



## Meeting Minutes

### Second Drafting Group for Myanmar's Summary of Information on Safeguards

#### Second Meeting

Date & time: 12 July 2019, 9:00am – 12:30pm

Venue: UNDP Office, UMFCCI Building, Nay Pyi Taw

#### Meeting objectives

- Provide feedback on first draft of the Summary
- Provide specific information to questions related to members' areas of expertise
- Review progress against the SOI workplan and discuss plans for consultation

#### Meeting participants

Nineteen people attended meeting, including fourteen women. Ten drafting group members joined the meeting and four were new joining members from similar organizations. The Departments/organizations joined in the meetings were:

- Department of Ethnic Rights, Ministry of Ethnic Affairs
- Union Attorney General Office
- Department of Social Welfare, Ministry of Social Welfare, Relief and Resettlement
- Department of Agriculture, Ministry of Agriculture, Livestock and Irrigation
- Forest Research Institute, Forest Department, Ministry of Natural Resources and Environmental Conservation
- Environmental Conservation Department, Ministry of Natural Resources and Environmental Conservation
- Myanmar Environmental Rehabilitation-conservation Network (MERN)
- Promotion of Indigenous and Nature Together (POINT)

The participants list is attached in Annex 1.

#### Content

The agenda of the meeting is included in Annex 2.

Following welcoming remarks provided by Tim Boyle (Myanmar UN-REDD Programme Chief Technical Advisor), participants introduced themselves and May Nwe Soe (National Sol) Consultant gave an overview of the meeting agenda and recap Work Plan. The updated Sol development Workplan is attached in Annex 3.

#### Overview of first draft Summary of Information:

May Nwe Soe (National Sol) consultant presented on the first draft Summary of Information, with two accomplished sections: Myanmar's National Safeguards Approach and Clarifying, Addressing and Respecting the Safeguards. During the presentation on the Sol Principles and Criteria, many discussion and feedbacks were responded from the Drafting Group Members. The discussion points are as below:

- UAGO suggested to add at least three labours laws such as Labour Organization Law, the Settlement of Labour Dispute Law and the Employment and Skills Labour Development Law which can address the workers' rights and human rights, in Criterion A1.

- Then, DG members raised the question whether the rules should also be mentioned in the address part. Charlotte explained that some countries listed all rules and laws in the address parts and she suggested to add the rules in footnote in Myanmar first SOI.
- DG members also suggested that the Forest Law should be referred to 2018 version instead of the 1992 Forest Law version as the 1992 version was covered by the 2018 version. Similarly, Community Forestry Instruction should also refer to 2018 version.
- Then, DG members also mentioned that the 1994 Forest Rules and the 1995 Wildlife Rules are still alive and can refer to them.
- CTA, UNREDD commented to add the missing and important law that is the amendment VFV law 2018 in Criterion A1.
- For the question whether UAGO review on the National REDD+ Strategy to ensure the consistent with the national policies, UAGO answered that they don't use to review on the strategies unless the concerned ministries requested to review on it although UAGO used to review on the laws and supported laws. This strategy reviewing process is very depending on the line Ministry's concerned. It is a gap in Criterion A1.
- CTA, UNREDD raised the question that whether there has a process or mechanism for the policy document to be consistent with the existing laws. DG members answered there is no specific process to check the consistent with the existing legal documents but during the policy formulation processes, the consultations with different stakeholders at National level as well as at the State and Regional levels were also conducted. Moreover, when the laws are submitted to the cabinet, there have discussions at the Cabinet if the laws have contradicted each other. Sometimes, some policy conflict with others and the line Ministries have the responsible not to conflict with other policies.
- The DG members agreed that the gap in Criterion A1 is coordination and measures will be improvement in coordination among ministries and departments.
- For the question of role of NE5C, NE5C is taking the role of coordination and decision. Whenever the documents were submitted to Task Force (TF) and TF then requested to NE5C to endorse on it and sent to Cabinet. The role of TF is to coordinate and monitor for all REDD+ activities and to ensure the new initiatives and processes are consistent with the national policies.
- In the Criterion A2, to be consistent with the international conventions and agreement, the points in the agreements are incorporated in the domestic laws after rectifying the conventions or agreements if the agreements are strong enough.
- UAGO raised the question why the Land Acquisition Act is under Criterion B1 and Charlotte replied that Land Acquisition Act mentioned under Criterion B1 for provision of information and transparent on how the land acquisition processes are to be followed. UAGO suggested to add the Land and Revenue Acquisition and Land and Revenue Act under Criterion B1.
- Then, UAGO also had the question on why the Investment Rule is under Criterion B1 and Charlotte replied that the rule also mentioned the information to be shared if the investor is coming to invest. When the company is planning to invest, there has a requirement about notification on community or respective stakeholders.
- UAGO also suggested Ethnic Rights Protection Law is also related with this Criterion B as this law included that the investor has to explain their project activities to the communities.
- Charlotte raised the question of whether Anti-Corruption Committee has been established. UAGO answered Anti-corruption Commission has been established under the Anti-Corruption law and it is just a commission and not committee. Anti-corruption commission refer small corruption cases to the respective ministries to assess the cases internally. Under eighteen ministries, Corruption Protection Unit (CPU) has been formed at the National level. In State/Region level, ad hoc anti-corruption committee are formed in small group to investigate the case.
- Charlotte raised the question of whether EIA are being applied and UAGO mentioned EIA has been applied and up to now, over 200 EIA reports and 10,000 IEE reports have been received.
- For the FLEGT's progress, the consultant and UNEP-WCMC will contact to FAO and Forest Department, FLEGT Unit.
- For the question of whether National Land Use Policy is being implemented, UAGO responded that NLUP could not be implemented yet and currently the drafting working committee for National Land Law has been formed. Then, the Task Force for National Land Law will be formed to develop the Roadmap for developing National Land Law and then, it will disclose to the public and will receive

the public's comments on how to develop the law. Based on that Roadmap, the law will be developed but there has no specific timeline yet.

- For the law of the rights to access to information, although there have many laws that included the points for information sharing, there is no comprehensive law for the rights to access to information. There is also no plan to develop that law yet.
- Under Criterion B1, the gap will be the law enforcement, not enough staff and equipment. One of the PaMs that specifically address the law enforcement.
- VFV land Central Management Committee's decision-making process is required to know and it may be a gap.
- It is required to check on the TORs of VFV land Management Committee, a National Coastal and Marines resource Management committee, National Land Use Council whether the committees consider the social and environmental safeguards.
- For the questions of parallel land management system in the areas controlled by EAOs, Myanmar REDD+ Programme is drafting the report on the study of on what extent of EAOs' policies are aligned with or not aligned with national policies. Moreover, Myanmar REDD+ programme anticipated the State and Region Coordination Bodies with the representative from EAOs.
- For the capacity assessment for REDD+ implementation, stakeholder guidelines and competency framework has been published. Based on the Competency Framework, the capacity building activities has been provided. In terms of capacity building, some PaMs are specifically targeted for Capacity Building.
- Regarding the implementation responsibilities in most Criterion, it should be REDD+ Coordination Unit and respective line ministries.
- Discussion on the meaning of 'Indigenous People, Department of Ethnic Rights mentioned that there are no people who are aligned with the name of Indigenous People in Myanmar. In the legal documents, the ethnic people are mentioned as the local ethnic group, not as Indigenous People. POINT also pointed out that the meaning of local ethnic people and indigenous people are not similar, and the Indigenous People means the people who own the customary tenure land, own tradition, culture and belief. CTA, UNREDD Programme discussed as per UN Declaration on the Rights to Indigenous People that recognized Individual State may use different terms in different location. Therefore, Government of Myanmar does not use indigenous people that doesn't mean there is no indigenous people in Myanmar. Then, Charlotte raised the question whether any government agencies are trying to look at this issue as the terms were used in EIA Procedures and law of protected areas being implemented.
- Then, DG members discussed on the definition of the Customary Tenure that is supposed to be more important than defining the Indigenous people as it is very related to involuntary resettlement that can happen if the VFV land is assigned to business. The amending VFV Land Law 2018 refer to the land on customary tenure without saying whether that land is owned by Indigenous People or non-Indigenous People. The VFV land also refers to customary land designated under traditional culture of local ethnic people that could include Bamar people also. Therefore, definition of Customary Tenure is currently does not exist and it is required to define the meaning of customary tenure.
- As mentioned above, customary tenure is one of the risks related to Involuntary resettlement and Charlotte asked some incidences of risks related to Involuntary Resettlement and CTA UNREDD mentioned that there are many examples for Involuntary Resettlement in Myanmar. Due to armed conflict, there have at least 100 Internally Displaced People (IDPs) in IDPs camps that are kinds of involuntary resettlement.
- UAGO suggested to add Protection and Conservation of Biodiversity and Protected Areas Law 2018 under safeguard C.
- UAGO also raised why Land Acquisition Act and Investment Rules are under Criterion C1 and Charlotte explained that Land Acquisition act mentioned for options of compensation for the people who has been acquired the land and Investment Rules has the provision for the procedures for land acquisition processes for the investment project that is related to the right to land and resources. Then, Charlotte also explained that there are altogether six criteria under safeguard C and all of these are related with the right to land and resources. At the moment, this Act and rules will put under C1 and will move to another relevant criterion within Safeguard C after adjusting all of these.

- POINT also raised whether IFC FPIC is required to add under Safeguard C and Charlotte replied that as World Bank and IFC approach influence the development of EIA Procedure, it doesn't need to add IFC FPIC as EIA procedure are there. When the EIA Procedure is developed, it set out in alignment with the world bank or IFC policies.
- Regarding the questions whether EIA procedures applied to all types of REDD+, EIA procedures include to assess the EIA/SIA where the project and activities of any government agency, organization and personnel. It is also required to get information whether government plantations are applied EIA/SIA.
- The question for the definition of undocumented right, vulnerable groups or marginalized people can be accessed from Social Protection Programme from Social Welfare and Disaster Risk Management Programme from relief and resettlement department.
- Regarding the question for the use of customary tenure in other purposes, there have old Chin Customary Law that included for hunting area under Customary area.

### **Discussion on the Consultation Process**

CTA, UNREDD Programme discussed the consultation on SOI at the community level. If funding is available, the consultations at the community level will be organized with the support of UNDP's community consultation activities in Mon, POINT and CHRO in Chin State. The Consultation workshop at the National Level will be organized on October. At that time, the SOI report will include the address parts and limited respect parts but it is still needed to receive the suggestion of Task Force.

Charlotte re-cap the workplan regarding the timeline and schedule of online comment period and consultation at the National Level. UNREDD Programme Coordinator suggested that online comment period and National Consultation Workshop can go in parallel and then, all the comments received are incorporated in the third draft report. Then, DG members will discuss on that version at the third DG meeting.

In the closing session, CTA speak the closing remark.

Participants list of 2<sup>nd</sup> SOI draft meeting (12 July 2019)

No	Name	Title	Organization/Ministry
1	Daw Nwe Ni Maung	Assistant Director	Department of Ethnic Rights, Ministry of Ethnic Affairs
2	Daw Aye Win	Director	Chief Attorney General Office
3	Daw Khin May Win Kyaw	Staff Officer	Department of Social Welfare
4	Daw Khin Swe Tint	Staff Officer	Department of Agriculture
5	Daw Su Su Win	Deputy Staff Officer	Environmental Conservation Department
6	Dr. Phyu Phyu Lwin	Assistant Director	FRI-FD
7	Hla Doi	Programme Coordinator	POINT
8	Pyae Phyo Maung	Program Officer	POINT
9	Charlotte Hicks	Technical Officer	UNEP-WCMC
10	May Nwe Soe	Consultant	UN Environment
11	U Min Soe	Stakeholder Engagement Officer	UN-REDD
12	Tim Boyle	CTA	UN-REDD
13	Khin Hnin Myint	National Programme Coordinator	UN-REDD
14	Thit Thit Han	Communication Officer	UN-REDD
15	Phyo Pa Pa Han	Programme Assistant	UN-REDD
16	Timothy Boyle	Chief Technical Advisor	UN-REDD
17	Kyaw Kyaw Myo	Programme Officer	MERN
18	Daw Khaing Tun	Interpreter	
19	Sandar Minwai	Programme Assistant	UN-REDD

## Agenda

<u>12 July 2019</u>		
Time	Session	Presenter/facilitator
8:30 – 9:00 am	Registration	
9:00 – 9:05 am	Welcome remarks	Tim Boyle, CTA
9:05 – 9:15 am	Overview of agenda & recap of workplan	May New Soe, National Sol Consultant
9:15 – 09:45 am	Presentation: Overview of first draft Summary	May New Soe, National Sol Consultant
09:45 – 10:15 am	Q&A	
<i>10:15 – 10:30 am</i>	<i>Tea break</i>	
10:30 – 11:30 am	Feedback and information from Sol DG members	All
11:30 – 12:15 am	Plans for consultation workshop in Q3	Charlotte Hicks / May Nwe Soe
12:15 – 12:30 pm	Final questions/issues and closing remarks	Tim Boyle
12:30 – 1:30 pm	<i>Lunch</i>	