

Subject: Initiative on Multi-Stakeholder Engagement and Complaint Management at Thilawa SEZ

<<Stakeholder engagement and complaint management at Thilawa SEZ>>

With regards to stakeholder engagement including complaints management at the Thilawa SEZ, people and communities affected by the project have been engaged with and sought remedy through various means since the development commenced in 2013. This includes a wide range of activities including but not limited to: direct engagement with Government of Myanmar departments and officials at various levels; the developer, Myanmar Japan Thilawa Development Ltd. (MJTD); and many other SEZ-related stakeholders such as investors (known as “Locators”).

In mid-2013, JICA commenced providing technical assistance for the Thilawa SEZ Management Committee (TSMC) and Yangon Regional Government (YRG), including in regards to complaints management. Early support included preparation, and subsequent implementation, until around December 2016, of the Phase 1 Resettlement Work Plan (RWP), which incorporated a compensation and resettlement grievance process of a higher standard than national-level requirements. During this period, weekly internal monitoring of the situation of affected peoples was undertaken as well as annual external third party evaluations of progress in achieving livelihood restoration. These consistent activities were an ongoing form of community engagement and complaints management.

In late 2014, JICA technical assistance was accelerated, to facilitate ongoing improvements and strengthen alignment with international practices in responsible business and social performance, including as regards complaints management. These activities were undertaken in cooperation with international initiatives such as the Myanmar Centre for Responsible Business (MCRB), a joint initiative of the UK-based Institute of Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR). Specific initiatives included: scoping and support for establishment of a community relations function within the Thilawa SEZ (which was a relatively new concept in Myanmar); and the instigation of a Multi-Stakeholder Advisory Group (MSAG) as a forum for various interested stakeholders to improve direct dialogue and strengthen coordination of activities and efforts. The MSAG comprised representatives from TSMC, MJTD, and the JICA-supported Expert Team, as well as people affected by the first phase of the project, non-governmental organisations (NGOs) and international organisations such as the International Labor Organization (ILO).

After 18 months, an independent international consultant was hired to assess the MSAG's ongoing effectiveness. The findings indicated that all participants felt that the MSAG had achieved its main objective, which was to promote ‘dialogue’ amongst stakeholders. MJTD and TSMC as the project proponents of SEZ then began to focus more directly on engagement with affected communities in accordance with the recommendations of the MSAG and the independent review. A range of community engagement activities commenced implementation, supported by the Thilawa SEZ's Community Relations function and TSMC/MJTD management.

Since late 2016, several activities have been undertaken directly by MJTD/TSMC, and with JICA support, to strengthen the Thilawa SEZ's community engagement and complaints management:

- MJTD commenced a regular engagement program with communities in proximity to the SEZ, in accordance with the commitments made in its Zone B Environmental Impact Assessments (EIAs). Coordination meetings are scheduled quarterly with community representatives to provide information about the SEZ, receive feedback, discuss community development needs, and serve as a forum for communities to raise complaints, requests and inquiries about the SEZ. Meeting minutes are publicly disclosed on MJTD's website. To facilitate this ongoing engagement effort, MJTD/TSMC established a joint Community Relations Team (CRT). In addition to these formal community meetings CRT members regularly visit and engage with affected communities on a wide range of topics including income restoration program (IRP) activities, employment opportunities, complaints management and others. Public consultation meetings are also held with relevant affected communities for each new development/investor at the SEZ, as part of their Initial Environmental Assessment (IEE) or EIA preparation.
- TSMC conducted a rapid socio-economic impact review of 11 project-affected communities located in close proximity to the SEZ, at the township and village level, with JICA's technical support. The

review's objective was to clearly define a project area of influence (PAOI) for the SEZ, based on socio-economic impacts experienced to date and potential impacts that could take place in the short to medium term. While the review identified some positive impacts, such as increases in local employment and training and skills development opportunities, it also identified specific opportunities for improvement in management of social impacts and issues, including in community engagement and complaints management. One specific proposed action was to implement a structured SEZ-wide community grievance management system that aligned with the PAOI identified through the review. The scope of the proposed management system was broader than had previously been discussed in MSAG meetings and not yet concluded. Its design was to be informed by the around 317 individual stakeholders that had been engaged throughout the conduct of the review, which included internal MJTD and TSMC stakeholders. The intention was to leverage existing Thilawa SEZ initiatives that had been underway since the SEZ's inception and strengthen them through the application of lessons learned and international good practice.

- JICA commenced supporting an ongoing formal social performance training program on land acquisition and resettlement for Thilawa SEZ and other Government of Myanmar (GoM) stakeholders, to leverage and consolidate the capacity development that had been provided through JICA Expert Team on-the-job training and mentoring activities since 2013.

As a follow on action from the rapid socio-economic review, in October 2017, a Thilawa SEZ complaints review was undertaken in conjunction with TSMC and MJTD Community Relations personnel and with JICA support. This included identification of relevant complaints management models operating in proximity to the Thilawa SEZ; for example, as implemented by the World Bank-supported Myanmar National Community-Driven Development (CDD) program, and associated lessons learned. It also included specific investigation of existing complaints management systems already being used within the Thilawa SEZ, including by Locators. As part of this process, more than 200 stakeholders within and external to the SEZ were consulted. This included TSMC, MJTD, project affected peoples (PAPs), project affected communities (PACs), local civil society organisations, locators (factories) at Thilawa SEZ, construction companies, and other relevant stakeholders.

The primary focus was to establish a complaints management system that both: i) recognised the needs and preferences of individuals and communities affected by the SEZ; in particular, those located within the PAOI; and ii) which aligned with existing TSMC/MJTD management systems. This would make it straightforward to implement immediately, and improvements could be made over time in response to community and other stakeholder feedback. This direction aligned with feedback received during the community consultation process, which indicated that two of the most important required attributes for a Thilawa SEZ complaints management procedure were: i) clarity regarding who was the responsible person for addressing which type of complaints; and ii) regular accessibility to people that could receive, progress and resolve complaints. In particular, having a 'step-by-step' process was seen as important, as this aligned with Myanmar traditional ways of resolving problems.

Key findings of the complaints review included that, at that time, i) the Thilawa SEZ had three different procedures underway for receiving and resolving community issues and complaints (although these were not fully documented); and that PACs/PAPs had mixed experience in regards to complaints resolution. Sometimes complaints and issues had been addressed promptly by the SEZ and, in other cases, complaints and issues had been raised multiple times but were not yet resolved. Overall, there was an important need to align the different complaints processes and more effectively involve affected people and communities in complaints management at Thilawa SEZ.

<<Evolution of complaint management procedure>>

The outcome of the Thilawa SEZ Complaints Review was development of an integrated Thilawa SEZ Complaints Management Procedure (TCMP) that aligns, strengthens and integrates existing Thilawa SEZ complaints management processes and initiatives. Initial internal and external consultations regarding the integration of existing mechanisms were undertaken in October and November 2017.

To inform the specific design of the TCMP, an additional 250 stakeholders were consulted during November 2017.. A range of documentation and supporting materials and tools was developed to 'trial' the implementation of the TCMP; the main documentation has been published on the Thilawa SEZ website. The trial implementation period for the TCMP began in late 2017. During February – April 2018, further capacity building for TSMC/MJTD community relations personnel is being undertaken, to support effective implementation of the TCMP. This includes modification, as needed, in accordance with the specific requests and requirements of community members within the Thilawa SEZ's PAOI.

<<Knowledge sharing of Thilawa case with international community>>

On 16 November 2015, Thilawa SEZ stakeholders such as representatives from the TSMC, Project Affected Persons (PAPs), MJTD, the Myanmar Centre for Responsible Business (MCRB) were officially invited as speakers to the 'UN Forum on Business and Human Rights 2015' by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva, Switzerland. The focus of the panel was multi-stakeholder initiatives at the Thilawa SEZ. The panel was organized by the UN Working Group on Business and Human Rights in collaboration with the Business and Human Rights Resource Centre and Global Business Initiative on Human Rights.

On 28 November 2017, Thilawa SEZ stakeholders were invited to the 'UN Forum on Business and Human Rights 2017' in order to share the experiences and perspectives on 'access to remedy' for people affected by the Thilawa SEZ. Representatives of MJTD, TSMC, project affected communities, and JICA presented the 'Thilawa Complaints Management Procedure (TCMP)', which had been developed in accordance with national-level requirements and the UN Guiding Principles (UNGPs).

<<Current status of complaint management at Thilawa SEZ>>

Since November 2017, TSMC and MJTD have made efforts to roll-out and 'trial' the TCMP with affected communities, as well as with locators (factories), and other relevant stakeholders. Initiatives have included small group workshops, individual discussions, circulation of flyers in Myanmar language, and initial disclosure of TCMP documentation on the website.

In practice, the first complaint following the processes outlined in the integrated TCMP was raised by a project affected person (PAP) on 12th November 2017. The complaint was related to garbage management at the Relocation Site in Myaing Thar Yar. It was resolved by MJTD in collaboration with TSMC on 28th November 2017. This resolution included confirmation from the complainant that they were satisfied with the resolution. As of 28th February 2018, 15 complaints have been registered in the procedure. In terms of complainants, eight cases were raised by project affected persons (PAPs) involved in land acquisition, compensation and resettlement, and the other seven were raised by local residents at project affected communities (PACs).

Complaints resolution processes under the TCMP are based on close dialogue between the complainants and the responsible all party to negotiate and agree resolution of the problem. The progress of complaints management will be regularly disclosed publicly on the MJTD's and local communities to promote transparency in the process. This regular public reporting is currently under development.

TSMC and MJTD are focused on implementing a practical and effective TCMP, and also on improving this over time by: i) acting on feedback received through direct engagement with affected communities; and ii) integrating the procedure with other Thilawa SEZ management systems.