

Annex 7

Land reclamation and re-allocation

Preliminary Assessment Minhla Township – Magway Region

1. A mixed team of DoP-APU and GRET, altogether 8 people, visited during 3 days two sites indicated by the Magway region Government as priorities for land reclamation and re-allocation. The first site is an area formerly occupied by **Yuzana company, of some 2,600 acres**. A second area covers some **9,900 acres occupied by Thitsar myay**. The assessment will result in a report that lines out in detail the current status of land occupation of the areas, including a detailed account on the tenure situation. The following are some preliminary highlights.
2. The assessment team did not find evidence of a written contract for land allocation and land use between the companies and the government. Due to contradictory statements, it is not clear whether both areas were allocated by the Government to private companies under an **oral agreement (at region level or central level) or if there was a formal agreement following the procedures of the 1991 Wasteland instructions**. In addition, the team confirms that the direct exploitation of the land by the 2 companies has been minimal, with little land effectively developed. Currently little evidence remains on the once ambitious investment projects. There is little evidence of is quite ineffective since many years. .
3. In a far past these lands were classified as wastelands, but most parts are occupied by rural people from several local villages at least for the last 30 years, and some parts since at least 50 years. In some cases, these lands were inherited from their parents, but in many other cases, lands were cleared (*dama u cha*) when village households extended, to cultivate sesame, groundnut, cotton, pulses such pigeon pea and chickpea, gram. **Thus legally VFV land, but *de facto* farmland since at least 30 years**. It is noted that the covered areas are considered as non-survey areas for DALMS (as these continue legally to be classified as VFV land), hence no kwin maps exist.
4. While Yuzana area is fully unserved by DALMs, the Thitsar myay area covers a mixture of cases: “*u paing*” lands especially on paddy lands and khaing lands and non “*u paing*” areas where “*dama u cha*” was performed (hilly areas). Local farmers informed the team that they paid however land use taxes in the past or that they were requested to do so but lacked interest in it. However tax receipts were almost never shown to us (people either said that they handed over those to the companies at the latter’s request or that these were destroyed or lost). When the respective companies were allocated the land, many local farming households had to cease their farming activities, especially in the areas where the company was most active. However, in Thitsar Myay area, farmers were allowed to continue cultivation on their paddy lands with “*u paing*”. In the most remote parts of the Thitsar myay

area where the company actually never operated, households continued cultivation without interference. In other intermediary areas of Thitsar myae where jatropha failed and lands were abandoned, farmers were allowed to contract with “*thee zar cha*” their former lands during one year (around 5 years ago). Then they were left to cultivate without any request for payment.

5. Yuzana formally occupied the allocated area between 1996-2000 and planted less than 50 acres of jatropha that were subsequently abandoned. Some 17 farming households originating from other areas (Magway) were hired to work on the lands and settled in the area. They continue to occupy some 100 acres, in the best parts of flattish land in the north. Thitsar-myay equally planted a minor area of Jatropha from 2006 onwards (in the South eastern part of the concession), but equally abandoned the project some years later. In both cases however the respective local managers of the companies continued to remain resident in the area, occupy some lands and especially play a role in land management over most of the area. They were involved in leasing out land to local villagers, sometimes against payment, prevent others from using land etc... It seems that these managers acted out of a personal interest and not necessarily in the name of the company; they may however have used the companies name and fame to leverage their power over local populations. More recently the Yuzana manager had to leave the area mainly as a result of conflict with local populations.

It seems to us that **one of the major challenges of the project will be to deal with the results of this middlemen management.** Two concrete actions are required. **First, a public statement by the Government that indeed the “contracts” with the companies are cancelled and that these companies cannot exercise anymore activities on the land. Second, that again the Government and/or the Companies themselves take full distance from their local managers, and inform local villages properly on this.** It appears now that at least one manager continues to act on its own behalf and is in the process of making a request for a VFV land allocation.

6. The social relationship between former farm labor households (17 in case of Yuzana) is not so good, with social friction present. However, most importantly, **there is no major open conflict** between local populations, former farm labors and their families, and possibly other stakeholders such as the former managers (who left the area). There are no massive recent land occupations such as in some other areas in Mandalay visited before. It is also noted that one neighbouring village of the former Thitsar land is of ethnic Chin origin. Some more insight is required on the social relationships between these “outsiders” and villages from local origin. Hence, **there is little doubt on the social potential for a successful pilot of land reclamation on both sites.** But in all cases, to ensure long lasting land security, it is crucial that the land allocation process adopts an approach which allows proper mediation and consultation to build consensus between the different parties. **It is all about negotiation and consensus seeking at the local level, not about administrative decision making and strict law interpretation by the centre.**

7. The Northern part of Yuzana area is flat, mainly *ya-land* but also some paddy-land; this area is best suitable for crop production; rainfed rice on *leland* and a combination of sesame (main crop), pigeon pea, some cotton before, chickpea. The remainder of the land

including most of Thitsar myay is slightly undulated, with paddy cultivation in lower areas and the usual combination of *ya-land* crops on slopes. Farmers practice a rotational agricultural system, with landholdings of up to 10 parcels, altogether sometimes covering areas of some 30 acres or more. Lower slopes and minor valley bottoms are cultivated, crests remain untouched under vegetation cover (degraded forest and shrubland). It is in fact a good example of indigenous conservation agriculture, all rainfed with little potential for irrigation (altitude 250-280 meters, no groundwater reserves, little potential for tubewells), and massive mechanization (due to slope topography). In fact we estimate that some 50% of Thitsar myay is under agriculture. Some specific area still have an aspect of “forest”, with no agricultural land opened up yet. **We need to check whether these areas are not included in the District Forest Management plans as current or planned “protected forests”.** Farmers have reported that they used to pay taxes to forest department under Yuzuna and Thitsar myae area to extract fuel wood for example.

8. Rotational agriculture, operationally translated by up to two years of cultivation and three years fallow, is used for three main reasons: i) weed control (in combination with a lack of family labour); ii) low soil fertility and a general lack of using fertilized (apart from manure), and iii) securing tenure over larger tracks of land without using it continuously. The latter happens in the absence of any legal tool to secure tenure rights (no LUC as land continues to be classified as VFV and there are no kwin maps). We think that this **setting would possibly constitute a good pilot for testing a smallholder model of adaptive change from rotating agriculture to a more stable production system**, considering inputs such as fertilizer, animal traction services, etc. **It could be a showcase of how smallholders can transform a difficult and hostile farming environment (undulating land, no access to irrigation, major issues of drought and climate change impact) into a productive model of conservation agriculture.** Securing access to land, land titling and making smallholders eligible for accessing agricultural credit (MADB) is an integral part of such an adaptive model.

9. Diversification of production systems is equally part of such a model. **Most smallholders ambition to invest increasingly in livestock production to mitigate the negative consequences of climate change.** Hence there is a need to identify dedicated pastures, secure (communal) tenure over these and improve the quality of these pasture lands. This calls for some simple local inclusive and participatory land use planning. A future project should also consider supporting farmers in on-field fodder production. This is another land regulatory challenge as lands under fodder production are not considered as “farmlands” and hence pose challenges for land certification (LUC).

10. DALMS has been active and facilitated actions in preparing the assessment at the request of the Region Government for the last month. Township staff has elaborated lists (and on some occasions a field inventory of parcels) of current local land occupants, possibly original land users (before the company’s presence), landless people who would be considered for future land allocation. Although there are examples of very interesting works conducted through this process, such as the use of simple modern mobile apps to produce digital textual and spatial parcel data (for instance the use of the AlpineQuest apps), **the assessment team has doubts on the methodology used for these social/land use**

occupations inventories (proper information and cross-verification processes with neighboring parcels owners, process for objections and corrections, absence of public display of data at the local level, etc..., and the validity of the outcomes and its acceptability by the concerned stakeholders It is recommended that this social inventory work is undertaken as part of the project itself by a strong and respected partnership of public service providers (DALMS, GAD) and qualified CSO expertise and using an appropriate methodology. The current information must be taken with care, and possibly only used as an initial reference.

11. The process of land allocation for both sites is a good mix of i) **Land Tenure Regularization (LTR)** for past and current land users (this would include the 17 former farm labourer households) and ii) **allocation of land to people from local neighbouring villages that are identified as being landless and in need of land for building their livelihoods and the poorest households who possibly need more land.** The current pattern of land use is the baseline for this LTR and land allocation.

12. Legally, the land will need to be converted from VFV land to Farmland; thus reclassification. Consequently beneficiary households will need to be provided with some formal documents aiming to secure land rights; probably first a Form 3 (which needs to be renewed every year) and after max. 2-3 years Form 7. This will also require that DALMS prepares kwin maps for the area, which is an opportunity for possibly testing out some new approach and technology. We have the impression that DALMS at Region level is rather conservative in their vision on this process; it was suggested at some stage that one should wait 5-10 years for beneficiary receiving a LUC-Form 7, which is a normal procedural path but one that is not necessarily acceptable for a future project. **Once land is allocated or tenure is regularized, it is essential that beneficiaries can access agricultural credit.** In case this cannot immediately be achieved on the basis of a Form 7, other options need to be proposed. We agree that there is need for a safeguard that land allocated to beneficiaries is not immediately transferred (sold) but this cannot be controlled by NOT issuing Form 3 or Form 7 at an early stage. **There is thus need for clear instructions from MoALI senior management to Region/local DALMS to be creative and flexible.**

13. The assessment mission received full support of the Magway Region Minister, DALMS staff at Region and Township Level, and the new Minhla township administrator. They also expressed a strong desire for engagement in the actual project. **In addition to the existing Union level commitment, there is thus strong political and technical support for having this project initiated.**

14. Follow up action includes:

- Organising a de-briefing in with DoP, LIFT and GRET on the findings of the assessment sometime before mid November in NayPyiTaw.
- Finalising the full assessment report by 25/11/17;
- Organising a restitution and consultation event at the Region Government Offices (MoALI) with participation of MoALI region Minister, DoP MoALI Union level, DALMS, LIFT, and the assessment team sometime second half November 2017.