http://www.nsdi.go.kr](http://www.nsdi.go.kr)) KLIS became a key pillar of Korea’s e-government system, which has been internationally recognized as one of the best information systems globally. KLIS has 37 million parcels, 750,000 digital maps, and a unified One Map that has brought transparency, efficiency, reliability, and better services for Korean citizens in a cost-effective way.

The **Netherlands** has also inspiring experience with geospatial infrastructures and services.

In the **Netherlands**, NSDI efforts are in line with the INSPIRE directive of the European Union. Thanks to the Public Services on the Map (PDOK, [https://www.youtube.com/watch?v=79mGJe08Fpk](https://www.youtube.com/watch?v=79mGJe08Fpk)), the Dutch population makes use and benefits from a wide array of spatial data, information, and services. Distributed base registers in the Netherlands contain authenticated high quality data about citizens / population, businesses, land and real property, addresses, buildings, topography, land use, altitude, aerial photography, transportation, etc. This information is open, up-to-date, reliable, free of charge, fast and accessible on a single electronic portal. It is mandatory for all government branches to use this official, trustworthy information without further investigation, since a self-correcting mechanism is in place. In case of doubts, the data provider who authenticated the data is in charge and liable of data verification.
i.e. spatial data collected, integrated, managed, analysed, modelled, aggregated, and communicated with technologies like geomatics (land surveying, satellite navigation: Global Positioning System (GPS) / Global Navigation Satellite Systems (GNSS), remote sensing, information and communication technology (ICT)), geographic information systems (GIS), Internet and the World Wide Web

e.g. improved governance (better public e-services, increased transparency, reduced corruption and red tape, etc.), better disaster resilience and emergency response, economic benefits (increased gross domestic product (GDP) and real income, generation of jobs, savings of public time and funds, better consumer services, etc.)

c.f. Future Trends in Geospatial Information Management: the five to ten year vision, UN-GGIM, 2nd ed., 2015, http://ggim.un.org/docs/UN-GGIM-Future-trends_Second%20edition.pdf: "Governments retain a key role in ensuring that comprehensive and robust frameworks are put in place with related policies, resources and structures to ensure that geospatial information is easily accessible to decision makers in a coordinated way."

e.g. topography, geospatial imagery, land tenure (cadastre and land registry records), land use and cover, urban and rural planning, administrative boundaries, postal addresses, census enumeration units, etc.


the Survey Department, SD (Ministry of Natural Resources and Environmental Conservation, MONREC) and the Department of Agricultural Land Management and Statistics, DALMS, formerly Settlement and Land Records Department, SLRD (Ministry of Agriculture, Livestock and Irrigation, MOALI,) are the main government producers of geospatial data; the majority of users have to depend on their maps.

e.g. the Myanmar Information Management Unit (MIMU, United Nations Resident and Humanitarian Coordinator)

e.g. administrative units / place-codes (P-codes), base maps and data for geographic information systems, demographic data, natural hazards maps, transportation maps, population maps and other geospatial data

Introduction

This policy note on Property Valuation and Taxation in Myanmar is the last of five policy notes prepared under the Land Sector Needs Assessment technical assistance initiative between the World Bank and the Ministry of Agriculture, Livestock and Irrigation, the Ministry of Natural Resources and Environmental Conservation and the General Administration Department of the Ministry of Home Affairs, and the Yangon City Development Committee. It is intended to assess and inform the land related discourse in Myanmar on the status of governance and administration of land with strategic options and recommendations on the way forward. The policy notes aim to promote consensus over priorities under the following five key themes of the land sector: (i) Land Policy and Regulatory Framework; (ii) Forestland Administration and Management; (iii) Land Administration; (iv) Geospatial Infrastructure and Services; and (v) Property Valuation and Taxation.

Executive Summary

The recurrent property tax in Myanmar is largely under-preforming in terms of a stable and important annual revenue source. This policy note emphasizes the need to re-engineer the agricultural land tax in terms of basis of assessment and tax rates. The urban property tax or building tax is equally in need of major reform if it is to provide sufficient revenue for the City Development Committees (CDCs) to meet the growing cost of infrastructure and local services. There are several structural impediments that the government of Myanmar must address, including the reduction of property transfer tax rates, which from an international comparison are much too high. Valuation skills and infrastructure are largely undeveloped, a fact that will withhold confidence in the market in terms of the pricing of real estate for acquisition, disposal, investment, development and compulsory compensation.

Key elements for a value-based agriculture land tax and urban property tax include: (i) an active, transparent real estate market that key participants have confidence in; (ii) a property registration system that provides incentives for parties to register their property on a voluntary basis and at low cost in both time and money; (iii) a valuation infrastructure that provides for those involved in giving professional advice to have appropriate underpinning education and training; and (iv) a cost-effective administration system.

To achieve the elements described above, Myanmar should undertake the following activities as part of a systematic reform program:
Introduction of Property Valuation and Taxation

City governments in Myanmar face several economic and financial challenges in dealing with expanding urban populations: (i) they must manage their increasing populations in a manner that generates economic growth; (ii) they must fund infrastructure and services to accommodate the residential population and support commercial and industrial investment and development; and (iii) they must accommodate economic growth in a planned and structured manner. Urban financing strategies are key to the provision of infrastructure and services. CDCs particularly need access to sufficient source revenues. However, they often lack revenues and those that they have access to are frequently under-preforming due to poor administration and a lack of capacity.

Currently, Myanmar is an agrarian society but urban areas are becoming increasingly important drivers for economic growth. According to the 2014 national census, some 30 percent of Myanmar’s population of approximately 50.2 million resides in Yangon City, Mandalay City and Nay Pyi Taw. While most of the population live in rural areas, only around 25 percent of the GDP is derived from agriculture. Future levels of urbanization will require substantial investments in locally-based infrastructure such as roads, water, sewerage and electricity. Having a stable, predictable and robust revenue base such as a recurrent real property tax that can fund such investments will become increasingly important.

Reforms to help stabilize and generate a more transparent real estate market that would contribute to economic growth within this sector:

- Significantly reduce the current rates of stamp duty and property transfer tax; the government should consider a time period in which a zero-rate policy on transfers would apply;
- Create the necessary legal environment that would open the residential and commercial property markets to foreign investment;
- Provide tertiary level real estate programs with the university sector to provide professional education and training in property valuation and management;
- Introduce a statutory licensing and registration system for estate agents/realtors and valuers.

The government should commit to reforming the agriculture land tax to address the extremely low revenue yield:

- A simplified assessment system should be introduced based on two factors: (i) location of land parcels through land value zones; and (ii) land quality;
- Categories of land quality (a maximum of 5) should be developed based on the potential yield of the land parcel;
- Land tax rates per hectare by quality category should be increased from the historic low levels currently applied.

The current property tax applied on urban buildings should be reformed to reflect the market value of the property:

- The recurrent property tax applied to land and buildings should be introduced into all urban areas;
- Value zones should be created within the CDCs and other urban areas reflecting the market value of commercial property;
- Residential property including condominiums should be valued through a simplified approach such as value banding.
Current Position of Property Tax

The property tax on land and buildings has and still is a pillar of source revenue for sub-national governments in both developing and developed countries and its importance increases in parallel with increased urbanization. There are a few broad-based subnational taxes that can raise significant revenue on a recurrent basis: the most notable one is the tax on urban land and buildings. Research shows that recurrent property taxes can contribute significantly to sub-national government revenues. For example, an average of 35 percent of sub-national government revenues in middle-income countries like Indonesia come from property taxes. In cities of metro Manila (Philippines), it is as high as 55 percent. This demonstrates the clear capacity of well-designed, value-based taxes to generate public funds for local infrastructure needs.

The recurrent property tax in Myanmar largely consists of an agriculture land tax levied in rural areas and a form of building tax levied in Yangon CDC. The land tax generates a very low yield, largely because the rates are fixed in a schedule that is over 70 years old. Given this scenario, the land tax could be characterized as a ‘nuisance tax’, as the administrative costs exceed the revenue collected. This would imply that the land tax should become a more meaningful source of revenue for States and Regions. Part VII of the National Land Use Policy (NLUP, 2016) talks about the assessment and collection of land tax, land transfer fee and stamp duties. In this regard, the NLUP refers to land taxes that are ‘equitable, fair and appropriate’. It is clearly in the mind of the national government to consider a review of the current land tax. It is unclear what annual collection rates for the land tax are even though anecdotal evidence would suggest that they are very low. Any proposed reform of the land tax should include all administrative processes including billing, collection and recovery. The agricultural land tax will never raise significant revenue. Nonetheless, it could be redesigned to raise modest revenues that could be reinvested back into the local communities. If the land tax is to survive, tax rates should increase from the historically low rates currently levied and the assessment should be an area calibrated based on the quality of the land, which could reflect the income that the land could generate. In this regard, the LAMP project of DALMS provided two reports on the agriculture land tax and made suggestions on ways to implement a more effective tax.

The current agricultural land tax is jointly administered by the General Administration Department (GAD) and the Department of Agricultural Land Management and Statistics (DALMS) of the Ministry of Agriculture, Livestock and Irrigation (MOALI) on behalf of States and Regions. In terms of administrative functions, DALMS is responsible for the assessment of the land tax and GAD is responsible for collection activities. This is not an unreasonable division of responsibilities, as best practices suggest that there should be a separation between collection and valuation/assessment. The building tax falls under the competence of the CDCs that, in theory, should have the necessary systems and competence to administer property-based taxes within their jurisdiction.

Benefits of a Value-based Recurrent Property Tax

Yangon is the only city that levies a tax on buildings although it could be applied to buildings in all urban areas. This tax represents only a small source of funds for Yangon and the ‘building’ tax seems to be a general term for a group of four taxes related to property: a building tax, garbage tax, water supply tax and a street lighting tax. The building tax is fixed at 10 percent of the ‘standard rental rate’. This assessment approach likely originates from the British rating system, which still uses rental value as base for the property tax on commercial property. While rental values are a standard value basis, it does require a system that collects rental value transactions for those properties that are being rented. This is often a significant weakness of this approach except in commercial zones. The building tax could be
reformed into a traditional value-based property tax, particularly in urban areas. Simplified valuation approaches could be developed, such as the use of value zones. In the value zone, average commercial property values per square meter could be determined and then applied to all properties within the zone. The NLUP is somewhat silent on the ‘property tax’ in urban areas, although under Section 54 reference is made to the value of improvements to the land.

**Levying a property tax on agricultural land requires policies that do not result in adverse behavioral actions.** For example, giving an exemption for small land holdings of less than 5 hectares can result in land fragmentation. To deal with unused land, however, a penalty or surcharge could be applied until the land is brought into use. This form of idle land tax is widely used and a good example is found in the Philippines. This policy has also referred to in the NLUP (Section 52).

**If properly designed and administered, the recurrent property tax could generate significant source revenues for CDCs and other urban areas.** For example, in Malaysia and the Philippines property tax generates 0.5 percent of GDP and even more significantly the City of Manila collects 54% of its revenue through property taxes. Adopting a modest 0.3 percent of GDP, the property tax in Myanmar could raise the equivalent of about USD 188 million. Therefore, the tax has the potential to play a more progressive and transparent role in terms of sub-national revenues. A significant factor is that the constitution of Myanmar guarantees land-based taxes as a source revenue for states and regional governments, which is a case of international best practice. Of course, any such tax would be incrementally “phased in” over a period of years.

**International best practice clearly demonstrates that a value-based property tax improves taxpayer equity and allows the government to recoup revenue on increasing property values that are due to government infrastructure investment.** In effect, the property tax is a buoyant tax that captures within the tax net all new developments and investments in real estate. The visibility of property makes it very difficult to hide and represents an ideal tax for sub-national governments. The value-based property tax can directly contribute to the development of valuation skills. Valuation processes and methods must be developed by the authorities to determine the underlying value of real property. This also supports compensation assessments in cases where land is acquired.

**Property tax valuations lend themselves to the application of automated mass valuation approaches.** Although this is international best practice and something that Myanmar strive to achieve, this will realistically take several years. The land registry and cadaster would need to be fully operational, transaction prices would need to be reliable with no under-declaration, sale prices and rents should be automatically entered in a database and details on property ownership recorded.

**Challenges and Prospects with the Real Estate Market and Property Valuation**

Myanmar has one of the highest property transfer taxes in the world, where the buyer of property is levied at a top rate of 30 percent. In addition, a Stamp Duty of 5 percent is levied on property located outside of the three CDCs, with an additional 2 percent if the property is located within the CDC. To compound matters, the seller of property has to pay a flat rate of 10 percent. These rates are in stark

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12 The Constitution of Myanmar under Schedule 5 and Section 254 specifically allocates the land tax revenue to States and Regions that can be considered an excellent practice. There are only a few countries, namely Kenya and the Republic of South Africa, that constitutionally provide land and property taxes for sub-national governments.

13 The property transfer tax is progressive; property with a value less than K50m (USD) is levied at 3 percent; less than K150m (USD) at 10 percent; and over K300m (USD) at 30 percent.
contrast to those levied in neighboring countries. Malaysia has a progressive transfer tax with a minimum rate of 1 percent up to a maximum of 3 percent whereas in Thailand property transfers are levied at 2 percent.

**A high property transfer tax can lead to distortions in the pricing of real estate and the volume of property transactions.** Where elasticities of demand and supply of property are high, a high transfer tax can lead to a significant reduction in transactions and higher prices for properties. This is evident within the Yangon real estate market: it acts as a disincentive for investment in immovable property, spuriously supports an informal real estate market, buyers are reluctant to register their property and it creates an incentive for the under-declaration of transaction prices and corruption. Most importantly, it destroys the basic purpose of land administration—securing land tenure—because the person named in the title is no longer the real owner on the ground, thus creating a dysfunctional and ineffective policy. A reform of the transfer tax would include ensuring an up-to-date valuation base and bringing rates down to ‘reasonable’ levels to minimize distortions. This should be done in conjunction with implementation or reform of a recurrent property tax.

**The very high transfer taxes in Myanmar were a reaction of the government in its attempts to control an ‘over-heated’ residential real estate market.** This approach to dealing with volatile markets is frequently used (see examples in Hong Kong and China). However, the success of such approaches is debatable as speculators can circumvent the process by holding back on property registration or informal transactions (i.e. deeds signed and witnessed but not subsequently registered or the use of a power of attorney as a proxy). A transparent and active property market is important because it contributes to economic growth in several ways, such as: (i) an increase in development activity; (ii) supporting the construction industry; and (iii) indirect employment in service industries. If transfer taxes are too high, they can create significant negative externalities such as under-declaration of transaction prices, which can affect the data that a value-based property tax depends on. Myanmar needs to address the high transfer and separate stamp duty in a manner that does not significantly impede the working of the real estate market.

**The property valuation industry in Myanmar is largely undeveloped notwithstanding the presence of several international property companies such as Colliers International and Savills.** However, more needs to be done to bridge the gap to build a strong valuation infrastructure that can be leveraged to support value-based property taxation. However, it should be noted that within the CDCs and national government there are no valuation specialists. To aid transparency within the valuation process, it will be important for the government to consider adopting the international valuation standards developed by the International Valuation Standards Council (IVSC). In addition, progress could be made to develop tertiary-level curricula in property valuation to provide for appropriate educational qualifications. A good example are the programs established under the World Bank supported Land Administration Modernization Project in the Open University of the University of the Philippines.

**A range of other valuation activities are undertaken by national government, particularly for assessing compensation for people dispossessed of their land for public purposes.** Clearly a major difficulty for government ‘valuers’ is the lack of a database for transaction evidence upon which transparent valuations can be made and justified. It is currently a significant challenge for the government to assess compensation for land taken when there is little to no market evidence. In many respects, having a value-based urban property tax can provide a degree of evidence for other valuation purposes.
The real estate market in Myanmar has been described as a ‘frontier’ market, which implies the lack of transparency in the operation of the market. It is also characterized by weak regulation of those actors involved in the market, such as real estate agents. Regulation could strengthen ethical practices and create a much-needed confidence in the market. However, it is evident that there is significant interest in the urban property markets by investors and developers. There are several major constraints holding back the real estate market, including: (i) the inability of foreign investors to own real estate\textsuperscript{14}; (ii) a weak banking system to support lending within the market; and (iii) the country’s long isolation from the international community. Recent economic liberalization has led to a clear rise in consumer spending and is now driving the retail sector forward. Developments in the office and hotel sector see both of these markets responding to demand and investor interest. Cities in particular can benefit from new developments through a value-based property tax.

Myanmar should move to a position to leverage data held within a land registry system for the purposes of property valuation and taxation. A comprehensive multi-purpose cadastre and land registry is the essential building block of the property tax system and, more importantly, international best practice. Being able to have a complete inventory of land and building assets within jurisdictions provides the necessary tax base. Yangon CDC has started developing its own GIS parcel-based system with scanned and digitized block maps that has many important applications for the city, including the building tax. This is an important long-term investment in people and modern systems and should be commended.

\textsuperscript{14} The Condominium Law, which has yet to be passed, is an attempt by government to open the real estate market to foreign investors. Within an eligible condominium project, foreign ownership is restricted to 40 percent and only units above the sixth floor can be purchased.