



30th October 2023

Committee Secretariat
Foreign Affairs, Defence and Trade Committee
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Dear Committee Secretariat

Submission by the Initiative for Peacebuilding

We are grateful for the opportunity to prepare this submission on the efficacy of the Department of Foreign Affairs and Trade due diligence framework, with reference to:

1. whether the due diligence framework used by the 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; and
2. any related matters (including: Alternative Due Diligence Framework Models and the Imperative to Support Conflict Transformation and Peacebuilding approaches to address drivers of Humanitarian needs)

We are writing as the leadership team¹ of the Initiative for Peacebuilding at the University of Melbourne with longstanding expertise and partnerships engagement with a range of Myanmar, Australian and international stakeholders who can be engaged by the Government of Australia for the provision of aid to the citizens of Myanmar.

The Initiative for Peacebuilding has well-established collaborations with other key stakeholders in Indo-Pacific conflict prevention and peacebuilding. For example, the team collaborates closely with the Centre for Peace and Conflict Studies (Cambodia), is leading an Australian Peace and Conflict Prevention Network with other peacebuilders in Australia and has close collaborators in China, India, Myanmar, New Zealand, Solomon Islands, and elsewhere. Initiative staff have had productive discussions with other public stakeholders, including the Australian Department of Defence, the New Zealand Ministry of Foreign Affairs and Trade, and the Secretary- General's Office at the United Nations.

For the past two and a half years, the Initiative has facilitated cross-sector dialogue to inform Australia's foreign policy. Through innovative roundtables and other forms of engagement, this stream of work has been focused largely on supporting responses to the crisis in Myanmar. With strong regional expertise and capabilities which integrate research and practice, the Initiative has been providing support to Myanmar's conflict and aid crisis convening key multidisciplinary academics, practitioners, and key actors from Myanmar and the Australian government including the Foreign Minister Penny Wong (who participated in one of our briefings on conflict dynamics in Myanmar's post-coup environment) and members of Parliament. The former Minister the Hon. Marise Payne, noted early in 2022 that DFAT staff across various sections, such as DFAT's Myanmar Taskforce, have found value in the Initiative's close engagement with them in their activities. With DFAT involved in these events, these have been driven by the demand for spaces conducive to developing multi-sectorial and multi-level responses to pressing foreign policy issues.

¹ Dr Tania Miletic (Ass. Director); Professor John Langmore (Chair of the Board); Professor Joseph Lo Bianco (Senior Affiliate); Dr Emma Leslie (Board Member); and Denise Nichols (Senior Practitioner Affiliate with over 30 years experience in international development working with key NGOs and the Australian Government, especially in relation to Myanmar).

It is from this standpoint as an academic and engaged Centre we note the following key areas for concern and enhancement in Australia's due diligence framework used by DFAT as it is **not at present 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. The following considerations and recommendations are offered to support review and enhancement of how best the due diligence frameworks of the Government of Australia can best enable the provision of aid to the citizens of Myanmar and support changed conditions to the driving issues driving the humanitarian crisis.

1. More flexible funding is needed, current arrangements are prohibitive

We have listened to many Australian Non-Government Organisations (ANGOs) who have been arguing for the last two years that DFAT needs to find alternative and more flexible ways to fund local NGOs and Civil Society Organisations (CSOs) in Myanmar. This was emphasized in our first roundtable summary 2022 and across countless other submissions and reference letters. The primary concern was that DFAT was following due diligence procedures that limit many groups and existing network organisations from receiving funding particularly because of the conditions caused by the military coup on 1st February 2021.

1.1. Continue and enhance consultation mechanisms.

The Initiative welcomes the current round of consultations by DFAT with ANGOs, diaspora organisations and communities on the implementation of Australia's International Development Policy about their priorities for Myanmar. We welcome suggestions that DFAT indicated at these meeting that implementing their policy framework for Myanmar would likely look different to other countries. We encourage continuing consultation to ensure there is an understanding across key NGO networks.

1.2. Coordinate and align where possible with NUG and other NUG priorities for humanitarian and development assistance.

The National Unity Government (NUG) of Myanmar has suggested "Phased Aid Planning" is required for Myanmar by acknowledging the NUG and its allies' strategic positioning in the current interim phase and the next transitional phase of the 12-stage political roadmap. The current Myanmar context is one where an illegitimate entity, the Military, has overthrown the democratically elected representatives of the Parliament. The people of Myanmar continue to resist and do not recognise the military regime and look to the National Unity Government/CRPH as the legitimate government. The Due Diligence Guidelines suggest that governments in Bi-Lateral Aid Partnership do not need to undertake a due diligence assessment. In the Myanmar context DFAT could recognise the NUG as the legitimate government representing the interests of the people of Myanmar. Consultations with the NUG will help strengthen Australia's policy and planning through greater understanding of the NUG priorities for humanitarian and development assistance. Coordination will also enhance existing relationships with the NUG and in particular with Representative to Australia, Dr. Tun Aung Shwe.

1.3. The NUG have a well-considered and strategic plan

We stress, a failing of the current due diligence relates to the de-valuing of the constantly evolving and inclusive leadership of the NUG/ CRPH and other key Ethnic Resistance Organisations (ERO's). For example, some better transparency in who, what and how DFAT are actually supporting some and not other ANGOs is insightful. Greater clarity is needed about these arrangements, especially in cases where there may be more flexible funding arrangements already existing. Having a better idea and transparency is also needed for all working in complex arrangements to provide humanitarian assistance. There are adaptive ways, already suggested by the NUG that can allow greater support to resourcing of the NUG plan which is forward thinking and strategic for the future development of the people of Myanmar. ANGOs also want greater transparency and flexibility.

1.4. Creating multi-scalar network associations to reach grassroots communities.

Recognition of the National Unity Government by the Australian Government would be in line with other donors who are contributing large scale funding to achieve impactful development for grass roots communities who have been most disadvantaged under current frameworks for aid pathways. The adaptive reform needed by DFAT to reach multi-scalar approaches across areas of needed, require diversified policy and processes for the current dire and protracted crisis in Myanmar.

1.5. Limits to the current due diligence framework which prevent the Australian Government to fund the NUG/CRPH directly in order to carry out its program

An alternative pathway which would recognise the NUG as an NGO is limited and unrealistic. Currently the Due Diligence

Guidelines would require the NUG to be accredited under the very demanding compliance regime of the ANCP framework. While less demanding assessment is required at the Embassy level for access to the Development Assistance Program (DAP) for local organisations the current conflict environment limits access for the emerging grassroots based CSOs that are part of the NUG development program landscape, nor would they be able to meet Australian government requirements given the operating environment.

2. Alternative Due Diligence Frameworks for the Myanmar Context.

There are multiple challenges in applying the DFAT Due Diligence Framework for the institutional context of Myanmar at present. The many local community-based organisations and networks do not have the necessary legal registration, financial and management systems that would normally be expected due to the political circumstances as well as operating environment.

The usual alternative to working through civil society, of working through a Partner Government direct funding agreement, also cannot apply directly to the National Unity Government, as recognition of the alternative government has not been seen as politically feasible.

However, two propositions are worth further consideration:

2.1 Consider the NUG and its Network of CSOs as a System of Governance

Firstly, when supporting Partner Governments directly, DFAT would normally undertake an Assessment of National Systems to determine the strengths and weakness of those systems, and then design a range of supporting mechanisms to complement the public financial management arrangements (such as requiring directly contracting accountants or Contractors to oversee internal compliance and reporting). The underlying principle is to support the partner system in order to strengthen it, and then to support it.

A similar approach could be taken to either the NUG network of civil society organisations ²(not as an alternative government, but to a complementary international organisation working with them, where this third party adds in the systems and compliance obligations.) Where there are perceived shortcomings in the compliance capacity, additional supports could be built into the design in accordance with the underlying principle of this approach.

2.2 Adopt core funding or co-financing models within DFAT which lifts due diligence frameworks through higher-level policy level impact and outcomes.

A second proposition is to consider the purpose of the funding and support at a policy level, rather than at the activity or project level. Under this approach, the intent of the funding grant overall is to have impact on the political economy of the situation and the overall impact of the issue to which the funding relates, rather than to directly fund individual organisations, services or activities.

A core funding or co-financing model within DFAT often is directed towards this higher-level policy level impact and outcome, rather than being directed towards individual budget line items. Core funding towards an intermediary organisation (which as The Asia Foundation or similar international body; or through delegated cooperation through another development partner or UN body with a similar mandate) would support and influence the effectiveness of the organisation towards its overall goals in Myanmar (even if funding later flows through to local CSOs and communities).

The relevant due diligence requirement in DFAT relates to the competence of the overall organisation and its effectiveness in achieving its purpose and passes risk and compliance to the third party using their own systems and processes. A risk management decision made by the third-party organisation to waive or reduce due diligence requirements on the basis of urgency, need, practicality or other information would be weighed up by them against the imperative to achieve the purpose of the grant. In this case, the signaling of ongoing support to ethnic minorities, women, religious groups and displaced people through a third party could be justified by the overall impact of the funding grant, not by the direct impact on individual beneficiaries against an activity budget. When Australian financing is blended with other funds through a co-financing or core funding agreement, the direct audit trail of Australian

² Such as the Chindwin Medical Network (CMN) comprising CDM teachers and doctors, employs over 800 individuals. Since late 2021, CMN has been actively involved in health, education, and humanitarian initiatives in Sagaing, Magway Regions, and Chin State. The network has received over USD5million in aid and adheres to international standards.

taxpayer funds does not apply in the same manner, and gives more coverage to DFAT, as well as passing on risk and obligations more effectively to the third party organisation.

3. Recognising humanitarian imperatives are best supported through seeking conflict transformation and peacebuilding.

The humanitarian crisis in Myanmar will only worsen under a continuing military regime. Amid the current democratic crisis in Myanmar, if the military prevails over the people, there will only be worsening conditions for aid and humanitarian efforts.

The people of Myanmar are the greatest representation of democratic justice-seeking in our region. Through daily acts of anti-military violence and rule, they have re-formed stronger than ever (and more inclusive than ever) governance structures. The NUG is formulated with aims to fulfill the federal aspirations of the Myanmar people, to continue to dialogue and engage with non-NUG represented groups and EROs, with the ability to ultimately transform the conditions that have sustained the 70-year-long civil war. The humanitarian crisis will be best addressed when conditions for enabling enduring peace for the nation and prioritised.

Australia's development assistance plans in the coming years requires a tailored and flexible strategy to address the unique needs of the different phases of the political roadmap of the NUG and the complex processes that are needed for ongoing dialogue and strengthen governance and institutions alongside the immediate survival needs of the people of Myanmar.

We believe that DFAT's Development program can contribute to establishing peace and security for people to thrive and that a flexible aid program is essential for these goals to be achieved within a conflict context. The University of Melbourne's Initiative for Peacebuilding would be well placed to provide services in a consortium arrangement with other peacebuilding and humanitarian focused agencies with other Myanmar key stakeholders such as the NUG/CRPH and EROs and organisations. We can also see how the Alternative Framework (see 2.1 and 2.2) applies to engaging through third party organisations such as the Initiative for Peacebuilding) so that the Initiative, its networks and others are enlarging the scope of coordinated partnerships to support efforts by the Australian Government to support the humanitarian needs of the people of Myanmar.

We recognise the important progress DFAT seeks through this inquiry process and we welcome any opportunity to provide further input.

Sincerely,

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Dr Emma Leslie, Board Member, Initiative for Peacebuilding and President, Centre for Peace and Conflict Studies, Cambodia.