

THILAWA SPECIAL ECONOMIC ZONE (SEZ), MYANMAR

The Thilawa SEZ, 23 km southeast of Yangon, is the first SEZ to be established by the Myanmar Government. The Zone is being developed in cooperation with the Japanese Government in two phases: Zone A, 400 hectares, for mainly industrial use; and a further 2000 ha area to be developed in phases for industrial and other uses. See overleaf for details of the investors for Zone A.

The legal framework for SEZs, and its relationship to other Myanmar law, is still evolving, but the Government's stated intention is that the Thilawa SEZ should be developed in accordance with international environmental and social safeguards. Thilawa SEZ Management Committee (TSEZMC) is in charge of governance of the entire Zone and Myanmar Japan Thilawa SEZ Development Ltd. (MJTD) is in charge of developing Zone A.

Manufacturing and services investors in SEZs are offered certain tax and export privileges, superior infrastructure and a 'one-stop service centre' for permitting etc. Investments to date come from Japan, China, USA, and Thailand in sectors that include manufacturing of garments and toys, steel products, radiators, aluminium cans, packaging and waste management. The Government estimates 30,000-50,000 direct employment opportunities in Zone A.

Human Rights Impacts and Issues

Zone A affected 81 households, 68 of them relocated in late 2013 by the Myanmar Government to a site 4.5-8 km away. Some members of the community submitted a complaint to the Japan International Cooperation Agency (JICA)'s Independent Examiners in June 2014 concerning non-compliance with the 2010 JICA Guidelines for Environmental & Social Considerations. Concerns included in the complaint letter were: loss of farmland and/or access to farmland; loss of livelihood opportunities; impoverishment; loss of educational opportunities; substandard housing and basic infrastructure; loss of access to adequate clean water.

While recognising some of the concerns, the JICA Examiner's November 2014 report (see overleaf) did not find non-compliance with JICA's Guidelines. However it did recommend improved dialogue and communication among stakeholders and further improvements in living conditions at the relocation site. The report's findings were criticised by the Thilawa Social Development Group (see overleaf) although they welcomed the recommendation for more dialogue.

Response

Technical assistance from a JICA Expert Team was provided in 2013 to the Myanmar Government to develop the Resettlement Work Plan (RWP) and Income Restoration Programme (IRP). In late 2014 additional IRP support was accelerated, in consultation with MJTD, and Shwe Maw Won (a local CSO), supported by the JICA Expert Team.

Additionally Myanmar Centre for Responsible Business (MCRB) took the initiative to convene discussions between NGOs (Earth Rights International (ERI) and local/international NGOs), Thilawa communities, and the JICA Expert Team. Following on from the JICA Examiners Report, these discussions have since developed into a Multistakeholder Advisory Group (MSAG) (see members overleaf). The MSAG aims to strengthen stakeholder coordination and advise on the resettlement aspects of implementation of the Thilawa SEZ Project. It responds to continued civil society interest and concerns about the resettlement program and both Governments' recognition that broader stakeholder engagement will assist in making progress of IRP and resolving some of the ongoing challenges that have arisen, as well as providing lessons learned for the next phase of the SEZ.

Since November 2014, ERI has worked with the communities on the design of a community-driven operational grievance mechanism (CD-OGM) to address the impacts of the SEZ. In the CD-OGM model, the community plays the leading role in the design and implementation of the mechanism, and will engage in negotiations with the TSEZMC and other stakeholders to come to an agreement and establish the CD-OGM. Where grievances fall outside of the scope of the CD-OGM or cannot be resolved through it, the MSAG may have a role to play in elevating the issues or finding solutions. During the design of the CD-OGM, a need for an Interim Process was expressed, in order to handle existing issues until the full CD-OGM is in place. Relevant members of the MSAG are currently negotiating the details of what this Interim Process will look like. This negotiation has included several meetings where all stakeholders have been at the table, in order to find a solution that works for all parties.

Linking to Protect, Respect and Remedy

The Thilawa case involves a complex number of government and business players, and a legacy of five decades of authoritarian rule in Myanmar. It engages the first pillar in the UN Guiding Principles, both with regards to the Myanmar Government's duty to protect and that of development partners; the second pillar through the responsibility of the Zone developer, investor companies, and their customer companies, to respect the rights of both local communities and workers in and around the Zone; and the third pillar (remedy) in multiple formats (e.g. use of the JICA Examiner mechanism; establishing a CD-OGM; the MSAG).

Investors

Thilawa SEZ Management Committee (TSEZMC) is in charge of governance of the Zone as well as representing the Myanmar Government's 10% share in MJTD (see below). It comprises representatives of government departments including Construction, Planning, and the Yangon Regional Government. It is chaired by U Sett Aung (who is also Deputy Central Bank Governor). The TSEZ MC website (www.myanmarthilawa.com) includes the [Resettlement Work Plan](#) for Zone A and [Notice 4/2015](#) on responsible business conduct in the Zone.

Myanmar Japan Thilawa Development Ltd (MJTD) (www.mjtd.com.mm) is the Developer of the SEZ in Zone A. It was formed in January 2014 as a joint venture company between MTSH and MMSTD (see below) and the Japanese and Myanmar governments. MJTD recently joined the UN Global Compact. **Myanmar Thilawa SEZ Holdings Public Ltd (MTSH)** (www.mtshmyanmar.com) is a consortium of nine Myanmar companies and approximately 18,000 individual shareholders which has a 41% stake in MJTD. **MMS Thilawa Development Co (MMSTD)** is a special purpose vehicle formed by mainly Japanese three trading companies; Marubeni, Mitsubishi and Sumitomo with Japanese banks; Mitsubishi UFJ, Mizuho and Sumitomo Mitsui as an equal investment limited liability partnership. It currently holds a 39% share in MJTD.

Japan International Cooperation Agency (JICA) (www.jica.go.jp) is the implementing agency of Official Development Assistance (ODA) of the Government of Japan. It has a 10% share in MJTD. It provides technical support to the Myanmar Government through preparing the RWP and IRP, strengthening stakeholder engagement through the establishment and organizing of the MSAG and preparing social performance guidelines for the Thilawa SEZ by dispatching Expert Team. Documents from the JICA's Independent Examiner complaint: www.jica.go.jp/english/our_work/social_environmental/objection/myanmar_01.html

Non-governmental actors

Myanmar Centre for Responsible Business (MCRB) (www.mcrb.org.mm) is a multi-donor initiative established in Yangon in 2013 by the Institute of Human Rights and Business and the Danish Institute for Human Rights that aims to provide a trusted and impartial platform for the creation of knowledge, capacity, and dialogue amongst businesses, civil society organizations and governments to encourage responsible business conduct throughout Myanmar.

EarthRights International (ERI) (www.earthrights.org) is a nongovernmental, non-profit organization that combines the power of law and the power of people in defence of human rights and the environment. It specializes in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns. ERI has worked with the communities in Thilawa since 2013. See [Analysis of EIA for Phase 1 of Thilawa SEZ](#), November 2014; [Community Rights & Remedies under Myanmar Law & JICA's Guidelines: A Briefer](#), November 2014; "Experts Help Communities Take Control of Justice", March 2015, available at <http://bit.ly/1Ryz9nG>.

Thilawa Social Development Group (TSDG) is a community-based organization that was formed by the communities affected by Phases 1 and 2 of the Thilawa SEZ. The members of TSDG were selected by the communities to collaborate with local and international NGOs to advocate for the rights of local communities. See: [A foreseeable disaster in Burma: Forced displacement in the Thilawa SEZ](#), November 2014, by Physicians for Human Rights, Mekong Watch and TSDG.

The Thilawa SEZ Multistakeholder Advisory Group (MSAG) is chaired by the Director of MCRB. The Secretariat is the JICA Expert Team. Members of the MSAG are drawn from the TSEZMC, MJTD, community representatives from Zone A and the next 2000ha, TSDG, community mediators, Paung Ku (Myanmar CSO), and ERI. Other organisations including companies investing in the SEZ, the International Labour Organisation, and international NGOs and consultants working on Thilawa are invited to participate as Observers. ToRs and minutes of the meetings held in February, May and September 2015 are at <http://www.myanmar-responsiblebusiness.org/dialogues/thilawa/>.

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