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ROADMAPPING CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION IN ASEAN

Consumers International

COUNTRY REPORT: THE REPUBLIC OF THE UNION OF MYANMAR (FINAL)

(Revised 15 June 2011)

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ABSTRACT

This report presents the outcomes of an assessment of the capacity building needs in Consumer Protection in the Republic of the Union of Myanmar with specific focus on six selected consumer areas, contributing towards a regional framework. The research project addressed gaps in both human and institutional capacities related to specific needs for improved effectiveness and long-term sustainability in dealing with consumer issues and consumer protection areas. A general survey targeted at 18 selectively identified stakeholders including government and regulatory agencies and business sectors, captured and briefed through a roundtable discussion. However, there was no primary data representation captured from non-government organisations. Time constraint limited the capacity to perform Key Informant Interviews in Myanmar. Thus, the findings of the study were limited to data and information gathered from published materials, mostly accessed through internet search. The general findings suggested that there were limited exposures and activities related to consumer rights or consumer protection in Myanmar. Limited interests in engaging in discussion on the topics of consumer protection might stem from the limited understanding of the subject issues. Thus, there was a relatively high level of capacity building needs required by all the relevant stakeholders, particularly technical assistance to overcome difficulties in understanding and implementing consumer protection activities and programmes.

Keywords: Consumer protection, capacity building, complaints, redress mechanisms, best practices, Myanmar.

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ABBREVIATIONS

AADCP II	ASEAN Australian Development Cooperation Program Phase II.
ACCP	ASEAN Committee on Consumer Protection
ADB	Asian Development Bank
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Agreement
AMSs	ASEAN Member States
AOC	Actual Operating Context
AOTS	Association for Overseas Technical Scholarship
ASEAN	Association of the Southeast Asian Nations
ASEC	ASEAN Secretariat
BIMSTEC	Bengal Initiative for Multi-sectoral Technical and Economic Cooperation
CA	Certification Authority
CB	Capacity Building
CBN	Capacity Building Needs
CCPID	Competition, Consumer Protection, and Intellectual Property Rights Division
CD	Compact Disc
CD-ROMS	Compact Disc-Read-only-Memory
CFDSC	Central Food and Drug Supervisory Committee
CI	Consumers International
CIG	Chemical Industry Group
CIKL	Consumers International Kuala Lumpur
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CNG	Compressed Natural Gas
CP	Consumer Protection
CPA	Consumer Protection Act
CSL	Chemical Safety Law
CSO	Civil Society Organisation
DAC	Drug Advisory Committee
DDA	Department of Development Affairs
DVD	Digital Video Disc
EST	Environmentally Sustainable Transport
FAO	United Nations Food and Agriculture Organisation
FDA	Food and Drug Administration
FDSC	Food and Drug Supervisory Committee
FERD	Foreign Economic Relations Department
FOC	Formal Operating Context

FQCL	The Food Quality Control Laboratory
FREDA	The Forest Resource and Environment Development Association
GDP	Gross Domestic Products
GHS	Globally Harmonised System for Classification and Labelling of Chemicals
GMP	Good Manufacturing Practice
GS	General Survey
HACCP	Hazard Analysis Critical Control Point
HDI	Human Development Index
HR	Human Resource
ICT	Information Communication Technology
IMF	International Monetary Fund
ITU	International Telecommunications Union
JETRO	Japan External Trade Organisation
KII	Key Informant Interview
LA21	Local Agenda 21
MAI	Ministry of Agriculture and Irrigation
MFDBA	Myanmar Food and Drug Board of Authority
MNPED	Ministry of National Planning and Economic Development
MSDS	Materials Safety Data Sheet
MSWM	Municipal Solid Waste Management
NAFU	National AFTA Unit
NCEA	National Commission for Environmental Affairs
n.d.	Not dated
NDL	National Drug Law
NGO	Non-government Organisation
NHC	National Health Committee
NHP	National Health Policy
METI	Ministry of Economy, Trade and Industry (Japan)
MIA	Myanmar Industries Association
MRCC	Myanmar Responsible Care Council
MSW	Municipal Solid Waste
MSWM	Municipal Solid Waste Management
ODCCP	United Nations Office for Drug Control and Crime Prevention
PROMEEC	Promotion of Energy Efficiency Conservation
RC	Responsible Care
RTD	Roundtable Discussion
SMS	Short Message Service
SPSS	Statistical Package of Social Sciences
TPC	Trade Policy Council
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry
UN	United Nations

UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNFCCC	United Nations Convention on Climate Change
WHO	World Health Organisation
WTO	World Trade Organisation

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EXECUTIVE SUMMARY

Even though the Republic of the Union of Myanmar (also to be referred to as “Myanmar”) has placed various legislation and administrative measures in place to enhance its economic and social functions, there is, however, no specific measure placed for Consumer Protection (CP). CP is a relatively new area that needs to be introduced, developed and integrated systematically into its social and economic development plans. Like other ASEAN countries, Myanmar is also experiencing the impact of market integration through AFTA. The expanding urbanised population, particularly in Yangon, Mandalay and Nay Pyi Taw has provided the basis for protection of the ever more demanding consumers. With the increased consumer demand, market competition, and varying issues related to product and services and their standards and reliability, Myanmar would need to put in place measures for protecting consumers and their rights. This report is based on secondary data information, and roundtable discussion attended by 18 representatives from government agencies and private sector in the Republic of the Union of Myanmar.

Increase public awareness

Most of the stakeholders participated in the roundtable discussion claimed that they have very limited exposure and understanding of Consumer Protection. An outreach programme or educational and awareness programme is, therefore, necessary and important to explain to the government agencies, industry, the media and the public of the objectives, scopes and relevance of CP and to facilitate compliance and generate support for implementation. While some awareness efforts exist, they should be expanded.

Provide assistance to ensuring the implementation of Consumer Protection

An important step towards consumer protection measures is having a Principal Consumer Act as well as a national Consumer Policy. Assistance in developing and drafting the law and implementation plan to the Focal Agency through the support of external experts and consultations with all relevant stakeholders should be provided.

Provide adjustment and Technical Assistance to Relevant Stakeholders

A notable characteristic of Myanmar consumer protection measures is the presence of various Acts, Regulations, Orders and Programmes already in place. However, the capacities to address consumer protection using the existing laws are limited by the low degree of awareness on consumer protection issues.

Establish ASEAN regional platform for “Children as Consumers”

The stakeholders of Myanmar strongly proposed that ASEAN should consider establishing a regional committee to address consumer issues related to children. Due to the aggressive marketing of products to children, or use of children in product promotion and advertisement, as well as increase incidents of tobacco and alcohol abuse, the development of regional marketing Guidelines should be looked into. Further, special Task Force, or Working group or Council should be established to protect the rights of children as consumers.

Advancing Consumer Protection Agenda

In order to address the issues and challenges in consumer protection implementation in Myanmar, high level of assistance are required in the following areas:

- Training and exposure of staff on consumer demand side and consumer challenges in the selected consumer areas.
- Development of effective coordination mechanisms to increase participation, ownership and social responsibilities towards consumer protection among all relevant stakeholders.
- Development of consumer complaints mechanisms in all consumer areas
- Development and implementation of a principal consumer protection act, along with other laws that are still lacking related to competition, hazardous materials, or cyber crimes.
- Development of a national consumer policy, and a national master plan for consumer protection
- Access to experienced, skilled and qualified staff to handle specific and emerging consumer issues.
- Development of management and leadership skills in consumer protection
- Development and establishment of more civil society organisations or consumer organisations to promote and advocate on consumer protection and consumer rights.

1. INTRODUCTION

1.1. STUDY BACKGROUND

This Country Report is part of the research titled *Roadmapping Capacity Building in Consumer Protection in ASEAN* and is complemented with a Subgroup Report and a Regional Report. It is a project of the ASEAN Australia Development Cooperation Program Phase II (AADCP II), which aims to strengthen consumer protection in the region as well as in individual ASEAN Member States (AMSs). The major output of this research is a regional capacity building roadmap on consumer protection and supporting roadmaps for each of the AMS. The roadmaps were based on the following information that were gathered and presented in this report:

- a mapping of consumer protection policies, laws and regulations in AMSs
- consumer education programmes, initiatives and best practices
- capacity building needs of major stakeholders in consumer protection and recommendations

The overarching framework of the study is primarily based on the UN Guidelines on Consumer Protection (1985), which has been further espoused and reiterated by Consumers International into 8 fundamental rights as follows:

1. The right to basic needs
2. The right to safety
3. The right to information
4. The right to choose
5. The right to representation
6. The right to redress
7. The right to consumer education
8. The right to a healthy environment

The following key principles are also adhered to in the development of the national road map, contributing towards the regional framework:

- **Protection:** Consumers should be protected from unfair practices
- **Responsibility:** Transparent legislation in addition to effective consumer programmes to enable consumers to have sufficient information in order for them to exercise their responsibilities
- **Enforcement:** There should be prompt and efficient enforcement of legislation to deter breaches of the consumer protection laws by businesses
- **Change:** new and emerging consumer issues are identified so that legislation is updated and consumers have access to relevant information on these issues in order to make informed choices.
- **Competition:** free and open competition is generally beneficial for consumers and Government regulations and legislation help to ensure a fair environment in the marketplace for consumers and businesses
- **Representation:** Legitimacy for representation by non-governmental consumer organisations must be recognised such as the right to association

Consumers International Kuala Lumpur (CIKL) Office carried out the study in cooperation with its members in the AMS and partners, or appointed local focal points. In Myanmar, the Ministry of Commerce, Government of Myanmar acted as the local focal point for the study.

CI is a not-for profit federation of consumer groups that serves as the only independent and authoritative global voice for consumers. Founded in 1960 and with over 220 member organisations in 115 countries, it is building a powerful international movement to help protect and empower consumers everywhere. The Kuala Lumpur office is CI's regional office for Asia Pacific and the Middle East.

Organisation of Report

This report is organised into 6 Chapters. Chapter 1 provides general background on Myanmar and a general state of consumer protection in the country. Chapter 2 outlines the methods applied for data gathering that led to the outcomes and findings presented in this report. Findings of the project are presented in Chapters 3, 4 and 5. The general mapping and situational analysis on national legislation and consumer protection programmes are presented in Chapter 3. Chapter 4 covers the assessment on the capacity building needs of the various stakeholders that took part in the project, and Chapter 5 presents some recommendations and the national roadmap for capacity building needs in consumer protection at the national level. Finally, Chapter 6 draws an overall conclusion of the report.

1.2. COUNTRY BACKGROUND

The Republic of the Union of Myanmar is located in Southeast Asia, bordering the Andaman Sea and the Bay of Bengal, between Bangladesh and Thailand. It is the largest country in Southeast Asia. The predominantly Buddhist population of Myanmar in the year 2004/05 was estimated at 54.3 million of which 49.7% was male and 50.3% were female. In Myanmar, there are more than 100 national races residing in seven states and seven divisions. Major ethnic groups include Bamar, Shan, Karen, Rakhine, Chin, Kayah, Mon and Kachin.

The country's annual GDP according to 2009 estimates is \$27.55bn. The annual growth rate based on 2010 estimates is 5.3%, with a GDP per capita of \$469. The agriculture sector - about 43% - is the main contributor to the national economy, producing rice, beans, sesame, groundnuts, sugarcane and fishing.

The Republic of the Union of Myanmar is a member country of ASEAN and BIMSTEC, which has embarked on various development programmes to continuously promote the quality of life of its people to achieve the objectives of a peaceful, modern and developed nation. Myanmar has begun to implement a market-oriented economic system and at the same time, has taken appropriate measures to increase the participation of private sectors in its national economic activities, while enhancing the efficiency of State Economic Enterprises.¹

Myanmar is ranked 138 of 182 in the 2009 UNDP Human Development Index. Poverty is still widespread, the life expectancy is 64.5 years, 19.0% of the population is considered to be undernourished, the infant mortality rate is 50.8 per 1,000 live births, the adult literacy rate is

¹ Presentation by Phone *et al.* Status of GHS Implementation and Hazard Communication in Myanmar

89.9%, the per capita income is \$442 (IMF estimate for 2009) and there are 40 doctors per 100,000 people.²

Despite all the challenges, ADB 2009 Report³ states that Myanmar's Five-Year Plan (FY2006/2007–FY2010/2011) is targeting a growth rate of 12% per year through:

- retaining the current growth momentum of the economy,
- solidifying the value of the kyat,
- reducing the budget deficit to have a surplus by the third year,
- curbing inflation, and
- continuing the current account surplus position in the balance of payments.

1.3. CONSUMER PROTECTION

1.3.1 General Overview

Myanmar is a potentially wealthy country that has abundant natural gas reserves. The IMF estimates that consumer prices rose at an annual average rate of 6.9% in 2009. This was down from 22.5% in 2008 and 32.9% in 2007. Using government data, the IMF has indicated the economy rose at an annual average rate of 11.1% between 2000 and 2009. Much of the economy is controlled by the government including all the major industrial enterprises, the banking system, insurance, foreign trade and nearly all of retail trade.

Consumerism trend and status in Myanmar could be implied through available statistics. In 2008, an average of 9 personal computers per 1,000 people, and 3% of households have a television and there are 16.6 radios per 1,000 people were reported.⁴ In 2008, there were 1,045,105 motor vehicles of which 26% were cars, 65% were motorised 2 and 3 wheelers, 3% were trucks, 2% were minibuses and vans that carry less than 20 people and 2% were buses. The per capita consumption of electricity is 84.2 kilowatt hours (in the US, it is 12,924 kilowatt hours).

According to the publication of the Financial Standards Foundation,⁵ the government only issues import licenses to those firms that are export earners. Companies that do not export must purchase "export dollars" from another company at an inflated exchange rate in order to apply for an import license.

Remark: As application of import licences do not need export earnings, the highlighted text should be deleted.

Foreigners cannot own land, but are allowed to rent land and property on a short-term basis which is usually less than a year. Foreigners are also prohibited from acquiring bank loans for real estate purposes. It was also reported that regulation and enforcement of intellectual property rights is poor. As such, the piracy of music CDs, video CDs, CD-ROMS, DVDs, books, software, and product designs is widespread. Presently, trademark laws and legal protection for foreign copyrights are absent.

² *Extracted from* Financial Standards Foundation. Country Brief Myanmar. February 19, 2010. eStandardsforum. www.estandardsforum.org

³ ADB, Asian Development Bank & Myanmar (Fact Sheet). As of 31 December 2009

⁴ *Extracted from* Financial Standards Foundation.

⁵ *Please see* Country Brief Myanmar February 19, 2010. www.estandardsforum.org

The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) has been established to strengthen and promote the role of business and industry in the country. UMFCCI interacts with private business society in the country and has close contact with its foreign counterparts. Promotion of cleaner technology and production techniques are gradually being promoted among its members and through them to the business society.

Social protection in Myanmar is largely limited to social insurance schemes that are available only to formal workers. Some welfare programmes targeted to particularly disadvantaged groups also exist but have extremely low coverage.⁶

In a developing country like Myanmar human exposure and health risk arising from existing hazardous chemicals such as pesticides, lead and mercury are of particular concerns.⁷ Some other areas of consumer concerns related to products and services in Myanmar include⁸:

- Increase prices of goods
- Actual shelf-life of products is shorter than advertised or notified to consumers
- Limited availability of product spare-parts, especially in rural areas
- Poor design and quality of goods

1.3.2 Product Safety and Labelling

There is lack of awareness on chemical dangers related to industrial as well as consumer medical products in Myanmar. Many accidents and potential dangers related to chemicals happen everywhere, especially in handling pesticides, fertilisers, acids and foods.

There are very limited information on status of product safety and labelling in Myanmar. Most information was found related to food safety. Materials or publications related to safety, liability, labelling and standards for consumer products such toys, electronics, cars, household products or other retail goods are not easily available.

For product safety and labelling, the UN mandated to apply GHS (Globally Harmonised System for classification and labelling of chemicals) in Myanmar not later than 2008. This is still under process. Material Safety Data Sheet (MSDS) under GHS will give warning of dangers to consumers on how to consume, handle and store. The Chemical Industry Group under Myanmar Industries Association introduce GHS knowledge to Myanmar industries and consumers since 2006 but has yet to achieve full awareness and application among the manufacturers of chemical products. GHS trainings are held in accordance with the Japanese GHS syllabus. The upcoming Chemical Safety Law may enforce GHS practice to the public.

However, there were some reported concerns by consumers in recent times related to product safety and labelling. Like in other AMSs, consumers faced more difficulties because of the

⁶ Country Report of the ASEAN Assessment on the Social Impact of the Global Financial Crisis: Myanmar. World Bank and ASEAN Secretariat. www.asean.org

⁷ Presentation by Phone *et al*

⁸ Information received from Stakeholder consulted in the Secondary Data Collection Instrument of this Study

increase in imported products for sale on local shelves. In Myanmar, these products often feature Thai, Chinese or Japanese-language packaging, rather than Myanmar or English.⁹

The Food and Drug Administration (FDA), established since 1995, takes care of the safety and quality of food, drugs, cosmetics and household products and medical devices. In order to enable the public to have quality and safe food, drugs, cosmetics and household products and medical devices, the FDA implements various compliance programmes and tasks under the guidance of the National Health Committee (Ministry of Health) and the Myanmar Food and Drug Board of Authority, in accordance with the National Drug Law (1992) and its provisions, as well as the National Food Law (1997) and the Public Health Law (1972).

In addition, Government enforces the mandatory compliance for Good Manufacturing Practice (GMP) in food processing industries. The FDA encourages all sectors of food manufacturers to implement Hazard Analysis Critical Control Point (HACCP) concept and Risk Analysis Approach to all food control officers.

To ensure efficient and uniform control throughout Myanmar, various levels of Food and Drug Supervisory Committee (FDSC) has been formed in later part of 1992. The Food Advisory Committee, Food Technical Affairs Sub-committee and Food Orders and Directives Sub-committee have been formed since 2002, and the City Development Committees play the major role in regulating street food and food service establishments.

Under the Industrial Law, the Directorate of Industrial Coordination & Inspection of Ministry of Industry is the registration authority for industrial establishment. The Directorate has to register all food manufacturing establishments.

Other agencies and departments like such as the Myanma Scientific & Technological Research Department, Department of Fisheries, Post Harvest Technology Application Centre of Myanmar Agriculture Produce Trading, Myanmar Agricultural Service, Development Center for Pharmaceutical and Food Technology and Food Laboratory (FIDSL) of Myanmar Agro-based Food Processors and Exporters Association also play a part in laboratory analysis that are involved in food safety programme. It is also noted that at present, the FDA requires more international training on enforcement and laboratory analysis.

1.3.3 Phone & Internet Services and E-Commerce

There are 14 mainline telephone lines and 8 cellular subscribers per 1,000 people. Internet use is 0.8 per 1,000 people. ITU report shows that there were 110,000 internet users as of June, 2010, capturing 0.2% of the population. It was also reported in 2004 that Myanmar ranked low in areas such as overall level of e-commerce readiness and telephone density.¹⁰ It was also noted that the internet access cost was relatively high in the country compared to the other AMSs.

⁹ Quoted from Dr. Maung Maung Lay, in Myanmar Times 2010

¹⁰ Rodolfo Noel S. Quimbo. (2004). *IT Enabling Legal Framework for GMS*. Regional Expert Conference on Harmonised Development of Legal and Regulatory Systems for E-commerce, 7-9 July 2004, Bangkok, Thailand

Incidentally, there were still some concerns and limitations related to this consumer area. In particular, these were associated with inadequate infrastructure, legal Environment, payment system, socio-economic and cultural Environment, and distribution and delivery system in relation to e-commerce readiness.

Quimbo (2004) also suggested that legal concerns could be addressed through

- Improvement in legal recognition and enforceability of online transactions
- Clear Jurisdiction and amend conflicting law
- Enhanced consumer protection and privacy
- Encryption and security in online transactions
- Intellectual Property
- Identifying Fraud and Cyber-crimes

1.3.4 Consumer Credit and Banking

Myanmar experienced limited adverse effects of the global financial crisis in the banking sector. This was attributed to “*strengthened banking supervision, regulation and very limited integration into the global financial markets.*”¹¹ There are a few private banks in the country and the financial system in Myanmar is essentially controlled by the government, which sets interest rates.¹² The banking system is dominated by state owned and partially owned banks. There are some private banks with severely limited scope of operations. Foreign banks are allowed to open representative offices to serve as trade and commercial liaisons for local and foreign clients, but not allowed to conduct business for the local market.¹³

Access to bank loans is also limited. Most citizens lack the capacities to provide collateral for a loan and therefore, there is a relatively high reliance on money lenders for loans, in the informal economy, charging very high interest rates for credit.¹⁴ According to the data obtained from the Central Bank,¹⁵ the most common sources of credits for consumers in Myanmar are:

- Banks
- Pawn shops
- State-owned small loan enterprises
- Microfinance institutions¹⁶
- Credit societies

However, there is yet any form of financial debt counselling agency to support consumers in addressing financial debts management. It is also noted that there are limits set by the government on the interest rates charged to consumers. In addition, there are standards

¹¹ Statement by the Hon. U Hla Tun, Governor of the Bank for Myanmar. 2010 Annual Meetings.

International Monetary Fund World Bank Group. Press Release No. 7. 8 October 2010

¹² Financial Standards Foundation.

¹³ Financial Standards Foundation

¹⁴ *ibid*

¹⁵ Provided by the Central Bank through the Secondary Data Collection Instrument of this Study in December 2010, coordinated by NAFU.

¹⁶ The Central Bank of Myanmar is currently initiating a Law, with relevant procedures/ regulations, for Microfinance institutions.

practices to inform consumers the basis for imposed fees and charges and to restrict sharing of credit data and to ensure personal data protection.¹⁷

Domestic borrowing in foreign currency is not allowed. Prior approval to open foreign currency accounts is required for all other non-residents. Only three state banks, namely the Myanmar Foreign Trade Bank, the Myanmar Investment and Commercial Bank, and the Myanmar Economic Bank are legally permitted to engage in foreign exchange transactions.

According to the ODCCP report (2001),¹⁸ the underdevelopment of the financial system in Myanmar does not allow for a high level of money laundering through the banking sector inside the country. The cross-border personal and economic relations with neighbouring countries, especially Thailand and China, however, provide opportunities for money laundering through business ventures and banking institutions in these countries.

1.3.5 Environment

A changing energy consumption patterns has been reported in Myanmar.¹⁹ Various programmes and projects related to energy production, distribution and consumption have been pursued including:

- Saving non-renewable energy for future energy sufficiency;
- Promoting efficient utilisation of energy and energy conservation;
- Preventing deforestation caused by excess use of fuel wood and charcoal;
- Developing all available national energy resources with own means and resources;
- Cooperating with international companies and acquiring technical and financial assistance; and
- Conducting energy related operations in accordance with international industry practices.

Plans to reduce firewood utilisation through the usage of briquettes and fuel sticks made from petroleum, coke, saw dust and rice husk instead of firewood and charcoal, have also been placed as a measure to prevent deforestation. Solar cookers have been introduced in the domestic market. However, no special programmes or measures have reported on the supply of energy to low-income households.

Recognising the need for the integration of Health, Environment and Sustainable Development, the Government of the Republic of the Union of Myanmar has established the National Commission for Environmental Affairs (NCEA) in 1990, to formulate a comprehensive national environmental policy.

Since then, the NCEA has acted as the key coordinating agency for sustainable development. NCEA plays an advisory role to the Cabinet on the formulation of Environmental Policies, implementation guidelines, guidance and advice to the various regulatory agencies on legislation, regulations and environmental standards. NCEA is also responsible for

¹⁷ *ibid*

¹⁸ ODCCP Country Profile: Myanmar 2001. In United Nations, *“Strategic Programme Framework-UN Drug control activities in Myanmar.”* October 2002.

http://www.unodc.org/pdf/myanmar/myanmar_country_profile_spf_2002.pdf

¹⁹ *From the Financial Standards Foundation.*

formulating short, medium and long term environmental policies and strategies that take into account both the environmental needs and development requirements.

Other related ministries and agencies involve with NCEA include the Ministries of Forestry, Agriculture and Irrigation, the Ministries of Industry (1) and (2), Energy and National Planning and Economic Development. The NCEA is also assisted by the Committee on Conservation of Natural Resources, Committee on Control of Pollution; Committee on Research, Education and Information; and the Committee on International Cooperation. The Forest Resource and Environment Development Association (FREDA), a nongovernmental organisation, also works closely with NCEA.

The National Environment Policy of Myanmar was formulated by the NCEA and was gazetted in accordance with Notification No. 26/94 dated 5 December 1994. Subsequently, the Environmental Database Unit was established in NCEA, which began to collect environmental data and information for decision-making since April 1994.

Myanmar Agenda 21 was adopted in 1997 as the blue-print for Sustainable Development in the country, which covers the three broad dimensions or the three pillars of sustainable development namely- the social, economic and environmental dimensions. The primary purpose of the agenda is to provide a framework of programmes and action for achieving sustainable development in the country. Founded on the National Environment Policy of Myanmar, the Myanmar Agenda 21 takes into consideration, the programme guidelines contained in the Global Agenda 21.²⁰ The Myanmar Agenda 21 Chapter 10 also addresses issues on the topic of Environmental Quality Management and Enhancement.

NCEA also acts as the national focal point for environmental conventions and agreements, including the various International Environmental Conventions such as United Nations Convention on Climate Change (UNFCCC), UNCCD, Kyoto Protocol, Convention on Biodiversity, CITES, Vienna Convention and Montreal Protocol. Myanmar is a party to the UNFCCC (signed on 11 June 1992 and ratified on 25 November 1994) and has ratified the Kyoto Protocol in 2003.

The Ministry of Industry (1) has issued an action plan as a Standing Order that covers Occupational Safety and Health Plan, Air and Water Pollution Control Plan, as well as the Food and Drug Control Plan.²¹ **Chemical Safety laws for managing toxic chemicals and hazardous wastes are presently being drafted.**

Chemical Safety Law for managing toxic chemicals and hazardous wastes has been enacted

Municipal Solid Waste (MSW) generated by consumers reflects not only the consumption behaviour and trends, but also the production means for consumer goods and services. Incidentally, MSW Management (MSWM) has come under pressure to deal with waste generated through unsustainable consumption and production. Rapid urbanisation and population growth also contribute to the vulnerability of human health and environment to the effects of inefficient waste management system.

²⁰ UN's Johannesburg Summit 2002 Report.

²¹ Phone *et al*

Aye (2006) reported that the current MSWM system has proven inadequate in handling waste in the city of Yangon. This was attributed to gaps in planning, legislation, capacity building, and low level of awareness on environmental management, obsolete equipment, and insufficient budget, among other limitations, which were quite alarming.²²

Another study on the implementation strategies for fostering people’s participation in solid waste management was also conducted in Myanmar.²³ The results of the study showed that the current participatory approach, which mainly focused on raising awareness or imparting environmental education, was not adequate to maximise the people’s participation in Myanmar to manage waste and waste generation due to persistent institutional and social constraints. The same study suggested that promoting people’s participation in its ultimate form is more effective when (1) the municipality develops the knowledge and skills to fulfil the new role of service partners; (2) the people understand (rather than merely being aware of the problems) the harmful effects of their behaviour and realise their roles and responsibilities; (3) the people are empowered with knowledge and skills, and (4) motivation and interaction exist among all parties.

MSW in Myanmar is composed mainly of organic waste (73%) followed by paper or cardboard (18%), wood (4%), plastic and textile (2% each) and others (1%).²⁴ In addition, Electronics Waste (e-waste) has also emerged from consumer electronics such as televisions, computer equipment and DVD players containing toxic metals and chemicals.

Waste Management in Myanmar is handled by three main authorities:

- City Development Committee handling waste management within their municipal areas.
- Pollution Control and Cleansing Department
- Department of Development Affairs (DDA), under the Ministry of Progress of Border Area and National Races and Development Affairs, is a key agency for managing municipal solid wastes in respective township out of 330 townships in total; DDA is thus responsible for 286 townships in handling municipal waste through out the country.

Table 1.1: Average generated amount of solid waste in Myanmar²⁵

<u>Year</u>	<u>Generated amount</u>
1990	0.40 kg/cap/day
1995	0.48 kg/cap/day
2000	0.52 kg/cap/day
2001	0.39 kg/cap/day
2003	0.312 kg/cap/day
2006	0.287 kg/cap/day

²² Seinn Lei Aye, “Solid Waste Management Badly Needed in Myanmar.” SEAMEO-SEARCA Policy Brief Series 2006-1. ISSN 1656-8818

²³ Minn, Z., S. Srisontisuk and W. Laohasiriwong, 2010. Promoting people’s participation in solid waste management in Myanmar. Res. J. Environ. Sci., 4: 209-222.

²⁴ Country Presentation for 2nd Meeting of the Regional 3R Forum. 4 -6 October 2010

²⁵ Extracted from Country Presentation for 2nd Meeting of the Regional 3R Forum. 4 -6 October 2010

2009	0.285 kg/cap/day
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Inadequate Solid Waste Management in Myanmar was attributed to improper collection and hauling of waste and treatment of the dumping sites. In addition, limited promotion of 3R (recycle, reuse, reduce) also limit awareness and participation of the public to contribute to waste management. There are, however, a number of programmes on recycling and composting that has been initiated by the Ministry of Agriculture and Irrigation (MAI), particularly in Yangon, but has yet to be fully and systematically developed.

The protection of consumer through their rights to safe and healthy environment is also met in Myanmar through air quality monitoring. Air monitoring, specifically in Yangon, is conducted in 3 selected sites in Yangon: commercial, residential and surrounding near to industrial zone.²⁶

The country also regulates and promotes cleaner fuel whereby:

- Road Transport Administration Department is equipped with inspection devices to respond automobile source air pollution.
- Using Compressed Natural Gas (CNG) in place of petrol and diesel (short term) and bio-fuel (long term), the Government encourages the use of CNG for City transportation & commercial vehicles
- Using agrofuel, particularly from *Jatropha curcas*

Promotion of Energy Efficiency Conservation (PROMEEC) has also been strategically placed aimed towards:

- maintaining the status of Energy Independence
- promoting wider use of new and renewable sources of energy
- promoting energy efficiency and conservation
- promoting use of alternative fuels in household.

The level of noise pollution is also monitored in Myanmar, particularly through the Traffic Noise Management by means of:

- Practicing Standard of Road Transport Administration Department - Noise Max db 115
- Using apparatus for initial and renewal registration (road worthiness, measures for noise and emission)

Public Awareness is also constantly being enhanced through transfer of knowledge through exhibitions, seminars and workshops. In addition, periodical publication is also issued twice a month on the Industrial Waste Management and environmental preservation.

Responsible Care (RC) activities have been carried out voluntarily by chemical companies for the purpose of sustainable development of environment, health and safety throughout the whole life cycle of chemical products, from development, processing, distribution, utilisation to disposal.

²⁶ Third Regional EST Forum Presentation of Myanmar, 17-19 March 2008, Singapore

Myanmar has incorporated various environmental-oriented programmes in its future plan including:

- To use cheap and cost saving ways to reduce solid waste
- To encourage people (end users) using the media to change their behaviour to reuse, reduce and recycle waste and to use energy efficiently
- To adopt appropriate technologies for recycling.
- To change raw materials towards energy friendly product
- To continue auditing waste and house keeping
- To make process design for less waste
- To use MSW for electric power generation with public-private partnership in near future
- To educate people on how to minimize their e-waste and to purchase eco-friendly products only.

Environment-related activities in Myanmar

- Myanmar Industries Association, Chemical Industry Group introduced the RC knowledge to the Chemical Industries since 2006.
- Some technicians from the private chemical industries have been trained in RC courses in AOTS Japan supported by METI.
- Myanmar Responsible Care Council (MRCC) was formed in 2008 by the assistant of JETRO (Myanmar) and JICA. The Japanese RC experts under the METI assistance programme provide training on RC implementation to MRCC coordinators. MRCC plays the role of disseminating RC knowledge to raise awareness among industrialists as well as the public by holding workshops and seminars in 8 industrial zones. Talks, media and snap-shot TV are also held in Myawady.

Responsible care implementation programmes are as follows:

1. Environmental conservation
2. Process safety and disaster prevention at industrial facilities
3. Occupational safety and health to protect the workers' health and safety
4. Product distribution safety
5. Product stewardship
6. Social dialogue with the community

Responsible Care Implementation in Myanmar

Currently, 10 chemical companies are participating in RC activities, and 8 companies are granted the RC logo 2010. RC logo is the registered trade/service mark, which denotes the chemical industry's international and voluntary commitment to continuous improvement of performance in environment, health and safety of its products and operations.

The RC activities and GHS are implemented in line with six programme areas of Agenda 21 Chapter 19 of the UN.

Issues and Problems²⁷

At present recycling of municipal solid waste is not fully and systematically developed.

²⁷ Country Presentation for 2nd Meeting of the Regional 3R Forum. 4 -6 October 2010

The budget allocation for waste management, however, covers only for routine works. Additional financial supports are needed to improve the existing facilities. The City Development Committees and Township Development Committees are struggling against waste disposal constraints that include inadequate vehicles, workers and scarce funds.

1.3.6 Health and Healthcare Services

The Government of Myanmar recognises health as a fundamental right for all its citizens and at large for all human beings. Myanmar has established a National Health Committee (NHC) and has laid down the National Health Policy (NHP) since 1990, through mandate of the Ministry of Health.²⁸ Under the guidance of NHC and the objectives of National Health Authority, the NHP was implemented using the Primary Health Care approach.²⁹

According to the UN's Johannesburg Summit Report (2002)³⁰, the Republic of the Union of Myanmar has been implementing the Peoples' Health Plan since 1978 and later the NHP since 1990. The National Health Plan (2006-2011) includes 12 programmes and 65 projects. The main programme under the Plan is the community health programme, which provides health care activities to the rural and urban population, carried out through various sub-programmes as follows:

- a). Primary medical care and referral of patients project;
- b). Primary oral health care project;
- c). Health care of the Elderly project;
- d). Adolescent health project;
- e). Community health nursing project;
- f). Nutrition development project;
- g). Maternal, newborn and child health project;
 - o Maternal health
 - o Newborn and child health
 - o Emergency obstetric care
 - o Adolescent reproductive health care
- h). School health project

The major sources of finance for health are the government and the private households. Government has increased health spending on both current and capital yearly. Total government health expenditure increased from kyats 464.1million in 1988-89 to kyats 48,489.6million in 2007-2008.³¹

In 2004, there were 100 nurses and midwives per 100,000 people, 40 physicians per 100,000 people and 70 hospital beds per 100,000 people. According to the WHO, there were 1,396

²⁸ <http://www.moh.gov.mm/>

²⁹ Health Policy, Plans and Legislation

<http://www.moh.gov.mm/file/health%20policy%20plans%20and%20legislation1.pdf>

³⁰ United Nations, Myanmar Country profile. Johannesburg Summit 2002

³¹ Myanmar Country Report for the 7th ASEAN & Japan High Level Officials Meeting on Caring Societies. 31 August-3 September 2009. Tokyo, Japan

dentists, 1,757 environmental and public health workers, 2,241 laboratory health workers and 127 pharmacists in 2004.

The abused consumption of tobacco and alcohol in Myanmar has posed concerns among authorities and the societies. The household survey on tobacco economics found a mean yearly expenditure on tobacco of 2.7% of total household expenditure overall, 3.3% of total expenditures for urban households and 2.5% for rural households.³² In fact, a survey conducted by Nyo *et al* (2005) found that households spending on tobacco were many times more than on health, education and necessities such as clothing and shelter.³³

To address the issues, the Myanmar authorities have issued the ban on advertisements of cigarette as well as liquor.³⁴ The ban mainly aims at preventing immature youths from being absorbed in smoking and drinking. In addition, the Myanmar National Tobacco Control Policy is put in place aiming at improving health and well being, decreasing poverty and stimulating social development in Myanmar through a sustained reduction in tobacco use and tobacco related harm which can be achieved through a concerted effort based on national multi-sectoral approaches and mobilization of civil society.

Mechanisms for tobacco control implemented in Myanmar include³⁵

- Prohibition of tobacco advertisement in all electronic media - TV, Radio in 2000.
- Prohibition of tobacco billboards in 2002
- Prohibition of tobacco advertisements on print media in 2002.
- Designation of health facilities, basic education schools, sports, fields and sports grounds as tobacco-free since 2002.
- Inclusion of topics on dangers of tobacco in the main curriculum of all basic education schools, medical and para-medical schools since 2004.
- Promotion of community awareness through all forms of media in collaboration with the Ministry of Information, media personnel and through national NGOs.

Further, the Policy introduces some strict restrictions with regards to the sale and production of cigar and totally bans all forms of tobacco advertisement including advertising through sponsoring sports matches. National legislation bans all forms of direct and indirect advertising, in national TV and radio and local magazines and newspapers, point of sale, billboards, outdoor advertising and internet.

National law also completely bans promotion of all tobacco products and brand names. In addition, free distribution of tobacco products through mails or through other means is also

³² Nyo Nyo Kyaing. October 2003. *Tobacco Economics in Myanmar*. Economics of Tobacco Discussion Paper No.14, World Bank, Washington DC.

³³ A sampled population of 2414 respondents were categorized into income groups based on their daily income with 7% belonged to the lowest income group (< 500 kyats per day), 44% belonged to group II (500-1499 kyats per day), 37% belonged to group III (1500-2499 kyats per day), 9% belonged to group IV (2500-3499 kyats per day) and 4% belonged to highest income group (more than 3500 kyats per day). More than 50% earned less than 1500 kyats per day, and about 45% earned between 1500 to 3500 kyats

³⁴ Myanmar Media Stress Control Of Tobacco Consumption. Bernama. 01 June 2009

³⁵ Extracted from Ministry of Health (2009), "Brief Profile on Tobacco Control in Myanmar". http://www.searo.who.int/LinkFiles/Tobacco_Free_Initiative_SEA-Tobacco-25.pdf

banned, along with the prohibitions on promotional discounts or non-tobacco goods or services associated with tobacco brand names, such as product placement or appearance of tobacco products on television and/or films.

Meanwhile, the Myanmar health authorities also stressed the need to expand the anti-tobacco campaign to rural areas. It has been observed that women smokers in the country are high in number, noting that women smokers, who are poor and uneducated, are more prevalent in rural areas compared to those in the urban areas.

Myanmar has committed to controlling tobacco consumption by ratifying the International Framework Convention on Tobacco Control. It became a signatory to the convention in September 2003 and was the 11th out of 192 countries to ratify the convention.

Another concern related to consumerism and consumer behaviour is an upward trend in alcohol consumption in the country. FAO (2003) captured the alcohol consumption trend from an early age of 15 and above, indicating a rising incident since 1991 to 2001.³⁶ The unrecorded alcohol consumption in Myanmar is estimated to be 0.4 litres pure alcohol per capita for population older than 15 for the years after 1995.³⁷

According to community-based surveys on the use of and harm of alcohol in Myanmar, 20-30% of the surveyed population (i.e. 1 drink in the last 3 months of the survey period) reported problems following alcohol use.³⁸ The rapid assessment study was conducted in 3 areas namely Taunggyi area, Yangon area and Mawlamyaing area. In Taunggyi area, among the alcohol users, 37% was found to be daily drinkers in urban area and 13% in the rural area. In Yangon, 44% were daily drinkers in the urban area and 8% found in the rural area. In Mawlamyaing, 30% daily drinkers were found in the urban area while 26% were found in the rural area. The assessment has led to a project on the prevention of harm from alcohol use in Thabyu-zayat Township (Mon State) to be implemented under Mental Health Project by the Department of Health with the support of the WHO.³⁹

Concerns

For the purpose of this study, and due to limited information on the actual scenario, general assumptions were based upon similar responses on complaints from other AMSs with regards to government and private hospital services in Myanmar, as follows:

Complaints on Government Hospitals

Similar to many countries in ASEAN, common consumer complaints related public hospital services include:

- Limited availability of special medical equipment (compared to private hospital facilities)

³⁶ FAO (Food and Agriculture Organisation of the United Nations), World Drink Trends 2003. In WHO Global Status Report on Alcohol 2004 © World Health Organisation 2004

³⁷ Alcohol per capita consumption, patterns of drinking and abstention worldwide after 1995. Appendix 2. *European Addiction Research*, 2001, 7(3):155–157.

³⁸ Information provided through stakeholders' comments to ASEC on 9th June 2011.

³⁹ Ibid.

The Department of Health⁴⁰, however, highlighted some other challenges in public healthcare services for Myanmar such as:

- Insufficient laboratory or testing facilities
- Limited number of doctors (high patient to doctor ratio)
- Insufficient beds and rooms for hospitalization
- Poor sanitary system

Complaints on private hospital services

Similar to other AMSs, consumers in Myanmar generally state that costs of services are relatively higher compared to government hospitals.

The Department of Health⁴¹, specifically highlighted some other challenges in private healthcare services for Myanmar such as:

- High consultation fees
- High cost of medicines (especially imported ones)
- High cost for laboratory tests and testing
- High room charges or in-patient facilities

There is, however, no access or no available data to official figures or details on any specific issues or complaints reported for Myanmar.

1.3.7 Professional Services

With reference to common professional services sought by consumers, the two most commonly and directly engaged professionals by consumers are:

- a. Medical (regulated by Ministry of Health)
The Ministry of Health sufficiently extends medical services to the population through excellent inpatient/outpatients care in hospitals/clinics throughout Myanmar. The services offered are well packaged and publicised through print electronic media.
- b. Legal (regulated by the Law Society of Myanmar)

1.3.7.1 Medical Practitioners

Apart from access to medical and dental services, CP also provides means against possible incidence of professional negligence, malpractice or unethical practices. In forming a Doctor-Patient relationship, it is necessary for both consumers and doctors to know about their duties and obligations, understanding Doctor-Patient contract and what constitutes Professional Negligence.⁴² Apart from negligence, consumers, in general, view that doctors have general duties to provide them with relevant information when they seek treatment such as:

- The necessity of treatment.
- Other alternative modalities of treatment.

⁴⁰ Obtained from the Secondary Data Collection for the current study, received in December 2010, as coordinated by the Ministry of Commerce.

⁴¹ Obtained from the Secondary Data Collection for the current study, received in December 2010, as coordinated by the Ministry of Commerce.

⁴² Also see Medindia. Consumer Protection Act and Medical Profession (n.d.).

- Risks of pursuing the treatment, including inherent complications of drugs, investigations, procedure, surgery
- Duration of treatment.
- Prognosis of patient's condition (no exaggeration or minimize the gravity of the situation).
- Expenses, fees and break down of charges.

The advances in e-health as another form of delivery of healthcare services would also have an impact on consumers' rights and access to medical care. As today's consumers become more empowered through the sharing of knowledge and information on the internet, consumers have indirectly become partners in their own health and take advantage of online processes, health portals, and doctor's or physician's web pages and e-mails.⁴³ The new breed of internet-savvy consumers would expect more integrity and ethics to boost this new form of doctor-patient relationship, through increased efficiency, reliability and accuracy, as well as strengthened communication between doctors and patients.

Duties and obligations of doctors are declared in a number of national laws and international declarations and codes of ethics such as:

- Declaration of Geneva (Physician's Oath)⁴⁴
- Declaration of Helsinki - Ethical Principles for Medical Research Involving Human Subjects⁴⁵
- International Code of Medical Ethics⁴⁶

Nonetheless, as in other countries, sporadic and generic issues related to professional services may be experienced by consumers in general such as:

1. Doctor may give wrong diagnosis, also not carrying out procedure properly
2. Fraud or dishonest practice (for instance in issuance of medical (sick) certificate)
3. Breaches of confidentiality or trust
4. Does not provide full explanation before any course of actions

Challenges in implementing CP with respect to medical and legal professionals include:

- Strengthening the capacity of disciplinary boards
- Establishing mechanisms to notify consumers of blacklisted or unlicensed practitioners
- Training sufficient local doctors

Apart from the above, some other specific concerns of consumers, when it comes to unethical practices of doctors⁴⁷, may include:

⁴³ Marion J. Ball and Jennifer Lillis. (2001). *E-health: Transforming the Physician/Patient Relationship*. The International Journal of Medical Informatics 61 (1): 1-10.

⁴⁴ Declaration of Geneva (1948). Adopted by the General Assembly of World Medical Association. <http://www.cirp.org/library/ethics/geneva/>

⁴⁵ Adopted by the 18th WMA General Assembly. Helsinki, Finland. June 1964.

<http://www.wma.net/en/30publications/10policies/b3/index.html>

⁴⁶ Adopted by the Third General Assembly of the [World Medical Association](http://www.wma.net) at London in October 1949. (World Medical Association Bulletin. Vol. 1 (3), October 1949, pp.109-111.

- Association with an unqualified and unregistered person to attend to and treat patients, and prescribe scheduled drugs
- Abuse of professional privilege and skills for producing false, misleading and improper reports
- Use of a patient's medical report in civil suit at a High Court without the consent of the patient.
- Harassment and molestation of a patient while examining a patient without the presence of a chaperone
- Disregard and neglect of professional responsibilities such as
 - ignoring patient's choice of treatment despite being informed
 - not explaining the risks or not giving prior notification or not seeking prior consent
 - failing to carry out competent and considerate inquiries post surgically

However, there were no official reports, cases, data, figures or statistics on any of the above incidences found in Myanmar.

1.3.7.2 Legal Professionals

A consumer is likely, at some point, to render the services of a lawyer or an advocate. It is quite common for consumers, in general, to use the services of lawyers or advocates in writing wills or detailed estate plans, or assisting in filing the legal forms required to create a business. Moyer *et al* (n.d.) describes that consumers may also render the services of lawyers or advocates in court on family matters, such as divorce or custody issues, or defence in cases they are accused of a crime or being sued.

For consumers or clients, lawyers or advocates have a duty to advise and help them understand the legal system. In doing so, consumers see that lawyers work to protect their legal rights as clients, help them solve legal problems, defend and guard them, as clients, against abuses of potential rights violators.

Thus, it is seen that the services of legal professionals have a relatively direct importance for and implications on consumers. Legal professional services are particular sought by consumers to represent their interests in the court-based system. The advancement in cross-border transactions may further necessitate consumers to render professional services in cross-border legal representation in the era of globalization.

Before rendering legal professional services of a lawyer or an advocate, consumers are generally concerned about a number of factors such as:

- Background, qualifications and experience
- Disciplinary history
- Legal requirements for practicing law to govern their professional conducts
- Service fees (hourly, flat fee, on retainer, or contingent fee)
- Professional liability

⁴⁷ Based on some examples and cases reported in other countries, such as Malaysia (*please see* Malaysian Medical Council Annual Report 2008).

In general, consumers also expect their hired lawyers or advocates to

- work hard to represent them
- apply good judgment and remain neutral as to not having any conflicts of interests
- perform according to their desired lawful goals
- respect the confidentiality of information provided or shared
- charge reasonable fee
- provide updates of their cases or positions
- be fair, respectful and unbiased regardless of their background (race, age, gender, national origin, or disability)

However, it is important to note some consumers' concerns in relation to legal services. In other countries, for instance, some of disciplinary actions against the identified lawyers and firms include⁴⁸:

- *“charging excessive fees and disbursements in connection with the preparation of a Sale and Purchase Agreement and a Loan Agreement.”*
- *“failing to act in the best interests of his client.”*
- *“acting in gross disregard of his client’s interests”*
- *“deceiving, committing breach of trust and acting mala-fide in relation to the preparation of loan documentation for his client”*
- *“failing to attend diligently to the work at hand despite repeated promises to the client.”*
- *“abusing his position as an advocate and solicitor in that he secured the execution of a charge by the Complainant by misrepresentation and deception”*

There were, however, no official reports, cases, data, figures or statistics on any of the above incidences in Myanmar, found during the course of this Study.

⁴⁸ See examples on the Malaysian Bar Website (Summary of Orders made by the Disciplinary Board at its 157th to 161st Board Meetings). Accessed on 17 Jan 2011.

2. METHODOLOGY

2.1. SCOPE

In developing the capacity building roadmap on consumer protection for ASEAN, this research covered two main areas of consumer protection. It looked at

- consumer protection laws in the country vis-à-vis enforcement, and
- the relevant agencies' capacity building needs in carrying out the relevant laws.

The study focuses mainly on the aspects of consumer protection that were specifically identified by AADCP II as being of particular relevance to the ASEAN's goal of becoming a single market. As such, it was mutually agreed that in addition to the general consumer protection measures, six key consumer areas were specifically addressed in the project. The following are the 6 areas covered in this study:

Table 2.1: Selected Key Consumer Areas and issues of focus.

Key consumer areas	Specific aspects to be covered
<ul style="list-style-type: none"> ▪ Product safety and labelling: 	Consumer products including food (excluding medicines)
<ul style="list-style-type: none"> ▪ Phone & Internet services, and E-Commerce 	: Broadband services, online purchase, rates, charges, access, quality of services
<ul style="list-style-type: none"> ▪ Consumer Credit and Banking 	: Banking and financial institutions providing loans; money lending, hire purchase or other financial assistance to consumers.
<ul style="list-style-type: none"> ▪ Environment 	: Policies, laws and programmes for safe and healthy environment, products or services related to water, energy and air
<ul style="list-style-type: none"> ▪ Healthcare services 	: Public and private health care services, pharmaceuticals.
<ul style="list-style-type: none"> ▪ Professional services 	: Laws related to chargeable fees and accountability with regards to legal and medical professions, consumer redress/access

Across all consumer protection relevant laws, the study also examined these areas:

- Legal provisions that provide for consumer redress vis-à-vis the mechanisms already in place.
- Initiatives and best practices on consumer protection that are being implemented both by relevant government agencies, nongovernmental, and business organisations.

For the capacity building needs, the study covered the enforcement agencies that are principally in-charge of carrying out the provisions of the main consumer protection act and of the six major areas as listed above. Particularly, the agencies' capacities to enact, enforce and implement relevant laws were studied. The capacity building needs of nongovernmental organisations and business groups in the country were also considered.

2.2. APPROACHES

The approach in carrying out the study was hinged on the review of the formal operating context vis-à-vis the actual operational environment of consumer protection in the country. The analysis and findings from this exercise served as basis in developing the recommendations for capacity building needs in consumer protection.

The **formal operating context (FOC)** covered the assessment of

- The national consumer laws and regulations, including those that are being drafted or are awaiting enactment,
- The national consumer protection law that was enacted and consumer protection rules that is being drafted.
- National consumer protection programmes and initiatives
- Key stakeholders' views and analysis

While in the **actual operational context (AOC)** of consumer protection legislations and programmes, the following activities were carried out:

- Evaluated how well laws and programmes are actually implemented and enforced, and
- Review human and institutional capacities to draft and enforce consumer legislations and implement related programmes.

The mapping of laws and regulations in Myanmar was carried out by CIKL throughout the month of November 2010 assisted by the Ministry of Commerce that played the focal point function for the Project.

The approach towards constructing the roadmap on the capacity building needs in consumer protection in Myanmar was also carried out through the fundamental understanding of the current the human and institutional gaps in implementing or carrying out consumer protection activities.

Reviews of available records, databases, reports and documents related to consumer protection, including stakeholders' annual reports, were also performed. Soft and hard copies of laws, reports and publications were obtained where possible.

2.2.1 Capacity Building Needs Assessment on Consumer Protection

The primary focus of this study was to identify capacity building needs in consumer protection in Myanmar, and to provide a roadmap for meeting those needs. Capacity building needs refers to the need to adjust policies and regulations, to reform institutions, to modify working procedures and coordination mechanisms, to increase the skills and qualifications of people, to change value systems and attitudes in a way that meets the demands and prerequisites of implementing an effective Consumer Protection regime in ASEAN.

In order to achieve this objective, the study adopted an overall approach of the Formal and Actual Operating Contexts. The FOC involves legislation, policies and regulations that govern the responsibilities of the governments, businesses, consumers, and other stakeholder in the area of consumer protection. The FOC also includes the structures related to consumer protection. On the other hand, the AOC relates to the protection levels actually experienced

by consumers, viewed from a rights-based perspective. The AOC includes governance and consumer welfare matters e.g. how enforcement mechanisms actually operate, the nature of consumer complaints/injuries and the nature of redress and compensation which consumers actually obtain.

The assessment of capacity building needs (CBN) constituted the following activities:

- **System level:** Reviewed the principal legislation and mapped other related laws covering consumer protection, institutional structures specifically for the purpose of consumer protection laws and policies that explicitly protect the rights of consumers such as Ombudsmen schemes, tribunals and industry based complaints handling systems. Private “structures” such as complaint cells in multi-national companies were not included as the motivation behind such structures is not always in the public interest.
- **Organisational level:** Identified gaps in institutional capacities such as roles and functions including monitoring and implementation of policies, laws and regulations, operation procedures, budget, number of staff, infrastructure, management and leadership,
- **Individual level:** Identified gaps in human capacities knowledge, experience, competencies, and skills.

To identify the existing gaps and deficiencies in the current operating context of consumer protection vis-à-vis a comprehensive protection regime so that capacity building needs can be identified. The gaps were then translated into the areas for capacity building that were recommended in order to attain the desired outcomes. The desired outcomes in implementing CP at the national level were benchmarked at the different states of needs and capacities for the different stakeholders and were tailored to harmonise CB strategies towards the desired outcomes at the regional level.

2.3. DATA COLLECTION PROCESS

The following research activities were implemented in carrying out the mapping of available records, database, reports and documents including annual reports:

- Desk research of consumer laws, programmes, initiatives and reviews.
- A general survey of national laws, programmes and implementation with national government stakeholders as well as about their issues and needs and expectations.
- Key informant interviews in relation to consumer protection implementation and about issues and gaps in national consumer laws and enforcement.
- Roundtable discussions with key stakeholders

The Study applied four data collection instruments to support and complement the accuracy and reliability of information gathered as follows:

- Instrument 1: Secondary Data Collection
- Instrument 2: General Survey Questionnaire
- Instrument 3: Key Informant Interview Questionnaire
- Instrument 4: Roundtable Discussion Programme

2.3.1. Secondary Data Gathering

Secondary Data Collection instrument was designed by CIKL with the main objective of generally mapping of consumer protection status in Myanmar. The data was collected by the Project focal point in Myanmar throughout the month of November. Further processing and refinement were made for the purpose of this final report.

Secondary data related to capacity building needs and consumer protection-related matters from various agencies, ministries and organisations in all countries involved in the study were also gathered and reviewed. This includes Acts and laws; rules and regulations; codes of conduct, government policies and consumer protection programmes.

The sources of information include annual reports from the relevant agencies and any report or study related to this study, including the preliminary findings of the study conducted by CI in 2009 entitled “*The Asia Pacific Consumer Laws Analysis*” where baseline information of consumer protection and competition laws in Asia Pacific have been established.

2.3.2. General Survey Questionnaire

The General Survey (GS) instrument was designed by CIKL where the questionnaire was structured to map information on consumer protection laws, regulations, policies, codes of conduct, consumer protection programmes and initiatives; redress mechanisms; human and institutional gaps in the selected consumer protection areas, i.e. product safety and labelling, phone & internet services and e-commerce, consumer credit and banking, environmental issues, health care, and professional services. Other areas of interests expressed by the respondents will also be noted to be taken up for further deliberations during RTD.

The GS was distributed locally by the focal agency throughout the month of the final weeks of November 2010 two weeks prior to the scheduled visit. Briefing for the focal agency on the general objectives of the Project was done through regular telecommunications from October 2010. The stakeholders targeted for the general survey were identified by the focal agency.

2.3.3. Key Informant Interviews

Due to the limited time and limiting circumstances in administering the study in the Country, no key informant interviews were conducted.

2.3.4. Roundtable Discussion

Most of the primary data were quantitatively gathered and analyzed from the Roundtable discussion (RTD) held on 20 December 2010 at the office of the National AFTA Unit, which was attended by 18 participants from various government agencies and a business association. The RTD was chaired by the Director-General of the Foreign Economic Relations Department (FERD) of the Ministry of National Planning and Economic Development (MNPED). A full-day RTD (see *Appendix 2*) using power-points presentations was used to:

- Introduce CI;
- Provide an overview of the project;
- Present the draft Country Report of Myanmar;
- Conduct Needs Assessment on Consumer Protection Issues;
- Identify the Core Areas of Consumer Protection and

- Road Mapping Consumer Protection Needs in Myanmar.

2.4 DATA ANALYSIS

2.4.1 Secondary Data Analysis

The review and analysis of policies and laws entailed the identification of existing consumer protection related laws, the scope of the relevant Acts such as the areas or elements covered, how the Act is implemented and regulations enforced; and how consumers seek redress under the Act. In Myanmar, due to the absence of a principal Consumer Protection Act, the enforcement of these other Acts were also examined through state actions or Ombudsmen schemes and through private action.

Remark: In Myanmar, Consumer Protection Law has been enacted.

The process also involved reviewing of consumer protection regimes in other parts of the world where consumers enjoy a fairly higher degree of protection. Legal, structural, institutional and regulatory arrangements for consumer protection found in the European Union, Australia, United Kingdom and United States of America were examined with a view to establish a basis for a consumer protection regime that would be appropriate for the ASEAN region.

In analysing the other aspects of data and information collected, it was necessary to take into account the socio-economic, cultural and political characteristics of Myanmar. By drawing upon examples of good practices from the more advanced consumer protection regimes and adopting or adapting them to the requirements of the country, key components of a comprehensive consumer protection regime were identified.

2.4.2 General Survey Analysis

Six types of analysis were performed on the data from the General Survey using the 17.0 version of Statistical Package of Social Sciences (SPSS) in order to identify priority areas for capacity building and gaps in consumer protection (Table 2.2).

Table 2.2: Types of Statistical Analysis Used

Type of Analysis	SPSS analysis
Normality test of the data	Kurtosis and skewness, P-P Plot
Reliability test of the data	Cronbach alpha
Organisational profile and consumer protection measures	Frequencies
Level of difficulty in implementing consumer protection programmes and activities	Frequencies, Index
Capacity building needs and form of assistance required	Frequencies, Index
Relationship between level of difficulties and capacity building needs	Pearson correlation, T-Test

Qualitative information obtained from Key Informant Interviews and Key Informant Interviews was used to substantiate or supplement quantitative information obtained from the general survey. The open-ended Key Informant interviews and the Roundtable discussions served as a sounding board to fill in the gaps in formation, to check the validity and relevance of the capacity building needs of the AMSs.

Based on the findings from the General Survey, secondary data collection, key informant interviews and roundtable discussions at country levels, strategies and recommendations as well as a road map for strategic thrust areas for consumer protection was developed for the short, medium and long terms.

However, due to the limited time available for collecting complete GS and KII in Myanmar, it was not possible to perform the above analysis accordingly. As such, the data and information gathered through stakeholders' attempts on the GS (most were partially completed) were extrapolated and triangulated manually to accommodate the various gaps in data processing.

2.4.3 Capacity Building Needs Analysis

The identification of the capacity building needs was accomplished by making a systematic analysis of the information gathered through the general survey, especially with regard to difficulties expressed by respondents, and the types and forms of assistance which they needed. The information gathered from the above-mentioned analysis was used to identify weaknesses and gaps in the existing operating context for consumer protection among the stakeholders in the country.

An index was developed to measure capacity building needs, using an interval scale of 1 to 7. Level 1 is the least priority and level 7 is the highest priority. The Index level was based on the total scores (i.e. the total computed score for all items related to capacity building needs) and the mean for each area of capacity building need. The mean for the total score is called the Index for each item listed in the questionnaire.

The Index was also used to measure the level of difficulty in implementing consumer protection programmes and activities, and the preferred forms of assistance required by the stakeholders for work on consumer protection.

By making reference to a proposed framework for comprehensive consumer protection regime, some identified areas of capacity building needs were recommended by the stakeholders during the RTD that would assist Myanmar to make the transition from the current state to the desired state of consumer protection at the national and regional levels.

2.5 PROFILE OF STAKEHOLDERS

The comments and feedback were consolidated during a day-long RTD that was attended by the following agencies:

1. Ministry of National Planning and Economic Development (MNPED)
2. Ministry of Livestock and Fisheries
3. Ministry of Livestock, Fisheries and Environmental Conservation
4. Ministry of Education
5. Ministry of Science & Technology

6. The Union Attorney General's Office
7. Ministry of Agriculture & Irrigation
8. Ministry of Health
9. Ministry of Industry
10. Ministry of Commerce
11. Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI)

Subsequently, the following 7 agencies also attempted to complete the General Survey and the Secondary Data Questionnaires:

1. The Union Attorney General's Office
2. Department of Health
3. Posts and Telecommunications Department
4. Central Bank of Myanmar
5. Department of Development Affairs
6. Ministry of Industry No. 2
7. Mandalay City Development Committee

It was noted that the stakeholders from the private sector and non-government organisations were substantially absent in this study.

2.5.1 Overview of Consumer Movement

Currently, there is no known NGO that works and advocates specifically on consumer issues. Since the areas of consumer protection and consumer issues are relatively new areas, consumer-based organisations may need to be developed through building greater awareness of the public.

However, there are various non-government organisations exist in the country working on specific issues. In areas related to health, for examples, the following local NGOs are listed by the Ministry of Health

- The Myanmar Medical Association
- The Myanmar Maternal and Child Welfare Association
- Union Solidarity and Development Association
- Myanmar Women's Affairs Federation
- Myanmar Red Cross Society
- Myanmar Dental Association
- Myanmar Nurses Association
- Myanmar Council of Churches
- Myanmar Anti-Narcotic Association
- Myanmar Business Coalition on AIDS
- Pyi Gyi Khin
- Ratana Metta

The Ministry of Health (2010) also listed more than 25 international NGOs in the country that work on various issues related to health.

2.6 LIMITATIONS

The implementation of the Study in Myanmar was confronted with a number of challenges. Due to some administrative requirements in the country, CIKL was only able to establish working relationship with the focal points after the ACCP Workshop (2010) was conducted. This had further faced with some constraints of the key stakeholders in the country to take part effectively in the process.

Limited data and partially completed General Survey (GS) were accomplished due to these constraints. Time was also unable to accommodate for any key informant interviews to be conducted. The RTD was conducted with representatives from the identified stakeholders, but lack representation from civil society organisations.

Further, the availability of detailed materials primarily depended on the resources and publications or reports through internet search. Data were also mainly based on secondary compilation by the focal points and general survey from three respondents, who were selected by the local focal points. However, it was also noted during the course of the RTD, the participants might have limited knowledge or experience in answering some of the questions pertinent to areas beyond their scope of functions.

Further, the lack of micro-data from market share on products and services, consumer spending trend, household, and income and expenditure surveys makes it hard to determine what vulnerabilities may be starting to emerge among consumers and households in the country.

3. MAPPING AND SITUATIONAL ANALYSIS OF CONSUMER PROTECTION LEGISLATION AND PROGRAMMES.

3.1. LAWS AND REGULATIONS RELATED TO CONSUMER PROTECTION

In realizing the goals and objectives of the ASEAN Economic Community (AEC) Blueprint to drive towards a people-centred ASEAN Community, consumer protection is considered as an essential means in its market integration agenda.⁴⁹

In mapping the relevant laws, this Study examines specific or general provisions that capture or provide for access, safety, quality, of products and services in relation to the 8 fundamental rights of consumers as per the UN Guidelines (see Chapter 1, Section 1.1), including consumers' and (products and services) providers' responsibilities and obligations. Provisions that imply authorities and their enforcement power are also examined in line with the rights for consumers to seek redress.

Numerous laws have generally include indirect provisions to protect consumers in the Republic of the Union of Myanmar in relation to prices, weights and measures, unfair contract terms, travel, banking, utilities, telecommunications, safety and quality of goods and services.⁵⁰ (Please see Appendix 3 on List of Laws and Appendix 4 on List of Implementing Agencies).

3.1.1. Principal Consumer Protection Act

The Republic of the Union of Myanmar has yet to draft its principle Consumer Protection Act. The Republic of the Union of Myanmar has enacted Consumer Protection Law.

At the point this study was conducted, it has also yet to be determined any definite plans or model that would be adopted for CP implementation in the country. Additionally, the institution that would be responsible for CP has also yet to be determined.

In its planning for and drafting a Consumer Protection Act, CIKL suggests that Wood's Consumer Laws Matrix (please see Appendix 5) may be used as reference to include specific provisions on CP in line with the UN Guidelines. Consumer Protection Law has been enacted

3.1.1.1 Implementing Agencies

A dedicated CP-Agency is yet to be officially mandated in Myanmar. The Ministry of Commerce is the focal organization for consumer protection activities in Myanmar.

⁴⁹ ASEAN Secretariat (2009).

⁵⁰ Most of the Legislation cited in this study were extracted from <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwebum.htm>

During the phase of this Study, the Ministry of Commerce has taken the role to assist in coordinating local and regional activities.

3.1.2. Laws on Product Safety and Labelling

There are many acts, laws, regulations, action plans and manuals related to chemical safety in different forms and under different ministries but no comprehensive one. Out of the 43 Laws and Acts enacted the Republic of the Union of Myanmar, 14 are concerning chemicals and general safety. Therefore, the Ministry of Industry (1) with many ministries and the Chemical Industry Group (CIG), a private organisation, have prepared the Chemical Safety Law (CSL), which has been approved by the government and is ready to be issued. The CSL imposes on chemical manufacturers to comply with GHS and MSDS for consumer safety related to chemicals. The scope of GHS for consumer protection includes users, traders and manufacturers.

The objectives of CSL are as follow:

- To protect human from hazards and environmental resources, and damage due to chemicals and their related materials
- To control chemicals and their related industries systematically
- To implement GHS
- To implement the environmental conservation for the sustainable development of occupational safety and health
- To implement international chemical trade systematically

The Promotion of Cottage Industries Law (1991) regulates and promotes cottage industries. Section 3 specifies that cottage industries, among others, are promoted:-

- (e) to enable consumers to purchase standard quality goods which are safe for consumption;*
- (f) to promote cottage industries by the utilization of modern technical know-how which would raise efficiency;*
- (g) to produce and sell goods of a standard quality not only in the local market, but also in the foreign market;*

The study was not able to capture other specific provisions of other laws that are applicable in ensuring safety of consumers. Similarly, no specific provisions were found on matters related to product labelling in the country. Other laws related to the area of product safety and labelling are listed in *Appendix-3*.

3.1.2.1 Implementing Agencies

These agencies are in charge of product safety and labelling and handle specific areas as discussed in the above Section:

- i) Food and Drug Administration - for quality and safe food, drugs, cosmetics and household products and medical devices.
- ii) Ministry of Cooperative

3.1.3. Laws on Phone & Internet Services and E-Commerce

Myanmar has taken some steps in drafting and enacting Cyberlaws. Currently, the following governs telecoms and IT sectors

- a) Myanmar Computer Science Development Law;
- b) Myanmar Electronic Transaction Law
- c) The Myanmar Telegraphy Act, and
- d) The Myanmar Wireless Telegraphy Act

Moreover, in order to replace the Myanmar Telegraphy Act and the Myanmar Wireless Telegraphy Act with a more comprehensive telecommunications laws, the Telecommunications Law has already been drafted and now under review for cabinet approval.

The Electronic Transactions Law (2004) exemplifies general provisions related to data, contents, digital signatures and others. In Section (3), in particular, the aims of this Law as stated include:-

- (a) to support with electronic transactions technology in building a modern, developed nation;*
- (b) to obtain more opportunities for all-round development of sectors including human resources, economic, social and educational sector by electronic transactions technologies;*
- (c) to recognise the authenticity and integrity of electronic record and electronic data message and give legal protection thereof in matters of internal and external transactions, making use of computer network*

Section (4) (b) of the same Law also states that the Law is applicable *“to any person who commits any offence actionable under this Law within the country or from inside of the country to outside of the country, or from outside of the country to inside of the country by making use of the electronic transactions technology.”*

In general, the Law contains some provisions for consumer protection such as deterring potential misuse or abuse the cyberspace, such as committing various cyber crimes (phishing, hacking), using spam (spam mails and SMSs) by means of any electronic transaction methods including phone and internet services.⁵¹ The Law also promotes secured electronic payments. In accordance with the provisions of this Law, the National Root Certification Authority has been established and currently two licensed Certification Authorities (CA) are providing online security services. However, it was noted that presently there is no laws to prohibit false and misleading advertisements through phone, internet or e-commerce services.⁵²

3.1.3.1 Implementing Agencies

The agency in charge of the ICT and e-commerce and specific areas as discussed in the above Section is the Ministry of Communications, Posts and Telegraphs. The Ministry of Science and Technology implements the Myanmar Computer Science Development Law.

3.1.4. Laws on Consumer Credit and Banking

The principal act that is important in regulating banking and financial activities in the Republic of the Union of Myanmar is captured through the Central Bank of Myanmar Law (1990) which provides mandate to the Central Bank of Myanmar. Section 13 establishes that *“The State shall be the sole shareholder of the Central Bank.”* Since its enactment, the Act has undergone two amendments through Law Amending the Central Bank of Myanmar Law 95 and Law Amending the Central Bank of Myanmar Law 97.

⁵¹ From responses of the Posts and Telecommunication Department provided through the General Survey Questionnaire received in December 2010, coordinated by the Ministry of Commerce.

⁵² Ibid

The Saving Banks Law (1992)⁵³ embodies provisions that are relevant to consumer protection. As stated in Section 3 of the Law, a Savings Bank is aimed:

- (a) to cultivate the practice of thrift among the people;*
- (b) to cause savings to be made by a secure method of saving;*
- (c) to promote the mobilization of financial resources;*
- (d) to raise the standard of living of the people.*

Section 10 further exemplifies the rights of a depositor of a Savings Bank Account to:

- (a) receive interest prescribed from time to time by the Savings Bank;*
- (g) in the case of loss or damage of a Savings Record or Savings Certificate, claim a new record or certificate in the manner prescribed and on payment of the fees prescribed.*

Section 20 also states that *“the Savings Bank shall be responsible for pecuniary losses incurred by the depositor due to the negligence of the Bank.”*

Other Laws that would be relevant to regulating consumer credit and banking in Myanmar include:

- Financial Institutions of Myanmar Law
- Gambling Law

From the available data and information gathered during the course of this Study, it was not clear whether there are any specific laws or provisions that govern credit card activities, pawn-broking or money lending activities. However, financial institutions may engage in these activities subject to the approval of the Central Bank under the provisions of Section 25 (b) and (o), as well as Section 6 (a), (b) and (c) of the Financial Institutions of Myanmar Law. With regards to interest rates chargeable on loans and overdrafts, Section 61 Subsection (b) of the Central Bank of Myanmar Law states that the Central Bank may notify maximum interest rates from time to time.

3.1.4.1 Implementing Agencies

The Ministry of Finance and Revenue exercises most of the functions related to banking and financial institutions, including the operation of the Central Bank of Myanmar. Some of the Banking Regulations and Rules are being implemented directly by the Central Bank.

⁵³ Subsequently repealed the Government Savings Banks Act 1873 and the Savings Certificates Act 1947.

3.1.5. Laws on Environmental Quality and Services

Sustainable development in the Republic of the Union of Myanmar is critically linked to sustainable environment. As such, it is noted that there is an extensive laws put in place to govern and regulate economic and social development activities that impact the environment. Due to limited access to detailed information in English, the study is not able to provide specific provisions or analysis on the relevant laws. However, a list of some relevant laws is provided in *Appendix-3*.⁵⁴

3.1.5.1 Implementing agencies

These agencies in charge of environmental quality and services and the specific areas, depending on their specific jurisdiction as discussed in the above Section and in Section 1.3.5, are:

- i) National Commission for Environmental Affairs (NCEA)
- ii) Ministry of National Planning and Economic Development
- iii) Ministry of Agriculture and Irrigation,
- iv) Ministries of Industry 1 and 2
- v) Ministry of Hotel and Tourism
- vi) Ministry of Energy
- vii) Ministry of Forestry
- viii) Department of Development Affairs (DDA), under the Ministry of Progress of Border Area and National Races and Development Affairs
- ix) City Development Committees
- x) Township Development Committees
- xi) Road Transport Administration Department

3.1.6. Laws on Health and Healthcare services

In general, the National Food Law (1997) is an important piece of legislation that governs practices to ensure food safety in Myanmar. Specifically, though, the Public Health Law (1972) is one of the key legislation in Myanmar that covers provisions related to the general agenda for protection of the people through health and medical care services. The Law carries specific provisions to regulate the quality, cleanliness or hygiene and sanitation related to food, drugs, environment, as well as to control epidemic diseases and to regulate private clinic practices.

The Law relating to Private Health Care Services (2007) provides directions and strategies towards realizing the objectives of the National Health Policy. This Law is also placed with the intention of providing the public with greater choice for healthcare, together with better quality services through enhanced private responsibility in ensuring the well-being and welfare of consumers.

The Myanmar Food and Drug Board of Authority (MFDBA), which is chaired by the Minister for Health, is the highest authority for the control of food and drug affairs. MFDBA consists of members from various related departments and agencies e.g. General Administrative Dept.,

⁵⁴ Also please see “*Environmental Laws and Regulations in ADB Developing Member Countries*” from <http://www.adb.org/Environment/laws-regulations.asp#Myanmar>

Myanmar Police Force, Development Affairs Dept and other relevant departments and Committees such as Central Food and Drug Supervisory Committee (CFDSC), Drug Advisory Committee (DAC), Food and Drug Administration to implement drug related laws.

In combating counterfeit medical products, various regulatory measures and procedures have been placed. Reiterating the information available from the Myanmar Food and Drug Administration (FDA),⁵⁵ the Pharmaceutical Administration in Myanmar plays important role:

- To enable the public to use Quality, Safe and Effective drugs
- To protect the public from unsafe drugs
- To register drug systematically
- To regulate manufacture, import, export, distribute and sale of drug according to the National Drug Law 1992 (Notifications --Registration, manufacturing, sales, distribution, importation, labelling and advertisement)

In March 2003 March, an Order Relating to Control of Narcotic Drugs and Psychotropic substances was also put in place to regulate Pharmaceutical Products with regards to special permits for selling Highly Controlled Drug and limited Controlled Drugs. In general drugs in Myanmar are categorized into:

- Highly Controlled Drug
- Limited Controlled Drug
- Prescription Only Medicine
- Over the Counter Drug
- Natural Health Care Product

The National Definition of Counterfeit Drug⁵⁶ as stated under Section 2 (d) of the National Drug Law includes:

- (i) a drug the whole or part of the label of which is an imitation or resemblance by various means or is written similarly;
- (ii) a drug in respect of which the expiration date or manufacturer or distributor or place of manufacture or country of manufacture is fraudulently shown;
- (iii) a drug in respect of which it is fraudulently shown that it is manufactured according to the formula mentioned at the time of registration of the drug;

The National Drug Law (NDL) (1992) is put in place to control and regulate the manufacture, import, export, storage, distribution and sale of drugs.⁵⁷ Section 5(a) of the law prohibits the manufacturing, importing, exporting, storing, distributing or selling the following drug;

- (i) a drug which has not been registered;*
- (ii) a drug whose registration has been revoked temporarily or cancelled;*
- (iii) fake drug, drug differing from standards, deteriorated drug, adulterated drug;*

⁵⁵ Presentation by Dr. Kyaw Lin. (11th Feb 2008). Director of Food and Drug Administration, Department of Health

⁵⁶ Presentation by Dr. Tun Zaw. FDA, Myanmar. Country Presentation Myanmar. First ASEAN-China Conference on Combating Counterfeit Medical Products. Jakarta, 13-15 November 2007

⁵⁷ For comparative analysis, please see *Thida Aye and James Finch (2000)*. Pharmaceuticals in Myanmar – Law and Procedure. Singapore Journal of International and Comparative Law. (4): 115-147

- (iv) a drug which has been manufactured with harmful substances;*
- (v) a dangerous drug which is determined as not fit for utilization by the Ministry of Health by notification.*

Section 18-20 illustrate means for penalties and punishments for violations of any provisions stated in the Law, which include punishment with fine or with a imprisonment for a term which may extend to 7 years or with both, in addition to confiscation of goods or drugs involved.

The Traditional Drug Law (1996) states provisions related to traditional medicines including labelling, licensing and advertising. The Law also guides the promotion and consumption of genuine quality and safe traditional medicines.

In recent years the rise in demand for organ donation has dramatically increased due to advanced medical technology. The supply of human organs can not meet demands, and as a result, there has been an incredible rise of illegal human organ sales. Organ donation, if not regulated, could lead to *illegal* procurement of human organs. As religion also plays a role in promoting organ donation, the Republic of the Union of Myanmar has put in place legal measures to regulate any activities related to human organ donations.

Section 3 of the Body Organ Donation Law (2004) states that the aims of this Law, among others, are primarily:

- (a) to enable saving the life of the person who is required to undergo body organ transplant by application of body organ transplant extensively;*
- (b) to cause rehabilitation of disabled persons due to disfunctioning of body organ through body organ transplant;*

Section 21 specifically covers that *“Whoever sells or buys the body organ for consideration shall, on conviction, be punished with imprisonment for a term which may extend to three years, and may also be liable to a fine.”*

Similarly, the Eye Donation Law (1996) is objectively aimed to:

- (a) give extensive treatment to persons suffering from eye diseases, who may regain their sight by corneal transplantation;*
- (b) remove systematically the eyes of the donor;*
- (c) carry out effective treatment of eye diseases through systematic storage and distribution of the donated eyes from the Eye Bank;*

(d) carry out successfully the functions of the Eye Bank with the assistance and cooperation of the Government Departments, Government Organisations, International Organisations, local and foreign Non-governmental Organisations, local and foreign Companies and local and foreign individuals.

Section 3 of the Blood and Blood Products Law (2003) further states that the Law aims:

(a) to enable saving and looking after patients' life by transfusion utilizing quality-assured blood;

(b) to prevent transfusion transmissible infection through blood and other dangers, and to enable assuring both mental and physical safety;

(c) to enable systematic supervision of extracting, collecting, storing, issuing, distributing, transfusing and disposal of waste of blood and blood products;

(d) to carry out implementation of blood donor system on voluntary basis;

(e) to contribute towards health care of patients not taking into consideration of profit in performing blood transfusion service; (f) to enable promotion, dissemination and research in respect of blood and blood products and to nurture experts thereof.

The functions of the Blood Bank are specifically provided for under Section 8 of the Law. Further Section 22 states that “Whoever commits any of the following acts shall on conviction, be punished with imprisonment for a term which may extend to three years, or with fine or with both:-

... (c) transfusing of blood or blood products past the expiry date into any person:

(d) extracting from or transfusing into any person blood or blood products by using blood

transfusion instrument past the expiry date or which is not free from micro-organism or which has been utilized once;

(e) using sharp instrument not in conformity with the stipulations.”

Section 23 prohibits selling or buying “blood with money or other consideration for business purpose”.

Other legislation⁵⁸ that would be related to health care quality and services in the Union Myanmar include the Prevention and Control of Communicable Diseases Law.

3.1.6.1 Implementing agencies

Ministry of Health exercises most functions related to health and healthcare services in the country.

⁵⁸ A list of relevant laws related to health care is provided in the Myanmar Health 2010 booklet published by the Ministry of Health.

3.1.7. Laws on Professional Services

3.1.7.1 *Medical Professionals*

Doctors in Myanmar are governed under the Myanmar Medical Council Law (2000), whereas the Traditional Medicine Council Law applies to the traditional medical practitioners, with regards to their rules of conduct and discipline, including registration requirements and duties of these practitioners.

The Dental and Oral Medicine Council Law (1989) carries specific provisions for regulating dental and oral medicine practitioners. This Law states provisions on licensing as well as the function and powers of the Council to regulate.

3.1.7.3 *Legal Professionals*

The study was not able to access any information related to relevant laws that govern the conduct and activities of legal practitioners in the country.

3.1.7.4 *Implementing agencies*

These agencies are in charge of the Professional Services and the specific areas as discussed in the above Section:

- i) Ministry of Health – Medical Professionals
- ii) The Myanmar Medical Council
- iii) The Dental and Oral Council
- iv) Ministry of Home Affairs – the court system
- v) The Myanmar Bar Council – Legal Professionals

3.1.8. Other Laws Protecting Rights of Consumers

The Sales of Goods Act, which is based on the original British Sale of Goods Act 1893 implies the following:

- *where goods are sold by description or sample, they will correspond to that description or sample;*
- *in such cases the goods will also be of “merchantable quality” (except where inspected); and*
- *where the buyer makes known a specific purpose to the vendor, the goods will be suitable for that purpose.*

The Myanmar Maternal and Child Welfare Association Law (1990) states provisions on related to the Myanmar Maternal and Child Welfare Association which is formed with the objective of (among others): -

- (a) to form a permanent organisation in order to carry out effectively welfare work and assistance relating to the health and social affairs of mothers and children throughout Myanmar;*

Section 3 of the Myanmar Hotel and Tourism Law (1993) specifies that the Law also aims “(f) *to provide security and satisfaction of tourists.*”

Section 4 (a) of the Control of Money Laundering Law, in particular, specifies “*to control and enable taking of effective action against money and property obtained by illegal means and to prevent offences arising therefrom;*”

Other laws related to the areas of consumer protection are listed in *Appendix-3*.

3.2 INTER-AGENCY COORDINATION

There were no published reports or information on inter-agency coordination among the various implementing agencies, non-government organisations and private sectors, encountered during the course of this study.

However, there is evidence that two NGOs associated with the Ministry of Health⁵⁹, namely:

- The Myanmar Medical Association
- The Myanmar Maternal and Child Welfare Association

3.3 REDRESS MECHANISMS

The Myanmar legal system is primarily based on a British-based judicial system, and a common law system based on the principle of *stare decisis*. The laws in the Republic of the Union of Myanmar are generally categorized into six main categories according to the period in which they have been enacted: (i) the Colonial Period Laws (before 1948); (ii) the Parliamentary Laws (1948-1962); (iii) the Revolutionary Council Laws (1962-1974); (iv) the Pyithu Hluttaw Laws (1974-1988) (the legal system which was exercised during this period is called the Socialist legal system); (v) the State Law and Order Restoration Council Laws (18 September 1988 to 14 November 1997); (vi) the State Peace and Development Council Laws (15 November 1997 to the present day).⁶⁰

The mechanisms for consumer redress are generally embedded in the enacted laws in the country, which generally assumes the necessary legal proceedings for actions that may require legal representation through certified legal practitioners. The study was unable to access information on consumer redress mechanisms by means of arbitration, mediation or other traditional dispute settlement mechanisms that have been applied in the course of consumer redress.

⁵⁹ Ministry of Health Website <http://www.moh.gov.mm/>

⁶⁰ Adapted from *Thida Aye and James Finch (2000)*. Pharmaceuticals in Myanmar – Law and Procedure. Singapore Journal of International and Comparative Law. (4): 115-147

3.4 CONSUMER PROTECTION PROGRAMMES, INITIATIVES AND BEST PRACTICES

3.4.1 Programmes and Initiatives

Myanmar adopted a National Environmental Policy to ensure the incorporation of environmental concerns in planning for economic development. This policy emphasizes "*the responsibility of the State and every citizen to preserve its natural resources in the interest of present and future generations,*" and states that "*environmental protection should always be the primary objective in seeking development.*" The National Commission for Environmental Affairs (NCEA) has since been working to raise public awareness of environmental issues by organizing workshops, seminars, and conferences among government officials, and using mass media to carry its message to the people.

The 1990s saw the enactment of several important environmental laws in Myanmar that include entering into a number of international and regional environmental agreements along with UNDP's Green House Gas Emission Reduction Plan in Asia and the Project on Regional Cooperation on Global Climate Change coordinated by the Economic and Social Commission for Asia and the Pacific. In expanding the effort to raise awareness, Environmental education has been strongly promoted at the primary education level, where it falls into two categories:

- Environmental Education in non-formal settings
- Environmental Education in schools.

The major impetus for environmental education in non-formal settings comes from United Nations agencies (such as the UNDP) and non-governmental agencies (NGOs), who are working with Myanmar Education Research Department and the Departments of Basic Education to implement projects.

Thus, the involvement of children and youth in sustainable development has increased in recent years due to the environmental awareness campaigns initiated by the NCEA in cooperation with the Ministry of Education, Ministry of Information and Culture and Youth from NGOs.

3.4.1.1 Environmental Education in Non-Formal Settings

"*Education for All,*" is a national Environmental Education programme emphasising Environmental Education themes, especially those relevant to the lives of women and girls. The programme covers such environmental topics as population control, energy problems, consumption of natural resources, soil preservation, health care, and home economy as a way to help people solve the environmental problems faced in daily life.

3.4.1.2 Environmental Education in Primary Schools

The new curriculum in the Education System of Myanmar places special emphasis on fostering good citizenship, which includes among its major components, the development of environmental awareness. Within general studies, Environmental Education themes stress the relationship between human life and natural phenomena. At the secondary level, Environmental Education themes have emphasized on basic science, life skills, personal

hygiene and family health, respect for and curiosity about the natural environment, and understanding the importance of natural resources for daily life. Environmental Education is also integral to special experiences, which include study of the senses; the importance of air, water, land, and food for healthy lives: and plants and animals.

3.4.1.3 Environmental Education in Universities

Under the Programme of Centre for Human Resource Development of the University of Yangon, the Environmental Law is one of the subjects of Diploma in International Law offered by the Law Department, University of Yangon. International Environmental Law is one of the subjects for LLM students of Law Departments of different Universities. West Yangon University Botany Department offered Bachelor of Science (BSc) degree in Environmental Studies (ES) for undergraduate students.

3.4.1.4 Other Consumer Education Programmes

Knowledge-based awareness and public participation related to road safety programmes were also initiated and carried out biannually in Yangon. The initiatives were implemented through Road safety educative exhibition together with competition. Road safety educative talks are carried out nation-wide. Others include:

- Traffic safety campaign: competition of cartoons, posters, photographs, essays & Sections (professional & high school level)
- Prize winning works are displayed at the exhibitions
- Road Safety Week (2007): held nation- wide (23 April 2007-29 April 2007)

The development of women and their welfare is also an ongoing effort of the government. Institutional mechanism for the advancement of women in decision-making process is strategically placed through the formation of administrative structure such as the Myanmar National Committee for Women's affairs since 1996 with the aim to promote the advancement of Myanmar women especially for those at the grassroot level and for those residing at the border areas. The Minister chairs the Committee for Social Welfare, Relief and Resettlement as this ministry is designated as the focal point for women's affairs. The Committee comprises deputy ministers from related ministries for women's advancement and presidents of notable women and social NGOs.

3.4.2 Best Practices

Identification of best practices in Consumer Protection programme implementation is generally made based on the following criteria.

- i. there is continuity and replicability, and follow-up, with regular reporting and updates (each time the programme is conducted)
- ii. meets the objectives and targets of the programme
- iii. programme is evaluated by participants
- iv. documentation of the programme's effects
- v. reaches out to target groups as expected or beyond.
- vi. programme is implemented within the budget

The programme noted to be classified as “best practice” in Myanmar is called *"Improving Access of Children, Women and Men of the Poorest Communities to Primary Education for All,"* began in 11 townships in 1996 aimed to:

- promote respect and appreciation for the environment;
 - teach environmental principles, such as the need to conserve natural resources and biodiversity;
 - teach about environmental issues, such as deforestation and pollution; and
 - provide the knowledge and skills necessary to tackle environmental problems.
- The project takes a child-centered approach and is developing a detailed syllabus of Environmental Education themes and activities for use in both pre-service and in-service teacher training at the primary school level.

The Chemical Industry Group (CIG), Myanmar Industries Association (MIA) plays the leading role in the CSL drafting committee. At the same time, CIG provides basic and advanced training courses on GHS to private industries as well as government staff who are dealing with chemicals. In order to comply with the newly approved CSL, all manufacturers will be obligated to meet GHS requirements.

3.5 CHALLENGES RELATED TO IMPLEMENTATION OF CONSUMER PROTECTION

Major challenges to implement Consumer Protection in the Republic of the Union of Myanmar includes

- 1) Limited understanding and awareness on Consumer Protection issues and rights of consumers
- 2) Absence of framework or policies on CP
- 3) Absence of principal consumer protection laws
Remark: As consumer protection law has been enacted, the highlighted texts above should be deleted.
- 4) Absence of data and information on consumer issues
- 5) Absence of data on redress mechanisms to handle consumer complaints
- 6) Lack of coordination among the relevant stakeholders due to the absence of a principal consumer protection coordinating agency
- 7) Lack of consumer organisation or civil society organisation advocating for consumer protection, or due to under-developed or supported consumer movement
- 8) Inadequate laws to cover emerging consumer issues such as Competition, Personal data protection, consumer credits, alcohol and tobacco, consumer redress.

In general, guidelines on Good Labelling Practice and standards development process for consumer products need to be put improved.

4 NEEDS ASSESSMENT ON CONSUMER PROTECTION PROGRAMMES

4.1 ANALYSIS OF SYSTEM, INSTITUTIONAL AND HUMAN RESOURCE CAPACITY GAPS

The gaps in the capacities of relevant stakeholders in Myanmar to implement CP programmes were assessed based on the secondary data gathered through the internet, and the primary data from the roundtable discussions and the General Survey questionnaire that were partially answered by three respondents.

It was generally noted that there was no specific division or department or unit with a consumer protection role in any existing agencies or institutions in the country. Further, the understanding on CP and rights of consumers and the relationship to the specific areas of work is also limited. It was also noted that the national language, Myanmar language, is the main and official language used in all administrative functions.

Main constraints in Consumer Protection

Four main constraints related to human and institutional capacity gaps in implementing CP were identified namely:

- a. Limited or poor awareness on CP
- b. Lack of institutional capacity to deal with CP issues and complaints handling
As the Ministry of Commerce is the focal organization for consumer protection activities in Myanmar, the highlighted texts should be deleted.
- c. Absence of a principal CP Law
As Consumer Protection Law has been enacted, the highlighted texts should be deleted.
- d. Poor coordination among the relevant agencies due to limited understanding and avenues for co-operations.
As the Ministry of Commerce has been working in coordination with all the relevant ministries and agencies, the highlighted texts should be deleted.

The Ministry of Industry 2,⁶¹ specifically identified three main areas with highest degree of difficulty in implementing consumer protection activities or programmes were reported for:

- Inadequate experienced and qualified staff (in consumer protection)
- Inadequate finances
- Inadequate access to information on key consumer-related subject areas.
- Inadequate access to experts
- Inadequate access to training
- Inadequate inter-agencies coordination.

The Ministry of Industry (2) also reported that the least degree of difficulty was reported for

- Staff turnover
- Office facilities and equipment

⁶¹ Obtained through GS provided in December 2010, coordinated by NAFU.

4.2 CAPACITY BUILDING NEEDS AND STRATEGIC THRUSTS

Generally, the CBN of stakeholders in Myanmar could be categorized into 4 strategic thrust areas as:

- Laws and programmes on CP
- Enforcement
- Redress mechanisms
- Implementing agencies on CP

4.2.1 Laws and Programmes on CP

- Developing appropriate laws, policies and programmes in relevant areas of work for consumer protection
- Developing strategic plans(master plan) for consumer protection
- Developing management and leadership skills in Consumer Protection
- Training an exposing all relevant stakeholders to relevant areas of consumer issues
- Implementation and evaluation of consumer protection programmes (e.g. price monitoring and market surveillance)
- Research on existing consumer protection laws to cover emerging issues
- Awareness and educational programmes
- Consumer issues impacting on women

4.2.2 Enforcement

- Enforcing laws/codes of conducts that protect consumers
- Monitoring compliance to laws/codes of conduct
- Information technology management
- Good standard development practices related to quality and safety standards
- Training enforcement staff on consumer issues (e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, e-commerce etc.)

4.2.3 Redress Mechanism

- Establishing and/or managing redress mechanisms
- Information technology management for complaint handling
- Establishing legal and institutional mechanisms for consumer representation
- Developing consumer organisations (government linked agencies, NGOs, independent)

4.2.4 Implementing Agencies on CP

- Developing management and leadership skills
- Establishing institutional mechanisms to Implementing consumer protection policy
- Hiring competent personnel to Implementing consumer protection policy

The Ministry of Industry (2), in particular, highlights some form of assistance required in order to advance its CP agenda and efforts, which are:

- Training on consumer specific areas, fund-raising, as well as enhancing management and leadership in consumer protection
- Training and exposure to develop web-based products such as interactive complaint handling, alert and public announcement, e-forum or e-courses on consumer protection

4.2.4.1 ACCP Focal Points and CCPID

The Ministry of Commerce, which assisted in this Study, may play a vital role in moving the CP agenda forward in the country.

Stakeholders:

- Ministry of Commerce
- CCPID (ASEAN Secretariat)
 1. Enhance role of ACCP as a platform for encourage exchange of information and evaluation mechanisms
 2. Continue and further enhance the capacity of ASEAN Secretariat to provide inputs and share information from other platforms
 3. Establish Specific Platform for addressing “CHILDREN AS CONSUMERS” at domestic and regional level
 - Develop specific programmes or initiatives to address issues related to children being targeted for products or marketing or advertising (Cigarettes, toys, junk food, fast food, pornography)
 - Collaboration with experts for research on impact of products on children
 - Develop ASEAN Code of Conduct for marketing to children
 4. Enhance Corporate Social Responsibility in industry through the adoption of ISO26000 in ASEAN region
 5. ASEAN Youth programme and exchange
 6. Provide training or study visits for ACCP on
 - Mediation
 - Dispute Settlement Body (such as the Tribunal on Consumer Claims in Malaysia or Consumer Dispute Settlement Body in Indonesia)
 - Trade

5. RECOMMENDATIONS FOR CAPACITY BUILDING ON CONSUMER PROTECTION

5.1 CAPACITY BUILDING ROAD-MAP AND IMPLEMENTATION PLAN

To further enhance the development of ASEAN Economic Community and regional market integration, effective channelling of resources and efforts for the increased capacity building needs in CP, through the ACCP focal points, is vital in order to continuously ensure tangible outcomes of consumer protection in nationally and in the ASEAN region.

With reference to National Implementation Plan for Consumer Protection (Table 5.1), the roadmap for capacity building in consumer protection for Myanmar focuses on two main thrusts:

1. Advancing and Prioritizing Consumer Protection through NAFU
2. Promoting Consumer Protection Agenda through all relevant stakeholders

1. Advancing and Prioritizing Consumer Protection through NAFU

Strategic Objective: *Ensuring the enactment and implementation of A Principal Consumer Protection Act. Advocacy*

Action:

- i. Engage experts to help develop a principal consumer protection act and national consumer policy
- ii. Carry out inclusive consultations with all relevant stakeholders from relevant government agencies, industry and civil society organisations
- iii. Hold seminars/workshops for public awareness and exposure to consumer protection

Planning and Development

Action:

- i. Engage consultant(s) to draft CP Act and national consumer policy
- ii. Engage consultant(s) to draft Consumer Protection Master-plan
- iii. Engage experts to study mechanisms to establish centralised Consumer Protection Agency in Myanmar
- iv. Conduct Study and discussions on various models and examples of Consumer Protection Acts already enforced by other AMSs.

Implementation

Action:

- i. Facilitate the efforts of NAFU or the officially mandated CP-Agency to further enhance its capacity to build local expertise and instruments for consumer protection
- ii. Develop joint strategies on issues of related interests to NAFU or the officially mandated CP-Agency with other government agencies or regulatory bodies such as the Ministry of Health, Ministries of Industry 1 and 2, as well business associations such as the UMFCCI and relevant NGOs.
- iii. Support the development and engagement of civil society or consumer organisations

Enforcement

Action:

- i. Enhance the consumer protection capacities of all relevant agencies
- ii. Establish, enhance and support the capacities or civil society organisations to act as a watch-dog

Education and Awareness

Action

- i. Enhance capacity to conduct policy or law reviews
- ii. Enhance legal representation of consumers, through access to Legal Aid
- iii. Enhance knowledge through development of Concept Papers, Research or Impact Study or Analysis

2. Promoting Consumer Protection Agenda through all relevant stakeholders

Strategic Objectives: *Increasing Participation and Consumer Protection Ownership of all relevant entities.*

Actions

- i. Develop modalities for networking between relevant entities associated with consumer protection;
- ii. Promote research studies and scholarly publications on consumer protection development initiatives in Myanmar
- iii. Provide support and assistance to the relevant entities working towards improving consumer protection capacities

Product safety and labellingAction

- i. Enhance the efficiency of monitoring and enforcement of food safety and cosmetic products
- ii. Develop efficient Food testing facilities
- iii. Enhance compliance of product manufacturers and suppliers with international and regional standards for food safety programmes.
- iv. Enhance training of local producers (food) are trained and certified based on international standards (GAP, GMP, HACCP), and to raise awareness on Organic agriculture and organic products and eco-labelling
- v. Establish mechanisms for testing and labelling of electrical products similar to SIRIM (Malaysia)⁶² or SPRING (Singapore) Trust Marks⁶³.
- vi. Enhance Education and Awareness programmes through Exposure visits to relevant agencies or organisations in other AMSs.
- vii. Develop product testing capacities on other consumer products and services including cosmetic products
- viii. Develop national standards consumer products (toys, car, phones, electrical items etc)
- ix. Establish accredited testing facilities
- x. Establish a national Standard Body
- xi. Establish computerized system for data collection on consumer injuries due to unsafe products and inadequate labelling? (egg. Electrical shocks, poisoning, defective/unsafe toys, etc)

⁶² See website <http://www.sirim.my/>

⁶³ See website <http://www.spring.gov.sg/>

- xii. Develop guidelines or laws to control advertisements targeting children
- xiii. Provide exposure study visit for the Ministry of Health to Malaysia and Indonesia to study the mechanisms for Coding and labelling of drugs and medicines

Phone, Internet Services and E-Commerce

Action

- i. Establish and enhance networking and stakeholder engagement on consumer protection and phone & internet services and E-commerce
- ii. Develop further educational programmes on consumer protection with regards to phone & internet services and E-commerce
- iii. Develop Leadership and management skills and knowledge including developing skilful workforce and knowledge community with regards to consumer protection

Consumer Credit and Banking

Action

- i. Conduct study on consumer handling mechanisms such as the Financial Mediation Bureau (Malaysia or Singapore)
- ii. Provide consumer education on financial literacy and Financial Planning
- iii. Study the potential development of an independent Credit Bureau
- iv. Enhance capacity of banks to provide proper counselling to consumers before issuing credits or loans

Environment

Action

- i. Conduct seminars on ASEAN Initiatives and Framework related to environment
- ii. Conduct seminars on sustainable production and consumption including the exposure to solar energy and other renewable energy alternatives, green building and green Technology
- iii. Conduct seminars or workshop to enhance understanding on other environment initiatives such as Eco-labelling, greenhouse gases and Biosafety issues.

Healthcare services

Action

- i. Conduct seminar or workshop on Good standards development practices for healthcare services
- ii. Conduct Training on ethical marketing of drugs
- iii. Conduct study on and develop mechanisms for labelling and coding of medicines
- iv. Conduct seminar or workshop to gain exposure on genetic modified organism issue

Table 5.1: National Implementation Plan for Capacity Building in Consumer Protection.

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
NATIONAL CONSUMER PROTECTION POLICY	<ul style="list-style-type: none"> ▪ Myanmar to develop national consumer plans. ▪ Identify competencies required. ▪ Establish policy framework to determine Myanmar’s approach to consumer issues 	<ul style="list-style-type: none"> ▪ Draft National Consumer policy ▪ Implement National Consumer Policy ▪ Consultations with all relevant stakeholders ▪ Educate consumers on their rights 	<ul style="list-style-type: none"> ▪ Sensitize and popularize National Consumer Policy
CONSUMER MASTER PLAN	<ul style="list-style-type: none"> ▪ Formulate consumer master plan. Establish national steering committees ▪ Implementation milestones identified 		
PRINCIPAL CONSUMER PROTECTION LAW	<ul style="list-style-type: none"> ▪ Identify the gaps in existing legal regime for Consumer Protection Nationally ▪ Draft required CP legislation Consultations with relevant stakeholders As Consumer Protection Law has been enacted in 	<ul style="list-style-type: none"> ▪ Enforcement of CPA ▪ Monitoring of CPA 	<ul style="list-style-type: none"> ▪ Monitoring of CPA

Roadmapping Capacity Building Needs in Consumer Protection in ASEAN

	Myanmar, the highlighted texts should be deleted		
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Table 5.1: *(continued)*

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
CONSUMER RELATED LAWS AND STATUTES	<ul style="list-style-type: none"> ▪ Identify gaps in product safety and labelling ▪ Identify gaps in health care services (hospital laws, accreditations, guidelines) ▪ Identify gaps in environment policies (sustainable production and consumption, LA21) 	<ul style="list-style-type: none"> ▪ Drafting new relevant laws ▪ Amendments to existing laws (based on recommendations in the report related to relevant areas) 	
ESTABLISHING INSTITUTIONAL MECHANISMS	<ul style="list-style-type: none"> ▪ Establish National Consumer Council in Myanmar. Identify functions and members ▪ 	<ul style="list-style-type: none"> ▪ Promote roles, mission and vision of the Consumer Council ▪ Establish modes of stakeholders collaboration and participations ▪ NAFU or CP Agency to establish mechanism for National Database Collection on Consumer Injuries and 	

Roadmapping Capacity Building Needs in Consumer Protection in ASEAN

		Consolidated national complaints	
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Table 5.1: *(continued)*

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
ENFORCEMENT AGENCIES	<ul style="list-style-type: none"> ▪ Conduct consultations with enforcement agencies 	<ul style="list-style-type: none"> ▪ Build capacity of enforcement agencies on CP issues ▪ Enhance coordination of CP Agency with enforcement agencies 	
REDRESS MECHANISMS	<ul style="list-style-type: none"> ▪ Identify gaps in existing redress mechanisms. Identify gaps in overall redress mechanisms (centralization vs. decentralization) ▪ Support development of regional redress mechanisms 	<ul style="list-style-type: none"> ▪ Establish framework for bi-lateral cross-border redress mechanisms based on best practices recommended or studied 	

Table 5.1: *(continued)*

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
HUMAN RESOURCE DEVELOPMENT	Identify human resource needs	Develop Human Resource (HR) Development programmes	Upgrade HR capacity to meet emerging needs
PROGRAMMES FOR CORE CONSUMER AREAS	<ul style="list-style-type: none"> ▪ Enhance capacity to develop national standards for products and services 	<ul style="list-style-type: none"> ▪ Promote the development of national standards for products and services 	<ul style="list-style-type: none"> ▪ Establish accredited product testing facilities
CONSUMER EDUCATION AND AWARENESS	Identify best practices	Develop formal and informal consumer education programmes	Assess effectiveness of consumer education programmes
	Develop National Consumer education Policy <ul style="list-style-type: none"> ▪ Promote establishment of consumer clubs in Universities or colleges in higher education sector 	<ul style="list-style-type: none"> ▪ Enhance to offer CP as the specialized subjects in Universities in Higher education sector ▪ Promote informal consumer education programmes through mass media, such as printed media, Radio, television and internet 	
CONSUMER NGO DEVELOPMENT / INDUSTRY	<ul style="list-style-type: none"> ▪ Identify relevant emerging consumer issues ▪ Identify consumer protection practices in industry ▪ Identify programmes for CP integration in industry 	<ul style="list-style-type: none"> ▪ Support establishment of new consumer organisations for specific consumer areas ▪ Full awareness of ISO26000 by all stakeholders ▪ Establish consumer forum at national/district levels 	<ul style="list-style-type: none"> ▪ Promote adoption of ISO26000 among industry players

Table 5.1: *(continued)*

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
PARTICIPATION IN CONSUMER PROTECTION	<ul style="list-style-type: none"> ▪ Enhance support for leadership and management development in CP ▪ Identify areas for participation for all stakeholders 		
IMPLEMENTATION OF INDUSTRY CODES OF CONDUCT	<ul style="list-style-type: none"> ▪ Establish monitoring mechanisms ▪ Support telecommunication providers to develop codes of conduct 	<ul style="list-style-type: none"> ▪ Establish mechanisms for monitoring of industrial conducts and impact 	
WOMEN AND CONSUMER PROTECTION	<ul style="list-style-type: none"> ▪ Identify areas of concern for women consumers ▪ Conduct study on impact of product safety and services on women 	<ul style="list-style-type: none"> ▪ Integrate gender dimension into consumer policies and legislations ▪ Conduct study on the impact of policies and legislation on women 	<ul style="list-style-type: none"> ▪ Consolidate women's participation at all levels

Table 5.1: *(continued)*

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
PROTECTION OF CHILDREN AS CONSUMERS	<ul style="list-style-type: none"> ▪ Identify areas of concern for children consumers ▪ Conduct study on the impact of products and services on children of Myanmar 	<ul style="list-style-type: none"> ▪ Establish national guidelines on marketing to children ▪ Establish mandatory laws on product safety or services for children – toys, cigarettes, junk food, advertisement, etc) ▪ Monitor market conducts and activities (advertising and sale) 	<ul style="list-style-type: none"> ▪ Establish agency or council for Children Consumers of Myanmar
ADVOCACY	<ul style="list-style-type: none"> ▪ Advocate for children protection at ASEAN level ▪ Support regional study on impact of products and services on children 	<ul style="list-style-type: none"> ▪ Support establishment of regional guidelines on marketing to children 	
FINANCE	<ul style="list-style-type: none"> ▪ Identify plans and activities for consumer protection ▪ Identify agency or body responsible for consumer protection ▪ Establish national budget lines for consumer protection programmes 	<ul style="list-style-type: none"> ▪ Implement and evaluate plans and activities ▪ Identify areas for expansion 	

5.2 PRIORITISATION OF STRATEGIES AND FOCUS AREAS

At present, there is a strong realization for the needs of consumer protection in Myanmar due to the robust market integration and market competition domestically, regionally and internationally, as well as due to the more demanding and sophisticated consumer needs. The Roundtable Discussion held in Myanmar with the participation of Senior level staff from different Agencies of Governments identified five immediate focus areas to be considered for capacity building on consumer protection. These five areas are (in the order of priority):

- **Awareness and Education:** Within the short term plan (in 2011), capacity building is required in order to enhance awareness and provide necessary background on CP to all Government agencies. This would include providing specific training on Consumer Related areas to relevant agencies, which could be carried out through seminars, workshops, exposure visits and others.
- **Policy Development:** Capacity building is required on different areas as CP is the new area. Awareness raising efforts need to be channelled to assist in developing Consumer Protection Policy
- **A 5-year Consumer Protection Master Plan Development** is identified as a medium term priority that should follow suit upon establishment of the CP Policy.
- **Enactment of a principal Consumer Protection Law** was identified as medium-term plan (could be realised by 2013). In the meantime, CB is needed in providing, accessing and studying some of the best available CP Acts in the ASEAN region. At the same time assessing provisions that are most relevant and applicable to Myanmar.
- **Enforcement of CP** was expected within the medium to long term upon accomplishing the necessary legislative means and infrastructure for CP. CB would be required to develop enforcement capacities of relevant regulatory agencies through centralized coordination, and establishing redress mechanisms, emulating examples of best practices such as the Consumer Claims Tribunal of Malaysia.

Table 5.2 summarises the prioritisation of strategies for the emerging scenario for consumer protection in Myanmar is rated as high, medium or low based on the feedback from the RTD participants, and is examined based on the following criteria:

- **Urgency:** this is a priority issue that needs to be addressed in the next 1-3 years, based on the suggestions received during the key informant interviews, as matters related to ongoing or current intentions and actions.

- **Potential Impact:** Addressing this critical issue will likely have a significant impact on one or more specific populations. There is also reason to believe this can successfully address consumer protection issue.
- **Actionable/Feasible:** there are opportunities for action to address the critical issue related to consumer protection. There is also room to make meaningful improvement on the issue.
- **Resources:** Resources (funds, staff, and expertise) are either readily available or likely resources can be obtained to address the critical issue. Resources may be obtainable through the state and community members to work on the issue. Or resources can be acquired elsewhere.
- **Community Readiness:** A critical issue identified as important by the community. People in the community are interested in the issue. There is community momentum to move this initiative forward.
- **Integration:** There is opportunity for collaboration. There is opportunity to build on existing initiatives. There is a tendency to duplicate efforts.

Table 5.2: Recommended Priorities and Focus Areas for Capacity Building in Consumer Protection.

Strategies	Urgency	Potential Impact	Actionable or Feasible	Resources	Community Readiness	Integration
<i>Strategy 1:</i> Promoting and building awareness on Consumer Protection to all relevant government, regulatory agencies, and policy-makers	high	high	high	medium	medium	medium
<i>Strategy 2:</i> Developing a Principal Consumer Protection Act and its Implementation Framework	high	high	medium	low	low	low
<i>Strategy 3:</i> Improving the institutional and regulatory framework for Consumer Protection	medium	medium	medium	medium	medium	medium
Strategy 4: Educate consumers and raise awareness on consumer rights and issues	medium	low	low	low	low	low
Strategy 5: Support implementation and enforcement of consumer protection programmes through strengthened infrastructure for CP	medium	medium	medium	medium	medium	medium

In this study, specific focus areas for capacity development in selected consumer areas were identified, and recommended for some relevant stakeholders. These areas are covered below.

Product Safety and Labelling

Identified areas (in the order of importance):

1. Leadership and management development
2. Development, implementation and evaluation of consumer protection policies on product safety and labelling
3. Establishment of a redress system (e.g. handling complaints on product safety and labelling)
4. Technical assistance on product safety and labelling
5. Information management system (e.g. consumer injuries, complaints)
6. Awareness and educational programmes on product safety and labelling
7. Networking and stakeholder engagement on consumer protection, product safety and labelling
8. Training on
 - a. Risk Assessment
 - b. Product labelling (use of green technology and interpretation)
 - c. Development of standards and monitoring compliance

Phone & Internet Services, and E-commerce

Based on Quimbo (2004), this study reiterated recommendations that were made as the following:

1. Legal and Legislation
 - Harmonised e-commerce laws;
 - Capacity building for the legal profession;
 - Redress mechanisms;
 - Dispute resolutions
2. Bridging the digital divide
 - Universal access to the Internet;
 - The development of the telecommunications infrastructure, as well as the construction of roads, bridges, and sea and air ports.
 - Lower tariffs on telecommunication services;
 - Affordable telecommunication equipment;
 - Elimination of language barriers
3. Human Resources Development
 - Create a large pool of qualified people;
 - Training of trainers;
 - Training for legislators, judges, lawyers and court personnel should include both civil and criminal aspects of the e-commerce law.

4. Raising Awareness

- Seminars for awareness creation must be conducted continuously and in a sustained manner.
- The need for education and awareness of the public and business, as well as the legal community on e-commerce issues must be addressed.
- The general public, business and technology experts must be educated on the proper use or ethical practices in the utilization of computers, the Internet and other wealth-generating technologies that arrive in the future.

5. Government Role

- Rules must be clear, transparent, and predictable;
- Encourage officials to participate in trainings and seminars;
- Governments should designate a National ICT Legal Task Force to monitor and develop legal frameworks for e-commerce, when appropriate, and in line with the pace of regional development

Quimbo's recommendation also calls for an organisation such as ASEAN, to play a vital role in assisting its member countries to implement harmonised policies for e-commerce and in the setting-up of a forum on security matters to discuss technical assistance and implementation issues.

Based on the general findings and observation on the status of CP in Myanmar, the following areas are identified as key areas for capacity building:

Consumer Credit and Banking

Identified areas in the order of importance:

1. Information management system (e.g. complaints)
2. Awareness and educational programmes on consumer credit and banking
3. Leadership and management development
4. Networking and stakeholder engagement on consumer protection, consumer credit and banking.
5. Development, implementation and evaluation of consumer protection policies on consumer credit and banking
6. Establishment of a redress system (e.g. handling complaints) on consumer credit and banking
7. Good standards development practices on consumer credit and banking
8. Training on:
 - a. Financial literacy (e.g. managing finance and debt)
 - b. Ethical finance and banking practices
 - c. Best practices on access to consumer credit
9. Development, implementation and assessment of consumer programmes on consumer credit and banking
10. Technical assistance on consumer credit and banking

Environment

Identified areas in the order of importance:

1. Awareness and educational programmes on environment and consumer protection
2. Environment, trade and development related to consumer protection
3. Leadership and management development in development and consumer protection
4. Networking and stakeholder engagement on environment and consumer protection
5. Development, implementation and evaluation of consumer protection policies on environment
6. Good standards development practices related to environment and consumer protection
7. Training on:
 - a. Clean development mechanisms
 - b. Environmentally preferable products and environmental labelling
 - c. Environment and health standards
8. Development, implementation and evaluation of consumer protection programmes on environment
9. Establishment of a redress system (handling complaints) on consumer protection with regard to environmental issues (e.g. helpline or hotline for reporting of environmental violations)
10. Technical assistance on environment and consumer protection

Healthcare

Identified areas (in the order of importance):

1. Leadership and management development
2. Training on:
 - i. Health needs of women
 - ii. Ethical marketing of drugs
 - iii. Rational use of medicines and supplements
 - iv. Patient safety standards
3. Good standards development practices on healthcare services
4. Development, implementation and evaluation of consumer protection policies on healthcare services
5. Development, implementation and assessment of consumer protection programmes on healthcare services
6. Networking and stakeholder engagement on healthcare services
7. Establishment of a redress system on healthcare services
8. Awareness and educational programmes on healthcare services

Others areas that were highlighted from other sources⁶⁴ include:

- Strengthening of coordination and cooperation between China and ASEAN countries in combating counterfeit medical products esp. cross-border trafficking.
- Strengthening of prompt and effective information exchange system among our countries
- Holding meeting at regular basis
- Every country should participate actively and all the stakeholders as well.
- Assignment of Focal Point for ASEAN region
- Establishment of contact point in each country

Critical factors to ensure success

- Effective intra-regional cooperation is of great importance
- Prompt information exchange between stakeholders is critical

Professional Services

Identified areas (in the order of importance):

1. Training on:
 - a. Consumer rights and protection related to services of legal or medical professionals
 - b. Monitoring compliance of codes of conduct and ethical practices related to the legal and medical professionals
 - c. Best practices in redress mechanisms to handle medical and legal services cases
2. Awareness and educational programmes on professional services
3. Leadership and management development
4. Establishment of a redress system (e.g. handling complaints) on professional services
5. Development, implementation and assessment of consumer protection programmes on professional services
6. Development, implementation and evaluation of consumer protection policies on professional services
7. Good standards development practices on professional services
8. Technical assistance on consumer protection on professional services
9. Information management system (e.g. database management)
10. Networking and stakeholder engagement on professional services

⁶⁴ Presentation by Dr. Tun Zaw

6. CONCLUSION

Myanmar is developing its market economy along with sophisticated consumer demands. The needs to put in place stronger forms of consumer protection are therefore crucial at this stage. With the aggressive advancement of trade liberalization in the region, Myanmar has to also enhance its market competitiveness and at the same time protects its consumers. The limited awareness and understanding of all relevant stakeholders on the areas and concerns of Consumer Protection may affect the economic and social development in the country. Even though various legislative means and measures have been put in place, the absence of a principal consumer protection act and the absence of a proper consumer complaint handling and redress mechanism are acknowledged as the critical gaps that needs to be addressed. Apart from the inadequate laws, the difficulty in getting knowledgeable and experienced staff is also a critical area that needs to be overcome. This report has made recommendations on prioritisation of strategies for implementing consumer protection in the country. In advancing and prioritising the development of Consumer Protection, ASEAN assistance, through cooperation with other AMSs with more advanced consumer protection mechanisms, is particularly needed to provide advice for experts' engagement to help Myanmar develop and draft a principal consumer protection act and national consumer policy, together with its implementation plan. As an acting institution to coordinate national work on CP, NAFU may require extensive technical assistance in order to:

- Carry out inclusive consultations with all relevant stakeholders with government agencies, industry and civil society organisations
- Have exposure to an appropriate CP model and framework approach that meets the needs of its economic, social and political environments
- Have exposure to best practices in Consumer Protection Programme implementation
- Raise awareness and educate the relevant stakeholders on consumer issues related to their areas of works through sharing and exchange of information
- Have exposure to an effective mechanism that will help to establish and enhance networking and stakeholder engagement on consumer protection
- Access programmes and initiatives to train staff through seminars, workshop, internship and exposure visits.
- Integrate consumer protection modules in higher learning institutions to produce qualified and certified graduates in consumer protection

With the necessary assistance and prioritisation strategies as described in this report, consumer protection in Myanmar may be realized through an inclusive approach, which already steered encouraging interests from all the relevant key stakeholders. Through this, both the national and regional objectives to provide certain level of protection for consumers among AMSs could be harmonised.

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APPENDICES

A: Appendix 1 List of Stakeholders

National AFTA Unit
Ministry of Planning and Economic Development
Building No. 1, Nay Pyi Taw.
Tel: +95 067 407 343 / 407 150
Fax: + 95 067 407 259
Email: afa.myan@mptmail.net.mm

Ministry of Industry 2
Building No. 30, Nay Pyi Taw
Tel: +95 067 405 158
Fax: +95 067 405 060

Ministry of Commerce
Building No. 3, Nay Pyi Taw
Tel: +95 067 408 245
Fax: +95 067 408 243
Web: www.commerce.gov.mm

The Union Attorney General's Office
Building No. 25, Nay Pyi Taw
Tel: +95 067 404 169
Email: ago.h.o@mptmail.net.mm

Union of Myanmar Federation of Chamber of
Commerce & Industry
No.29, Min Ye Kyawswa Road, Lanmadaw
Township, Yangon.
Email: umcci@mptmail.net.mm
Website: www.umfcci.com.mm

B: Appendix 2
Roundtable Discussion Programme
Office Building, National Planning and Economic Development, Government of
Myanmar
Nay Pyi Taw, 20 December 2010

Programme Schedule:

- 10.00 to 10.10 hrs : Introducing Consumers International
by Satya Sharma, Regional Project Officer, CI KL
- 10.10 to 10.40 hrs: Overview of the Project
by Dr. Anni Mitin, Policy Officer, CI KL
- 10.40 to 11.00 hrs: Myanmar Country Report (draft)
by Dr. Anni Mitin, Policy Officer, CI KL
- 11.00 to 11.15 hrs: Open Floor and Q & A
- 11.15 to 13.00 hrs: **Plenary**
Needs Assessment on Consumer Protection Needs
- 13.00 to 14.00 hrs: Lunch
- 14.00 to 15.30 hrs: Identification of Core Areas of Consumer Protection-Group Work
- 15.30 to 16.00 hrs: Road-mapping Consumer Protection Needs in Myanmar
(Priorities and time-frame)
- 16.00 to 16.30 hrs: Concluding Session
and
Vote of thanks by Dr. Anni Mitin
#####

C: Appendix 3
LIST OF RELEVANT LAWS FOR CONSUMER PROTECTION
THE REPUBLIC OF THE UNION OF MYANMAR

On Product Safety and Labelling

- The Poisons Act, 1919
- Pesticide Law
- Occupational Safety and Health Act (OSHA)
- National Food Law, 1997
- The Promotion of Cottage Industries Law (1991)

On Phone & Internet Services and E-commerce

- Motion Picture Law
- National Archive and Mawgun Law
- Television and Video Law
- The Copyright Act of 1914
- Science and Technology Development Law
- The Myanmar Telegraphy Act (1885)
- The Myanmar Wireless Telegraphy Act (1993)
- The Electronic Transactions (ET) Law (2004)
- Computer Development Law
- Electronic Transaction Notification (1/2008)
- Notification Order No. 3/02

Consumer Credit and Banking

- The Central Bank of Myanmar Law (1990)
- The Law Amending the Central Bank of Myanmar Law 95
- The Law Amending the Central Bank of Myanmar Law 97
- The Saving Banks Law (1992)
- Financial Institutions of Myanmar Law (1990)
- Gambling Law
- The Central Bank of Myanmar Rules
- The Regulations for Financial Institutions (1992)
- Rules relating to Financial Institutions of Myanmar (1991)

On Environment

- Myanmar Agenda 21 (1997)
- Motor Vehicle Law (1964) & the Law Amending the 1964

- Motor Vehicle Rules (1989)
- The Towns Act (1907)
- The City of Yangon Municipal Act (1922) & the Law Amending the City of Yangon Municipal Act (1991)
- The Petroleum Act (1934)
- The Factory Act (1951)
- The Private Industrial Enterprise Law (1991)
- The Mandalay City Development Law (1992)
- The Development Committees Law (1993)
- The Science & Technology Development Law (1994)
- The Plant Pest Quarantine Law, 1993
- The Pesticide Law, 1990
- The Embankment Act, 1909
- The Underground Water Act, 1930
- The Water Power Act, 1927
- The Yangon Water -works Act, 1885
- The Protection of Wild Life and Wild Plants and Conservation of Natural Areas Law, 1994
- The Forest Law, 1992
- Animal Health and Development Law No. 17/93.
- Atomic Energy Law
- Law Amending the Electricity Law
- The Myanmar Hotels and Tourism Law
- The National Environment Policy of Myanmar
- Myanmar Agenda 21
- The Protection of Wild Life and Wild Plants and Conservation of Natural Areas Rules
- The Forest Rules

Healthcare

- National Health Policy
- The Myanmar National Tobacco Control Policy
- National Drug Law 1993
- Order Relating to Control of Narcotic Drugs and Psychotropic
- The Traditional Drug Law (1996)
- Myanmar Medical Council Law (2000)
- The Dental and Oral Medicine Council Law (1989)
- The Public Health Law (1972)
- The Law Relating to Private Health care Services (2007)
- The National Food Law (1997)

Roadmapping Capacity Building Needs in Consumer Protection in ASEAN

- Body Organ Donation Law (2004)
- Eye Donation Law (1996)
- Blood and Blood Products Law (2003)
- Prevention and Control of Communicable Diseases Law
- The Control of Smoking and Consumption of Tobacco Product Law

Medical Practitioners

- Myanmar Medical Council Law (2000)
- The Dental and Oral Medicine Council Law (1989)
- The Veterinary Council Law
- The Law relating to Private Healthcare Services

Legal Practitioners

- The Bar Council Act
- The Legal Practitioners Act

Other Consumer Protection relevant Laws

- The Emergency Provisions Act, 1950
- The Essential Supplies and Services Act, 1947
- The Penal Code, 1861 of Offences Affecting the Public Health, Safety, Convenience, Decency and Morals.
- The Weights & Measure of Capacity Act
- The Control of Smoking and Consumption of Tobacco Product Law
- Control of Money Laundering Law
- The Myanmar Maternal and Child Welfare Association Law (1990)
- The Control of Money Laundering Law

D: Appendix 4

List of Implementing Agencies for Consumer Laws

Consumer Protection

The Ministry of Commerce is currently acting as the ACCP Focal Points, and coordinating some activities.

Product Safety and Labelling

- Food and Drug Administration
- Ministry of Cooperative

Phone & Internet Service and E-Commerce

- Ministry of Communications, Posts and Telegraphs
- Ministry of Science and Technology

Consumer Credit and Banking

- Ministry of Finance and Revenue
- Central Bank of Myanmar

Environmental Quality and Services

- National Commission for Environmental Affairs (NCEA)
- Ministry of National Planning and Economic Development
- Ministry of Agriculture and Irrigation,
- Ministries of Industry 1 and 2
- Ministry of Hotel and Tourism
- Ministry of Energy
- Ministry of Forestry
- Department of Development Affairs (DDA), under the Ministry of Progress of Border Area and National Races and Development Affairs
- City Development Committees
- Township Development Committees
- Road Transport Administration Department

Health and Healthcare Services

- Ministry of Health

Professional Services

- Ministry of Health – Medical Professionals
- The Myanmar Medical Council
- The Dental and Oral Council

Roadmapping Capacity Building Needs in Consumer Protection in ASEAN

- Ministry of Home Affairs – the court system
- The Burma Bar Council – Legal Professionals

E: Appendix 5
CONSUMER LAW MATRIX

Based upon Consumer International's Eight Consumer Rights

A	THE RIGHT TO SAFETY	YES	NO
<i>Protect consumers from products or services which are dangerous or unsafe, or whose use might cause injury to others, by:</i>			
1	establishing a general duty of safety upon suppliers		
2	banning the supply of unsafe goods;		
3	prescribing safety and information standards with which goods or services must comply;		
4	establishing procedures to examine products and services alleged to be unsafe		
5	monitoring the market place for unsafe goods and services;		
6	warning consumers of the possible risks involved in the use of certain goods or services.		
<i>Ensure that information about unsafe products and services is collected and made available to consumers, by:</i>			
7	establishing procedures to collect and disseminate information on particular goods and services identified as being unsafe		
8	establishing procedures for the notification to authorities by consumers of alleged hazardous goods and services; and		
9	requiring suppliers who become aware that their goods or services are unsafe to advertise any dangers.		
<i>Ensure that dangerous products are recalled from suppliers, by:</i>			
10	requiring any manufacturer who recalls goods for safety reasons to notify relevant authorities of the recall;		
11	establishing procedures for the monitoring of voluntary recalls to ensure they are effective;		
12	allowing relevant authorities to order a manufacturer to recall goods, and to specify how those goods are to be recalled; and		
13	giving relevant authorities power to investigate the actions of manufacturers		

	to determine whether they have complied with laws relating to recalls		
B	THE RIGHT TO BE INFORMED	YES	NO
<i>Require all necessary information to be given to consumers about the goods and services they acquire, especially in relation to therapeutic goods and toxic products, by:</i>			
1	requiring appropriate statements and warnings to accompany toxic products;		
2	regulating the supply of therapeutic goods and toxic products to ensure information is disclosed in a manner consistent with international best practice;		
3	establishing procedures to monitor national and international developments relating to therapeutic goods and toxic products; and		
4	prescribing mandatory information standards to require particular information to be disclosed about particular goods not otherwise regulated		
<i>Ensure consumers are able to compare different products, by:</i>			
5	prohibiting deceptive packaging; and		
6	requiring packages to clearly identify their contents		
7	requiring packages to clearly identify their price		
<i>Protect consumers from conduct which is false or misleading, by:</i>			
7	prohibiting conduct, in relation to the supply of goods or services to a consumer, that is misleading or deceptive, or likely to mislead or deceive, or which is unfair		
8	prohibiting representations about goods or manufacturers and suppliers which are not true or which could mislead consumers; and		
9	prohibiting any particular sales or marketing practices which act to the detriment of consumers.		
10	require all necessary information to be given to consumers about food and drinks in order to enable them to make informed decisions regarding health and nutrition		
11	ensure that necessary information about goods and services is required to be accurate and comprehensible		

C	THE RIGHT TO CHOOSE	YES	NO
<i>Encourage consumers to acquire only the things they need, by:</i>			
1	establishing procedures for community and consumer education about products.		
<i>Protect consumers from anti-competitive conduct and exploitation, by:</i>			
2	ensuring manufacturers and suppliers do not abuse their powers; and		
3	giving consumers rights to obtain redress for goods which are unsafe, unsuitable, and defective or of poor quality.		
4	protect consumers by ensuring effective trade measurement practices and standards are adopted and enforced.		
5	prohibit direct sales and marketing practices without appropriate 'cooling off' periods.		
D	THE RIGHT TO BE HEARD	YES	NO
<i>Ensure consumers can participate in the development of policies which affect them, including giving consumer representatives access to the media, by:</i>			
1	requiring administrative and political bodies responsible for matters affecting consumers to include members representing consumers;		
2	requiring laws and policies which affect consumers to be publicised before they are introduced to allow consumers to comment on them; and		
3	establishing procedures to channel any comments or complaints made by consumers to appropriate authorities, and to monitor the response to those comments or complaints.		
4	facilitate the establishment of complaints handling systems in both the government and non-government sectors, including the involvement of consumer representatives in the process		
5	ensure consumers have standing to take action in courts and tribunals, including as third parties, to protect consumer interests.		
6	enable consumers to take collective action before courts and tribunals.		
7	enable indigent consumers to enforce their rights by providing access to legal		

	and financial assistance		
E	THE RIGHT TO REDRESS	YES	NO
Provide consumers with cost-effective, speedy and accessible means to enforce their legal rights, by:			
1	establishing a court or tribunal, with a simple procedure, to hear consumer complaints;		
2	prescribing procedures to ensure consumers know their rights and how to enforce them, particularly in relation to disadvantaged groups		
3	ensuring that consumers are allowed to play an equal role in the resolution of their disputes; and		
4	providing consumers with effective remedies and reasonable compensation if their complaints are found to be justified.		
5	provide consumers with a right to compensation if they are injured as a result of unsafe goods or faulty services.		
<i>Provide a mechanism through which consumers can channel their complaints and grievances to government, by:</i>			
6	establishing mechanisms to collect and register consumer complaints and grievances;		
7	prescribing procedures to investigate complaints; and		
8	prescribing procedures to monitor the number of complaints and grievances, and to report any results back to the consumer		
<i>Ensure that consumers are properly compensated for any loss suffered if their consumer rights are contravened, by:</i>			
9	ensuring any court or tribunal can provide a consumer with an appropriate remedy if it is established that the consumer's rights have been contravened.		
10	protect consumers from intimidation or harassment if they seek to enforce their rights.		
<i>Establish effective post-sale consumer protection, by:</i>			
11	implying into contracts for the supply of goods and services, non-excludable warranties governing acceptable quality, fitness for known purpose, and, in relation to services, that they are rendered with due care and skill.		

F	THE RIGHT TO CONSUMER EDUCATION	YES	NO
1	Consumer law should be written in language which can be easily understood		
Establish procedures which ensure consumers are informed about their consumer rights, particularly consumers with special needs, by:			
2	prescribing mechanisms to monitor consumer awareness and use of their rights; and		
3	introducing laws to protect particular groups with special needs as required		
4	set in place mechanisms to inform consumers about how to enforce their rights		
5	ensure consumers are aware of their consumer responsibilities		
G	THE RIGHT TO A HEALTHY ENVIRONMENT	YES	NO
Protect consumers from pollution of the environment, by:			
1	promoting the use of products which are environmentally friendly;		
2	encouraging recycling of consumer goods; and		
3	requiring environmentally dangerous products to carry appropriate warnings and instructions for the safe use and disposal of the product		
<i>Promote the use of non-toxic products where available, by:</i>			
4	promoting consumer awareness of safer alternatives to toxic products;		
5	establishing procedures to monitor international developments and ensure products which are banned overseas do not find their way into national markets		
6	ensure the social costs of pollution are minimised.		
7	encourage the promotion of ethical and socially responsible practices by the producers and suppliers of goods and services		
H	THE RIGHT TO THE SATISFACTION OF BASIC NEEDS	YES	NO
<i>Consumer laws should promote the provision of information to consumers about products and substances which may adversely affect them, by:</i>			
1	requiring therapeutic goods to carry information about safety, efficacy, and side effects; and		

2	requiring any products containing hazardous substances to clearly list all its ingredients and to display appropriate warnings.		
3	protect consumers from unethical, unconscionable, and illegal practices especially in the supply or provision of: health care; housing and accommodation; education; water; energy; financial services; employment; retirement services; children's services; insurance; investment services; and food.		
<i>Protect the privacy of consumers, by:</i>			
4	ensuring telecommunications and other communications are secure from unauthorised interference and are not used to provide or promote unsolicited commercial communications;		
5	ensuring personal information about consumers is used only for the purposes for which it is collected and with their knowledge and approval; and		
6	ensuring that consumers have the right to access, amend and correct their personal information held by government or non-government entities.		

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