Final Report

Mid-Term Review

of the

Swiss Agency for Development and Cooperation

Strengthening Land Governance in Myanmar Project

Implemented by LCG, CDE and TNI

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Acronyms and abbreviations

ADS	Agricultural Development Strategy
AHBC	Amyothar Hluttaw Bill Committee
AHFAC	Amyothar Hluttaw Farmers Affairs Committee
BNCAP	Biodiversity and Nature Conservation Area Protection [Law]
CDE	Centre for Development and Environment
CF	Community Forestry
CBO	Community Based Organization
CSO	Civil Society Organization
CT	Customary Tenure
DALMS	Department of Agricultural Land Management and Statistics
EAO	Ethnic Armed Organization
ECD	Environmental Conservation Department
EIA	Environmental impact assessment
IEC	Information, Education and Communication
EU	European Union
FAB	Farmland Administration Body
FAO	Food and Agriculture Organization [of the United Nations]
FD	Forest Department
GAD	General Administration Department
GEF	Global Environmental Facility
GRET	Groupe de Recherche et d'Echanges Technologiques
IDP	Internally displaced person
IWGIA	International Work Group for Indigenous Affairs
KMSS	Karuna Myanmar Social Services
KNU	Karen National Union
LAA	Land Acquisition Act
LARC	Land Acquisition Re-Investigation Committee
LCG	Land Core Group
LoA	Letter of Agreement
LSLA	Large Scale Land Acquisition
LUC	Land Use Committee
M&E	Monitoring and Evaluation
MoALI	Ministry of Agriculture, Livestock, and Irrigation
MoNREC	Ministry of Natural Resources and Environmental Conservation
MoPF	Ministry of Planning and Finance
MP	Member of Parliament
MRLG	Mekong Regional Land Governance Project
MRLUN	Mon Region Land Use Network
MyLAFF	Myanmar Land Agribusiness and Forestry Forum
NGO	Non-governmental organization
NLD	National League for Democracy

NLL	National Land Law
NLUC	National Land Use Council
NLUP	National Land Use Policy
OMM	OneMap Myanmar
POINT	Promotion of Indigenous Nature Together
REDD	Reduced Emissions from Deforestation and Forest Degradation
ROD	Record of Discussion
ROLC	Rule of Law Centre
RRtIP	Resource Rights for the Indigenous People
SDC	Swiss Agency for Development and Cooperation
SLG	Strengthening Land Governance Project
STSN	Sittaung Thanzin Social Network
TA	Technical Advisor
TAG	Technical advisory group
TNI	Transnational Institute
TOR	Terms of Reference
TOT	Training of Trainers
UAG	Union Attorney General
UNDP	United Nations Development Program
USAID	United States Agency for International Development
VFV	Vacant, Fallow and Virgin [land]

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Executive summary

The Strengthening Land Governance (SLG) Project is implemented under the Swiss Cooperation Strategy Myanmar 2019 – 2023 and contributes to Outcome 2 of the Domain - Peace, State building and Protection. The first 'establishment' phase of the project from October 2014 to May 2017, including an inception phase of 13 months, had a total budget of CHF 3.9 Million. A second, 'expansion' phase of four years commenced on 1st June 2017. This expansion phase, the subject of this Mid-Term Review (MTR), will be followed by a third 'consolidation' phase, making a total duration of ten years for the entire project. The budget for the entire duration will total CHF 17.5 Million.

The overall goal of the SLG project is: *Small-scale food producers including women and men from all ethnicities have secure and equal access to land*.

The project has three outcomes, one for each of three implementing organisations:

> Outcome 1 – OneMap Myanmar (OMM, implemented by CDE): *Accurate data and knowledge on land is widely available, enabling transparent multi-stakeholders dialogues and decision-making for land governance and sustainable development planning.*

> Outcome 2 – Land Core Group (LCG): *Stakeholders in Myanmar have increased capacity and are able to effectively coordinate in promoting equitable land and natural resource rights in policy and law*.

> Outcome 3 – Transnational Institute (TNI): *Ethnic-based civil society organisations (CSOs) play a significant role in decision-making on land policy and other natural resources.*

A Mid-Term Review (MTR) was undertaken in late 2019 to assess the achievements and lessons learned during the first two and a half years of Phase II implementation, and to provide recommendations for the remaining term of the current phase. The review also provided recommendations for the development of Phase III, the last phase of this project. The MTR assessed the relevance, effectiveness, efficiency and sustainability of the overall design, and of the three component projects ('sub-projects').

The MTR was primarily qualitative in nature reviewing secondary information (project reports, and other relevant documents and publications) and undertaking a series of stakeholder meetings in Yangon, Naypyidaw, Tanintharyi Region, Mon State, Bago Region, Mae Hong Son and Taunggyi. Stakeholders met included representatives from government agencies, civil society and non-governmental organizations.

Relevance:

The project was clearly relevant to the needs of smallholder farmers (women and men), communities with customary tenure and undertaking shifting cultivation, ethnic communities, and IDPs and returnees (these all represent the ultimate beneficiaries). It was also relevant to the needs of CSO partners, government agencies and ethnic armed organisations (EAOs). The project was supporting the implementation of the National Land Use Policy, and supporting the capacity of ethnic armed organizations and partner ethnic CSOs to prepare local land use policies. Both the CDE and LCG components of the project were supportive of the National Land Use Council and its working committees.

However, <u>in terms of design logic</u>, the objective of smallholder secure and equal access to land requires more than accurate land data, stakeholder capacity and empowered ethnic CSOs. It needs political will, which under the current NLD government, is lacking. The transition to the NLD government has delayed the implementation of the NLUC, it has emphasized the regulatory framework for large-scale investment (rather than smallholder tenure security); and passed confusing amendments to existing land laws some of which may severely disadvantage smallholders and ethnic communities. As such, the will for, and/or capacity to adequately address comprehensive land reform is weak. The three component outcomes are necessary but not sufficient. Institutional reform and administrative capacities in government also need to be an explicit focus and further addressed in order to achieve the overall project objective.[1]

<u>Effectiveness:</u>

OneMap has made a promising start to achieving the objective of wide availability of accurate land data. An online platform of land-related data has been prepared, to which a number of key government departments have contributed. The platform includes 49 national data layers cleaned and captured. However, the platform is not yet publicly available and several key datasets remain to be provided/captured. Capacity has been built for data collation and analysis, and government stakeholders have been brought together within the OneMap Myanmar Working Committee to take the platform and other data-sharing work forward. LCG has done much to improve knowledge and capacity of key land stakeholders (staff from government departments, members of parliament (MPs), CSOs, Land Acquisition Re-Investigation Committees (LARCs), selected communities etc) and has provided a platform and 'network' for sharing and learning.[2] LCG has promoted consultation and smallholder rights in land/natural resource legislation. TNI has succeeded in promoting the participation of and empowering ethnic CSOs in the policy making process particularly at the state/regional level and, to a lesser extent, engagement in discussions on national/federal land law.

Evidence was minimal at the time of the review of systematic improvements in land governance. There were some minor improvements to land/natural resource legislation and rules. It is expected that in the future, if the work of the National Land Use Council supported by the project is successful, there will be notable improvements. Support to EAO land/natural resource policies have contributed to the building of a consensus among EAO-linked stakeholders concerning land governance principles, including what land governance in a federal system should address. Such support strengthens both EAO preparations for the UPC process as well as EAO accountability to their constituencies. The project contribution to the

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[1] Note that LCG and CDE have been pushing for institutional reform in government despite it not being an explicit focus of the program design. However, supporting reform in key agencies such as DALMS had made little progress at the time of the MTR. Support to institutional reforms in other key agencies such as GAD with its key land administration roles have not been included among project interventions. The involvement of some 10 ministries and 40 line departments with stakes in land governance and land administration, and a complexity of legislation and regulations, point to the need for significant and comprehensive institutional reform. The work of the project in supporting the NLUC is an important step that, in future, with continued government support, offers promise in terms of concrete outcomes for smallholder secure and equitable land tenure. However, such a result with be some time coming.

[2] LCG support to the knowledge and capacity of staff from government agencies, however, does little to address ineffective and inequitable land administration procedures regulated under existing legislation.

discussion on federalist principles could be very significant. For local impact at present, EAO capacity to implement these policies may need to be strengthened

Efficiency:

Two of the three major components (LCG and TNI) have generated good results with relatively limited resources. The component receiving the largest funds (CDE-OMM), due to its nature in providing significant technical capacity for government, has high technical support, material and program costs. Benefits from the CDE component will be realized only over time as the platform is launched, capacity gains are solidified and stakeholders work together to maintain and use OMM data. All components have worked efficiently particularly in engaging/collaborating with government and/or CSO stakeholders (TNI with ethnic CSOs and EAOs). As a result, these stakeholders have contributed to many of the outputs achieved.

Sustainability:

Positive results that should continue to provide benefits include: improvements to legislation, CSO/community/LARC capacity related to understanding of policies and laws, available information and research related to land and natural resources, EAO and ethnic CSO contributions to local land and natural resource policy, establishment of an online platform and process for sharing land-related data, 49 national data layers cleaned and collated, government GIS and spatial/digital data collation and analysis capacities in Forest and Survey Departments in Naypyitaw (including the Forest Department in Mon State), and establishment of the OneMap Working Committee under the NLUC to take this work forward. The greatest risk relates to the extent of government support to pro-poor land and natural resource governance reform.

Of the three main partners, LCG and TNI will be able to carry on their work at the end of the project, as will the CSOs that they have supported/partnered. LCG and TNI have other funders and options to generate revenue (though these may be limited and are often earmarked funds for specific activities). Both LCG and TNI have skilled teams. The OneMap platform has gained a boost to sustainability through the creation of the OM Working Committee under the NLUC. This represents a clear commitment on the part of government to take ownership for and move the platform forward. The challenge will be for government to eventually take over funding and staffing of the platform. Ongoing material support and capacity-building of government staff, including support to workflows, will help enable this transition. The OMM website/platform, currently hosted in a server in Bern, will eventually need to be localized and capacities developed to maintain and extend it.

Recommendations:

The most important recommendations proposed by the review team are: for improved communications to limit misunderstandings among the CSO community on the roles and activities of the implementing partners; work more in state/regions to build capacities and demonstrate the value of project support from all implementing partners to improved land and natural governance at the local level; support land governance aspects of the aspiration for federalism; improve the assessment and management of risks in new activities designed to support national government agencies (this will require greater input from SDC); support analysis of economic and investment policies to ensure they are not detrimental to poor and ethnic communities' access to land; encourage greater participation of ethnic CSOs and EOs/EAOs in

the NLUC policy and legislative processes particularly in relation to the National Land Law and federalism; support the General Administration Department (GAD) reforms as they relate to land/natural resource governance.

A full list of recommendations is provided in Section 6 of the main report.

1. Background to the Strengthening Land Governance Project

The NLD government, that took power after transition from a military control in 2016, promised in its platform to modernize the agricultural sector including supporting smallholder farmers, resolving farmland disputes and securing land tenure. The previous Thein Sein Government had passed two laws in 2012; the Farmland Law and the Vacant, Fallow and Virgin (VFV) Land Management Law. These laws, particularly the VFV land law, resulted in great insecurity of tenure for small holders and communities with customary tenure over land and forests, and provided a mechanism to grant large areas of land to investors for large scale crop production. Rather than repeal this law, the NLD government amended the VFV land law in September 2018, imposing a six-month deadline on 'informal' users of VFV land to formally apply to use the land or face prosecution. Under pressure from civil society, the government excluded land under customary tenure from the registration process but with no clear process to recognize customary tenure, farmers without land use certificates, customary land and forest resource users, and shifting cultivators particularly in ethnic areas faced heightened insecurity of tenure.

Just prior to the transition to the new NLD government, the National Land Use Policy (NLUP) was formally adopted. It had been developed through a broad consultative process, with support from the first phase of this Strengthening Land Governance (SLG) Project. The NLUP provided a strong basis to reform land governance including to strengthen tenure security. After a delay of two years, the NLD Government established the National Land Use Council (NLUC) to implement the NLUP. Under the NLUC four working groups have been formed including one to develop a National Land Law and another to implement the government's One Map Myanmar (OMM) strategy. The substantive work of the NLUC and its committees has only recently commenced.

The SLG Project is implemented under the Swiss Cooperation Programme Myanmar 2019 – 2023 and contributes to Outcome 2 of the Domain - *Peace, State building and Protection: More accountable, efficient and decentralised institutions; a stronger participation of civil society, vulnerable communities and women in decision-making processes; and more equitable access to public services and sustainably managed land and natural resources contribute to conflict transformation, social cohesion and state building*.

The first 'establishment' phase of the project from October 2014 to May 2017, including an inception phase of 13 months, had a total budget of CHF 3.9 Million. A second, 'expansion' phase of four years commenced on 1st June 2017. This expansion phase, the subject of this Mid-Term Review (MTR) will be followed by a third 'consolidation' phase, making a total duration of ten years for the entire project. The budget for the entire duration will total approximately CHF 17.5 Million.

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As part of their responsibilities to implement the above outcomes, three specific areas for collaboration among three organisations have been identified, particularly in their activities at State/Region and local levels:
1) Customary tenure;
2) Land rights for internally displaced people (IDPs) and returnees; and
3) Large-scale land acquisitions.

As well as implementing the SLG project, the three organisations cooperate to varying degrees with the Mekong Region Land Governance (MRLG) project, which is administered by the SDC Mekong Region office in Vientiane.

Swiss engagement in Myanmar
Switzerland has been engaged in Myanmar in the field of humanitarian aid for over 20 years. In response to the political opening and substantial democratic reform process in recent years, Switzerland opened a full Representation in late 2012 to contribute to the transition of Myanmar towards a peaceful and more inclusive, equitable society in political, social and economic terms, and to promote a democratic government.

The Swiss Agency for Development and Cooperation (SDC) works along three domains as outlined in the Swiss Cooperation Programme Myanmar (SCPM) 2019-2023:
(i)   Peace, state building and protection (including land and natural resources governance);
(ii)   Skills and market development; and
(iii)   Health.

Gender equality, good governance, and climate change adaptation and disaster risk reduction are applied and mainstreamed in a context-specific manner in all three domains. SDC focuses its support in southeast Myanmar, including Mon, Kayin and Kayah States, east Bago and northern Tanintharyi Region and, in the current programme, is expanding its activities to South-Shan State.

2. Purpose of the Mid-Term Review

The purpose of the Mid-term Review (MTR) was to assess the achievements and lessons learned during the first two and a half years of Phase II implementation, and to provide recommendations for the remaining term of the current phase. The review was also tasked to provide early inputs and ideas for the development of Phase III of this project. The MTR assessed the relevance, effectiveness, efficiency and sustainability of the overall design, and of the three component projects ('sub-projects'). It also identified intended and unintended outcomes, with particular focus on conflict-sensitivity and do-no-harm arising from the project.

The MTR is an external review from which findings and recommendations will not only support SDC in its decision making, but also help the land project partners in implementing their component outcomes.

The specific objectives of the MTR were to:

1. Assess relevance, effectiveness, efficiency and sustainability of the project components, including in reference to the overall project logic;
2. Assess synergies between the project components, including cooperation between and overall management mechanism;
3. Make recommendations for improved relevance, effectiveness, efficiency and sustainability for the remainder of the phase and generate inputs and ideas for the phasing out of SDC's support during a third and last phase.

The terms of reference for the Mid-Term Review are provided at Annex 1, including key evaluation questions to be considered.

An assessment grid for evaluations, with summary ratings addressing the project's relevance, effectiveness, efficiency and sustainability was also completed to accompany this MTR report.

3. Methodology

The MTR was primarily qualitative in nature reviewing secondary information (project reports, and other relevant documents and publications) and undertaking a series of stakeholder meetings in Yangon, Naypyidaw, Tanintharyi Region, Mon State, Bago Region, Mae Hong Son and Taunggyi. Stakeholders were selected from among government agencies, civil society and non-governmental organizations, formal and informal ethnic leaders, key individuals, and donors working on land issues. The three implementing partners provided presentations of their sub-projects, and the team observed a number of partner workshops in Bago (LCG) and Mae Hong Son (TNI).

The three implementing organisations, the MTR consultants and SDC staff collaborated to draft a list of relevant stakeholders and arranged the schedule of meetings and field visits. The consultants produced a preliminary consultancy workplan and assignment of tasks among the three MTR team members before commencing that was updated throughout the review process.

Key sources of information are summarised as follows:
- Document review (project design documents, research reports, annual and 6 month reports, presentations, training materials, financial reports, logframes and measurement frameworks, etc);
- Observation of OMM platform, maps and analyses;
- Meetings with LCG, OMM, TNI teams (involved in implementation);
- Field trips to Mae Hong Son, Taunggyi, Bago Region, Tanintharyi Region and Mon State to meet with sub-national stakeholders;
- Meetings with government stakeholders Union and State/Region levels (Forest Department, Department of Agriculture, Department of Agricultural Land Management and Statistics (DALMS), Survey Department, Union Attorney General's Office (UAGO));
- Meetings with numerous civil society organisations (CSOs) and non-government organisations (NGOs) involved in, or aware of, the SLG project;
- Meetings with ethnic organisation (EO) and ethnic armed organisation (EAO) representatives; and
- Meetings with donors, international non-government organisations (INGOs) and other development projects and partners (the European Union (EU), the Livelihood and Food Security Fund (LIFT), Oxfam, the Food and Agriculture Organisation (FAO), and MRLG).

The MTR team developed lists of questions for each sub-project and ahead of key stakeholder meetings to guide discussions. While the team worked together for many of the review meetings, the three MTR team members each took a major responsibility for one of the three sub-projects and at times separated to meet specific stakeholders.

4. Limitations of the Mid-Term Review

The review was conducted over a short period of time with only 2.5 weeks to meet the numerous stakeholders listed above and undertake field trips covering four states and regions and a meeting in Thailand. Two trips were made to Naypyitaw in an attempt to meet all the main government collaborators and stakeholders. Nevertheless, it was not possible to meet all relevant and important CSOs, senior government staff and donor representatives. The was no opportunity to meet key some of the key senior management of DALMS nor to meet any of the LARCs that had been trained under the project. The findings of the evaluation are largely based on the MTR team's assessment of project documentation, research reports and other documents, observations of meetings, demonstrations of the OMM platform, and the views and opinions of the many stakeholders met during the MTR (listed above). The MTR was

primarily qualitative in nature reviewing secondary information and relying on the opinions and perceptions of project implementing staff and the stakeholder encountered.

5. Findings

5.1 Relevance

The overall goal of Phase II of the SLG Project remains very relevant to the development of Myanmar: *Small-scale food producers including women and men from all ethnicities have secure and equal access to land*. Tenure security and equitable access to land are fundamental political and economic issues facing Myanmar today, issues that are core to the success of the ongoing peace process and in improving rural household livelihoods, income, food security and nutrition. Land governance is particularly important for the poor and vulnerable in many rural areas including in conflict-affected areas where IDPs and returnees require access to land. It is similarly important to protect areas of customary and communal tenure essential for livelihoods in many ethnic communities but that cannot yet be formally recognized by law. Women also face inequity in rights to land, both in the formal system, where the issue of land use certificates distributed following the 2012 Farmland Law were predominantly in the name of male heads of households, but also in some social-cultural contexts.

The aims of the three SLG outcomes are also relevant:
- Accurate data and knowledge on land (Outcome 1) remains a key gap and constraint for equitable, effective and efficient land governance.
- Stakeholder capacities, including government, CSO, ethnic organisation, and community capacities, are generally weak and need support (Outcome 2) particularly as the recently formed NLUC is progressing in the implementation of the NLUP including the drafting of the new land law, and
- Ethnic-based CSOs need support (Outcome 3) to effectively represent ethnic/ethnic state interests on land policy including in negotiations and debates around land and the peace process, federalism and land law development.

The three topics for collaboration among the three 'sub-projects' (customary tenure, land rights for IDPs/ returnees; and large-scale land acquisitions) also remain critical issues to address in Myanmar's land governance. Analysis conducted by GRET under the multi-donor Livelihood and Food Security Fund concerning Vacant, Fallow and Virgin Lands (VFV) following the amendment to the VFV law in late 2018 indicated the significance of the area of available VFV that could still be granted including in the form of large-scale concessions. 75% of VFV land was in the seven ethnic states where customary land systems prevail. In Shan, Kachin, Tanintharyi, Rakhine, Chin and Kayin Regions/States, VFV lands represent more than one-third of the total land area. Given the absence of formal procedures for registering customary and shifting cultivation lands, the future allocation of VFV lands will be a key issue and remains important to the peace process and the resettlement of up to 3 million people (IDPs plus Myanmar refugees in neighbouring countries).

The three different sub-projects have developed different approaches but with considerable complementarity concerning their support to the wide variety of land governance stakeholders. This has been important given quite disparate views on land governance among CSOs and even within government and government agencies. Most CSOs believe in constructive engagement with government in principle. Similarly, some government agencies are supportive of wide, transparent participation in the formulation of policies, legislation and regulations. However, this is not always the case. [3]

LCG
The LCG sub-project has been particularly relevant in engaging with government both at union level and sub-nationally promoting more equitable laws and regulations protecting smallholders land rights (LCG Outcome 1) and encouraging government to provide opportunities for CSO and community consultation on land-related policies and legislation (LCG Outcome 3). This strategy of engagement with government and the promotion of wide consultation is particularly important with the recent establishment of the NLUC to implement Myanmar's NLUP and the initiation of land law drafting which was about to commence at the time of the MTR.

The project's support to train CSOs who in turn inform rural communities on land laws and their rights (Outcome 2) has also addressed clear gaps in information and knowledge at the local level and contributed to farmers and communities understanding their rights under existing laws and in some cases applying for formal tenure (using Form 7 or VFV land applications). Nevertheless, this approach has been criticized by some CSOs that see these laws and procedures as unjust, and who advocate for their repeal.

From the perspective of government, all ministry and departmental representatives[4] and members of parliament (MPs) met during the MTR appreciated LCG land expertise, organizing capacity and facilitator/ moderator role in public consultations and workshops associated with land and natural resource related legislation. This remains an important role. Few other stakeholders, NGOs or CSOs have the same opportunity to engage with government or have developed such trusted relationships.

In addition to developing CSO capacities, LCG has also invested in capacity building/awareness of MONREC/FD and MoALI/DALMS leaders and MPs in areas of governance of land and natural resources. LCG has also advocated for public participation and consultation in government decision-making. In the case of DALMS, this support has extended to organizational development and leadership reform. Such LCG engagement with government represents an important alternative approach to promoting land governance reform, not simply advocacy as an outside voice.

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[3] Many CSOs believe under the present conditions of armed conflict, militarization, land grabbing, and discrimination, constructive engagement is not possible. Similarly, some in government are not always willing to engage with CSOs.
[4] Notably the Forest Department (FD) and Department of Agricultural Land Management and Statistics (DALMS)

At the same time, the LCG project aimed to fund/conduct research and provide evidence-based information to support CSO advocacy efforts and government policy development and reform. This remains relevant, however the most effective approach remained to be determined (whether contracting research activities, strengthening then utilizing an LCG research team, or developing CSO research capacity).

CDE support to OMM

OneMap is quite relevant as a project for collating and creating usable land-related data and making it public. The problem of outdated, incomplete and even conflicting land-related data sets used by government for planning and policy purposes remains relevant, as well as the issue of 'siloed' information management within and between ministries. For these reasons, and in order to help solve land-related problems, the government appreciates the CDE support to its OneMap activities. In 2018, OneMap became the focus of one of the four Working Committees under the National Land Use Council indicating its importance to government. One Map project is also welcomed by MIMU and others involved in data management and those supporting the development of a National Spatial Data Infrastructure (NSDI). It is clear that the CDE OneMap project goals and objectives fulfil a real need in land governance, of value to both government and the public.

However, not all stakeholders (government, the public, civil society, private sector) have the same vision or understanding of what the CDE OneMap project is or can do. Despite ongoing efforts and attention to communications this has been a constraint to relevance and effectiveness. Concerns on who will use and benefit from mapped land use and land tenure data, particularly among some CSOs, have been problematic. An increased strategic focus of project activities and a better communications strategy are needed. The objective of promoting open data remains important. In that regard, the data platform should become public as soon as possible (not the least to mitigate reputational risks for OneMap).

The selection of the specific data sets to be targeted by CDE that will contribute to pro-poor/equitable development is a similar issue. An assumption is built into the project outcome statement that the data collected/processed and made available with the support of OneMap will be used transparently for better decision-making. However, there is concern that the current government (NLD) favours large-scale investment over attention to pro-poor policies. CDE should, in contrast, focus on datasets that can be used to support secure tenure for smallholders/ethnic communities and pro-poor policy. This perspective has been part of the case for working on customary tenure recognition, large-scale land acquisitions (LSLA)/oil palm in Tanintharyi, and to an extent the digital and spatial presentation of the population census results, but needs to be kept in the foreground. As it develops its strategic focus, CDE should use as a primary criterion for selection of workstreams the potential relevance of the data for pro-poor outcomes. Such criteria should be discussed openly in planning with the Working Committee, while leveraging relevant reference points in government's own strategy

documents such as the ADS and MSDP. Such an approach will help elevate a pro-poor focus in current government thinking as well as in CDE inputs.

The overall development hypothesis and goal (see ProDoc) are still relevant. However, the context has become more difficult and complex including the risk of minimal political weight of the NLUC and the risk of it and the OMM Working Committee becoming irrelevant or even defunct after the forthcoming elections. With its current design, the CDE OMM project would be impossible to implement without clear government support. It would therefore be valuable to consider this risk and work to address it in project planning including consideration of alternative paths in the case that political support is withdrawn or the NLUC becomes redundant.

TNI
The objective of the TNI programme is relevant: *Ethnic based CSOs play a significant role in decision making on land policy and other natural resources*. This is relevant for policy formulation both at the national level and sub-nationally. Half-way through the project, the roles of ethnic based CSOs and the network Land in Our Hands (LIOH) have not achieved the desired results at the national level.[5] There are a number of reasons for this. The peace process has appeared to have stalled, the NLUC has made slow progress, and the voices or messages carried by many ethnic CSOs and LIOH have not been heard by policy makers and legislators. In addition, divisions have occurred among the CSO community, recognized both by the CSOs themselves and some key actors especially donors.

The right to land for IDPs and refugees has not been guaranteed as the National Dialogue has not taken place. Land and natural resources seem to have become a strategic issue in the power struggle taking place in the political dialogue of the peace process, instead of key issues for negotiation and resolution.

Advocacy on ***national*** land law and land policy by ethnic CSOs (Outcome 1.1) together with a 'network' of CSOs (LIOH) has taken place with the support of TNI. However, the role of TNI has been more significant in supporting ethnic CSOs contribute to the land policy formulations of the EAOs.

While the sub-project objective and outcomes related to CSO advocacy and roles in policy and decision-making are relevant, CSO voices, documentation and publications have had little impact in the national land policy and land law formulation process to date. Communities urgently need protection from losing their land and from being brought to the court for using/defending their own land. Some CSOs including LIOH network members are therefore helping individual communities in their specific struggles over land and natural resource tenure. These CSOs argue that their pragmatic approach is more relevant and appropriate at this point in time, rather than general policy advocacy. Notwithstanding, land and natural resource

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[5] Note, that within the jurisdictions of EAOs at the state/regional level, TNI has had considerable success in promoting ethnic CSO participation in land and natural resource policy formulation.

governance is a very political issue, and critical advocacy and grass roots mobilization, demanding reform, may be essential to achieve genuine political will from the government and military leadership.

TNI's inclusive processes, sharing and cross-participation among different EAOs and different ethnic CSOs builds understanding and engagement within and between ethnic groups (including Bamar CSOs) which contributes to peace building. This is very relevant and important for a fragile and divisive country like Myanmar.

Project support to cross-cutting issues
The three cross-cutting issues of customary tenure, land for IDPs/returnees and large-scale land acquisitions are still very relevant for the three implementing partners. All have worked extensively to promote and protect customary tenure, but along different and often complementary paths (see later discussion).

IDP/returnee land issues
TNI and, more recently, LCG have worked on IDP/returnee land issues. TNI has supported the Joint Strategic Team and IDP communities for the right to land for IDPs in Kachin State and Northern Shan State, supporting trainings and action research since 2016. TNI has also assisted displaced communities in Mon, Kayin, Kayah and Shan States, together with CSOs who support the right to land. With the Border Consortium and other CSOs, TNI has more recently conducted a series of workshops for representatives from IDP/refugee communities and briefings for both IDP/refugee representatives and the wider development community. LCG recently drafted (but not yet published) a study of IDP land issues in Kayin State, its first major study on this topic. LCG also established a working group of NGOs involved in IDP land issues. While CDE has not yet systematically explored the land data needs and opportunities around IDP/return land rights and overlapping claims with settlers and investors, mapping will likely have an important role in future solutions. Supporting IDP/returnee land rights should remain a key project priority especially with this implementation of the amended VFV Law, and government plans to close all IDP camps in the country.

Large-scale land acquisitions
CDE-OMM has done the most regarding large-scale land acquisitions, principally in mapping oil palm concessions in Tanintharyi and rubber concessions in Mon State. However, the mapping of oil palm plantations has not yet had significant strategic impact, and led to concerns among local CSOs that it played to the interests of oil palm investors to the disadvantage of local communities. The work in Tanintharyi should be continued, strengthened and better targeted to take advantage of what has been achieved so far, despite early difficulties.

LCG has provided training to Land Acquisition Reinvestigation Committees (LARC) on applying land laws and procedures to resolve land grabs[6]. LCG has also engaged with the private sector,

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[6] LCG nevertheless remains concerned about the effectiveness of many LARCs given the influence of the military and other vested interests.

among other stakeholders, through a series of Environmental Impact Assessment workshops on EIA instructions and the development of Environmental Action Plans, as well as in the forest rules consultation process. However, LCG acknowledges that it has been hard to engage with the private sector more broadly on responsible agricultural investment. TNI with its CSO partners has convened land law awareness workshops with discussions around how existing laws undermined customary tenure and favoured large-scale land acquisitions. TNI with partners also support communities develop action plans on how to respond to land grabs including IDPs under pressure from land grabs by investors in banana plantations. Several TNI publications address these issues. Large-scale land acquisitions should remain a priority for CDE; mapping the extent of these, identifying encroachment and overlaps with other land tenures, and determining where such lands are unutilized or contravening their concession agreements provides important information for governments, CSOs and communities.[7] For TNI and LCG the focus on large-scale land acquisitions should continue in the context of protecting customary land tenure (including shifting cultivation) and the rights of smallholders (and landless/land poor) in land reallocations and the allocation of VFV lands. This is arguably more important that engagement with the private sector to promote responsible agricultural investment.[8]

Customary tenure
TNI has worked with several CSOs and EAOs on customary tenure, to recognise, promote and protect customary tenure rights of communities. TNI has brought together and supported a group of 19 Shan State based CSOs from different ethnic backgrounds to conduct research and carry out advocacy on their customary systems. TNI has also published reports on customary tenure and shifting cultivation. In 2019, TNI started to bring together representatives from key CSOs, ethnic political parties and EAOs to discuss and to develop strategies on how to best advocate for recognition, protection and promotion of customary tenure in Myanmar.

Customary tenure has been a key focus of the LCG. Activities undertaken/supported during Phase II of the SLG project have included research on Naga customary tenure, and piloting/documenting collective customary tenure practices in a forested area in Tanintharyi with a local Karen community (encompassing 12 villages) (with TRIP NET and RKIPN, funded by MRLG).[9] LCG has worked to get customary tenure related articles included in the Farmland Law Amendment Bill, the VFV Land Management Law Amendment Bill, the new Land Acquisition Law, the new Forestry Law, and the new Biodiversity Conservation and Protected Areas Law. LCG is also an active member of MRLG's Alliance for the Recognition of Customary Tenure. The group has conducted training on customary tenure documentation and land registration

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[7] However, training and awareness must be provided to CSO and community stakeholders concerning these maps and data, what they mean and how they can be used in advocacy, resistance to future 'land grabs' and concessions to investors, and community efforts to reclaim their lands. If such support is not provided by CDE, it should be coordinated with SDC project partners (LCG and TNI).
[8] Responsible agriculture investment is included in MRLG activities in Myanmar.
[9] LCG also supported the piloting of community forestry (CF) certificates to recognize customary tenure in Shan State as part of its strategic partnership with the USAID Land Tenure Project.

through the formal system to farmers in Bago; one of the LCG partners, GSMI, is now able to help communities produce customary tenure maps. LCG continues to work with other CSOs to reach a common understanding of what customary tenure means and how it can best be protected through existing formal institutions, procedures and laws. LCG's more recent focus is to provide technical support to the NLUC promoting customary tenure including in the formulation of a national land law. At the same time, LCG has recently drafted (but not yet published) a study on federal land governance and is investigating the opportunities and risks associated with customary tenure in negotiations/discussions towards a federal system: including risks/opportunities for local ethnic communities and indigenous peoples' rights. These new initiatives, given support by concerned parties/stakeholders, should be of great value.

CDE has supported mapping of customary tenure lands in Naga and is launching an initiative with KMSS that will digitize and present spatial data on at least 82 customary tenure village lands (and claims). If the presentation of customary tenure maps on a joint platform is taken up by civil society as planned, it could be a significant achievement. While there has been a proliferation of guidelines and initiatives on documenting and/or mapping customary tenure, a comprehensive collation of all this work and meta-analysis is still required, with options and recommendations for national law and policy. Now is a good time for the project partners to work together in this regard.

Rights-based approach
In addition to three cross-cutting themes, TNI promotes a rights-based approach to land tenure, protecting the rights of ethnic communities, women and displaced people. This approach is followed both in TNI interventions and its principle incorporated within EAO land policies.

General Administration Department
The recent shift of the General Administration Department (GAD) to the new Ministry of the Office of the Union Government had, at the time of the MTR, made little difference to activities of project partners in their field activities. However, given the important role of GAD in land administration and the SDC support to the reform process commencing for GAD, there are important opportunities for the Strengthening Land Governance Project to harness the GAD reform process underway.

GAD currently has key local roles in land administration. GAD is particularly responsible for town lands and village lands. The GAD can issue land grants and leases, and can acquire lands for the public interest, such as for building schools, roads, etc. Township GAD is responsible for processing applications for requests for changes in land use. GAD's township administrator supervises village tract administrators, who are in turn directly involved in nearly all land administration procedures at the village level. GAD clerks and village tract administrators are members of the Village Tract Farmland Management Committees. The township level Land Acquisition Reinvestigation Committee (LARC), responsible for resolving land grabs including associated land disputes and land reallocations, is chaired by GAD and the secretary is also from GAD.

GRET land research in lowland areas has pointed out that: *local land issues show that whatever the reforms may be promulgated (even as part of a democratization effort), few changes will happen in practice without greater attention to local governance. It is critical for the reforms to be effectively implemented on the ground. …. the authority of the village leader, the GAD clerk, or the SLRD officer, point to the administrative irrelevance of formal state structures, regardless of the government in power.* The report goes on to state that those given responsibility to *redress land conflicts … and those involved at the origins of those conflicts are the same people, namely the village tract administrator, the GAD clerk, and the SLRD staff.*[10]

At the same time, there are a number of underlying factors which contribute to the poor performance of local governance, including local land administration. These include weak local leadership, top-down decision-making with little independent authority at the local level, minimal budgets and resources, on-going corruption and, in many areas, lack of concern for ethnic minorities. Without addressing these and other factors, there can be no quick improvements in local governance. Transformational change, including institutional reform, is necessary. Training and capacity building alone will not be sufficient.

In this regard, the recently developed GAD Reform Framework (2019) presents an important opportunity to influence local land governance and, under existing laws, make local land administration more transparent and accountable, more equitable and more effective (particularly with regards to land dispute resolution and land reallocation). The reforms include a number of key outputs of particular relevance to land administration where targeted technical assistance related to land governance could make valuable contributions. Example of these outputs include:
- Re-defining powers and responsibilities of GAD through regulatory analysis of existing laws, by-laws and regulations (and law enforcement and anti-corruption procedures)
- To develop and publish manuals and Standard Operating Procedures (SoPs)
- To establish an information management and dissemination system
- To improve the capacity of ward/village tract administration
- Upgrading Institute of Development Administration (IDA) - to upgrade training and curricula for GAD officers
- To establish a systematic and responsive complaint management system.

It should be noted, however, that with the drafting of a new national land law under the NLUC, GAD and village tract administrator roles and the land administration procedures to be followed at the local level are expected to change. Furthermore, the results of the 2020 Election are likely to influence the pace and possibly the direction of land governance reforms. In addition to the GAD reform agenda, the Township Administration Law is pending and there is

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[10] Boutry, M., Allaverdian, C., Mellac, M., Huard, S., San Thein, Tin Myo Win, Khin Pyae Sone. (2017). Land tenure in rural lowland Myanmar: From historical perspectives to contemporary realities in the Dry zone and the Delta. Of lives of land Myanmar research series. Gret: Yangon. p252

potential for further amendment to the Ward/Village Tract Administrative Law which has already been amended three times. The proposed National Land Law (NLL), for which a workplan/roadmap is the process of development, may take several years in the drafting. It is expected that interim legislative measures and administrative instructions will be pursued before the umbrella NLL is in place. Along with the ongoing peace process and discussion of federalism (including in the context of land laws and decentralized land administration authority), land governance will remain a complex and dynamic area for intervention.

5.2 Effectiveness

Coordination between the project partners

SDC has brought project partners together in regular meetings to share experiences and to promote coordination. It is not clear, however, that coordination between LCG, CDE and TNI has always been undertaken actively or strategically, or that coordination has been effective at the level needed to achieve outcomes. Understandably, coordination and collaboration has been much more frequent between LCG and CDE given their co-location and the fact that LCG is an implementing partner with CDE in the OMM sub-project. Moreover, both of these implementing partners work closely with government agencies, particularly the Forest Department and DALMS. Generally, TNI works most closely with a different range of stakeholders (including ethnic CSOs and EAOs), not all of whom believe that engagement with the current government and supporting the implementation of existing national laws and regulations is the appropriate way forward in terms of protecting the land rights of smallholders and ethnic communities. Some of these TNI partners have tried engagement in the past but were disappointed with the lack of results.

SDC has proposed the three crosscutting themes discussed above as areas where the three implementing partners could coordinate their efforts or at least work on the same themes according to each organization's comparative advantage or strategic value. However, coordination is constrained by a range of factors:
- Only the CDE sub-project is a mandate; SDC does not directly steer LCG and TNI in the use of Swiss funding in their activities.
- OMM is a government initiative; the CDE sub-project is supporting government in technical implementation.
- The three sub-projects engage most closely with different groups of stakeholders, particularly within the CSO community. This is, in many ways, an advantage for the larger project. This diversity of stakeholders enables the project to support a diversity of approaches, and, as such, helps mitigates many project risks including those of relying on NLD government support for fundamental land governance reform, pro-poor land policies, and good will in the peace process.

Nevertheless, there are some areas where closer coordination and collaboration may be possible and constructive (but perhaps not always among all three partners):
- Protection and recognition of customary tenure

- Support to IDP and returnee land rights
- Support to decentralized capacity for land administration.

Project management

As discussed above, the regular project meetings bringing together the three implementing partners have been well appreciated by each sub-project, particularly as a means to share information on sub-project approaches and implementation. However, such meetings may also be a venue to discuss sub-project plans for the coming period allowing a project-wide reflection/analysis of the risks and benefits associated with new initiatives, and seeing if there were logical areas for meaningful coordination or collaboration.

Risk management

The greatest risks faced by the project relate to support requested by government or activities proposed by implementing partners to promote engagement with government departments – departments that had to date been less interested in collaboration with the project. In all such cases, new initiatives with government need careful consideration given the potential of some activities to be inimical to the rights of smallholders (including women and the vulnerable), the land and resource rights of ethnic communities, customary tenure, and IDPs/returnees. Examples where such careful consideration would be necessary include:
- Support to land survey and registration activities that used inadequate safeguards, poor adjudication methods or mechanisms to resolve complaints and disputes (CDE and LCG).
- Mapping of areas deemed by government to be VFV lands (CDE).
- Supporting the monitoring of prescribed land uses (CDE and LCG).

As discussed earlier, even the mapping of land concessions can have adverse impacts for rural communities and smallholders if this information is used selectively by investors and concession holders to enforce their claims. As discussed below, the 'technical backdoor' to engaging with government cannot be considered outside of the social/economic/political context of the technologies and datasets promoted and generated.

There are additional risks associated with working with government on legislative reforms - being seen by some CSOs and NGOs as too close to a government that is not supportive of pro-poor land governance reform, and/or failing to be fully transparent how such support is provided (LCG and CDE). In the case of TNI, the emphasis on supporting ethnic CSOs and EAO land and natural resource policies as opposed to contributing to national land policy may have limited benefits if the peace process and federalism do not progress.

Overall risk analyses were being conducted as a standing point in the agenda of the project coordination meetings between the three partners and SDC. However, defined mitigation measures could be discussed and implemented more effectively. Given the SLG goal of equitable and secure land tenure for smallholders including women and ethnic communities, it is recommended that SDC take a greater role in overseeing risk management from a wider whole of project perspective. Existing mechanisms, such as consideration of the risk

management matrices of the project during the Steering Committee meetings, as well as of the sub-project detailed risk matrixes, could be strengthened and further systematized.

Coordination with other donors and projects
SDC has been organising land coordination meetings with local and international NGOs, UN organisations, development banks and other donor representatives to discuss land sector plans and land governance issues. SDC is also a member and currently holds the chair of the Fund Board for the multi-donor Livelihood and Food Security Fund (LIFT) which incorporates a land sector programme of activities. LIFT is also joint funder of the LCG. SDC is one of two donors (with the EU; USAID due to administrative reasons could not proceed in signing) signatories of the renewed Record of Discussion with the NLUC. SDC funds the regional project the Mekong Region Land Governance Project. SDC has also directly funded a range of NGOs and CSOs often in areas related to land and the peace process (through other projects such as the Strengthening Civil Society in Myanmar project).[11] Switzerland also provides advisory services to government and ethnic groups, and promotes a broader inclusion of civil society and women in the peace negotiation process. SDC funds the Gulf of Mottama Project implemented by HELVETAS with a focus on coastal natural resource governance, including land. Through all such avenues, SDC was clearly the most directly involved and informed of donors in the land sector at the time of the MTR. Neither the World Bank nor USAID were currently implementing/funding large land sector projects. The EU was only recently designing its contribution under the Record of Discussion with the NLUC. DFID had no bilateral land sector program at the time of the MTR.

TNI has taken an important role in coordination related to IDP/returnee rights to land. TNI organised a briefing for IDP communities to discuss their right to land with the LIFT Fund Board, and also invited representatives from embassies and other international donors at a separate briefing by IDPs. TNI provided a resource person in a workshop for donors and diplomats on the right to land organised by the British Embassy. Similarly, TNI invited representatives from LIOH and MATA to present their campaign on the VFV law at the International Peace Support Group monthly meeting (IPSG – network of international NGOs working on peace in Myanmar) as well as at the IPSG diplomatic briefing in the afternoon. TNI and LCG both provided resource persons at a briefing on land policy issues in Myanmar for ambassadors and other high-level representatives from the US, EU, Swiss and UK embassies.

Both FAO and EU representatives met during the MTR reported that SDC's coordination efforts with other donors and projects had been effective. LCG representatives were generally involved in most donor land coordination meetings. LCG was also involved with various other projects and donors including implementation of the LIFT REAL-DEV project and supporting/ implementing MRLG activities. The CDE/OMM sub-project coordinates with a number of

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[11] Under the *Strengthening Civil Society in Myanmar Project* with Paung Ku, many CBOs/CSOs working to address issues related with the VFV Lands Management Law and amendment have been supported to work for evidence-based policy advocacy with sub-national government through their network (Land In Our Hands). This has included support to small scale land owners who have been sued under the law.

projects for land data delivery. Notable among these are partnerships: through Letter of Agreement with MIMU for collaboration on place codes, events, trainings, and joint funding of staff; and, the regional spatial data initiative SERVIR Mekong for joint implementation of all of their Myanmar activities. The recent collaboration with HealthGeoLab has laid some groundwork for sharing of health-related data, as well as for the formulation of the OMM policy.

Coordination with MRLG

The Mekong Region Land Governance Project in Myanmar works with nine alliance partners on its workstream on customary tenure recognition. LCG is one of these. In Phase I of MRLG, LCG received an MRLG grant to implement the *Strengthening forestland community tenure through policy, pilots and law: a multi-stakeholder approach to change*; a customary tenure pilot in Tanintharyi documenting how Karen villages collectively practice customary tenure in a forested area to inform forestry policy and the draft Forest Law. Under the current Phase II, LCG has assisted another alliance partner in proposal development for MRLG funding for research analysing existing customary tenure in Myanmar and on good practice in recognition of customary tenure in the region and other countries. LCG is itself interested in working with MRLG in documenting customary tenure in lowland areas with other partners working in upland areas. The aim is to show policy makers and legislators the diversity of customary tenure practices. MRLG is sharing its approach and guidebook on documenting customary tenure with TNI who are in turn working with the Kayah Earthrights Action Network and KESAN. Similarly, one of the MRLG alliance partners is planning to deliver training of trainers on the MRLG approach to OMM and enter into discussions with OMM on mapping customary tenure and village boundaries. It is hoped that these discussions will identify appropriate open source GIS software, simple and convenient for communities, that will best fit the OMM platform.

MRLG aims to demonstrate an approach that communities can use as an interim measure to support security of tenure for their customary lands. To support this objective, MRLG is inviting FD and DALMS involvement in implementation and the report launching. It is hoped that communities who use the approach to document and map their customary tenure will have evidence to prevent allocation of the land under the VFV land legislation and other means of appropriation. The collaboration between MRLG and LCG and OMM (and to a lesser extent TNI) offer clear synergies in the area of customary tenure.[12]

The following sections discuss effectiveness of each sub-project or implementing partner.

LCG

LCG has worked consistently to influence laws to better protect smallholder rights to land and natural resources (Outcome 1). LCG has been variously involved in analysing draft legislation, suggesting amendments, and contributing to initial drafting as well as promoting, managing or contributing to public consultation processes. However, LCG's contributions to these processes

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[12] MRLG also worked with LCG on the Forest Rules consultation process with funds from FAO.

and suggestions for amendments have not always been successful. There has not always been the same opportunity for LCG and CSO involvement, or general openness to external contributions. During SLG Phase II, LCG has worked to influence a variety of policy and legislative processes, including:

- Supported MONREC to develop a proposal and TOR for the formation of NLUC
- Assisted the National Land Use Council to organize a National Land Use Policy Forum
- Contributed amendments to the Biodiversity and Nature Conservation Area Protection Law (BNCAP), successfully promoting some protection for customary tenure)
- Promoting a consultation process for the drafting of rules for BNCAP Law to include voices of CSOs, indigenous organizations, and local communities
- Contributed provisions to the Amendments to the Vacant, Fallow, and Virgin (VFV) Land Management Law excluding customary tenure from categorization as VFV land
- Contributed recommendations for reform of the 2012 Farmland Law, facilitated consultation with CSOs and advocacy (aimed to include shifting cultivation in the definition of farmland and to exempt customary tenure from some articles).
- Supported a process to review the Forest Law and Forest Policy suggesting amendments focused on customary tenure, community-led forest management systems
- Provided technical and process support for public consultation on the Forest Rules
- Reviewed the draft of a new Land Acquisition Act and entered into discussions with parliamentary committees on stakeholder feedback received
- Facilitated consultation workshop on the draft Survey Law.

While some of these efforts faced challenges and did not always achieve all that was hoped, LCG engagement consistently stressed protection of smallholder and ethnic community rights, protection of customary tenure, and an open public consultation process with real consideration of relevant suggestions and contributions. The emphasis of current LCG support to legislative processes is the drafting of a national land law under the NLUC, a law which is expected to subsume many earlier land laws and amendments.

Trust built by LCG with key government departments, and progressive leaders within them, has provided the opportunities to engage on policy and legislation and to facilitate and advise at workshops and in the consultation process. Furthermore, trust built by LCG in its workstreams with DALMS and FD has also assisted the CDE project in securing opportunities to work with government. However, trust built with government has come at the expense of trust with some actors in the CSO community.

Nevertheless, many smallholder and community groups (CBOs and local CSOs) have benefited from LCG support (LCG Outcome 2). This has resulted from training to promote awareness of their rights under existing laws (even though many of these laws are clearly imperfect and, in some cases, severely limit smallholder and ethnic community security of tenure). Communities have also in some cases had the opportunity to engage with government through regional consultations on new laws, amendments and implementation rules and regulations. CSOs who have been given grants to support smallholder awareness reported to the MTR the importance

of this work and the interest of communities, some of whom had subsequently organized themselves to apply for Land Use Certificates (LUCs) using Form 7. Nevertheless, some more 'activist' CSOs who were not part of this process have been critical of approaches to securing small holder land tenure under imperfect laws (the Farmland Law and the VFV Land Law).

LCG is shifting its focus more towards strengthening/broadening its sub-national civil society engagement including connecting with selected community-based groups. The emphasis will be on learning and working with CSOs rather than top-down funding or capacity-building relationships. LCG has commenced this new approach in Bago and Ayeyarwady regions. However, it will be important for LCG to also support CSO engagement sub-nationally in the same areas where CDE is focussing its sub-national support.

LCG, as stated earlier, has encouraged government to open the policy formulation and legislative drafting process to CSO and ethnic group contributions and to enable a broad public consultation process (LCG Outcome 3). However, not all government stakeholders leading the process have allowed broad participation and CSO contributions. In such circumstances, where LCG has had a chance to engage but not the wider CSO community, LCG has faced criticism and has been seen as restricting other CSO participation. The MTR encountered two broad groups among the CSOs it met: those that were supportive of LCG's close engagement with government around land and natural resource policy and legislative processes, and others that were critical of this role (some seeing this role as self-serving and unhelpful in the face of a government disinterested in the rights of smallholders and ethnic communities).

There are clear issues of trust/working relationships among land CSOs and NGOs. Given some of these difficulties, LCG is moving away from its networking role, and its LCG 'monthly' meetings have been infrequent in 2019. These meetings are now more seminars (not solely presented by LCG) and will cover various topical themes: not just meetings among those working closely with LCG. The MTR considers this a valuable approach.

LCG continued to host MYLAFF, a document repository site launched by LCG in 2010. The site provides an important collection of research, policy briefs, and laws and policy relating to land and natural resources in Myanmar. LCG also convenes a MyLAFF google group, members of which receive regular news updates. At the time of the MTR there were over 1,000 members of MYLAFF, and over 2,000 downloads per month. LCG also continues a Facebook page launched in 2015.

While LCG is not formally a network, this should not prevent it from acting as an important focal point for sharing/exchanging information on land and natural resource related to research and governance. LCG's expertise in the land and forestry sectors and unique position through its trusted engagement with government[13] provides it important information and perspectives that the CSO/NGO community would otherwise not have access to.

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[13] Including through its strategic partnership with the USAID Land Tenure Project (LTP).

As stated earlier, support to and collaboration with private companies has had limited effectiveness (LCG Outcome 4). The main activity being a series of Environmental Impact Assessment workshops rather than more broad engagement on responsible agricultural investment. This area however is a particular focus of MRLG – one option would be LCG providing support to MRLG in activities where LCG can add value but generally allowing MRLG to initially lead engagement with the private sector on responsible agricultural investment.

LCG has contracted some of its research and also supported CSOs and CSO researchers to conduct their own research. Neither approach was fully satisfactory. LCG was not satisfied with the results and delays in submission from contracted research. At the same time, some of the CSO research trainees dropped out[14] of the program before completing the training and practical research activities. As a result, there had been only limited research completed and few policy-oriented publications finalized in Phase II at time of MTR (LCG Outcome 5). Nevertheless, LCG had some interesting publications in the pipeline including a study of IDP land issues in Kayin State, and a paper on land and federalism.

CDE support to OMM
<u>Inherent assumptions</u>
The OMM outcome statement is: *Accurate data and knowledge on land is widely available, enabling transparent multi-stakeholders dialogues and decision-making for land governance and sustainable development planning.* The statement holds an important assumption, namely that the availability of accurate data and knowledge will enable transparent dialogue and decision-making. The choice of the word 'enable' is deliberate: OneMap is not able to be directly accountable for the actual use of the data and whether it is used for promoting more secure smallholder land tenure or pro-poor development--- the implicit goals of the overall SDC Land Governance project (in line with the MSDP and ADS). An underlying assumption is that government will use the data effectively for equitable development. Another assumption is that other stakeholders (civil society, development partners) will use the data to hold decision-makers accountable. (see 1.3 above; see also ProDoc Theory of Change).

The OMM/CDE strategy is built on three pillars: data (quality and availability), capacities (to use, produce and analyse data) and knowledge (products created and shared), which combined work to realize these assumptions. It is through the third pillar that OMM/CDE responds to the way that data is used; knowledge products are a way to translate data and information into analytical products that can proactively respond to current or emerging challenges, decision-making processes, and institutional changes.

Through its work on the OMM policy, operational guidelines and extensive capacity-building, OMM/CDE is able to effectively support policies and procedures around the complex task of creation and collation of accessible data. However, as is the case for all land-related

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[14] Or were terminated due to poor performance or lack of commitment.

stakeholders, there are limits to the extent to which OneMap is able to influence other land sector-related policy change. Because the stakes around public data access are high in a data-poor context, and easily manipulated, OMM/CDE still must work to make its pro-poor policy impact as effective as possible. This must be through not only the choice of issues, datasets and knowledge products that it works with, but also in finding partnerships and stakeholder coalitions, thematic areas and strategies that enhance the likelihood of positive pro-poor land policy outcomes.

Strategic focus: prioritization, consolidation, lessons learned
In the first four years of project implementation, OneMap has taken a deliberate 'scattershot approach', trying to get a foot in the door with relevant departments and trying to work with as many openings as possible. This was the appropriate strategy for the time, and resulted in a high number of activities, achievements and relationships, with many successes. But now is a critical moment for strategic prioritization and consolidation. Increasing pressure on OM, demands from many quarters, but still limited resources requires a streamlining of strategic priorities. Setting prioritization of strategic objectives and consolidation of activities will need to be conducted at both the level of OM internal project management (CDE and SDC), as well as transparently with the WC Steering Committee/technical unit. It is recommended that this be done on the basis of jointly defined criteria for what aspects of data and its management the OMM will target. Priorities should also be set on the basis of clear lessons learned from the first four years, with special reference to data collation/transparency challenges.

The case of Tanintharyi oil palm data clarification and access support is particularly important, as this has been an investment with high potential gains as well as high risks. CDE has been navigating a complex environment with intensive stakeholder scrutiny among both local government and local CSOs. A fraught context in which the Chief Minister, who originally supported the project, was removed due to alleged corruption further complicated this case. Though the first pilot round of oil palm assessment with detailed field work was received positively, it is not yet clear the outcomes in terms of gains to quality public data, knowledge enhancement through documentation and analysis, and/or resulting influence on local and national policies around oil palm development. It is recommended that project staff and key partners spend a few days in a workshop to more clearly and thoroughly articulate and document lessons learned, and how they apply to setting future priorities. These lessons can also be brought to the Working Committee/technical unit as an input to help set strategic priorities in the Working Committee roadmap as well as for the regional focus in Tanintharyi.

Risk management: sharper focus
This project has high risks as well as opportunities. Broad risk categories are: operational risks; risks of doing harm in the complex environment especially if data is inaccurate and/or improperly used; and reputational risks for SDC/CDE. The risks to the project will only grow now that there is increased pressure, demand and visibility on OM as an NLUC Working Committee. CDE/SDC also risk losing control over the data collation process and use. CDE must take some responsibility for considering how data might be used (or misused) and take necessary

precautions to influence the context as possible, for example through partnerships. Working in conflict areas such as Tanintharyi and Mon, as well as at Union-level on issues like customary tenure or LSLA which are important to the EAOs and the peace process, conflict sensitivity must also be strengthened (See also Annex 2 on Risks for OMM).

It is important to note that project partners (TNI, CDE, LCG) may be creating risks for each other in some cases, eg acceptance or rejection of the concept of mapping; acceptance or rejection of certain kinds of engagement.

In this context the management of risks is extremely important. It is recommended to take a clearer, deliberate and possibly specifically resourced/dedicated focus on identification and management of both risks and opportunities. Risk/opportunity identification and management should be conducted regularly together with SDC, and take advantage of wider SDC/Swiss Embassy resources/information as possible.

Management effectiveness
Related to risk and opportunity identification and management, as well as to a sharper strategic focus, it is recommended that project management be inclusive to take advantage of all existing human resources and 'antennae'. This is especially important in the transition period between project managers, and to take some of the burden from the existing three or four top decision makers in Bern (Andreas, Joan) and Myanmar (Henri, U Shwe Thein, Myat Su Mon). The CDE-OMM project has worked hard to recruit experienced and skilled staff such as Glenn Hunt and Kyaw Naing Win and might make better use of these excellent existing resources through improved wider communication and decision-making throughout the organization.

Coordination with partners: project partners, government, data managers
In terms of coordination with SDC project partners, the CDE-LCG partnership has been critical to the success of the OneMap project thus far. Key informants in CDE and government were clear that without the support of LCG, specifically U Shwe Thein, the project could never have achieved what it has. This partnership is a particularly strong aspect of the SDC Land Governance program. The coordination with TNI has not been well-achieved, in part due to divergent views on the merits of mapping, but also more recently due to the breakdown in trust among some civil society organizations, including between those allied with TNI and with LCG. This trust will be difficult to restore (and is a result of a fractured, divisive context more than anything else) but project partners remain committed to working at it.

CDE coordination with government partners has been strong, as evidenced by the institutional arrangements initially through the Technical Unit, and now the OneMap Working Committee. CDE has a particularly strong relationship with the Forest Department/MONREC which hosts the project, but has also built good inroads to the Survey Department and even DALMS. CDE also has working relationships with the Yangon City Development Committee, and the Department of Population, among others.

CDE coordination with other data management organizations has been good for the most part, including with MIMU, SERVIR Mekong, GeoHealthLab and others. However, the relationship with MIMU has experienced some problems in communication and implementation of joint initiatives, including in reference to NSDI. It is recommended that CDE work at strengthening these relationships through articulation of its strategic priorities, and clarification of how/when CDE responsibility for joint initiatives will be achieved within its overall strategy.

TNI
<u>Outcome 1: Ethnic-based CSOs effectively demand their Rights and engage in advocacy on land and natural resource policy</u>
There has been greater acceptance/recognition of ethnic-based CSOs and LIOH but mainly with ethnic armed groups in the process of formulating land policies. The respective ethnic CSOs have not just had access to the decision makers, but have become part of the decision-making process itself. They have been recognized by the EAOs as important stakeholders with valuable technical expertise. There has been strong cross collaboration among EAOs and CSOs from different ethnic states at all policy formulation processes and in discussions concerning the federal land policy framework.

In MTR discussions with key partners/stakeholders supported by TNI, the technical guidance and analysis of TNI was recognized and valued. TNI had enhanced their understanding of land policies, the legal framework, and land governance issues. Partners also reported that their confidence to express concerns and their technical knowledge gained through practical research and documentation had improved. Shan State CSOs were able to document and publish Shan State customary land and natural resources management practices and present these to Shan State government and parliaments. Shan State is one of the states that has a very diverse population of ethnic groups. A key strength of the document is that it does not focus on one or two specific ethnicities but includes different practices of different groups from different parts of the State. As a result, Shan State customary land advocacy has been very inclusive and has illustrated the great diversity of customary land management practices in the state. The findings have been well received by the Shan State government and parliament members. However, the advocacy strategy targeting the State government has not been effective as the State government does not have power/legitimacy to amend or enact laws. At the time of the MTR, the parliament members had not brought the issue before parliament.

CSOs (ethnic) communities and IDPs have been able to make their voices heard through press conferences, published statements, the land forum, round table discussions, strategy meetings, donor coordination meetings, diplomat briefings and different events/workshops organised by themselves. There is little evidence yet that their voices have been heard and acted upon, however that the affected people are speaking out is an important indication of empowerment.

Ethnic CSOs have also participated with Yangon-based CSOs, mainly organized by LIOH and MATA, in events to influence government land policy when the opportunity arose. However, at

the time of the MTR no changes in land and natural resource policy, law or practices were evident.

Outcome 2: Ethnic-based CSOs have access to decision makers

The results of TNI technical support to land and natural resource policy development by ethnic nationalities at the time of the MTR were as follows:

- the Karen land and natural resource policy has been completed,
- a draft Karenni draft policy has been completed,
- the Mon State land policy final draft has been completed,
- the Shan (RCSS) land policy formulation is in process,
- the Kachin land policy final draft has been completed,
- the Arakan land policy has also been supported, and
- a start has been made to support a Chin land policy.

Through support to these policy formulation processes, political space for CSOs has been promoted as they played a key role; and communities had space to debate and give recommendations on land issues during the consultation process.

TNI's rich contextual understanding, strong technical backstopping and effective trust and relationship building by TNI and the country team contributed to active engagement and collaboration with ethnic and local CSOs and EAOs. The CSOs working with TNI, especially those in ethnic states, were working closely with communities and were the organisations who were on the ground assisting those affected by land issues. They were strong in the values they held, and were committed as human rights defenders to help victims. CSOs met during the MTR also expressed the strong desire to build a democratic country/society. Working with such CSO groups requires a strong moral perspective; TNI had gained trust from these CSOs and different EAOs to be effectively working for the desired outcomes.

TNI's risk management employed a conflict sensitive approach which did not necessarily avoid conflict but lived with it and tried to solve the conflict.[15] The TNI Country Coordinator exhibited a good understanding of the history and context of Myanmar and had built trust with different key actors. The country team members also had extensive working experience in related fields, were committed and had good understanding of the country context. The team was well able to identify project risks, assess risk levels and had the skills and capacity to avoid or mitigate risks.

Principled approach

TNI land policy making and land policy implementation principles involve inclusive and transparent consultation, respecting differences, and participatory approaches focussed on human rights and justice. All informants met during the MTR who had been involved in policy formulation mentioned their active roles in the process, sharing other ethnic groups'

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[15] TNI Country Coordinator *pers. comm.*

experiences, and studying other countries' experiences. EAOs working the participation of CSOs actually formulated the policies themselves with technical guidance from TNI. All mentioned the need to protect people's rights. The technical support TNI provided promoted the right to land for displaced people. All processes were reported to be inclusive and democratic. Women's rights were included in the draft and finished ethnic land policies. All policies recognized and sought to protect customary land tenure and to control land related investments.

<u>Peace building on the ground</u>
TNI has been able to exercise inclusiveness in all its support to land and other natural resource governance especially in ethnic areas. TNI promoted the participation of different stakeholders such as EAOs, ethnic CSOs from all ethnic states, political parties, and the private sector in: ethnic land policy formulation, federal land policy formulation for political negotiation in the peace process, and land related strategies. TNI has also been able to organize cross participation among different stakeholder groups including Bamar CSOs bringing different organizations together for sharing their experiences and knowledge, and developing strategies for land and other natural resources. This provided valuable understanding among different ethnic groups and EAOs involved allowing them to work together constructively including issues related to overlapping territories. The CSOs in both EAO controlled areas and areas outside EAO control played an important role in ensuring public consultation was inclusive. These processes have built understanding and engagement within an ethnic group and between ethnic groups without naming it as peace building.

TNI has been involved in EAO federal land policy formulation as a technical support provider. This role commenced from the Kawthoolei land conference organized by KNU Central Land Committee together with the Karen Peace Support Network (KPSN) and the Karen Environmental and Social Action Network (KESAN). The Karen land policy formulation was the first land policy developed among different the EAOs. At the time of the MTR, KIO, KNPP, and NMSP already had a draft policy and RCSS was still in the process of developing its policy.[16] Representatives of these initiatives compared the processes and outcomes at a strategy workshop in Chiangmai and strategized to develop a federal land policy for the country. TNI was asked to help to take this initiative forward as a trusted outside technical provider. TNI was not the sole technical provider but given its work in supporting earlier land policy formulation processes it was well placed to assist preparing the land negotiation issues to be brought to the peace negotiation table. This group of EAOs and CSOs then conducted a series of workshops and have now developed an outline of a framework for a federal land policy. In earlier peace negotiation discussions, the Tamadaw had dominated the process and nothing presented by EAOs on land-related issues was passed or agreed. This federal land policy framework preparation may assist in balancing the power at the negotiation table and bring some agreement. Regardless, the process has been participative and has already had practical

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[16] Not all ethnic groups or EAOs had participated yet; TNI's strategy was to work with EAOs that had wide constituency that were the most ready.

application in the land policies being developed.[17] This move towards federal land policy formulation has already built some momentum while the union government land policy and land law development has made little progress, and if anything has increased tensions and problems.

5.3 Efficiency

LCG
As discussed above, LCG has made reasonable or good progress against most of its expected outcomes with the exception of LCG Outcome 4. The main activity for Outcome 4 (engagement with the private sector) being a series of Environmental Impact Assessment workshops rather than more broad engagement on responsible agricultural investment.

LCG support for public consultation processes for draft legislation and implementation rules was highly appreciated by the government stakeholders and generally appreciated by participants from civil society involved in the consultations. However, some suggested that the consultation process could be made more efficient and effective if the various stakeholder groups involved (eg township, district or regional farmer groups, ethnic organisations, CSOs, government departments etc) were supported to reach a position first. They argued that consultations in mixed groups raised a whole host of suggestions/opinions (some less important and less relevant than others). There was no indication for those analysing and processing this information the significance of each recommendation to each stakeholder group nor in fact any indication where each recommendation/opinion originated. Such an approach would obviously require more time and resources and, as others have argued in the past, could entrench positions rather than promote agreements during consultation workshops.[18]

Overall, LCG has made important contributions across a wide range of legislation and provided support to CSOs and smallholder communities with a small (and decreasing) core budget. LCG is addressing its reduced budget through selective consultancies. There are risks that tendering for and implementing projects/consultancies will distract and take resources from LCG's wider objectives and 'core competencies'. However, LCG management believe that if LCG carefully selects projects aligned to its strategy, projects/consultancies will build organizational experience and learnings.

Due to past difficulties with developing CSO research capacity and costs and delays in commissioned research LCG is now developing its own research capacity. However, it was clear from discussions conducted during the MTR that CSO research capacity is still important. Most CSOs would like to be able to conduct credible research for policy advocacy and to learn for

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[17] A CSO said, "at this stage, we do not include Bamar in our federal land policy development process yet as they have been always been in majority. We need to work among the minorities by ourselves and once we are ready we will include the Bamar majority. It is not that we exclude them".
[18] It can also be argued that consensus at regional workshops is not necessarily relevant to formulation of national legislation/regulations.

more effective implementation. It is recommended, that LCG should continue some level of funding and support for CSO-led research. As LCG strengthens its own research capacity through developing a small permanent research team, supporting CSO research should become easier (and potentially more cost-effective). LCG researchers could help plan worthwhile CSO research, assist in development of tools and oversee implementation and analysis. The CSOs could contribute towards the required costs and resources. There are risks if LCG if only plans and conducts its own research - who will set the research priorities, will the research findings be acted upon?

LCG networking/sharing through MyLAFF, Google groups and Facebook is efficient and cost effective. These provide valuable and timely information for many CSOs and individual stakeholders. However, more LCG seminars and sharing meetings are needed given LCG's quite unique understanding of government land and natural resource processes, plans and activities. Themes for the seminars should be based on what is topical and relevant based on progress and emerging context in land and natural resource governance. Such events could be co-hosted and/or facilitated by neutral parties if this is deemed important.

LCG has developed some important CSO partnerships at the sub-national level through a training of trainers programme and grants for community land law awareness activities. The MTR met with several CSOs that had been involved. Representatives reported that the activity was effective and efficient; some CSOs were continuing this work without further funding from LCG. Both the CSOs and the communities valued the land law awareness trainings. In Shan State several different ethnic groups attended and the CSOs provided training in three different languages. The CSOs met had invited representatives from village administration, LARC and DALMS as well as farmers. All gained knowledge as well as formed relationships with each other – this helped the communities with Form 7 applications and other formal land administration procedures. At the same time CSOs and farmer communities felt more empowered with knowledge to participate at state/regional level consultation workshops on land and natural resource legislation and rules. CSOs recommended that this type of capacity development support from LCG be continued with training and materials updated to reflect new legislation and rules. Empowering community voices and grass-roots CBOs and CSOs is important as these stakeholders know the actual situation for farmers, shifting cultivators and ethnic communities on the ground.

CDE support to OMM
OMM Outcome 1: *The quality, accuracy and public accessibility of key spatial datasets relevant to land governance has improved*.
The quality and accuracy of key datasets has been improved, but public access remains limited. Highlight achievements under this outcome include:
- Online data platform has been designed and populated and is ready to launch; includes relevant pilots and case studies. In this context 49 national data layers have been cleaned, harmonized and collated; 1,000 if pilots are included. The soft launch has had 6,000 unique visitors.

- Relationships built with a number of government agencies; eight departments in the project implementation unit, six in the technical unit (1/3 of staff in the technical unit are female)
- Progress towards the NSDI: national coding system developed, geo-referencing of some topographic maps

There are still areas where further progress is required:
- Public access to information is still extremely limited, in large part because the platform is still not available to the public. CDE staff are prepared to launch, but government risk-averse behaviour has prevailed. CDE has been working at this through agreements on tiered access to various parts of the platform, according to sensitivity.
- The launch of the database is critical to improve public understanding of OneMap as well as use of the data. Better understanding of what the platform could do/is would contribute to overcoming reluctance of some stakeholders to contribute data or participate in the platform, including both government (Survey Department) and CSO stakeholders.
- Some data sets are still not available, most notably the Survey Department's topographic data. Though the latter would provide the base data, it is considered highly sensitive as it is controlled by the army.

OMM Outcome 2: *Technical capacities of targeted government and non-government organizations for collaborative data collection, validation, management, and cross-sectoral integration are improved*.
This outcome at the heart of OneMap to help government cooperate to access and use data across agencies, including building up the technical skills and protocols to sustain the continued creation and use of data after the end of the project. In this aspect, technical capacities have greatly improved, especially at Union level. Kyaw Naing Win is a very capable trainer who seems to be well-trusted. Similarly, OM is lucky to continue to have the capable technical, political and all-around support of Myat Su Mon in the FD GIS Department.

The Forest Department remains the most active department. The Survey Department is very enthusiastic and is committed to continuing some activities on its own (geo-referencing topographic maps).

At State/Region level, technical trainings in Mon State Forest Department have created a solid foundation with government capacity built in the Forest Department. Forest Department staff are continuing themselves to map rubber concessions and are actively populating the OM data. CDE Tanintharyi oil palm concession mapping was intended to be example of collaboration between government and civil society. While it had a promising start in a small pilot area, subsequent work to extend concession mapping without capacity for field verification and community consultation has proven to be problematic and at times confused relationships with

stakeholders. CDE recognizes that further efforts are needed to recover in Tanintharyi and is working effectively to strengthen engagement with the CSO community.

OMM Outcome 3: *Targeted knowledge products based on rigorous data analysis provide sound evidences and fosters multi-stakeholder platforms and dialogues for transformative decision-making towards sustainable land governance and development planning*
Highlight achievements under this outcome include:
- Quality knowledge products produced including international journal articles, policy briefs and contribution to a number of dialogue forums.
- Influenced two policy decisions.

There are still areas where further progress is required:
- Increased focus on locally-relevant formats (eg international journal articles translated into locally -relevant knowledge and communication products).
- Knowledge/evidence could be more targeted to specific dialogue and policy opportunities; identification of policy opportunities for transformative decision-making.

TNI
The relationship of TNI and partners is more on mutual trust and technical support. TNI covers partner costs for documentation, publishing, seminars and conference rather than provides grants. This made the relationship free from financial dependencies - partnerships rather than grantor-grantee relationships). Such an approach helped focus on the issues rather than just project implementation. This is important as land issues are very complex within complex political and power dynamics of the country. TNI's approach is not driving or controlling but guiding and supporting from beside. TNI encourages its partner ethnic groups steer their own direction – this is correct approach to providing support, for capacity development and for sustainability.

The planned project objective, and outcomes are broad in terms of scope. TNI is not purely project-oriented in its approach but flexible to address people's and organisational needs related to land issues and natural resource management withing the scope of the project outcomes and theory of change. In this context, TNI, together with its partners, has made reasonable progress and is well-positioned for achieving improvements in ethnic CSO policy engagement and EAO policies that should ultimately improve tenure security for many ethnic communities.

For TNI, the combination of strong institution backed by academic and technical capacity support from head office, good understanding about the country, and the organizing skills of the country program coordinator and team members has been a notable strength. These factors have greatly facilitated and enabled timely implementation of CSO and EAO actions.

5.4 Sustainability

Sustainability of project activities and of outputs and outcomes without continued SDC funding is an issue for all three sub-projects but clearly more so for CDE-OMM. TNI and LCG have some additional funding avenues and opportunities, but clearly benefit from the nature of SDC support to core funding – enabling each agency to focus on delivery of their own well-developed strategies. In each case, SDC limits funds to less than 50% of TNI and LCG total funds received. Nevertheless, there are sustainability risks for each, as discussed below. CDE-OMM sub-project faces particular sustainability challenges – if SDC funding ceased immediately there would be little lasting benefit of the support provided to date. However, there have been some recent events that could clearly change this situation – notably the establishment of the OM Working Committee under the NLUC and the promise of government budgets to fund OMM activities.

LCG
LCG institutional sustainability is a concern in terms of possible leadership transition. However, broadening the capacity of senior leadership has been progressively addressed in Phase II and there are now competent staff in a second tier of management positions who have been taking increasing responsibility for key LCG activities. LCG is evolving - with a new strategy, increased research capacity, a revised organisational structure and several interesting new projects commencing. This should enable LCG to better weather future shocks if core funders reduce their support.[19]

LCG and U Shwe Thein have special, trusted relationships with key ministries/departments (particularly the Forest Department and DALMS), MPs and parliamentary committee members that will should continue into the future.

LCG was focussing on working mainly through senior departmental staff to develop and support progressive leaders and to bring about institutional change. LCG believed that sustainable land governance reform would benefit from 'champions' among departmental staff as MPs/governments will always change but departmental staff will continue. At the same time, LCG did not pass up opportunities to work through MPs and parliamentary committees to improve legislation where possible.

While LCG has produced few policy briefs (see below on gender), it has more directly sought to influence policy, legislation and regulations through building trusted relationships with government and engagement in the policy making process. As discussed earlier, this strategy has enabled LCG to contribute to a range of draft legislation and legislative/policy processes. While not always fully successful, LCG involvement has contributed to a number of amendments generally supporting the recognition/protection of customary tenure and/or opening a more consultative process.

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[19] This is not to suggest that SDC should reduce its support to LCG.

CSOs, CBOs and communities trained in land and natural resource laws and regulations will retain this awareness and should continue to use it in asserting their rights. Some CSOs that had earlier been trained as trainers and had received grants to provide awareness training for communities, reported continuing to provide community training without further grants.

Conflict resolution
LCG trainers and LCG partners have provided to training to LARC members which has included training on resolving land conflicts. 606 LARC members participated in 2018 in selected districts of Sagaing, Magway, Shan (North) and Shan (South).[20] In addition, LCG reported that 24 villages had land conflicts resolved through the work of dispute mediators supported by LCG.

LCG gender responsiveness
LCG has commissioned research on land and gender and, as well as publishing the research findings, produced a Land and Gender Policy Brief: *Formalising tenure, marginalizing women?* The brief presented the potential implications and concerns for women related to registering land under the current government framework, especially in the context of customary tenure systems.

LCG's new strategy developed in 2019 includes a new output "Women and youth participation and leadership in advocacy on land increases." Specific women-focused activities have been planned under this output but not yet commenced at the time of the MTR. This new focus is clearly important as women's rights to land have not been secured in the issue of land use certificates distributed following the 2012 Farmland Law where the names of the male heads of household have generally been recorded as the sole right holders. Furthermore, women are generally less confident than men to approach village and government authorities. Cultural norms concerning inheritance rights of women, and rights to land and property following divorce, vary across different parts of Myanmar.

CDE support to OMM
Impact on policy formulation
The slow pace of reform has constrained in part the pace of impact of OneMap on land-related policy. The OMM Strategic Framework and action plan development will identify areas of emphasis for land-related policy, which should include how to scale up action on customary tenure recognition and LSLA, and may continue to emphasize regional hub strengthening as a means to promote decentralization, as well as how to promote action on VFV. The data sets to prioritize will be determined in part by policy priorities as above. Revelation of shifting cultivation patterns should be part of customary tenure recognition.

The impact of OM on data policy, and the formation of an NSDI will be more relevant and is well-prepared. It is recommended that OneMap continue its work on data policy, including the

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[20] A further 98 LARC members were trained in two district workshops in the first half of 2019.

geocoder tool, the place codes technical framework, NSDI assessments and publicly share (eg MIMU) the scoping of technical needs as well as the web-hosting technical brief.

Continuity after SDC/CDE involvement: phase out
In interviews with the Permanent Secretary of MONREC and the FD, it was indicated that government is preparing to allocate budget to the OM WC from each discrete 'member' department or ministry. It may be suggested to NLUC Chairs to request an overall amount from the Union budget as well or instead, to signify higher-level commitment. Either way, the budget may not be enough to meet potential level of support required, depending on what activities are deemed a priority. The Working Committee roadmap should take into consideration how it will fund its priority activities, eg through national budget, additional development partner support, or loans.

As CDE begins to reduce its support, there is a potential for a weakening in the quality of implementation, including less emphasis on public participation, and poor risk management. CDE as a contributor to the 'roadmap' will need to consider what is required for its phase out in terms of capacities still required, processes to be established, and necessary guidelines. It would be useful if this included how the WC will continue to interact with civil society and the public. The Working Committee Roadmap will need to include elements of increasing government responsibility.

While the OMM server is currently being hosted in Bern as per government preference, CDE is working with government partners to formulate a data policy that will help decide a hosting protocol and allocate responsibilities with government. SDC will need to consider further what is needed to hand over the management of the platform. Handover will include the 'hard' handover of materials such as server, as well as 'soft' in terms of legal ownership of information and data. To build on the existing positive momentum, and properly handle all of the above tasks, it is recommended to extend the Swiss mandate from eight to ten years contingent on continued progress of OMM (including public launching of the platform) and its positive contribution to the overall project objective.

TNI
The current dynamic and collaborative works of CSOs, EAOs, political parties and TNI has been a significant achievement. Effective collaboration must continue to fully achieve the objectives.

The work of CSOs has involved decisions made by themselves and, therefore, the work of CSOs will continue with or without TNI. Currently, most CSOs also receive technical support from other technical providers, not only TNI. However, the support and approach of TNI has been highly appreciated by the partners and they have a strong desire to continue working with TNI.

The effectiveness of TNI publications in influencing knowledge, awareness, program implementation and policy formulation is difficult to assess. At the community level, members generally act according to their own judgement or situation. Among CSOs, many have valued

TNI's publications. Some CSO partners indicated that they had changed perspectives and practices based on TNI publications (and workshops). For example, Metta previously supported communities to access Form 7 but later after reading VFV-related publications by TNI, it realized the possible adverse and unjust impacts of Form 7 applications, and particularly applications for VFV land. Therefore, Metta no longer encourages communities to apply for Form 7. Nevertheless, the MTR notes that in some TNI publications the analysis could be more rigorous, notably around customary tenure.

As mentioned earlier, TNI's rich contextual understanding and strong trust and relationships built by the country team has resulted in active engagement and effective collaboration with ethnic and local CSOs and EAOs. As long as the team continues with this approach, the quality and effectiveness of the work of TNI will continue. The work of TNI requires implementation with social justice and human right principles. The current collaboration with different actors has been the evidence of the effectiveness of TNI's approach. Sustainability and effectiveness of TNI's collaborations depends on continued 'correct' strategies and actions, and the political context which hopefully presents opportunities to capitalize on with the capacities and policy preparations already undertaken. TNI's support to ethnic land rights and engagement in the policy process continues to be important, especially as progress in the peace process remains uncertain and Union government intentions regarding land and natural resource policy/legislative reform and federalism are unclear. There are still constraints to ethnic CSO engagement with NLD government, and still fighting among EAOs in Shan State. The closure of IDP and refugee camps and rights of IDPs and returnees to land is increasingly important. These are all important areas for TNI contributions into the future.

6. Recommendations

Key recommendations for each sub-project and implementing partner, as well as overall and for SDC specifically, are provided here. These recommendations are intended to strengthen relevance, effectiveness and efficiency of the project during the remaining term of Phase II. It is hoped that these may strengthen results at the local level as well as support systemic change at the national level. Some recommendations are also provided to support preparation for the 'consolidation' Phase III, the sustainability of project benefits and the exit strategy for SDC.

Recommendations for LCG
- Strengthen communication role – more meetings/'seminars' and more sharing with CSOs nationally and in states/regions is necessary even if some CSOs choose not to attend. Disputes among the CSO community and criticism of LCG's close engagement with government should not discourage LCG from sharing its important perspectives concerning land governance and progress in reform at the national level and for convening seminars on important and emerging land and natural resource issues.

- Continue to inform CSOs of LCG's approach/strategy and what it is aiming to influence with government (for each legislation) – transparency.

- Strengthen CSO capacity building including research and advocacy - not only focus on LCG research capacity. LCG's small permanent research team, will be better able to support CSOs undertake credible research. LCG researchers should help plan CSO research, assist in development of tools and oversee implementation and analysis. The CSOs could contribute towards the required costs and resources.

- Capacity development support to CSOs and communities on land and natural national resource policies and laws should be continued with training and materials updated to reflect new legislation and rules. Empowering community voices and grass-roots CBOs and CSOs is important as these stakeholders know the actual situation for farmers, shifting cultivators and ethnic communities on the ground. If LCG prefers not to provide grants then CSO costs can be reimbursed.[21]

- Reconsider LCG role in private sector engagement if not effective/demanded. Given that this is one of only two focal areas of the SDC-supported MRLG program, MRLG could lead on working with the private sector on responsible agricultural investment. LCG could provide expertise and support to MRLG's initiatives as demanded. Already LCG is an important alliance partner in MRLG's customary tenure program. LCG should also support CDE with private sector engagement particularly around the mapping of land concessions (LSLA) and subsequent consultations with parties concerning map boundaries, adherence to concession/lease terms and conditions, land use conflicts, and competing claims etc.

- Reinvigorate role of the LCG Board – an effective board is part of a sustainable organization and can contribute valuable oversight and strategic vision.

- LCG should continue to provide some network-like services to the CSO community who are working in land and natural resources - even if it is no longer a formal network. LCG still has partners and has valuable insights and information to share and should still try to convene like-minded CSOs around important/emerging land governance issues that it identifies. MyLAFF, and Google Groups are widely used and of great value.

- Continue to publish on important issues (whether based on original research or reviews) – the land and gender research and land and federalism papers were of high quality and helped fill gaps in the discussion. Further work on IDP land rights/issues, short updates on progress with National Land Law, analysis of implementation of the VFV land law, etc are other examples that could be considered.

- (Continue to) build trust between LCG and the wider CSO community (and where possible within the CSO community) – this requires good <u>communications</u>,

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[21] This is more administratively complex and it is debatable whether the alternatives of grants or reimbursement of costs will alter the relationship between LCG and CSOs. Engaging CSOs in decisions concerning priority geographic areas, grant management and awards of grants could be another option to consider. CSOs could also be brought together to update training materials and handouts to strengthen their ownership of this activity.

transparency in all activities that LCG is undertaking (part of communications), ensuring that LCG makes clear the relevance and importance of its work, demonstrate and publicize LCG commitment to pro-poor gender responsive, land and natural resource governance that recognizes ethnic community rights, connect with the grass-roots to represent the real needs/concerns of smallholder farmers (women and men) and ethnic communities.

Recommendations for CDE

- Continue to strengthen regional 'hubs'; recover work in Tanintharyi Division.

- Continue to try to bring the government agencies together; deliberate use of the Working Committee.

- Work with civil society: separate platforms in interim a good idea; move forward as possible.

- Clarify the distinction between roles of CDE, OneMap project and OneMap Working Committee (including to OM WC Steering Committee). Each of these have specific roles and it should be clear what the contribution of CDE as an organization is to each of the roles it plays; and by extension the SDC role as well. The clarification of roles could be institutionalized through TOR, MoU etc.

- Consider 'red-lining' what CDE is able to do. In serious cases, CDE may not want to engage in what the government is asking from OneMap. Balancing government needs, CDE capacity, risks and opportunities, will be an ongoing task that will require time, attention, flexibility and continuous close discussion between SDC and CDE management.

- Setting prioritization of strategic objectives and consolidation of activities will need to be conducted at both the level of OM internal project management (CDE and SDC), as well as transparently with the WC Steering Committee/technical unit. Now is a critical moment for strategic prioritization and consolidation. Increasing pressure on OM, demands from many quarters, but still limited resources requires a streamlining of strategic priorities. It is recommended that this be done on the basis of jointly defined criteria for what OMM will target.[22] Priorities should also be set on the basis of clear lessons learned from the first four years, with special reference to data collation/transparency challenges. The case of Tanintharyi oil palm support is particularly important, as it was a very relevant opportunity that was almost lost. Lessons can also be brought to the Working Committee/technical unit as an input to help set strategic priorities in the Working Committee roadmap.

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[22] As government assumes increasing responsibility for steering OMM through the WC Steering Committee, CDE will need to discuss in advance the criteria it needs to apply in decisions concerning provision of technical assistance under the SDC Strengthening Land Governance Project – a project which has as its goal *Small-scale food producers including women and men from all ethnicities have secure and equal access to land.*

- The management of risks is extremely important. It is recommended to take a clearer, deliberate and possibly specifically resourced/dedicated focus on identification and management of both risks and opportunities. Risk/opportunity identification and management should be conducted regularly together with SDC, and take advantage of wider SDC/Swiss Embassy resources/information as possible

- It is recommended that CDE work at strengthening these relationships through articulation of its strategic priorities, and clarification of how/when CDE responsibility for joint initiatives will be achieved within its overall strategy.

Recommendations for TNI

- Support analysis to influence LSLA and economic and investment policies to ensure no harm to poor and ethnic communities' access to land. (This applies also to LCG and CDE).

- TNI should find a space to influence NLUC and investment and economic policies to be pro-poor; poor farmers and ethnic people have been adversely affected from past investment and economic policies.

- Support ethnic based CSOs gain better access to decision makers in Myanmar government regarding land governance; support ethnic CSOs to participate in the NLUC process.

- Continue current working dynamic but expand to new stakeholders including Bamar CSOs, additional EAOs and related local ethnic CSOs, academics, state/regional governments.

- Extend provision of technical support to Bamar CSOs (starting with the CSOs with existing relationships with TNI's ethnic CSO networks) particularly in understanding land/natural resources and federalism. Customary tenure is often regarded as an ethnic issue, but it is not just an ethnic issue. Bamar living in different parts of the country also have customary land use practices. The use of the term 'ethnic' itself creates division and excludes the Bamar majority from the discussion. On the other hand, the Bamar majority has not been widely exposed to the difficulties faced in other ethnic areas. The majority's mindset has been subject to various governments' education and media propaganda. Many have been misled by extreme nationalism. Some have become extremely patriotic and their understanding or willingness to understand other ethnic groups is quite limited. Realization of federalism will require understanding among the Bamar majority. Bamar CSOs should be supported to explore their understanding of federalism starting from understanding of federal land policy.

- Continue to support land policy development for EAOs by means of the wide consultation processes that are not limited to communities in EAO controlled areas. Currently, the state/region governments have no authority for the management of land in their respective states/regions. The land policies developed with wide consultation should be useful to whoever is in power following a future transition to

a federal system of government. If not a federal system, some level of decentralization will definitely be needed or demanded in the future.

Recommendations for the overall project:

- Support land governance aspects of the aspiration for federalism through the work of all three partners. The language of federalism is also a way to contribute to building peace. LCG is already beginning to work on this through its land and federalism paper and raising it with the drafters of the National Land Law. TNI is also working on this through its capacity support to ethnic organizations and EAOs. However, it is not clear whether TNI and LCG are promoting complementary approaches to federalism and federal land laws (this should be discussed in meetings with SDC). CDE-OMM could be potentially be relevant for federalism by working toward decentralization of data and decision-making to the states and regions - rather than taking a specific political stance. CDE-OMM is well-positioned to strengthen its focus on raising data collection and analysis capacities, including policy applications of land-related data in Mon State and Tanintharyi and Bago Regions as a way of supporting localized decision-making. Where relevant, OMM could continue to strengthen provision of technical support to local civil society organizations, and possibly extend to EAOs and EAO-linked organizations. Technical support would need to be targeted to specific needs and absorption capacities.

- The three sub-projects should work together or in parallel to expose and mitigate the impacts of the VFV law amendment. As mentioned above this law has great potential for harm in terms of undermining rights, especially in ethnic minority, customary tenure and shifting cultivation areas. While each of the sub-projects are already addressing this threat according to their own strengths and in their own way, the focus on the exposure of the threats could be sharpened and made explicit. Regarding VFV land, through the Working Committee and as a priority, OMM has already discussed contributing to an 'observatory' of VFV land conflicts. MRLG is also discussing this as a possible activity. It seems to be a need in the current context to have a repository of conflicts resulting as the actual impact of the law amendment; as well as for validating future claims.

- The three projects should not be overly concerned if they arrive at different analyses of land/natural resource governance issues. For example, while LCG through its CSO partners and legal awareness has supported some communities with Form 7 applications, TNI generally encourages CSOs to oppose such processes. However, in some cases and some communities, Form 7 applications are seen by communities themselves as the most appropriate option for tenure security and present few issues.[23] There may also be new disagreements in future. In such cases, the three implementing partners should explore the reasons behind the conflicting analyses and the basis for associated recommendations.

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[23] Nevertheless, communities should be fully briefed on potential advantages and disadvantages. Any adjudication processes should be pro-poor, just and gender-appropriate, and disputed land not covered.

Recommendations for SDC

- It is recommended that SDC take a greater role in overseeing risk management from a wider whole of project perspective - not only the risks associated with engagement with government on activities that may be detrimental to smallholders and ethnic communities, discussed earlier, but the risks of divisions among three project implementers and their associated CSO partners due to the alternative approaches each take.[24]

- As a development partner (DP) viewed by most partners as neutral and supportive of a variety of stakeholders, SDC is best positioned among DPs to continue to convene land coordination meetings and should maintain and enhance or regularize this role. These meetings are an important neutral ground in which to bring together the multiple voices of civil society, as well as the project partners. As civil society voices are becoming fragmented and more divided, it is even more important that a regular forum and venue be held open for communication and cross-fertilization; not only between/within civil society, but also with participation of donors and others. It is recommended to regularize this convening role as well as to enrich it through inclusion of a wider set of stakeholders. To enhance the attractiveness and effectiveness of the coordination platform, it would be useful to step into technical and policy debates (rather than simply project coordination), and to bring in outside expertise/fresh voices rather than relying on current projects partners for technical presentations.

- Land governance is a critical topical theme for governance in Myanmar. As a leading DP in the sector of local governance as well as land governance, SDC is well-placed to continue to elevate its role in these subsectors to effectively advocate for supportive policies. These policies can include the three cross-cutting themes as already agreed, as well as a federal approach to land governance, and continued tracking of impact/action on the VFV law amendment. Through the TOR with the NLUC, as well as through local governance coordination forums, SDC can help create and guide a platform for land governance coordination at government level. SDC can apply its Whole of Government Approach to advocate for supportive land governance policy at the Ambassador level with NLD leadership;[25] through the peace support activities with EAOs; and with Swiss private investors through its Economic Cooperation section.

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[24] If increasing numbers of small-scale farmers are brought to court either by large scale investors or Tatmadaw in different regions/states (not only in ethnic states), the more bitterness over government policies and failures to secure smallholder and ethnic community tenure. In this context, divisions among the three partners may intensify as all who engage with government will be tarnished.

[25] Given its presence in the sector and whole of government approach such higher-level engagement should be used to raise awareness with NLD leadership and press for appropriate political commitment towards pro-poor land governance reform.

6.1. Recommendations for the 'consolidation' phase (Phase III)

- It is recommended to extend the Swiss mandate for the CDE-OMM sub-project from eight to ten years contingent on continued progress of OMM (including public launching of the platform), an increasing government funding contribution to OMM activities, and its positive contribution to the overall project objective.

- Support the GAD reforms as they relate to land/natural resource governance. Such support should be guided by the GAD Reform Framework (2019) which presents an important opportunity to influence local land governance and, under existing laws, make local land administration more transparent and accountable, more equitable and more effective (particularly with regards to land dispute resolution and land reallocation). The reforms include a number of key outputs of particular relevance to land administration where targeted technical assistance related to land governance would make valuable contributions. Example of these outputs include:
  o Re-defining powers and responsibilities of GAD through regulatory analysis of existing laws, by-laws and regulations
  o To develop and publish manuals and Standard Operating Procedures (SoPs)
  o To establish an information management and dissemination system
  o To improve the capacity of ward/village tract administration
  o Upgrading Institute of Development Administration (IDA) - to upgrade training and curricula for GAD officers
  o To establish a systematic and responsive complaint management system.
  Such support could be implemented through a specific, targeted contribution to LCG (in addition to core funding).

- While there is an EU land project in design to support the implementation of the NLUP and capacity development of the NLUC, implementation is still some way away. With LCG's and CDE's track record and progressive working relationships with key government officers working under the NLUC there would be great value to have a small flexible fund to support capacity development initiatives at the time they are required by NLUC and its working committees. Such flexible funding could cover, for example: responsive technical assistance related to land administration, land policies and legislation (technical policy/legal expertise); funding national consultation processes; conducting training courses or workshops for NLUC stakeholders; study tours (eg to demonstrate affordable, efficient, just, pro-poor/vulnerable, gender responsive systematic registration procedures; computerized land administration systems; procedures for registration of customary/communal tenure; options for land-based revenue (eg land tax and transfer fees etc); land administrative service delivery eg one-stop shops); funding policy maker participation in international/regional workshops and conferences; or development of policy briefs to meet government needs for concise, comprehensive analysis (based on national, regional, and international evidence and best practice).

- Sustainability of initiatives funded using SDC resources and the development of related exit strategies will be an important priority in Phase III. For TNI and LCG, sustainability will be largely planning alternative funding support and sources of revenue, developing/revising their strategies and ensuring operating costs of activity implementation and staffing match the funds available. For CDE-OMM, the phased reduction in SDC funding will require concerted efforts to encourage increased government budgets and long-term funding commitments. CDE will need to assist the NLUC OMM Working Committee (or whichever agency will be in charge of OMM at the end of Phase III) in the development of a revised OMM strategy with priority activities and associated resources/costs. All database management responsibilities in each participating agency/department and the OMM website (platform) will need to be handed over. Hardware, data backup procedures, software licences, and data updating schedules will need to be in place for future operations. This will require adequate government staffing and technical capacities, supported with manuals and guidelines. Capacity to train new users will also be needed. Importantly, the skills needed to use/analyse the data for land and natural resource administration, land and natural resource governance and to inform policy and programming must be developed.

- By the end of Phase III all project lessons and policy legacy should be comprehensively documented and presented to the range of stakeholders. Priorities for future land governance activities/interventions and support whether by SDC, the donor community, government, INGOs, local CSOs/NGOs and including the private sector should be identified with rationale on why they are priorities. This should be of great value given the breadth, depth and duration of Swiss Government support to land governance over the course of project implementation.

Annex 1: Terms of reference for Mid-term review of phase 2 of the Strengthening Land Governance Project in Myanmar

1 Terms and abbreviations

Abbreviation	Definition
CDE	Center for Development and Environment
CSO	Civil Society Organization
EPR	End of Phase Review
FOPP	Federal Ordinance of 11 December 1995 on Public Procurement
GAD	General Administration Department
NLD	National League for Democracy
NLUP	National Land Use Policy
NLUC	National Land Use Council
LCG	Land Core Group
OMM	OneMap Myanmar
MRLG	Mekong Region Land Governance project
NGO	Non-Governmental Organisation
SDC	Swiss agency for Development and Cooperation
SCSM	Swiss Cooperation Strategy Myanmar
TNI	Transnational Institute
VFV land law	Vacant, Fallow and Virgin Land Management Law

2 Goal and content of the mandate

2.1 Background

On 30 March 2016 a newly elected National League for Democracy (NLD) government took power in Myanmar, with the ambition to lead the country into a new democratic era. The military still retains control of some Ministries and has considerable influence and power. As regards land governance, the position of the new government is still not entirely clear. The NLD election manifesto details plans for the development of a modern farming sector; including improvement of farming conditions and support to smallholder farmers. It also sets out to resolve farmland dispute and secure land tenure.

First steps were already taken by the previous Thein Sein Government. In 2012 the government adopted two pieces of important land-related legislation, the Farmland Law and the Vacant, Fallow and Virgin (VFV) Land Management Law. However, rather than promoting tenure security for farmers and forest dependent peoples, the laws formalise a mechanism for conceding large areas of land to investors for industrial scale crop production. This fear was refreshed by an amendment to the VFV land law in September 2018, giving "informal" users of VFV land a period of six months to formally register their land. Land under customary tenure was excluded from the registration process but no clear definition

was given to what kind of land this applies putting many smallholder farmers particularly in the ethnic areas (but not only) into an increased feeling of uncertainty regarding their land tenure status.

In January 2016 the National Land Use Policy (NLUP) was formally adopted, after it had gone through a broad participatory process previously unknown in Myanmar and largely facilitated by activities of the first phase of this project. The NLUP is an excellent basis for reform efforts to strengthen tenure security for all land users – especially, the most disadvantaged and vulnerable communities and women. It took the NLD Government quite some time to start implementing the NLUP. Only two years after its adoption, in January 2018, the first step was taken and the National Land Use Council (NLUC) was formed under the leadership of the Vice-President U Henry Van Thio. Since then several working groups were formed and the work e.g. on the development of a National Land Law has started just very recently.

This project directly works on conflict resolution and peace building. This happens by making information on land more publicly available and building facilitated spaces for dialogue on conflicting claims (LCG and OMM). Working with private sector actors in these processes is extremely important but also very challenging. Nevertheless, the example of the palm oil plantations assessment shows that it is possible if there is strong support from the government and some openness from all sides to have them on board. The Transnational Institute (TNI) supports ethnic groups in their preparation for the negotiations on land and natural resources in the national peace process while the Land Core Group (LCG) works with the government to strengthen their capacities to conduct public consultation processes on land regulations. This all is done using a conflict sensitive approach and by constantly monitoring the context and relevant changes.

Under the Swiss Cooperation Strategy Myanmar 2019 – 2023 the Strengthening Land Governance project is contributing to outcome two of the Domain "Peace, State building and Protection: More accountable, efficient and decentralised institutions; a stronger participation of civil society, vulnerable communities and women in decision-making processes; and more equitable access to public services and sustainably managed land and natural resources contribute to conflict transformation, social cohesion and statebuilding.

The first phase of the project from October 2014 to May 2017 comprised a total budget of CHF 3.9 Million including an opening phase of 13 months. Following this establishment phase, the current second phase of four years stared on 1st June 2017 and shall allow the three project implementers to expand their activities. This will be followed by a third, the consolidation phase to make the entire intervention lasting for ten years in total. The budget for the entire duration shall be CHF 17.5 Million. In view of the last phase starting in 2021 it is foreseen for OMM to reduce its dependency on SDC funds over the years and the government is increasingly placing its own staff into the OMM technical unit. At the end of phase 3, OMM will be containing a big dataset on land use and management and can be fully managed by the Government of Myanmar (see also annex 6 'theory of change'). LCG and TNI will have to rely on donor funding also after the whole intervention period. The results achieved in terms of capacities built in Civil Society Organisations (CSO), including the ethnic based ones, and improved laws and regulations will remain.

Besides the three Myanmar focused land partners funded through the Strengthening Land Governance in Myanmar project the three organisations cooperates with the Mekong Region Land Governance (MRLG) project, which is administered by the SDC Mekong Region office in Vientiane and implemented in Myanmar by GRET.

Swiss Engagement in Myanmar

Switzerland has been engaged in Myanmar in the field of humanitarian aid for over 20 years. In response to the political opening and substantial democratic reform process in recent years, Switzerland opened a full Representation in late 2012 to contribute to the transition of Myanmar towards a peaceful and more inclusive, equitable society in political, social and economic terms and a democratic government.

The Swiss Agency for Development and Cooperation (SDC) works along three domains as outlined in the *Swiss Cooperation Strategy Myanmar (SCSM) 2019-2023*: (i) Peace, statebuilding and protection (including land and natural resources governance); (ii) Skills and market development; and (iii) Health. Gender equality, good governance, and climate change adaptation and disaster risk reduction are applied and mainstreamed in a context-specific manner in all three domains. SDC focuses its support in southeast Myanmar, including Mon, Kayin and Kayah States, east Bago and northern Tanintharyi Region and in the current strategy period is expanding its activities to South-Shan State.

2.2 Objectives

Overall goal: Small-scale food producers including women and men from all ethnicities have secure and equal access to land.

For each of the three outcomes one of the implementing organisations take responsibility.

Outcome 1 – OneMap Myanmar (OMM, implemented by CDE): Accurate data and knowledge on land is widely available, enabling transparent multi-stakeholders dialogues and decision-making for land governance and sustainable development planning.

Outcome 2 – Land Core Group (LCG): Stakeholders in Myanmar have increased capacity and are able to effectively coordinate in promoting equitable land and natural resource rights in policy and law.

Outcome 3 – Transnational Institute (TNI): Ethnic-based CSOs play a significant role in decision-making on land policy and other natural resources.

To further collaboration between the organisations three topics have been identified that all three organisations treat, particularly in their activities at State/Region and local levels. Collaboration will thus not be limited to these topics. The three topics are: 1) Customary Tenure; 2) Land rights for Internally Displaced People (IDPs) / returnees; and 3) Large-scale land acquisitions.

The three implementing organisations are acting in a complementary way: OMM is government owned but involves all stakeholders; LCG is a Myanmar national NGOs with good relations to the government; and TNI has the trust for working with ethnic-based CSOs and can work with them to bring them to a level playing field in terms of peace negotiations.

2.3 Content of the mandate, terms of reference

The purpose of the Mid-term Review (MTR) is to take stock on the achievements and lessons learnt by the project during the first two years and 5 months and to give guidance for the remaining time of the current phase. In addition to review shall also provide early inputs and ideas for the development of phase three, the last phase of this project. To achieve this, the MTR will assess the relevance, effectiveness, efficiency and sustainability of the overall design, and of the three component projects. It will identify any intended and unintended outcomes, with particular focus on conflict-sensitivity and do-no-harm arising from the project. The MTR is an external review from which findings and recommendations will not only support SDC in its decision making, but also help the land project partners deliver better services and cooperation, including in the southeast.

The specific objectives of the MTR are to:

1. Assess relevance, effectiveness, efficiency and sustainability of the project components, including in reference to the overall project logic
2. Assess synergies between the project components, including cooperation between and overall management mechanism
3. Make recommendations for improved relevance, effectiveness, efficiency and sustainability for the remainder of the phase and generate inputs and ideas for the phasing out of SDC's support during a third and last phase

Key evaluation questions

In the "Assessment grid for evaluations of SDC projects/programmes" a standardized set of key evaluation questions are displayed. The consultants are tasked to fill in this grid. In addition the following, more specific questions shall be addressed and answered in the text. These questions are open to refinement and agreement with the partners and consultants.

1. Relevance

- In view of the recent shift of the General Administration Department to the new Ministry of the Office of the Union Government. Is there a need to adapted the strategic orientation and activities of the project, if yes, how?
- Are the three spelled out cross-cutting issues () Customary Tenure; 2) Land rights for Internally Displaced People (IDPs) / returnees; and 3) Large-scale land acquisitions) still relevant for all three implementing partners work and the intended outcomes?

2. Effectiveness

- Has coordination with the Mekong Region Land Governance Project been effective to create synergies?
- Has coordination between the project partners been effective at the level needed to achieve outcomes?
- Has the overall management of the project as a whole been effective?
- Has coordination and planning with other donors/projects been effective, this also in view of the renewed Record of Discussion between the NLUC and the three donors (EU, USAID and SDC) but also beyond?

- Is the risk management of the project effective and how could it be improved?
4. Efficiency
- Have each of the component projects made reasonable progress toward objectives in the time frame, or is the project component at least well-positioned to achieve desired outcomes?
5. Sustainability
- Have the produced documents and policy briefs had an impact on policy formulation?
- Have the project components followed principles of do-no-harm and conflict sensitivity?
- What impact has the project had on gender empowerment and women's land tenure security?
6. Recommendations

- What can be done to strengthen relevance, effectiveness, efficiency and sustainability of the project during the remaining time of phase two?
- In view of the planning of phase 3 and the exit strategy for SDC, how can the project be strengthened to reach results at the local level as well as systemic change at the national level?

Scope of the Mid-term Review

Although the MTR covers three implementing partners, an individual evaluation report is not required for each of them. However, answering the evaluation questions on relevance, effectiveness, efficiency and sustainability will be required for each project component as well as for all of them as a whole. The key questions in the assessment grid for evaluations can be answered for the whole project only.

Approach and methodology

The design of the MTR will be primarily qualitative in nature and will be achieved for the most part through a series of stakeholder meetings in Yangon and Naypyidaw and possibly in Tanintharyi Region, Mon State and/or Bago Region, selected from among government agencies, civil society and non-governmental organizations, formal and informal ethnic leaders, individuals, and donors working on land issues. The consultants and SDC staff will work together to draft a list of relevant stakeholders. It is anticipated that the consultants will produce an evaluation framework and detailed plan in liaison with SDC.

The consultancy investigation and report will take into account the following:

- Potential cooperation and/or collaboration with other development partners;
- A design for added value of and complementarity with the SDC Mekong Region Land Governance project;
- Potential synergies with other programmes of the Swiss Cooperation Programme for Myanmar 2019-2023, particularly within the domain Peace, Statebuilding and Protection with local governance and peace related activities but also with projects of the Skills and Market Development domain, particularly those working in agricultural value chains;
- Gender empowerment, do-no-harm/conflict sensitivity and disaster risk reduction as cross-cutting themes, as well as addressing needs of particularly vulnerable groups; and

- Information and data/research needs: what gaps still exist, open questions, and how to fill the gaps.

Deliverables

A report that presents options for an SDC-supported land project with the above-mentioned characteristics and conditions.

The final report will incorporate feedback from the responsible SDC staff and will be submitted in electronic form to SDC according to the agreed upon time schedule. The report will be in ownership of the Swiss Agency for Development and Cooperation, part or all of which will be made public by SDC at their discretion.

This consultancy will be managed by the Deputy Head of Cooperation of the Embassy of Switzerland in Myanmar.

ANNEX 2: One Map Risk Management: Points for Special Attention

The OneMap project faces a particular set of risks, which are being increased now that the government has elevated the project to a Working Committee under the NLUC. While this level of visibility and access provides great opportunities, as various government agencies begin to put demands on OneMap for a number of different initiatives, the risks increase. These are risks not only of CDE/OM being asked to commit to levels of activities beyond their capacity, but also of implementing activities outside of a constructive context. In addition, as government takes increasing ownership of OneMap through the Working Committee, CDE and SDC begin to have less control over what and how data is used. While the increased government ownership is in many ways positive and one of the overall objectives, the decreased control by CDE/SDC leads to higher risks, including reputational risk as OneMap is still a Swiss-funded and implemented project.

It is critical that OneMap consider how the data and processes it is helping to pilot or deliver will actually be used, and by which agencies, and what opportunities and risks are inherent in that. Due to the increased complexity and antagonism in the context, and based on recent lessons learned, OneMap must think beyond the creation and collation of data to its use, and take a measure of responsibility for its application. These are the limits of the technical backdoor.

Specific recommendations in response to the above are:

1.   OneMap/CDE and SDC to increase attention to and swift management of risks and opportunities. This could include a dedicated risk management function in one or more staff, or probably all staff. Commissioning outside expertise is possible, but only if it has clear added value for effectiveness over in-house expertise. A rigorous risk and opportunity scanning process might be institutionalized in regular staff and Steering Committee meetings, in addition to enhancing the risk management matrix as a tool.
   - Opportunities and risks should be scanned and managed not only at Union level but also at the hubs; reference the experience in Tanintharyi.
   - Relevant SDC/Embassy risk management briefings/tools should be shared explicitly with the OneMap project to the extent possible, if this is not happening already. If SDC is accessing specific information in the southeast through outside consultancy services, explore the extent to which these tools could support OneMap-specific needs.

2.   Clarify the distinction between roles of CDE, OneMap project and OneMap Working Committee (including to OM WC Steering Committee). Each of these have specific roles and it should be clear what the contribution of CDE as an organization is to each of the roles it plays; and by extension the SDC role as well. The clarification of roles could be institutionalized through TOR, MoU etc

3.   Consider red-lining what CDE is able to do. In serious cases, CDE may not want to engage in what the government is asking from OneMap. Balancing government needs, CDE capacity, risks and opportunities, will be an ongoing task that will require time, attention, flexibility and continuous close discussion between SDC and CDE management.

A few specific risks that came up during the period of the MTR are: the plans for CDE to support DALMS for a cadastral survey, support to a land bank, and the work in Tanintharyi oil palm assessment.

1. Cadastral survey
The opportunity to work with DALMS on a pilot to streamline the effectiveness of the survey techniques it is using for the cadaster is quite exciting, as the current methods are definitely outdated. Even more so as DALMS has long resisted support to this important aspect of their work, and resisted changing outmoded technologies. However, unless there is scope and capacity for proper land adjudication, then OM would be opening itself up to a huge risk of supporting an extremely flawed process.

Land administrators in Myanmar have long been perceived as, and often behaved as oppressive, including damage done during the 'one year' campaign to register all lands in the Thein Sein administration (years?), and more recently through the VFV law amendment. The experience of the population is often that of a corrupt official out to make money and disregard local ownership claims while giving land to the one who can pay. Though it is not DALMS that make ownership decisions, they are also implicated in this process as they too are members of the Farmland Administration Body and the Land Reinvestigation Committee. To update and modernize this process is definitely needed, but is not a technical issue of survey techniques alone. It is recommended that OneMap move forward with these pilots only on the condition that a competent and empowered partner (not only a government agency) support DALMS/GAD with land adjudication methods at the same time in the pilot area; and on the condition that both processes (survey and adjudication) are replicable.

2. Land Bank
The land bank is problematic from both an optic and practical perspective. The optic is that government (primarily military, but also more recently) and the private sector are perceived as having grabbed a lot of land already. Trust is very low, and many are suffering long-standing consequesnces of land grabbing. For this reason anything called a 'land bank' with the stated purpose of making land available for investment is bound to be controversial. One of the perceived risks of the land bank is that it may eventually also promote the allocation or re-allocation of VFV land (whether or not that is currently the intent). In an echo of the VFV law, the NLD government clearly does not understand or does not view as important these perspectives. For this reason, association with the land bank is a reputational risk. This is not only among civil society, but possibly also with regional stakeholders: the MTR team had a bizarre and unpleasant interaction with the Chief Minister of Mon State, and one possible explanation of his aggressive attitude is that he had just learned about the land bank in the

Development Effectiveness conference in Naypyitaw, and of OneMaps potential role in it (and is possibly trying to protect his own reputation/behavior).

On a practical level, however, as currently conceived by the government, the land bank is more of an inventory of industrial estates that are available for investment. A possibly secondary objective of this the inventory is to root out corruption in the sense of holding local authorities accountable for the properties they are holding and allocating. OneMap has done the right thing by coming to the Vice-Minister of Planning (Set AUng) with a list of questions and concerns; also by having the MONREC Permanent Secretary at their back. In future, a clear WC institutional set-up and workplan can help mitigate the risk that CDE, as OneMap, be called to provide technical support to spurious processes. Instead of being caught in the middle between 'owners' of processes and of the OneMap Working Committee, CDE might be able to hide behind the fact that it is providing technical support and not making decisions. There will need to be room to politely decline involvement in processes that carry high risks but little opportunity or reward.

3. Tanintharyi Oil Palm

The work in Tanintharyi has great potential, but a number of difficulties and missteps have created a situation of misunderstanding and even antagonism. This is unfortunate because the opportunity is to expose the problems created by the Than Shwe-era LSLA, and more recent, is a good one that actually has support in both government and civil society. Also the technical capacity of OneMap staff is good, and Patrick has good technical capacity as well as experience with local stakeholders. This regional pilot was intended to show how to work with existing data of NGOs and civil society for an open platform (as opposed to government data).

Since the beginning of the initiative, the context changed quite a bit including the demise of the Chief Minister, high turnover in government technical staff, and increased distrust between civil society organisations. Compounding the impact of the changing context, OneMap also made a number of missteps, including:
- Poor communications capacity in situ: local technicians are not skilled in relating with government or communicating with civil society
- Use of an inappropriate definition for 'area planted' that resulted in misunderstanding as to the scope and scale of plantations
- Lack of risk management as the risks were becoming apparent; did not properly use lessons learned in initial work to plan the next phase with government (in part because reports were overdue and in part because of lack of communications capacity)

However, the scope of the LSLA problem remains and local stakeholders are still willing to continue the work. OneMap staff might carefully reflect on the experience in Tanintharyi to see what lessons are learned for OneMap, to continue the work. It is not clear to the MTR team how the decision to close the office is conducive to continued work in Tanintharyi. Perhaps it is

not lack of a presence, but instead a different type of presence, that is needed to rebuild trust with both civil society and government to complete the work that seems unfinished.