

**Consultation of Businesses**  
**Myanmar land laws: current problems, possible solutions**  
**17 December 2020**

**Results Report**

**1. Responses in Online Polling<sup>1</sup>**

Responses from Business Sector			
	Business	Business Association	Law Firm
English Session	13	5	12
Myanmar Session	6	16	21
<b>Total</b>	<b>19</b>	<b>21</b>	<b>33</b>

Which land laws matter most to you?				
	Business	Business Association	Law Firm	Total
Land Acquisition Laws	15	9	16	<b>40</b>
VFV Law	8	13	18	<b>39</b>
Myanmar Investment Law	8	8	22	<b>38</b>
EIA Procedure	11	7	18	<b>37</b>
Deed Registration Law	6	7	20	<b>33</b>
Farmland Law	6	7	20	<b>33</b>
Forest Law	9	2	7	<b>18</b>
Land and Revenue Act	3	2	13	<b>18</b>

Which land-related laws do you have problems with?				
	Business	Business Association	Law Firm	Total
VFV Law	8	13	16	<b>37</b>
Land Acquisition Laws	12	7	15	<b>34</b>
Farmland Law	6	7	19	<b>32</b>
Deed Registration Law	7	5	18	<b>30</b>
EIA Procedure	7	3	16	<b>26</b>
Myanmar Investment Law	5	5	13	<b>23</b>
Land and Revenue Act	3	2	13	<b>18</b>
Forest Law	4	1	6	<b>11</b>

<sup>1</sup> Results are based on the total 73 participants from the businesses, business associations, law firms from the English and Myanmar session.

Other laws	0	0	3	<b>3</b>
None of them	0	1	1	<b>2</b>

<b>What problems related to land does your business and/or sector experience?</b>				
	Business	Business Association	Law Firm	<b>Total</b>
Complex/long registration and land use change process	13	10	19	<b>42</b>
Understanding who owns the land cadastres	13	10	15	<b>38</b>
Lack of clarity and costly land transfer procedures	5	10	18	<b>33</b>
Lack of coherent strategic direction in land law/policy	9	7	16	<b>32</b>
Land acquisition	8	5	3	<b>16</b>
Identifying customary held land	8	1	5	<b>14</b>
Property taxes	2	3	8	<b>13</b>
Other	2	2	0	<b>4</b>

<b>At what stages and which departments have you experienced corruption?</b>				
	Business	Business Association	Law Firm	<b>Total</b>
Department of Agricultural Land Management and Statistics (DALMS)	7	11	16	<b>34</b>
Ministry of Union Government Office	4	14	11	<b>29</b>
Survey Department	4	7	9	<b>20</b>
Central Committee for Management of VFV Lands	3	8	3	<b>14</b>
GAD	3	3	6	<b>12</b>
MoALI	2	4	6	<b>12</b>
MoNREC	3	4	3	<b>10</b>
Never experienced	6	0	3	<b>9</b>
Central Administrative Body of Farmland	1	6	1	<b>8</b>
Other	3	1	1	<b>5</b>
Environmental Conservation Department (ECD)	0	3	1	<b>4</b>
MIFER	0	0	3	<b>3</b>
DICA	0	0	2	<b>2</b>

## **2. Responses in Discussion and Comments**

### **a) What works well?**

- Myanmar Investment Law and Rules (several mentions)
  - Provides some certainty to investors, but needs to be harmonized with other land laws and environmental processes
  - MIC processes
- DICA
  - The MyCo Online System (several mentions)
  - One stop shop
- Myanmar Companies Law
- Foreign company registration through MIC according to the contracting law
- Farmland Law
- VFV Law
- Transfer of Property Act
- Myanmar Special Economic Zone Law
- Land use tax
- Land registration process is better than before
- Technical expertise on land use, agriculture etc. at Township level government bodies is generally good
- Agriculture and livelihood activities (form 7 is very supportive for agriculture activities)
- Military returned some land to landowners
- CSO and development partner coordination around land laws
- Consulting with local communities over land ownership/use/access

### **b) Challenges and suggestions for change**

#### Access to information and transparency

- Disclose land related information to public and investors (several mentions)
  - Law should be interpreted and applied consistently, not just on a case by case basis. Government should inform public of those practices. (several mentions)
  - Provide clearer guidelines and timelines for each stage of land use or land conversion applications
  - Transparency about fees and reasons for approval/rejection is needed
  - Clearer guidance from government on what kinds of land can and cannot be taken as security, and the process for taking security.
- Language barriers
  - Establish a glossary of land terms, available in all Myanmar languages

- Translate land related communication materials into all relevant Myanmar languages.
- Provide a research platform or a website where everyone can access all land laws, policies, and research papers both in Myanmar and English.

### Consultation

- Government should include business, business associations and chambers in regular consultations on land (several mentions)
  - Will help to understand and resolve issues in a timely manner and minimize opportunity cost for investors
  - Lawyers and land law experts should also be invited to consultations
  - In the consultations for the National Land Use Policy, businesses and sector representatives were not/not sufficiently invited to the consultations. They would have a lot to share as they do the practice on the ground.
- Government should seek active engagement with ethnic minorities ensuring their concerns are identified and recognised
- Make use of bottom-up land use planning on village level which focuses on local sustainability

### Land registry and land ownership

- Land ownership is difficult to verify for businesses (several mentions)
  - Procedures differentiate in every region
  - Getting clarification on type of land, condition of land, and ownership is not easy
- Creation of digital Land Registry would be needed (several mentions)
  - Nation-wide, unified online system for all types of land
  - Public access to database
  - Transparent centralization of data
  - One website that is updated regularly
- Proof of ownership should not be a tax slip, there should be specific provision of proof of ownership
- Use new digital technologies for land mapping

### Change of land use, land transfer and taxes

- Reduce amount of taxes for transfer of land (several mentions)
  - Will encourage compliance with the law
  - Will encourage prompt and accurate registration of interest
  - Stamp duty is too high
- Simplify land transfer and change of land use processes (several mentions)

- Simplification of land transfer process while protecting land holders and customary users
- Title transfer process is not easy to understand for laypeople
- Government needs to understand that different types of land use may be compatible with each other
- National infrastructure building (such as telecom towers) needs simplified land use change procedure
- More flexibility on land use needed (e.g. when only a small part of land is needed and not the use of the entire plot must be changed)
- Forestry depleted lands should be available to be used as agriculture and livestock development land
- Approval process for conversion of land use for infrastructure should be shortened. It takes a year to get approval.
- Farmers should be able to get the right to cultivate and raise what the farmer wants
- Farmers should be able to receive equal land tenure for agriculture and livestock

#### Revision and harmonisation of laws

- Revise, harmonise land laws in line with international best practices (several mentions)
  - There should be a unified law with one focal department to provide One-Stop-Shop service
  - Harmonize land laws with urban planning policy to ensure land is properly planned from a zoning perspective
  - Align foreign ownership and company law
  - Need to review and reform the Forest Protection Law and Ethnic Interest Law
  - Review overlaps with recently issued Myanmar National Building Code
  - Harmonise in real estate, banking, construction areas
  - Different government departments need to consult to harmonize laws to the MIC processes
  - YCDC & MCDC laws need to be amend
  - Improve qualities of laws to reduce corruption opportunities
  - Clarify roles and responsibilities of involved agencies
- Environmental and social issues must be considered in the laws. (several mentions)
  - Environmental and social issues should be part of the ECD approval process rather than having multiple parallel processes with similar aims.
  - Recognize ethnic-customary ownership
  - Laws should comply with ESG, are clear and easily understandable
  - Strengthen formal protection of customary land titles
  - To implement resettlement action plans, all related laws should be in line with international laws and standards

### Simplification of procedures

- Procedures should be simplified and reduced (several mentions)
  - There is a lot of paperwork for land permits or grant applications
  - Decision processes take too long
  - Decentralization and delegation to the regional/state level is also important
  - Procedures should be consistent in all regions, simplify paperwork and create SOPs, have complaint mechanism and whistle blowing channel.
  - It should be easier to register other interests in land [than ownership], for example easements which can allow registered rights to use or access landlocked plots, etc.
  - ORD should simplify registration process and requirements for immovable property
- There should be less government bodies involved in land administration processes (several mentions)
  - Reduce number of involved ministries, departments, committees
  - There should be one interface focal point from Government for all land aspects relating to a project

### Implementation and performance by government

- Increase government capacity
  - Capacity building to improve competence of government employees working on land issues
  - Provide a fair salary to officials and decent facilities
- Government officials from relevant government departments should comply with and enforce the law (several mentions)
  - Shorten process time in government departments
  - Both governmental departments and people have to cooperate to run the whole process well, and need to comply to the laws, rules and regulations
  - Government procedures must comply with laws and regulations. There should be specific guidance for every procedure.
  - Government officials should handle applied case file effectively and quickly and in accordance with existing laws and regulations. They should not reply or act as per internal practices.
- Increase government consistency and coordination (several mentions)
  - Government coordination system should be improved to get clear answers
  - No collective authoritative measures on BOT investment structures. Annual land leases vary substantially.
  - Set up SoPs, monitoring and compliance framework

- Proactively check compliance with mandatory registration of long-term leasehold on some Build, Operate, Transfer (BOT) residential projects
  - SoPs for consistent land and asset valuation
- Corruption is a frequent problem in land administration and processes (several mentions)
  - Corruption happens because the state and region don't have SoP's related to land administration, processes and procedures are complicated, and no online registration system exists.
  - Corruption delays the process for land registration
  - Take the action against corruption effectively

### Sector specific comments

- For the fishery sector there is no specific policy for development, especially regarding the aquaculture sector. A policy is needed that can allot suitable places for aquaculture in each States and Division according to their potential and strength.
- In Special Economic Zones, in the previous government term, land has been acquired without implementing business activities. This makes land price for new businesses too high and challenging.
- Ethical standards for real estate agents must be set up, including required qualifications for agents
- Previous government allowed rubber plantation on forest land for thirty-year terms. The current issue is that forest department doesn't agree to do rubber plantation for another cycle. Due to fixed investment costs, investors want permit for next two cycles. If not, it will be less beneficial to investors and the country.
- The laws do not have a livestock zone so it happens on agriculture land. A law for the livestock sector should be enacted to allow using pastureland for livestock activities
- In order to expand financial services to agricultural sector, banks need clarity over which type of land can be mortgaged and whether respective land committee approval is required in the event of repossession. (Ref pg 617 and 618). The processes are different depending on the practices of the regional offices. Issuing Form 105/106 with the purpose of "for sale purposes", data is available online at YCDC however it is difficult to get it at other regions and states because the system is not digitized and as a result, applicants for loan programme lose their opportunities. Without this clarity, banks cannot have assurance that this land has been pledged to another bank or not.
- Mining sector is facing difficulties due to misapplication of department of agriculture and department of forestry.