



Mr. Shinzo ABE, Prime Minister

Mr. Taro ASO, Minister of Finance

Mr. Fumio KISHIDA, Minister of Foreign Affairs

Mr. Toshimitsu MOTEGI, Minister of Economy, Trade and Industry

Mr. Hiroshi OKUDA, Governor of Japan Bank for International Cooperation

Mr. Akihiko TANAKA, President of Japan International Cooperation Agency

May 25, 2013

**Re: Concerns regarding Environmental and Social Impact and Violation of Human Rights
related to the Dawei Deep Sea Port and Special Economic Zone Project in Myanmar**

We, the Dawei Development Association (DDA), would like to raise our deep concerns with the environmental and social impact and human rights situation related to the Dawei Deep Sea Port and Special Economic Zone (SEZ) Project being developed in Tanintharyi Region.¹We are aware that the Japanese government is interested in involvement in the project.² We believe that the Japanese government and relevant agencies must carefully review the significant environmental and social impact

¹The project consists of several components including a deep seaport, oil refineries, petrochemical complex, steel factories, coal-fired power plant and other factories as well as a water reservoir project supplying water for industries and a road-link to Thailand. A Memorandum of Understanding (MoU) on Dawei Deep Sea Port and Industrial Estate was signed by the Myanmar Port Authority and Italian-Thai Development Co. Ltd. (ITD) in June 2008. According to the initial agreement, ITD was the main developer for the project but it has now become a Government-to-Government project under a Memorandum of Understanding (MoU) between the Myanmar and Thai governments, agreed in July 2012.

²For example, Mr. Shinzo ABE, Prime Minister of Japan, remarked "Japan would like to exchange views with the countries concerned while watching developments with interest" in development of the Dawei area, when he met with H.E. Ms. Yingluck Shinawatra, Prime Minister of Thailand, in January 17, 2013 (http://www.mofa.go.jp/region/asia-paci/pmv_1301/thailand.html). Likewise, Japanese government continuously discussed about support for economic development in Myanmar, especially in the Dawei area, in the other regional and bilateral meetings, namely in The Third Mekong-Japan Summit on November 18, 2011 (<http://www.mofa.go.jp/announce/jfpu/2011/12/1221-01.html>), in Japan-Thailand Summit Meeting on March 7, 2012 (http://www.kantei.go.jp/foreign/noda/diplomatic/201203/07thai_e.html), and in The 4th Mekong-Japan Economic Ministers Meeting on August 30, 2012 (<http://www.asean.org/news/asean-secretariat-news/item/joint-media-statement-of-the-4th-mekong-japan-economic-ministers-meeting-siem-reap-cambodia-30th-august-2012>).



caused by this project in accordance with international standards as well as JBIC and JICA's Guidelines for Environmental and Social Considerations (hereinafter "Guidelines") before making any decision.

The projects in Dawei will create extensive impacts on livelihoods and human rights of local people in three areas including:

- 1) The 204.5 square kilometer Dawei Deep Sea Port and Industrial Estate situated in Nabule area, 20 kilometers northeast of Dawei City, with a population of 32,274 persons from 3,977 households in 21 villages will be displaced:
- 2) Kalonehtar village located 36 kilometers north of Dawei city where a water reservoir will be constructed on Talaing Yar River, with about 1,000 people from 182 households will be displaced:
- 3) 132 kilometers long road link area from Dawei SEZ to Phu Nam Ron (Thai border) where an estimate of 50,000 people will be affected directly and indirectly such as difficulties in plantation due to constructions and waste from construction, land prices become very high leading local community not being accessible to their land.

Environmental and Social Impact caused by the Project and Human Rights violations occurred by Thai companies and related agencies

- 1) Violation of rights of indigenous and ethnic people – No Free, Prior and Informed Consent (FPIC)

The project has already caused negative impacts on both indigenous Dawei people living in Nabule (since pre-historical era or before Bagan era) and Karen ethnic people living along the road link area. Nevertheless, all the agreements and plans made between Thai and Myanmar governments and companies were signed and implemented without Free, Prior and Informed Consent (FPIC) with local indigenous and ethnic communities.

First, ITD and Myanmar government failed to have any consultation and to provide any information with the local communities prior to the implementation of the project. Although the construction of the project was initiated in 2010, ITD later commissioned TEAM Consulting Engineering and Management Co. Ltd., Panya Consultants Co. Ltd., and Environmental Research Institute Chulalongkorn University (ERIC) to conduct an Environmental Assessment (EA) on the Dawei Seaport and SEZ, water reservoir and the road-link area, which was started only in September 2011. Further, the company has never conducted human rights impact assessment on the project.³

³ Human rights impact assessment is particularly important in this case due to the road link passing through an area where there has been recent conflict and is a heightened risk of human rights violations.



Second, since 2010, when ITD began activities in Dawei, there has not been transparency and information disclosure about planned activities to local affected communities. Especially, we haven't been able to obtain any information of EA from ITD and both governments. They have never offered a meaningful opportunity to the affected communities to participate genuinely in the process of EA till today; participation was limited to a one-way presentation of the project plans, rather than a two-way interactive meaningful dialogue with the affected population.

The company constructed sections of the road through established farmlands, damaging crops in the process, without the local indigenous and ethnic people's consent. And the local community regarded the approach taken by the project, such as carrying out studies after construction had begun and properties were already damaged, as a clear demonstration of their 'lack of ethics'.

These kinds of practices by ITD and other related actors do not respect rights of indigenous and ethnic people to make decisions regarding the management of their local resources and the land in their communities.

2) Involuntary resettlement and deprivation of local livelihoods

More than 32,000 Dawei indigenous people in Nabule and 1,000 people in Kalonehtar village are now facing involuntary resettlement. Neither ITD nor any individuals or organizations working on behalf of ITD have conducted any systematic survey related to relocation, nor has there been meaningful consultation regarding desire of local affected people.

In Kalonehtar village, ITD and the Myanmar government plan to build a reservoir on the nearby Talaing Yar River. The reservoir will flood and destroy over 3,000 acres of plantations on which all the people from Kalonehtar depend for their livelihood. This affected community has expressed its strong desire not to be relocated and not to lose their forest and land which are rich of resources and biodiversity. Currently, however, the company is pressuring the local community to accept relocation.

According to our research conducted in partnership with the Myanmar NGOs LokaAhlin and Southern Society Development Network and international partner Trocair,⁴ 86 per-cents of local peoples in the Nabule area, to be affected by the Dawei SEZ, rely on arable land and agriculture. However, the relocation sites in Bawah, Htawa, and Wa Zun Taw are located within the Tanintharyi mountain range or between the mountain range and the sea, and are either too narrow to allow sufficient space for farming or the land is not suitable for farming; land surrounding the SEZ, meanwhile, is being purchased

⁴DDA, LokaAhlinn, Southern Society Development Network, Trocaire. *"Local People Understanding of Dawei Special Economic Zone"*(March 2012)



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by speculators and affected communities will not be able to purchase it. If the local people in Nabule are forced to relocate, their livelihoods will be irreparably damaged. Nonetheless, the relocation site has already been built without their consent. Finally, the houses in relocation site that have been constructed are low quality; houses have already collapsed two times during normal seasonal winds.

Since the project was started, the company boasted a lot over a better livelihood of local people. They even stick big posters at their visitor center promoting “how much they care about livelihood of local people”. But they don’t have any plan to replace the lands of local people for good agricultural and plantation.

3) Unfair compensation and corruption

The project involves more than 30,000 affected people, but the company has no standard procedure to handle and manage on this matter, and importantly, without prior consultation with communities and their consent. At this very early stage of the project development, it is evident that many cases of unfair and unequal compensation have occurred in the project.

Many pieces of land have already been confiscated for the construction of the company’s office and roads. Though the project is being implemented by one company, compensation process has not been standardized and land pricing was set using different methods of calculation, threats and influence of local authorities.

The Myanmar government officials have also tried to influence compensation process. Because the company does not disclose information related to compensation, this enable corruption on the part of government officials and exploitation of land brokers.

Beginning 2012, ITD started to pay compensation to villagers who lost land because of infrastructure construction such as roads, office facilities and other buildings around the SEZ area. Compensation amounts have been different each time; even when compensation has been paid to several individuals for similar areas of land, the compensation has varied. This is obvious and potentially serious discrimination. In each case, decisions regarding compensation have been in the hands of government officials and ITD. Furthermore, compensation payments have come via government officials and village administrators. We seriously suspect widespread corruption in compensation process and we have strong evidence of individual instances on corruption, including a government official that took 40 million kyat from a land owner by making higher compensation amount. Until now, there has been no transparency regarding total amounts of compensation paid by the company, and how much has been received by affected communities.



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The above issues represent several clear violations of the Guidelines. Therefore, we local people from Dawei in Thanintharyi Region demand that the Japanese government and relevant agencies carefully and closely consider and review the existing environmental and social impact studies, as well as the human rights violation situation in the Dawei Deep Sea Port and SEZ Projects, before making any decision to participate in these projects or authorizing Japan's public financial institutions to support the project. Especially, the problems related to land confiscation and land use, on which there has been no meaningful consultation yet, must be heeded thoroughly.

We believe that Japan must be accountable for any environmental and social impacts and human rights violations caused by the project, once it decides to become involved in the project in any form, including investment or loans. While we are well aware of and indeed expect that Japan will perform high due diligence when it comes to officially assessing the Dawei Project, we would particularly like to highlight the following issues as our demands for your kind attention in reference to international standards of environmental and social protection;

- 1) Compliance with the international standards by ITD and both Thai and Myanmar governments, especially the right of indigenous peoples to FPIC (Free, Prior and Informed Consent);
- 2) Information disclosure in timely and appropriate manner and participation of local people in meaningful way, in the planning, implementation, and monitoring of Resettlement Action Plan (RAP) as well as in the process of EA;
- 3) No coercion or intimidation on local people and community in the process of involuntary resettlement;
- 4) Avoidance of involuntary resettlement when feasible. When such avoidance is proved unfeasible, improvement or, at least restoration of the living standard and income opportunities of local people;
- 5) No corruption, or meaningful and effective measures against corruption;
- 6) Respect for human rights in any kinds of project activities.

Thank you very much for your consideration of our request and we look forward to your response.



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Yours respectfully,

Originally signed by

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