

# **MYANMAR CENTRE FOR RESPONSIBLE BUSINESS**

## **MID-TERM REVIEW**

**This review was commissioned by IHRB and DIHR.  
It represents the views of the authors and does not necessarily represent those  
of IHRB, DIHR and MCRB or any of MCRB's government donors**

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The authors remain responsible for all errors and omissions. The views expressed in this report are those of the authors.

## Abbreviations

CSO	Civil Society Organisation
DFID	Department for International Development (UK)
DICA	Directorate of Investment and Company Administration
DIHR	Danish Institute for Human Rights
EITI	Extractive Industries Transparency Initiative
HRIA	Human rights impact assessment
ICT	Information and Communications Technology
INGO	International Non-governmental Organisation
IHRB	Institute for Human Rights and Business
JICA	Japan International Cooperation Agency
MBCA	Myanmar Business Coalition on Aid
SEZ	Special Economic Zone
SDN	Specially Designated Nationals (individuals sanctioned by the US)
SWIA	Sector-wide Impact Assessment
TI	Transparency International

## 1. Introduction

The Myanmar Centre for Responsible Business (MCRB) was set up in July 2013 as a joint initiative with two “parent” organisations, the UK-based Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR), both of which sit on a steering group with the MCRB director. Since the beginning, the Centre has been led by Vicky Bowman, a former UK ambassador to Myanmar, working with a committed team of Myanmar and other colleagues based in Yangon as well as with business and human rights staff from the IHRB and the DIHR contributing to the delivery of outputs and providing specialist support and guidance both remotely and through dedicated field visits. Over the past two years, the Centre, with the financial support of a multi-country donor group, has established itself as an authoritative centre of expertise on the wider field of responsible business, working across a range of commercial sectors, and establishing a network of contacts across business, government and civil society.

### *The MCRB’s objectives*

As stated in its September 2014 programme document, the MCRB’s premise is that:

“Responsible business can bring new jobs, skills and economic benefits for millions of poor people in the country, whether it is practiced by local or international investors. Together with political stability, economic development is a precondition for Myanmar to transition into a stable democracy based on rule of law, human freedom and dignity. Sustainable economic growth is needed in order to bring livelihoods and basic services to millions of people in the country.”<sup>1</sup>

There is a direct link between private sector development and livelihoods. However, it does not follow that all private sector development is equally constructive. On the contrary, private sector development has often been destructive, leading – for example – to forced relocation and environmental degradation. The risks of adverse impacts are especially high in countries with weak governance, a category that historically has included Myanmar.

The Centre’s objective is therefore to:

“... facilitate locally-owned processes that will imbed international responsible business standards into practice in Myanmar. This process requires building knowledge and capacity as well as promoting good practice and building consensus between diverse stakeholders.”<sup>2</sup>

These diverse stakeholders include the government agencies that – if all goes well – provide an enabling environment for responsible business, as well as CSOs and the companies themselves.

In pursuit of this objective, the Centre has issued and promoted the findings and recommendations of a range of publications, notably Sector-Wide Impact Assessments (SWIAs) on oil and gas, tourism and information and communications technology (ICT). Meanwhile, it has both conducted its own workshops on best practice as well as contributing to seminars and conferences organised by others; and it has contributed a series of recommendations in response to government consultations concerning new laws and regulations, including Myanmar’s draft Investment Law. Beyond all these planned outputs, the Centre – and particularly its Director Vicky Bowman – has established a wide

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<sup>1</sup> Programme Outline and Log Frame, 2014-2015, 30 September 2014.

<sup>2</sup> Ibid.

network of personal contacts. Many of its important contributions may lie in the informal<sup>3</sup> exercise of influence on a range of stakeholders, which is not readily captured in a simple list of activities.

### ***The purpose of this review***

This report presents the findings of an independent mid-term review of the MCRB's work and achievements to date. The review has been overseen by the Institute for Human Rights and Business (IHRB), on behalf of and in consultation with the MCRB steering group, in the IHRB's capacity as the entity with fiduciary responsibility for the MCRB in its relationship with donors (see Section 3.3. below). The terms of reference (see Annex 1) were discussed and approved at a donor meeting in Yangon in February 2015, and the reviewers were hired in April 2015 with the approval of donors following a competitive tender process. The members of the review team are Pierre Robert (project leader), John Bray and Kyi Kyi Seinn.

As stated in the terms of reference, the objectives of the review are to:

- Assess whether the MCRB's strategic objectives and thematic areas continue to be relevant in the current context;
- Assess the results and achievements of the MCRB's work so far in order to establish what progress it has made towards the stated objectives of the programme;
- Identify lessons learned and recommendations to strengthen the MCRB's future strategy, operation and pursuit of intended impact over the remainder of the programme cycle and its programme extension;
- Provide recommendations on strengthening the MCRB's local ownership and long-term sustainability.

This is a mid-term review, taking place only two years after the MCRB was established: it is therefore not a full-scale evaluation or impact assessment. The review is based first on the MCRB's programme documents and associated materials, and on interviews with IHRB, DIHR and MCRB staff as well as a range of external stakeholders (see Annex 1 for a full list). The review also draws on the findings of the MCRB's Stakeholder Survey 2015, an Internet-based questionnaire sent to the Centre's 3,000-odd contacts in June and July 2015. The survey had 361 respondents, including representatives from Myanmar and international companies as well as CSOs and government. The interviews with IHRB and DIHR members took place over Skype, while the meetings with MCRB staff members and Myanmar stakeholders were held in Yangon and Naypyidaw in June and July. John Bray and Kyi Kyi Seinn conducted an initial set of interviews in Yangon from 30 May to 6 June; Pierre Robert joined them for a further series of interviews from 5 to 11 July, during which John Bray and Kyi Kyi Seinn made a two-day visit to Naypyidaw to interview government officials.

The draft review report was submitted in August 2015, for comments by the MCRB, DIHR and IHRB. This final report takes account of the comments received, including at a Donor Group meeting in September, and contains additional information.

### ***The structure of the report***

The report begins with a summary of the MCRB's mandate, theory of change and resources. It then examines the Myanmar political and social context, both in order to explain the environment within which the Centre works, and in order to assess the extent to which its original mandate is still valid.

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<sup>3</sup> Informal in the sense that this influencing work responds to opportunities as they arise, and does not necessarily produce planned outputs like publications. Nevertheless the Centre's influencing work follows consistent strategies and methodologies, and is in fact captured under the "dialogue" dimension of its logical framework.

The fifth and sixth sections review the Centre's core activities and its impact on key stakeholders. We conclude with a set of recommendations on future challenges.

### ***Our overall conclusions***

Our overall conclusions are that the MCRB has more than lived up to its original mandate, and that its aims and objectives remain valid. In all scenarios, the private sector will remain an essential ingredient in Myanmar's economic development, underpinning the hoped-for evolution of well-grounded democratic institutions. The MCRB's responsible business agenda is broad in the sense that it cuts across a range of sectors, institutions and geographical regions within Myanmar. In promoting this agenda, the MCRB has exercised an influence out of all proportion to its small size.

The challenges faced by the MCRB are primarily related to the sustainability of its continued development, and in that sense are part and parcel of its "coming of age". The key organisational challenge that will need to be addressed further is related to its becoming more of a Myanmar organisation, though the speed of this change can be adapted to circumstances. In strategic terms, the main challenge appears to be about further broadening the Centre's influence, including in ways that may contribute to inclusive economic development, for example in relation to employment creation with the protection and promotion of rights and the provision of more decent jobs.

## 2. Executive Summary

The IHRB and the DIHR established the MCRB in 2013, seizing opportunities offered by Myanmar's reforms of 2011-12, in anticipation of the major increase in foreign direct investment that these reforms would spur and of the transformation of the Myanmar private sector. The prospect of contributing to positive changes in the business regulatory environment, together with the expertise of the Centre's "parent" organisations in relation to international business and human rights standards, were further contributory factors.

The MCRB has therefore positioned itself as a "bridge" linking and sharing best practice between both local and international business as well as government and civil society, hence the link established in its logical framework (logframe) between capacity, knowledge and dialogue.

The Centre is led by Director Vicky Bowman and (as of September 2015) seven staff members in Yangon on annual contracts. A deputy director is to be recruited.

**Context.** The reform process engaged since 2011 is wide-ranging. The main context-related challenge is that the reform process is, and will remain, uneven and fraught with risks, including the continued transition challenges of constitutional reform, decentralization and regulation. The lack of administrative capacity at the central level applies even more at the state and local levels, enhancing the risk that business regulation (and the law in general) will remain unenforced. This, and the continuing threat of conflict, may severely limit the prospects for responsible business conduct as an indispensable driver of possible improvements in livelihoods for vulnerable people.

Against this backdrop, however, opportunities remain for the MCRB to fulfil its three-pronged mandate of promoting stakeholder knowledge, capacity and dialogue: the evidence to date, from the Centre's own staff and reports and from interviews conducted by the reviewers, demonstrates that the Centre has seized opportunities that existed. The Centre has emerged in the period under consideration as a credible – even authoritative – source of policy advice; it has proven its capacity to provide impartial guidance to all stakeholders in its domain, thus placing it in a position to further fulfil its mandate in the second phase of the current programming period.

**Activities.** In the first two years of its existence the MCRB has undertaken a broad range of activities in accordance with its mandate and in fulfilment of the aims outlined in its logframe. It is important to emphasise that all these activities complemented and reinforced each other. For example, the centre's implementation of Sector-Wide Impact Assessments, adopting a methodology developed by the IHRB and the DIHR (drawing on their capacity, guidance and support on human rights impact assessment), provided a body of knowledge and a demonstration of expertise that could be used as a basis for dialogue with the government, the private sector and CSOs. At the same time, they provided a basis for the MCRB's training workshops as well as advice to individual companies.

The MCRB, in partnership with the IHRB and DIHR, has published three Sector-Wide Impact Assessments (SWIAs): the first on oil and gas, the second on tourism and the third on information and communications Technology (ICT). There is no doubt that the SWIAs represent a major achievement: the question has been how to put them to best effect, ensuring that their findings are absorbed and their recommendations implemented.

The MCRB's *Pwint Thit Sa/Transparency in Myanmar Enterprises (TiME)* report scores and ranks leading Myanmar companies according to the extent to which their websites included information about their commitments and practices in three areas: anti-corruption programming; organisational transparency (e.g. ownership structures); and human rights, health, safety and the environment. *Pwint Thit Sa* is a useful tool that MCRB has exploited creatively and imaginatively as part of its wider corporate responsibility programme.

The MCRB's workshops and training sessions linked directly to the SWIAs and Pwint Thit Sa in that they gave practical advice on how to implement the responsible business policies that the Centre recommends. They therefore contributed directly to the MCRB's stated objectives of sharing knowledge, enhancing capacity and – to the extent that representatives of different sectors take part – promoting dialogue.

Submissions to government consultations were a key part of the MCRB's knowledge and capacity building for government with a view to creating the conditions for an enabling environment for responsible business.

All in all, the Centre was remarkably active in the period under review. It made good use of the resources provided by donors: its cost structure was comparable to that of other research-based NGOs or think-tanks, and its outputs compared favourably with such organisations in view of its small complement of staff. One factor that enhanced the Centre's efficiency was that it could rely on the expert input of its "parent" organisations.

**Logframe and reporting.** In late September 2014, the MCRB issued a revised Programme Outline and Logframe, which it had agreed with its donor group. The MCRB provides quarterly and annual reports to donors based on this logframe, which correctly reflects the knowledge/capacity/dialogue approach that underpins the Centre's theory of change. This approach, by focusing on the influence that the MCRB exercises on the stakeholders, is methodologically and strategically sound. However it tends to make the assessment of the Centre's success somewhat dependent on the action taken by stakeholders.

The three outcomes on knowledge, capacity and dialogue are appropriate to monitor and report on the strategy and activities of the Centre. There are two areas of strategic importance, however, that are not directly captured under the three outcomes: institutional development of the Centre, and the sustainability of the impact of its operation. It would be advisable to outline, at the same logframe level as the three outcomes, a sustainability outcome that would encompass the Centre's institutional development efforts (without prejudging the degree of its "Myanmarisation"), its work to ensure the sustainability of its impact, and aspects of its advocacy role that may not be fully covered by the other three outcomes. By reporting against these four outcomes instead of the current three, the Centre would be able to make more explicit the significant advances that it has already made towards sustainability, including institutionalisation.

The reports to donors are well written and densely packed with information. The annual and quarterly reports both devote virtually half their pages to activity reports. This constitutes a logical way of exercising accountability, since the detailed description of work done gives a clear image of the use of donor resources. However, the focus on activities/outputs does not necessarily help understand the extent to which results or outcomes have been achieved.

**Indicators.** The existing logframe indicators are valuable markers, but many are too narrow and insufficiently dynamic to reflect the achievement of outcomes in a well-rounded way. At this stage, half-way through the current programme and a year after the latest logframe was agreed by the donors, it may be difficult to make major changes to the indicators. However, some changes to some indicators could be proposed to donors for the upcoming project period, while others could be re-interpreted.

A revision of the indicators and their interpretation might help the reporting process. It would also be helpful to devote a specific section of the report to a description of the extent to which the indicators are fulfilled. This would be best done in the form of a one-page table, referring where necessary to the activities section. Another element could be valuable: a review of strategic issues,

perhaps as part of the narrative summary. This could help identify issues on which input by the “parent” organisations is appropriate, or indeed by the donors.

**Relevance.** Our analysis shows that the MCRB’s agenda remains highly relevant. The present report adds to evidence that the work of the Centre has been relevant to the stakeholders. One reason for this was that the Centre’s methodologies were grounded in international standards and that they helped add to the knowledge base available in Myanmar.

To maintain its relevance in the future, the Centre will need to continue to be an authoritative source of knowledge. On both capacity and dialogue, we suggest that building a critical mass of committed stakeholders could be an ambitious but achievable target for the remaining programme period.

**Effectiveness.** The MCRB has deployed its limited resources to maximum effect, amply fulfilling its stated objectives as defined in its log frame. In particular, it has effectively leveraged its own and its “parent” organisations’ expertise in impact assessment to carry out the SWIAs, turning these into door-openers for its outreach work towards government, the private sector and civil society. The Centre has a full but achievable work plan for the coming two years, and it is likely to remain similarly effective in the remaining programme period. It will be important to ensure that the Centre’s organisational development should continue, partly to facilitate its transition towards a new leadership.

**Sustainability.** Many of the Centre’s outputs contribute to its overall sustainability, in the sense that many of the changes the Centre has helped bring along are likely to be lasting. They include rights-specific language in legislation and regulations, as well as good practices promoted by the Centre and adopted by some companies on issues such as grievance mechanisms and the fight against corruption. Institutionally, the Centre has made substantial progress towards sustainability as it developed effective management and internal accountability mechanisms, and developed a skilled team of professional staff. As was always clear, the Centre will depend for the foreseeable future on donor support. However, the Centre is making a difference – which is likely to be lasting – in a number of areas, such as the encouragement of collaboration among stakeholders in responsible business. By encouraging other civil society stakeholders to take up the responsible business agenda, the Centre exercises a multiplier effect, which is also likely to contribute to the sustainability of its programme outcomes.

## **Recommendations**

- **Maintain the current high-level focus.** The MCRB’s work to date is remarkable both for its breadth - cutting across commercial sectors with very different corporate cultures, opportunities and hazards – and its attention to detail as evidenced in, for example, its recommendations on draft wordings of proposed new legislation. This combination of approaches is both strategic and, in the best sense, opportunistic. We recommend that the MCRB should continue with this approach.
- **Maintain a broad, cross-sector approach.** We considered whether the MCRB should follow up its ground-breaking SWIAs with a still deeper focus on specific sectors rather than attempt to be a centre for all kinds of responsible business. However, we recommend that the MCRB should continue its current cross-sector approach.
- **Begin to develop a sub-national approach within Myanmar.** The need to spread the MCRB’s message beyond Yangon and Naypyidaw to the states and regions came up at several points in our review.

- **SMEs – work through multipliers.** It is correct to highlight the importance of the SME sector. However, as with the rest of the MCRB’s agenda, the question is how to do so most effectively, and how to achieve the best return on its limited resources. Our view is that it is best for MCRB to work with other multipliers, rather than seek to target SMEs directly.
- **Be both Myanmar and international.** If the MCRB is to serve as an effective “bridge”, it will always need to combine local and international elements. In practice the MCRB will need to continue to look for creative combinations of people and skills, constantly adjusting the balance. If the Centre is successful in being relevant and effective, Myanmar will see it as being “one of their own” regardless of the formal ownership structure.
- **Build up the local team and start succession planning now.** The skills of MCRB Director Vicky Bowman have been central to the success of the centre from its outset but the centre and its international partners cannot rely on her indefinite presence. Meanwhile, the MCRB can and should look for ways of building up its existing staff and the centre’s overall programme development and management capacity. We understand that the centre is currently proposing to recruit a deputy director with this aim.
- **Continue to plan for an Advisory Board, or Group, in due course.** The MCRB has been considering the establishment and recruitment of an Advisory Board or Group, initially of four to five members. We support this as a medium-term objective while noting that timing, appropriate participation, governance role and added value need further consideration.
- **Develop relationships with strategic allies within Myanmar.** The MCRB has from the outset been a collaborative organisation in line with its aspiration of serving as a catalyst for CSOs as well as business. This raises the question how far it can address the limitations on its own capacity by sharing parts of its portfolio. This remains a medium- and long-term aspiration, bearing in mind in particular the fact that many of the Centre’s partner organisations in Myanmar lack institutional capacity.
- **Maximise opportunities through even more effective outreach.** The Centre should develop and implement an MCRB advocacy strategy, which identifies target groups for advocacy, differentiates messages and specifies an adequate range of advocacy techniques and tools, including effectiveness monitoring.
- **Add to the logframe an outcome on sustainability.** This additional outcome could be worded as follows: “increased sustainability of MCRB in terms of impact and institutional development, building on achievements to develop a stronger Myanmar identity linked to international expertise and credibility”.
- **Revise the indicators to reflect the four outcomes and ensure that qualitative changes brought about by the Centre are better reflected.** Chapter 5 of this report reviews the indicators and proposes rewording some of them.

### 3. The MCRB's mandate, theory of change, and resources

The MCRB came into existence at a particular historical moment, spurred by the beginnings of Myanmar's political and economic transition in 2011 and 2012.

During this period, the IHRB and the DIHR both sent exploratory missions to Myanmar and neighbouring Thailand. The early stages in the process leading to the setting up of the MCRB included the British Council's sponsorship of an initial project on business and human rights, as well as an IHRB conference on Burma/Myanmar, Business and Human Rights organised with the UK Foreign and Commonwealth Office's Wilton Park centre in late 2012 to promote impetus.<sup>4</sup> In July 2013 the IHRB and the DIHR took the initiative to set up the MCRB, initially without fully secure sources of funding.

This section discusses the timing and rationale for the MCRB's establishment, and examines the resources on which it has been able to draw. From the outset, the MCRB has been a small organisation with a very wide agenda, seeking to maximise all possible opportunities at a historic moment.

#### 3.1 Seizing the moment

The initiation of the current reform process within Myanmar in 2011 and 2012 raised hopes of substantive political change that would in turn create a more hospitable environment for both Western and Asian investors:

- The European Union lifted sanctions against Myanmar in 2012 in response to the reforms that had already taking place. In doing so, the EU Council specifically recognised the “vital contribution the private sector has to make to the development of Myanmar/Burma”.<sup>5</sup> However, it at the same time pointed to the need to promote “the highest standards of integrity and corporate social responsibility”, as laid out in the “OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights and the EU's own CSR strategy 2011-2014.
- The US likewise lifted most sanctions, but not all. Sanctions remain in place against a set of Specially Designated Nationals (SDNs), including a selection of prominent Myanmar businesspeople who were thought to be closely associated with the previous military regime. US companies investing in Myanmar are expected to publish annual reports stating how they are managing human rights and corruption risks, and these are posted on the US Embassy's website.
- Meanwhile, a wide range of Asian companies, both from neighbouring countries and of course from Myanmar itself, were hoping to expand their existing activities in the country. They varied widely in their approach to business responsibility standards.

#### **Opportunities and risks**

The rapid changes that were beginning to take place in 2012 lent a sense of urgency. It was clear that lifting – or at least easing – of EU and US sanctions would be accompanied by intense international business interest, accompanied by a transformation of the private sector within Myanmar. In marked contrast to previous decades, the Myanmar government appeared open to expert advice on the details as well as the strategic direction of reform.

However, these opportunities were also accompanied by risks. Decisions made in the early stage of the reform process would have a major long-term impact. These decisions included the nature of

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<sup>4</sup> See <https://www.wiltonpark.org.uk/conference/wp1195/>

<sup>5</sup> Council of the European Union, 2012. *Council conclusions on Burma/Myanmar. 3159<sup>th</sup> Foreign Affairs Council Meeting, Luxembourg, 23 April 2012.*

changes to the regulatory framework – whether these truly provided an enabling environment for responsible business – as well as the privileges or otherwise granted to particular business interests. The private sector had the capacity to do enormous good, for example by building up the country's energy, communications and transport infrastructure. It also had the capacity to do much harm, for example through the illegitimate acquisition of land.

### **New international standards on business and human rights**

The early stages of the Myanmar reform process coincided with the adoption of the UN Guiding Principles on Business and Human Rights, which were endorsed unanimously by the UN Human Rights Council in June 2011. The Guiding Principles were in due course incorporated into revised versions of a range of other international standards, including the International Finance Corporation (IFC) *Performance Standards on Economic and Social Sustainability* and the Organisation for Economic Cooperation and Development (OECD) *Guidelines for Multinational Enterprises*.

The key principles of the UN Guiding Principles include an emphasis on the state duty to protect human rights and the need for companies to conduct due diligence on the potential human rights impacts of their activities, as well as the need for access to remedy (including grievance mechanisms). Stating the principles is one thing; implementing them is another. In Myanmar the need for effective implementation was particularly urgent. The expected influx of international investment had the potential to do enormous good to Myanmar both in bringing much needed improvements to the national infrastructure and in providing a source of livelihoods.

### **3.2. The MCRB's positioning**

As noted in the introduction, the MCRB's mandate is based on the understanding that there is a link between the implementation of international human rights standards and companies investing in Myanmar and the creation of stronger conditions for potential progress in poverty reduction. If all goes well, the private sector – by following the principles of responsible business conduct – can make a vital positive contribution, leading to a “virtuous circle” where sustainable development and human rights reinforce democratic governance, and political stability in turn creates an enabling environment for business. However, for this to happen, both business and government need to be accountable. There needs to be:

“... a model where economic development goes hand in hand with protection of people and the environment, and where both the state and the corporate sector are accountable to agreed duties and responsibilities.”<sup>6</sup>

In the recent past, Myanmar has been notorious for its lack of accountability, both in public administration and in the private sector: there has been both an “accountability gap” and a “knowledge gap” concerning best practice, with adverse consequences for communities as evidenced, for example, by multiple reports of land seizures without adequate compensation to make way for commercial projects. The MCRB seeks to be a source of knowledge and expertise to fill this gap.

The MCRB has therefore positioned itself as a “bridge” linking and sharing best practice between both local and international business as well as government and civil society. Its role is:

“... to provide an effective and legitimate platform for the creation of knowledge, capacity and dialogue concerning responsible business in Myanmar, based on local needs and

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<sup>6</sup> Programme Outline and Log Frame, 2014-2015, 30 September 2014.

international standards that results in more responsible business practices, and thereby contributes to inclusive economic growth.”<sup>7</sup>

If the MCRB is to play the role of an “effective and legitimate platform” successfully, in line with its objective of promoting dialogue, it needs to establish a high degree of credibility with a set of actors that historically have mistrusted each other. As will be discussed below, this distrust applies particularly to Myanmar civil society’s relationship with government and with national and international business. Credibility needs to be based on the production of reliable research and on interaction with all relevant stakeholders, maintaining the Centre’s independence and impartiality.

### **3.3. MCRB staffing and resources**

The MCRB’s small size in relation to the breadth of its mandate means that it faces the constant challenge of making the best possible use of limited resources.

#### **The role of the Director**

Vicky Bowman has served as the Director of the MCRB since July 2013. The most important aspects of her experience include her role as a diplomat, first serving in Yangon in the early 1990s, and then as British ambassador from 2002 until 2006. More recently, she served as Global Practice Leader, External Affairs, with Rio Tinto, the international mining company, where her portfolio included leading the company’s engagement with the UN Guiding Principles on Business and Human Rights. Her status as an ex-ambassador gives her a degree of authority that few NGO leaders can match when dealing with government officials. Her experience with Rio Tinto likewise reinforces her credibility in business circles; and her Myanmar language skills help foster open communication with everyone from taxi drivers to Yangon’s social elite. Her strong sense of personal commitment is reflected in the long hours that she works.

Vicky Bowman’s personal authority is an immense asset. As one of our interviewees put it, she has the personal credibility to be able to interact with ministers and chief executive officers, and to be treated with respect. One after another, without any prompting on our part, almost all our interviewees conveyed the same message in much the same words: Vicky Bowman’s experience and commitment have been key to the MCRB’s success. At the same time, her prominence implies a challenge for the MCRB’s medium- and long-term sustainability. As several interviewees pointed out, it is easy to gain the impression that Vicky Bowman is the MCRB (just as many Myanmar CSOs are strongly associated with their founders), under-estimating the essential contributions of other MCRB staff members.

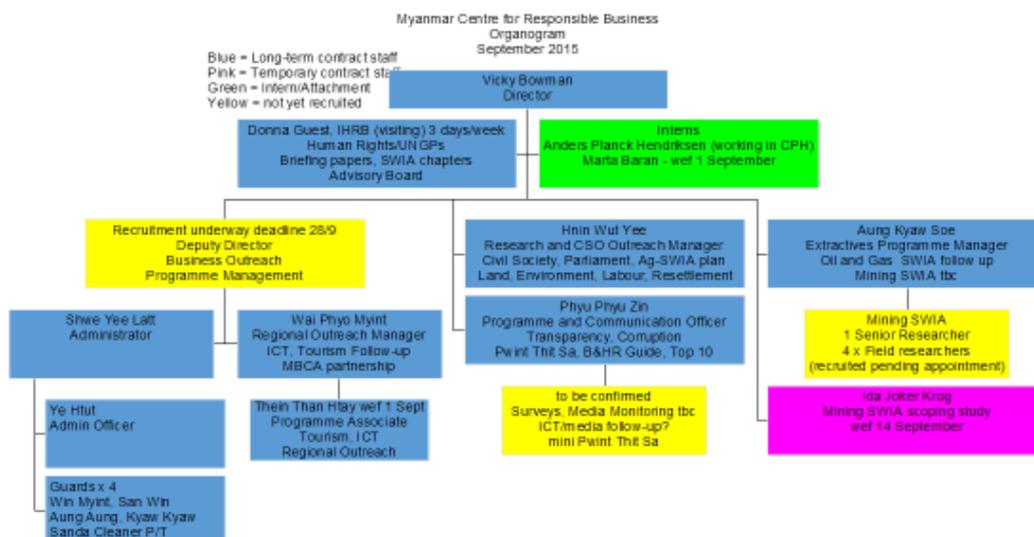
At the time of our review, Vicky Bowman had just renewed her contract with IHRB for a further year but, given that she will not be at the helm indefinitely, it is important to begin the process of succession planning now. We return to this point in Section 7 below.

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<sup>7</sup> Ibid.

## The staff

The MCRB's remaining core staff in Yangon are all Myanmar nationals. The review team was impressed by their skill and commitment, and by the small size of the team in relation to breadth of the MCRB's agenda. Below is the current organogram, provided by the MCRB.



The staff currently consists of a Research and Outreach Manager (Hnin Wut Yee), a Regional Outreach Manager (Wai Phyo Myint) supported by a Programme Associate (Thein Than Htay with effect from 1 September), a Programme and Communications Officer (Phyu Phyu Zin) and an Extractives Programme Manager (Aung Kyaw Soe). They are supported by an Administrator (Shwe Yee Latt), and an Admin Officer (Ye Htut from 1 August). A process is underway to recruit a Deputy Director with a Myanmar or other South East/East Asian background.

A senior SWIA Manager (Thi Thi Thein) has recently moved on after serving for two years, while an international consultant specialising on information communication technology (Kamran Emad) has recently completed a year at the centre, having been recruited on a short-term basis to work on the ICT SWIA, and has returned to the US. The centre has received additional support from short-term interns and from teams of researchers recruited on short-term contracts for the SWIA projects. From London, a member of the IHRB team (Donna Guest), a human rights expert with long experience of working on Myanmar, works three days a week on MCRB matters and reports to Vicky Bowman in Yangon.

The MCRB recruited and trained short-term teams of local researchers to work on the oil and gas, tourism and ICT Sector Wide Impact Assessments (SWIAs – see Section 5 below), and will do the same for a proposed SWIA on mining.

## The role of the “parent” organisations

The IHRB and the DIHR together provide strategic institutional oversight through a Steering Group consisting of senior members of both organisations plus the Director of the MCRB (see the diagram in Annex 3), who hold monthly meetings, generally by Skype. A wider “team” meeting is also held monthly, coordinated by IHRB staff member Donna Guest, to enable wider staff from across the three organisations to discuss MCRB's daily work in view of the local-international teamwork

involved in carrying out or supporting particular pieces of work. Indeed, both IHRB and DIHR contribute technical expertise, drawing on and sharing international experience of relevance to Myanmar. This expertise was particularly important in conceptualising the SWIA methodology, and supporting its implementation in Myanmar as well as in the drafting of the reports that followed (see Section 5 below).

The Centre has effectively leveraged the methodological and research expertise of IHRB and DIHR. Their support helped ensure that the Centre became operational quickly, thus contributing to its overall effectiveness. Just as Vicky Bowman could rely on the advice and support of IHRB and DIHR managers, the Centre's staff benefited from the support of colleagues in the two "parent" organisations. These synergies no doubt contributed to the added value of the Centre.

From an official governance perspective, the MCRB is classified as a company (rather than a civil society organisation). The office in Yangon is a branch representative office of a subsidiary (MCRB UK Ltd) of a London not-for-profit company set up by the IHRB, whose two company Directors, Chris Marsden and Bjorn Edlund, are also Directors of IHRB. The IHRB exercises fiduciary responsibility for the Centre on behalf of the steering group to which the MCRB Director is accountable, with formal line management handled by the IHRB Programmes Director (currently Jon Barnes).

### **3.4 Funding**

Funding currently comes from six international donors forming a multi-country donor group, which meets with MCRB each six months and provides support on a core-funding rather than an earmarked project basis:

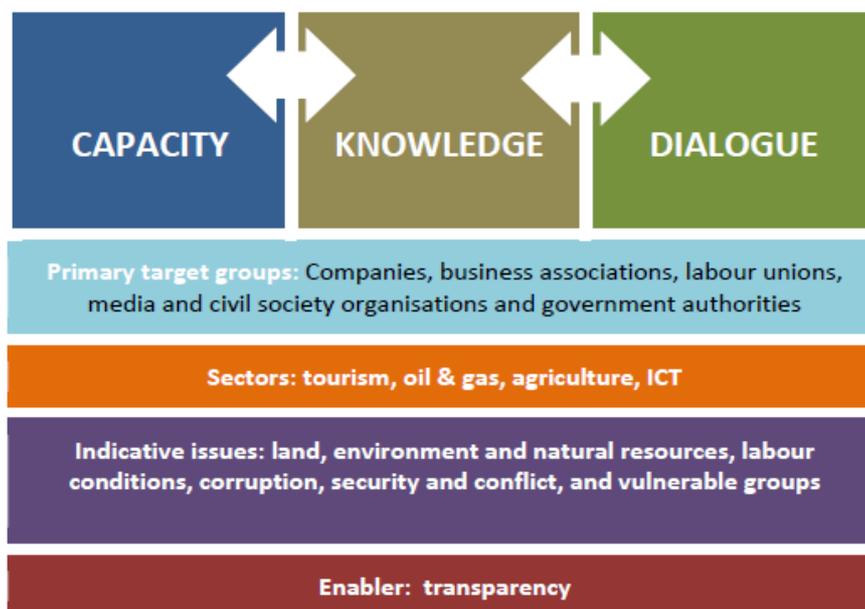
- DFID provides about 55% of funding. The UK is one of the largest donors of development and humanitarian assistance to Myanmar: DFID's commitment for 2011-2016 is £291m. Improving democratic governance and accountability is one of the five pillars of DFID's engagement in the country.
- Danida provides about 19% of funding. Its support to the MCRB, channelled through the IHRB, is part of a broader programme also including the International Commission of Jurists (regulatory component) and the International Labour Organisation (industry development component). In this programme the MCRB's focus is the development of responsible business practices by the private sector. This programme is due to come to an end in 2015 but DANIDA has granted a no-cost extension to 2016.
- Norway provides about 11% of funding, the Netherlands about 8%, Switzerland about 4% and Ireland about 3%.

At the time of our review, the MCRB was discussing the possibility of two years of funding also being secured from Canada's Department of Foreign Affairs, Trade and Development (DFATD). This contribution has yet to be confirmed pending the Canadian elections in October 2015.

### **3.5 Logframe and reporting**

In late September 2014, the MCRB issued a revised Programme Outline and Logframe as agreed with its donor group. The MCRB provides regular quarterly and annual reports to donors based on this logframe. The logframe is organised around a Results Chain linking the MCRB's activities to programme outputs and outcomes, feeding into an immediate development objective involving the promotion of responsible business conduct. The logframe is further divided into three themes, which broadly reflect the Centre's fields of work: capacity (subdivided into business, government and civil society); knowledge; and dialogue. The broader outcome-level logframe is further refined, at output level, into sub-logframes addressing each of the five themes and sub-themes. The indicators and

targets of the main (outcome-level) logframe are reflected, with further detail, in the output-level sub-logframes, which set out the specific field of activities engaged in by the staff.



The above diagram, drawn from the MCRB's September 2014 programme document, points to the way that capacity, knowledge and dialogue feed into each other. As this diagram suggests, the Centre's design is built around the production and dissemination of knowledge in the form of research such as the SWIAs, surveys and assessments such as *Pwint Thit Sa* (see Section 5 below for an explanation of these activities), etc. The design further calls on the Centre to convey this knowledge to relevant stakeholders (the private sector, civil society and government) to foster their responsible business capacity, taking into account their respective roles (government as source of legislation, regulation and supervision; civil society as advocate for citizens and defender of human rights; and the private sector as business actor). The third prong is the role of the Centre as a promoter of on-going dialogue and debate among the stakeholders, a kind of catalyst function encouraging further change. This review will argue that the design is extremely relevant and has essentially delivered the expected outcomes, or is on track to deliver them within the programme period.

**Reporting.** The MCRB reports to donors every quarter, and in a different format on an annual basis. The quarterly reports, despite slight variations, are all structured in a similar way. They contain a brief narrative overview of the past quarter's main highlights, further described in a detailed activity report that forms the bulk of the report (15 out of 27 pages in Q1 2015 for example). Other items include a forward look at key events in the subsequent quarter; risk management issues (previous quarter); financial and staff management; expenditure in previous quarter; review of cross-sector issues (gender, environment); and summary of media coverage. An annex lists relevant publications by the MCRB, or to which MCRB staff contributed.

The annual reports present information in a somewhat different format: a narrative summary and financial report are unsurprisingly found at the start (8 pages out of 27 for the report of calendar 2014), followed by reviews on monitoring and evaluation; cross-cutting themes; sustainability; and challenges and lessons learnt. This is followed by a summary of activities, results and progress which, like its quarterly equivalent, makes up about half the report's length, and financial data sheets (presumably tailored to each donor according to their contribution and formatting requirement).

## 4. Myanmar in reform: what has changed, and what has not?

As discussed above, the establishment of the MCRB took place in a particular political context: the launch of Myanmar's reforms created a "moment" when there was both an opportunity and a need for civil society engagement on the theme of responsible business. Two years on, the question arises whether this "moment" has now passed.

This section reviews the political and social environment within which the MCRB has been operating. The objective is first to set the context both for our analysis of the MCRB's achievements to date (Section 5), our assessment of impacts (Section 6) and our review of future challenges (section 7).

Our overall argument is that the MCRB and its international partners – as well as the donors who support the centre – need to be prepared for an uneven and at times turbulent political process. Nevertheless, in almost all scenarios, there will be opportunities for the MCRB to make constructive contributions that will enhance the environment for responsible business, and thus improve the lives of ordinary people. The MCRB's original mandate remains entirely valid.

### 4.1 Political context

#### Political turbulence and international expectations

International expectations of Myanmar have fluctuated widely, and will continue to do so, to an extent that is only partly realistic:

- In the early stages of the reform progress, widespread delight at the apparent speed of change contributed to a degree of "irrational exuberance".
- By 2014 it was common to read headlines such as the *Financial Times'* "No fairytale ending for poor, divided Myanmar".
- On 13 August 2015, as we were drafting this report, news came through that parliamentary speaker Shwe Mann had been removed from his position as chairman of the dominant Union Solidarity and Development Party (USDP) following an intervention by government security forces at the party's offices. Shwe Mann had previously presented himself as a candidate for the national Presidency: his ousting therefore serves as a reminder of the potentially volatile nature of Myanmar politics.

Clearly, there are more and less favourable scenarios for the country's future political and economic development. However, we expect the broad trends of current private sector development policy to continue because, regardless of who is "in" and "out" in the upper echelons of power, there is little practical alternative.

These broad trends include greater opening up to international companies and a desire to adopt international standards. They also include a continuing determination by leading figures who benefited from the opaque business procedures of the previous military regime to protect their interests with little formal accountability or transparency.

The environment for responsible business will therefore remain markedly more enabling than in the past, but not universally so. There is ample scope for abuse by both new entrants and established commercial players, with adverse consequences for communities, small companies and workers. The uneven nature of the reform process in turn means that the MCRB will need to exercise a high degree of skill in deciding where to focus its attention.

## A continued transition

The need for skill in determining the MCRB's focus is all the more important because Myanmar faces deep-seated political and economic problems that – even in the most optimistic scenarios – will take at least a decade to address, more likely two or three. These include:

- *Constitutional reform and the parliamentary process.* At the time of writing, the main focus of attention is on the November 2015 parliamentary elections and the indirect presidential elections that will follow. The current and future political role of the armed forces remains a central issue.
- *The ethnic minorities and past and future conflict.* The government is trying to secure a nationwide ceasefire. If it succeeds, this will no doubt be a significant achievement, but it represents one stage in a long-term peace-building process, not its conclusion. The fundamental political questions concerning the balance of power between the centre and the regions dominated by ethnic minorities still need to be addressed.

In some cases, conflicts have been “frozen”; in others they are still “hot” or “simmering”. Each region and conflict is different. The Rohingya situation in Rakhine state is currently particularly fraught, with actual and potential repercussions for Muslim/Buddhist communal relations in the rest of the country.

- *Devolution.* State and regional administrations will in any case be granted more decision-making power than they have previously enjoyed: they need to develop the capacities and skills to exercise this power responsibly.
- *Regulatory reform.* The present administration has worked hard to push through a wide-ranging agenda before the elections. Many of the new laws will need to be reviewed and revised sooner rather than later, both in the light of experience and to compensate for over-hasty drafting. One likely example that came up in our interviews is labour law.
- *Lack of capacity.* This particular cross-cutting issue applies across all sectors: government, private sector and civil society. In government circles it applies both in Naypyidaw, the national capital, and – still more – in the regions.

## 4.2 Commercial opportunities and constraints

As noted above, the irrational exuberance of 2012 and early 2013 has subsided. Many international companies are waiting to see what happens in the elections, in the unrealistic expectation that these will bring some form of resolution to current political uncertainties. Regardless, the fundamental truths remain: Myanmar has been a rich country in the past and may be again. However, this will not happen without sustained effort by a range of actors over an extended period.

Meanwhile, commercial opportunities naturally vary widely according to sector (which in turn means that the MCRB's sector-specific approach to the SWIAs is particularly appropriate). However, there are a number of cross-cutting themes that have a direct impact on both the commercial and the human rights agendas. In addition to the all-pervasive theme of lack of capacity, these include:

- *Weak transport, communications and energy infrastructure*
- *Regulatory uncertainty.* As noted above, the reform process is incomplete.
- *Corruption.* Weak governance structures contribute to the perception that corruption is widespread.
- *Conflict.* Many of the most attractive natural resources are in conflict-affected areas.

- *Land.* Controversies over access to land and land title affect both rural and urban areas (as discussed in one of the MCRB's recent publications).
- *Labour practices.* In the recent past, Myanmar was notorious for forced labour practices, e.g. for road construction. Now the focus has shifted to labour practices in factories and other forms of paid employment.
- *Business partners.* The selection of the right business partner touches on a number of different kinds of risk – political risk, human rights risk (for example in relation to suppliers), reputational risk. Western, Asian and local companies vary widely in their risk appetites.

### **4.3 Opportunities and constraints for civil society**

The reform process has created a similar range of opportunities, along with continuing constraints, for both international NGOs and local civil society. During the SLORC and SPDC regimes there was very little scope for independent civil society at all. The fact that CSOs are now able to operate relatively (though still not completely) freely is itself a major change.

One key opportunity for civil society is the availability of enhanced funding. A number of donors have introduced (or are introducing) civil society support schemes designed to fund civil society projects. Grant procedures sometimes encourage partnerships between Myanmar and international NGOs, thus potentially contributing to developing organisations' project management capacity, and institutional development. Although donors' funding schemes are and will remain insufficient to meet all of civil society's needs, they are likely to contribute over time to the strengthening of a number of NGO actors. This is, however, a medium to long-term prospect.

In the shorter term civil society organisations, including the MCRB, are likely to continue facing significant constraints. These include:

- Limited capacity on their own part;
- Limited absorptive capacity on the part of those that they are trying to influence, especially in the case of government and local business;
- An unstable political environment where the exercise of rights and freedoms is at constant risk.

### **4.4 Responsible business, human rights and the development agenda**

Against this background, the fundamental premises that led to the foundation of the MCRB two years ago remain entirely valid. Over the last two years, the Myanmar government and local as well as international businesses can point to significant achievements and, as will be discussed in the next section, the MCRB can claim great credit for its own contributions. However, the outstanding agenda of problems to be tackled and – above all – of building capacity in all sectors (government, business and civil society) is enormous.

In the long term the MCRB may aspire to become redundant because there is no longer a need for its particular expertise and contributions. There is no prospect of this happening any time soon.

## 5. MCRB activities and achievements

In the first two years of its existence the MCRB has undertaken a broad range of activities in accordance with its mandate and in fulfilment of the aims outlined in its logframe. It is important to emphasise that these activities complemented and reinforced each other. For example, the Sector-Wide Impact Assessments provided a body of knowledge and a demonstration of expertise that could be used as a basis for dialogue with the government, the private sector and CSOs. At the same time, they provided a basis for the MCRB's training workshops as well as advice to individual companies.

### 5.1 Sector-Wide Impact Assessments

The MCRB has published three Sector-Wide Impact Assessments (SWIAs):

- On oil and gas, primarily supported by the IHRB (September 2014);
- On tourism supported by the DIHR (February 2015); and
- On Information and Communications Technology (ICT), undertaken in partnership with the IHRB. This was released in draft for consultation purposes in June and published in September 2015.

The SWIA reports are the MCRB's flagship publications. They serve to establish the MCRB's credibility by providing considered, research-based analysis to support detailed recommendations to government, business and civil society. They are of strategic importance in several respects:

- They focus on sectors that apply to a range of geographical regions across Myanmar and are critically important for the national economy with enormous potential to increase wealth and improve human development.
- At the same time, the sectors covered by the SWIAs are each associated with complex human rights risks which have the potential to wipe out positive impacts

The MCRB's objective is therefore to link the SWIAs' evidence-gathering to the international responsible business agenda as defined by the UN Guiding Principles and other human rights standards. There is no doubt that the SWIAs represent a major achievement: the question has been how to put them to best effect, ensuring that their findings are absorbed and their recommendations implemented.

### Choice of sectors

The MCRB's decision to focus on individual sectors makes immediate sense because this enables it to move swiftly beyond responsible business generalities and focus on specific, concrete issues that require detailed attention.

Each of the sectors chosen has its own dynamics:

- *Oil and gas* is a natural first choice. Since the 1990s the sector has been the target of a series of campaigns led by international NGOs, linking it with allegations of forced labour, community displacement and environmental pollution. At the same time it has been a major source of foreign exchange (raising questions about how the government has spent the income that it has received). It is also the sector that has attracted the highest levels of foreign investment, with continued excitement at the possibility of developing new fields, notably of offshore gas.

In 2014 Myanmar became a candidate country for the Extractive Industries Transparency Initiative (EITI), an international multi-stakeholder initiative whereby governments undertake

to “publish what the companies pay” in the sector. Myanmar’s EITI application is still work in progress, but represents an important indicator of willingness to consider substantive reform.

- *Tourism* in Myanmar likewise has a long history of controversy, with international campaign groups campaigning for a boycott of the country as long as the military regime was in power. Now that the boycott campaign has subsided, there is every prospect of a major expansion of the tourism industry in Myanmar, but this raises a new set of problems.

The tourism sector differs from oil and gas in that it is open to a much wider set of enterprises ranging from major international hotels to small family-owned guest-houses and individual tourist guides operating independently. It has the potential to make a major contribution to livelihoods. However, poorly planned tourism projects can easily contribute to many forms of environmental degradation as well as adverse social impacts affecting human rights, such as an increase in prostitution.

- The *ICT* sector is relatively new in Myanmar, but is already changing the social and economic environment in far-reaching ways. One of the most important facets of the sector is the expansion of the mobile phone network, initially spearheaded by two international companies, Telenor (Norway) and Ooredoo (Qatar). Improved communications will bring largely positive social changes in both rural and urban areas but, like other businesses, mobile phone companies need to monitor their human rights impacts in areas such as land acquisition and dealing with suppliers.

Other ICT issues related to responsible business and human rights include the use of “hate speech” in online media (a major issue at a time of increased tension between the Buddhist and Muslim communities, especially in western Myanmar) and the circumstances in which it is and is not appropriate for the authorities to exercise a right of “lawful interception” on phone, email and social media messages.<sup>8</sup>

The MCRB originally planned to undertake a fourth SWIA on *agriculture*, at first sight an area of obvious interest given that this sector is still the major source of livelihoods for a large part of the Myanmar population. However, the single most sensitive human rights issue in this sector concerns land acquisition, a topic that is well-covered by other organisations, as well as in MCRB’s two SWIAs and its Land Briefing Paper (see below). It is not clear that an agriculture SWIA would make enough of a distinctive contribution to justify the effort involved in producing it, although this should be reconsidered in 2016.

The MCRB is instead prioritising proposals to prepare its fourth SWIA on the *mining* sector. This would complement oil and gas, in that mining is another extractive industry and – perhaps even more than oil and gas – has been widely associated with allegations of environmental pollution and forced community displacement (e.g. at the Letpadaung mine in Sagaing). However, mining has a number of distinctive features of its own, including the fact that it is open to a much broader range of business players, from large international companies to small-scale and artisanal miners.

## **Methodology**

The methodology used in the preparation of the SWIA reports has been innovative in a number of important respects. To the extent that these are replicable in other countries (we understand that IHRB, building on the lessons of the work in Myanmar, is currently undertaking a mining SWIA in

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<sup>8</sup> These issues affect all companies in the ICT sector, not just those based in Myanmar.

Colombia, for example<sup>9</sup>), the SWIA approach developed by IHRB, DIHR and MCRB has been making an international contribution, not just in Myanmar. To boost promotion of the SWIA approach in Myanmar, the MCRB has made full details of the methodology available on its website<sup>10</sup> as well as some of the questionnaires and factsheets it has used, in both English and Burmese.

### **Using the UN Guiding Principles framework**

The first key feature of the SWIAs is that they refer to the UN Guiding Principles on Business and Human Rights for their structural framework. The Guiding Principles, which are high-level by their nature, present a challenge of implementation on the ground. The SWIAs respond to this challenge in that they are concerned with specific sectors in a specific set of places.

### **Sectors not individual companies**

Secondly, though, the SWIAs remain broad-based in that they do not focus in depth on particular companies and projects in isolation. To the extent that they refer to specific cases, they tend to do so obliquely and in summary rather than in detail, examining the typical impacts of projects, cumulative effects of projects over time and geographical locations as well as their aggregate impacts across the sector and in relation to the country as a whole. They also take into account the crucial bearing of policy, legislation and regulation (or its relative absence or insufficiency) on planning and conduct within the sector. SWIAs therefore prepare the way for companies to conduct their own human rights impact assessments (HRIAs) rather than removing the need to do so. At the same time, they provide vital insights for all stakeholders – including the state, investors and civil society – on the wider framework needed to promote responsible business conduct.

This comprehensive approach has the advantage that it makes it possible for the MCRB to make policy recommendations that are sector-specific enough to be credible, without being distracted by the controversies surrounding individual companies. Individual HRIAs in any case need to be highly local and specific. Another advantage is that, unlike many impact assessments, the findings of SWIAs are made public, thus providing a greater range of stakeholders with the information they need to promote beneficial policies and practices.

### **Field research**

The SWIAs are based on on-the-ground field research using specially recruited teams who are trained for the purpose. The field research proved to be one of the most exciting aspects of the project, but also the most challenging.

In the oil and gas SWIA the most difficult region proved to be Magwe in the country's dry zone heartland, rather than Rakhine or northern Shan state as might have been expected. The reason was that although the research team had formal authorisation for their work, this was not always recognised by local officials. On the other hand, the security of the field researchers was a real concern in Shan state (and may be again in some the geographical areas of particular interest for mining), and team leaders took particular care to draw on the best available local advice when planning their work.

A significant benefit of the fieldwork has been the training of Myanmar researchers in new skills, which may be applied to similar projects elsewhere. Aung Kyaw Soe, the former Oil and Gas SWIA team leader, has stayed on with MCRB to work on oil and gas follow-up, and on the planned mining SWIA.

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<sup>9</sup> See <http://www.ihrb.org/news/mining-initiative-colombia.html>

<sup>10</sup> See <http://www.myanmar-responsiblebusiness.org/swia/>

## **Role and contribution of the DIHR and the IHRB**

The combination of Myanmar-based field research and the international sector and methodological expertise provided by MCRB's international partners is one of the most powerful aspects of the SWIAs, with much of the investment involved in the contribution of IHRB and DIHR taking place in Myanmar itself.

All the reports have been intensely collaborative. Plans for implementing the SWIA methodology in Myanmar drew on the IHRB and the DIHR's long-standing expertise in human rights impact assessment, and adapted impact assessment approaches to an aggregated sector level as well as the Myanmar context. The MCRB in-country team led on the field engagement side while the IHRB and DIHR led on the policy and legal framework analysis, field team training, analysis of field findings, and ultimate drafting of the SWIAs. Contributors included – among others – Margaret Wachenfeld (IHRB) on legal issues in all three reports as well as Donna Guest (IHRB) and Haley St Dennis (IHRB); Tulika Bansal (DIHR) and Elin Wrzoncki (DIHR) on tourism; and Lucy Purdon (IHRB) on ICT. The DIHR will coordinate the provision of expertise in relation to the planned mining SWIA.

The reports also benefited from external input, for example from specialists in the Hanns Seidel Foundation and Tourism Transparency in relation to tourism, and Peace Nexus for conflict sensitivity.

## **Public consultations**

Drafts of all three SWIA reports have been first presented online and to public consultations with businesses and CSOs in Yangon and internationally. These consultations have in themselves been an important form of public engagement with key stakeholders.

## **SWIA recommendations**

All three reports include detailed recommendations to target audiences ranging from government departments to companies, CSOs, and individual tourists as well as users of ICT services. The recommendations run to 25 pages each in the ones on oil and gas and on tourism, and 23 in the draft ICT report, and therefore represent a major and particularly important component of the reports as a whole. The topics addressed range from the wording of government regulations, to the conduct of environmental and social impact assessments, and how to stay safe from cyber-fraudsters.

## **Dissemination**

The reports have been made available in hard copy and on the MCRB's website. By mid-August 2015 there had been 1,465 downloads of the oil and gas SWIA as well as 365 downloads of an executive summary (in English). Similarly, there had been 953 downloads of the tourism SWIA as well as 875 downloads of the Myanmar-language executive summary, and 569 of the English-language version. The printed copies of the reports have been widely distributed, including to key decision-makers in Yangon.

## ***Making the best use of the SWIAs***

Paradoxically, the very thoroughness of the SWIAs creates a problem of its own. They each weigh in at more than 200 pages. Executive summaries are available in the Myanmar language, but for now the body of the reports is available only in English. So who will actually read them?

In considering answers, it is important to bear two things in mind:

- First, the importance of the SWIAs lies not only in the final products but also in the process of engagement, including the field research, the interviews and the public consultations. These

in themselves serve to publicise and promote the importance of the responsible business agenda.

- Second, the SWIAs are themselves part of a wider process that serves to demonstrate the MCRB's authority, and then to lead on to other forms of engagement including training workshops and submissions to government consultations (on these points see below). The impact of MCRB's advocacy will often be cumulative, the result of a combination of initiatives rather than any single one.

When reviewing responses, it should be noted that the most important target audiences – business and government – are not necessarily going to acknowledge influence from external sources. Much of the feedback, including comments collected by this review team, is therefore bound to be anecdotal.

On the business side, in response to a question from the review team, a representative from a leading Western company made the point that the most important outcome of the oil and gas SWIA had been to establish the MCRB's credibility. On first hearing, this remark was disappointing: we had hoped for something more specific. However, it came in the context of a highly favourable evaluation of the MCRB's work as a whole, including the comment that the company's Board welcomed the MCRB's contributions and took them very seriously. An enhancement of the MCRB's credibility – including in government circles – is itself a major achievement because it places the MCRB in a strong position for further advocacy.

Responses to the MCRB Stakeholder Survey give further pointers:

“Results of the Oil and Gas Sector-Wide Impact Assessment and draft guidelines resulting therefrom used as a guide for planning future operations and impact assessment requirements” (from a junior oil and gas company).

“Am currently reading the Myanmar Oil and Gas Sector Wide Impact Assessment and am finding the laws/regulations summaries helpful” (from an investor specialising on smaller companies in the energy sector).

“Used oil and gas assessment as input in a needs assessment relating to the implementation of the Environmental Conservation Law in Myanmar” (from a European-based think-tank).

There were several more general comments in the Stakeholder Survey to the effect that respondents had used MCRB publications (without naming specific ones) to frame their policies. A number of specialist advisors, for example law firms, apparently have distributed SWIAs to their own clients. We understand that Spectrum, a Myanmar-based organisation specialising in sustainable development, has distributed the oil and gas and tourism SWIAs widely in its own presentations and workshops.

On a somewhat similar note, we understand that a number of tourism companies asked for a briefing on the findings of the tourism SWIA even before its publication and before their own engagement with the Myanmar market. However, despite follow up from – in this case – the DIHR, they were reluctant to share information on any decisions that they had made as a result of the SWIA.

### ***Spreading the message still further***

In discussions with the review team, MCRB director Vicky Bowman made the point that she did not envisage the production of an indefinite series of SWIAs, with a succession of new volumes emerging at regular intervals: they served an important purpose while the MCRB was establishing itself and introducing the responsible business agenda. However, SWIAs might not be the most appropriate medium for follow-up work on all sectors in the economy. We support this view (on other follow-up

approaches see below). Nevertheless, there is ample scope for extracting further benefit from existing SWIAs. Three particular points came up in our discussions:

- The first concerns Myanmar-language translations. One member of the MCRB SWIA team reported that key informants had been disappointed that their own contributions did not find their way into the final report. In this case their contributions *were* in the report, but in the full-length English version rather than the Myanmar executive summary. We understand that an external consultant has in fact prepared a Myanmar-language draft of the full text of the Oil and Gas SWIA. However, many key terms do not have obvious translations (the meaning of the term “grievance mechanisms” may be unfamiliar to many readers even in English), and the translation still needs extensive revision by the MCRB team before it can be launched.
- The second concerns presentation. All the reports cover a broad range of topics, many of which might readily be covered in shorter, self-standing publications. The ICT report is an obvious example: it includes discussions on, for instance, hate speech and Internet security as well as lawful intercept and land acquisition when constructing transmission towers. The MCRB’s publication on *Land* (see below) is a useful example of a focused publication on a specific topic that has been well received.
- The third, related point concerns updates to the SWIAs. All the SWIAs relate to industries that are in a constant state of evolution. In due course, it may be necessary to issue an update but, if so, the updates need not take the form of a re-issuing of the entire volume. A focused update on a specific sub-topic may be more effective from both a cost and a communications point of view.

The issue of updating the SWIAs may also be related to expectations on the part of other stakeholders, including future investors. From the point of view of a company planning an investment in, say, 2017, a SWIA dated 2014 or 2015 may seem irrelevant, while current stakeholders might simply expect the MCRB to keep its SWIAs updated systematically. Targeted updates that address a narrow range of issues would help ensure that the SWIAs as a whole remain seen as relevant

None of this contradicts the main point: the SWIAs provide a powerful foundation, an initial investment on which the MCRB will continue to build for some time to come.

Finally, as part of any future formal evaluation, it will be important for the impact of the SWIAs to be systematically considered, and in particular the degree to which recommendations to stakeholders have been taken up and acted on in ways that achieve potentially wider beneficial outcomes. The Centre could help lay the groundwork for this evaluative work by conducting a small number of case studies, during the remaining programme period, assessing how individual companies have addressed SWIA recommendations, and the extent to which these were implemented in practice.

## ***5.2 Pwint Thit Sa/Transparency in Myanmar Enterprises***

The MCRB’s *Pwint Thit Sa/Transparency in Myanmar Enterprises (TiME)* report scores and ranks leading Myanmar companies according to the extent to which their websites included information about their commitments and practices in three areas: anti-corruption programming; organisational transparency (e.g. ownership structures); and human rights, health, safety and the environment.

The MCRB published its first Pwint Thit Sa (which means “new bud opening”) in 2014 and the second in 2015. Both reports were published in English and in Myanmar. They were cited in the *Myanmar*

*Times* and other local media. By mid-August 2015, the 2015 Pwint Thit Sa report (published a month earlier) had been downloaded 411 times from the MCRB website.

The Pwint Thit Sa reports have supported the MCRB's wide agenda in two respects:

- The scoring approach is readily understandable and in Myanmar, as in the rest of the world, – journalists love rankings. As will be discussed below, Pwint Thit Sa introduces an element of competition between companies.
- Pwint Thit Sa provides a target set of objectives on core policy issues to which companies should aspire.

Our overall assessment is that Pwint Thit Sa is a useful tool that MCRB has exploited creatively and imaginatively as part of its wider corporate responsibility programme. This tool has intrinsic limitations, and the MCRB is well aware of these. However, in combination with other MCRB activities, it has played a valuable role in raising awareness among Myanmar companies, and in helping them set their responsible business objectives in a transparent manner.

### **The concept**

The MCRB's project is an innovative adaptation of an approach first developed by the international anti-corruption NGO Transparency International (TI). In recent years TI has published a series of reports ranking companies according to their "transparency in corporate reporting". The principle is that companies should issue public information on their anti-corruption programmes and organisational structures, as well as providing country-by-country financial information. Companies are scored according to the extent to which they publicly demonstrate that they meet a prescribed set of criteria. Non-public information does not qualify for inclusion.

The MCRB has adapted TI's original concept by adding the new category of "human rights, health, safety and the environment". Since most Myanmar companies do not operate internationally, Pwint Thit Sa does not include a category for country-by-country financial information.

The MCRB has selected 100 companies for inclusion in Pwint Thit Sa on the basis of their standing in the Internal Revenue Department's list of top taxpayers for 2013/2014, with the addition of some companies who, while not major taxpayers, "have a significant role in the Myanmar economy."

The principle behind Pwint Thit Sa is that public reporting is a key aspect of corporate responsibility, making it easier to hold companies to account according to the extent that they do and do not live up to their professed standards. From the companies' perspective, an additional incentive is that companies that can demonstrate their adherence to high standards may find it easier to attract high-quality international partners.

### **A link to workshops and training**

Pwint Thit Sa has provided a useful "hook" on which to hang training workshops on related topics (see below). These include Anti-Corruption Programmes (September 2014), Human Rights Policy and Reporting (October and November 2014) and Grievance Mechanisms (June 2015). The implicit message is: "Pwint Thit Sa asks whether you have these measures in place: the MCRB will tell you what you need to do". These are all topics that the MCRB would wish to address in any case: Pwint Thit Sa gives companies an extra incentive for responding.

## Company' responses

### *The best...*

Pwint Thit Sa demonstrates how the MCRB can serve as a creative catalyst, inspiring companies that are already committed to best practice on information disclosure relating to responsible business practices to perform better. This is in itself a significant achievement given that the owners of several of the top-performing companies in the survey have been – or still are – on the US SDN sanctions list.

The review team interviewed representatives from three of the companies included in the Pwint Thit Sa report, and met a fourth informally at one of the MCRB's workshops. The common theme was that Pwint Thit Sa had created a "virtuous competition" with leading companies competing with each other to achieve a high ranking and to outdo their rivals.<sup>11</sup>

One interviewee specifically used the word "catalyst", stating that Pwint Thit Sa had provided the company with an incentive to move faster on its existing course. Another interviewee noted that Pwint Thit Sa was helpful because its 35 questions set a clear, distilled objective of what the company needed to achieve. He then went into some detail on the company's revised approach to human rights, noting with apparent surprise that this was a complex topic, and that it had taken four months of hard work to achieve internal consensus on the company's revised procedures. From an international perspective, the months of hard work should be considered normal, but his observation at least serves as an indicator of his company's seriousness.

The "virtuous competition" is reflected in the 2015 Pwint Thit Sa scores and rankings. For example, the KBZ group of companies achieved the top score of 6.63 points in 2014. In 2015, they improved their score to 8.07 (on a slightly modified, tighter set of criteria), but only made third place. The top-performing company was the Serge Pun and Associates Group, which moved from ninth place with a score of 3.24 in 2014, to first place with a score of 9.28 in 2015. The Max Myanmar Group – whose chairman is still on the SDN list – comes second, having improved its score from 5.8 to 9.23.

### *... and the rest*

These improvements in score are highly positive, and the MCRB – as well as the companies themselves – can claim a large part of the credit. However, it is also notable that the competition is largely confined to a group of a dozen or so leading companies, and that there is a sharp contrast already between the companies in first and second place and those who come 13<sup>th</sup> (Golden Key with a score of 1.84) and 14<sup>th</sup> (Myanmar Citizens Bank with a score of 1.79).

Some 40 companies on the list provide little or no corporate governance or sustainability information, and another 39 have no public websites and therefore automatically score zero. The companies that provide limited public information include the military-owned conglomerate Union of Myanmar Economic Holdings, which achieves a total score of 0.04 on account of the website of one of its subsidiaries.

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<sup>11</sup> Public reporting has perhaps tended to reinforce the competitive element. For example, see the *Myanmar Times* report <http://www.mmtimes.com/index.php/business/15593-spa-group-tops-web-transparency-report.html>.

### **Limitations to the concept: is it real?**

As discussed above Pwint Thit Sa is based on the concept that transparency in corporate policy is good in itself. If companies have good policies, and publish them, it is easier to hold them to account. However, its limitations are clear: company policy does not always translate into real-life implementation. Both TI and the MCRB are explicit about this limitation, but the point is sometimes misunderstood, or understood only in part.

Even the top-performing companies raised questions about the extent to which the company reports assessed for Pwint Thit Sa reflected reality. For example, one company representative noted that his firm did not yet feel able to announce it had implemented a total ban on “facilitation payments” and was marked down accordingly: other companies might be bold enough to declare such a ban without putting it into practice. Another interviewee acknowledged somewhat defensively that his company’s work on human rights policies might be seen as a form of window-dressing but, if so, it would be like “window-dressing the Empire State Building”. His point was that the company’s work was substantive, not merely a public relations exercise.

Two respondents to the MCRB Stakeholder Survey were rather harsher in their assessments:

- “I was disappointed at the methodology of assessing the level of business transparency based on the company websites. Having an investor that is listed in Singapore, we are open to constant audits... and yet the company ranked lower in transparency than those that are well known to operate in the traditional way. This made me question some of the accuracy in the MCRB’s research.”
- “Cannot rely on the report totally because [it is] only based on online data.”

Such comments need to be taken seriously to the extent that they point to the possibility of wider misunderstanding.

The MCRB has sought to provide its own “reality check” by encouraging CSOs to report cases where companies on the Pwint Thit Sa list have failed to live up to corporate responsibility standards, and it organised a workshop to present the issues in February 2015. In practice the CSO response proved limited, and the MCRB’s compromise solution for the purposes of the 2015 report was to include an appendix citing press reports on controversies relating to the companies’ activities. The companies were invited to respond, including by providing corrections to any misreporting, but only the two companies that headed the list actually did so.

### ***Future plans***

Despite the known limitations of the Pwint Thit Sa concept, it has proved to be an effective tool for raising awareness of the responsible business agenda. In the course of time, Myanmar may “outgrow” the concept as transparent reporting becomes more mainstream, but this will not be for some time to come.

The MCRB plans to repeat the exercise in 2016, and is considering the possibility of including a selection of smaller Myanmar companies that fall outside its current policy of focussing on the top tax-payers but have volunteered to be benchmarked. This would be a worthwhile extension.

More could be done. For example, the MCRB could study how individual companies that have made it to the top 5 or 10 of the ranking have changed in practice (if at all), as well as in policy or public image, in the years since the start of Pwint Thit Sa. Such research on individual companies would of

course require the companies' own cooperation, or at least some degree of assent. It could potentially assist the MCRB in identifying new ways of interacting with companies.<sup>12</sup>

### **5.3 Workshops and training sessions on responsible business issues**

The MCRB's workshops and training sessions link directly to the SWIAs and Pwint Thit Sa in that they give practical advice on how to implement the responsible business policies that the Centre recommends. They therefore contribute directly to the MCRB's stated objectives of sharing knowledge, enhancing capacity and – to the extent that representatives of different sectors take part – promoting dialogue.

In the first year of its existence, the MCRB adopted a strategy of – where possible - working with other organisations to contribute to their workshops and training sessions rather than organising its own. This approach has in part been a pragmatic response to 'workshop overload' in contemporary Yangon: it also saved money.

The MCRB continues to contribute to other organisations' workshops and conferences both in Myanmar and abroad. For example, in December 2014, Vicky Bowman chaired a panel on responsible investment at the Yangon Institute of Economics. In March 2015, the centre contributed a panel on human rights and ICT to the RightsCon Southeast Asia Conference in Manila, and in late July it made a contribution on responsible tourism to the First International Conference on Burma/Myanmar Studies held in Chiang Mai.

At the same time, the MCRB has been hosting its own capacity-building workshops to follow up and reinforce the key learning points from the SWIAs and the Pwint Thit Sa report. These have included sessions on:

- Human Rights Policy - Best Practice on held in October 2014;
- Human Rights Reporting Frameworks, November 2014;
- Environmental and Social Impact Assessment in Myanmar's Oil and Gas Sector, January 2015;
- Community Engagement in the Extractive Sectors, January 2015;
- Operational Grievance Mechanisms, 6 June 2015.

The workshops are free of charge to invited participants. Summaries of the discussions, presentations and other background material and tools are posted on the MCRB website.

A member of the review team attended part of the grievance mechanisms workshop in June. The feedback then and in subsequent interviews was uniformly positive. Representative comments from Myanmar-based companies in the MCRB survey include:

- "We used the knowledge from MCRB workshops to draft our group-wide Code of Conduct."
- "We learned more about UN Guiding Principles from a MCRB capacity building workshop."
- "I sent one of my staff to participate in MCRB's workshop on grievance mechanisms – this was highly beneficial for him, and he will absolutely use the knowledge gained that day in his work..."
- "We have used the knowledge gained through MCRB publications in drafting anti-corruption and grievance mechanism policy procedures for our company."

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<sup>12</sup> This research could also help develop a better understanding of the way the MCRB has influenced companies' actions. This could contribute to assessing the Centre's impact in the context of the final evaluation of the current MCRB programming phase, due to be completed at the end of 2016. See additional discussion in section 6.2.

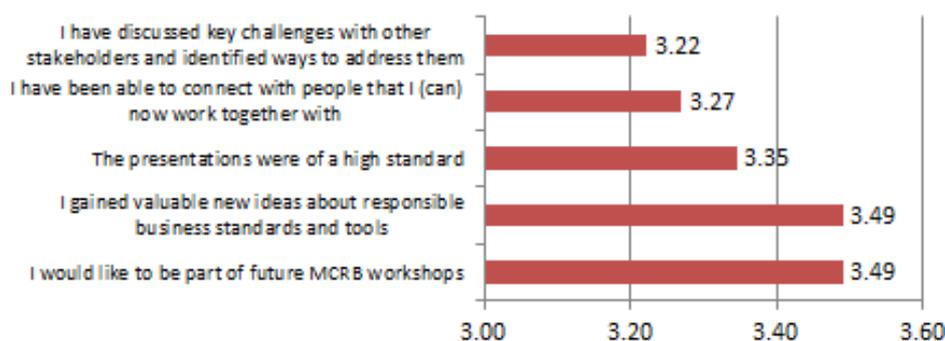
It should be noted that two of these comments point to specific action points relating to the drafting of company policies and procedures.

The workshops are also important as a source of contacts for the participants. For example, an international company manager interviewed for this review noted that he had been able to meet CSO representatives at one of the workshops. Since the workshop he had been able to build in the initial introduction for a sustained dialogue.

Respondents to the MCRB Stakeholder Survey likewise gave a favourable evaluation of the Centre’s workshops, as summarised in the chart below.

**Evaluations by MCRB workshop participants: do you agree or disagree with the following statements?**

(55 responses)



Strongly agree	Agree	Neither agree/disagree	disagree
5	3	1	0

**5.4 Submissions to government consultations**

Submissions to government consultations are a key part of the MCRB’s knowledge and capacity building for government with a view to creating the conditions for an enabling environment for responsible business.

**Public consultations**

By sharp contrast with the practice of previous administrations, the present Myanmar government has engaged in a number of public consultations before issuing new laws and regulations. From a business and CSO perspective, the conduct of these consultations is not always ideal. In particular they are often – though not always – held in Naypyidaw and at short notice. Nevertheless, they offer an opportunity for engagement: the MCRB has sought to make the most of them and many of its most important contributions lie in this area. It has also supported other NGOs and CSOs in their own advocacy.

MCRB Director Vicky Bowman notes that – rather than just criticising government drafts – the MCRB offers alternative wordings and that in a number of cases these have been accepted. Examples include:

- The wording for the standard Production Sharing Contract for oil and gas companies includes a specific requirement for companies to adhere to IFC Performance Standards and Group Environmental, Health and Safety Guidelines for Offshore Oil & Gas Development. The earlier draft contained no more than a vague reference to “international oilfield practices”, and the

lack of a specific benchmark meant that it would have been of little value when holding companies to account. MCRB's advocacy approach was developed in the Oil and Gas SWIA.

- In March 2015 the MCRB submitted comments on a draft of the Myanmar Companies Act produced by the Directorate of Investment and Company Administration (DICA). The MCRB's proposed the inclusion of wording elaborating on the meaning of "good faith", drawing on the UK Companies Act 2006 as a reference point. This suggestion has been taken up in the latest DICA draft of the proposed legislation.
- The MCRB has issued detailed comments on successive drafts of the proposed Myanmar Investment Law, together with suggested amendments. The terms of reference for the Myanmar Investment Commission in the new draft Investment Law include a clause stating that it should advise the executive and parliament on "responsible business". By contrast with the wording of the Production Sharing Contract this phrase is broad: the fact that it is included at all is an innovation both in Myanmar and – with reference to similar institutions elsewhere – internationally. Most of the MCRB's other comments have been included in the July 2015 third draft.
- An MCRB proposal on grievance mechanisms has been made to DICA (following a public consultation between DICA and civil society groups in May 2015), as well as the Thilawa SEZ and the EITI multi-stakeholder Group. The MCRB has recommended that companies receiving a Myanmar Investment Commission permit should be required to publish annual sustainability reports in the Myanmar language, and that they should institute effective grievance mechanisms within six months of receiving the permits.
- In late July, the MCRB submitted comments on the draft Myanmar Telecommunications Master Plan covering issues such as transparency, universal access and service, data privacy and responsible business conduct.

On a related note regarding ICT, the Myanmar government has yet to draft its regulations concerning "lawful interception", essentially the rules surrounding surveillance of digital communications. A consultant attached to the Council of Europe is assisting with this process, and the government will run a public consultation on the draft regulations, but it is not clear when this will happen. To assist with this process, the MCRB and the IHRB have conducted research into what a "rights-respecting" lawful interception model would look like. It has published the "seven principles" of this model as an annex to the ICT SWIA. This annex has been translated into Myanmar and shared with the government and the consultant. It will also be published as a stand-alone report.

In drafting the wordings of its submissions to government, the MCRB has benefited from the previous diplomatic experience of Vicky Bowman as well as the legal expertise of IHRB director of research and legal affairs Margaret Wachenfeld, and the specialist ICT knowledge of IHRB's ICT project manager Lucy Purdon, both of whom have been working from Europe. This provides another example of the benefits of local-international cooperation, even if they occur through distance-working, which the MCRB, IHRB and DIHR have been able to achieve within their partnership.

### **Submission to the government on sand mining**

In April 2015, the MCRB wrote a detailed letter to Vice President U Nyan Tun in his capacity as Chair of the Tourism Development Central Committee to express concern about "sand mining" – the practice of scooping up sand from the beaches on an industrial scale for use on construction sites – from Ngapali Beach in southern Rakhine State. The letter was copied to the Minister of the President's Office, the Union Minister for Tourism, the Union Minister of Environmental

Conservation and Forests, and the Chief Minister of Rakhine State. The letter pointed to adverse impacts on the local environment as well as the prospects for tourism, here referring to the MCRB's tourism SWIA as part of the wider context.

The Vice President responded favourably, and confirmed that the government had ordered a halt to the mining, although it remains to be seen how far this has been observed. It therefore would be premature to say that the sand mining problem has been solved, but at least it can be said that the MCRB's submission has had some initial impact.

The MCRB's submission is an example of its ability to pick up on specific issues and to present them to government decision-makers in a style and a format to which they feel able to respond. One of our interviewees, a specialist in the tourism sector, pointed out that the letter is an example of Vicky Bowman's drafting skills, drawing on her diplomatic experience. Without these skills, the letter would have had much less impact.

## **5.5 Other publications**

### **Land Briefing Paper (March 2015)**

Land is an especially important topic in that Myanmar has a history of land seizures both before and since the current political and economic transition, and unresolved land disputes are a recurrent theme. The issue is all the more sensitive because the prospect of rapid economic development has raised the value of land in key sites. Land title should therefore be an essential element in any company due diligence relating to any major new project.

A number of respondents to the MCRB Stakeholder Survey referred to the land issue and the MCRB's advice. For example, a representative of an international manufacturing company noted that:

“[The MCRB] educated me about the risk of land ownership disputes and how to investigate these in a very practical way.”

Another respondent noted that his company's contact with the MCRB had helped it to:

“... develop internal policy to deal with Land Rights Issues.”

The *Land Briefing Paper* provides a guide to the current policy and legal framework, community concerns, government initiatives, the particular sensitivities of ethnic minorities, and a set of recommendations for companies. At 31 pages, the report is much more succinct than the SWIAs. Many of our interviewees noted that its comparative brevity – and the fact that it is focused on a single topic – meant that it was more accessible. By mid-August 2015, it had been downloaded 340 times.

The main author of the briefing paper is Donna Guest who is based with the IHRB in London but reports to the MCRB Director. She drew on advice and information from MCRB staff and local CSOs (such as the Land Core Group) as well as her Europe-based colleague Margaret Wachenfeld. The paper is therefore a further example of Myanmar/international collaboration. The next briefing paper under preparation by Donna Guest is on the Myanmar context for Indigenous Peoples and Free, Prior and Informed Consent (FPIC).

### **Human Rights Country Guide to Myanmar (April 2015)**

The *Human Rights and Business Country Guide* is another example of a collaborative project in that the initial draft was prepared by the DIHR between September and December 2014 on the basis of a template used by DIHR in other countries. It was then adapted to conditions in Myanmar by the

MCRB in consultation with local stakeholders, including businesses, civil society, trade unions, international organisations and the National Human Rights Commission. It focuses on “rights-holders at risk”, labour standards and community impacts. The report represents a substantial body of work, running to 200 pages. Its contents touch on the MCRB’s core themes and it therefore serves both as a reference source and a guide to action. By mid-August 2015 it had been downloaded 252 times.

### **Fact sheets – a by-product of the SWIAs**

The MCRB’s website includes a set of 11 bilingual fact sheets on issues such as worker housing, community consultation, access to remedy and “groups at risk”. These were first developed as guidance notes to support the SWIA process and provide succinct summaries of the relevant issues.

As noted above, the MCRB is planning to publish as a separate document the ICT SWIA annex on the characteristics of a rights-respecting lawful interception model, and we understand that the MCRB is planning to publish a further set of fact sheets on freedom of expression and privacy and surveillance. All these are good examples of the ways in which the research that goes into the SWIAs can be put to multiple uses.

### **Other reports and translations**

The MCRB’s other online publications include Burmese-language translations of the *UN Guiding Principles on Business and Human Rights*, Transparency International’s *Business Principles for Countering Bribery* and selections from the *Good Practice Survey on Operational Level Grievance Mechanisms* published by the oil and gas industry association IPIECA. Together with the Myanmar Deaf Community Development Association, the MCRB has published a bilingual guide for businesses on *CSR and Disability*. This is based on an earlier guide first published in Spain and adapted to the Myanmar context. An industry association respondent to the MCRB survey noted that his organization had:

“... distributed several dozen disabilities guides and it has influenced discussions between factory owners related to the employment of persons with disabilities.”

## ***5.6 Other forms of engagement with the private sector***

### **Briefings for international companies**

The MCRB has become a regular port of call for international companies taking their first soundings about the possibility of entering the Myanmar market. For the most part these soundings have consisted of meetings with Vicky Bowman. Company representatives interviewed by the review team expressed appreciation for the information, advice and contacts that they have developed as a result of these meetings.

The MCRB also co-chairs quarterly information-sharing meetings of “like-minded companies” held at the International Labour Organisation (ILO) offices. In addition, Vicky Bowman has contributed to ad hoc briefings to senior management of selected international companies outside Myanmar. One interviewee observed that the directors on his company board were highly sensitive to the political and reputational risks associated with their investment in Myanmar: they “took comfort” from the existence of the MCRB and the advice that it gave. This gave them greater confidence that major corporate responsibility risks would be identified and addressed, rather than ignored.

### **Participation in the Myanmar Business Forum**

Vicky Bowman has been taking part in the Natural Resources and Manufacturing Committees of the Myanmar Business Forum (MBF). The MBF has been set up by the Union of Myanmar Federation of

Chambers of Commerce and Industry (UMFCCI) with the help of technical support from the IFC. The MBF draws on the experience of similar organisations elsewhere in the region, notably the Vietnam Business Forum. Its objective is to provide a platform for structured – rather than ad hoc – business engagement with the government. MCRB’s active role in this group has provided a platform for pursuing recommendations to government around the EIA process and transparency, identified in the oil and gas SWIA, leveraging the weight of the business grouping.

### **5.7 Programme design, reporting and management**

In many ways, the MCRB is an innovation in its own right.<sup>13</sup> In the run-up to the future evaluation of MCRB at the end of its current funding phase, the reviewers believe it is worth considering whether the Centre’s programme design could be improved so as to better achieve planned results.

Although the reviewers were not asked to assess the Centre’s efficiency or value for money, they note that the MCRB has, to date, made good use of its resources. This chapter illustrates the breadth of its action as well as the quality of the outputs. In terms of expenditures, the Centre’s cost structure is comparable to that of a small think-tank, or to that of some local offices of research-based NGOs such as Transparency International, Amnesty International or Human Rights Watch: spending goes primarily to salaries and compensation for staff and consultants, and secondarily to items such as research costs, publications, seminars, etc. In this context – it being understood that professional staff and consultants require compensation commensurate with their skills and training – the Centre has provided impressive value for money. The DIHR and the IHRB have contributed to the Centre’s added value, in that they provided it with research methodologies and, in effect, with training for staff. Whatever the future direction taken by the Centre in terms of enhancing the Myanmar component of its leadership, it should certainly ensure that the research and methodological cross-fertilisation with the current “parents” be maintained, and enhanced where necessary. Conversely, it may be worth considering sharing and replicating relevant lessons from the operational model of the Centre in other contexts.

**Is the MCRB logframe appropriate?** It is, in the sense that it correctly reflects the knowledge/capacity/dialogue approach that underpins the Centre’s theory of change. These three outcomes are clearly formulated in a way that emphasises the achievement of impact. For example, the outcome concerning “knowledge” is not focused on the production of knowledge by the MCRB (though the outcome formulation refers to the knowledge being produced by the MCRB), and instead emphasises its acquisition and utilisation by business, government and civil society. A similar approach goes for capacity (focusing on the action taken by the stakeholders) and for dialogue.

This approach, by emphasising the influence that the MCRB exercises on the stakeholders, is strategically sound, but raises a key methodological challenge: it makes the assessment of the Centre’s success overly dependent on the action taken by stakeholders, and does not take sufficient account of the Centre’s own activities and strategies. For example, the achievement of the “capacity”

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<sup>13</sup> The IHRB and DIHR have both worked - and run projects - in many countries before, but the establishment of the Centre represents the first time they have worked to set up and nurture a national institution specifically dedicated to business and human rights in the developing world. Since the emergence of the MCRB, the IHRB, for example, has set up a Latin American centre for responsible business based in Colombia, and made plans to build on responsible business initiatives in Kenya in order to create a similar centre for East Africa. The reviewers understand that these efforts are at a more incipient stage in that the centres, though emerging and growing, currently run on much smaller budget and staff resources, and have more limited sector scopes. These emerging organisations, while running projects in their own country base locations, are also concerned with promoting responsible business in their respective regions, unlike MCRB, which is predominantly focused on developments within/affecting Myanmar itself.

outcome is measured on the basis of indicators that concern the actions of companies (how many of them apply responsible business practices), civil society and state actors (how many of them promote/apply these practices in relation to business), but not on the basis of steps taken by the Centre and of its strategic outlook.

The fact that the indicators emphasise the stakeholders' response to the Centre's advocacy is in many ways a good thing, in that it recognises that "real world" change is the ultimate touchstone of the worth of the Centre's efforts. Moreover, as is apparent throughout this report, the Centre's work *has* helped bring about "real world" change, and has done so to an extent greater than could have been reasonably expected at the outset. However the indicators could include additional wording that takes better account of the Centre's actions.

The approach raises the methodological difficulty of assessing the action taken by the stakeholders targeted by the Centre: business, government, and civil society/media. Assuming some degree of assessment is achieved, there is also the issue of attribution: how can the Centre know whether the action taken by the stakeholders can be attributed to its own work and influence? This section considers the appropriateness of the outcomes and indicators for the remaining programme period in view of the experience gathered to date.

**Revise the outcomes?** The three outcomes on knowledge, capacity and dialogue are appropriate to monitor and report on the strategy and activities of the Centre. There are two areas of strategic importance, however, that are not directly captured under the three outcomes: **institutional development** (work done to maintain, strengthen and further develop and maintain the Centre's capacity, including management and governance systems) and **sustainability** (work that aims at ensuring the permanence of results over time). Many of the Centre's activities have focused on these aspects: by adding a fourth outcome addressing these aspects specifically, the logframe would help recognise their strategic dimension.

It is proposed therefore to incorporate a fourth outcome into the logframe, on sustainability, which would encompass both successful continued institutional development and the enhancement of the Centre's impact, without prejudging the extent to which it is going to move towards "Myanmarisation" in the remaining programme period.

Considerable **advocacy** work is also conducted by the Centre, which may not be fully captured under the existing outcomes and indicators. It would be inappropriate to make advocacy an outcome in its own right, because it is a means to ends set out in the existing three outcomes. However, it may be beneficial in terms of programme planning for the Centre to synthesise the various strands of its advocacy activities – understood here as promoting policy action and business practice conducive to upholding human rights in ways that are in line with MCRB's commitment to impartiality – into an advocacy plan, or plans, that would make more explicit the strategic merits of the Centre's activities seeking to shape the behaviour of stakeholders.

**Assessing the achievement of outcomes: are the existing indicators appropriate?** In short, they are valuable markers, but most are too narrow and insufficiently dynamic to reflect the achievement of outcomes in a well-rounded way. The indicators are the following (logframe version September 2014):

- Knowledge outcome indicators:
  1. [Existence of] invitations to MCRB to present its knowledge at the events of others
  2. Percentage of invited stakeholders [who] participate in MCRB events, in particular Sector-Wide Impact Assessments and their follow-up;
  3. Percentage of stakeholders contacted and trained by MCRB who are aware of responsible business practices;

4. Number of times that MCRB is cited in national media.
- Capacity outcome indicators:
    1. Percentage of companies and investors engaged by the MCRB that start to adopt responsible business practices including adherence to UN Global Compact and UN Guiding Principles on Human Rights and Business;
    2. Percentage of CSOs, media, trade unions engaged by the MCRB active in promoting responsible business practices and holding business to account;
    3. Number of state actors which include responsible business principles into policies, procedures and initiatives.
  - Dialogue outcome indicators:
    1. Invitations to MCRB to engage in others' events;
    2. Participation by key stakeholders in MCRB events, in particular SWIA and their follow-up, including actions;
    3. Effective media coverage of responsible business issues, different views.

As currently written, these indicators are largely quantitative rather than qualitative. Many refer to numbers whose significance can be interpreted in many different ways. It might be more appropriate to also assess the achievement of the Centre's outcomes on the basis of the qualitative changes it has brought about, not just of quantitative elements. The formulation of the outcomes and indicators is reviewed below.

**Knowledge.** The outcome is formulated as follows: "the knowledge about responsible business in Myanmar and international standards and good practice which is generated and made available by the MCRB is requested and/or utilized by business, government and civil society stakeholders."

- The first indicator is somewhat relevant to assessing the outcome, in that it relates to the delivery of knowledge by the Centre. However it is more reflective of its reputation and influence than of the quality of its knowledge, and is redundant in view of dialogue indicator 1.
- The second indicator, on participation, seems related to the dialogue outcome more than the one on knowledge (its wording is actually similar to dialogue indicator 2).
- The third indicator concerns, in effect, the effectiveness of the Centre's dissemination of knowledge, which is appropriate to assessing the outcome.
- Indicator 4 seems to concern the visibility and reputation of the Centre, more than the dissemination (or quality) of knowledge.

**Capacity.** The outcome is: "companies pursue business activities consistent with responsible business practices; and trade unions, CSOs and state actors promote responsible business practices, regulate business and hold business to account."

- Indicator 1 relates directly to action taken by companies, and is therefore directly relevant to the assessment of the outcome. However it is overambitious to expect the percentage (of companies approached by the Centre) to increase – which is the implicit expectation in relation to such a figure. The indicator is also overly quantitative – it does not account for the significance of a particular step taken by a company, or for the influence of a particular company in its sector.
- Indicators 2 and 3 are transpositions of 1 to the civil society, trade union and media, and to the government sectors respectively, with an emphasis on their involvement in advocacy (2) and regulation (3). They too are somewhat overly quantitative.

**Dialogue.** The outcome is: “There is enhanced dialogue on responsible business issues, and greater collaboration between the private and the public sector, and civil society, promoted and supported by MCRB.”

- Indicator 1 seems relevant to the outcome, in that it is illustrative of the role of the Centre in the responsible business debate. However it does not cover the one-to-one engagement with stakeholders in which the Centre is extensively involved.
- Indicator 2 complements 1 and is relevant to the assessment of this outcome.
- Indicator 3 relates to the contribution of media relations to advocacy, and is as such relevant to the outcome.

**Options for enhancing the appropriateness of the indicators.** At this stage, half-way through the current programme and a year after the latest logframe was agreed by the donors, it may be difficult to seek major changes to the indicators. However, the MCRB steering group will in all likelihood need to consider adjustments within the logframe as it develops a new project document for the period 2016-2018, seeks new pledges and strives to further strengthen the centre’s strategic ambition in the light of this review. Changes to some existing indicators could be proposed by the MCRB to donors, while others could be re-interpreted, as summarised by the suggestions for further discussion in the table below.

Outcome	Indicator	Proposed approach
<b>Knowledge</b>	1	Remove (redundant with dialogue indicator 1). Replace with an indicator illustrative of the production of knowledge by the Centre, such as: “Knowledge produced and disseminated by the Centre by means and in formats that enable utilisation by other stakeholders”, where knowledge can be measured in terms of publications, seminars, participation at events, etc.
	2	Remove (redundant in view of dialogue indicator 2). Replace with an indicator illustrative of the quality of knowledge produced, such as: “Quality of the knowledge produced and effectiveness of the dissemination”, where quality can be measured in terms of relevance, innovativeness and timeliness of the knowledge, and effectiveness in terms of user-appropriateness, feasibility of recommendations, etc.
	3	Keep, but focus less on the percentage and more on the achievement of a critical mass (as defined below, section 6.2) of stakeholder representatives who are aware of responsible business practices.
	4	Keep, but include a qualitative element: not just number of quotes but types of media, context of the quotes, impact, etc.
<b>Capacity</b>	1	Keep, with less focus on the percentage, looking instead at the relevance of steps taken (have human rights problems been identified correctly? Are mitigation measures appropriate?) and on the achievement over time of a critical mass of companies taking appropriate steps.
	2	Keep, with a more qualitative focus, taking into account in particular the prospects for collaborative partnerships among

		stakeholders and the catalyst role played by the Centre.
	3	Keep, but a focus on numbers does not provide a proper sense of progress in relation to government institutions since there is a limited number of them. While it is important to track numbers, for example in terms of the political figures reached, this is less important than specific steps taken by them.
<b>Dialogue</b>	1	Keep, but broaden to other forms of engagement with (and among) other stakeholders, including briefings to individual companies, multi-stakeholder consultations, channels of input into policy and practice, etc.
	2	Keep, and broaden to elements of impact on the stakeholders in terms of attitude, willingness to contribute to the Centre's research, policy, engagement with others, etc.
	3	Keep, but include a qualitative element: not just number of quotes but types of media, context of the quotes, impact, etc.

Should the MCRB steering group and donors wish to take up the options for an additional outcome outlined above, consideration could be given to it being worded as follows:

**Sustainability:** "Increased sustainability of MCRB results achieved, in terms of impact on legislative and other framework governing business and in terms of the MCRB building on achievements (including institutional capacity) to develop a stronger Myanmar identity linked to international expertise and credibility". Possible indicators:

1. Extent of the Centre's contribution to companies' establishment of responsible business approaches and processes (instances of advice sought, field visits, policy advice, etc.).
2. Extent to which stakeholders are willing and able to continue responsible business activities (including monitoring, regulation, etc.) on their own (e.g. NGO collaboration with companies, inclusion of responsible business issues in conference agendas, etc.).
3. Extent to which the MCRB's institutional arrangements maintain and enhance accountability and transparency.

**Reporting.** The reports are well written and densely packed with information. The quarterly narrative summaries present appropriate highlights, while the annual narratives are understandably more focused on big-picture issues: the MCRB's design in 2013/14, and its governance and management in 2015. The 2014 annual report contains a very interesting review of challenges and lessons learnt, which impressively demonstrates the ability of the MCRB's management to exercise critical judgement of its own programme design, and its problem-solving capacity.

The annual and quarterly reports both devote virtually half their pages to activity reports. This constitutes a logical way of exercising accountability, since the detailed description of work done gives a clear image of the use of donor resources. The activity reports' format (as a table roughly following the logframe's activities section) has the added advantage that it is relatively easy for MCRB to complete in real time.

The key concern, however, is that the focus on activities/outputs does not necessarily help understand the extent to which results or outcomes have been achieved. This is in part because the outcome-level indicators presented in the MCRB programme document of September 2014 are themselves very much related to outputs (stemming from activities) rather than outcomes (flowing from the achievement of results). Nevertheless, the reports contain considerable evidence (confirmed by the present mid-term review) that the Centre is achieving the planned outcomes and is doing so to a high standard of quality.

**Could the reports be improved?** A revision of the indicators and their interpretation, as suggested above, might add further value to the reporting process. It would also be helpful to devote a specific section of the report to a description of the extent to which the indicators are fulfilled. This would be best done in the form of a one-page table, referring where necessary to the activities section.

Another elements could be valuable: a review of **strategic issues**, perhaps as part of the narrative summary. This could help identify issues on which input by the “parent” organisations is appropriate, or indeed by the donors.

## **6. Summary of impacts on key stakeholders**

Many of the MCRB's activities – notably the SWIAs – are addressed to all three target audiences, government, business and civil society. In this section we summarise the Centre's impacts and influence on each of the three groups, drawing on the findings of our interviews and analysis, as well as the MCRB's recent survey of stakeholders.

### **6.1 Myanmar government**

#### **Feedback**

In the course of our review, we interviewed U Htay Aung, the Minister of Tourism as well as senior officials in the Ministry of Communications and Technology, the Ministry of the Environment, Conservation and Forestry (MOECAF), the Myanmar Oil and Gas Enterprise (MOGE), the Myanmar Investment Commission, the Myanmar Human Rights Commission and the Pyithu Hluttaw (parliament) Committee on the Natural Resources and Environmental Conservation.

These were all people with whom the MCRB had had significant contact and whose departmental or sector responsibilities are linked to one or other aspect of the MCRB's mandate. To that extent, there may have been an element of "selection bias" in our findings. Nevertheless, the extent to which they expressed openness to advice from external specialists in general – and in this case to the MCRB in particular – was striking.

This was not simply a matter of warm feelings or polite protestations. As noted above, the MCRB has been able to document a number of instances where it has been able to make specific contributions to government policy-making. The Centre has been able to establish itself as an interlocutor whose recommendations command respect.

#### **Knowledge, capacity and dialogue**

As discussed, the MCRB has contributed to government knowledge both through the SWIAs and – most concretely – through the recommendations it has made in response to official consultations on new laws and regulations. It has itself engaged in constant dialogue with key officials.

Examples of the MCRB helping broker a broader dialogue include its convening of a workshop on the offshore seismic environmental impact assessment (EIA) process in August 2014. The event was designed to facilitate dialogue between government and business. It included presentations by government ministries on draft EIA procedures, and by company representatives on the lessons learnt from EIA processes in other countries. Some of the companies followed up the meeting with a joint set of comments on the draft procedures.

On a similar note, the MCRB invited a government representative – U Myo Lwin Director of Yangon Office of Ministry of Environmental Conservation and Forestry (MOECAF) – to speak at a workshop on environmental and social impact assessment in January 2015. Most of the participants were from companies and CSOs: this was therefore an occasion for dialogue between all three sectors.

#### **Limitations**

The MCRB's sharing of knowledge is in itself a contribution to government capacity. The principal limitation – a running theme in all discussions about government engagement – is the shortage of qualified personnel in almost all government departments. This means both that external advice is all the more needed, and that individual departments' ability to act on that advice may be constrained.

## **Future challenges and opportunities**

The first challenge relates to the political negotiations and the eventual formation of a new government following the national elections in November. This process is expected to take up at least the first two months of 2016, and there will be no real scope for long-term policy-making or substantive government dialogue during this period. It remains to be seen how much continuity there will be either at the top level or in individual ministries. However, it is realistic to expect a significant number of new appointments. At best, it will take time for the MCRB to build up relationships with these “new faces”.

Thereafter the fundamental challenges will remain. The most critical is still the limited availability of human resources and technical expertise, both at the political and at the ministry levels. In the short term, the problem may even get worse following the retirement or displacement of experienced senior figures. This shortcoming may also be an opportunity inasmuch as there is no doubt of the government’s need for external advice, including on issues relating to the responsible business agenda. The MCRB’s established record means that it is well placed to offer this advice as long as it can build a degree of trust with the new incumbents.

Both the challenges and the opportunities will be even greater at the sub-national level. The long-term trend is in any case towards greater devolution of powers – in nominal terms at least – to the states and regions. If current ceasefire negotiations with ethnic minority groups are confirmed and consolidated, there will be new opportunities for commercial development in ethnic minority areas, but also ample scope for irresponsible business facilitated by weak governance and regulatory/legal enforcement capacity. One additional risk is that regulatory approaches developed at Union level may be weakened at state level. The responsible business agenda is therefore all the more pressing at this level. We return to this point in the final section below.

An opportunity to enhance the Centre’s impact on government practices may be offered by the gathering pace of civil service capacity building initiatives undertaken by donors in Myanmar. For example, the EU Delegation in Myanmar plans to spend €42m on a 4-year governance programme (2015-18), including €14m devoted to “institutional strengthening and policy dialogue”, including activities such as the provision of technical assistance to the Myanmar government, training for civil servants, study tours and policy advice. The UNDP country programme in Myanmar also has a dedicated component in support of democratic governance, targeting support to local authorities, parliamentary strengthening, public administration reform and other areas where the Centre’s input may be relevant. The World Bank, the Asian Development Bank and the Asia Foundation also support research and capacity building for the Myanmar Government, including in relation to legal and regulatory drafting. Additional funds are planned to be spent by donors on the rule of law and access to justice, including the encouragement of alternative (non-judicial) dispute resolutions, which is consistent with the development of grievance mechanisms by companies. The British Council is a key actor in this field, as are USAID and UNDP.

Accessing the managers of these assistance processes is presumably easier than actually providing trainers and technical assistance experts on the necessary scale. However, even if the Centre does not deliver training or technical advice itself, it is well placed to draw the attention of donors to the need to include responsible business practices, including relevant business regulation, in the scope of assistance, as is done in the SWIA recommendations.

## 6.2 The private sector

### Feedback from Myanmar companies

As discussed, our findings show that the MCRB has had a significant impact on a core group of Myanmar companies, essentially those that feature in the high ranks of the Pwint Thit Sa index. These are the companies that see themselves as the new, reforming face of Myanmar commercial life. As one interviewee put it, Korea has Samsung and Singapore has Singtel: he wanted to lead a Myanmar company that could achieve similar international status, and he saw high standards of corporate governance as a step leading to this kind of international recognition.

The same interview greatly valued the extent to which the MCRB had been able to provide specific, actionable advice. As noted above, a number of Myanmar respondents to the MCRB survey mentioned that they would implement lessons learnt from MCRB workshops, for example on grievance mechanisms. They are putting theory into practice.<sup>14</sup>

### Feedback from Western companies

Interviewees from leading Western companies valued the Centre (but more specifically Vicky Bowman) as a source of advice and information both in the early stages of entering the Myanmar market and when more established. The findings from our interviews are reinforced by comments from the MCRB survey, as well as a questionnaire issued by the London-based Business and Human Rights Resource Centre. These comments tend to be general rather than specific, but we have no doubt that they reflect a real and constructive influence on the part of the centre.

For example, one survey respondent from an international company noted that:

“Information gained from [the MCRB’s] publications helped frame our global strategy plan and in particular our organisation’s strategies in Myanmar.”

Another representative of a Western company that has made a substantial investment in Myanmar noted that the MCRB:

“... has helped us benchmark against other companies and sectors and has helped us identify issues we need to be aware of and to take pre-emptive action to resolve.”

In response to an online question from the Business and Human Rights Resource Centre, the natural gas company BG noted that it had:

“... participated in a number of workshops and consultations conducted by the IHRB and MCRB to enhance our own understanding [of] potential human rights related risks and impacts in further depth.”

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<sup>14</sup> Or are they? More precisely, are they improving their image in response to Pwint Thit Sa prodding, or are they also improving their practices? The MCRB could find out more about this by conducting research on some of the best-ranked companies, particularly those who markedly improved their ranking. This would help identify the specific policy and practical steps they took, and would also help assess the extent to which these changes could be attributed to the Centre’s work, taking other possible factors into account (such as for example their wish to become more competitive internationally). This research could be based in part on information volunteered by the companies themselves – as they have done in the past, for example on the occasion of seminars or conferences – combined with interviews and surveys inside and outside the companies. The research could help the Centre better identify “what works”, and therefore better target its advocacy and lobbying efforts. See also above, conclusions to sections 5.2 on Pwint Thit Sa and 5.1 on the SWIAs.

Likewise, responding to the Business and Human Rights Resource Centre, the Australian oil and gas company Woodside noted in early 2015 that it:

“... recognises the value of collaboration with local community organisations and we have developed a strong working relationship with the Myanmar Centre for Responsible Business, which has provided guidance for oil and gas companies through the Myanmar Oil and Gas Sector Wide Impact Assessment.”

And, in response to the MCRB survey, an investor in the tourism sector noted that:

“The knowledge of MCRB regarding the ownership of some hotels in the country proved very helpful when deciding what hotels would become our partners.”

It is also notable that a number of professional advisory firms are sharing the MCRB’s findings with their own clients. For example, one MCRB survey respondent representing a law firm noted that they had:

“... provided copies of three publications to private sector clients and contacts.”

### **Feedback from non-Myanmar Asian companies**

Companies from other Asian countries – themselves a large and diverse group – constitute a key target audience because of their significance in the wider Myanmar economy.

The MCRB has at least made a beginning with Chinese companies in that representatives of Wanbao – the company that runs the controversial Letpadaung mine in Sagaing – took part in the MCRB’s grievance mechanisms workshop in June 2015. The Centre has also had contact with other Chinese companies including discussions on grievance mechanisms with the China National Petroleum Corporation (CNPC), and meetings with the China-Kunming Dongyu Mining Company. These contacts took place in the context of a wider re-evaluation on the part of the Chinese government and Chinese companies of their relationship with Myanmar. Starting from a low initial level of awareness, major China-based international companies are becoming more sensitive to the responsible business agenda. The MCRB is in a good position to build on this trend.

The MCRB is also engaging with the Japan International Cooperation Agency (JICA) in discussions on the social impact of the Thilawa Special Economic Zone. However, some 200 Japanese companies are registered with the Japan Chamber of Commerce in Myanmar, and very few of them have had any engagement with the MCRB. As one of our interviewees noted, Japanese companies tend to be “very cautious” when engaging with NGOs and CSOs outside their usual commercial circles, and are not very skilled in engaging with them. Engagement with Japanese companies is therefore still at an early stage.

### **Knowledge, capacity and dialogue**

The SWIAs, Pwint Thit Sa, the MCRB’s other publications and its workshops are all examples of knowledge building that serves to increase companies’ capacity to implement concrete responsible business initiatives and procedures. This process includes active engagement on the part of the MCRB, following up publications with personal contacts and training.

The MCRB’s two-day conference on community engagement in the extractives sector held in Yangon in January 2015 is an example of dialogue in action. The speakers included a representative of the Myanmar Investment Commission as well as a World Bank staff member, academics, business people, and CSO activists. The 120 participants included representatives from all three sectors. As

one of our business interviewees pointed out, the MCRB workshops serve as a point of introduction that can lead to further contacts long after the event.

## **Limitations**

Many of the Myanmar companies that are most open to the MCRB – for example in their responses to Pwint Thit Sa – are major players in the Myanmar market and can be seen as pace setters, who in turn exercise an influence on their business partners and other, less famous firms. Raising their standards can therefore be seen as a worthwhile objective in itself. Nevertheless, this also points to the question raised in the MCRB's July 2015 press release: what about the “rest”?

The “rest” arguably fall into three broad categories:

- First, there are still a number of large and successful companies that for now have placed a greater priority on pursuing immediate business opportunities rather than devoting time or resources on transparency or other responsible business issues. There is still scope for the MCRB to engage with these companies.
- The second category consists of smaller Myanmar companies. As one of our interviewees suggested, the MCRB has until now focused on the leading players: it should now take account of the 43,000 small and medium enterprises. This will be a significant challenge: we come back to it in the next section.
- The third category includes the conglomerates – many of which have personal or institutional connections with the armed forces – who qualify for inclusion in Pwint Thit Sa by virtue of their size but who apparently do not aspire to greater transparency. For now, there may be little scope for exercising a significant influence on them.

A similar set of points applies to the international companies. The companies that are most receptive to the MCRB – and in many cases contact it on their own initiative – are the larger Western firms that are already sensitive to the responsible business agenda through their broader international engagement. However, many of the most significant commercial impacts on Myanmar – for good or ill – will come from Asian companies, particularly Chinese firms. To its credit, the MCRB has been able to initiate exchanges with Chinese companies but, as discussed, these are at a very early stage.

## **Future challenges and opportunities**

In its first two years of operation, it has been entirely appropriate for the MCRB to focus on the leading Myanmar and international players who are most receptive to the responsible business agenda. The fact that they are broadly receptive does not mean that they have no need of the country-specific guidance that the MCRB can offer – far from it. To the extent that these companies are indeed leading players, they exercise an important influence within their own circles, for example on their own partners and sub-contractors.

At the same time, the MCRB has from the beginning been seeking to widen the circle of companies – including Asian companies – that are sensitive to the responsible business agenda. Extending the outer edges of this circle will prove even more challenging than the MCRB's initial engagement with local and international businesses. Irrespective of sector, company size or nationality, it may be relevant for the MCRB to think of its future engagement with companies in terms of critical mass rather than sheer numbers – which the current logframe indicators tend to emphasise. In the context of engagement with companies, “critical mass” should not necessarily be understood as a large number in the absolute, or a given proportion of all companies. Instead, it could be defined as the minimum number (of companies, NGOs and government stakeholders) that is conducive to effectively advance the responsible business agenda in practice, through networking and mutual influence.

## **6.3 NGOs and civil society**

### **Myanmar CSOs**

During the military regime the activities of aspiring Myanmar CSOs were severely restricted (with the partial and still limited exception of certain faith-based groups). This began to change in the early 2000s and still more after the beginning of the current reform programme in 2011. Nevertheless, it is still fair to say that Myanmar CSOs are at an early stage in learning how to engage constructively with business and government. As one senior CSO interviewee pointed out, this is scarcely surprising given the legacy of the recent past. For many CSO leaders, the world of business evokes images of military-linked crony capitalists and land grabbers rather than responsible investors.

Against that background, the MCRB's provision of an "independent platform" providing authoritative advice in the light of international experience is potentially particularly significant – though not necessarily straightforward. In an MCRB survey response, an international NGO worker sounds a note of caution:

"Managing perceptions of independence (from companies and government) will be important to garner/strengthen stakeholder trust, especially from some NGOs."

Myanmar CSOs regularly take part in MCRB workshops, and the findings from our relatively small sample of Myanmar CSO interviewees suggest that the MCRB has on the whole been successful in gaining this trust but that it will require constant hard work to maintain it, and that it would in any case be unrealistic to aim for perpetual consensus in a sphere that is both fragmented and contentious.

One of our international interviewees gave an example of a case where the MCRB had acted as a constructive "broker". As noted above, the Myanmar government's engagement with the multi-stakeholder EITI process is in itself remarkable given the reclusive approach of previous administrations. It has also raised expectations among the CSOs who are involved in the process, and these sometimes go beyond the EITI's specific brief of establishing processes for revenue accountability. The MCRB has played a helpful role in pointing out that grievance procedures are outside this brief, but that there are other ways of addressing them, and then explaining what these are, basing its advice on the UN Guiding Principles.

### **Partnership with the Myanmar Business Coalition on Aid**

CSO partnerships offer an obvious and potentially important means whereby the MCRB can multiply its own impact and at the same time enhance Myanmar CSOs' sense of ownership of the ideas that it espouses.

The Centre is currently planning to renew cooperation with the Myanmar Business Coalition on Aid (MBCA) after having previously provided funding in 2014 to support the shift from a workplace health to a broader responsible business agenda. The MBCA was originally set up as the Myanmar Business Coalition on AIDS by Martin Pun, the non-executive vice-chairman of Serge Pun and Associates (SPA). It has since expanded its agenda to include aspects of corporate governance, including training sessions with SMEs, and MCRB staff members have contributed to these. To the extent that the MBCA derives from – and works within – the commercial world, it simultaneously forms part of the MCRB's engagement with the business and CSO sectors.

The MCRB's current plan is to provide funding for two sub-national offices in Sittwe (Rakhine) and Dawei (Tanintharyi). The focus on Sittwe and Dawei makes sense for the MCRB in that both Rakhine and Tanintharyi are regions associated with two of the Centre's core issues, oil and gas, and tourism.

It also fits in with the question of whether and how to engage with sub-national issues. We return to this point in the following section.

### **Other forms of partnership with Myanmar CSOs**

As discussed throughout this report, the MCRB is a highly collaborative organisation in that – for instance – it both contributes to other civil society organisations’ workshops and invites them to its own. Such cooperation extends to other areas of activity. For example, Vicky Bowman has joined a task force advising the Land Core Group (a CSO specialising in land issues) on the restructuring of its internal governance and the appointment of its first board.

In the ICT sector, the MCRB works with Myanmar ICT for Development (MIDO). In June 2015 the two organisations wrote jointly to U Thaung Tin, Deputy Minister, Ministry of Communications and Information Technology (MCIT), to encourage systematic public consultation on the draft Telecom Master Plan. When given the opportunity, both organisations did comment on the draft plan. The international digital rights NGO Access referred to both the MCRB and MIDO in its own assessment of the plan.

Also in June 2015, the MCRB convened a workshop exclusively for civil society to explain the seven principles of “lawful interception” (see Section 5.4 above), and to prepare civil society groups for the forthcoming public consultation on this topic. In the same period the centre organised an evening talk with a wider audience, including civil society, journalists and business. The MCRB has worked hard to get this complicated topic into the mainstream media as evidenced by articles published in the *Myanmar Times* and television and video coverage from Kamayut Media. These activities therefore combine all three of the Centre’s core themes: knowledge sharing to build CSO capacity for a meaningful dialogue with the government.

### **International NGOs**

The MCRB likewise shares ideas with international NGOs both in order to enhance its own expertise (for example the Swiss-based NGO PeaceNexus, which specialises in conflict issues, contributed to all three SWIAs) and in order to share its own knowledge of Myanmar. As one example of the latter, an international NGO respondent to the Stakeholder Survey noted that “I have used the oil and gas impact assessment to frame a symposium session on doing business in high risk zones”.

### **Knowledge, capacity and dialogue**

The SWIAs, publications and workshops discussed above are all intended to increase knowledge and capacity among CSOs and NGOs as well as businesses. The workshops in particular provide opportunities for first-hand dialogue that otherwise would be scarcely available. As noted by one CSO interviewee, the MCRB has also served as a point of contact, helping make personal introductions to business leaders where appropriate.

### **Limitations**

As with government, but even more so, the most important limitation is the limited resources – both in manpower and expertise – that are available to local CSOs. As noted above, the MCRB invited CSOs to offer their own evaluation of companies represented in the Pwint Thit Sa report. There was very little response. One reason may have been that their energies were fully engaged elsewhere.

A second, related concern relates to the extent to which NGO/CSO agendas and concerns do and do not overlap with the MCRB’s. This applies especially to local CSOs, which are still only just beginning to work out their own modalities of engagement with business actors: the challenge of earning and maintaining CSO trust needs to be taken seriously.

A variation of the same point applies to the international NGO community, which in the past – and to some extent still now – has been sharply divided on the question of engagement with Myanmar, and especially with companies working in Myanmar.

### **Future challenges and opportunities**

The MCRB is important to CSOs and NGOs for many of the same reasons that apply to businesses: it is a proven source of expertise, applying a broad range of international knowledge to local problems, and in turn feeding Myanmar experience back into the wider international community.

Together with other civil society organisations whose credibility hinges on highly specialised research – and therefore on the involvement of skilled professionals – the Centre is a natural leader in its field, rather than an equal player. Different organisations vary in the extent of their openness to the benefits that the MCRB can bring. The challenge is therefore to focus on the interlocutors and partners where the MCRB can be most effective, in a context in which few stakeholders have the capacity to conduct their own research or develop independent policy advice. We return to this point in the final section.

## **7. Conclusions and recommendations**

In the MCRB Stakeholder Survey nearly 80% (139 out of 177) of respondents “agreed” or “strongly agreed” that the MCRB’s work would be “essential for Myanmar in the next two years”.

We support this view. The key question is therefore not so much whether the MCRB should continue but, rather, how it can make the best possible use of its still limited resources. This in turn raises questions about the focus of the MCRB’s attention, its staffing and its potential allies. As one of our interviewees puts it, the MCRB will in all scenarios need to “choose its battles”.

In this section, we first summarise our assessments according to the three base criteria – relevance, effectiveness and sustainability – and then review the key issues that the MCRB and its supporters will need to bear in mind as they move towards the next stage of the organisation’s development.

Our overall assessment is that the MCRB is on course, and our recommendations therefore refer primarily to matters of emphasis rather than massive changes of direction.

### **7.1 Relevance of the MCRB**

Our analysis shows that the MCRB’s agenda remains highly relevant. Developments since the Centre was founded reinforce rather than contradict the need for expertise in the field of responsible business.

The present report adds to evidence that the work of the Centre has been relevant to the stakeholders. One reason for this was that the Centre’s methodologies were grounded in international standards and added to the existing knowledge base available in Myanmar.

Looking at the relevance of each outcome area of the logframe – admittedly an abstract exercise since the three areas are intimately interlocked – confirms the Centre’s continued relevance. The knowledge outcome continues to be relevant, as on-going impact assessment, identification of good practices, etc., remain necessary. The same goes for capacity – encouraging action by stakeholders remains a significant need, which the Centre’s research and advocacy is well placed to meet – and dialogue – responding to the need to disseminate knowledge, promote positive multi-stakeholder contact and action, and strengthen wider debate around responsible business issues.

To maintain its relevance in the future, the Centre will need to continue to be an authoritative source of knowledge. An additional SWIA is part of the response, but the Centre will also need to think about ways of following up or updating the existing ones. On capacity, the Centre’s work plan for 2015 and 2016 illustrates the need for continuing engagement with companies, broadening the range of companies to include some at local level. The mix of action taken on dialogue might include more monitoring of company actions, especially if the number of those who commit to responsible business grows. On both capacity and dialogue, we suggest that building a critical mass of committed stakeholders could be an ambitious but achievable target for the remaining programme period.

We do not believe that the MCRB needs to work to enhance its relevance in the remaining programme period. It would not be appropriate for it to spend its energies on design or strategy review. The key relevance-related work we suggest relates to the logframe outcome (adding one on sustainability) and slight revision of the indicators.

### **7.2 Effectiveness of the MCRB**

The MCRB has deployed its limited resources to maximum effect, amply fulfilling its stated objectives as defined in its logframe. In particular, it has effectively leveraged its own and its “parent”

organisations' expertise in impact assessment to carry out and promote the SWIAs, turning these into door-openers for its outreach work towards government, the private sector and civil society.

There is evidence that some of the SWIAs' recommendations may be used by the government to improve the regulatory environment in sectors such as tourism and ICT. Moreover, given the importance of foreign investment, it should be noted that the existence of such a pool of evidence and proposals on policy and practice provide a valuable resource that donors could promote and productively draw on themselves, if they have not fully done so already, using the recommendations of the SWIAs to inform their political and commercial engagement with decision-makers and investors in Myanmar. Capitalising on this opportunity would further enhance the value of their general support for the aims of the Centre.

The MCRB's private sector engagement to date has been essentially with Yangon-based and international companies. Moves are currently afoot, in collaboration with a civil society organisation, to develop pilot outreach activities in provincial cities. This move could help enhance awareness about human rights and business among small and medium-size companies as well as community organisations able to reach out to workers at local level. If successful, this local-level outreach could help improve the exercise of their rights by workers, boosting the link between responsible business and livelihoods. Nevertheless, the poverty reduction agenda is a complex one that requires in-depth strategic thinking: it should be seen as a priority issue for stronger direct engagement by both the Centre and its "parent" organisations.

The Centre has a full but achievable work plan for the coming two years, and is likely to remain similarly effective in the remaining programme period. It will be important to ensure that the Centre's organisational development should continue, partly to facilitate its transition towards a new leadership with the eventual departure of the current director.

### **7.3 Sustainability of the MCRB agenda**

Sustainability has several aspects: some might be described as output-level, others as being at the level of outcomes. In terms of the immediate benefits of the Centre's outputs (publications, research, submissions to government, training and other forms of interaction with stakeholders):

- The Centre has clearly achieved a degree of sustainability by helping bring about legal and regulatory reforms that include rights-specific language as a result of its interventions. As discussed, much of the legislation that has been rushed through the current parliament has a provisional quality. However, we think it unlikely that the wording on, for example, the standard Production Sharing Contract for oil and gas companies will simply be repealed. On the other hand, it may be harder to introduce these kinds of reforms at a later stage in Myanmar's political process when the administration may be less susceptible to external influence.

A greater danger is that implementation may be weak but, even in that case, the existence of formal laws and regulations provides a point of leverage from which to engage with the government.

- There is also an element of sustainability in the many principles and practical measures – for example on awareness, understanding and potential adoption of grievance mechanisms – that the MCRB espouses in its engagement with business or the anti-corruption policies that companies publicise as a result of their engagement with Pwint Thit Sa.

Some of the same points apply as above: effective implementation is not guaranteed. However, once business leaders make commitments – and the concept of grievance programmes gains greater currency – it is hard for companies to go back on them. Once-foreign ideas become mainstream.

In terms of sustainability of outcomes, it is clear that the Centre has made significant headway. The knowledge base achieved through the Centre's work over the last few years has allowed a durable step change in the quality of debate about responsible business in Myanmar. The same can be said in terms of capacity: companies are made familiar with a range of issues and tools to address them, which simply were not available to them (at least not in an accessible and tailored format) previously. Similarly, legislative and regulatory bodies' capacity to act is enhanced in a durable manner, even though they need continuing advocacy and support. The same can be said of dialogue among stakeholders, and of collaboration among them: much still needs to be done, but many more options are on the table than previously.

The third aspect concerns the MCRB's institutional sustainability. In funding the MCRB, the donors have helped meet a need that, in Myanmar's current state of political and economic development, could scarcely be addressed from any other source. In principle business might in the long run be an alternative source of funding (for example companies could be asked to pay for their participation in conference workshops). However, in current circumstances any such income would at best be supplementary. Also, the MCRB would run the risk of being seen as too beholden to specific businesses or groups of businesses. For now the MCRB's sustainability depends on the existing types of donor support.

## **7.4 Recommendations: strategic focus**

### **Maintain the current high-level focus**

The MCRB's work to date is remarkable both for its breadth - cutting across commercial sectors with very different 'cultures', opportunities and hazards – and its attention to detail as evidenced in, for example, its recommendations on draft wordings of proposed new legislation. To summarise the points made in the earlier sections of this report, this combination of approaches is both strategic and, in the best sense, opportunistic. We recommend that the MCRB continues with this approach. It is strategic because:

- All the key themes of the MCRB's work can be traced back to core international standards such as the UN Guiding Principles and the IFC Environmental and Social Performance Standards.
- The MCRB has chosen to focus on commercial sectors – oil and gas, tourism, ICT and mining – that are likewise strategic both with respect to their economic importance and their potential impact on ordinary citizens.
- In the initial stages of its work the MCRB has focused on international companies and a selection of leading Myanmar companies. This makes sense partly because these companies have proved more receptive but also because they have greater potential to exercise a positive influence on their commercial peers and business partners.

This strategic approach has served to lay the groundwork, making it easier for the MCRB to seize specific opportunities in that:

- The centre's cross-sector expertise gives it the authority to contribute on its specialist areas of expertise to policy matters that are themselves cross-cutting, for example Myanmar's Investment Law or the role of the Investment Commission.

- The centre's "investment" in research and building up high-level contacts greatly enhances its credibility when raising specific issues such as, for instance, sand-mining in Ngapali.

At the same time, the initial success of this approach raises the question whether the MCRB should now develop a more focused approach to specific industries (see below).

### **Maintain a broad, cross-sector approach**

We considered whether the MCRB should follow up its ground-breaking SWIAs with a still deeper focus on specific sectors rather than attempt to be a centre for all kinds of responsible business. However, we recommend that the MCRB should continue its current cross-sector approach.

The issue arises because, like all the best research projects, the SWIAs raise new questions for follow-up. At the same time, there is certainly a need to monitor on-going developments with a particular emphasis on the implementation of the MCRB's recommendations. One of our interviewees suggested, somewhat speculatively, that there should be a "Myanmar Centre for Responsible Tourism" – an MCRT to complement the MCRB.

There can be little doubt that there is ample scope for an MCRT, as well as equivalent centres for ICT and oil and gas. The question is whether the MCRB should be doing this work, or somebody else. Arguably, it could be an option for the MCRB to set up such centres – or internal departments – in the future, given a significant expansion in resources. However, for now the costs in lost opportunities in other areas would appear to be too high.

One of the most impressive aspects of the MCRB is its ability to respond to challenges across a wide range of sectors, and to draw connections between them. It would be unfortunate if it lost this ability through over-specialisation.

### **Begin to develop a sub-national approach within Myanmar**

The need to spread Myanmar's message beyond Yangon and Naypyidaw to the states and regions came up at several points in our review.

For example, during his meeting with the review team, the Minister for Tourism observed that he had just come from a parliamentary session discussing legislation to devolve key decision-making powers to the states and regions. Devolution in some form – the details will still be contested – is likely to be a continuing theme in Myanmar politics. It therefore it makes strategic sense for the MCRB to be considering how best to share its expertise at the sub-national level, all the more so because capacity limitations are all the more acute in the regions.

Similarly, two of the Myanmar respondents to the Stakeholder Survey underlined the importance of a regional approach:

"Want MCRB to make workshops in 7 regions. If [it] cannot, [it] should focus on one region to improve business developments."

"MCRB should work more about the workshops in rural regions for community and business developments. And the community people should be able to follow the steps."

Also, as noted above, progress in the ceasefire negotiations with non-state armed groups should – if all goes well – open up opportunities for economic development, with all the attendant risks, in ethnic minority areas.

The MCRB has already undertaken field visits to Tanintharyi in south-eastern Myanmar. As noted above, it is supporting the MBCA in setting up offices in Dawei, the regional capital, as well as in

Sittwe (Rakhine). These regions fit in with the MCRB's existing agenda because both have enormous potential for tourism, as well as a significant oil and gas industry presence.

In underlining the need to develop a sub-national approach, we are conscious both of the scale of the challenge and, as ever, the limited resources available to the MCRB. It therefore makes sense to share resources with another organisation such as the MBCA and – in the first instance – to focus on two regional centres rather than overstretching the Centre's resources by trying to build up a presence in too many places at once.

On a similar note, we understand that the MCRB is also developing a contact network with CSOs and international NGOs working in ethnic-minority regions and this opens the possibility of future cooperation there.

### **SMEs – work through multipliers**

One of our interviewees, a senior government advisor, commented that the MCRB had been correct to concentrate on the leading Myanmar companies at the outset of its activities. Now, he suggested, it was time to focus on the country's 43,000 small and medium enterprises (SMEs).

He is no doubt correct to highlight the importance of the SME sector, also because small companies will continue to be an important source of livelihoods. However, as with the rest of the MCRB's agenda, the question is how to do so most effectively, and how to achieve the best use of its limited resources.

Our view is that working with SMEs is for now a secondary objective for the MCRB rather than a primary one. As discussed, there is still plenty of ground to cover in the MCRB's current mandate of working with larger Myanmar and international companies. Larger companies have greater capacity for both for positive impacts and for inflicting harm. In any country it is difficult to engage with SMEs on responsible business issues because – even more than with larger companies – their managers are focused on meeting core financial objectives and ensuring commercial survival.

In practice the best solution is likely to be to promote a multiplier effect by working with or through other institutions. Examples may include the MBCA, which, as noted above, has a small corporate governance training programme to which the MCRB has contributed, as well as industry associations and the UN Global Compact network.

One further point is that an improved regulatory environment that, for example, provides access to fair dispute resolution improves the operating environment for smaller as well as larger companies. To the extent that the MCRB can advocate such improvements, there is a broad range of potential beneficiaries.

## ***7.5 Recommendations: institutional development***

### **Be both Myanmar and international**

The MCRB's 2015 Stakeholder Survey posed a question whether respondents saw the centre as a Myanmar organisation. The question is important because a degree of local ownership can be seen as a critical success factor. The answer was favourable: 46% of the combined sample either agreed or strongly agreed, compared with only 17% who actively disagreed.

At the same time, it is important to acknowledge the contradictory pressures that the MCRB faces when seeking to establish a more local identity:

- If the MCRB is to serve as an effective bridge, it will always need to combine local and international elements. The collaboration between the Yangon team and the two “parent” organisations in the preparation of the SWIAs is a good example.
- “Local” does not necessarily mean “neutral”: a mixed local and international identity may make it easier for the MCRB to stay clear of the factionalism that is characteristic of so much of Myanmar society.
- There is a shortage of Myanmar people with the requisite skills. To some degree they may need to be fostered rather than simply “found”. To the extent that such people do exist, they are in high demand from other organisations.

In practice the MCRB will need to continue to look for creative combinations of people and skills, constantly adjust the balance. If the Centre is successful in being relevant and effective, Myanmar will see it as being “one of their own”, regardless of the formal ownership structure.

### **Build up the team and start succession planning now**

As discussed, the skills of MCRB Director Vicky Bowman have been central to the success of the Centre from its outset.

While Vicky Bowman has recently renewed her contract for another year, she does not envisage that the directorship will be a lifetime posting. One of the Stakeholder Survey respondents made the suggestion that the MCRB should “clone Vicky”. In the absence of this possibility, the MCRB steering group will need to develop alternative solutions.

Instead of seeking to replace Vicky Bowman with a single individual with identical skills, a more feasible option might be to consider recruiting, in due course, two or more people with complementary skills. In this context, one interviewee mentioned his own experience of serving as the country general manager of an international company while a senior local colleague served as chairman. Some such combination may work for the MCRB but it would be premature to go into detail at this stage.

In the meantime it is important that investment is made in further strengthening the capacity of the Centre’s team, including in the crucial area of programme development and management. We understand that the Centre is currently recruiting a deputy director with this aim.

The MCRB is already making progress in looking for ways of building up its existing staff: we note that the Yangon team managed the launch of the draft ICT SWIA and the subsequent ICT consultation sessions in June, at a time when the Director was abroad. They are more than capable of taking on this kind of responsibility. Mentoring of MCRB staff by colleagues in the “parent” organisations has been very effective so far, and should be part of any future organisational development plan.

### **Continue to plan for an Advisory Board or Group**

The MCRB is currently considering the establishment and recruitment of an Advisory Board or Group, initially of four to five members, and the steering group has drafted terms of reference. The members would be trusted senior figures with a commitment to human rights, and between them representing a range of backgrounds in business, government and civil society with Myanmar. They would serve in their personal capacities, and their role would be to provide informed, impartial local advice on the MCRB’s long-term development and sustainability. In the longer term, such an advisory structure could possibly evolve into a more formal supervisory board.

We support the proposal to nurture the eventual creation of an Advisory Board/Group as a medium-term objective, while noting that timing, appropriate participation, governance role and added value need further consideration. As noted above, in the immediate term, the November elections

certainly will not resolve all Myanmar's political problems: they will in any case be followed by a complicated and potentially fraught period of negotiations, including the indirect presidential elections. At the very least, it may be better to wait until after this process before considering how any such structure, based on appropriate membership and participation, might be nurtured over time and what specific approach might be required to make it work in practice. As the value of such a body lies largely in its potential to facilitate contacts and specific expertise, a stepping stone option in the short term might be time-bound experimentation whereby suitable individuals could be approached to provide advice in relation to specific pieces of work. This would help to identify how advisory functions might be structured to achieve results-oriented benefits rather than risk being confined to an abstract institutional form.

### **Develop relationships with strategic allies within Myanmar**

The MCRB has from the outset been a collaborative organisation in line with its aspiration of serving as a catalyst for CSOs as well as business. As noted above, it is working closely with MIDO on ICT issues and with the MBCA in setting up regional offices in Dawei and Sittwe.

This raises the question how far it can address the limitations on its own capacity by sharing parts of its portfolio – for example the kinds of activities that might otherwise be undertaken by a putative Myanmar Centre for Responsible Tourism – to other organisations.

This remains a medium- and long-term aspiration. On a note of realism, it needs to be acknowledged the number of potential partners with the capacity to take on this kind of role is still limited. To present the issue in another way, the MCRB's objective of building up local CSO capacity is still entirely valid: it has not yet reached the stage where other players can take over its own role.

### **Maximise opportunities through even more effective outreach**

The respondents to the Stakeholder Survey put a strong emphasis on outreach and publicity in their recommendations for the MCRB's future. Comments included:

“More integration with media as well as NGOs, govt ministries and any other institutions and regular meeting or press with particular journalists for particular activities” (from a journalist).

“More social network activities of MCRB to gain public awareness program for good practices of local companies” (from a Myanmar businessperson).

“You need more visibility. I suggest to increase your promotional budget” (from an international businessman).

“More frequent updates, shared by email newsletter” (from an international consultant)

Outreach has always been central to the MCRB's agenda: these comments therefore do not imply a change of direction but rather smarter and more effective targeting.

### **Add to the logframe an outcome on sustainability**

This additional outcome could be worded as follows: “Increased sustainability of MCRB results achieved, in terms of impact on legislative and other framework governing business and in terms of the MCRB building on achievements (including institutional capacity) to develop a stronger Myanmar identity linked to international expertise and credibility”.

### **Revise the logframe indicators**

The revision should reflect the four outcomes and ensure that qualitative changes brought about by the Centre are better reflected. The formulation and scope of the indicators should be reviewed, with a view to capturing the achievement of a critical mass of change.

## Annex 1: Terms of reference

### Mid-term review of the Myanmar Centre for Responsible Business (MCRB)

#### 1. Background

MCRB was established in Yangon in July 2013 by the Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR) on the premise that while business and investment are needed for human rights and human development to be realised in Myanmar, only responsible business will achieve this aim in the long term. The Centre's vision is one in which private sector investments and operations in Myanmar have not only minimum negative impact but also maximise positive impact on human rights.

With the overall goal of supporting inclusive economic growth accompanied by responsible business practices, the immediate objective of MCRB is that "an effective and legitimate platform on responsible business is present in Myanmar for the creation of knowledge, capacity and dialogue amongst businesses, CSOs and government based on local needs and international standards".

MCRB has successfully attracted multi-donor government support from UK-DFID, Denmark-DANIDA, the Netherlands, Ireland, Norway and Switzerland. Donors have made contributions as part of a common commitment to core funding rather than on an individually earmarked basis. The current programme runs from 2014 to the end of 2015. MCRB will develop a new programme document for 2016-2018.

Several of MCRB's core donors have expressed interest in reviewing what progress has been made towards achieving MCRB's stated objectives. The contract with DFID on supporting MCRB includes a requirement that an external mid-term review be conducted in 2015.

#### 2. Rationale, objectives, approach and scope

An independent mid-term review will be carried out in 2015 to assess the MCRB's work since 2013.

The overall purpose of the exercise will be to:

- Assess whether strategic objectives and thematic areas continue to be relevant in the current context;
- Assess the results and achievements of MCRB's work so far in order to establish what progress it has made towards the stated objectives of the programme;
- Identify lessons learned and recommendations to strengthen MCRB's future strategy, operation and pursuit of intended impact over the remainder of the programme cycle and its possible extension. This includes insights for programme design and planning, including any necessary adjustment of objectives for 2016-18;
- Provide recommendations on strengthening MCRB's local ownership and long term sustainability.

As well as learning more about what has worked to date, and why, and how such efforts can be enhanced in the future, IHRB, DIHR and MCRB are particularly keen to use the mid-term review to assess how best MCRB can harness the progress made during the first phase of its operation (focused on establishing the centre as a recognised source of expertise for the promotion of responsible business) to a second phase (in which its work is transferred and sustained locally).

The results of the review will also help donors to consider how best to align their future support for MCRB with pursuit of longer-term sustainable impact on business and human rights in Myanmar.

### **Review questions**

The overall review questions to be answered by the report are the following:

- To assess the relevance of MCRB's intervention(s) in a changing environment:
  - To what extent have the overall objectives and the nature of interventions of MCRB been relevant to improve the responsibility of business in Myanmar?
  - Have choices with regard to thematic areas and specific interventions, in particular Sector Wide Impact Assessments (SWIAs), been relevant to the overall objectives of the programme?
  - Are the assumptions made at the start of the programme still relevant today? Is the programme sufficiently flexible to deal with dynamic changes in the country?
- To assess MCRB's effectiveness, i.e. the extent to which the centre is achieving its objectives and targets, as set out in its current 2014-15 Programme Document approved by the donor group;
  - Has satisfactory progress towards stated outcomes, objectives and targets been achieved to date?
  - Is the results chain/theory of change as set out in MCRB programme document effective?
  - To what extent is the collaboration with DIHR/IHRB bringing added value to MCRB's interventions?
  - What role do development partners play in the implementation of the recommendations of SWIAs?
  - Are targets, outcomes and result and progress indicators measurable and realistic?
  - To what extent do these targets, outcomes, and result- and progress indicators reveal progress towards MCRB's objectives (knowledge, capacity, dialogue)?
  - To what extent has MCRB succeeded in including and empowering vulnerable groups and right-holders?
- To assess sustainability (whether the benefits of MCRB's work are likely to continue after donor funding has been/will be withdrawn). While taking into account the mid-term nature of programme work, the exercise will analyse whether/how achievements will last/can be made to last in continued programming. This will provide MCRB and its donors with an opportunity to reflect on how the challenges and opportunities of the first phase of programming over 2013-15 can be addressed in ways that boost the transfer of capacity and knowledge to local partners and facilitate their ownership and leadership of the responsible business agenda.
  - To what extent has MCRB contributed to building up local capacity and ownership on Business and Human Rights?
  - To what extent is MCRB anchored in the local context?
  - To what extent has transfer of competence to local staff members been successful?
  - What are the prospects for sustaining diverse sources of funding beyond the current funding period?

In making recommendations for future MCRB programming and its approach to programming, the evaluator will strive to ensure that the exercise is as beneficial as possible in practical terms by highlighting approaches that have worked well so far and can be built on in the future (or that may be required).

In assessing progress towards objectives, the evaluator will focus on the outcome areas in which MCRB can reasonably be expected to have positive effects, i.e. on boosting levels of knowledge, capacity and dialogue within and across stakeholders so that a cumulative contribution is made to creating propitious conditions for responsible business.

An important element to be considered in the mid-term review will be the future balance between investment in programming led by MCRB-IHRB-DIHR aimed at impact over which the centre has more direct control, on the one hand, and the strategic efforts needed/planned on the other to nurture the development of the Centre as an entity that is increasingly locally owned and boosts the ability of local partners to act more independently as a result of the knowledge and capacity acquired.

The approach described above, while generating insights on existing/potential impact of interest to donors, is intended to ensure that the exercise acts as a form of strategic review enabling MCRB to build on/adjust its operation to optimal effect during the remainder of the programme cycle.

### **Scope**

- The review will assess a representative range of activities and interventions reflecting the whole of MCRB's operations and future plans rather than specific activities. However considering the importance of Sector Wide Impact Assessments in MCRB's work, specific attention should be dedicated to SWIAs, in particular to the Oil and Gas SWIA, which was published in September 2014, and the Tourism SWIA published in February 2015.
- The review will cover the whole period of MCRB's operation since its July 2013 inception.

### **3. Existing information sources**

- Programme documentation since MCRB's inception, in particular the latest Programme Document and Logical Framework revised and approved by donors in October 2014
- Quarterly and annual financial and narrative reports since July 2013
- MCRB risk register
- Measuring Results Monitoring framework established with Danida for the 3 components of the Responsible Business Programme
- MCRB's website
- Stakeholder surveys and feedback forms
- Media monitoring.

### **4. Methodology**

In keeping with the focus on lesson-learning and the generation of insights and proposals that will be of practical benefit for 2016-18 planning, the mid-term review will be participatory in nature. While every effort will be made to gather and use relevant quantitative information to assess progress towards achieving impact, the complex and often less tangible governance and human rights changes being pursued by MCRB mean that qualitative findings and insights are likely to be more helpful. It is expected that the review will apply theory of change approaches to establish causality and understand what drives or hinders change by the program. Hence, the review should be based upon a sound methodology that is consistent, coherent and logic and provide some room for flexibility in relation to the context, and which encompasses both a process and result review.

A detailed methodology for the review will be proposed by the evaluator and finalised in consultation and agreement with MCRB-IHRB-DIHR. The methods likely to be used by the evaluator include:

- Document review: MCRB programme documents and reporting; MCRB publications
- Interviews of selected MCRB staff and consultants
- Interviews of relevant DIHR and IHRB staff contributing to the project
- Interviews with key stakeholders – target groups – from companies, civil society, government, inter-governmental organisations

**Timeline:**

- 12 noon UK time, 13 April: application deadline
- 22 April: Skype interviews
- Week of 27 April: decision and candidates informed of outcome
- Early May: Consultant hired. Elaboration of detailed methodology and work plan for the mid-term review, in close consultation with MCRB-IHRB-DIHR
- Mid-May/mid-July (some time to be spent in Yangon): document review, interviews and gathering of quantitative and qualitative information
- July: drafting of report and presentation to advisory group and steering group. Resources permitting, a consultation and validation event/meeting(s) with donors to discuss the findings and recommendations of a draft report before it is finalised
- August: report finalisation and targeted dissemination of summary and key findings to key stakeholders. Sharing of report with DANIDA MRM consultant for taking into account in their final report

**5. Skills and qualifications**

An independent evaluator will be hired with the following skills:

- Familiarity with the Myanmar context and actors and the political economy issues affecting economic governance and human rights
- Knowledge about Human Rights-related work preferably in relation to business and human rights
- Clear expertise in programme development and monitoring and evaluation approaches and methods, including theory based methods
- Strong research, interviewing and writing skills
- Commitment to/knowledge of participatory methods and facilitation of lesson-learning
- Teamwork and communication skills, including an ability to work constructively and sensitively with internal and external stakeholders, including government, business and civil society

**6. Logistics and procedures**

- MCRB will provide existing documentation to the evaluator as well as facilitate contacts with stakeholders.
- Detailed workplan including field trips and review meetings will be set up with the evaluator.

**7. Outputs**

- Mid-term Review report – to be delivered in final form before 1 September 2015.

- Response by MCRB to the Mid-term Review before mid-October.
- The mid-term review report or a summarized version will be posted on MCRB's website.

#### **8. Reporting, contracting arrangements and governance group**

IHRB is commissioning the mid-term review and will contract the evaluator and coordinate with all relevant stakeholders.

A Mid-Term Review Steering Group will be set up including representatives from MCRB, DIHR and IHRB to select the contractor and oversee the study.

A Mid-Term Review Advisory Group composed of representatives from DFID and DANIDA will advise on the selection of the contractor, comment on the terms of reference and methodology, and support follow-up to the recommendations of the mid-term review. Other donors will be briefed at the beginning and end of reviewer's visit to Myanmar.

#### **9. Time required**

It is expected that the review will require up to 40 days work over the five months April-August, including one and possibly two trips to Yangon.

## Annex 2: List of people consulted

Name	Organisation	Position
<b>IHRB and DIHR staff members (by Skype)</b>		
John Morrison	IHRB	Executive Director
Jon Barnes	IHRB	Programmes Director
Frances House	IHRB	Deputy Executive Director
Margaret Wachenfeld	IHRB	Director of Research and Legal Affairs
Donna Guest	IHRB	Senior Adviser for South East Asia
Salil Tripathi	IHRB	Senior Adviser, Global Issues
Lucy Purdon	IHRB	Project Manager – ICT
Vanessa Bissessur	IHRB	Operations Manager
Allan Lerberg Jorgensen	DIHR	Department Director, human rights and development
Elin Wrzoncki	DIHR	Programme Manager, human rights and business
Mads Holst Jensen	DIHR	Senior Advisor
Tulika Bansal	DIHR	Advisor

<b>MCRB staff members</b>		
Vicky Bowman	MCRB	Director

Hnin Wut Yee	MCRB	Program and Outreach Manager
Thi Thi Thein	MCRB	SWIA Manager
Phyu Phyu Zin	MCRB	Programme and Communication Officer
Aung Kyaw Soe	MCRB	Extractives Programme Manager
Wai Phyo Mint	MCRB	Regional Outreach Manager
Kamran Emad	MCRB	ICT Consultant

<b>Myanmar Government Representatives</b>		
U Htay Aung	Ministry of Tourism	Minister
Than Htun Aung	Ministry of Communications and Technology, Posts and Communications Department	Director
Hla Maung Thein	Ministry of the Environment Conservation and Forestry	Deputy Director General, Environmental Conservation Department
Than Min	Ministry of Energy, Myanmar Oil and Gas Enterprise	Director, Planning
Thein Lwin	Pyithu Hluttaw Committee on the Natural Resources and Environmental Conservation	Secretary and MP
Prof Aung Tun Thet	Myanmar Investment Commission	Member, President's Economic Advisor
Dr Nyan Zaw	Myanmar Human Rights Commission	Member

<b>Myanmar and international company representatives</b>		
John Field	BG	Country Director
Robin Scott	Citi Mart	Legal advisor
Belinda Ford (by phone)	Coca Cola	Head of Public Affairs and Communications
Ye Thura	Kernellix	Director
Dr Thaug Han	Max Myanmar	Chief Operating Officer
Anastacia Howe	MPRL	Head of Corporate Social Responsibility & Communications
Nyein Chan	SST Travel	Director
Xavier Preel	Total	General Manager
Ken Pyi Wa Tun	Parami	Chairman and Chief Executive Officer
Dr Thet Thet Khine	Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI)	Joint Secretary General
Robin Scott	CityMart	Legal advisor

<b>Civil Society and INGOs</b>		
Ye Htun Naung	Article 19	Director
Wai Wai Lwin	Badethamoe	Director
Ecodev	Win Myo Thu	Managing Director
U Shwe Thein	Land Core Group	Chairman

Htaike Htaike Aung	Myanmar ICT for Development Organization (MIDO)	Co-founder
Martin Pun	Myanmar Business Coalition on Aid	Chairman
Debbie Aung Din	Proximity Designs	Director
Aye Kyithar Swe	Proximity Designs	Economic Research Associate
Andrea Valentin (Skype)	Tourism Transparency	Director

<b>Multilateral organisations</b>		
Dyveke Rogan	Extractive Industries Transparency Initiative (EITI)	Policy and Regional Director
Charles Schneider	International Finance Corporation	Senior Operations Officer, Trade and Competitiveness
Steve Marshall	ILO	Liaison Officer
Piyamal Pichaiwongse	ILO	Deputy Liaison Officer
<b>Donors</b>		
Representatives of UK DFID, Danish Embassy, Irish Embassy, Swiss Embassy, Norwegian Embassy and Embassy of the Netherlands at a meeting held with MCRB and IHRB at the Danish embassy on 4 June 2015.		

<b>Others</b>		
Miwa Yamada (by e-mail)	Institute of Developing Economies, Tokyo	Director, Law and Institution Studies Group
Stephanie Ashmore	British Chamber of Commerce	Director
Guillaume Rebière	CCI France Myanmar	Director

## **Annex 3: Select list of documents consulted**

### ***DIHR/IHRB internal documents***

Bansal, Tulika. 2012. Mission Report. DIHR Burma-Myanmar/Thailand mission – Civil Society Consultation.

Bansal, Tulika. 2013. The knowledge, perceptions, practices and needs of Myanmar companies on Responsible Business. PowerPoint presentation. Yangon 4 May 2013.

IHRB/Danish Institute. Proposal to DFID Burma Accelerated Reform Facility (ARF), 21 February 2013.

IHRB/Danish Institute. Terms of Reference: Mid-term review of the Myanmar Centre for Responsible Business. March 2015.

### ***MCRB internal documents***

Options for Future Funding and Sustainability (PowerPoint presentation). September 2013.

Final Report for the Period February 2013-28 February 2014.

Final Report for the Period 1 January – 31 December 2014

Programme Outline and Log Frame, 2014-2015. Updated version as agreed by the Donor Working Group, 30 September 2014.

Monitoring and Results Measurement System for the Danida-supported “Programme for Responsible Business in Myanmar” 2014, Quarters 1 and 2

MCRB Donor Group. Agenda and Pre-read (PowerPoint presentation), 25 February 2015.

Report to donors: Quarter 2, Year 3: 1 April 2015 – 30 June 2015

MCRB Risk Register – 1 July 2015

### ***MCRB external publications***

*Pwint Thit Sa. Transparency in Myanmar Enterprises. First Report. July 2014.*

*Myanmar Oil and Gas Sector-Wide Impact Assessment. September 2014.*

*Corporate Responsibility and Disability (CSR-D). A Guide for Companies in Myanmar, August 2014.*

*Civil Society Organisations and the Extractive Industries in Myanmar. A Brief Overview, October 2014.*

*Myanmar Tourism Sector Wide Impact Assessment, February 2015.*

*Land. Myanmar Centre for Responsible Business Briefing Paper, March 2015.*

MCRB/DIHR. 2015. *Human Rights and Business Country Guide*, April 2015.

Draft for Consultation, June 2015, Myanmar ICT Sector-Wide Impact Assessment, June 2015.

Pwint Thit Sa Project. *Transparency in Myanmar Enterprises. Second Report 2015, July 2015.*

Human Rights and Business Fact Sheets on *Culture; Worker Housing; Environment & Ecosystem Service; In-Migration; Livelihoods; Labour Rights; Access to Remedy, Housing, Land Acquisition & Resettlement; Public and Community Services; Groups at Risk; Community Consultation.*

### **Others**

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**Annex 4: MCRB organisational model (from MCRB programme document, 30 September 2014).**

