

PROPOSALS FOR INCLUSION IN THE 2017 MYANMAR INVESTMENT RULES

This paper contains proposals for the forthcoming Rules to implement the new Myanmar Investment Law 40/2016 (MIL) from experts from several international non-governmental organisations who encourage responsible and sustainable investment in Myanmar, namely Earthrights International (ERI), International Commission of Jurists (ICJ), Myanmar Centre for Responsible Business (MCRB), Oxfam International and World Wildlife Fund (WWF) Myanmar¹.

It reflects observations of problems and practice concerning existing investment in Myanmar, including negative experiences of local communities. It makes suggestions about how these problems could be addressed in the Rules, including through greater transparency and consultation, and clearer expectations of investors to adhere to responsible business conduct. It also refers to other relevant elements of the Myanmar legal framework, in particular the 2012 Environmental Conservation Law and associated 2015 Environmental Impact Assessment Procedure, as well as the 2015 Law on Protection of the Rights of Ethnic Nationalities.

It should be recalled that the economic policy vision of the NLD government is *'people-centred, and aims to achieve inclusive and continuous development. It aims to establish an economic framework that supports national reconciliation, based on the just balancing of sustainable natural resource mobilization and allocation across the States and Regions'*. Furthermore, its primary objective is *'To support national reconciliation and the emergence of a united federal democratic union'*. The suggestions in this paper concerning transparency and consultation, including of regional governments and local communities, and safeguarding the rights of Indigenous Peoples are particularly relevant to this vision and objective.

The proposals for inclusion in the Rules also draw on international standards and practice, including developments in global policy debates under the UN system and the World Bank Group, particularly the 2015 UNCTAD National Investment Policy Guidelines, as well as the G20.

For ease of reference of the Myanmar Investment Commission (MIC) and the Directorate of Investment and Companies Administration (DICA), this is a single compendium of proposals. While the authors all share the primary objective of wanting to ensure that the new Investment Rules integrate and embed respect for human rights and the environment in Myanmar, they and their organisations may have differences of emphasis in approach or priorities. Inclusion in this paper therefore it does not mean that each of the organisations have taken a position on all of the suggestions made.

Proposed text for the Myanmar Investment Rules (MIR) is provided in *italics*.

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1. Responsible Investment (Article 3(a), 65(a) and (g))

All suggestions in this paper are intended to increase responsible investment in Myanmar, pursuant to Myanmar government priorities concerning responsible investment and specifically the Objectives in Article 3(a) of the Myanmar Investment Law (MIL) (*'to develop responsible investments which do not cause harm to the natural environment or society for the benefit of the Union and its citizens'*).

Furthermore, in Chapter 16 (Responsibilities of Investors) Article 65 (g) states that the Investor *'shall in relation to the Investment, abide by applicable laws, rules, procedures and best standards practiced internationally so as not to cause damage, pollution, loss to the natural and social environment, and not to cause damage to cultural heritage'*,

The G20 also recently adopted G20 Guiding Principles for Global Investment Policymaking which included Principle VIII. *Investment policies should promote and facilitate the observance by investors of international best practices and applicable instruments of responsible business conduct and corporate governance*². Myanmar has the opportunity to be at the forefront of putting these Guiding Principles into practice.

Such an approach would be consistent with the 'new generation' investment policies *'which place inclusive growth and sustainable development at the heart of efforts to attract and benefit from investment'*. These are described in UNCTAD's 2015 Investment Policy Framework for Sustainable Development, and National Investment Policy Guidelines. We encourage the Myanmar Investment Commission to refer to this UNCTAD Framework³ as it implements the new Investment Law and other laws and policies supporting investment in Myanmar.

In particular in undertaking its duty under Article 24(d) of the Law (*'to advise Union Ministries, Region and State Government on investment policies to adopt and implement economic objectives for the development of responsible and accountable businesses'*) and in developing the Myanmar Investment Rules (MIR) to implement this and other aspects of the Law, **the MIC could take a dual approach that both regulates and incentivises responsible and sustainable investment:**

- a) **Regulate** aspects of responsible business behavior as part of its approval and monitoring process. Regulatory approaches, including suggestions to increase transparency by both Investors and government are included below. Additionally it is essential for the Government to implement and enforce Myanmar's wider regulatory framework concerning environmental and social protection;

² The Principles and a background on their development <http://investmentpolicyhub.unctad.org/News/Hub/Home/508>

³ Article 2.3.2 of the UNCTAD National Investment Policy Guidelines states that *'Governments should encourage adherence to international standards of responsible investment and codes of conduct by foreign investors. Standards which may serve as reference include the ILO Tripartite Declaration, the OECD Guidelines for Multinational Enterprises, the UNCTAD, FAO IFAD and World Bank Principles for Responsible Agriculture Investment, the UN Guiding Principles on Business and Human Rights and others. In addition, countries may wish to translate soft rules into national legislation'*.

- b) **Incentivize** more responsible investment and adherence to international standards through:
- o Actively encouraging it, for example in the form of the Commission issuing Guidelines on Responsible Investment (see Annex 1 for suggested text) and inviting companies to set out how they will ‘create shared value’⁴
 - o Rewarding it with reliefs and exemptions (see below, Chapter 18);
 - o Highlighting that responsible business conduct will be considered as a factor in decisions on Disputes (Chapter 19) or Administrative Penalties (Chapter 20).

Proposed MIR text:

- *In fulfilling Article 65(g), an investor will be expected to abide by any Commission Guidelines on Responsible Business Conduct, as well as to apply, and to demonstrate that it is applying one or more accepted international standards on responsible business conduct, and any guidelines. These include the ILO Tripartite Declaration, the OECD Guidelines for Multinational Enterprises, the UNCTAD, FAO IFAD and World Bank Principles for Responsible Agriculture Investment, the IFC Sustainability Framework, the UN Guiding Principles on Business and Human Rights, ISO 26000 and others.*
- *The investor’s failure to apply international standards of responsible business conduct may be considered by a tribunal when interpreting and applying this Law and/or in determining the amount of compensation due to the investor pursuant to Section 84, and in the decisions on Administrative Penalties pursuant to Article 85.*

2. Sustainable Investment, Protection of the Environment and Related Goods and Services

It should be noted that the forthcoming revised Myanmar National Environment Policy Statement will restate and reinforce the importance the Myanmar Government attaches to protection of the environment. Myanmar’s investment policies and regulations should support the objectives of this Policy Statement.

2.1 Objectives (Chapter 1)

MIL Article 3 (a) provides that one of the objectives of the Law is: “*To develop responsible investment businesses which do not cause harm to the natural environment and the society for the benefit of the Union and its citizens.*”

To implement this objective, the Myanmar Investment Rules (MIR) should:

- *Stipulate that ‘The natural environment provides a wide range of valuable, and in some cases irreplaceable, goods and services which support Myanmar’s development.’*

⁴ See for example Australia-Myanmar Chamber of Commerce (AMCC) and the Myanmar Centre for Responsible Business (MCRB) Position Paper on ‘Incentivising Shared Value’, September 2016
<http://www.myanmar-responsiblebusiness.org/news/incentivising-shared-value.html>

- Explicitly define the term ‘harm’ in MIL Article 3(a) using the following language: *‘harm to the natural environment and society includes ... any biophysical or economic damage to the ability of Myanmar’s natural environment to provide environmental goods and services.’ “Harm” to society is also defined in part by the international human rights obligations adopted by Myanmar.”*
- Explicitly stipulate that *‘investment in protection, restoration and enhancement of environmental goods and services should be encouraged for the purpose of maximizing Myanmar’s ability to achieve the objectives specified in Articles 3(a)-(i) of the Myanmar Investment Law.’*

2.2 Duties and Powers of the MIC (Chapter 6)

MIL Article 24(c) provides that one of the duties of the Commission is *‘Providing investment facilitation to investors and their investments’*. The MIR should:

- state that this duty includes *‘facilitation by the Commission of sustainable investment in protection, restoration and enhancement of Myanmar’s environment and the benefits provided by the environment to the people of Myanmar.’*

If a definition of ‘sustainable investment’ is required, the followed could be used:

- *Sustainable investments are investments which protect, maintain or enhance Myanmar’s environment, including the ability of the environment to provide economic and wellbeing benefits to the people of Myanmar; reduce disaster risks in Myanmar including those associated with climate change; or enable protection or restoration of the habitats of species listed as vulnerable, endangered or critically endangered by the International Union for Conservation of Nature or Government of Myanmar.*

MIL Article 24(d) and (i) establish duties of the Commission to provide certain investment policy advice. The MIR should explicitly state that these duties include

‘development by the Commission of policy advice concerning investments in Myanmar that support sustainable development and enhancement of the environment, including flows of environmental goods and services’.

MIL Article 24(j) empowers the Commission to *‘take action in accordance with applicable laws, procedures and regulations, if the investors finds that the actions such as retaining possession, conversion or concealing have been made in relation to natural resources or antiques.’* The MIR should clarify that

- *‘actions...’ by an investor ‘include any previous or ongoing actions that have caused [unauthorized] damage to the environment that have not been fully remediated.’*
- *‘Permits shall not be granted to investors whose previous or ongoing actions have caused [unauthorized] damage to the environment, unless the relevant investor has fully remediated*

such damage, and/or compensated affected individuals, as well as making any required contribution to the Environmental Management Fund (once established), in accordance with the law’.

2.3 Convening the Meeting of the Commission (Chapter 7)

MIL Article 33 provides that the Commission ‘*may invite experts from relevant departments and other organizations to any Commission meeting for matters that require professional expertise.*’ The MIR should specifically mention:

- *The Commission may invite ... experts with expertise concerning human rights, indigenous rights, environmental science, biodiversity, sustainable development or other relevant expertise.’*

3. Defining projects with significant impact (Articles 25(b) & 36)

The criteria for projects to be considered as requiring a Permit under Article 36 require further definition. We suggest the following definitions for the MIR:

- *The following projects are considered “projects which potentially have a large impact on the environment and the local community” within the meaning of Article 25(b) and therefore require the submission of a Proposal pursuant to Article 36:*
 1. *Projects involving the following types of land transaction:⁵*
 - a. *Land rights or land use rights acquired through expropriation or other compulsory procedures in accordance with the legal system;*
 - b. *Land rights or land use rights acquired through negotiated settlements with property owners, or those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures;*
 - c. *Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community to lose access to resource usage where they have traditional or recognizable usage rights;*
 - d. *Project situations requiring evictions of people occupying land without formal, traditional, or recognizable usage rights; or*
 - e. *Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber*

⁵ This list comes directly from IFC’s Performance Standard 5 on Land Acquisition and Involuntary Resettlement. This does not include projects where there is resettlement resulting from voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system if negotiations fail). It also does not apply to impacts on livelihoods where the project is not changing the land use of the affected groups or communities.

and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds and grazing and cropping areas.

2. *Project proposed to be carried out on the lands or territories inhabited or used by Indigenous Peoples or that will use the natural resources on those lands or territories.⁶*
3. *Projects proposed to be carried out in areas affected by armed conflict;*
4. *Projects within Protected Areas or Key Biodiversity Areas designated in accordance with the Environmental Conservation Law and other relevant laws;*
5. *Projects which could significantly change the status or condition of ecosystems, affect the level of goods or services provided by the natural environment to people (including to individual local communities), or damage the habitats of species listed as vulnerable, endangered or critically endangered by the International Union for Conservation of Nature or Government of Myanmar.*
6. *Projects that will be operated across borders or are expected to have transboundary effects (either at transnational level or between states and regions)*
7. *Complex Projects, which includes those that are likely to have substantial impacts on the environment, and may include impacts beyond the borders of the jurisdiction under consideration, or a cumulative impact on other projects, or in which complex technology is applied.⁷*
8. *Projects that could result in, or aggravate, gross or systematic abuses of human rights, or adversely impact the Government's ability to fulfill its international human rights obligations and international environmental law.*

4. Regional and local consultation, and the rights of Indigenous Peoples (Article 24(h))

To ensure that State/Regional Governments and local populations who may be affected by a Proposal have an opportunity at an early stage to receive information about the Proposal and make their views known to their local government and Hluttaw, the Commission should publicly refer the Proposal to the relevant State/Region Government and seek an Opinion (see below). The Commission should specify that this Opinion should, inter alia, draw on consultation with local populations.

Simultaneously, the Commission should publish the Proposal on the internet (see 5.2 below).

The deadline for obtaining an Opinion should run from the date of publication by the Commission. A deadline of 60 working days is suggested.

⁶ See, e.g. that article 5 of the 2015 *Law on Ethnic Nationalities* states that 'that 'indigenous peoples' (in Burmese— *ta-ni tain-yin-tha*, which is not defined in the Law) should receive complete and precise information about extractive industry projects and other business activities in their areas before project implementation so that negotiations between the groups and the Government/companies can take place.'

⁷ This definition accords with 2015 *EIA Procedures, Ministry of Environmental Conservation and Forestry, Notification No. 616 / 2015, art 2e.*

The Commission should also ensure that it puts in place a process for receiving comments on the Proposal directly from interested parties, in addition to the Regional/State Government Opinion.

Such an **Opinion** would be separate from, and *prior* to any Environmental Impact Assessment (EIA), and the consultations required for that process. As experience in Myanmar and elsewhere demonstrates, an EIA is not an appropriate tool for assessing the political and policy appropriateness of a proposed investment.

Such a referral for an Opinion would also enable the Regional/State Government to provide comments to the Commission on whether the Proposal was consistent with regional development policies and objectives, including land use. It thus provides an opportunity to ensure coherence between Union and territorial planning. It would also be supportive of the objective of peace and reconciliation in Myanmar, by ensuring regional government views are taken into account.

It should also be noted that Article 65(a) also requires the Investor to *'respect and comply with the traditions and culture of the national races in the Union'*.

Additionally, this consultation process prior to consideration of the Proposal by MIC would also offer an opportunity to operationalise the Myanmar legal requirement under Article 5 of the 2015 Law on the Protection of the Rights of Ethnic Nationalities (LPREN), where indigenous peoples are concerned which requires that *"Indigenous peoples (hta-nay tain-yin-tha) should receive complete and precise information about extractive industry projects and other business activities in their areas before project implementation so that negotiations between the groups and the Government/companies can take place."*

However it should be noted that it is unlike that such 'negotiations' would be completed by the time of MIC consideration. Nor would they be sufficient to demonstrate that the Investor was adhering to the principle of Free Prior and Informed Consent (as contained in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)), which should pertain throughout the life of the investment.

Instead, where a situation under Article 5 of LPREN pertains, the Commission should refer to satisfying this requirement as a condition in any MIC Permit.

The following is a suggested text for the MIR:

- *When the Commission is reviewing, pursuant to Article 25(c) of the Law a Proposal submitted to it pursuant to Article 36 of the Law, then pursuant to its obligations to coordinate with the Naypyidaw Council, and the Region and State Governments as set out in Article 24(h) of the Law, the Commission shall refer the Proposal to the Naypyidaw Council or State or Regional Government and the State/Regional Hluttaw with a request for comment and response (an Opinion) prior to considering the Proposal.*
- *The State/Region Governments shall provide comments within [60 working days] of the receipt of the Proposal from the Commission, following public consultation of potentially*

affected stakeholders who may be impacted by the Proposal. The Opinion should include any points of concern or conditions which should be taken into account in the Permit, EIA Scoping/Alternatives Analysis, or finally, the investment contract.

- *Furthermore, and in accordance with Article 36c of the Law, and Article 5 of the 2015 Protection of the Rights of National Races Law, the Commission shall ensure that where Indigenous Peoples (hta-nay tain-yin-tha) are impacted by the Investment, they shall receive complete, accurate and precise information about Project proposed for their areas. The Commission shall make it a condition of any Permit that negotiations between the groups and the Government/companies shall take place before project implementation, and that the Investor shall adhere to the principle of Free Prior and Informed Consent. The progress and results of those negotiations shall be reported to the Commission.*

5. Transparency by the Myanmar Investment Commission

The MIR should include provisions for greater public disclosure of information related to investments, both by the Investor (see 6 below) and by the Commission.

The 2016 MIL does not impose any express obligations on the Myanmar Investment Commission (MIC) to disclose any information or documentation to the public. This should be clarified via the MIR. Enhanced transparency is critical to fostering responsible business, and guarantees citizens' rights of access to information and thereby, democratic participation.

The MIR should set out transparency provisions to implement the following sections of the MIL, as they relate to MIC meeting minutes, permits and endorsements, tax exemptions and relief, and administrative actions taken against the investor:

5.1 Publishing MIC Minutes (Article 29)

Minutes of meetings of the Commission should be recorded. A summary should be created, and publicly disclosed. The MIR should specifically require:

- *The Secretary of the Commission shall cause detailed minutes of Commission meetings to be duly recorded.*
- *The Secretary of the Commission shall cause a summary of the Meeting Minutes to be publicly disclosed on DICA's website within ten (10) working days of the Commission's meeting, in both the Myanmar language and English.*
- *The summary of the Commission's Meeting Minutes shall include any decisions made by the Commission, including the acceptance or rejection of any Proposals and Endorsements, any conditions attached, and any exemptions or reliefs granted, as well as the Commission's reasons for making such decisions.*
- *The summary of the Commission's Meeting Minutes shall include information about the nature and extent of any participation of investors in the meetings, pursuant to Article 34 of the Investment Law.*
- *The summary of the Commission's Meeting Minutes shall include the nature and extent of any conflicts of interests held by Commission members, pursuant to Articles 21 and 22 of the*

Investment Law, and whether or not the Commission member(s) concerned participated in the decision-making.

5.2 Publishing Proposal Applications and Issuances (Article 36)

Proposals, as defined in Article 2(i) of the MIL, which are submitted to the MIC in order obtain a Permit (2(j) pursuant to Article 36 should be published to enable potentially affected populations to have information and submit comments (see 4 above).

The publication process should be initiated at an early stage, before MIC Approval, and before the commencement of formal consultation on impacts undertaken as part of the EIA.

To ensure wider availability of the information, the process for public disclosure of investment proposals by MIC can use the same requirements in the Environmental Impact Assessment EIA Procedure, which creates dual disclosure obligations on both the project proponent and the Government.⁸

As to the substance of what should be disclosed:

- The documentation made public by the Investor and the Commission may also include the information submitted to Environmental Conservation Department (ECD) of the Ministry of Natural Resources and Environmental Conservation (MONREC) as part of the EIA Screening process.
- The documentation made public by the Commission should include details of how an Opinion has been sought from State/Regional governments (see 5. Consultation, below) and how regional and local stakeholders can provide feedback for consideration by the MIC.

The MIR should specifically require:

- *Not later than ten (10) days after submission of the Proposal to the Commission, the investor shall disclose the Proposal and any supporting documentation provided to support the proposal [except for commercially confidential information] to the public via the Investor's website, in both Myanmar language and English.*
- *Not later than ten (10) days after submission of the Proposal, the Commission shall also make the Proposal and any supporting documentation provided to support the proposal [except for commercially confidential information] in both Myanmar language and English on DICA's website.*
- *Immediately upon issuing a Permit, the Commission shall make the Permit, including any conditions attached thereto, or reliefs or exemptions granted, publicly available in both the Myanmar language and English on DICA's website.*

⁸ 2015 EIA Procedures, Article 65, reads: "Not later than fifteen (15) days after submission of the EIA Report to the Department, the Project Proponent shall disclose the EIA Report to civil society, PAPs, local communities and other concerned stakeholders: (i) by means of national media (i.e. newspapers); (ii) the website(s) of the Project or Project Proponent; (iii) at public meeting places (e.g. libraries, community halls); and (iv) at the offices of the Project Proponent." Article 65 reads, "Upon receipt of the EIA Report, the Department will make the EIA Report publicly available."

5.3 Publishing Endorsements applications and approvals (Article 37):

Endorsement applications submitted to the MIC pursuant to Article 37 should be made public. The following is a suggested text for the MIR:

- *Not later than ten (10) days after submission of the Endorsement to the Commission, the Investor shall disclose the Endorsement application to the public via the Investor's website, in both Myanmar and English.*
- *Not later than ten (10) days after receipt of the Endorsement application, the Commission shall also make the application publicly available in both the Myanmar language and English on DICA's website.*
- *Immediately upon issuing an Endorsement, the Commission shall make the Endorsement publicly available in both the Myanmar language and English on DICA's website, attaching any conditions or reliefs or exemptions granted thereto.*

5.4 Publishing details of Exemptions (Article 78)

Rules should provide for public disclosure by the MIC upon the granting of Exemptions and Relief under Chapter 18 of the Investment Law. The following is a suggested text for the MIR:

- *Immediately upon issuing Exemptions and Relief to an investor under Chapter 18, the Commission shall make the details of the Exemption and Relief, including any conditions attached thereto, publicly available in both the Myanmar language and English on DICA's website.*

5.5 Publishing details of Administrative Penalties (Articles 85 and 86)

Rules should provide for public disclosure by the MIC upon the imposition of any administrative penalties against the Investor. The following is a suggested text for the MIR:

- *Immediately upon the imposition of an administrative penalty against any Investor under Article 85(a), the Commission shall make the decision and the reasons for such a decision given under Article 85(c) publicly available in both the Myanmar language and English on DICA's website.*
- *The Commission shall make the details of any appeals of the penalty by the investor under Article 86(a), and any government decision made under Article 86(b), publicly available in both the Myanmar language and English on DICA's website.*
- *The Commission shall immediately make all notifications under Article 85(b) and any response of the investor to such notification publicly available in both the Myanmar language and English on DICA's website.*
- *Where, following a notification under Article 85(b), the Committee decides not to impose an administrative penalty, it will immediately make its reasons for doing so publicly available in both the Myanmar language and English on DICA's website.*

6. Company Reporting on Permitted Investment (Article 36 and 65g)

Article 65(g) of the MIL requires investors to abide by ‘*best standards practiced internationally*’. This should include annual sustainability reporting under frameworks such as the Global Reporting Initiative (GRI), the importance of which was recognised in para 47 of the Rio+20 Outcome Document. The importance of sustainability reporting was also recognized throughout the process leading up the formation of the 2015 Sustainable Development Goals.

Furthermore, point 3.7.4 of the UNCTAD National Investment Policy Guidelines encourages governments to require corporate reporting standards which inter alia ‘*provide for disclosure by foreign-controlled firms on local ownership and control structures, finances and operations, and health, safety, social and environmental impacts, following international best practice*’.

Currently Investors in receipt of an MIC Permit are required to submit a Quarterly Performance Report. It is understood that the frequency and content of this reporting requirement have been of limited value for both Investors and the Commission, as well as being a burden on business.

We propose that in future, Investors in receipt of a Permit (under Article 36) - which will include Investments with largest potential impact on the environment and the community - should instead have an annual reporting obligation which should require them to provide specific information about their investment(s) in Myanmar, including about their practice of responsible business conduct.

Ideally the report should be aligned with international reporting requirements and included contextual adjustments and additions to ensure that issues contained within investor’s responsibilities under Article 65 are reported on. The precise content of the Annual Reporting Requirements should be developed after stakeholder consultations.

The report format could draw inspiration from the United States Responsible Investment Reporting Requirements,⁹ which, during their existence, helped to foster greater transparency and due diligence by US investments in Myanmar. Annex 1 contains further details.

The following is a suggested text for the MIR:

- *Within 180 days of receiving a Permit from the Commission, investors shall submit a Responsible Investment Report to the Commission, and thereafter annually on July 1. Each investor may report on either a fiscal year basis or a calendar year basis, but should identify the time period covered by each report.*
- *The Investor shall submit a Responsible Investment Report, containing all the information contained in [Annex 1]. The investor shall submit the Responsible Investment Report to the Commission in both English and Myanmar language. The Report shall be made available on DICA’s website and on the website of the Investor.*

⁹ See <http://www.humanrights.gov/wp-content/uploads/2013/05/responsible-investment-reporting-requirements-final.pdf>

7. Non-Judicial Recourse for Project Affected People¹⁰ (Article 82)

7.1 Project-Affected Persons definition

The MIR should also include a definition of 'Project Affected Persons' in the Definition section. It could repeat the definition provided in article 2(f) of 2015 EIA Procedures (616/2015):

- *Project Affected Person is a natural person, legal entity, or organization that is, or is likely to be, directly or indirectly affected by a Project [investment] or a proposed Project [investment], including without limitation effects in the nature of legal expropriation of land or real property, changes of land category, and impacts on the ecological and environmental systems in the settlement areas of such person, entity or organization.*

7.2 MIC Grievance Mechanism

Article 82 of the MIL envisions a grievance mechanism, established by MIC, to inquire into and resolve issues before they become legal disputes and to prevent the occurrence of disputes.

Problematic issues regarding investments often arise as a result of grievances held by project-affected persons (PAPs). Investors should be encouraged – and in the case of Permitted Investment required (see 7.3) - to establish project-level operational grievance mechanisms, to facilitate early resolution of problems.

In addition to any project-level grievance mechanism established by an Investor, PAPs. or their representatives, should also have recourse to a mechanism implemented by the Commission under Article 82, consistent with the government's Duty to Protect under the UN Guiding Principles (UNGPs) on Business and Human Rights. In addition to ensuring that MIC has an avenue to address stakeholder grievances (which may involve supporting them as necessary to raise those grievances with another part of government), access to the MIC grievance mechanism by stakeholders can serve as an early warning mechanism for the MIC of potential disputes.

While the nature of the grievance mechanism may not be identical for Investors and other stakeholders, the effectiveness criteria outlined in the UNGPs are likely to be useful when designing the mechanism(s), including the importance of effective tracking and follow-up of grievances.

The following is a suggested text for the MIR:

¹⁰ The MIR should also include a definition of 'project affected persons' in its definition section. It could mirror the definition provided in article 2(f) of 2015 EIA Procedures, which defines Project Affected Person as: "a natural person, legal entity, or organization that is, or is likely to be, directly or indirectly affected by a Project [investment] or a proposed Project [investment], including without limitation effects in the nature of legal expropriation of land or real property, changes of land category, and impacts on the ecological and environmental systems in the settlement areas of such person, entity or organization."

- *The MIC Grievance Mechanism shall hear grievances from Project Affected Persons or their representatives regarding an investment Permitted or Endorsed by the MIC. The Commission shall make appropriate attempts to settle disputes amicably. It shall develop more detailed procedures governing the operation of the MIC Grievance Mechanism in consultation with stakeholders.*
- *Access to the MIC Grievance Mechanism under Article 82 shall in no way prejudice the right of parties to seek legal redress or challenge MIC decisions through judicial means or otherwise settle disputes.*
- *The existence of the MIC Grievance Mechanism under Article 82 shall in no way affect the responsibility of the investors in receipt of a Permit to establish an operational grievance mechanism (see 6.2 below).*

7.3 Company-level Operational Grievance Mechanism

Additionally, all Projects in receipt of a Permit should be required to establish an operational grievance mechanism(s) that is accessible (including in the local language) to individuals, workers, consumers, and communities. Companies can refer to Guiding Principles 29 and 31 of the UN Guiding Principles for Business and Human Rights for further information.¹¹ Grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. They should be designed in collaboration with potential users of the grievance mechanism.

The following is a suggested text for the MIR:

- *All Investments in receipt of a Permit shall establish, within six months, an effective grievance mechanism designed in collaboration with affected stakeholders, based on engagement and dialogue. This should be notified to DICA, and any relevant line ministry, together with the name and contact details of the responsible contact within the company. This mechanism should be publicised on the company's website as well as being accessible to those who the company may affect. A short report on the implementation of the grievance mechanism should be included in the annual Responsible Investment Report.*

8. Judicial Recourse for Project Affected People (Article 88)

Article 65(n) of the MIL specifically ensures that all Investors possess the legal personality to allow suits to be brought against them. Article 88 allows for a legal suit to be brought against the investor if the Investor fails to comply with any provisions of the MIL. The MIR should specify that this right of action is equally open to Project Affected Persons, who should be entitled to bring civil claims against Investors for breaches of their investment responsibilities contained within Article 65, the conditions of the Investor's Permits and Endorsements, and other applicable national laws. The following is a suggested text for the MIR:

¹¹ http://ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

- *Project-Affected Persons shall have a right to bring civil suit under Article 88 for breach by an Investor of any provisions of the Law, the conditions of the Investor's Permit or Endorsement, or other applicable laws.*

9. Relationship with EIA and Prior Permission (Article 36)

Proposals covered in Article 36, in particular 36(c), are likely to require an Environmental Impact Assessment (EIA) pursuant to the EIA Procedure (MOECA Notification No. 616 / 2015). The Ministry of Natural Resources and Environmental Conservation (MONREC) shall be the sole determinant of which projects are required to undertake an EIA or Initial Environmental Examination (IEE) (this point was recently reinforced in DICA Notification 80/2016).

Under the Environmental Conservation Law (No 9/2012), MONREC is also the sole determinant regarding issuance or revocation of an Environmental Compliance Certificate (ECC).

Investors may wish to undertake the IEE/EIA process in parallel with the MIC application for a Permit or Endorsement, or subsequent to it. However, in order for the MIC to know the nature of the environmental permitting requirement, the Screening of the Proposal under Chapter III of the EIA Procedures should have taken place before consideration by the MIC, to determine whether an IEE or EIA is required. Indeed, to streamline paperwork and promote transparency, it is suggested that where possible, identical or consistent documentation should be used for the submissions on the Project made to the EIA Screening Process, and submission to the MIC (see also 5.2).

When submitting a Proposal for a Permit under Article 36, Proposals with large potential impacts on the environment and local communities should include a preliminary assessment outlining those impacts, including cumulative impacts on ecosystems and services provided to communities (see also 9, below),

Given the expenses to the investor and the length of time needed to conduct a full EIA, an approved Environmental Compliance Certificate (ECC) should not be required in an application pursuant to Chapter 8 or 9 (Permit or Endorsement), or the subsequent MIC decision on the Permit or Endorsement. This point is contained in Article 65(q) of the MIL.¹² However, the Permit or Endorsement issued by the Commission should attach appropriate conditions concerning compliance with the Environmental Conservation Law, as per Article 71 to ensure consistency and to reinforce Investor's awareness of the existence of other permitting requirements.

The following is a suggested text for the MIR:

- *Investors in receipt of Permits and Endorsements from MIC may only proceed with implementation of the Investment after Prior Permission has been obtained. [This may take*

¹² 65(q) The investments which need to obtain prior approval under the Environmental Conservation Law and the Procedure shall take Permit or Endorsement of Commission before undertaking the assessment).

the form of an Environmental Compliance Certificate (ECC) issued pursuant to the Environmental Conservation Law (No 9/2012)]. Compliance with any conditions attached to the Prior Permission or ECC is a condition of operation under the Permit or Endorsement. If an Investor's ECC is revoked or suspended, the MIC shall initiate administrative proceedings under Article 85(a) for any related Investment and the Investor's Permit or Endorsement shall be immediately (i) suspended until an ECC is issued or reinstated or (ii) rescinded.

It should be noted that MONREC has yet to provide guidance on what constitutes Prior Permission under Chapter X of the Environmental Conservation Law, Chapter XII of the Environmental Conservation Rules, and Chapter II of the EIA Procedure.

10. Basis for Approving Permits or Endorsements (Articles 25(c) & (d))

The MIL appears to envisage a system where the MIC would exercise unstructured discretion in relation to the issuing of Permits (Article 25(c)) or Endorsements (Article 25(d)). This is unsatisfactory, as it opens the MIC approvals process to the potential for, or perception of, abuse.

To address this, the MIR should specify the grounds on which the MIC should scrutinize Proposals and Endorsements.¹³ The grounds for scrutiny should cover a range of factors,¹⁴ including a preliminary assessment of the potential environmental and human rights impacts of a proposed investment, to ensure highly problematic projects do not proceed further.

For Permits, one set of data points for this preliminary assessment would be the Opinion received from the Regional/state government (see 5. above), along with any stakeholder views received during this consultation period.

Such scrutiny by the MIC would not replace the obligation of the Investor to comply with other laws including environmental laws (see 9 above) and all relevant laws related to the acquisition of land rights.

The following is a suggested text for the MIR:

- *The Commission's scrutiny of investment Proposals and applications for Endorsement shall involve consideration of potential human rights and environmental impacts, including proposed land use. This shall take into consideration the nature of any land acquisition or land use changes that are intended to be undertaken by the Government, on the Investor's behalf or for the Investor's benefit.*
- *The Commission's scrutiny should take into account:*
 - o *Whether the investment is likely to impact upon Myanmar's international legal obligations or contravene international norms and standards on human rights.*

¹³ As per 2013 Foreign Investment Rules (notification no.11/2013) para 47.

¹⁴ The following suggestions are not an exclusive list of factors to be considered by the MIC when scrutinizing Permits Proposals and Endorsements Applications.

- *Whether the project would have impacts which would trigger the application of the Performance Standard 5 (Land and Resettlement) or Performance Standard 7 (Indigenous Peoples) of the International Finance Corporation if they were applied by the Investor, and regardless of actual financing by the International Finance Corporation.*¹⁵
- *Whether proposed land use is likely to contravene the objectives of the 2016 National Land Use Policy (or any law enacted to implement this) or would result in Indigenous communities losing access to resource usage where they have traditional or recognizable usage rights.*

Furthermore the Commission's scrutiny should include an examination of the Investor's past track record and commitment to responsible business conduct.

The following is a suggested text for the MIR:

- *The Commission's scrutiny should take into account:*
 - *Whether the investor has the capacity and demonstrated willingness to adhere to international standards of responsible business conduct. This can be demonstrated by the existence of environmental, social, health and safety policies and management systems that are aligned with recognized international standards on responsible business conduct, including the UN Guiding Principles on Business and Human Rights, the OECD Guidelines on Multinational Enterprises, the IFC Performance Standards, ISO 26000.*

11. Rights to Use Land (Chapter 12/Article 50)

Conditions should be attached to Endorsements when Investors are given the right to obtain long-term leases under Article 50. The Rules should specify that the Endorsement imposes an obligation on the Investor to undertake due diligence to ensure that its land has been acquired in accordance with applicable laws, including all land laws, and others dealing with compensation and due process as well as the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security¹ or the World Bank Principles for Responsible Agriculture Investment.

The following is a suggested text for the MIR:

- *An Endorsement granting the right to use land under Article 50 shall be conditional on the Investor's compliance with applicable laws at all times. The award of a Permit does not exempt the Investor from complying with applicable laws.*

¹⁵ See paragraph 5 of Performance Standard 5 (http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES), and

- *An Endorsement granting the right to use land under Article 50 shall be conditional on the Investor's confirmation that it has undertaken due diligence to ensure that it has not benefited from land acquisitions that have been undertaken without due process and just compensation for project affected persons as required by law.*
- *An Endorsement granting the right to use land under Article 50 shall be conditional on the investor's certification that, where Indigenous Peoples¹⁶ are affected by an Investor's land use, the principle of Free, Prior and Informed Consent has or will be adhered to at all stages of the Investor's business operations, including land acquisition and resettlement.*

12. Prohibited Investment (Article 41)

With respect to MIL Article 41, which prohibits certain categories of investments, including in paragraph (a) 'business / investment activities which may bring or cause the hazardous or poisonous wastes into the Union.' the MIR should state that:

'hazardous or poisonous wastes refers to all substances listed under Union laws and regulations concerning environmental conservation, and under relevant international agreements, including but not limited to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Stockholm Convention on Persistent Organic Pollutants.'

We note that the wording of Article 41(c) and (d) which prohibit '*business/ investment activities which may affect the traditional culture and customs of the ethnic groups within the Union*'; and '*business/investment activities which may affect the public health*' may need clarification in view of its potentially broad scope.

13. Investment Guarantees (Chapter 14)

Chapter 14 creates investment guarantees that protect investors against government expropriation. The Law creates a right of compensation for investors in the event of indirect expropriation (Article 52(d)) as well as a separate ground, under Article 55, for investors to complain that Article 52 has been breached, resulting in an unlawful expropriation.

13.1 Limiting the grounds for compensation

The Investment Rules should clarify, and limit, the circumstances in which investors have a right to compensation from the government under Article 52(d). The government needs to be confident that it has the right to regulate to pursue legitimate public policy objectives and ensure responsible and sustainable investment.

¹⁶ As defined in 2015 EIA Procedures: 'Indigenous People means people with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development).'

Therefore the investor should not have a right to compensation if the investor is refused any licenses, permits and approval as a result of legitimate government decisions. Further, it is important to clarify that any government regulation enacted for the purpose of matters in Chapter 21 and 22 will not constitute an expropriation for which compensation is due under Article 52(d). It is important that legitimate environmental and social regulation does not create a right of compensation for any decrease in the value of an investment affected by the measures. If the right of compensation under these circumstances is not clear, it can lead to a serious "regulatory chill" under which governments become unwilling to introduce environmental and social regulations.

Determining a 'legitimate public policy objective' should take into account whether the government action is in line with commitments provided for in its international treaties and agreements.

Clarifying this point in the Investment Rules may: (1) help to minimize the risk of excessive liability imposed on the state; (2) avoid lengthy and complex arbitration or lawsuits which occur in jurisdictions when the legal framework is unclear; (3) avoid a regulatory chill.

For instance, if a relevant line ministry revokes or refuses to grant an Investor's permit, license or approval, it is unclear whether the investor would have a right to compensation from the Union Government under Article 52(d). It is recommended that the Rules should explicitly foreclose the right of Investors to compensation in such circumstances.

- *Any non-discriminatory measure of general application which governments take for the purpose of regulating economic or social activity, including without limit the provisions enumerated in Chapters 21 and 22, does not constitute an indirect expropriation giving rise to compensation under Article 52(d).*
- *Any decision by a Government ministry [taken in accordance with non-discriminatory measure of general application] to refuse to issue, suspend or revoke any permit, license or approval that diminishes the value of an investment does not constitute an indirect expropriation giving rise to compensation under Article 52(d).*

14. Investor's Responsibilities (Chapter 16)

MIL Article 65 describes the responsibilities of investors, including in paragraph (o) a responsibility to 'pay effective compensation for previous or ongoing loss incurred to victim, if the investor causes damage to the natural environment and causes socioeconomic losses'

The MIR should specifically mention that:

- *'Effective compensation includes two forms of compensation which must both be paid [if applicable], namely: (1) compensation paid directly to any persons who have suffered environmental or socioeconomic loss due to the acts or omissions of the Investor; and (2) compensation paid to the Myanmar Environmental Management Fund, for any impacts on flows of environmental goods and services and biodiversity at a regional or national scale.'*

The MIR should also provide that:

- *An investor will be exempt from the responsibility to compensate under Article 65(o) of the Law where they can demonstrate that they have not caused environmental or socioeconomic losses.*

15. Exemptions and Reliefs (Chapter 18)

Chapter 18 empowers the Commission and Government to establish certain exemptions and reliefs concerning taxes applicable to investors and investments. The Commission could use this opportunity to incentivize responsible and sustainable investment.

Firstly, in order to benefit from any Exemption or Relief under Chapter 18, an Investor could be required to commit in writing to applying accepted international standards for responsible business conduct as mentioned in paragraph 1, above. Furthermore, in specific sectors, certain exemptions and reliefs might be made available only in the case of third party certification to a relevant standard e.g. FSSC22000 for Food Safety, GLOBALG.A.P. for primary agriculture production etc.

The Commission should draw on invite expert advice to identify appropriate international certification standards, and the nature of investments considered 'sustainable'.

- *The Commission may extend exemptions and reliefs to incentivize sustainable and responsible investments, including where investments have been certified to comply with recognised international standards.*
- *Designation of investments which can qualify for exemptions and reliefs should be subject to independent review by qualified experts invited in accordance with Article 33 of the Myanmar Investment Law. [Procedures for independent review]*

16. Finality of MIC decision (Article 98)

Section 98 states that the Commission's decision are "*final and conclusive except for any appeal in relation to the imposition of administrative penalties under section 85*". This appears to contradict the Writ provisions in the Constitution. If asked to rule on this matter, the courts should hold that the Constitution and the rights and obligations it creates cannot be overridden by an Act of Parliament.

However, this could be clarified with an addition confirming that the Commission's decision are "*...final and conclusive subject to the provisions of the Constitution and except for any appeal in relation to the imposition of administrative penalties under section 85*"

Annex 1: Draft Guidelines on Responsible Investment in Myanmar

These Guidelines are issued by Myanmar Investment Commission in accordance with Article 24(d) of the Myanmar Investment Law concerning the development of responsible and accountable businesses. They are directed at all Investors as defined in Section 2(o) of the Law, and not only those in receipt of a Permit or Endorsement from the Commission.

The Myanmar Government believes that trade and investment are vital to achieving sustainable economic growth and people-centred development. Companies investing in Myanmar have a crucial role to play by creating jobs, reinvesting profits, and paying taxes. The Government also actively encourages responsible business conduct, and sustainable investment, that is, business activities that work for the long-term interests of Myanmar and all its people. .

Sustainable investments are investments which protect, maintain or enhance Myanmar's environment, including the ability of the environment to provide economic and wellbeing benefits to the people of Myanmar; reduce disaster risks in Myanmar including those associated with climate change; or enable protection or restoration of the habitats of species listed as vulnerable, endangered or critically endangered by the International Union for Conservation of Nature or Government of Myanmar.

The Myanmar Government therefore expects that businesses investing and doing business in Myanmar, in addition to fully meeting their obligations under applicable Myanmar laws, will:

- 1. Respect human rights:** Companies should ensure that their operations, conduct, and activities respect the human rights of workers, the communities where they operate, their consumers, and Myanmar society as a whole.
- 2. Engage with stakeholders:** Companies should consult with all those affected by their activities, operations, and impacts, be they workers, consumers, or communities, as well as other stakeholders, so that companies have access to accurate and useful information about their actions and can create a two-way dialogue. Where an investment affects Indigenous People, the investor shall adhere to the principle of Free, Prior and Informed Consent throughout the entire life of the investment.
- 3. Support the rights of workers:** Companies should familiarize themselves with, and fully respect, all Myanmar labour laws, including those which provide for independent trade unions, collective bargaining and workplace coordination committees. Companies can play an important role in ensuring equal opportunity for employment by addressing discrimination in hiring and in working conditions.
- 4. Build human capital:** The Government of Myanmar encourages companies to offer training programs to workers, and those entering the workforce, to improve their skills and to prepare them for supervisory, administrative, managerial or technical roles.

5. **Ensure effective grievance mechanisms:** Those affected adversely by a company's activities need access to effective remedies. This includes establishing grievance mechanism(s) that are accessible (including in the local language) to individuals, workers, consumers, and communities and the company's participation in and cooperation with the grievance mechanism. Companies can refer to Guiding Principles 29 and 31 of the UN Guiding Principles for Business and Human Rights for further information. Grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. They should be designed in collaboration with potential users of the grievance mechanism. Companies in receipt of a Permit from the Myanmar Investment Commission are required by law to put such a mechanism in place and to report on its operation – see MIR xxx.
6. **Be transparent:** The Government supports companies' initiatives to ensure that their conduct is as open and transparent as possible (subject to the need for commercial confidentiality). It also encourages companies to communicate with stakeholders about actions that affect them or about which they have raised concerns. It is important for companies to report publicly on the steps they have taken to ensure that their conduct respects and supports human rights in Myanmar.
7. **Create shared value:** The Government believes that creating shared value can address social needs in a way that is commercially viable for businesses. Creating shared value for communities, workers and consumers is not corporate philanthropy, but a way in which to achieve economic success and win-win situations for businesses and society, including the poor.
8. **Support the communities in which they operate:** Companies are encouraged to undertake or participate in activities beneficial to the communities in which they operate and Myanmar society as a whole, both through creating shared value and through philanthropic initiatives. In doing so companies should consult the intended beneficiaries about their needs, be transparent about what they are able to provide, be clear about how long the service will be provided or the project developed, and deliver what they have promised. If the company is not able to fulfill its promise, it should inform the community early and explain the reasons why. Companies can also include credible local organisations, including civil society groups, in designing, operating, and monitoring the progress of such projects and establish effective mechanisms to receive and act on feedback.

Annex 2: Suggested content for Responsible Investment Report (based on State Department Reporting Requirements)

1. Name: Name of submitter.
2. Point of Contact: Provide contact information for public inquiries regarding this report.
3. Overview of Operations in Myanmar
 - a. Name(s) of companies, including all subsidiaries, operating in Myanmar covered by this report.
 - b. Nature of business in Myanmar;
 - c. Location(s) of operations in Myanmar;
 - d. Approximate maximum number of employees in Myanmar during the reporting period (broken down by Myanmar citizen and foreign employees); and
 - e. Approximate number of project affected persons.
4. Human Rights, Workers Rights, Anti-Corruption and Environmental Policies and Procedures: Provide a concise summary or copies of the following policies and procedures as they relate to the submitter's operations and supply chain in Myanmar:
 - a. Due diligence policies and procedures (including those related to risk and impact assessments) that address operational impacts on human rights, worker rights, and/or the environment in Myanmar;
 - b. Policies and procedures that address anti-corruption in Myanmar;
 - c. Policies and procedures that address community and stakeholder engagement in Myanmar (if the submitter has undertaken any stakeholder engagement to date, also summarize);
 - d. Policies and procedures that address hearing grievances from employees and local communities, including whether grievance processes provide access to remedies, and how employees and local communities in Myanmar are made aware of said processes;
 - e. Global corporate social responsibility policies, including those that address human rights, sustainability, worker rights, anti-corruption, and/or the environment; and
 - f. Whether and the extent to which the policies and procedures described in Question 4(a) through 4(f) are applied to, required of, or otherwise communicated to related entities in Myanmar, including but not limited to subsidiaries, subcontractors, and other business partners.
5. Arrangements with Security Service Providers: Provide the below information regarding any arrangements the submitter has with security service providers:
 - a. Name(s) of security service provider(s);
 - b. Duties and responsibilities of security service provider(s); and
 - c. Whether security service providers are signatories to the International Code of Conduct for Private Security Service Providers, and/or whether they have been

- certified to any private security provider national or international standards; and
- d. A concise summary of due diligence policies or practices for engaging and utilizing security services providers including those focused on human rights and anti-corruption, e.g. oversight policies and procedures and whether security service providers are subject to third-party auditing.
6. Property Acquisition: For any purchase, use, or lease of land or other real property, or rights related thereto, by the submitter (including the submitter's subsidiaries) either (a) valued over [\$500,000] or (b) larger than [30 acres of land] or other real property, provide the information described below. For the purposes of this section, purchase, use, or lease of adjacent or otherwise related land or other real property shall be treated as a single transaction and must be reported where the cumulative value of the related transactions exceeds [\$500,000 or is over 30 acres].
- a. A concise summary of any policies procedures used to ascertain land or other real property ownership, use rights, dislocation, resettlement, or other claims and an explanation of how those policies were implemented for each land purchase, use, or lease transaction;
 - b. The region/state where the land or other real property was purchased, used, or leased (e.g., "Myitkyina, Kachin State")
 - c. A concise summary of any policies or procedures, including grievance mechanisms, related to the dislocation or resettlement of people with respect to land or other real property and an explanation of how those policies were implemented for each land purchase, use, or lease transaction.
 - d. Any financial/material arrangements made to compensate previous users/residents of such land or other real property (other than to the lessor/owner), of which the submitter is aware; and
 - e. Any information of which the submitter is aware related to any involuntary resettlement or dislocation of people on land that meets the criteria as specified in question 6.
7. Transparency: Report total payments made by submitter or on its behalf valued over \$10,000 during the reporting year to each Government of Myanmar entity and/or any sub-national or administrative governmental entity or non-state group that possesses or claims to possess governmental authority over the submitter's new investment activities in Myanmar. Payments to each entity should be reported by each separate payment type, including but not limited to, royalties, tax obligations, production-sharing arrangements, and fees. If the submitter's aggregate payments to a particular entity during the reporting year are valued at less than \$10,000, there is no need to report on payments to that entity. If no aggregate payments are valued over \$10,000, indicate by "none," "not applicable," or another appropriate response. This reporting requirement is in addition to any other legally required reporting on payments made to government entities.
8. Military Communications: Has the submitter, or any individual from or representing the submitter, had meetings or other communications, including written and telephone communication, with the armed forces of Myanmar and/or other armed groups related to the

submitter's investments in Myanmar? If so, indicate:

- a. Date(s) of meeting and/or communication;
 - b. Name(s) of individual(s), rank, and group(s) affiliation; and
 - c. Nature of and reason for meeting and/or communication. (Note: For frequent / regular meetings on similar topics, the submitter can provide one brief summary of issues discussed with a listing of dates under an appropriate header.)
9. Risk Prevention and Mitigation: With regard to human rights, worker rights, anti-corruption, and/or environmental issues, summarize any risks and/or impacts identified, any steps taken to minimize risk and to prevent and mitigate such impacts, and policies and practices on risk prevention and mitigation.