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.

ACCESS TO REMEDY FOR PEOPLE AFFECTED BY THE THILAWA SEZ

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.

To date, key stakeholders have supported access to remedy for those affected in various ways.

As demonstrated in publicly disclosed SEZ documentation, TSMC, MJTD and JICA have consistently supported the need to have an effective SEZ complaints management mechanism and have regularly monitored key SEZ aspects that could potentially have an adverse impact on neighbouring communities. However, the initial stages of the SEZ’s development did present some challenges; in particular with regard to Zone A land acquisition and resettlement.

In late 2014, JICA technical assistance support by the Expert Team for TSMC and Yangon Regional Government, which had commenced in mid-2013, was accelerated to facilitate alignment with international practices in responsible business and social performance, including with regard to grievance management. These activities were undertaken in cooperation with international initiatives such as the Myanmar Centre for Responsible Business (MCRB), a joint initiative between the UK-based Institute of Human Rights and Business and the Danish Institute for Human Rights.

Also 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) as a way for various stakeholders to improve dialogue and coordination. The group consisted of representatives from TSMC, MJTD, and the JICA Expert Team, as well as people affected by the project and non-governmental organisations, including EarthRights International and the International Labour Organization. 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 creation of the MSAG was necessary and timely, however it appeared to have reached its limits and was not an adequate mechanism through which community members can pursue resolution of their grievances, as its primary focus was dialogue. All stakeholders agreed with the findings, but some members of the community and civil society disagreed with the recommendations. MJTD and TSMC, as the responsible parties of the SEZ, then began to focus on direct communication with affected communities and some civil society organisations and affected community members explored other approaches to remedy and sought a new formal dialogue process.

In late 2016, 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 concerns about the SEZ. Meeting minutes are publicly disclosed on MJTD’s website.

Also in late 2016, TSMC conducted a socio-economic impact survey of eleven project-affected communities located in close proximity to the SEZ, at the township and village level. This was undertaken by MJTD with the technical support of a JICA expert team. The review’s objective was to clearly define a project area of influence 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 opportunities for improvement. One identified need resulting from this survey was to implement a structured community grievance management system.

To inform the development of this system, in October 2017, TSMC and MJTD, supported by JICA, undertook a complaints review which consulted more than 130 stakeholders within and outside of the SEZ, including project affected peoples and communities, local civil society organisations, investors (factories), construction companies, and other relevant stakeholders. This review aimed to: 1) identify existing complaints management procedures and 2) better understand the experiences of people and communities voicing complaints through those systems and to what extent those were resolved.

Key findings included that the Thilawa SEZ had three existing procedures for receiving and resolving community issues, although these were not fully documented and that affected people and communities had mixed experiences with these mechanisms. At times, complaints had been address promptly and in other cases, they had been raised multiple times and were yet to be addressed. The review also confirmed that the SEZ has processes in place through its investors to record community complaints related to environmental and labour matters, although there are opportunities for these to be improved.

A key outcome of this review has been the development of an integrated Thilawa SEZ complaints management procedure, under the responsibility of MJTD and TSMC, that aligns, strengthens and integrates the three identified existing Thilawa SEZ complaint management mechanisms. Initial internal and external consultations with eleven affected community representatives and investors regarding this procedure were undertaken in November 2017. The identified needed improvements are currently underway and will continue to be rolled out, in consultation with some of those affected, until at least the end of 2017.
Since 2013, EarthRights International (ERI), a nongovernmental, non-profit human rights organization, has been working with some community members impacted by the Thilawa SEZ, supporting efforts to access remedy through various channels, including the JICA Objections Procedure and direct stakeholder advocacy. In November 2014, community members in Thilawa invited ERI to share information about new ideas on how to access remedy. ERI shared the model for a community-driven operational grievance mechanism (CD-OGM) as one way to address the impacts of the SEZ. Principle 29 of the UN Guiding Principles on Business and Human Rights advises that all business activities participate in effective operational grievance mechanisms (OGM). The CD-OGM model is premised on the idea that as the rights-holders entitled to remedy, the people impacted by business activity have the right to have a leading voice in ensuring remedy for those impacts. The model also holds that the most effective OGMs will come from the impacted communities themselves, because they are best placed to identify what an effective mechanism would look like in their community. In the CD-OGM model, the community plays the leading role in the design of the mechanism, so the final result will be different in each community.

After months of consultation meetings with villagers from six villages in the SEZ area, community members asked ERI to support them in piloting this model by designing a grievance mechanism for the Thilawa SEZ. At a meeting in May 2015, community members in attendance elected a 16-member group to spearhead the design work, with the understanding that the mechanism would need broader community feedback and input, and that the final draft would need informed support and approval. The Design Committee, with the support of ERI, also continued to meet with the project stakeholders at various stages from June 2015 until the end of November 2016 to share the model, updates, and draft design.

In mid-2015, the Design Committee proposed an Interim Joint Problem-Solving Mechanism in order to address existing harms while the full CD-OGM was being designed, as well as to help develop trust and improve the relationship between the stakeholders. The Interim Joint Problem-Solving Mechanism was proposed to be a quadripartite dialogue-based process with the participation of MJTD, JICA Expert Team, TSMC, and community members. It was discussed in multiple MSAG meetings, and got support from the relevant stakeholders, as well as other attendees of the MSAG. However, after the first complaint was sent, stakeholders withdrew from the mechanism. Shortly thereafter, the MSAG formally concluded.

In late 2016, the Design Committee completed a draft of the full CD-OGM design process steps. The CD-OGM proposes a multi-stakeholder body to run the mechanism, and consists of 5 main steps, an appeals process, oversight processes, and outreach and education processes for the broader communities. In early 2017, the Design Committee began increased outreach across the six villages with the purposes of getting feedback and input to be incorporated into the final design. The Design Committee also had meetings with MJTD, JICA, TSMC, and tenant companies, to elicit their input which would inform the final draft. To date, the Design Committee continues outreach efforts in the communities and with the stakeholders.

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](http://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](http://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](http://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.

ADDITIONAL RESOURCES


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/


