

UN FORUM ON BUSINESS & HUMAN RIGHTS SESSION “MULTI-STAKEHOLDER PERSPECTIVES ON ACCESS TO REMEDY FOR PEOPLE AFFECTED BY THE THILAWA SPECIAL ECONOMIC ZONE IN MYANMAR”

TUESDAY, 28 NOVEMBER 2017, 15:00–16:30, ROOM XX

THILAWA SPECIAL ECONOMIC ZONE (SEZ), MYANMAR



OVERVIEW

The Thilawa SEZ, located 23 km southeast of Yangon, is the first large-scale SEZ in Myanmar. The Zone, which is 2,400 hectares (ha) in total, is being developed in phases under Myanmar Japan Thilawa Development Ltd. (MJTD), a public-private partnership joint venture initiated by Myanmar and Japan. The first Zone A development, 400ha for mainly industrial use, started in late 2013, and over 30 factories are now operational. The second Zone B, 262 ha for industrial use, has been split into several areas for gradual development. An updated joint venture agreement of MJTD which includes the first area of Zone B was signed in October 2016, and construction started in early 2017. Negotiations with stakeholders are currently underway for the next area in Zone B.

Manufacturing and services investors in the SEZ are offered certain tax and export privileges, superior infrastructure and a ‘one-stop service centre’ that provides services ranging from company incorporation to visa applications. There are currently nearly 90 investors in the Thilawa SEZ, with many more anticipated for Zone B. Investments to date come mainly 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 Myanmar Government estimates 30,000-50,000 direct employment opportunities in Zone A and B.

The legal framework for SEZs, and its relationship to other Myanmar law, is still evolving, but the Government’s stated intention since the beginning has been that the Thilawa SEZ should be developed in accordance with international environmental and social safeguard standards. Thilawa SEZ Management Committee (TSMC) is in charge of governance of the entire Zone.

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 relocated villagers and civil society organizations were critical of the relocation process and the site, as it had a number of infrastructure problems early on, some of which have since been resolved. Three members of the community supported by Earth Rights International and a Japanese NGO 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 in relation to Zone A resettlement. 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](#) did not find non-compliance with JICA's Guidelines. It did recommend improved dialogue and communication among stakeholders and further improvements in living conditions at the relocation site and the Examiners conduct follow up visits to assess whether the recommendations have been followed. The report's findings were criticised by the Thilawa Social Development Group, a community-based organization that was formed by some affected community members, and some civil society organisations, although they welcomed the recommendation for more dialogue.

The SEZ-Zone B development affected 108 households in early 2017 and 90 of them were relocated after May 2017 by the Myanmar Government to the same site as Zone A. Based on lessons learned from the experience of the Zone A and another resettlement program conducted in Thilawa, as well as engagement with affected communities, the relocation site was developed with input from and in collaboration with people who were relocated.

Communities and people affected by the project have sought remedy through various means, including direct engagement with the Government of Myanmar and other stakeholders, and letters to government departments and officials at various levels. This session will explore several approaches by key stakeholders to ensure access to remedy for people affected by the development of the Thilawa SEZ.

INVESTORS

Thilawa SEZ Management Committee (TSMC) (<http://www.myanmarthilawa.gov.mm/>) 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 finance, Commerce, etc and the Yangon Regional Government. The TSEZ MC website 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 and B. It was formed in January 2014 as a joint venture company between MTSH, MMSTD (see below), TSEZMC and JICA (see below). MJTD recently joined the UN Global Compact.

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 for the project to the Myanmar Government by dispatching Expert Team, through preparing the RWP and IRP, and strengthening social performance and community relations including stakeholder engagement and complaint management.

GOVERNMENTAL ACTORS

Yangon Regional Government is in charge of planning and implementing land acquisition, resettlement and income restoration program at Thilawa SEZ development project.

Thilawa SEZ Management Committee (TSMC)

Please see above.

Japan International Cooperation Agency (JICA)

Please see above.

NON-GOVERNMENTAL ACTORS

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.

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. In late 2014, the Myanmar Centre for Responsible Business (MCRB), with the JICA Expert Team, facilitated the formation of a Multi-stakeholder Advisory Group (MSAG), a forum for dialogue and coordination among various stakeholders, which continued for 18 months.

Earth Rights International (ERI) (www.earthrights.org) is a nongovernmental, non-profit organization that combines the power of law and the power of people in defense 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>.

ADDITIONAL RESOURCES

"Multi-stakeholder Engagement in Thilawa Special Economic Zone," 2015 UN Forum session video: <http://www.myanmar-responsiblebusiness.org/news/thilawa-goes-to-geneva.html>

Notes from Multi-Stakeholder Advisory Group meetings: <http://www.myanmar-responsiblebusiness.org/dialogues/thilawa/>

Thilawa Resettlement / Income Restoration Program (Thilawa SEZ Management Committee): <http://irp.myanmarthilawa.gov.mm/>

JICA Examiner's November 2014 report:

https://www.jica.go.jp/english/our_work/social_environmental/objection/myanmar_01.html

Thilawa Multi-Stakeholder Advisory Group Evaluation, July 2016: http://www.myanmar-responsiblebusiness.org/pdf/2016-10-21-Thilawa-MSAG-Evaluation_en.pdf

Thilawa community-driven operational grievance mechanism draft diagram: <https://business-humanrights.org/en/thilawa-community-driven-operational-grievance-mechanism-draft>

“Community-Driven Operational Level Grievance Mechanisms,” EarthRights International and the Centre for Research on Multinational Corporations (SOMO), March 2015:

https://earthrights.org/wp-content/uploads/final_ogm_report_2015.pdf

“Special Economic Zones in Myanmar and the State Duty to Protect Human Rights,”

International Commission of Jurists, 2017: [https://www.icj.org/wp-](https://www.icj.org/wp-content/uploads/2017/02/Myanmar-SEZ-assessment-Publications-Reports-Thematic-reports-2017-ENG.pdf)

[content/uploads/2017/02/Myanmar-SEZ-assessment-Publications-Reports-Thematic-reports-2017-ENG.pdf](https://www.icj.org/wp-content/uploads/2017/02/Myanmar-SEZ-assessment-Publications-Reports-Thematic-reports-2017-ENG.pdf)