

Appendix I: Human Rights Watch Letter to Ayer Yar Shwe Wah Co., Ltd.

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December 13, 2017

Aung Thet Mann
CEO
Ayer Yar Shwe Wah Co., Ltd.
5, Pyay Road, Ward 10
Hlaing Township
Yangon, Myanmar

By email: info@ayswco.com
By submission: <http://aysw.com.mm/contact/>
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Re: Land Acquisition Issues in Irrawaddy Division

Dear Mr. Aung Thet Mann,

I am writing to you regarding land acquisition issues in Irrawaddy Division and alleged involvement of the Ayer Yar Shwe Wah Company Limited.

Human Rights Watch is an independent non-governmental organization that monitors and reports on human rights in more than 90 countries globally. Headquartered in New York, Human Rights Watch has worked on human rights in Myanmar for more than 25 years.

From March to April 2017, Human Rights Watch conducted research on land ownership, acquisition, and use in the Irrawaddy Division and Shan State. We will be publishing a report about human rights abuses connected with land issues in early 2018 based on that research. Once it is released, the report will be available on our website, www.hrw.org.

In the interests of ensuring that our reporting is accurate and comprehensive, we are writing to get your perspectives to the questions listed below as well as any other comments you might have so that we may accurately reflect your perspectives in our reporting. We request to receive a reply in writing from you or your representative by January 13, 2017.

In March 2017, we interviewed villagers in the Irrawaddy Division who alleged that they previously owned and worked on land that Aye Yar



[HRW.org](http://hrw.org)

Shwe Wah took from them and subsequently controlled. Human Rights Watch viewed a number of government tax documents confirming that they had used the land for a number of years for farming. Those documents appear to support their claims that they were lawfully using the land.

We understand from interviews with affected villagers that they were required to enter into an agreement with the company if they wanted to continue to farm the lands they claimed they had owned, occupied, and farmed. According to our research, these agreements stated that they would be provided with equipment and supplies sufficient for five years of farming. However, none of the individuals that Human Rights Watch interviewed said they received the promised support for five years. One man said that after one year, he received no more support. The individuals we interviewed said that after several years the company took over the land, and no longer allowed them to work on it. Instead, the company told them their land had been given to others to work on or sold.

We were unable to identify anyone who said they had received any compensation for the land taken from them. We also understand that the company allegedly did not provide original owners any opportunity to purchase the land from the company.

Human Rights Watch obtained a letter sent by your company to the Irrawaddy Division's Regional Chief Minister in December 2012, which indicated that it would release all the land it previously controlled, amounting to 41,200 acres. The letter sent from the company's chairman, Tay Za, stated the land will no longer be farmed by the company and that arrangements had been made to permit other farmers to use the land. There was no mention made of any owners, users or occupants of the land in any of these arrangements.

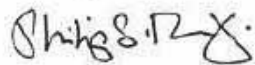
1. Can you please describe the legal process by which Ayer Yar Shwe Wah acquired the rights to develop and use the land in Kyaunggon Township and other townships in the Irrawaddy Division?
2. Can you please describe steps taken by the company and company management to identify which villagers were already living on or using that land prior to your development and use of the land, and what if any steps your company took to consult with those villagers?
3. Can you please describe the terms and conditions of the agreements between Ayer Yar Shwe Wah and the farmers using the land when the land was originally "explored" by the company in the late 1990s?
4. Can you please describe the role of the Irrawaddy Division government and/or local officials in providing the land to Ayer Yar Shwe Wah company?

5. In a letter dated December 26, 2012, from the Tey Za, chairman of the Ayer Yar Shwe Wah company, to U Thein Aung, Chief Minister of the Irrawaddy Division, the company stated it allowed farmers in a cooperative to use the land, and those who did not want to join a cooperative could continue farming their land. However, farmers told Human Rights Watch that the company took control of the land and then required farmers to farm in a cooperative or face outright confiscation of their land by the company. Did Ayer Yar Shwe Wah company require farmers to join cooperatives in order to maintain access to their lands controlled by the company? If yes, what was the company's rationale for this decision?
6. Farmers who participated in the cooperatives (referred to in question 5) told Human Rights Watch that Ayer Yar Shwe Wah took control over their land in 2004. Can you please comment on this allegation?
7. Can you please describe any offers made by the Ayer Yar Shwe Wah company or its agents to provide financial or other compensation to any individuals using the land the company took control over?
8. Does Ayer Yar Shwe Wah have written policies and procedures for acquiring land? If yes, can you please provide a copy of those written policies and procedures? If no, can you inform us how Ayer Yar Shwe Wah makes decisions to obtain or purchase land?

Thank you for your time and attention to our questions. We request replies in writing so that we can accurately reflect your company's views in our report. Please send any written responses to Seashia Vang at vangs@hrw.org in our San Francisco office.

Please feel free to contact me directly in Bangkok, Thailand at robertp@hrw.org or on my mobile phone +66-85-060-8406 at any time regarding these questions and information requests made in this letter.

Sincerely,



Phil Robertson
Deputy Director, Asia Division
Human Rights Watch