

The Republic of the Union of Myanmar

# National Land Use Policy

January, 2016

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## Foreword

1. National land resource management shall be taken into consideration not only for the present but also for the future in order to enhance people's food security, water resource development, improvement of transportation, economic and business development, and protection of environment and cultural heritage.
2. In land resource administration, it is important to develop and apply correct and complete policy, reliable legal framework and competent land management systems that are resulted from analysis of economical, political, legal and social aspects of the country.
3. National land use policy is associated with conservation, utilization and allocation of land resources and defined as the official notification of a government's objectives and plans. In the policy, it shall be clearly described land related benefits, political choice and forms in relation to allocation of authorities, and user rights of land and related natural resources that exist between the government and original land owners i.e. people of the country.
4. National land use policy is normally laid down with various objectives including land ownership and tenure security, equitable allocation, productivity for investment, sustainable environmental conservation, and enjoyment of natural beauty.
5. In the implementation of land use policy, it is required to have systematic land management system in order to approve, record and distribute land ownership, land tenure, land value and land use information. Some of currently used land resource laws and administration are over hundred year old. It shall be reviewed in order to ensure that they are in line with current situations; possessing ability to carry out public benefits and equality.
6. The Government of the Republic of Union of Myanmar formed the National Land Resource Management Central Committee with an objective to systematically manage and utilize national land resources.
7. The Central Committee has laid down the following (3) future actions:
  - a. To formulate sustainable land resource related basic principles in all inclusive manner which will be basic foundation for the future perspective;

- b. To develop an umbrella land law that can be practically used to resolve land resource related issues, with the participation and collaborate on of all stakeholders;
  - c. To implement land management reform pilot projects in order to immediately achieve people centered development outcomes.
8. In order to fulfill the mandate that is to develop and implement national land use policy, the National Land Use Policy has been successfully developed with the active participation of Union Ministries and organizations, UN and international organizations, civil society organizations (CSOs), NGOs, and other stakeholders including rural communities. There are various suggestions and recommendations received from local, national and international expert individual and groups during the 8 months consultation process. The internal and external experts reviewed and incorporated them in the draft policy in the expert roundtable process and national workshop.
9. The Central Committee sincerely express its gratitude to members of National Land Resource Management Central Committee, Land Use Policy Review Working Committee chair and members, responsible officials from the Ministry of Environmental Conservation and Forestry as focal agency, the internal and external experts, retired persons, European Union (EU), US Agency for International Development (USAID), Swiss Agency for Development and Cooperation (SDC) and The Land Core Group (LCG) and Civil Society Organizations, and all stakeholders who provided feedback and suggestions in the consultation meetings held in Nay Pyi Taw and all States and Regions.

National Land Resource Management Central Committee

- January, 2016  
Nay Pyi Taw

# The National Land Use Policy

## Introduction

1. Myanmar is a country where the various kinds of ethnic nationalities are residing collectively and widely in 7 Regions, 7 States and Union Territory. The country is located in Southeast Asia and is important geographically, economically and politically in the region.
2. Moreover, Myanmar is a country that has rich natural resources and environment, including valuable forests, fertile planes, natural gas and mineral deposits, long coastline, mountain ranges, and rivers such as the Ayeyarwaddy, Chindwin, Thanlwin, Sittaung, which are the lifeblood of the country.
3. The land resources shall be managed, administered and used, with special attention, by adopting long-term objectives for the livelihood improvement of the citizens and sustainable development of the country. When the land resources are systematically used and well managed, the more it will be possible to fulfill the basic needs of the citizens, develop the social and economic life of the people, and develop the country harmoniously.
4. Under section 37 of the Constitution of the Republic of the Union of Myanmar, it is provided that the Union is the ultimate owner of all lands in the Union, shall enact necessary law to supervise extraction and utilization of State-owned natural resources by economic forces; shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accord with the law. According to such provision, the President of the Union also guided on 19th June, 2012 to adopt a necessary, strong and precise policy for the sustainable management, administration

and use of the land resources of the country, as such, "the National Land Use Policy "has been developed.

5. This National Land Use Policy aims to implement, manage and carry out land use and tenure rights in the country systematically and successfully, including both urban and rural areas, in accordance with the objectives of the Policy and shall be the guide for the development and enactment of a National Land Law, including harmonization and implementation of the existing laws related to land, and issues to be decided by all relevant departments and organizations relating to land use and tenure rights.

**Part ( I )**  
**Objectives and Principles**

**Chapter ( I )**  
**Objectives**

6. The objectives of the National Land Use Policy are as follows:
- (a) To promote sustainable land use management and protection of cultural heritage areas, environment, and natural resources for the interest of all people in the country;
  - (b) To strengthen land tenure security for the livelihoods improvement and food security of all people in both urban and rural areas of the country;
  - (c) To recognize and protect customary land tenure rights and procedures of the ethnic nationalities;
  - (d) To develop transparent, fair, affordable and independent dispute resolution mechanisms in accordance with rule of law;
  - (e) To promote people centered development, participatory decision making, responsible investment in land resources and accountable land use administration in order to support the equitable economic development of the country;
  - (f) To develop a National Land Law in order to implement the above objectives of National Land Use Policy.

**Chapter ( II )**  
**Guiding Principles**

7. The guiding principles of the national land use policy are as follows:
- (a) To enhance sustainable land use in development and implementation of policies and legal frameworks related to land and natural resource management;

- (b) To ensure transparency, responsibility and accountability in land and natural resource governance;
- (c) To promote people's participation and collaboration particularly ethnic nationalities, women and smallholder farmers in decision making related to land and natural resource management;
- (d) To recognize and protect private and communal property rights of citizens as included in the constitution;
- (e) To make effort promoting appropriate international good practices in land and natural resource governance.

### **Chapter ( III )**

#### **Basic Principles**

8. The basic principles of the National Land Use Policy are as follows:

- (a) To legally recognize and protect legitimate land tenure rights of people, as recognized by the local community, with particular attention to vulnerable groups such as smallholder farmers, the poor, ethnic nationalities and women;
- (b) To strengthen rule of law and good governance, including simplifying procedures, ensuring transparency, and increasing accountability and responsibility;
- (c) To promote effective land information management, including easy public access to information;
- (d) To adopt international best practices such as voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security and human rights standards;
- (e) To promote inclusive public participation and consultation in decision making processes related to land use and land resource management;
- (f) To promote effective market based solutions, such as formal recognition of land tenure rights or use of new tax mechanisms,

to address land management issues such as discouraging land speculation;

- (g) To review and revise the National Land Use Policy to meet changing socioeconomic needs of the country as necessary;
- (h) To develop and implement fair procedures relating to land acquisition, compensation, relocation, rehabilitation, restitution, and reclaiming land tenure and housing rights of internal displaced persons and returning refugees caused by civil war, land confiscation, natural disasters and other causes;
- (i) To ensure easy access to judicial review or other dispute resolution mechanisms that are independent, fair, transparent and affordable;
- (j) To prioritize the interest of public citizens over private companies in land use decision making;
- (k) To ensure equal opportunities for men and women over land resources, tenure rights and participatory decision making;
- (l) To permit freedom of crop selection and adoption of cultivation technologies in a way that will not negatively affect the environment;
- (m) To develop law and procedures for addressing the issues of landlessness and affordable housing;
- (n) To decentralize decision making related to land;
- (o) To strictly and transparently enforce contracts related to land in compliance to the law;
- (p) To address the impacts of climate change and natural disasters.

## **Part (II)**

### **Land Use Administration**

#### **Chapter (I)**

##### **Formation of the National Land Use Council**

9. The Union Government:
  - (a) Shall establish the National Land Use Council for the implementation of the National Land Use Policy and related laws, and determine its roles and responsibilities;
  - (b) In establishing the National Land Use Council, it shall comprise a Vice-President assigned by the President of the Union as the Chairman, the relevant Union Ministers and Chief Ministers of the Regions or States as members, and a person elected and assigned by the members as the Secretary;
  - (c) May form the necessary work committees to support the roles and responsibilities of the National Land Use Council;
  - (d) Shall form a technical advisory body that includes representatives from different stakeholders groups, such as farmer associations, ethnic nationalities, civil society, academia, private sector and others.
  
10. The National Land Use Council:
  - (a) Shall establish Land Use Committee at all Regions or States or Union Territory (Nay Pyi Taw Council), to effectively and uniformly supervise the implementation of the National Land Use Policy in respective locality in the country, and determine its roles and responsibilities;
  - (b) In establishing the Land Use Committee at Region or State level, it shall comprise the Chief Minister as Chairman, Ministers for the Ministries related to land use from Region or

State Government, responsible persons from the relevant Region or State level Government departments and organizations, representatives of farmers selected by local associations, representatives from all local ethnic nationalities, experts, women and elders as members, and a person elected and assigned by the members as the Secretary;

- (c) In establishing the Land Use Committee at Union Territory (Nay Pyi Taw Council), it shall comprise the Chairman of Union Territory (Nay Pyi Taw Council) as Chairman, member of the Union Territory (Nay Pyi Taw Council), responsible persons from the relevant Union Territory (Nay Pyi Taw Council) level Government departments and organizations, representatives of farmers selected by local associations, representatives from all local ethnic nationalities, experts, women and elders as members, and a person elected and assigned by the members as the Secretary.
11. The respective Region or State or Union Territory Government (Nay Pyi Taw Council) shall establish the Self-administered Division or Self-administered Zone Land Use Committees and District Land Use Committees, Township Land Use Committees, Village-tract or Ward Land Use Committees with appropriate persons based on the composition in paragraph 10(b), and determine the roles and responsibilities.
  12. The Union Government, National Land Use Council and Region or State or Union Territory Government (Nay Pyi Taw Council) shall, based on the following facts, determine the roles and responsibilities of relevant working committees and various local committees:

- (a) Coordination, management and information sharing for consistency of the existing land records, maps and registration systems of all relevant Union level ministries and departments;
- (b) Transparently providing precise and correct land information that the stakeholders need to use when deciding the amount of land area necessary for projects related to national development, environmental conservation, land use planning and investment;
- (c) Maintaining a system of correct boundary maps, land types and classification, in order to recognize legitimate land use and land tenure rights, reduce land conflicts, and easily resolve any and all land disputes.

## **Chapter (II)**

### **Determination of Land Types and Land Classifications**

13. Based on the following general land types, various land classifications may be determined:
  - (a) Agricultural land (all land used primarily for agriculture production purposes, including growing annual or perennial crops, growing industrial crops, animal husbandry activities, land based aquaculture activities, and any agriculture production focused support facilities, and any agriculture production focused support facilities that are either currently cultivated or follow);
  - (b) Forest land (intended to capture those areas of the country that will be determined to be part of the permanent forest estate);
  - (c) Other land (Urban land, village land, religious land, public land, government administrated vacant, fallow, virgin land and

wasteland that are not classified as forestland and agricultural land, etc.).

14. To determine appropriate land types and land classifications to meet the current needs of the country, the relevant government departments and organizations shall transparently review and amend the existing land types and classifications in accordance with the rule of law, national land use policy and national land law.

### **Chapter (III)**

#### **Land Information Management**

15. Systematically maintaining correct and accurate land cover maps, land records and other land information is fundamental for systematic land use management, land tenure security and urban-rural economic development.
16. In carrying out land information management:
  - (a) Accurate, complete and updated Information related to land use shall be maintained;
  - (b) Respective government departments, organizations and local representatives must coordinate in drawing maps and registration in order to ensure land tenure security and accurate and complete land information. In order to do mapping and registration, human resources and budget shall be sufficiently provided;
  - (c) Access to accurate, complete and updated land use information is essential for legal decision making related to land acquisition, relocation, transfer of land use rights, change of land use types, and resolving land disputes;
  - (d) All individuals, communities and organizations with the rights to use and manage land must have equal rights to access

accurate and complete information related to land use, have secure land tenure rights, land transfer rights and freedom of crop choice;

- (e) Legitimate land tenure rights recognized by the local community, including individual, household, collective and communal, whether or not they have been registered, recorded and mapped, shall be recognized, protected, and registered in accordance with laws;
  - (f) Land tenure registration and transfer procedures shall be modernized, streamlined and simplified in order to make the process more transparent, accountable and affordable.
17. The following shall be carried out in timely manner to successfully accomplish the preparatory process for issuing land tenure rights and land information management:
- (a) Establishing transparent, accountable, affordable, clear and easy process to enable recognition and registration of rights for all stakeholders including ethnic nationalities and smallholder farmers, when their rights have not previously been recognized and registered;
  - (b) Legally recognizing and registering legitimate land tenure rights that are recognized by the local community;
  - (c) Updating and transforming land information and maps into appropriate digital formats in order to facilitate sharing and coordination among government departments and organizations, and to enable easy access and use by the public;
  - (d) Obtaining and using high quality satellite images and appropriate technologies, including Geographic Information System (GIS), when comparing actual land use on the ground, and land records including existing land use maps;

- (e) Checking accurate land use rights records when updating land use maps in timely manner;
  - (f) Using community consultation and participatory land use mapping methods when approving local land use rights;
  - (g) Including participation of well respected local individuals and associations when conducting a survey of landless people in the villages;
  - (h) Considering the elements above, timely implementing one or more pilot projects and research initiatives relating to updating maps and records, and enabling public access to land information.
18. The union government shall establish a dedicated entity for management of land information systems across the country.

## **Part (III)**

### **Planning and Changing Land Use**

#### **Chapter (I)**

##### **Planning and Drawing Land Use Map**

19. (a) Preparation of land use plan to enable the systematic management and use of land resources in the country shall be based on upon accurate, complete and updated information, and shall take into consideration potential future trends and needs;
  - (b) Revise and update land use plans and maps in timely manner in order to understand potential impacts of proposed land use changes on existing livelihoods, land use, land tenure rights, existence of farmlands, protected areas and encroachment;
  - (c) The process in sub-paragraph (b) shall be carried out using an inclusive participatory approach and in consultation with local stakeholders, including men and women;
  - (d) Land use planning process that is participatory, transparent and accountable, as defined in this chapter, shall be incorporated in the National Land Law.
20. To make district level land use planning and decision making processes easier and effective, use advanced land use mapping techniques, zoning, planning, public consultation and individual application.
  21. The following shall be included in process of preparing district level land use plans:
    - (a) Transparently providing access to information on the land use plan to the public;

- (b) Integrating and implementing the Union level, Region or State level and local level land use plans;
  - (c) Using "bottom-up" participatory approach when preparing urban and rural land use plans;
  - (d) Deciding impartially and transparently the recognition of existing land tenure rights and changing the existing land use;
  - (e) Using procedures that provide prior notice to the public and reaching consent when preparing participatory land use plans at township, town, ward, village-tract and village levels;
  - (f) Using evidence based satellite images and appropriate technologies, including GIS, when preparing land use plans;
  - (g) Considering historic and current land use and land tenure rights when changing land types or land classifications;
  - (h) Establishing agricultural and ecological conservation zones to encourage protection of land resources and the environment;
  - (i) Establishing reserved land areas for allocation to landless citizens in order to improve livelihoods, promote social stability, and manage land encroachment;
  - (j) Revising land use plans as needed to reflect changing needs and priorities of society over time;
  - (k) Establishing effective and beneficial processes that provide consultation opportunities to the public during land use decision-making.
22. Legitimate land use rights shall not be affected when there is a plan to change land use through zoning or individual application.
23. In areas where there is a plan for land use change, existing land users may voluntarily and independently transfer or sell their land use rights.

## Chapter ( II )

### Zoning and Changing Land Use

24. Based on land use information, the District Land Use Committee may define the following zones, and additional zones as necessary, in the proposed land use planning maps:
  - (a) Urban and rural development zone;
  - (b) Agriculture zone;
  - (c) Livestock breeding and fishery zone;
  - (d) Protected area zone or national security zone;
  - (e) Commercial zone, industrial zone or mining zone;
  - (f) Grazing land zone;
  - (g) Forest zone.
25. The District Land Use Committee shall:
  - (a) Propose land use changes in appropriate areas of the district based on approved and updated information from the land use planning process, in order to meet local development, environmental conservation, livelihoods improvement, food security and other needs;
  - (b) In proposing land use change, protect sustainable land use, land administration and land use rights, whether they are registered or not registered.
26. The land use committees at different levels including National Land Use Council, Union Territory (Nay Pyi Taw Council), region or state, and self-administered division or self-administered zone, shall revise respective sustainable land use plans taking into consideration the proposed land use plans and maps of the District Land Use Committees.

27. (a) After completing proposed land use planning maps and land use zoning, they shall be presented to the public including local communities and other stakeholders, for public consultation.
- (b) Information sharing must be done sufficiently in every village or ward in order to record positive or negative feedback from stakeholders in the affected areas, on any part, or entirety, of the proposed land use change.
- (c) Based on the positive and negative feedback from the stakeholder consultation in the affected areas, the Ward or Village Tract Land Use Committees will submit recommendations for revising, partially or entirely, the proposed land use change to the Township Land Use Committee for consideration.
- (d) Based on recommendations and feedback from the affected Ward or Village Tract' Land Use Committees, the Township Land Use Committees will submit recommendations for revising, partially or entirely, proposed land use change to the District Land Use Committee for consideration.
- (e) The District Land Use Committee:
  - (i) Based on the recommendations and feedback from Ward or Village Tract, and Township Land Use Committees, will review and revise the proposed zones of entire districts as necessary, in order to change land use;
  - (ii) Allowing sufficient time, will conduct a second round of information sharing and public consultation with local communities and in affected wards and villages, on the revised land use zones and maps;
  - (iii) Based on the recommendations of Ward or Village Tract and Township Land Use Committee, from the second round of information sharing and public consultations at the village

level, will review and finalize the zoning for changing the overall land use of the District;

- (iv) After finalizing zones for land use change, shall approve the new land use zones;
- (v) In order to make the public aware, the new land use zones must be demarcated on the ground and records shall be made publicly available in the respective Wards or Villages;
- (vi) Shall submit the approved land use zone records to the dedicated entity responsible for land information management systems at the national level using approved procedures, so that national, region or state, and self-administered division or self-administered zone may revise sustainable land use plans in a timely manner.

### **Chapter ( III )**

#### **Changing Land Use by Individual Application**

- 28. In order to protect the land use rights of existing land users in affected and surrounding areas, procedures will be developed on providing public notice, information sharing and right to appeal, when determining whether an individual application for land use change, that is submitted to respective ministries, government departments or agencies, is permitted or not.
- 29. To protect existing land users in the local communities from negative impacts of proposed individual land use changes, the following shall be done:
  - (a) The respective land use committee shall review, check for accuracy and approve information in relevant land use plans relating to existing livelihoods, land uses, land use rights,

existing land availability, protected areas, encroachments and other socioeconomic information;

- (b) Complete an Environmental and Social Impact Assessment (ESIA) before considering a grant for individual land use right or lease of land;
- (c) Determining the following costs and time schedule for payment by an applicant;
  - (i) Cost for scrutinizing whether information is correct, and;
  - (ii) Cost for conducting ESIA in the affected area;
- (d) Protecting lands that are under rotating and shifting cultivation and customary cultivation practices;
- (e) Protecting natural resources and ecological system that provide shared livelihood and socioeconomic development benefits to the surrounding communities;
- (f) Implementing land use plans consistently and fairly with public consent to reduce land disputes.

## Part ( IV )

### Grants and Leases of Land at the Disposal of Government

30. When granting or leasing of land at the disposal of government, the government shall provide prior notice, secure feedback from stakeholders, and conduct an ESIA in accordance with law, in order to not affect the public negatively.
31. While implementing actions in accordance with paragraph 30, the granting and leasing of land at the disposal of government shall be temporarily suspended.
32. When conducting ESIA:
  - (a) If members of the public need to be relocated for a public purpose, which is unavoidable, then there shall be public consultation, negotiation and participatory decision making;
  - (b) If the relocation is due to private purpose, then the preference of the stakeholders shall be given priority;
  - (c) If it is impossible to relocate according to the desire of the stakeholders, when the relocation is due to a private purpose, then ways will be explored to revise the project design and make changes;
  - (d) The benefits of the project shall be properly explained to those who have to be relocated, and a program for sustainable development that sufficiently meets the needs of the stakeholders shall be implemented;
  - (e) Stakeholders to be relocated shall be systematically consulted and allowed to participate directly in the design and implementation of the land relocation and rehabilitation project;
  - (f) Arrangement shall be made to allocate land to landless stakeholders;

- (g) Suitable protection measures shall be implemented in the proposed grant or lease and surrounding areas, in order to avoid the loss of land use rights and negative impacts on the socioeconomic life of existing land users;
  - (h) The existing environment and natural resources, which are beneficial to relevant local stakeholders, shall be protected and conserved;
  - (i) An impartial dispute resolution mechanism shall be established and readily available for all relevant land users;
  - (j) Land, infrastructure and housing of an equal or higher value shall be planned, constructed and provided prior to relocation from the areas where the stakeholders previously lived.
33. In order to address the problem of land monopolization and speculation, the following shall be included in the National Land Law and land administration system:
- (a) Defining the maximum size limit for grants or leases of land that is at the disposal of government;
  - (b) Defining the limits based on the capacity of individual companies;
  - (c) Suspending the land use rights on lands that are in dispute;
  - (d) Defining prohibitions relating to land monopolization and speculation, so that the case can be taken to court;
  - (e) Allowing local communities and experts to participate in dispute resolution and prevention;
  - (f) Conducting free, prior, informed, consent and environmental social impact assessment.
34. In piloting contract farming and Joint - Venture systems that are beneficial to smallholder farmers, the following shall be practiced before starting the agriculture related business project in order to

sustain investment at the village level and resolve potential land disputes:

- (a) Reviewing and approving the work records of companies that apply for a permit;
  - (b) Implementing an ESIA before the commencement of the project;
  - (c) Studying and analyzing the completed and ongoing pilot projects of the company, in order to understand whether the contract farming or Joint–Venture system to be implemented together with the company is appropriate or not for a local situation;
  - (d) When the company acknowledges and agrees to the regulations of a mutually beneficial contract farming or Joint-Venture agreement, entering into a temporary agreement, and if the company strictly follows the regulations, then entering into a longer-term mutually beneficial agreement;
  - (e) Consulting and agreeing on the mutually beneficial arrangements including land use, crop sharing and price;
  - (f) Accurately defining the benefits to be given by the company to the farmers in the mutually beneficial contract farming or Joint –Venture agreement.
35. Regulations related to granting and leasing of land at the disposal of government shall be defined.
  36. One or more pilot projects shall be researched and tested in order to enable implementation of environmental and social safeguards.

## Part ( V )

### Procedures related to Land Acquisition, Relocation, Compensation, Rehabilitation and Restitution

37. When land acquisition is done for social and economic development, sustainable land use for the future generations shall be taken into consideration.
38. When managing the relocation, compensation, rehabilitation and restitution related activities that result from land acquisition and allocation, unfair land confiscation or displacement due to the civil war, clear international best practices and human rights standards shall be applied, and participation by township, ward or village tract level stakeholders, civil society, representatives of ethnic nationalities and experts shall be ensured.
39. Relevant laws, rules and procedures shall be amended, repealed and newly enacted, if necessary to conform to the objectives, basic principles, practices and instructions in this policy.
40. When amending or newly enacting relevant laws, rules and procedures, they shall be in conformity with National Land Law and based on the following:
  - (a) Public participation management process and fair, equitable and systematic procedures shall be defined;
  - (b) Shall define measures to prevent and control corruption, and misuse of power, by assigning qualified persons capable of carrying out matters relating to land use in a fair and correct manner in accordance with law;
  - (c) Shall describe effective, consistent and fair valuation system when providing compensation and relocation for people affected by land acquisitions;

- (d) Shall conduct necessary rehabilitation in order to ensure maintenance of livelihoods for people affected by land acquisitions, even though compensation and relocation has already been carried under sub-paragraph (c);
- (e) Shall define the time period for conducting matters defined in sub-paragraph (c) and (d);
- (f) If the affected person wants to invest in the project, it shall be allowed.

**Part ( VI )**  
**Land Dispute Resolution and Appeal**  
**Chapter ( I )**  
**Land Disputes Resolution**

41. In order to hear and decide land disputes through the use of impartial land dispute resolution mechanisms across the whole country, the following shall be defined:
- (a) Allowing representatives from local farmer organizations to participate at every level in order to protect and develop farmers' benefits;
  - (b) Allowing local farmers organizations to resolve land disputes arising between their members, using local customary dispute resolution mechanisms, if they choose to do so;
  - (c) Allowing the rights to make a complaint, defend oneself or with representation, and appeal for land disputes;
  - (d) Allowing civil society to provide legal aid and acquire necessary information for use in land disputes;
  - (e) Resolving land disputes in public, and use appropriate local language and translation as necessary;
  - (f) Resolving land disputes transparently, fairly and free from corruption.
42. The following shall be carried out when resolving land disputes:
- (a) Arranging the establishment of special courts that will hear special cases related to land law with specially trained judges and law officers if necessary;
  - (b) Establishing independent monitoring bodies with participation of all stakeholders and appointing monitors that have no direct interest, to observe settlement of land disputes;

- (c) Determining the processes to settle land disputes between businessmen and farmers, or between farmers, through independent arbitration;
  - (d) Establishing an independent tripartite arbitration process to settle land disputes, comprised of Government departments, organizations, farmers and private sector;
  - (e) Establishing accurate and clear procedural processes in relevant departments and organizations to improve easy access to, and use of, independent arbitration tribunals, courts and other dispute resolution mechanisms by farmers and other land users in accordance with existing laws.
43. One or more pilot projects shall be researched and tested in order to establish, organize, implement and monitor accurate practices, described in paragraph 42, for resolving land disputes impartially.

## **Chapter ( II)**

### **Appeal**

44. In order for individuals and organizations to appeal decisions in disputes related to land and land administration, conduct necessary research.
45. Appeal of matters relating to land shall be carried out transparently in public.
46. In conducting appeals related to land, assistance from individuals and civil society with ability to support systematically shall be allowed.

## Part ( VII )

### Assessment and Collection of Land Tax, Land Transfer Fee and Stamp Duties

47. In order to sustain land use planning, land tenure security, land market development, and protection of environmental resources, fair and equitable assessment and collection of land tax and transparent collection of land transfer fee that are the fundamental budgetary processes, shall be implemented.
48. Land taxation system shall be implemented as follow:
  - (a) Defining the rate of land revenue and other taxes;
  - (b) Assessment of land revenue and other taxes;
  - (c) Collection of land revenue and other taxes.
49. The assessment and collection of revenue relating to land shall be carried out by the following Government departments and agencies:
  - (a) Relevant Union Ministries;
  - (b) Nay Pyi Taw Development Committee;
  - (c) Yangon City Development Committee;
  - (d) Mandalay City Development Committee;
  - (e) Region or State Governments.
50. In line with objective and basic principles of this policy, in order to ensure the sustainable development of the country, all business and other uses of land shall exclusively pay appropriate and fair tax in accordance with the law.
51. Land taxes shall be equitable, fair and appropriate, and the procedures for collection and payment of these shall be clear, effective and transparent.
52. In order to prevent land monopolization and land speculation, a policy of increasing the rate of tax based on the amount of land

holding, use of idle land tax, and other taxation mechanisms, will be adopted.

53. Rotating and shifting cultivation shall be considered as subsistence agriculture, and the rate of land tax shall not be more than the maximum rate collected for ordinary smallholder farmer or smallholder household.
54. The factors to be considered in assessing the tax rate for land shall include land use, current market price and production value, usable land area, value of improvements to the land, exclusion of protected area, and the related costs, infrastructure and services provided by local public improvements.
55. To ensure fair and equitable land tax rates that contribute to economic development of the country and its' citizens, socioeconomic census studies shall be conducted on both net production value of agricultural land that are based on cost of agricultural production, crop yields, market access, crop prices, and net profit of other land uses.
56. When defining tax rate, two categories shall be considered, one being a rate based on subsistence livelihoods, and the other rate based on commercial agricultural production and other land use for commercial purposes.
57. In order to amend existing land tax rates and land administration systems, research shall be conducted based on the following:
  - (a) Defining the best methods for collection of land taxes with fair and equitable rates;
  - (b) Allowing suitable exemptions or credits in order to secure the livelihoods of subsistence farmers;
  - (c) Advertising the standard land valuation and tax rates published by the regional and state governments, or Union Territory

- (Nay Pyi Taw Council), in all relevant departments and agencies;
- (d) Assessing and collecting land taxes from all users in an administratively transparent process;
  - (e) Establishing an easily accessible and impartial mechanism allowing all land users to submit complaints if decisions related to land tax rates are not fair and equitable;
  - (f) Decentralization of tax collection and utilization mechanisms.
58. Open and transparent methods of conducting land transactions for purchase, sale, secured credit and other transfers of land use rights at fair and reasonable cost shall be fundamental requirements for the smooth operation and orderly development of land markets that support economic development.
59. Land transfer fees and stamp duties shall be fair, equitable and appropriate, and the procedures related to the collection and payment of revenue shall be clear, effective and transparent.
60. To facilitate land market development, research shall be conducted on establishing a single window public services mechanism for providing affordable public access to authentic land information and for processing future land transactions.
61. To assure timely and accurate processing of increasing volumes of land transactions, collect land information and transaction fees from all participants and deliver to the government fund. The fund will be used exclusively to finance human resources development and modernization of land records keeping infrastructure, administration and public services.

62. In order to review and revise stamp duties, and the collection of stamp duties, the following shall be done:
- (a) Stamp duties must be paid in full before registration or legal recognition of any land transaction, and no avoidance of payment will be allowed;
  - (b) Stamp duties shall be fair, equitable and reasonable;
  - (c) Revenue stamps shall be sold and registered in advance, and standard land value set by respective local governments with a transparent process and based on actual land market value and prescribed rates that are based on land value shall be posted in all relevant government departments and agencies that collect land revenue;
  - (d) Consult and negotiate with relevant ministries to amend rules and procedures, in order to exempt transfers of land use rights for purposes of adding an existing land user's spouse to registration records, for inheritance, or for a gift to any family member of the existing registered land user from stamp duty;
  - (e) Consult and negotiate with relevant ministries to amend rules and procedures, in order to exempt transfers of land from the state to land users, their spouses and family members, or organizations, that have not previously registered their legitimate land use rights, from stamp duties;
  - (f) Fees and stamp duties for leases or grants, of land at the disposal of government, for commercial purposes will be based on the actual value of the land, improvements, crops, and other natural resources located on or beneath the land.
63. Pilot projects that include one or more methodologies shall be researched and tested in order to revise, assess and collect stamp duties based on the above guidelines in paragraph 62.

## **Part (VIII)**

### **Land Use Rights of the Ethnic Nationalities**

64. Customary land use tenure systems shall be recognized in the National Land Law in order to ensure awareness, compliance and application of traditional land use practices of ethnic nationalities, formal recognition of customary land use rights, protection of these rights and application of readily available impartial dispute resolution mechanisms.
65. Duties shall be assigned for the preparation and revision of land use maps and records through public consultation processes by the ward or village tract land use committees under the supervision of the township land use committee, in order to:
  - (a) Have accurate understanding of information related to land possession, land use, land availability and allocation in the area where ethnic nationalities live or traditionally use land resources for their livelihoods;
  - (b) Conduct land use planning that considers social, environmental and economic issues;
  - (c) Make correct decisions in accordance with law related to land use, settlement of disputes and encroachment.
66. When preparing and revising customary land use maps and records of ethnic nationalities, the responsible government departments and organizations shall do the following:
  - (a) Consult with, and allow participation of, representatives and leaders of ethnic groups with knowledge of customary land use practices;
  - (b) Formally recognize and protect the customary land tenure rights and related local customary land management practices

of ethnic groups, whether or not existing land use is registered, recorded or mapped;

- (c) Recognize the rights of stakeholders who are members of ethnic nationality organizations, and recognize in existing laws in order to register their land use.
67. Ethnic leaders, elders and women shall be involved in decision making processes related to land tenure rights of individual stakeholders or groups practicing traditional cultivation methods on customary lands, monitoring, and dispute resolution mechanisms.
68. The customary lands of ethnic groups used traditionally that fall under current forest land or farmland or vacant, fallow and virgin land classifications shall be transparently reviewed, registered, and protected as "customary land", in accordance with the Constitution of the Republic of the Union of Myanmar, and land allocation to any land user, other than for public purposes, shall be temporarily suspended until these lands are reviewed, recognized and registered as customary lands.
69. Provision in the new National Land Law relating to reclassification of customary land and land tenure right of ethnic groups shall be the protection against grants or leasing of land at the disposal of government allowed under any existing law.
70. Reclassification, formal recognition and registration of customary land use rights relating to rotating and shifting cultivation that exists in farmland, forestland, vacant land, fallow land, or virgin land shall be recognized in the new National Land Law.
71. Technical, financial and infrastructure support shall be made available to improve the land tenure security and agricultural practices of ethnic nationalities, in order to protect the environment, increase climate change resilience, and improve their food security.

72. Civil society and other organizations shall be encouraged to provide support indicated in paragraph 71.
73. In order to resolve disputes related to land use of ethnic groups, ethnic customary land dispute resolution procedures currently used shall be defined in the new National Land Law, and the respected influential representatives from the ethnic groups shall participate in dispute resolution decision making processes.
74. For ethnic nationals who lost their land resources where they lived or worked due to civil war, land confiscation, natural disasters or other causes, that desire to resettle to their original lands, adequate land use rights and housing rights shall be systematically provided in accordance with international best practices and human rights standards.

## Part ( IX )

### Equal Rights of Men and Women

75. In accordance with the Convention on the Elimination of all Forms of Discrimination Against Women, and the Constitution of the Republic of the Union of Myanmar, the new National Land Law shall provide that men and women have the following land tenure and management rights equally:
- (a) The right to hold individual or joint landholder rights and the right to own property;
  - (b) The right to land allocation and land management in accordance with law;
  - (c) The right to inherit land tenure and management rights;
  - (d) The right to land tenure and management rights when a spouse dies, when property is divided and when couples divorce;
  - (e) The right to participate and represent the community when making decisions in land disputes relating to land use, land transfer and land succession rights, including customary practices and systems of ethnic nationalities;
  - (f) The right to participate and represent the community in relation to land acquisition, compensation, relocation, rehabilitation and restitution;
  - (g) The right to participate in land information collection, land monitoring, land evaluation and land assessment;
  - (h) The right of ethnic nationality organization members to formally recognize, register and protect their customary land use rights, regardless of marital status.
76. Elders, civil society and other organizations shall be encouraged to support the realization of the rights mentioned above in paragraph 75.

## Part ( X )

### Harmonization of Laws and Enacting New Law

77. (a) A new National Land Law shall be drafted and enacted, using this National Land Use Policy as a guide for the harmonization of all existing laws relating to land in the country.
- (b) When drafting the National Land Law, the public participation and consultation process contained in this Land Use Policy shall be used.
- (c) When drafting the National Land Law, the consultation process and key procedural steps shall be implemented as follows:
- (i) In order to inform the public, government departments, civil society, farmers and other stakeholders, down to the grassroots level across the country, about the purpose and process of drafting and implementing the National Land Law, public consultation events and other appropriate methods shall be used;
  - (ii) When drafting National Land Law, take into consideration experiences of countries in the region and around the world, the unique characteristics of the country, issues being faced, and the interest of those using land and natural resources in the country, then inform the stakeholders and public, including media, through consultation events and other means, so that they may provide feedback;
  - (iii) Allow participation of all stakeholders when conducting the national level workshops on the draft National Land Law;
  - (iv) Finalize the draft National Land Law and submit to the Pyi Htuang Su Hluttaw (Upper House).

## Part ( XI )

### Monitoring and Evaluation

78. (a) The National Land Use Council shall periodically conduct monitoring and evaluation on implementation of, and compliance with, the National Land Use Policy and related laws across the whole country.
- (b) The National Land Use Council shall issue and ensure government compliance with reporting procedures relating to land use management, land allocation and quality control of land use planning processes, implementation of and compliance with the National Land Use Policy and other matters.
- (c) The monitoring and evaluation report shall be prepared based on accurate and firm evidence from the government administrative organizations, expert organizations, farmers, civil society and other stakeholders.
- (d) When carrying out monitoring and evaluation:
- (i) Assess and analyze whether implementation is in compliance with procedures relating to land acquisition, compensation, relocation, rehabilitation and restitution;
  - (ii) Assess and analyze whether there has been systematic adjudication of land use rights and registration claims;
  - (iii) Assess and analyze the location and underlying cause of claims for land use rights;
  - (iv) Assess and analyze whether the customary land use rights of ethnic nationality groups have been formally recognized and protected;

- (v) Assess and analyze whether land allocation maps and records have been timely reviewed and accurately updated;
- (vi) Assess and analyze whether there has been implementation of a bottom-up decentralized participatory land use planning process;
- (vii) Assess and analyze whether the status of communication and cooperation between relevant ministries;
- (viii) Assess and analyze whether environmental and social safeguards are being applied for impact assessment purposes, and to protect against illegal land confiscation;
- (ix) Assess and analyze whether grants and leases of lands at the disposal of the government are in compliance with legal regulations and procedures;
- (x) Assess and analyze whether the establishment of rates for land taxation, land transfer fees and stamp duties are fair and equitable, and whether there is good governance in the administration;
- (xi) Assess and analyze whether a multi-stakeholders participatory process has been used, as indicated in the National Land Use Policy, for development and implementation of relevant laws, regulations, procedures and other requirements;
- (xii) Assess and analyze whether the National Land Use Policy is periodically updated and revised to meet the needs of the public;
- (xiii) Assess and analyze whether existing laws relating to land are harmonized based on the National Land Law and this National Land Use Policy;

- (xiv) Assess and analyze whether the performance of the land use committees at various levels is effective;
  - (xv) Assess and analyze whether women's land rights are properly recognized and women may participate in land use decision making processes.
- ( e) The findings from monitoring and evaluation, assessments, and recommendations shall be annually reported to parliament, Union Government and relevant departments, and the public.

## Part ( XII )

### Research and Development

79. In order to improve the public understanding of land use rights, strengthen implementation of the National Land Use Policy, and increase protection of citizens' land tenure rights, there shall be effective cooperation between international experts and local communities, implementation of pilot activities as indicated in the National Land Use Policy, and enactment of the National Land Law.
80. The following priorities shall be carried out when implementing research initiatives, capacity building activities, educational programs and pilot projects:
  - (a) Analyze and assess current land use records, and impacts of different types of land use;
  - (b) Pilot procedures for participatory land use planning and zoning in order to determine the best methodologies;
  - (c) Determine the best methods for protection of land tenure rights of vulnerable groups, including smallholder farmers, ethnic nationalities and women;
  - (d) Determine the best methods for updating and approving land use records and maps in a timely manner;
  - (e) Determine the best dispute resolution mechanisms for resolving different types of historic and recent land disputes, and develop methods and procedures for effective implementation;
  - (f) Determining the best methods for monitoring land valuations based on accurate land transfer information and market trends;

- (g) Determine the best land use management methodologies in order to promote sustainable land use for different types of land in various locations;
- (h) Determine the best methods for the construction of housing estates, and related infrastructure, for resettlement of existing residents and land users in urban areas, including their livelihood development, with the involvement of financial support from the private sector;
- (i) Determine the best procedures for accurately updating, revising, correcting and approving existing land use records and maps for forest land, agricultural land, customary tenure land, vacant land, fallow land, virgin land, urban land, rural land and other lands;
- (j) Determine appropriate procedures for the formal recognition and protection of customary tenure rights that have not been recorded, and best methods for appropriately utilizing customary law;
- (k) Determine appropriate land use practices based on soil types, land availability, and other physical and social information;
- (l) Pilot application of appropriate information technology as necessary to facilitate public participation in the development of land use maps, analyzing and approving of existing legitimate land use rights, and providing easy access to accurate and updated land information for local communities;
- (m) Research and pilot alternative land use practices other than those indicated in the National Land Use Policy;
- (n) Conduct research on best procedures for restitution of rights to land and housing of individuals, households and communities that had to abandon the area where they previously resided due

to illegal land confiscation, civil war, natural disasters or other causes;

- (o) Conduct research on land use change in order to understand impacts on citizen's land tenure rights and livelihoods, national food security, national economic development, social wellbeing and environment benefits in the country;
  - (p) Conduct research on collection and use of land tax;
  - (q) Conduct research on best ways to address landlessness.
81. When developing project proposals for research, capacity building, education and pilots, participation of local civil society and experts shall be allowed.
  82. Encourage and support individuals and organizations to conduct independent research initiatives, capacity building activities, educational programs and pilot projects.
  83. Research findings and results shall be incorporated when reviewing, revising and approving new or existing National Land Use Policy, National Land Law, and other related policies, laws, regulations and procedures.

**Part ( XIII )****Miscellaneous**

84. Based on evidence and results of research on land use management and administration, and recommendations of stakeholders recorded during transparent and inclusive public consultation processes, this National Land Use Policy will be reviewed, updated and revised at least every five years as necessary.

