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ACFID Myanmar Community of Practice

Submission to the Inquiry into the Efficacy of the Department of Foreign Affairs due diligence framework

10 November 2023

Committee Secretariat
Foreign Affairs, Defence and Trade Committee
Department of the Senate
Parliament House
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The ACFID Myanmar Community of Practice express our appreciation to the Senate Standing Committee for the opportunity to provide a submission to this inquiry into the efficacy of the Department of Foreign Affairs' due diligence framework. This submission focuses particularly on whether the due-diligence framework used by Department of Foreign Affairs and Trade is fit-for-purpose in determining the scope of stakeholders who can be engaged by the Government of Australia for the provision of aid to the citizens of Myanmar, as highlighted in the inquiry's terms of reference.

The ACFID Myanmar Community of Practice comprises a diverse range of international non-government development and humanitarian organisations operating in Myanmar. This includes a number of members implementing programs with the support of the Australian Government through the *Australia NGO Cooperation Program (ANCP)*.

We recommend that in applying due diligence requirements in the delivery of humanitarian and development assistance in Myanmar, that DFAT prioritises:

1. A flexible and contextually appropriate approach to risk management that enables strengthening of local civil society:

The 2021 coup d'état has significantly weakened capacity of state institutions to provide essential social and health services, and increased difficulties for development partners to work with government institutions.



This has led to a number of ongoing administrative and operational barriers and delays for implementing agencies *within Myanmar* (rather than as a result of requirements from donors such as DFAT) that are impeding delivery of assistance, including:

- Slow processing of Memoranda of Understanding (MoUs) and re-registration of international organisations in Myanmar, particular since Myanmar's State Administrative Council (SAC) enacted the new *Organisation Registration Law (ORL)* in October 2022.
- Ongoing difficulties transferring funding into country, largely as a result of delays releasing funds and increased compliance requirements from the Central Bank of Myanmar (CBM).

The weakening of state institutions and increased operating challenges for international organisations highlights the growing importance of **building capacity of local organisations and supporting local civil society** to deliver essential services, and enabling mechanisms to direct funding to local organisations (such as funding through NGOs). Maintaining space for civil society groups to operate and engage the community in development decision making is also an important foundation for much needed peacebuilding efforts.

The Myanmar Community of Practice acknowledges and welcomes DFAT's high degree of flexibility in the use of ANCP funds to support work in Myanmar since the 2021 coup. In particular, we acknowledge DFAT's flexibility in discussing risk matters on a case-by-case basis, as well as DFAT articulating that partners are best placed to recommend how to deal with specific issues such as registration under the ORL, used of alternative financial transfer mechanisms, and reporting on sensitive program matters within ANCP documentation, based on the particular circumstances of programs and operations in Myanmar. In its engagement with the Community of Practice, DFAT has highlighted that its primary priority is continuing to provide assistance to people in Myanmar.

We encourage DFAT to continue and expand this approach of balancing the requirements of an adaptable and contextually relevant aid program with appropriate standards of accountability. This should include:

- Continued commitment and openness to working with partners to address risk and compliance issues as appropriate to each partner's program. This requires clear guidance and consistent messaging on DFAT's parameters and approach to risk, including regularly updating guidance within DFAT's Programming Principles for Myanmar, as well as regular dialogue in Canberra and post with Australian INGOs implementing programs in Myanmar including via the ACFID Myanmar community of practice.
- Provide clarity on DFAT's principles for development partners to engage with government bodies within Myanmar, even if this is non-financial, to ensure implementing partners have confidence to operate in country. The Community of Practice notes this as an area requiring greater clarity from DFAT in a context where there is increasing pressure for agencies to engage with the de-facto military authorities, to confer them legitimacy and recognition, and increased pressure not to criticise the military regime.
- Recognition of the overlap between development and humanitarian activities in the current crisis and encouraging greater flexibility in funding between both categories of programming



- Considering the safety and security of implementing partners so that risks are not passed on to them but are mitigated. This means not making demands for documentation that could put lives at risk and allowing for flexible approaches regarding reporting and accountability appropriate to each organisation, given the security context.

2. Continued and strengthened Australian advocacy and diplomacy to address in-country barriers to delivery of assistance in Myanmar

Implementing agencies continue to face a number of significant restrictions and barriers to the delivery of assistance within Myanmar, such as slow progress in the renewal of registration and MoUs, delays in release of funds transferred via the CBM, delays in approvals for in-country staff and partners to travel to other regions of the country, and access restrictions as a result of worsening conflict.

While these restrictions are not a result of DFAT due diligence requirements, we welcome increased diplomacy and advocacy from the international donor community, including Australia, to negotiate access and address barriers to delivery of assistance. This should include clear articulation of Australia's commitment to working diplomatically to find lasting, peaceful political solutions to the crisis and return to democratic rule that brings stability and a prosperous society.

3. Increase and target Australia's overall ODA assistance to Myanmar to meet urgent needs and enable greater localisation of assistance

The coup and subsequent political and economic crises and conflict have had multifaceted and far-reaching development and humanitarian impacts in Myanmar, requiring urgent attention from donors and development partners. Australia should increase its overall assistance to Myanmar in recognition of this urgent need, as well as invest in mechanisms that facilitate local ownership and empower local civil society to deliver essential services, in alignment with commitments expressed in Australia's new International Development Policy to supporting local leadership, solutions, and accountability, by taking a more flexible and innovative approach to program planning and implementation. This should include:

- Supporting establishment and funding for a direct civil society pooled fund to strategically strengthen non-government systems for provision of essential services. This funding should support local agencies' core operations so that partners can more effectively work through local non-government agencies and community-based organisations for sustainable outcomes.
- Continuing to direct funding to multilaterals and multilateral pooled funding mechanisms, as international and local civil society organisations have found it easier and safer to secure approvals under UN or Global Fund managed funding compared to other mechanisms.

The ACFID Myanmar Community of Practice expresses our appreciation for this inquiry and welcomes any opportunities to provide further input or clarification of the points included in this submission. Our members



stand ready to continue engagement and collaboration with DFAT to support the effective delivery of assistance in Myanmar.

Sincerely

Ben Murphy and Sarah Leslie
Co-chairs
ACFID Myanmar Community of Practice



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About the ACFID Myanmar Community of Practice

The ACFID Myanmar Community of Practice is a key Australian based forum for coordination, advocacy and information sharing between diverse range of international non-government development and humanitarian organisations operating in Myanmar. It is convened by the Australian Council of International Development. Its current membership includes:

Act for Peace - NCCA
Action on Poverty
Anglican Relief and Development Fund Australia
Australian Lutheran World Service
Australian Red Cross
Burnet Institute
Caritas Australia
Childfund Australia
Cufa
The Fred Hollows Foundation
GraceWorks Myanmar
Habitat for Humanity Australia
Institute for Economics and Peace
International Needs Australia
Interplast Australia and New Zealand
Quaker Service Australia
Salvation Army International Development
Save the Children Australia
SUSTAIN Projects – Myanmar Inc
Tearfund Australia
Transform Aid International
Union Aid Abroad – APHEDA
WaterAid Australia
World Vision Australia