

Recommendations

RECOMMENDATIONS

The following is a summary of the recommendations to the main actors in Myanmar's tourism sector. A fuller explanation of these recommendations and suggestions for how they can be implemented is included below.

<p><u>To the Government of Myanmar</u></p> <ol style="list-style-type: none">1. Fully implement Strategic Programme 3 of the Tourism Master Plan, the Responsible Tourism Policy and the Policy on Community Involvement in Tourism2. Strengthen the regulatory and policy framework for social and environmental issues as it relates to the tourism sector3. Adopt better regulation for the tourism sector4. Build the capacity of policy, regulatory and inspection authorities, including at regional level5. Raise awareness of relevant regulatory and policy frameworks6. Increase transparency7. Adopt a zonal planning framework for existing and emerging tourist destinations and undertake Strategic Impact Assessments for large developments8. Further encourage the participation of, consultation with and the inclusion of local communities in tourism development9. Strengthen processes for judicial and non-judicial remedy	<p><u>To Companies in the Tourism Sector</u></p> <ol style="list-style-type: none">1. Support the principles of the Tourism Master Plan and the government's implementation of the aspects of that Plan which relate to responsible tourism2. Commit to applying international social, environmental and human rights standards and undertake due diligence in the business and its supply chain3. Practice enhanced human rights due diligence on particular issues4. Respect the rights of vulnerable groups, including children and people with disabilities5. Ensure the participation of communities in tourism development6. Create and support mechanisms that enable complaints and grievances to be addressed quickly and effectively7. Take collective action to address to environmental, social and human rights issues8. Strengthen the governance of the Myanmar Tourism Federation (MTF) and its member organizations	
<p><u>To Institutional Investors</u></p> <ol style="list-style-type: none">1. Conduct enhanced due diligence on portfolio companies that are involved in the tourism sector in Myanmar.2. Engage with investee companies involved in	<p><u>To Tourists</u></p> <ol style="list-style-type: none">1. Respect local Myanmar culture and traditions, the environment, and women's and children's rights	<p><u>To Civil Society</u></p> <ol style="list-style-type: none">1. Conduct capacity building activities with civil society, workers and communities2. Engage actively in EIA consultations related to tourism development

<p>the tourism sector in Myanmar to ensure that these companies meet or exceed international</p> <p>3. Urge companies doing business in the tourism sector in Myanmar to report robustly on how they manage risks and impacts associated with investments and operations in the country.</p>	<p>2. Support the development of responsible tourism in Myanmar</p>	<p>projects and disclosure processes</p> <p>3. Advocate for the ratification of ILO Core Labour Conventions such as Minimum Age Convention (No. 138) and other ILO Conventions related to the tourism sector</p> <p>4. Advocate directly and through the media for tourism businesses in Myanmar to adopt appropriate tourism standards</p> <p>5. (For the media) Report on negative impacts on tourism and highlight ways in which these could be mitigated in line with national law and international standards.</p>
<p><u>To Development Partners/Home Governments</u></p> <p>1. Support the Government to implement Strategic Programme 3 of the Tourism Master Plan, the Responsible Tourism Policy and the Policy on Community Involvement in Tourism</p> <p>2. Support the strengthening of environmental, social and human rights policy and legal frameworks.</p> <p>3. Support implementation of the corporate responsibility to respect human rights in Myanmar by international companies.</p> <p>4. Raise tourist awareness about how to avoid negative impacts of tourism, including through consular advice.</p>	<p><u>To the Myanmar National Human Rights Commission</u></p> <p>1. Support the development of a National Action Plan on business and human rights, and include action points relevant to the tourism sector</p> <p>2. Advise on human rights aspects of tourism laws, regulations and guidelines</p> <p>3. Support those affected by tourism development projects in seeking legal redress</p> <p>4. Publicly report on the handling of complaints, investigations and follow up steps undertaken by the MNHRC and other institutions with regard to tourism development related grievances</p>	
<p><u>To All Stakeholder Groups</u></p> <ul style="list-style-type: none">Establish an open platform for discussing human rights in tourism in Myanmar, including cumulative impacts.		

Part 5.1

Recommendations to the Government of Myanmar

Fully implement the Strategic Programme 3 of the Tourism Master Plan (strengthening safeguards and procedures for destination planning and management), as well as the Responsible Tourism Policy and Policy on Community Involvement in Tourism

Reference Document: Myanmar Tourism Master Plan Strategic Programme 3

The Tourism Master Plan, the Responsible Tourism Policy and the Policy on Community Involvement in Tourism, which were developed in 2012, 2013, and 2014 respectively, each identify robust action points and recommendations to promote responsible tourism. The actions point and recommendations set out in Strategic Programme 3 of the Master Plan are particularly valuable. If fully implemented with the support of development actors and other partners, these will significantly contribute to the development of sustainable, pro-poor tourism and good governance.

The remaining recommendations to government listed below build on these policy documents, address points not fully covered in those documents or which are particularly evident from field research, draw on knowledge of other reform processes within Myanmar, and highlight opportunities to align policies, regulation and actions with international standards.

1. Strengthen the regulatory and policy framework for social and environmental issues as it relates to the tourism sector

Reference Document: Myanmar Tourism Master Plan Key Objective 1.5: Strengthen Tourism's Legal and Regulatory Environment and Activity 1.5.4: Review the Law on Tourism and tourism-related legislation and make appropriate amendments to better align with the needs of the tourism industry:

While the tourism sector in Myanmar is ahead of other sectors in terms of having sector specific policies on responsible business, such as the Myanmar Tourism Master Plan and the Myanmar Responsible Tourism Policy, responsible business in tourism will only be achieved if the wider regulatory framework (e.g. investment laws, labour laws, environmental laws and policies, policies related to land and cultural heritage, transport, water, children and consumer protection) takes tourism into account and its enforcement is strengthened. This requires:

1. **Better regulation**, sensitive to the specificities of tourism and incorporating effective public consultation processes prior to adopting or revising regulation or policy. Such

consultation is generally lacking in Myanmar. Further, better coordination between Ministries would also support the development of more effective regulation.

2. **Strengthened capacity of policy, regulatory and inspection authorities**, including at regional level.
3. **Raising awareness** of the law within government and amongst business and other citizens, and international tourists where appropriate. This SWIA has identified a lack of awareness amongst tourism businesses, tourists and communities across a range of areas, including labour laws, environmental protection, education, child labour and sex tourism.
4. **Transparency** in the implementation of laws and policies.

A. Adopt better regulation for the tourism sector

Key Points for Implementation:

- Hold **public consultations** on the draft law amending the current **Myanmar Hotels and Tourism Law** before it is sent to Parliament. Ensure that the private sector, trade unions and civil society organizations including those focused on vulnerable groups and the environment are provided the opportunity to comment and identify issues of concern to them.
- **Enhance coordination between Ministries** using the new Tourism Development Central Committee, which is chaired by the Vice-President. This institution could be used to ensure that other Ministries are able to provide early warning of when laws and policies are being developed or revised, providing opportunities for specific tourism-related issues to be taken into account and to avoid future conflicts between Ministries. The Ministry of Hotels and Tourism would benefit from gaining the capacity to input into draft laws being drafted by other Ministries. Laws and policy areas relevant to the tourism sector, some of them already under revision, include laws and policies on: investment and company registration, labour, land, water, cultural heritage, transport, the environment, children, people with disabilities, consumer protection and public procurement. Several of these are addressed in more detail below.
- Complete the **legal framework for environmental protection** by developing relevant sectoral standards and **finalise the environmental impact assessment (EIA) procedure** that will apply to certain tourism projects. [Recommendations in the Oil and Gas Sector Wide Impact Assessment \(Part 7.1\)](#) identify certain points concerning EIAs including the need to strengthen the social and human rights aspects of the EIA process, build government capacity including at regional and local level and strengthen the right to information. As regards tourism projects:
 - The undertaking of EIAs and Environmental Management Plans should incorporate consultation, be publicly disclosed and involve regular reporting on implementation in accordance with the requirements of the Environmental Conservation Law (2012) and the regulations which support it
 - Pending the introduction of more stringent national laws and safeguards, EIA procedures should use the [IFC Performance Standards](#) and [IFC Environmental Health and Safety Guidelines](#) when conducting impact assessments. Of particular relevance are the [IFC Environmental, Health, and Safety Guidelines for Tourism and Hospitality Development](#) (2007).

- Where tourism operations already exist and would have required an EIA, tourism businesses should be required to submit existing plans for managing environmental and social impacts to MOECAP. When implementing the requirements of Article 9 of the draft EIA Procedures concerning pre-existing projects, MOECAP should prioritise the requirement that EIAs and Environmental and Social Management Plans (ESMP) be completed for those which are in protected or environmentally fragile areas, or where there have been community complaints.
- Consider the development of a **Coastal Tourism Strategy**, given the tourism potential of Myanmar's long coastline, and its current near pristine state. This should be pursued in a participatory manner and bring together MoHT, MOECAP and other relevant ministries. Consider revising the [Directives for Coastal Beach Areas](#) (2004) to incorporate specific guidelines on social and environmental practices, including freshwater usage and waste management.
- **Ratify the remaining [ILO Core Labour Standards](#)** as well as **ILO Tourism Labour Standards** such as ILO Convention 172, Working Conditions (Hotels and Restaurants) Convention (1991). This should be undertaken in addition to the government's extensive programme of ongoing labour law reforms and the ILO-supported programme to develop a comprehensive and overarching labour law framework in line with international labour standards. The ILO is working with the government on the implementation of freedom of association laws, and extending protection to new types of workers, including temporary and migrant workers, which are prevalent in the tourism sector. The ILO is also supporting the strengthening of the labour inspectorate. Each of these actions will support better working conditions in the sector.
- **Land:** in addition to the **need for broader reform of the land laws** to provide clear protections that reflect customary and informal arrangements in Myanmar, in terms of both protecting security of tenure and providing appropriate process safeguards to eliminate or at least reduce unlawful acquisition (land grabbing), there is a need to:
 - **Establish clarity** for tourism businesses and communities around process and legal bases for land acquisition by the government and tourism businesses and concerning the rules regarding compensation rates for land, housing, crops, other assets and for access to assets.
 - In order to limit land speculation practices, establish a legal obligation to use land acquired under the 1894 Act for the purpose for which it was acquired; **impose severe fines where expropriated land remains unused for the purpose it was acquired in order to discourage holding property unused for speculation purposes**; and require its return to original land users within a certain period if it is subsequently not used.
- In the medium term, **develop a new law on the expropriation of property** for public purposes and associated resettlement, grounded in international standards, to replace the 1894 Land Acquisition Act, which currently governs such processes. The amended law should include a more limited list of projects for which compulsory acquisition of land is permissible, particularly as concerns commercial businesses such as hotels.
- **Safety and Quality Standards:** The Tourism Master Plan Key Objective 1.4 calls for the development of systems to promote visitor safety and consumer protection and identifies a number of activities concerning the emergency medical evacuation of tourists, and emergency and natural disaster planning, and the development (1.4.3) of a national policy and codes of conduct to promote visitor safety. The Plan states that

these activities are to involve consultation with stakeholders to: review visitor safety and security issues, especially regarding transport; review visitor responses to surveys; and draft and approve policy, guidelines and codes of conduct. Activity 1.4.4 identifies the establishment of trained tourist police units in all tourist areas.

- Activity 1.4.5 of the Tourism Master Plan calls for the inclusion of tourism services in consumer protection laws, rules and regulations. Priorities should include:
 - strengthening food safety standards
 - increasing the safety of transport for tourists and employees in the tourism industry, including through the introduction of compulsory road safety training for all tour operators, vehicle providers, guides, boat operators and others in the tourism value chain who are frequent road users
 - improving safety and quality in the emerging trekking industry.
- **Upgrade security and safety standards and procedures in the aviation sector**, building on findings from the aviation review envisaged in Key Objective 5.1.4 of the Master Plan (“Conduct a review of the international domestic aviation industry: review and recommend improvements to current routing, infrastructure and ground services with a view improve safety, security and service”).⁶⁴⁶
- In formulating a new Myanmar National Plan of Action for Children, include steps to reduce the likelihood of **orphanage tourism** developing in Myanmar.
- **Revise the Child Law to define any person under 18 as a child** in accordance with international standards, and ratify ILO Convention 138 on Minimum Age (1973) as part of wider reforms to align Myanmar with international standards of child protection.
- Implement Key Activity 3.2.1 of the Tourism Master Plan, which identifies actions to **prevent sex-tourism and human trafficking, including the sexual exploitation of children**.

B. Build the capacity of policy, regulatory and inspection authorities, including at regional level

A wide-range of capacity building programmes are being implemented in the issue areas discussed above, together with development partners, although there have been lower levels of investment in capacity building of local government bodies and personnel. Some of these programmes relate directly to tourism, such as The Code’s work to raise awareness and sensitise police, magistrates, communities, village heads and others as to the dangers and illegality of child sex tourism, and develop their capacity how to recognize and act when child sex tourism is discovered. Other programmes are cross-sector. Capacity building is both necessary and more challenging where the regulatory responsibilities of Nay Pyi Taw and regional governments, the arrangements that oversee these, and the laws themselves are in flux, and government bodies are consistently under-resourced.

Concerning tourism, the State and Regional Tourism Councils proposed in the Tourism Master Plan will all perform an essential role in tourism planning and management at the subnational level. The Councils will also facilitate the implementation of destination-level projects and activities. The Tourism Master Plan identifies that, given the lack of public and

⁶⁴⁶ See Part 4.7 for more information on security in the aviation sector.

private tourism experience within the states and regions, State and Regional Tourism Councils (Key Objective 1.2) will need support from development partners to strengthen their capacity to mainstream tourism planning into local governance structures.

Key Points for Implementation:

- Build relevant capacity at regional level to understand and interpret regulations and policies relating to responsible tourism and environmental and social protection. Priorities for capacity building should include the management of **environmental impacts**, **land acquisition** and **good resettlement practices**.

C. Raise awareness of relevant regulatory and policy frameworks

Key Points for Implementation:

- **Raise awareness of relevant laws amongst businesses**, in partnership with others. This may be challenging given the rapidly changing legal framework. A particular priority for the tourism sector is awareness of **labour laws**. The government can collaborate with the ILO, business and trade unions to raise awareness of these laws. Other areas of law where the government needs to raise awareness, particularly among tourists and guides, are laws concerning **prostitution**, **child labour** and **child protection** more generally, and **environmental conservation** including the protection of **endangered species**.
- Take action to **discourage behaviour that may not be illegal but which leads to negative impacts**. In line with the Responsible Tourism Policy, which identifies a number of action points for awareness raising around environmental conservation and minimizing unethical practices, efforts are being undertaken to raise awareness by businesses and tourists through the dissemination of materials such as the Do's and Don'ts for Tourists, and workshops convened for tourism businesses on The Code (child sexual exploitation). Particular priorities for Myanmar should be to **discourage orphanage tourism** and the **giving of presents to children begging at tourist sites**, the purchase of **souvenirs made from animal species**, **littering** and **unnecessary water use**.

D. Increase transparency

The Tourism Ministry already maintains an active and regularly updated website identifying all relevant laws, policies, directives, statistics and other news about its activities. Broader changes in governance in Myanmar should further improve the transparency of the tourism sector. Such changes may include those concerning the public disclosure of environmental impact assessments, management plans and regular reports on these, and the publication of a top taxpayers list. If the activities for enhanced statistical collection identified in the Tourism Master Plan are adopted, together with more active destination management involving different stakeholders, this should also enhance transparency.

Key Points for Implementation:

- Take further specific steps to **enhance transparency**, including:

- Inclusion of the **promotion of transparency** and the combatting of corruption in **terms of reference for all government bodies** involved in tourism management.
- **Publication** of information about **existing and planned Hotel Zones**, to inform the review envisaged in the Tourism Master Plan (activity 3.3.1), which is to take place in 2014-2015 of the status of hotel zone development (see recommendation 1.4 below).
- Increasing transparency regarding **compensation for compulsorily acquired land, housing, crops, other assets and access to assets**.
- Allocating land or concessions for hotels and other tourist facilities, including in Protected Areas, through a **transparent tender process** developed in line with [Open Government Guide on Public Contracting](#).
- **Publishing** information about the **revenue earned from user fees**, and how it is used, including entrance fees collected by the Department of Cultural Heritage.
- Clear and simplified **permitting and licensing processes** for small-scale tourism businesses.
- Publishing information regarding **aviation safety**.

2. Adopt a zonal planning framework for existing and emerging tourist destinations and undertake strategic impact assessments for large development

Reference Document: Tourism Master Plan Key Objective 3.1 – Develop Innovative, Integrated and Participatory Approaches to Destination Planning and Management; Key Objective 3.2: Strengthen Tourism-Related Social and Environmental Safeguards; Key Objective 3.3: Improve Zoning in Tourism Destinations

Activity 3.3.1 of the Tourism Master Plan ‘Improving Zoning in Tourism Destinations’ identifies the need to review hotel zone development and the development of a zonal planning approach developed and applied at all destinations that experience high visitor growth. In addition to zonal planning, which should identify appropriate activities for different areas, a strategic impact assessment approach is needed to address the cumulative impacts of multiple projects, many of which will not reach the threshold size for which an EIA is required.

Key Points for Implementation:

- Accelerate the **review envisaged in the Tourism Master Plan for 2014-2015 of the status of hotel zone** development (*‘Review progress and issues with hotel zone development within the context of Myanmar’s responsible tourism policy; develop a planning framework that harmonises hotel zone planning with national objectives to protect natural and cultural heritage and promote the well-being of local residents’*). Initiate this process through **multi-stakeholder dialogue and debate**, to inform the development of a zonal planning framework envisaged in the Tourism Master Plan.
- Conduct **Strategic Impact Assessments (SIA)** (also known as Strategic Environmental Assessments), which identify social and environment impacts for large scale tourism development in new, expanding or sensitive destinations. Meaningful community consultation should take place before developments are finalised. Strategic Impact Assessments should also **include assessment of the social and environmental**

‘**carrying capacity**’ for the tourist destination, to assess the maximum level of visitor use and related infrastructure the area can accommodate. SIAs should subsequently inform project-level EIAs where these are required under the emerging Myanmar legal framework.

- To avoid negative impacts which could damage natural and cultural heritage, and the well-being of local residents, **suspend decisions on the further development of hotel zones** until the completion of this review and the adoption of an SIA approach.

3. Further encourage the participation of, consultation with and the inclusion of local communities in tourism development

Reference Document: Tourism Master Plan – Key Objectives 3.6 Strengthen Community Involvement in Tourism and 4.3: Strengthen Tourism-Related Supply Chains, Responsible Tourism Policy, Policy on Community Involvement in Tourism

The government’s Policy on Community Involvement in Tourism (CIT) Policy, defined community involvement as ‘allowing a significant number of local community members to gradually gain substantial control over the development and management of tourism activities in their region’. Its objectives include: strengthening the institutional environment and civil societies; capacity building for community related activities in tourism; developing safeguards, systems and procedures to strengthen community planning and management in tourism; encouraging local entrepreneurship through micro- and local enterprises; diversifying and developing quality products and services at community level and monitoring positive and adverse impacts of community involvement in tourism. The policy identifies a number of action points, and addresses the role of national and local government in implementing them. Local government is identified as taking a leading role in environmental planning, land-use planning and rural development initiatives. This task would include facilitating the participation of local communities and licensing businesses in accordance with the national framework.

Action points concerning training and support for local SMEs and microenterprises are identified, as well as developing and marketing quality products and services and Codes of Conduct for visits to communities. Although the action points focus on helping communities to obtain economic benefits rather than the protection of and respect for human rights, these are a part of its core principles (pages 14-16). Full implementation of the CIT Policy is strongly recommended.

However, based on the SWIA research and other reports, at present, tourism development in Myanmar appears to be taking place through two parallel tracks, with some locations being the subject of the CIT policy and others facing decisions made by government and large businesses, often from outside the area, without prior community consultation and with the potential to generate conflict.

Key Points for Implementation:

- **Make consultation with local communities meaningful** and undertake it **from the start** of the development of new tourism activities, providing local communities with the ability to make decisions. The pace of tourism development should not be decided only by government, but also by local community members, to reduce the current concerns that tourism will be developed for the benefit of outsiders.
- In **ethnic minority areas**, engage with local communities in local languages. Include a wide range of ethnic community leaders and where relevant non-state armed groups. Where those communities consist of **indigenous** or **land-connected peoples**, communities should have the opportunity to give or decline to give their free, prior and informed consent to tourism development which makes use of their land or cultural heritage. This should be done in line with UNDRIP and IFC Performance Standard 7.

4. Strengthen processes for judicial and non-judicial remedy

Myanmar's judicial system requires comprehensive reform, which will take many years. In the interim, and even in the longer term, it is important that effective alternatives to formal legal proceedings are available to ensure access to remedy is readily available to victims of impacts associated with business activities, in line with the UN Guiding Principles on Business and Human Rights. There are emerging non-judicial mechanisms in Myanmar, but these are already overloaded with complaints and their effectiveness restricted by their limited mandates. In the past, legal proceedings have been pursued against community members for protesting against tourism development projects.

Key Points for Implementation:

- Review and **strengthen non-judicial grievance mechanisms** for communities and workers affected by tourism businesses.
- Empower **civil society to monitor business respect for the human rights** including companies' contractual commitments in Environmental and Social Management Plans (ESMP), and respond constructively to information generated by civil society.
- Ensure that people and affected communities that **peacefully protest** against tourism development projects are not criminalized or threatened, in particular through the reform of the Peaceful Assembly Law and other laws that are used to repress peaceful protests. Further, ensure that individuals who engage in litigation are free from threat of force, intimidation and harassment.
- **Publish information on the outcomes of judicial and non-judicial grievance mechanisms** related to disputes concerning the tourism sector.

Recommendations to Myanmar and Foreign Businesses

1. Support the principles of the Tourism Master Plan and the Government's implementation of the aspects of the Plan which relate to responsible tourism

The guiding principles of the 2013 Tourism Master Plan reflect the aims of the 2012 Responsible Tourism Policy. These principles seek to develop tourism as a national priority sector; promote broad-based local social and economic development; maintain cultural diversity and authenticity; conserve and enhance Myanmar's protected areas and natural environment; compete on product richness, diversity and quality; ensure the health, safety and security of visitors; strengthen institutional capacity to manage tourism; develop a well-trained and rewarded workforce; and minimize unethical practices.

The Plan identifies objectives and activities concerning responsible tourism, particularly those in Strategic Programme 3 of the Tourism Master Plan (Strengthen Safeguards and Procedures for Destination Planning and Management). These activities foresee a particular role for Myanmar Tourism Federation (MTF). However, all businesses, whether members of MTF, Myanmar or foreign, can participate in the implementation of the Tourism Master Plan by participating in consultations and workshops, adopting and sharing good practices, and taking steps to ensure that their customers do not engage in unethical practices.

2. Commit to applying international social, environmental and human rights standards and undertake due diligence in the business and its supply chain

This SWIA has highlighted current gaps in Myanmar's evolving legal framework with regard to social, environmental and human rights issues. There is no guarantee that, once adopted, national laws will fully reflect the standards of responsible business conduct expected of companies operating in Myanmar. In addition to providing companies certainty at a time when the national legal landscape is in flux, the use of international standards also provides confidence to local and international stakeholders. Companies based in the OECD are also expected to apply the [OECD Guidelines on Multinational Enterprises](#), which are aligned with key international standards such as the UN Guiding Principles on Business and Human Rights.

Where SMEs and micro-SMEs are suppliers to larger companies in the tourism sector, they should be supported to meet international social, environmental and human rights standards.

Key Points for Implementation:

- **Apply international social, environmental and human rights standards**, such as [ILO Declaration on Fundamental Principles and Rights at Work](#) and regulations related to the hospitality sector ([ILO Convention 172 Working Conditions \(Hotels and Restaurants\) \(1991\)](#) and [ILO recommendation R179 Working Conditions \(Hotels and Restaurants\) Recommendation \(1991\)](#), [IFC Performance Standards](#) and [Environmental, Health, and Safety Guidelines for Tourism and Hospitality Development](#).
- **Adopt existing tourism standards** such as the [Global Sustainable Tourism Criteria](#), [UNWTO Private Sector Commitment to the Global Code of Ethics for Tourism](#) and the [Travelife Sustainability System Criteria](#).
- **Promote responsible business practices** through **due diligence of suppliers'** practices, and application of international standards in the supply chain. Businesses should put in place specific contractual requirements or supplier codes of conduct, together with monitoring, support, and relevant incentives and disincentives with business partners supplying goods and services to prompt uptake and respect for relevant international, national and company standards.
- **Study and implement Myanmar's EIA framework** to determine whether existing projects will require an IEE or EIA. Businesses should refer to Strategic Impact Assessments (see recommendation 3.3) carried out at the regional level if they are conducted in future. In any case, businesses should have an **internal plan to manage environmental and social impacts** appropriate to the size and scope of the business. This should include effective waste management systems (for solid waste and waste water), including recycling, composting and water efficiency, as well as conservation measures, such as providing advice to tourists to reduce water consumption, investing in rain harvesting and the recycling of waste water, energy efficiency and where cost-effective, renewable energies.
- Practice **early, meaningful and on-going engagement and consultation with and promote the participation of affected stakeholders** including communities, workers and other stakeholders such as CBOs involved in tourism development. Identify those who can speak legitimately for a specific community.
- Report publicly and directly to those affected the **findings of impact assessments** and actions taken to address and mitigate adverse impacts.
- When conducting **stakeholder engagement**, adopt a **human rights based approach (HRBA)**, which incorporates the principles of participation, non-discrimination, the empowerment of rights holders, transparency and accountability.
- **Avoid participation or involvement** in the repression of protesters and human rights defenders, and support the right to peaceful assembly and freedom of expression.

3. Practice enhanced human rights due diligence

While all human rights issues ought to be taken into consideration, in the context of Myanmar, which is a complex operating environment with conflict-affected areas,⁶⁴⁷ it is recommended that businesses and in particular hotel groups pay specific attention to issues such as land, given that land acquisitions in the past have been the cause of conflicts, protests and court cases. Labour should also be a focus (see Part 4.3 and 4.4 for further details on these issues).

Key Points for Implementation:

Land

- **Investigate land use, and current and previous ownership and usage, including customary usage** prior to land acquisition, through engagement with a variety of stakeholders including civil society organizations.
- Consider the impact of acquisition of land on the **landless**, since they may rely for their livelihoods on farming the land of others.
- Carry out detailed due diligence where **land has previously been acquired by the military or companies with close ties to the former military regime** (who may be the local partner for a foreign company). Due diligence should focus on identifying whether there have been deficiencies in Government consultations with communities (or indeed, any consultations at all), or deficiencies in expropriation and compensation processes, including with respect to customary owners or users of land, benchmarked against both national law and international standards.
- Where deficiencies are identified in dealing with current and legacy claims, **engage directly, as far as possible, with communities** to understand the land ownership and use situation and to resolve claims and concerns, rather than relying on land committees and Government authorities.
- Conduct enhanced due diligence in conflict and post-conflict areas to establish any connections to persons **displaced by inter-communal violence**. Companies should avoid contributing to the problem of displaced persons, or appearing to give tacit support to, or benefiting from activities that have resulted in displacement. Companies should obtain advice from local experts including relief agencies and civil society organizations operating in the area before deciding how to proceed.
- Ensure that **adequate compensation for physical and economic displacement and loss of livelihoods is paid**. In cases where land is taken from land owners and users relying on land for their livelihoods, such land should ideally be replaced by alternative land, allowing them to maintain the same or achieve a better livelihood. Where resettlement is taking place, tourism business involved should encourage the Government to apply [IFC Performance Standard 5](#) and be guided by it themselves.
- US companies or persons with aggregate new investment in Myanmar over USD 500,000 should be **transparent** about how land is acquired and used and the compensation rates paid, in line with the [US State Department Reporting Requirements](#). Non US companies could use the reporting requirements as a benchmark for good practice.

⁶⁴⁷ UN Guiding Principles on Business and Human Rights, Principle 17 and its commentary.

- Publicly commit to **zero tolerance of forced labour** and other forms of labour exploitation in the prevalent in the tourism sector.
- Monitor the labour performance of **subcontractors**, in particular high risk suppliers, such as construction contractors, transport providers, maintenance staff, concerning working conditions, health and safety, and child labour.
- Respect workers' rights to **freedom of association** and **collective bargaining** in accordance with the [Labour Organization Law \(2011\)](#), which permits the exercise of freedom of association and respect working hours and rest.
- Formalize employment contracts and payment for day labourers, temporary/seasonal workers and migrant workers and employees in family businesses.
- Conduct **health and safety (H&S) training** and ensure safe working conditions through provision of adequate personal protective equipment (PPE) to employees, particularly in the construction and transport sectors. Consider providing H&S training and PPE to local suppliers and contractors.
- Provide **training to security personnel** engaged by tourism businesses that adequately reflects international human rights principles, and includes real-life scenarios and relevant human rights dilemmas to equip security guards to peacefully settle conflicts without using force.
- Implement **non-discriminatory policies and practices** between female and male employees as well as employees of different ethnicities and religions in relation to recruitment, training, the terms and conditions of employment, remuneration (equal pay for equal work), promotion and the provision of grants, loans, goods or services. Ensure managers are aware of local sensitivities around ethnic and religious diversity. Put in place clear company policies on non-discrimination, reinforce these messages and model an approach to equal opportunities.
- Consider the **gender aspects of employee safety**, such as arrangements for female tour guides.
- Have mechanisms in place through which employees can **report labour-related grievances** anonymously, including specific mechanisms to report cases of **sexual harassment**.

4. Respect the rights of vulnerable groups including children and people with disabilities

Key Points for Implementation:

- Conduct a self-diagnosis of the **inclusiveness towards people with disabilities** either [online in English](#), or using the [CSR-D guide/questionnaire](#) in Myanmar/English available from the Myanmar Centre for Responsible Business.
- Consider making a commitment to implement the [Children's Rights and Business Principles](#)
- Commit to the protection of children from sexual exploitation and sign up to [The Code of Conduct](#) for the protection of children from sexual exploitation in travel and tourism ('The Code'). When they observe tourists violating children's rights, for example by engaging in sexual exploitation of children, businesses should report these observations

to the relevant enforcement agency, for example by using the local emergency number, the national police or tourist police or the Childhelp hotline.

- Include a clause on **prohibition of child labour** in codes of business conduct and supplier codes. This does not mean that businesses should not employ persons under 18, providing they do so in accordance with international labour standards.
- **Work with NGOs** to assist underage children engaged in child labour to **continue their education**.
- **Discourage tourists from using child guides**, buying souvenirs from children and giving money to child beggars in tourist locations, by sensitising tourists to the fact that buying from children or giving money to children has an impact on school attendance.
- Do not participate in or encourage '**orphanage tourism**'⁶⁴⁸.
- Where tour operators offer '**voluntourism**'⁶⁴⁹ tours/packages, for example for-profit packages that offer tourists an opportunity to spend time volunteering in a school, orphanage or NGO for a fee, adopt strict guidelines to minimize the negative impacts on beneficiaries, including children. Such guidelines should be based on [International Voluntourism Guidelines for Commercial Tour Operators](#) and should incorporate background checks on the organization that is receiving volunteers, mandatory background checks for volunteers, minimum length of stay for volunteers and an assessment of skills volunteers can contribute to the organization.

5. Ensure participation of communities in tourism development and respect for cultural rights

Key Points for Implementation:

- Encourage and actively support the **full implementation of the government's [Policy on Community Involvement in Tourism \(CIT\)](#)**.
- **Include local communities**, particularly in ethnic minority regions, and vulnerable or excluded groups in those communities in the decision-making, planning and development of tourism projects.
- Design tourism activities with the **consent and support of local communities** and in a manner which reflects their right to take part in cultural life and **right to privacy**. Provide advice on culturally appropriate behavior by tourists to tourists.
- **Disseminate [Do's and Don'ts for Tourists](#)** amongst staff and clients to promote understanding of culturally appropriate behavior and respect for cultural traditions.
- **Prioritise local candidates in recruitment** and take individual or collective action to support **vocational training** in communities,
- **Maximize local sourcing** from farmers and SMEs, and actively promote 'local' products on menus. Support may be necessary in the form of credit, technology transfer and mentoring to raise product quality, reliability and quantity
- Ensure social investment projects are **based on community needs**, following consultation with and the participation of communities.

⁶⁴⁸ For more information on orphanage tourism, see Part 4.5 'Groups at Risk' – Children.

⁶⁴⁹ *Ibid.*

- Be guided by the [IFC Performance Standard 8](#) relating to **Cultural Heritage**, which aims to protect cultural heritage from the adverse impacts of project activities and support its preservation. Promote the equitable sharing of benefits with local communities from the use of cultural heritage, including intangible heritage.

6. Create and support mechanisms that can address complaints and grievances quickly and effectively

One of the most systematic ways for a company to prevent and remediate impacts is through an operational-level grievance mechanism that is accessible directly to individuals and communities who may be adversely affected by the business. This may be administered by the company alone or in collaboration with others. Such a mechanism can provide an early warning system about issues, enabling them to be resolved directly if addressed early and effectively. If ignored or overlooked, such issues can escalate into protracted grievances. This SWIA identified few outlets in Myanmar for effective resolution of grievances either through judicial or non-judicial measures. Accordingly, company-based alternatives are very more important.

Key Points for Implementation:

- Establish internal and external **complaints and grievance mechanisms designed in collaboration with communities and workers** that provide processes to address and resolve concerns in accordance with the criteria of an effective operational level grievance mechanism according to the UN Guiding Principles.⁶⁵⁰
- **Develop and advertise grievance mechanisms** in an appropriate manner that reflects the Myanmar context, so that all potentially affected rights holders are aware of their existence and functioning. Assess what would work best from case to case by consulting potential users, and recognizing that in remote areas where there is a lack of electricity and mobile phone penetration, hotlines or emails may not be adequate.

7. Take collective action to address environmental, social and human rights issues

While tourism businesses should individually undertake due diligence related to their operations, some issues may be better addressed collectively, particularly where there are cumulative impacts. Further, in addition to promoting a level playing field and reducing the risk that ‘bad apples’ will spoil the reputation of the sector, adopting a sensitive approach to issues collectively at local and/or national level, and sharing lessons learned on applying international standards in other comparable countries, may be more effective, less labour intensive for Government, and result in reduced exposure for individual companies.

⁶⁵⁰ [The UN Guiding Principles for Business and Human Rights](#), Principle 31 outlines a number of criteria of what constitutes an effective operational level grievance mechanism. In order to ensure their effectiveness, non-judicial grievance mechanisms should be a) legitimate; b) accessible; c) predictable; d) equitable; e) transparent; f) rights-compatible; g) a source of continuous learning and h) based on engagement and dialogue

Key Points for Implementation:

- Encourage government to conduct a **Strategic Impact Assessment** of tourism's impacts in the destination area. Failing that, work with other major tourism businesses to commission a joint impact assessment to capture cumulative impacts, and minimise the likelihood of 'consultation fatigue'. **Share environmental impact assessments, management plans and best practices.**
- **Raise awareness of existing laws amongst other businesses** in the sector to encourage a level playing field and higher standards. For example, the [Myanmar Garment Manufacturers Association](#) has produced a short guide to labour law for their sector, which could be adapted for the tourism sector.
- Conduct **joint advocacy with local government bodies** on issues such as the adoption and implementation of waste management and water management plans.
- Collaborate with other local businesses on **voluntary initiatives to address cumulative impacts**, such as sponsoring the provision and emptying of garbage bins in tourist areas and the collection of litter; or the creation of a joint fund for community investment for projects designed jointly with communities.
- **Initiate or participate in multi-stakeholder initiatives** that address the negative impacts of tourism, which include civil society organizations, government authorities, the Myanmar Tourism Federation and tourism businesses (see recommendation 8 below).

8. Strengthen governance of Myanmar Tourism Federation (MTF) and its member organizations

The Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) has started reforms to move away from a business association in which members are appointed by government. Some, but not all member associations of the Myanmar Tourism Federation have already reformed their governance to elect chairpersons, who become Executive Committee members of MTF. However the MTF Chairman is currently a government appointee.

Key Points for Implementation:

- Introduce **fully elected leadership in all member bodies of MTF** including the Chair of MTF to strengthen the accountability of business organizations in the tourism sector and their ability to represent the interests of all actors in the tourism sector.
- Ensure that **the MTF is a private sector body** that operates **independently from the government.**

Recommendations to Institutional Investors

1. Conduct enhanced due diligence on portfolio companies that are involved in the tourism sector in Myanmar

This should include **enhanced due diligence** regarding companies' policies, systems, reporting and responses to specific human rights challenges in Myanmar.

2. Engage with investee companies involved in the tourism sector in Myanmar to ensure that these companies meet or exceed international standards on responsible business conduct relevant to their business in Myanmar

This might involve **direct engagement with companies** or participation in shareholder actions.

3. Urge companies doing business in the tourism sector in Myanmar to report robustly on how they manage risks and impacts associated with investments and operations in the country

The **US Government's Reporting Requirements on Responsible Investment in Burma** could be used as a **framework** for such disclosures.

Part 5.4

Recommendations to Tourists

1. Respect local Myanmar culture and traditions, the environment, and women's and children's rights

While tourists can have a positive impact on countries they visit, they can also negatively impact a country or community, through lack of awareness of what is and is not culturally appropriate. Efforts have been undertaken to raise awareness amongst tourists through the [Do's and Don'ts for Tourists](#), a booklet developed by the MoHT, Hanns Seidel Foundation and Tourism Transparency. To date 40,000 booklets have been disseminated in Myanmar.

Key Points for Implementation:

- Follow the [Do's and Don'ts for Tourists](#).
- Dress appropriately and respect religious practices and traditions.
- Respect the privacy of local communities and in particular children.
- Conserve water.
- Do not litter.
- Do not engage in or support illegal activities such as prostitution, child sex tourism or illegal gambling.
- Do not carry prohibited artefacts or flora/fauna and protected species from Protected Areas.

2. Support the development of responsible tourism in Myanmar

Key Points for Implementation:

- Buy products and services from licensed tour operators, guides, vendors.
- Do not visit orphanages (see recommendation 5.2.cc).
- Do not give money to child beggars or avoid buying from child guides or underage souvenir sellers.
- When taking part in 'voluntourism', engage with reputed organizations in order to make it a meaningful experience for both the beneficiaries and yourself.
- Support [ecotourism sites](#) and initiatives and community based tourism establishments
- Report harmful practices observed in/by tourism establishments, such as demands for facilitation payments or child labour either to authorities, tour operator, NGOs or online, for example, [Myanmar Tourism Watch](#)

Recommendations to Civil Society Organizations (including the media and trade unions)

1. Conduct capacity building activities with civil society, workers and communities

Key Points for Implementation:

- **Support local communities** that may potentially be affected by tourism development so that they can participate in tourism-related decision-making processes and project monitoring.
- Raise awareness about current land **laws with farmers in areas where hotel zones will be established** to enable them to register their land, secure their land rights and obtain appropriate compensation.
- **Raise awareness of labour rights and national laws amongst employees** in the tourism sector.
- Raise awareness with communities of **environmental protection**, littering and other related issues.

2. Engage actively in EIA consultations related to tourism development projects and disclosure processes

3. Advocate for the ratification of ILO Core Labour Conventions such as Minimum Age Convention (No. 138) and other ILO Conventions related to the tourism sector

4. Advocate directly and through the media for tourism businesses in Myanmar to adopt appropriate tourism standards

These may include the Global Sustainable Tourism Criteria, Travelife Sustainability System, the UNWTO Global Code of Ethics for Tourism, and The Code.

5. (For the media) Report on negative impacts on tourism and highlight ways in which these could be mitigated in line with national law and international standards.

Recommendations to Development Partners and Home Governments

Tourism is a sector that development partners often neglect. However, the sector has a strong potential for poverty alleviation, employs large numbers of women, and requires little capital investment. Its sustainability as a source of economic growth is dependent on sustainable environmental and social practices, participatory decision-making and the strengthening of local governance. As such it should be included in wider programmes that seek to address such issues in Myanmar.

1. Support the Government to implement Strategic Programme 3 of the Tourism Master Plan, the Responsible Tourism Policy and the Policy on Community Involvement in Tourism

Key Points for Implementation:

- Ensure that the **tourism sector is considered** in other **Technical Assistance programmes** including in relation to the reform of relevant laws and policies.
- Support **capacity building of States and Regions** on potential and actual impacts related to the tourism sector through training programmes for local government officials, with a particular focus on the management of environmental impacts, land acquisition and good resettlement practices.
- Support the development of a **zonal planning framework, Destination Management Plans** and the establishment of **Destination Management Organizations (DMOs)** for Myanmar's major tourist destinations with a particular focus on high risk areas from a social and/or environmental point of view.
- Support the establishment of a **Research Center on Responsible Tourism** that will conduct research, monitor and follow up on the implementation of the Responsible Tourism Policy and the Tourism Master Plan.

2. Support the strengthening of environmental, social and human rights policy and legal frameworks

Key Points for Implementation:

- **Support the Government in the introduction of an effective framework for ESIA**s and provide technical assistance and ongoing mentoring to MOECAP, the regulator, on EIAs for projects related to the tourism sector such as hotels and airports.

- **Encourage the government to include references to international standards** (for example IFC Performance Standards and WBG Environmental, Health and Safety Guidelines) in EIA Terms of Reference and permits provided to investors in the sector.
- Support the Government, including through the ILO, to **strengthen its inspection capacity for labour and environmental protection**.
- Support programmes to **develop civil society capacity** to engage effectively with tourism businesses and media capacity to report on tourism operations, including implementation of ESIs, and to support affected local communities in obtaining redress.
- Support the government in the **reform of land laws**.

3. Support the implementation of the corporate responsibility to respect human rights in Myanmar by international companies

Key Points for Implementation:

- **Proactively express expectations of companies domiciled in the home country which invest in Myanmar.** This should include clear expectations that they should apply the UN Guiding Principles on Business and Human Rights and, where relevant, the OECD Guidelines on Multinational Enterprises, including provisions on disclosure. They should encourage companies to provide access to remedies through operational level grievance mechanisms. Lastly, they should encourage companies to apply the IFC Performance Standards and World Bank Group Environmental, Health and Safety Guidelines in the absence of Myanmar laws that set a higher standard.
- **Consider adopting reporting requirements modeled on the US Reporting Requirements on Responsible Investment in Burma.**

4. Raise tourist awareness about how to avoid negative impacts of tourism, including through consular advice

Recommendations to the Myanmar National Human Rights Commission

The Myanmar National Human Rights Commission (MNHRC) has a mandate to conduct investigations and respond to human rights complaints received, as well as to advise the government on how to implement its 'duty to protect' citizens from adverse human rights impacts by business.

- 1. Support the development of a National Action Plan (NAP) on business and human rights, and include action points relevant to the tourism sector**
- 2. Advise on human rights aspects of tourism laws, regulations and guidelines**
- 3. Support those affected by tourism development projects in seeking legal redress**

Such support could include the provision of access to justice, and support for the return to lawful owners of unused land acquired for tourism purposes.
- 4. Report publicly on the handling of complaints, investigations and follow up steps undertaken by the MNHRC and other institutions with regard to tourism development related grievances**

Part 5.8

Recommendation to All Stakeholder Groups

Establish an open platform for discussing human rights in tourism in Myanmar

This platform could provide advice to the Tourism Advisory Board, and through it, to the inter-ministerial Tourism Development Central Committee. The National Responsible Tourism Research Centre proposed in the Tourism Master Plan could, if established, play a role in supporting such a platform. The Roundtable: Human Rights in Tourism established in Europe by German speaking tour operators could serve as a model (see Box 36, below).

Box 36: Roundtable: Human Rights in Tourism

The Roundtable: Human Rights in Tourism is an open platform to advance human rights in the tourism sector. The members of the Roundtable commit to human rights responsibility and due diligence in tourism in accordance with the UN Guiding Principles on Business and Human Rights (UNGPs). Participation is open to all enterprises, organizations and institutions who identify with the principles of the Roundtable.

Members of the Roundtable include tour operators and associations (A&E Erlebnis Reisen, Gebeco, Kuoni, ONE WORLD, Der Schweizer Reise-Verband (SRV), Studiosus and Forum Anders Reisen) and NGOs (Arbeitskreis Tourismus & Entwicklung, Naturefriends International (NFI) and Bread for the World – Tourism Watch), the certifier TourCert and multipliers such as the UN Global Compact Network Germany, The Hamburg Foundation for Business Ethics, ITB Berlin and Willy Scharnow-foundation for Tourism. Participation is open to members from non-German speaking countries as well.

The *Roundtable: Human Rights in Tourism* aims to:

- Set in motion a process of rights responsibility and push for human rights due diligence by tour operators;
- Develop an industry standard as well as a management concept for human rights responsibility and make this known to the tourism industry;
- Implement human rights standards into the business processes of tour operators by providing information and various materials, and advancing access to good practices with knowledge transfer;
- Raise public and media awareness: promote respect for human rights in tourism to travelers, businesses, investors, educators, students and politicians.