

Voices from the Ground:

Concerns Over the Dawei
Special Economic Zone
and Related Projects.





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Written and Published by: Dawei Development Association (DDA)

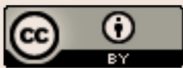
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Cover Photo: The road to 'Kilometer 0' of the Dawei SEZ, cutting directly through an existing rich and protective coastal mangrove area.

Rear Cover Photos: DDA and Dawei people movement against coal fire power plant at Muangmagan Beach



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Dawei Development Association (DDA)
August, 2014

Executive Summary

This report examines the Dawei Special Economic Zone (DSEZ) project in Southern Myanmar, which, if realized, would be one of the largest petrochemical industrial estates in South East Asia. It presents the results of a quantitative and qualitative study, aimed at understanding the process by which the DSEZ project has unfolded, and the extent to which the rights of the local people are being protected and respected by the relevant States and corporations in the implementation of the project.

The DSEZ is a bilateral economic cooperation project owned jointly between the national governments of Thailand and Myanmar, initiated in 2008. A 60 year concession was granted to Italian-Thai Development Plc. (ITD) in 2010. All works have been carried out so far in the name of the Dawei Development Company Ltd. (DDC) a joint venture company owned by ITD (75 percent) and Max Myanmar (25 percent). In July 2012, Max Myanmar withdrew its investment and the search for new investment partners began but has so far been fruitless. Consequently, the project is currently stalled.

In November 2013, concession rights for the project were transferred to a new type of company referred to as a “Special Purpose Vehicle” (SPV). The SPV is jointly owned (50:50) by the governments of Myanmar and Thailand, which underlines both countries direct responsibility for the Dawei SEZ project.

The project was launched in 2008. Land has been cleared in certain areas and initial infrastructure development has already begun. The project will comprise primarily an industrial estate area including: a deep seaport and dockyards; an oil refinery complex; steel mill; fertilizer and petrochemical plant; pulp and paper processing plant; medium and light industry factories; and one or more electric power plants. The infrastructure project also extends beyond the demarcated economic zone, an international roadlink is also being constructed linking the DSEZ with Thailand. Additional transport links along a similar route are also planned, along with the construction of a new oil and gas pipeline to Thailand. A large water supply reservoir is also planned to the northeast of the DSEZ, a small port to the south, a quarry to the north, and several resettlement

villages are planned to receive the populations that will be displaced from the project areas.

All villages included in this study have already been directly affected by the project. On the basis of current information about the future works to be carried out, it is estimated that people within 20-36 villages, (comprising approximately 4,384 - 7,807 households or 22,000 - 43,000 people), would be directly affected by the construction of the DSEZ and related projects, including industrial estate, ports, roadlinks, reservoirs and resettlement areas. Also as the site is in a populated area just 20 km from Dawei, the regional capital, many more people from the rural, coastal and urban populations of Dawei District, are highly likely to be subjected to negative environmental and other impacts emanating from the industrial and petrochemical complex, if it goes ahead.

The research surveyed a total of 20 villages located within the official boundaries of the DSEZ (9 villages), in the roadlinks areas (8 villages), and in 3 villages that lie outside the SEZ area but are nevertheless directly affected by the project, as they are the locations for one resettlement village, one small port, and the large water supply reservoir. Questionnaire data was collected by local research teams from 1,583 households on a random sample, visiting every third house in each village. This was complemented with additional inputs from focus group discussions in 18 villages. In addition, follow up interviews were held to document the experience of villagers who have been displaced due to the DSEZ.

Main findings of the study conclude that **land is a critical livelihood asset** for the majority of people in the areas to be affected by the DSEZ. The majority of affected people (71 percent) consider agriculture to be their primary occupation. In many cases, fields are not only planted with just one crop, but have a mix of uses, which provide either food or income, or both. Land-related livelihoods are not only derived from crops - livestock rearing, fisheries, and forest products also provide significant incomes for 13 percent of all households surveyed. Of all households surveyed, 71 percent expect to lose all or some of their land to the DSEZ. Many have already lost land either directly,

by confiscation, or indirectly, as their lands are rendered unusable as a result of landslides and water channel blockages due to DSEZ project operations.

The research discovered critical flaws in the process of land confiscation and payment of compensation. Firstly, the community was given **limited information** about the DSEZ project and displacement. Two thirds (66 percent) of households surveyed did not receive any information from the government or company at all. Of those that received information from the government or company, the majority, around three fifths, said that the information revealed only positive impacts and benefits of the project. Only six percent of households surveyed knew of the oil, gas and petrochemical industrial complexes to be built in their neighbourhood, despite the fact that these are central components of the SEZ development plan.

Secondly, there was **no meaningful consultation** with affected persons. Only 27 percent of the respondents had attended any meeting about project implementation. Focus group participants described these meetings as “one-way” presentations. Of those who attended the meetings, 82 percent did not actively participate in the discussion, mostly because they did not understand what was happening or there was no opportunity to ask questions. Only 8 percent of households gave the government their consent prior to the start of the project.

Thirdly, **the compensation process is deeply flawed**. The calculation and payment of compensation was uneven and not transparent, and there has been no list of compensation payments made public. Overall, only around 15 percent of all households surveyed reported having received compensation payments. Where compensation has been provided, there have been significant delays. Four fifths of those compensated are still waiting for completion of payment. Only 9 percent of those receiving compensation were given official documentation, indicating the high possibility of corruption. In addition, the amounts received have mostly been inadequate to sustain the recipient family’s future. Resettlement arrangements have also been inadequate, as the living standards of those who have been moved out have been considerably lowered and, in some cases, resettled families are living in circumstances of great hardship.

Project proponents and partners, in particular the Myanmar and Thai governments, have legal obligations to respect and protect the human rights of communities and individuals affected by the DSEZ. Those in charge of the

DSEZ have thus far failed to adequately consider or incorporate affected communities into the decision-making and development process. By removing access to farm and other lands without putting in place adequate arrangements for compensation, resettlement and rehabilitation, the project is putting at risk affected people’s livelihood and means of survival, in violation of the human right to adequate standard of living. The DSEZ project has proceeded without the free prior and informed consent (FPIC) of affected communities in violation of the rights of indigenous peoples. The research and analysis also shows that the DSEZ project partners did not adhere to relevant international, regional, and domestic legal obligations, standards, and other responsibilities of the project partners, including international standards on involuntary resettlement.

Like many developing countries, Myanmar still lacks adequate laws to regulate industrial investment and economic development. As a good neighbor and joint-owner of the project, the Thailand government must ensure the investment complies with its own domestic legislation as well as all international instruments in relation to forced evictions, rights to adequate food and housing, and indigenous peoples’ rights. The Thai Government should investigate and take appropriate measures against all companies domiciled in Thailand that abuse the human rights of communities affected by development projects, regardless of where company operations take place.

The National Human Rights Commissions of Thailand and Myanmar should collaborate to carry out a full investigation in a transparent, consistent and proactive manner, into all complaints of human rights abuses, relating to land confiscations and forced evictions as a consequence of the Dawei SEZ project activities or operations conducted by companies domiciled in Thailand and Myanmar.

Systematic failures in the initial implementation of the DSEZ project are causing hardship for affected people. Many people have expressed a deep sense of injustice from their treatment. Local people have expressed that they are not against development, but want development that is not harmful to people or the environment. The governments and other project partners should take people’s concerns seriously and work towards sustainable development by improving the livelihood security of the local communities and environmental sustainability.

Introduction

This report relates to the Dawei Special Economic Zone (DSEZ) project in Southern Myanmar, which was initiated in 2008 to develop what could be one of the largest petrochemical industrial estates in South East Asia. It presents the results of a study to understand the process by which the DSEZ project has unfolded from the perspective of the local people, and the extent to which the rights of the local people are being protected and respected by the relevant States and corporations in the implementation of the project.

The study will be of direct interest to the Myanmar and Thai governments, who have equal stakes in the DSEZ project; the Myanmar and Thai National Human Rights Commissions, to whom appeals have been raised during 2013 by local community groups; and to the relevant private sector corporations who have invested in the project, as well as the private sector and public sector investors who are currently considering future involvement in the project. The report will also be of interest to Members of the Myanmar national and Tanintharyi regional parliament, as well as organisations who are working to support local communities in this area or elsewhere who are struggling against similar projects.

The first part of this report contains a short introduction outlining a profile of the Dawei Special Economic Zone (DSEZ) projects, and their current status as far as publicly known. This is followed by a short profile of the Dawei area, its people and their livelihood activities. The methodology for collecting quantitative and

qualitative data from households in 20 villages that have been affected by the project, including in the industrial estate and port area, the roadlinks area, resettlement villages and water supply area.

Key findings from the study raise important concerns related to local people's access to necessary information, free prior and informed consent, the rights to adequate food, housing and work, preparations for the relocation of evicted communities, the process of calculation, payment and sufficiency of compensation/reparation, as well as access to effective remedy for those whose affected by the development of the DSEZ. The third part focuses on a discussion of the findings in the light of applicable international laws and principles, regional standards, and provisions of Myanmar and Thai domestic laws.

The concluding section sets out policy recommendations for the various parties who have a role in the future development of the Dawei SEZ, including the Thai government, the Thai National Human Rights Commission, the Myanmar Government, the Myanmar Parliament, the Myanmar Human Rights Commission, the Karen National Union, ITD and future potential investors, and the international community. Local people have raised several important objections to the way the project has been implemented in their area on several occasions. Their actions and initiatives are detailed in the complaint letter to the Thai National Human Rights Commission, and a chronology of the project, both included in the Annexes to this report.

GMS SOUTHERN CORRIDOR

ROAD LINKS TO THAILAND



Figure 1 : GMS Southern Corridor;
Source : DDC website, accessed May 2014

Part 1

Background

DSEZ project

The Dawei Special Economic Zone (DSEZ) has been declared in an area extending to 204.51 sq km, which lies in a populated agricultural area 20 km to the north of Dawei. Dawei is the capital of Tanintharyi Region in Southern Myanmar, and is located around 350km west of Bangkok, Thailand.

The project was launched in 2008 and infrastructure development has already begun. The project will comprise primarily of an industrial estate area including: a deep seaport and dockyards; an oil refinery complex; steel mill; fertilizer and petrochemical plant; pulp and paper processing plant; medium and light industry factories; and electricity generation. The source of power for the industrial estate is still under discussion. The original plan included the establishment of a large 4,000 MW coal-fired power plant. Current plans for power production include the construction of a 3,000 MW LPG power plant. Until now, there has been little information made public about the scope or form of many components of the project. Preparatory works already completed include the clearing of land near Kilometer “Zero”, a quarry, a small port, a visitor centre, and VIP housing, amongst other constructions.

The infrastructure project also extends beyond the designated DSEZ area. An international roadlink is being constructed linking the DSEZ with Thailand. Additional transport links along a similar route are also planned, along with the construction of a new oil and gas pipeline to Thailand. A large water supply reservoir is also planned to the northeast of the DSEZ, a small port to the south, a quarry to the north, and several resettlement villages are planned to

receive the populations that will be displaced from the project areas.

The DSEZ project is a bilateral economic cooperation project owned jointly between the national governments of Thailand and Myanmar, who must take overall responsibility for the management and conduct of this project. The project was formally agreed in May 2008, shortly after Cyclone Nargis brought about Myanmar's worst recorded natural disaster. In the following month, the Myanma Port Authority signed an MoU with the Thai construction company Italian-Thai Development Corporation (ITD) to develop the DSEZ. Until the present, all works have been carried out in the name of the Dawei Development Company Ltd (DDC) a joint venture company owned by ITD (75 percent) and Max Myanmar (25 percent)¹.

If realised, the Dawei SEZ project will establish one of the largest industrial zones in Asia. Dawei is projected to become a hub of logistical activity in the Greater Mekong Sub-region (GMS), connecting cargo ships from India, the Middle East and Europe to the Southeast Asian mainland and China, significantly reducing transportation costs by bypassing the Malacca Straits, one of the busiest shipping lanes in the world.

Its development is a key element in the East-West Economic Corridor envisaged by the Asian Development Bank. A proposed highway leading to Bangkok, and possibly beyond, will provide Thailand an outlet to the Andaman Sea, and allow for oil and industrial products produced

in Dawei to be transported to Thailand. The project would connect the East-West Economic Corridor (Myanmar, Thailand, Lao and Vietnam) with the Southern Economic Corridor (connecting to Cambodia) and the North-South Economic Corridor via rail links to Kunming in China. It is also expected to increase trade between member states of the Association of South-East Asian Nations (ASEAN), particularly following the inception of the ASEAN Economic Community in 2015.



The Dawei Deep Seaport and Industrial Estate Development Project site.

Current status of the project

Project partners have encountered many problems in securing the US\$50 billion in investment capital they have estimated will be required to develop the Dawei SEZ projects. In July 2012, ITD's local partner, Max Myanmar announced that it was withdrawing its investment from Dawei Development Company, leaving ITD searching for new investment partners.²

¹ Max Myanmar later sold its stake in 2012, as described below

²Italian-Thai seeks investors to replace Max Myanmar in Dawei, Reuters 6 July 2012, <http://uk.reuters.com/article/2012/07/06/us-myanmar-dawei-italianthai-idUKBRE86506C20120706>

The search for new investment partners has so far been fruitless and the project is currently stalled. In November 2013, the 60-year concession granted to ITD since 2010 was cancelled³ and rights transferred to a new type of company referred to as a “Special Purpose Vehicle” (SPV). The SPV, which was established on 17 June 2013⁴ and is jointly owned (50:50) by the governments of Myanmar and Thailand, has responsibility to oversee the Dawei SEZ project. The initial investment in this company amounts to US\$ 400,000.⁵ Clearly there is a major shortfall in the project finances at present.

It has been agreed that seven special purpose entities (SPEs) will be established under the SPV corresponding to seven components of the Dawei SEZ project, specifically the deep seaport, road link, industrial estate, electricity, water supply, telecommunications, and rail links. Foreign companies will be encouraged to invest in these SPEs, to be selected on a tender basis. ITD has said that it intends to bid to participate in all of the seven SPEs⁶. The Terms of Reference and selection criteria for the bidding process have not been made public.

Both Thai and Myanmar governments have hosted public events to encourage Japanese and other interested investors to join as major financial backers to the revised DSEZ project. However given the current hiatus in decision-making power of the Thai government which has lasted since November 2013, the SPE tender

process has been significantly delayed. It is not yet known whether investors see any future in the stalled project, or who will take on the financial responsibilities for repairing, as far as possible, the damages already incurred.

Local people have been told that the coal-fired power plant project has been cancelled. A public announcement was made on 9 January 2012 by Myanmar’s Electricity Minister Khin Maung Soe to cancel the 4,000 MW coal-fired power plant project (CFPP), citing “environmental problems”⁷.

Nevertheless, there are indications that plans to construct coal-fired power plants in the area have been revived. A press release has been issued from three corporations, Mitsubishi, ITD and Electricity Generating (Thailand) on 26 November 2013 indicating their interest building coal and natural gas power plants in the DSEZ with an output capacity of up to 7,000 MW⁸. Myanmar press have also reported that a decision has been taken by the regional government of Tanintharyi to build five coal-fired power plants, ranging from 50 to 2,640 megawatts, pending approval of the EIA and SIA reports by the national government and the World Bank, citing their source as the regional Electricity and Industry Minister Win Swe⁹. However the construction of a coal-fired power plant project in the DSEZ area has not been officially announced to the local people.

³ ‘Dawei seizure claim stuns ITD’, Bangkok Post, 16 November 2013, <http://www.bangkokpost.com/business/news/380111/dawei-seizure-claim-stuns-itd>.

⁴ According to the 2nd Joint High Committee Meeting on 17 June 2013, and later formalised in an MoU in November 2013. The Myanmar and Thai governments are represented by the Foreign Economic Relations Development (FERD) and the Neighboring Countries Economic Development Cooperation Agency (NEDA) respectively.

⁵ ‘Dawei ready to roll’, Bangkok Post, 31 December 2013, <http://www.bangkokpost.com/business/news/387346/dawei-ready-to-roll>.

⁶ DDC website, accessed on 17 April 2014 <http://www.daweidevelopment.com/index.php/en/about-ddc/introduction>

⁷ ‘Burma cancels huge Tavoy power plant’, AFP, 10 January 2012, <http://www.dvb.no/news/burma-cancels-huge-tavoy-power-plant/19539>

⁸ Mitsubishi to build massive power plant in Myanmar with Egco, ITD, 26 Nov 2013 <http://www.nationmultimedia.com/business/Mitsubishi-to-build-massive-power-plant-in-Myanmar-30220558.html>

⁹ ‘Tanintharyi plans 5 power plants despite protests’ Shein Thu Aung | Myanmar Business Today | 7 April, 2014 <http://mmbiztoday.com/articles/business-news-brief-8>

Project Locations

The sites of the Dawei SEZ industrial estate, deep seaport and the routes of the road links and water supply reservoirs appear to have been selected on technical criteria, focussing on suitability for construction and trade. There is little evidence that the choice of location was examined on social and environmental criteria before the project began to be implemented.

By selecting the current project sites however, it is certain that entire villages will be required to move, other villages will lose productive farmland and fisheries, forests will be cleared, coastlines destroyed and cultural sites enclosed. Four areas can be distinguished (inside the SEZ and three areas outside the SEZ) as follows:

Industrial estate area and port (inside the DSEZ boundaries)

Official notification of the boundaries of the DSEZ was made on 12 May 2012, in accordance with the Dawei Special Economic Zone law¹⁰. In 2011, it had been explained that 19 villages would have to be moved as a result of the DSEZ project. This was later revised to 16 villages (see table 1).

The boundaries of the industrial estate area may be changing again. An unofficially obtained map produced by ITD dated 17 August 2013, shows that a large area in the southwest of the DSEZ has been exempted and a new area to the north now included. On 9 September 2013, a report by the supporting working group of the Dawei Special Economic Zone during the visit of the Speaker of the Lower House to the DSEZ reported that the demarcated area for the Dawei SEZ project has been revised “enclosing a total of

6 villages”¹¹. When a subsequent announcement was made to the press, however, about the revisions to the project area in Yangon on 2 December 2013, no civil society groups were invited or informed.

Legal notification of new boundaries has not yet been published in the official gazette, and local administrations have not yet been formally notified of any change. In this context, the situation remains unclear for the affected populations. Villagers in the areas supposedly “exempted” to the southwest were informed by the Township Land Department in early 2014 that their lands are not eligible for land registration because they are still within the area demarcated as the DSEZ.

¹⁰ Although the DSEZ law has now been annulled as a result of the new Myanmar Special Economic Zone Act passed in January 2014, section 93 states that previous notifications of Special Economic Zones remain valid.

¹¹ Unpublished report, prepared by supporting Working Group for the Speaker of the Pyithu Hluttaw [Lower House]. The boundaries in the Report appear to be revised to enclose a total area of 196 sq km, or 8.51 sq km less than the original plan.

Table 1: Villages and people affected by DSEZ project according to government statements 2011-2013

Village Name	Households	Families	Population	Included in official list on		
				2011	At Visitor Centre	2/12/13
1 Yalaing	348	340	1623	x	x	
2 Pagawzone	410	421	2212	x	x	
3 Thabyu Chaung	169	162	746	x	x	
4 Kya Khat Tabinin	333	320	1524	x	x	
5 Kyauk Whet Kone	205	197	1060	x	x	
6 Daung Shaung	82	101	603	x		
7 Pein Shaung	369	378	2063	x	x	
8 Kyauk Thout	196	210	1900	x		
9 Mudu	343	347	2029	x	x	x
10 Paradut	321	314	1662	x	x	x
11 Htein Gyi	415	405	2253	x	x	x
12 Min Dut	92	93	451	x	x	
13 Myo Haung	242	287	2391	x		
14 Sin Pu Net	41	49	509	x		
15 Net Twin	236	268	2668	x		
16 Mayin Gyi	136	135	821	x	x	
17 Lae Shaung	610	626	3337	x	x	x
18 Nyaung Bin Seik	52	52	328	x	x	
19 Ngapidat	18	23	145	x		
20 Wet Chaung	104	99	449		x	x
21 Kha Maung Chaung	339	335	1453		x	x
22 Thit Teo Htoug	411	393	2111		x	
Total (22 villages)						

Source of data:

(2011) ITD and Government data, Thai Trade Show at Dawei, 2011

(no date) Villages listed in the map of affected villages posted in the ITD visitor centre.

(2 Dec 2013) Dawei Project Management Committee Press Conference in Yangon.

Note:

Each of the above villages are located inside or in close proximity to the current SEZ area boundaries. However, many other villages, are omitted from these official lists, for example in the roadlink areas, water supply reservoir area, small port, and resettlement areas, despite the fact that they have already been directly affected by the DSEZ project (as described overleaf).

Near the DSEZ area

Several households outside the SEZ area will also be affected by the DSEZ project, or by ancillary or preparatory works related to the DSEZ, some of which have already begun operation. More often than not, these villages are omitted in the official estimates of people affected by the DSEZ.

- **Small port** In the coastal town of Ngapidat, village leaders report that approximately 70 families have already lost their land to the ITD company to make way for the construction of a coastal road and a small port for marine access to the DSEZ site. The land was lost approximately 3 years ago in 2010-2011. This village lies outside the official DSEZ demarcation area to the south.

- **Resettlement area** In Bawar village, which has been designated as the first village to host the resettlement of displaced households, approximately 15 households have lost their land to make way for 480 new houses. This village lies to the north of the DSEZ.

- **Stone quarry** A hill has been destroyed in the village of Paradut to the north of the DSEZ boundaries, which has affected neighbouring Mayin Gyi village. In Mayin Gyi approximately 28 households have lost paddy land during 2010 as a result of works to access the quarry. The quarry is operated by ITD and is expected to produce up to 3,000 tonnes of gravel per year.

Outside the designated DSEZ area, it is expected that the livelihoods of many other households will also be directly

affected by the project. For example, local rice farmers are already experiencing the direct impact of construction of new roads, which is causing irrigation channels to be blocked and paddy fields to be flooded at the wrong time. Other farmers nearby the DSEZ may see access to irrigation reduced by the diversion of water resources to the DSEZ project. The fisherfolk villages and populations along the coast may also expect their fisheries to be disrupted by the operation of the port and heavy industries. None of these households, families, and populations outside the boundaries of the DSEZ are currently recognised in official lists of affected people. There are at least two fishing villages in the immediate neighbourhood of the DSEZ projects -Bawar to the north and Pandat Inn to the south- which are also likely to be disrupted.

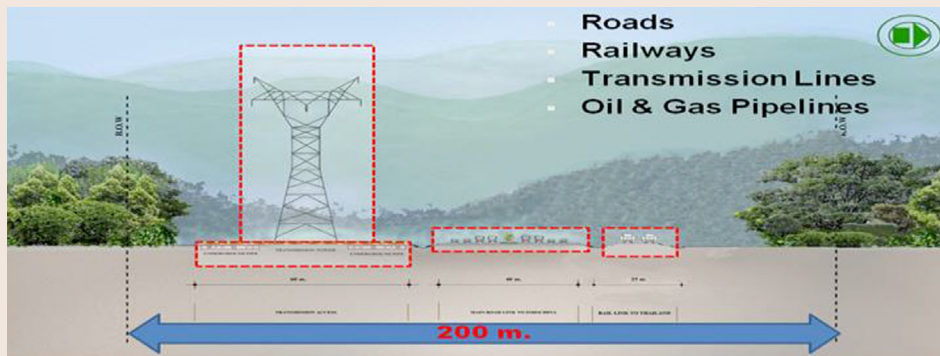


Figure 1.2 : Road, rail, gas, electricity links schematics, DDC website, 2013



Road links

The road, rail, pipeline and electricity transmission links are an integral part of the DSEZ project connecting the DSEZ to Thailand. Many farmlands will be displaced to make way for their construction. There will be two main routes though the Tanintharyi Mountain Range. The first is termed an “access road”, from Phu Nam Ron in Thailand to the DSEZ project, and while not yet completely surfaced, is now open for traffic. The second roadlink will be much wider, carving a route 200 metres wide to accommodate an 8-lane highway, transmission lines, oil and gas pipelines and a rail link (see Figure 1.2). At some points along the route, the access road and the highway links will be constructed in the same location, in other places the two routes will diverge. So far, land belonging to households in at least 13 villages has been confiscated to construct the access road.

These villages include Kha Ta Ra Khee, Wahtaw, Hsin Phyu Tine, Iwine, Ngayatni, Htee Pho Lay, Myitthar, Kalatgyi, Ka Htaung Ni, Pyin Tha Taw, Thabyu Chaung, Kalonehtar, and Yaypote. It is estimated that each of these villages has an average of around 150 households, with an average of 5 people per household.

Water supply reservoir

Plans are in place to construct a large dam to flood an area of 7-12 km² to serve as the main water supply reservoir for the DSEZ. Its location has been selected in the hill areas to the northeast of the DSEZ, in an area currently occupied by the people of Kalonehtar, who have established homes and farmlands there. As a result, the entire village, comprising 182 households or approximately 1,000 people have been notified to move out of

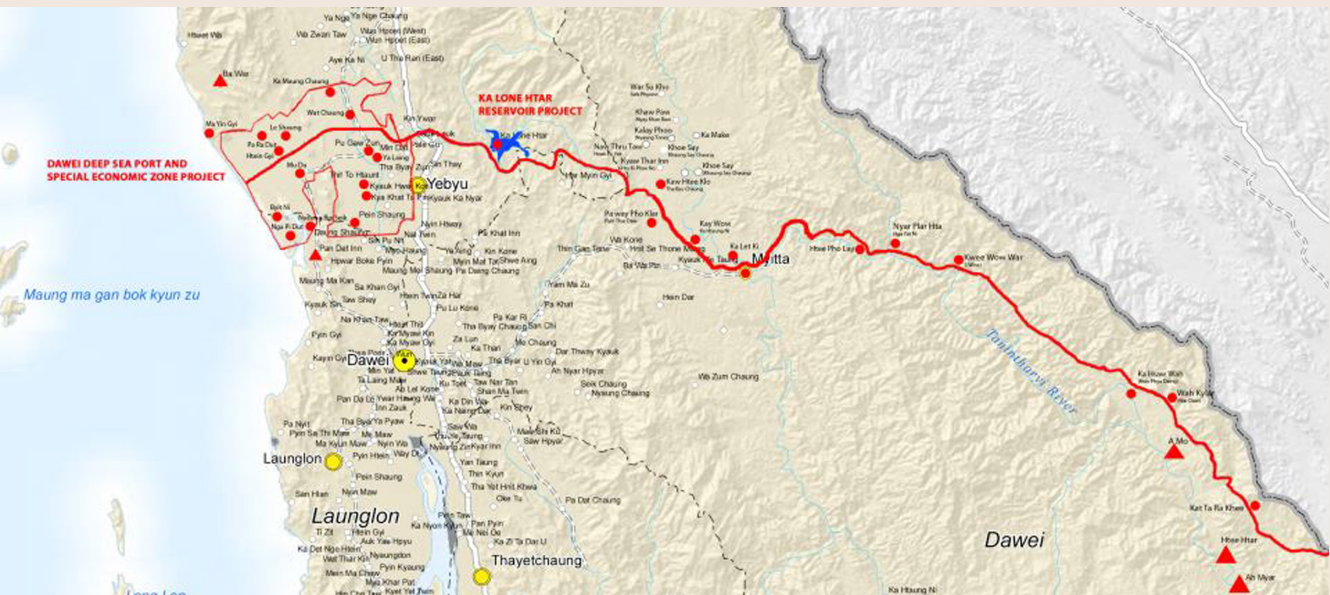


Figure 1.3 : Overview of the transborder corridor to Thailand

the area. However residents have raised serious objections to the project. Kalonehtar is doubly marked by the DSEZ as it is not only due to be flooded but also has already been affected by the construction of the roadlinks described above.

Summary

In summary, there is still uncertainty about the precise area, numbers of households, and even the total number of villages, that will be directly affected by the DSEZ project. Without clearer data, it is impossible for government to measure and consider the full impacts of the project. Equally, in the absence of comprehensive data, project investors will not be able to understand the full costs they must take responsibility for, such as to repair and compensate the damages that they will create for the affected people if the project goes ahead.

At this initial stage in the project development, from the figures noted previously, it can be estimated that people from within 20 - 36 villages, (comprising a total of 4,384 - 7,807 households or approximately 22,000 - 43,000 people), are expected to be directly affected by the construction of the DSEZ and related projects, including industrial estate, ports, roadlinks, reservoirs and resettlement areas.

Finally, the rural and urban populations, from the estimated population of 790,000 people living in Dawei District, that are likely to be subjected to negative impacts from the operation of the industrial and petrochemical complex, if it goes ahead, are also not yet known. Comprehensive health and environmental impacts of the planned projects must be studied to assess the risks and extent of the potential damage to the entire community, not only those currently located in the project sites.

Research Methodology

Scope

Research was undertaken in a total of 20 villages, located within the official boundaries of the DSEZ (9 villages), in the roadlinks areas (8 villages), and in 3 villages that lie outside the SEZ area but will nevertheless be directly affected by the project (see table). Villages were selected on the basis that these were the larger villages in the affected area.

Team

There were two teams conducting research: one team, for the SEZ area and nearby villages had 39 data collectors, while the other, for the road link area had nine data collectors. The data collectors for each village were also residents of that village, thus able to account for any local variations of the dialect. The teams participated in a three-day training in early September 2013, before undertaking the field study. All questionnaires were completed by 25 September 2013. In Dawei city there were 11 data entry volunteers, four coordinators and one overall team leader.

Sampling

Researchers used the random sampling method of visiting every third house. However, in some instances an anomaly with data collection occurred: in Ngapidat village, percentage of households in each village interviewed jumped sharply to 82 percent, due to excessive fervour by the research team in carrying out the survey in this small village.

If the household owner was uncomfortable answering or simply did not want to, the researchers would move on to the next house. Interviews in the lowland areas were held in the home of each respondent. In the Karen areas, interviews were held in the local church building.

The teams collected information from 201 households in the upland villages, from 1,303 households in the lowland villages, and from 79 households in Kalonehtar, as listed in table 2,

bringing the total to 1,583 households. A total of 3,699 households are officially registered in these villages.

Approximately 60 percent of interviewees were female, 38 percent male, and, in 2 percent of households, both a man and a woman responded. The vast majority (94 percent) of respondents

had finished some form of formal education, including monastic education (11 percent), primary school (60 percent, middle school (15 percent), high school (7 percent), 1 percent had graduated from university, and 2 percent were schooled elsewhere. Only four percent of respondents were unable to read.

Table 2: Survey Sample

Village	Area	Relevant DSEZ project	Households interviewed
Htein Gyi	Lowlands	SEZ	164
Kha Maung Chaung	Lowlands	SEZ	121
Lae Shaung	Lowlands	SEZ	250
Mayin Gyi	Lowlands	SEZ	73
Mudu	Lowlands	SEZ	135
Pagawzon	Lowlands	SEZ	152
Paradut	Lowlands	SEZ	113
Wet Chaung	Lowlands	SEZ	35
Yalaing	Lowlands	SEZ	108
Bawar	Lowlands	Nearby SEZ (Relocation Area)	72
Ngapidat	Lowlands	Nearby SEZ (Small Port Area)	80
Hsin Phyu Tine	Uplands	Roadlinks	28
Kalatgyi	Uplands	Roadlinks	13
Ka Htaung Ni	Uplands	Roadlinks	17
Myitthar	Uplands	Roadlinks	81
Pyin Thar Taw	Uplands	Roadlinks	25
Thabyu Chaung	Uplands	Roadlinks	19
Yaypote	Uplands	Roadlinks	8
Wahtaw	Uplands	Roadlinks	10
Kalonehtar	Kalonehtar	Water Supply Reservoir & Roadlinks	79
TOTAL			1583

Tools

Questionnaire

A questionnaire was given to the household with an explanation, and spoken answers were obtained from one person between the ages of 18 and 65, although other household members would

provide additional information. Respondents were asked questions about:

- Access to information about the project
- Knowledge of the project and its sub-projects

- Participation in meetings with government and company officials
- Calculation and appropriateness of compensation entitlements
- Receipt of compensation entitlements;
- How compensation money has been used
- Existing sources of livelihood
- Access to water resources
- Household demographics.

Focus Group Discussions

In addition to the quantitative survey, 18 focus group discussions were organized, so as to allow participants to express in their own words their experiences, concerns and recommendations relating to the DSEZ project. One focus group discussion involved participants from 2 villages together, Wahtaw and Hsin Phyu Tine. There was no focus group discussion in Ngapidat.

For each discussion, the village elder was asked to organize groups of 8-12 people. Participants were selected on certain prescribed criteria so as to involve people of different genders, ages, and occupations, as well as those who had and those

who had not received compensation.

Limitations

A different style was used for reporting focus group discussions in 10 villages (Hsinphyu Tine, Kalatgyi, Kah Taung Ni, Myitthar, Pyin Thar Taw, Thabyu Chaung, Yaypote, Wahtaw, Yalaing and Pagawzone), than for the remaining nine villages. As a result, unfortunately, it is not possible to report the gender of contributors in the former groups. While women were well represented in the quantitative study, due to a lack of sufficient attention to gender balance, women's voices were less well represented in the focus group discussions in all villages.

The research team decided not to hold a focus group discussion in Ngapidat village, taking into consideration that, in this exceptional case, most of village had participated in the household survey. As a result, relevant qualitative data was not collected in Ngapidat, which is unfortunate.



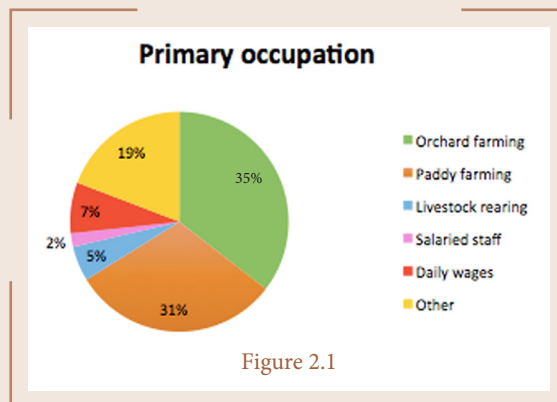
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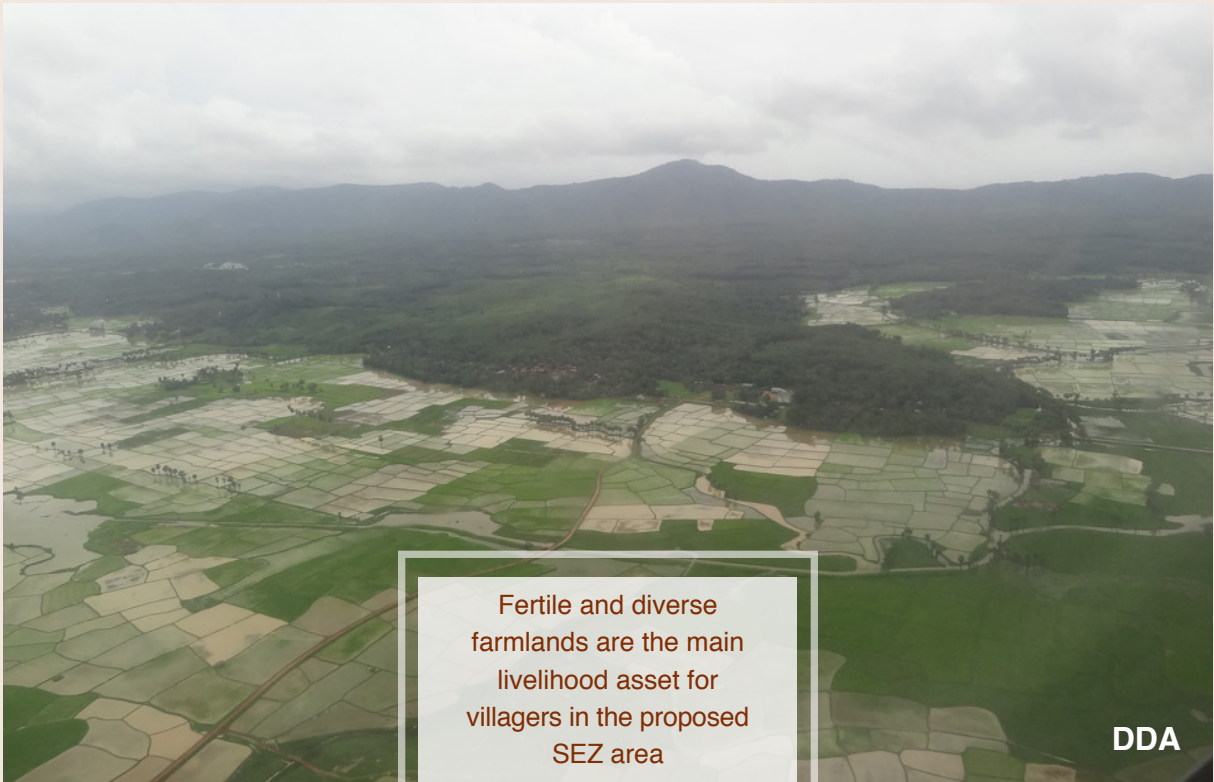
Findings

Livelihoods of those affected by the DSEZ projects

The majority of households depend on agricultural livelihoods and natural resources

In the areas studied, land, fisheries and forests are critical livelihood resources, which provide food, income and employment to various generations of families. Altogether 71 percent of households reported that their primary occupation was orchard farming, paddy farming or livestock rearing. In both the upland and lowland areas, men, women, and children also reported being able to gather food and other resources from local forests and wild spaces, along the coasts and in the hill areas. Resources include fruits, animals (including fish, oysters, crabs), mushrooms, bamboo, medicinal spices and herbs.





Fertile and diverse farmlands are the main livelihood asset for villagers in the proposed SEZ area

DDA



The ruins of Thagara, a place of historical and cultural importance for Dawei people

DDA

Lowland villages

The selected site of the Dawei SEZ is located in an area known locally as Nabule, known for its prime farmland and fertile coasts that have attracted populations to settle there for centuries. The main ethnic group in and around the DSEZ area are the Tavoyan group. As many as 99 percent of the respondents in these villages identified as Tavoyan people.

Many of the Dawei community traditions, represented in festivals, songs, dialects and pagodas, are based around the story of the sacred city of Thagara established in the first millennium. The site of Thagara is located very close to the current DSEZ project site. A revered footprint of the Lord Buddha, and footprint of the King Bull, central to Thagara traditions, are located in Kyidawyar Pagoda compound near the villages of Lae Shaung and Paradut. This pagoda will be surrounded by the heavy industrial zones of the DSEZ, if the scheme goes ahead.

As elsewhere, the majority of people in the lowland villages depend primarily on agricultural livelihoods. What is more, around 41 percent of landowners in the lowland villages surveyed have developed more than one type of farm field, including orchard fields, paddy fields, upland fields and other lands, allowing them the chance to have diverse sources of food and income from different fields, enhancing their livelihood security.

Rice farming was an important component in lowland livelihoods with almost 45 percent of households owning paddy fields. The village most dependent on paddy fields is Mayin Gyi, where approximately three quarters of families hold paddy lands and considered paddy farming their primary occupation. The villages of Yalaing, Htein Gyi, Paradut, and Mudu also have many rice fields with approximately 54-57 percent of families in these villages owning paddy land.

Paddy fields produce not only rice in the rainy season but also other crops. For example focus group participants in Mudu village reported growing crops such as watermelon, roselle, red pepper and other vegetables on their paddy fields after the annual rice harvest. These crops are

harvested both for family consumption and for sale.

However, orchard farming was reported to be the most important source of livelihood in lowland areas, with 75 percent of all respondents holding orchard land. Many different cash crops were grown in the orchards; the most commonly reported was cashew nuts, followed by rubber trees, betel nut and coconut palms. Other common fruit crops include rambuttan, lime, durian, pomelo and mango.

The majority of people in the lowland villages are landowners, owning some area of farmland, though 18 percent of households do not hold any farmland at all. Landlessness was most common in Lae Shaung village, where up to 25% of respondents had no agricultural land of their own, with landless households reporting daily wage labour and raising livestock, as their main occupation.

In the villages located near the coast, livelihoods include fishing and salt production. Some lowland villagers engage in seasonal migration to the coastal areas, conducting farming activities with fishing activities in different seasons. Mangrove forests used to be found along the coast that forms the western edge of the DSEZ before a large area of 369 acres was cleared to build a coastal road into the DSEZ (see digital map image 2.2). These forests used to provide a rich environment for fish to feed and breed, and were thus important fisheries as well as forests for the nearby people of Ngapidat, Htein Gyi and Bawar. Fisheries provided income for around 13 percent of the households in the lowland villages, but are particularly important in Ngapidat where 69 percent of respondents obtained income from fishing.

Roadlinks: upland villages

As described in the previous section, the Nabule plains are not the only area affected by the project. The roadlinks have been constructed through the uplands of the Tanintharyi mountain range, where the main ethnic group are Karen, whose

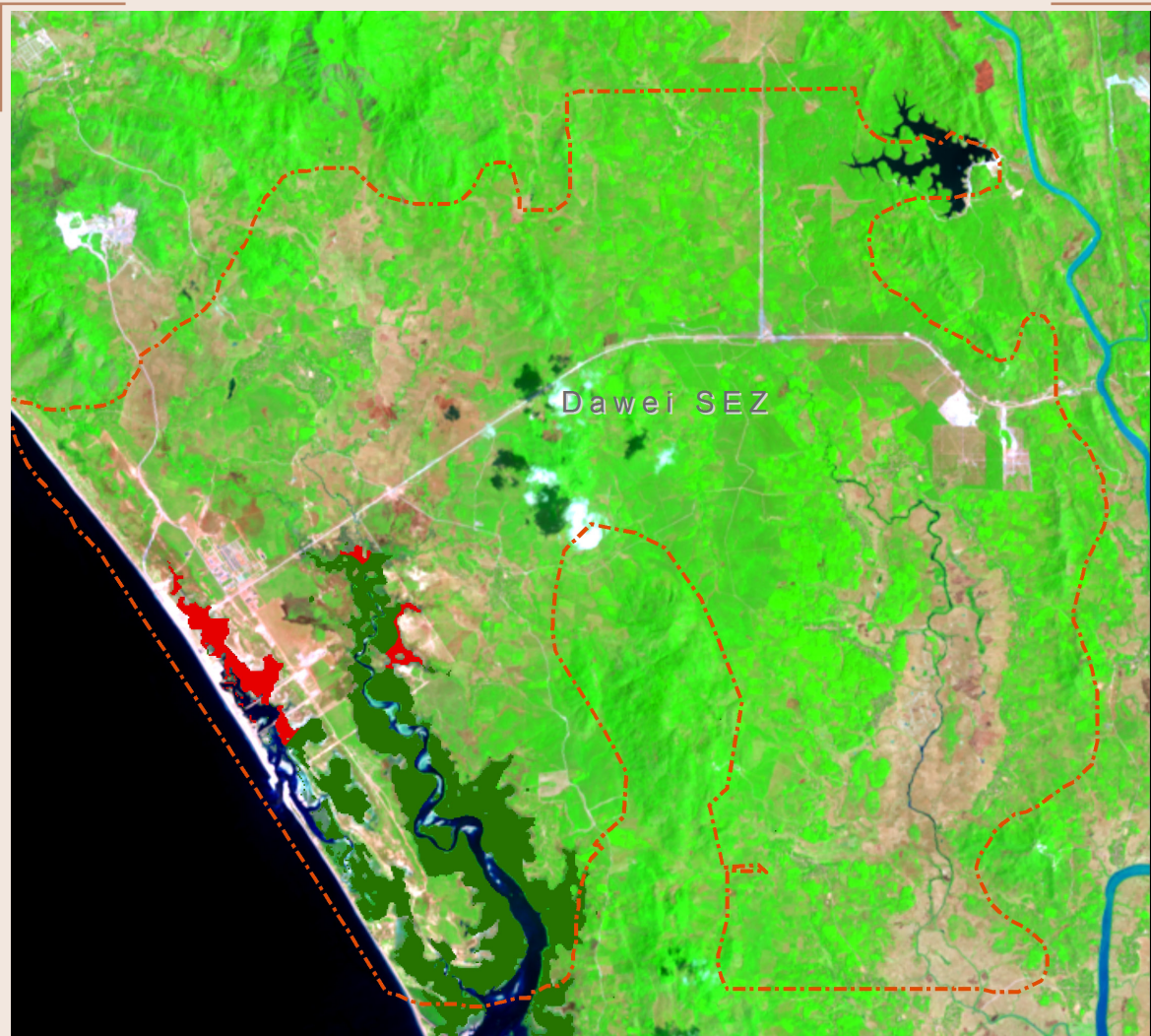


Figure 2.2



Existing: 2742 ac
Lost: 369 ac

Data Source: Global Distribution of Mangroves USGS (2011)
Landsat 8, March 2014

Disclaimer: The Borders of SEZ are only indicative and do not mach exactly with the official measured boundaries.

existence in the area has been recorded for over a thousand years.

Upland communities are even more dependent on land and other natural resources than lowland communities. As many as 94 percent of households in the upland villages own farmland.

Orchards are as important in the uplands

as in the lowlands, with as many as three quarters of upland households holding orchard fields, on which they have planted rubber and betel nut trees amongst other cash crops. Betel nut processing, which is highly labour intensive, is often carried out in these villages. The produce is sold locally, as well as traded for sale in Yangon.

Paddy fields are not common in the upland areas, however many households in the upland villages practice swidden rice farming. By this practice, rice is grown in rotation with other food crops at different times of a given year, and then the land is left to regenerate for several years to allow the forest to regenerate and restore fertility. Two thirds of uplands households reported

holding swidden fields, almost all of whom derive not only food but also generate an income from their swidden harvests.

As part of an integrated farming system, households often raise cattle as well, which graze on vacant and fallow land. For some, raising livestock was reported as a primary occupation, including 12 percent of households in Myitthar



DDA

Coastal communities rely primarily on natural resources for their livelihoods



DDA

Plantations and orchards are a key livelihood activity in lowland and upland areas, while also strengthening the local economy by providing labour opportunities for non-land owning households.

village. Fisheries are also important in the Karen villages, which are located close to rivers, such as Yaypote (where 63 percent of households derived an income from fishing), Thabyu Chaung (58 percent), Ka Htaung Ni (53 percent), Kaletgyi (46 percent), and Pyin Thar Taw (32 percent).

Water supply reservoir: Kalonehtar

Kalonehtar is also located in the uplands but, being close to the Nabule plains, most households (95 percent) identified themselves as Tavoyan ethnicity. Thus, it may be distinguished both from the villages in the lowlands and also from the Karen villages in the uplands.

The landholding situation of Kalonehtar village is quite different to other villages. In this village, 94 percent of families own orchard plots, with very few respondents holding other types of agricultural land.

Orchard farming provides an income for 81 percent of households surveyed, while livestock rearing provides a supplementary income for 44 percent of households.

Non land-related livelihoods in the affected areas

Landless and other members of communities obtain daily, seasonal or full-time agricultural work with landowners, or are employed in cashew nut processing and rubber production. Other households, also directly dependent upon the wealth of the community, engage in small-scale trading. A minority of respondents are working full time (2 percent). Daily wage labour is much more commonplace, though it is only reported as the primary livelihood in 7 percent of households

in the survey.

On average, about a third of households in the lowland villages reported that one or more member of their household was working outside the region, either in other regions of Myanmar or in Thailand. Approximately 45 percent of this remote labour force are women. This phenomenon was much less common in the upland villages, with only 15 percent of households reporting that members of their adult labour force were working outside the region - 55 percent of these workers were women.

About 15 percent of households in the lowland villages reported that one or more of their family members were working for the companies involved in developing the DSEZ, such as ITD. In Kalonehtar and the upland villages however, no households reported any member of their family being employed by the DSEZ companies.

Incomes in affected areas

As reported above, incomes derived from agriculture and natural resources are important to majority of households in the area affected by the DSEZ. Additional data show that 71 percent of households reported income from orchard harvests, 47 percent of households reported income from livestock raising, and 36 percent of households reported income from paddy harvests (see figure 2.3 and 2.4).

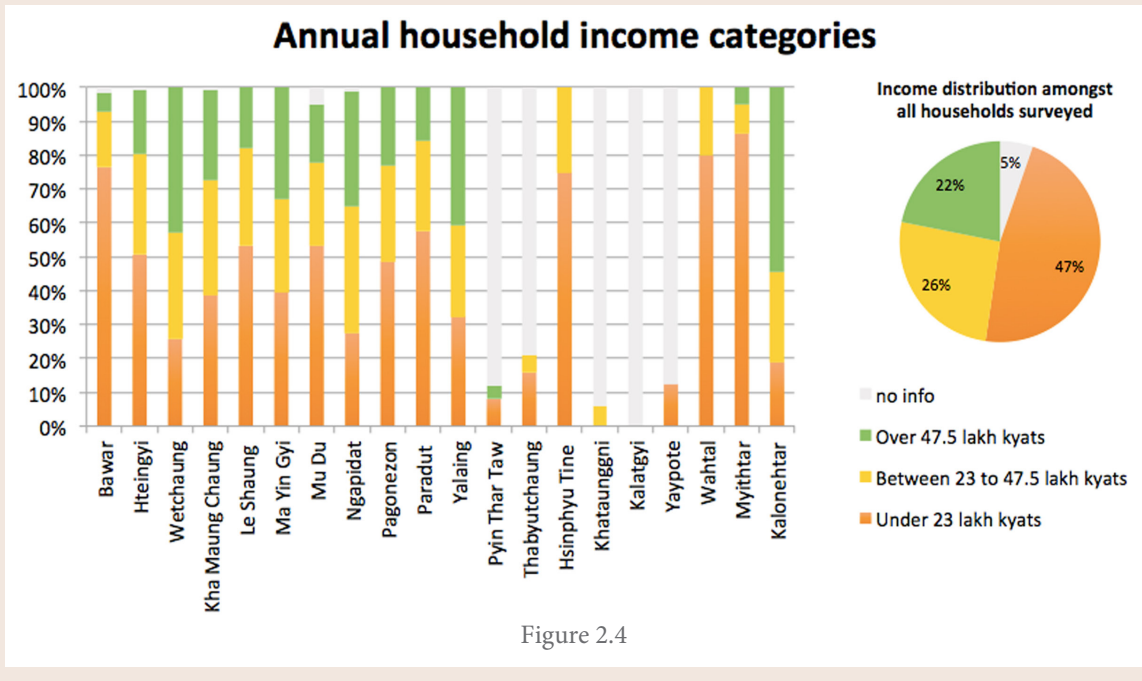
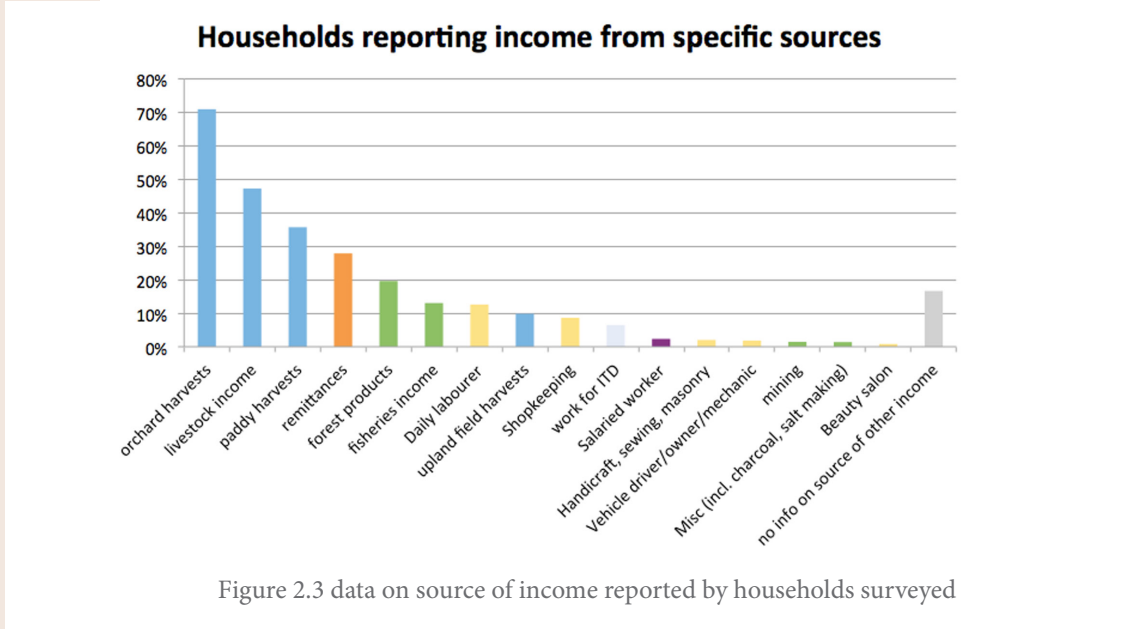
Income figures reported by each household¹² of annual income in 2013 indicate that, approximately half, or 47 percent of all households reported an income of less than 23 lakh kyats per year, or approximately 1 dollar a day per person¹³, and almost three quarters, or 73

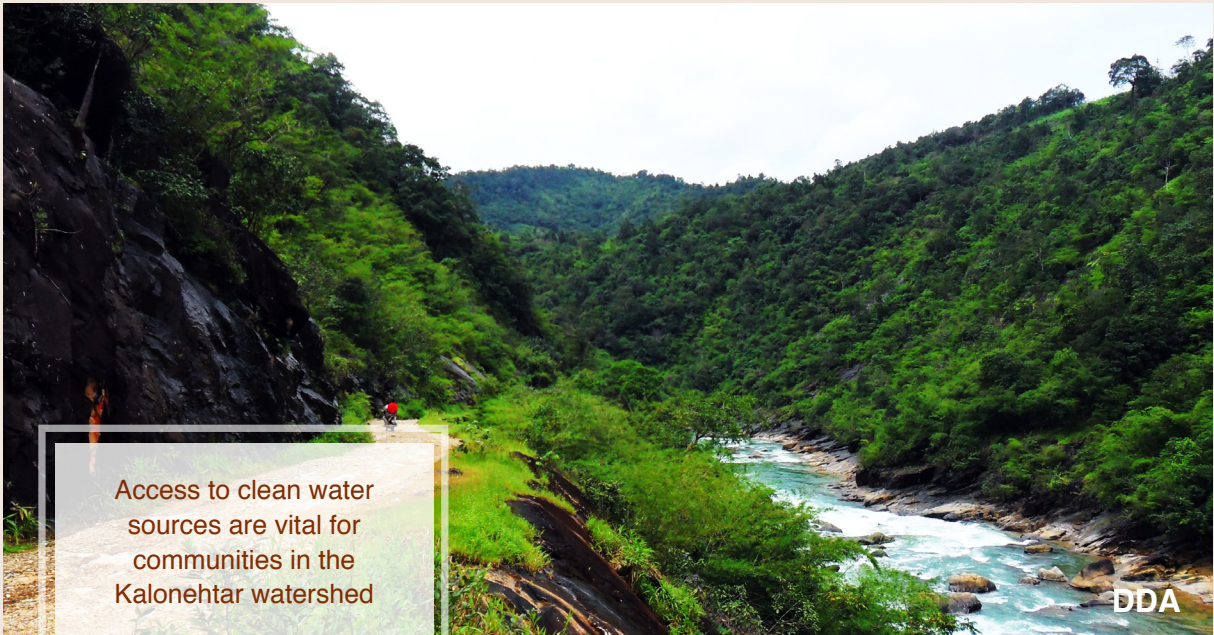
¹² It is notable that many households in the upland villages did not report any income. This may be because livelihoods in the Karen communities can be founded more on the wealth and fertility of the local environment than on monetary income. A full inventory of non-monetary livelihood resources was unfortunately out of the scope of this research.

¹³ This figure was derived from a household income of 23 lakh kyats divided by 365 days (or 6,300 kyats per household per day) and then again by 6.5 persons (or approximately 970 kyats per person per day). This is because the results of the survey indicate that in the study areas, households tend to be large, with the average family size of 6.3 persons per household in the lowland areas and 7.8 persons per household in the upland areas, and an overall average of 6.5 persons per household in all villages studied. 1 US\$ is approximately 1,000 kyat.

percent, reported an income of less than 2 dollars a day per person. With low levels of income, it is unlikely that most families have been able to make savings to help themselves when incomes

fall. This underlines the urgency for responsible parties to provide support to households affected by the DSEZ projects in a timely manner to avoid a critical deepening of poverty in the area.





Access to clean water sources are vital for communities in the Kalonehtar watershed

DDA



Dawei is a place of ecological diversity, with many species endemic to the area

DDA

Summary

In summary, land is a critical livelihood asset for the majority of people in the areas to be affected by the DSEZ. The majority of affected people (71 percent) consider agriculture to be their primary

occupation. The loss of land can therefore be expected to affect people in the areas studied profoundly.

It is also clear that land-related livelihoods

are diverse. Several fields are developed and several uses may be made of one field including various crops throughout the year, which provide both food and income. Also, land-related livelihoods are not only derived from crops - livestock raising, fisheries, and forest products also provide significant incomes for 13 percent of all households surveyed.

Many of the other income sources in the affected areas are indirectly related to land, in particular, agricultural processing work and jobs which depend on the wealth of the community, which are therefore likely to be affected by the drop in agricultural production and the potential collapse of the local economy. The full range of livelihoods in the local area must be taken into account in any arrangements to support the local populations affected by the DSEZ.

Losses and impacts reported

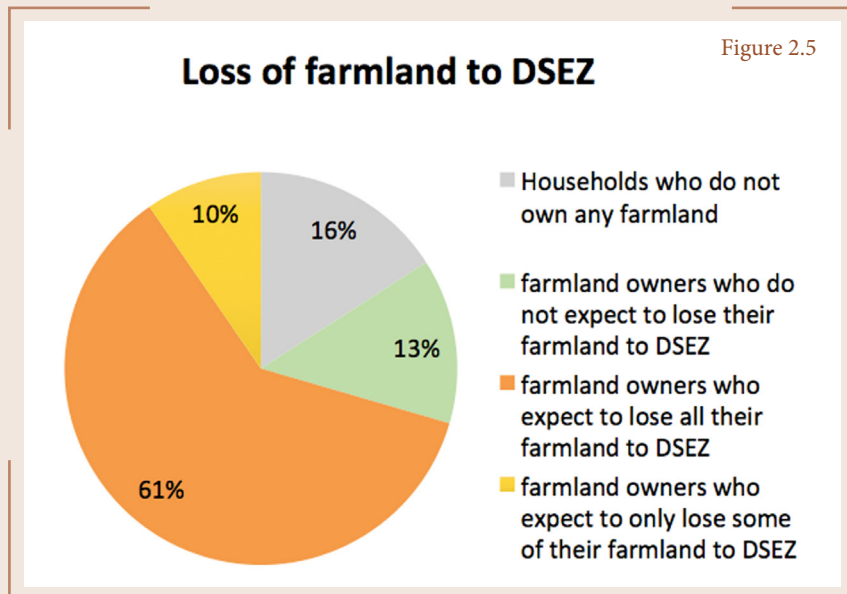
The DSEZ project has begun its initial implementation phase. Based on reports from local residents, project activities began in 2010 near the coast and in early 2011 on the roadlinks. Preparatory works already completed include the clearing of land near Kilometer “Zero”, which indicates the location of the deep seaport and the start of the roadlink to Thailand. Furthermore a quarry, a small port, a visitor centre, and VIP housing, have been built amongst other constructions. Through the mountains, a 150 km long road from Phu Nam Ron on the Thai border to the project site, has been constructed and is now open for traffic.

Prior to the implementation of activities, potential losses and impacts of the local populations do

not appear to have been studied. ITD began to hire consultants to conduct environmental assessment studies in September 2011. Of the three studies commissioned¹⁴, so far, affected communities are only aware of one EIA study - the one to assess the roadlink project. This study was still being conducted in mid 2013, years after the road had already been constructed through village lands.

Households were asked about the land which will be affected by the DSEZ projects, in particular whether these lands are included in the DSEZ project affected areas, and whether compensation has been paid. The results were recorded for each type of land that they hold and some further detail is presented later in this report. It was found that of the 1,583 households surveyed, 1,331 households own farmland, 1,116 households hold land which will be included in the DSEZ. Of these, 964 households expect to lose all their current farmland to the DSEZ. In other words, 71 percent of households surveyed expect to lose some or all of their land to the DSEZ. This data is summarised in figure 2.5.

The table below summarises the losses and impacts reported so far by the participants of



¹⁴ TEAM Consulting Engineering and Management Co. Ltd., Panya Consultants Co. Ltd., and the Environmental Research Institute of Chulalongkorn University (ERIC)



DDA

A giant construction vehicle in the village



ITD construction vehicles on a villager's farm

DDA

the focus groups. They include not only the loss of various types of farmland, which provide both food and income, but also the loss of access to water on which many people rely for irrigation, drinking and domestic use. In certain areas, the loss of forests has already caused many impacts, from the loss of firewood to the loss of foods

previously “freely available”. Other impacts raised include social impacts of poverty, depression, worry, as well as concerns related to the influx of strangers, the health impacts of dust from increased road traffic and deteriorating road safety, amongst other impacts.

Table 3: Impacts of the initial implementation of the DSEZ raised by participants during Focus Group Discussions in study area

Village Name	Loss of Land	Loss of Other Natural Resources	Other Impacts
Htein Gyi * Cha Khan village is within the administrative boundary of Htein Gyi village	Cha Khan village*: homes demolished, salt fields destroyed. Former residents do not have any jobs, feeding themselves hand to mouth through daily labour.	Cha Khan village : We used to have two wells, but one was destroyed. We only have one well now.	Cha Khan village : Former residents are being prosecuted in court for disobeying orders to leave the area. We have no place to dwell or to put our boats. Two or three families are staying together under the same roof in the same tent.
	Htein Gyi village: Since the road now stretches through the paddy fields, the water could not flow as usual. There is no drainage there anymore. While some fields are submerged under the water, other fields that do not have irrigation have turned into barren lands.	Htein Gyi village: The construction of the compound destroyed the mangrove forests. We can no longer find pork ear seashells from the mangrove. They are extinct. There is no firewood anymore. Specific types of mushrooms can no longer be found.	Htein Gyi village: The ITD compound has been fenced with barbed wire. Now school pupils and merchants have difficulties in accessing the village.
Kha Maung Chaung	Owners of farms had to stop growing and nurturing trees and crops after their farms were surveyed.		Tenants cannot be hired for daily jobs now. Local people have nothing to make a living.
Lae Shaung	Farmlands and orchards have been damaged. Orchards have been confiscated.	The construction of the road demolished the edible trees that we grew.	Transport is better than before. There is no conflict for the time being.
Mayin Gyi	Paddy fields (on which people depend) are not cultivable. Due to landslides and floods, all paddy fields next to the hillside were lost. Lands that we used to cultivate have gone either to the hand of a	Mayin Gyi hill was being demolished to provide rocks for the harbour until villagers stopped this project. This caused earth to enter the paddy field and block the streams. There is	Poverty is now a constant worry. Fears of not having the means by which to eat, especially since loss of paddy fields. Social impact, anxiety due to many people constantly entering into land.

Village Name	Loss of land	Loss of other natural resources	Other impacts
	rich guy or to the hand of the company. We no longer have land to cultivate.	no more firewood available. Since cement and pipes were placed at a bridge site, water stopped flowing into the stream. After Linetat mountain was demolished, there is no more forest which could preserve the water. The water now rushes down forcefully and creates floods.	
Mudu	Farms and trees have been bulldozed. Food crops that are lost have caused a double problem – incomes were lost and now farmers have to buy food too. Some can no longer grow watermelon, formerly a major income crop for this village. Impossible to find animal manure.	We have problems with water, so we have to buy it to drink. We cannot use firewood or charcoal from our farm any more for power, so we may have to use electricity. Crabs and shellfish from the stream behind the village are dead and gone now. There are no trees around any more, the climate is now abnormal – it's either very cold or very hot.	Constant threat of being moved is causing depression. Poverty is increasing. “85 percent of the people” are facing financial difficulty. Last year, 270 villagers applied for jobs with the DSEZ project, none of us got a job. Dust is swirling around the village.
Pagawzone	Farmland was locked after they came and measured the farmlands. Wage workers used to have jobs every year such as clearing the forest, cleaning the orchards etc. but now farm owners do not hire daily workers any more, because the farms will be confiscated. The project has dug trenches and put up fencing, which has meant that village tractor carts cannot access farms any more. Farmlands have been bulldozed when no one was there. Dirty water entered into the paddy fields, which made them perish.	Water draining from the machines of project operators have dripped into the stream, so the water is not usable anymore. Landslides blocked the stream from upstream, we don't know why. As a result of these problems, we no longer have our own water for drinking, cooking and bathing. Fish in the river are becoming scarce now. Fishing is becoming an obsolete career. The price of fish has gone up.	Mountain pathway used as a route by motorcycles has been destroyed. The road to the local pagoda to which all villagers pay homage is now separated from the village by a fenced road. It was promised that the pagoda would be moved properly to the mountainside, but this has not happened. Young educated people in the village are jobless. Streets have been damaged by big vehicles. Dangerous for children to be on the road. Parents have extra task to take their children to and from school.
Paradut	Farmlands were lost. Due to the project, the water stopped flowing so that our fields cannot be farmed any more. Paddy fields have been confiscated. People have been prevented from building new houses and planting mango and rubber trees in vacant land.	Roads were flooded up to knee deep, even monks could not go gathering food from pious donors. Water becomes scarce now, there is a drought. Bodies of water 12 elbows deep have subsided, streams have dried up, wells also dried up. This is unprecedented. The mountains and forests (where we used to	Dust from cars all day causes concern for breathing. Vibrations from heavy traffic. A lot of car accidents, some people died, some got hurt. Some hit and run cases. Problems of drivers driving on the wrong side of the road and speeding. Fears about lack of food and economic survival in after displacement.

Village Name	Loss of land	Loss of other natural resources	Other impacts
		get falah, tarots and dog fruits in season) are gone.	
Wet Chaung	Once the farms were measured there was no right for us to grow trees any more, we were not allowed to plant. They bulldozed the trees and orchards.	Water ways are being eroded. Since there are no trees, and the palm oil plantations have been bulldozed, the climate is hotter than before.	Jobs to live by are getting rare. Daily tenant workers have to make an alternate living from manufacturing charcoal from the forest, but since there are few trees left, they are jobless and facing economic difficulty.
Yalaing	We can't work on or cultivate our farm for 3 years now, ever since they measured our farms. They also don't allow us to clear the forest to create new farms.	When the road was constructed, the streams were flooded, excessive dirty water filled the paddy fields so the rice crop perished.	Young graduates have no jobs.
Bawar	When the company disrupted the course of the stream, farms were filled with water. The water system has been damaged. Paddy has been lost due to water shortage. Seasonal crops like watermelon, flowers, cucumber also cannot be grown. Fruit harvest from farms have dwindled on account of water shortage.	When water is scarce we have to drink dirty water. There is no underground water pump well. The natural environment has been damaged. Because of lack of water, meat and fish have become scarce.	Religious and social difficulties as a result of the influx of labourers.
Hsin Phyu Tine and Wahtaw	The land is hurt	At the moment, due to the lack of rain, we have to purchase purified water for consumption.	
Kalatgyi	Farmlands lost. We can't do husbandry of our animals.	Meats and vegetables are growing scarce. We can't find vegetables to eat. Freely available trees, fruits, and leaves were gone. Forests are becoming devastated. Water has become dirty and undrinkable. There are fewer trees, fewer monkeys, and fewer fish.	Orchids, honeys, roots were stolen.
Ka Htaung Ni	Farmlands destroyed	Forests are becoming devastated. Water became dirty and undrinkable.	
Myitthar	Lands have been vandalised and farms have been lost.		Dust is being inhaled. Orchids, and a few wild animals were taken to Thailand.

Village Name	Loss of land	Loss of other natural resources	Other impacts
Pyin Thar Taw	Farmlands destroyed	Rivers and streams utterly damaged, aquatic animals reduced. Freely available trees, fruits and leaves have perished. Forests are being devastated. Water has become dirty and undrinkable.	So what can we eat?
Thabyu Chaung	The farmlands have been lost	Trees, fruits and leaves that we can find without buying have been demolished. Rivers and streams are diminished, forests are degraded. River water is saturated with impurities. Rivers have become shallower, river banks eroded, river species are disappearing.	
Yaypote	The land we can cultivate has been reduced.	Forests are becoming devastated. Water became polluted and undrinkable.	Dust is being inhaled. Orchids, and a few wild animals were taken to Thailand.
Kalonehtar	Lost crop land due to the project. Farms and orchards were taken for the road construction. The Falah forests which provided a high annual income for people here (90 million kyats per acre per year) have been chopped down.	Earth has fallen into the stream which means that we can no longer catch fish there. Water is undrinkable. River banks were eroded and have collapsed in some places.	A negative impact of the Deep Sea port was that since June 2010, rich people have come to buy land in the village. They knew about the project before we did. We did not know their objective. There is a scarcity of land now in the region. There is strife and tension as a result of competition for land. Some people who lost their land have become jobless.

The results of the quantitative study shows that overall 25 percent of the households are suffering problems related to access to water resources. Such problems were reported much more frequently in the upland villages than in lowland villages. In the upland villages as many as 71 percent of households responded that DSEZ project activities (including road construction, dam building or other constructions) had affected

their water sources. In the lowland villages meanwhile, 17 percent of households reported experiencing problems so far related to the access and quality of water sources after initial project activities.

Of the households reporting difficulties, those problems most often experienced included a change in colour or cleanliness of the water (57 percent), sediment in the streams (50 percent),

and the drying up of water sources (54 percent).

Overall, 96 percent of households in the area report that they obtain their drinking water from shallow wells. An almost equal number (95 percent) use these wells also for washing and other domestic uses. Fifty one percent of households also use this source for feeding their animals and 30 percent also use this source for crop irrigation. It is very important therefore that shallow wells are protected, as their contamination or destruction can be expected to have an immediate impact on the health of the families depending on them, unless other adequate sources are urgently made available. Villagers in Cha Khan (Htein Gyi) have already lost a shallow well and are facing hardship, as described further in a case study presented later in this report.

Processes of land confiscation

Access to information

Affected persons have had very little access to information about the Dawei SEZ, its sub-projects and displacement effects. As will be reported in this section, opportunities for meaningful consultation have been limited and ineffective. Information activities conducted by company and government officials have not reached the majority of affected persons. Printed materials were received by few and understood by only half of those who received them. Community meetings were not consultative, participatory or inclusive, and failed to share sufficient information about the Dawei SEZ and its sub-projects.

Most affected persons found out about the Dawei SEZ project informally – most commonly through word of mouth (70 percent), and local media (13 percent). however, as reported later in this section many people are still in the dark about what the project involves. Reports from the Focus Group Discussions reveal that in many cases, affected persons learnt about the

project only when officials came to survey their land, farms and gardens; or by witnessing the commencement of construction activities. Only 7 percent of respondents in the entire survey said that they had been notified about the project by the government authorities.

Two thirds (66 percent) of households surveyed did not receive any form of information from government or company at all. Of those that received information in some form from the government or the company, the majority, around three fifths said that the information revealed only positive impacts and benefits of the project, with the remainder, or two fifths, being informed also about some of the potential negative impacts.

Printed materials and documentation

Only 8 percent of respondents reported receiving project information via printed materials. However, half of those respondents said they could not understand the written information provided.

This data demonstrates that the vast majority of affected persons (92 percent) did not receive official project information in document form – an indication that the distribution of printed materials was extremely limited in its coverage.

Knowledge of the project

Information dissemination activities appear to have been wholly ineffective. The full nature and scope of the DSEZ project appears to be unknown to the communities. Only 6 percent of households surveyed, and not a single participant of the focus groups in any of the villages revealed knowledge that the project would involve oil and gas and petrochemical industries.

Most commonly, groups knew of the construction of the deep seaport (especially those in the SEZ area), and the highway (especially those in the roadlinks area). Five groups were aware of factories in general, which they were told would

Table 4: Extent of knowledge about the DSEZ project reported in focus group discussions 2013-2014

SEZ area and nearby:	
Htein Gyi	<i>We learned they would build a coal factory and a deep sea port, buildings will be constructed.</i>
Wet Chaung	<i>We don't know what kind of buildings will be built. We heard that enterprises and alcohol manufacturing factories would be built there. A construction scheme about building a coal factory has been told to us once.</i>
Kha Maung Chaung	<i>A deep seaport, factories and working facilities will be built.</i>
Lae Shaung	<i>We learned that they would construct a deep seaport, an 8 lane and 6 lane road between Thailand and Myanmar, cement factories, garment factories and work-related facilities.</i>
Mayin Gyi	<i>We knew about the deep seaport although there was no announcement. They told us they were going to construct a coal factory.</i>
Mudu	<i>The land is being taken for the deep seaport</i>
Pagawzone	<i>A highway connecting Thailand and Myanmar, factories and working facilities are to be built. We learnt that they would construct a second-class factory.</i>
Paradut	<i>We were told they were going to do some work at the beach in the village called Mayingyi.</i>
Yalaing	<i>We heard they were going to build a coal factory. Also that they would build a cement factory.</i>
Bawar	<i>We have heard of the resettlement programme. Factories may appear but not in Bawar.</i>

Roadlinks area	
Pyin Thar Taw	<i>We learned there would be a road, a "coal-mill" factory, a dam.</i>
Thabyut Chaung	<i>Some people know there will be construction of a deep sea port, others do not. We know that they are building a road.</i>
Hsin Phyu Tine	<i>An international sea port will be constructed, a tunnel for the electric railroad will be built.</i>
Ka Htaung Ni	<i>We have learnt that it is for a road construction, a coal mill factory, and building a dam.</i>
Kalatgyi	<i>The only thing we know about the project is the road construction.</i>
Yaypote	<i>The project is to construct an Asian highway.</i>
Myitthar	<i>We only know about the road.</i>
Kalonehtar	<i>We saw miniature models of the deep seaport, and a model of the dam at Kalonehtar. A factory is being constructed in Pagawzone.</i>

create jobs for the unemployed. A few types of factories were mentioned in particular, each relating to the light and medium industries only, e.g. garment factories, an alcohol distillery, as

well as cement manufacturing (see table 4).

Five groups mentioned the coal-fired powerplant (CFPP)¹⁵, but expressed the belief that this project has now been cancelled. As mentioned

¹⁵ referred to as a "coal factory" in local shorthand



Supplementing livelihoods by catching fish has been affected due to the destruction of aquatic habitats, resulting from construction activities



A section of the road links area cutting through existing farmlands

DDA

earlier, there are signs that CFPP projects may be allowed to resurface, unbeknownst to the local people and in contradiction to the public commitment given by Minister Khin Maung Soe in 2012 to cancel the project on environmental grounds were corroborated by the household survey. Less than a third of respondents (27 percent) reported having knowledge about any of the

specific components (sub-projects) of the SEZ project. Only 1 percent of all those surveyed, could identify all sub-projects. Amongst those who had heard of different components, the most well known of these were: the road link, the dam project, and the coal-fired power plant.

As mentioned above, only six percent of all households surveyed knew of the oil, gas and

petrochemical industrial complexes to be built in their neighbourhood, despite the fact that these are central components of the SEZ development plan (see DDC graphic of industrial zones planned below).

Source : Amalgamated images from DDC website (accessed on 26 April 2014). Note : Also included in the plan but not labelled are the medium industries area in the zone outlined in yellow and the light industries area in the zone outlined in dark blue, the water supply reservoir in the distance alongside the transborder corridor (roadlink). The website also makes it clear that upstream and downstream petrochemical plants are also included in the current plan.



Figure 2.6

Meaningful consultation

There is very little evidence of meaningful consultation of the communities affected by the DSEZ projects. When community meetings were held, only limited groups were invited to participate, and rarely were people invited to contribute their views, concerns, questions, conditions, and recommendations. Limited access to prior information also undermined the ability of affected persons to engage in meaningful consultation. Affected persons had little or no time to discuss the implications of the project in detail amongst themselves before or after meetings, and were

rarely informed prior to the start of construction activities, meaning they could neither discuss compensation nor contribute to resettlement plans at the right time.

Community meetings

Collating the results of the household survey, it appears that community meetings related to the DSEZ were held in all villages. However, not all affected people were called to attend. Only 27 percent of respondents reported having attended a community meeting about the implementation

Did you attend any kind of discussion or meeting related to project implementation?

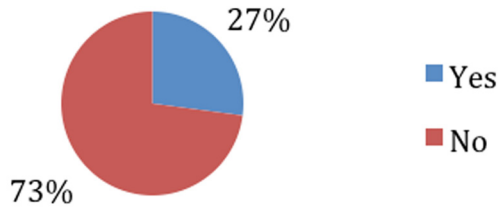


Figure 2.7

of the DSEZ project. The majority of affected persons [73 percent] have not attended any such community meeting.

In focus group discussions, respondents described how on many occasions, people invited to community meetings were those who the company and government officials believed would be most likely to support the project. The following are a selection of testimonies from affected persons:

- An elder woman farmer and salt-maker in Htein Gyi village: *‘only people useful to them were invited, we couldn’t get involved.’*
- A young orchard farmer from Wet Chaung village: *‘they came to us, but didn’t hold consultations, nor did they ask the desire of the villagers. They just showed up and went back. That’s it.’*
- An elder male orchard farmer from Lae Shaung village: *‘When they announced the session... they only invited people who are acquainted with them and ITD.’*

In the upland areas, focus group participants noted that only those who had “been hurt [by the roadlinks project]” were invited to the meetings, which focussed only on compensation.

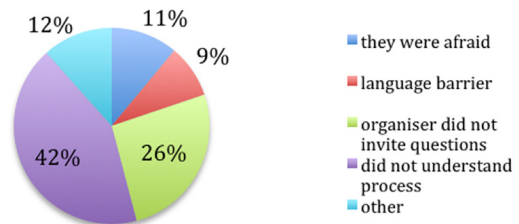
Of those who attended a community meeting, as many as 82 percent said they did not participate in the discussion.

When asked the reasons for not participating in meetings, the most common response

of those attending was that there was no clarity about the purpose of the meeting and whether they would be invited to speak (see below). The inadequacy of information provided before the community meetings is likely to have contributed to the lack of understanding of the process of community meetings by as many as 42 percent of the respondents. In addition, over a quarter of respondents specified that the meeting organisers did not invite any questions or contributions from them.

Important questions have never been satisfactorily answered. For example, a male paddy farmer in Mayin Gyi village said *‘Although they said [the Dawei SEZ] was for the development of the state, we would like to raise a question why our rights to possess are being lost, for we are citizens of this country too.’*

Reasons for not participating in the discussion



Note: Re Language barrier, Karen, Dawei and Burmese are spoken in project areas

Meetings were described by focus group participants as being akin to presentations by officials rather than constituting any kind of meaningful consultation with affected persons. They described the approach of the meeting organisers as follows:

- *‘They just spoke out with only one-way speech our wishes were not asked’,* resident Thabyu Chaung village
- *‘[We were given] no privilege to discuss, no*

opportunity to express our wishes’, resident, Kaletgyi village

- ‘The only thing they told us was that the companies were coming on the way. We were not permitted to speak out what we would like to say’, resident Hsin Phyu Tine village
- Elder female paddy farmer from Mudu village: ‘The question as to when our village had to be moved was not answered. None of our questions were answered.’

Overall, meeting facilitators failed to create a space where affected persons could ask questions, be confident to participate in discussion without fear, and be able to participate meaningfully in the discussion overcoming language barriers.

Lack of Consent

As discussed above, people in both the upland and lowland areas are being threatened with displacement as a result of the DSEZ project. Land confiscation was not discussed in meetings, as the fact that the land would be confiscated had already been decided prior to talking with affected villagers. The household survey indicated that only 8 percent of households felt that the government had taken their consent before the project activities had started.

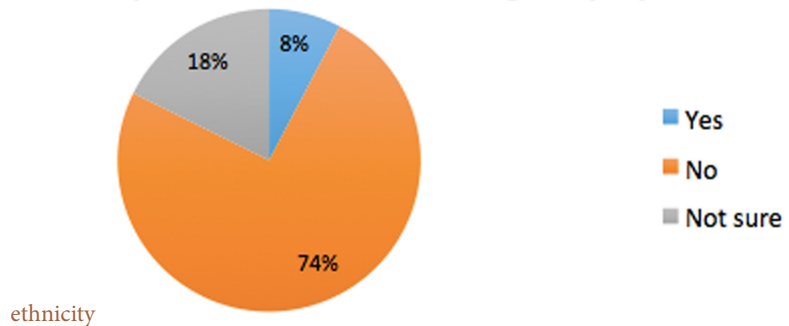
Various participants in the focus groups described the situation as follows:

- A male paddy farmer from Mayin Gyi village: ‘the administrator of the quarter and a group of people gathered themselves in a secret place and discussed confiscating paddy lands. They didn’t let people know about it.’

- Resident in Yaypote village: ‘The government or the company never has asked us about our intention and wishes regarding the project.’
- A young male worker from Wet Chaung village: ‘Due to the fact they hadn’t told us what they were going to do, we didn’t have an opportunity to express whether we agree or disagree.’

Figure 2.9

Did the government take your consent to develop the DSEZ before starting the project?



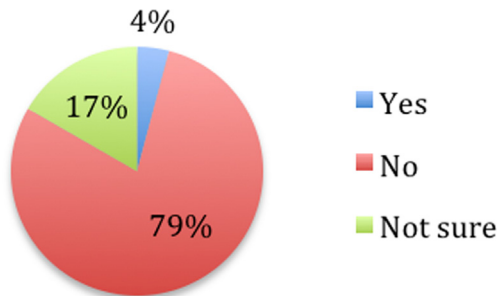
ethnicity

Overall 79 percent of households were clear that if they were free to decide, they would not want to move out of their home village. There was a significant difference in this data among lowland areas and upland areas - whereas 75 percent of households in the lowland areas are certain that they do not want to move, 87 percent in Kalonehtar and as many as 99 percent of households in the upland areas clearly stated that they do not want to move.

Reasons for not being willing to move were expressed in many focus groups, ranging from satisfaction with the livelihood obtained in their current environment, community interdependence, ties to their birthplace, association of the land with identity, ethnicity to fears of the unknown. For example,

Figure 2.10

If you could decide without fear or pressure, do you want relocate to new place?



- Resident in Thabyu Chaung: *“We are quite right with living here. For eating, we don’t have to buy vegetables, meats and fish, we are not lacking of firewood either. The climate is fine here. We are not sure enough whether the place we are to shift to is quite right for us or is incomparable to this present place. We might have so many obstacles to face, perhaps.”*
- Young male paddy farmer from Mayin Gyi village: *“In our own place, everything is ready and we could go in and eat no matter which house that would be. If we go up to the mountain, we have no problem picking up bamboo shoots and some vegetables, and eat. Therefore, we haven’t considered moving out.”*
- Resident in Myitthar: *“We don’t want to move. Really we mean it. We only want to live in our native land.”*
- Resident in Hsin Phyu Tine: *“We want to live in our native place. Our native place has assurance.”*
- Male paddy owner from Mudu village: *“The place [we are living in] has shady trees. We are accustomed to live in a tranquil place, and we like the tranquillity.”*
- Elder female farmer from Paradut village: *“We are old, we would like to stay in our own place. There are no fruits in the new location, we would be jobless there, and have to make a living out of hand-to-mouth daily wage jobs”.*
- Elder male paddy farmer from Mudu village: *“If we will have to move and do not have our own place to dwell, then we would become persons without country and race”*
- Male orchard and paddy farmer from Bawar village: *“If we are to move and live somewhere [else], we will be burdened heavily mentally. It won’t be the same as [we] live normally right now.”*
- Elder male farmer in Lae Shaung village: *“The reason we don’t like to move is that the place called Lae Shaung has been around since the time of our ancestors. There is a pagoda that has been there for a long time. If we are to move away, we would have to forsake it.”*
 - In the lowland areas, a minority of people, around one fifth of households (19 percent), were not definite about whether they would like to move or not. Some focus group participants in these villages expressed that they might be willing to move if the conditions were put in place to support them, such as access to new farmland, housing, electricity and water. One participant in Mayin Gyi referred to the specific clause in the DSEZ law (chapter 8 section 34) according to which affected persons must be given support so that their situation after relocation is not inferior to their original status (see further in Part 3). The following statements from focus group discussions illustrate the thinking of those who have considered moving:
 - Female orchard farmer from Wet Chaung village: *“If there would not be an improvement, we would not move because it would be meaningless to do so. If people are not to suffer, we could be able to make a move. If they are to suffer, we are not moving.”*



TRIP-NET

Landslides as a result of road construction have blocked waterways, inhibiting access to water for crops and domestic use



DDA

Only 15% of surveyed households have received compensation for confiscated land, of which four-fifths are still waiting for completion of payment

- An elder male fisherman and paddy field worker from Mudu village: *‘We don’t want to stop them claiming that area as an economic zone of the state. We could accept it if the company helped people survive outside by themselves, and if they obeyed the written legislation regarding the economic zone.’*
- An elder male paddy and orchard farmer from Mudu village said: *“As for me, I absolutely won’t accept [the offered] compensation. Only one out of three among the locals could survive on it, and the rest couldn’t do so. If cultivable land and paddy field could be substituted, I think that we can move out in no time. If things go that way, it is good.”*

Intimidation by officials

Worryingly, it appears that deception and intimidation are being used by local officials to gain consent for the project. Reports from one focus group indicated that the local politicians from the Union Solidarity and Development Party (USDP), agitated for the villagers to move out, insisting that this project was a “must” for the country’s development. The following testimonies were noted:

“There are crony brokers who were sent by the government who were inside. [Name withheld] from Kyant Hput party, is a huge broker. They came there and told people by using a system of cheating and bullying that this is the project of the state, so [we] should take [compensation] when they were offering or [we] wouldn’t get that much in the future... the villagers were shocked and sold their land.”

“We felt that a different country came and bullied us. The state government also ignored that fact. There was no consultation. Since they came and did whatever way they

desired, it seemed like an act of destruction being brought here”.

Elsewhere, focus group participants spoke of fear leading them to accept compensation against their will. For example:

“[name withheld] had signed for 1,500 lakhs, but by the time he took it, he actually received 750 lakhs, he took it in fear because they said to him that they didn’t care whether he would take it or not.” Female paddy and orchard farmer in Paradut village.

“We didn’t want to accept the reimbursement money, but we accepted [it] because our belongings were already lost. Prices were not assessed, and the price range that the villagers had submitted, the company bargained on it. They came to clear the land and farms with bulldozers without letting anybody know about it, they did this on a Sunday when no one was there. Before the exact quantity of the [betel] nut palms started to be counted and announced, they cheated by pushing down some of those nut palms. Though unwilling to accept the reimbursement money, we accepted it in fear.”
An affected person in Myitthar village.

Other focus group participants also spoke of evictions and land clearances happening without notice. For example a female orchard farmer from Wet Chaung village stated:

“I don’t know which organisation that is, but the personnel from it is bulldozing the farms, stealthily when nobody is there.”

In Kalonethar, where the dam for the reservoir is to be built, focus group discussion participants reported that the Supporting Working Body started a propaganda campaign, preparing information documents about Dawei SEZ. They also prepared agreement letters outlining villagers’

“There is more need [for] money where no forest exists”. Access to local resources has been strongly impacted by the confiscation of land for the DSEZ.



DDA



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NO DAM and NO RELOCATION campaign by Kalonehtar villages during a meeting with ITD representatives

consent to building the dam and relocation of Kalonethar village, which they attempted to get villagers to sign. The villagers refused to sign these letters. Local township authorities then summoned the village elders to come to the Dawei SEZ office to try and persuade them to sign the agreement letters. They refused again. Next, a township officer came to the village, and asked the villagers to sign again. A third time villagers refused. Finally when USDP MPs, local authorities and ITD arrived in the village along with police (“bodyguards”) in a fourth attempt to get the villagers to sign the agreement letters villagers remained silent but held a poster and banner saying firmly “No Dam” and “No Relocation”. However, this pressure and intimidation created a huge amount of distrust of local and national authorities:

“They (the government and company) did not pay attention to the local people. Since the beginning they were not honest.” Elder male orchard gardener from Kalonehtar village.

Meaningless consultations and image building

In May 2013, academics from the Environmental Research Institute, Chulalongkorn University, Thailand organized a consultation with villagers from Thabyu Chaung village as part of the process of the environmental impact assessment (EIA) on the road link. This effort at consultation occurred some three years after the commencement of road construction activities that had already resulted in displacement. Affected persons from Thabyu Chaung village complained about the belated “consultation” adding several further points of dissatisfaction with the process. These included the fact that official written invitations

had not been issued; only people from certain villages in the village tract were invited, thus raising suspicions that the effort was designed to divide communities; the meeting time was too short; and the agenda and purpose of the meeting was not notified beforehand. As a result, affected persons from Thabyu Chaung village refused to participate in this meaningless consultation.

Elsewhere, the company has been found to be making use of images of local people in their promotional campaigns, which falsely implies local participation in the project. For example, in Kalonehtar village, affected persons have reported discontent that ITD staff took photographs of monks in conversation with ITD staff and – without consent – reproduced these photos in promotional materials for the project that were subsequently displayed at the ITD ‘visitor centre’ in Dawei. Kalonehtar villagers responded to this incident by displaying clear signage expressing discontent with project activities in subsequent community meetings, as a measure to ensure this misappropriation of their images by ITD could not occur again.¹⁶

¹⁶ See: Paung Ku, LIFT report 2014 (Kalonethar Case Study)

Compensation

Information on compensation process and entitlements

Sixty three percent of respondents said that company and government officials had not provided or disclosed accessible information about the pricing and process of compensation.

Payment of compensation

Overall, only around 15 percent of all households surveyed reported having received compensation

payments. Where compensation has been provided, there have been significant delays in payments to affected persons, and payments have not always been made in full. Four fifths of those who had received some level of compensation payment were still waiting for completion of payment. The vast majority of households surveyed have not yet received compensation despite being located in areas that will be directly affected by the DSEZ project.

Did government or company officials disclose accessible information about compensation?

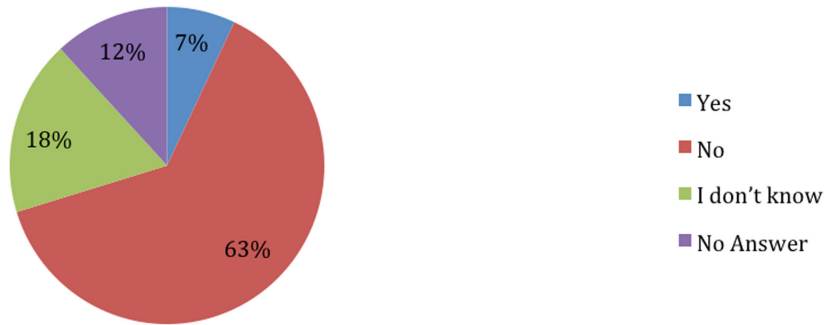


Figure 2.11

Have you received compensation payments?



Figure 2.12

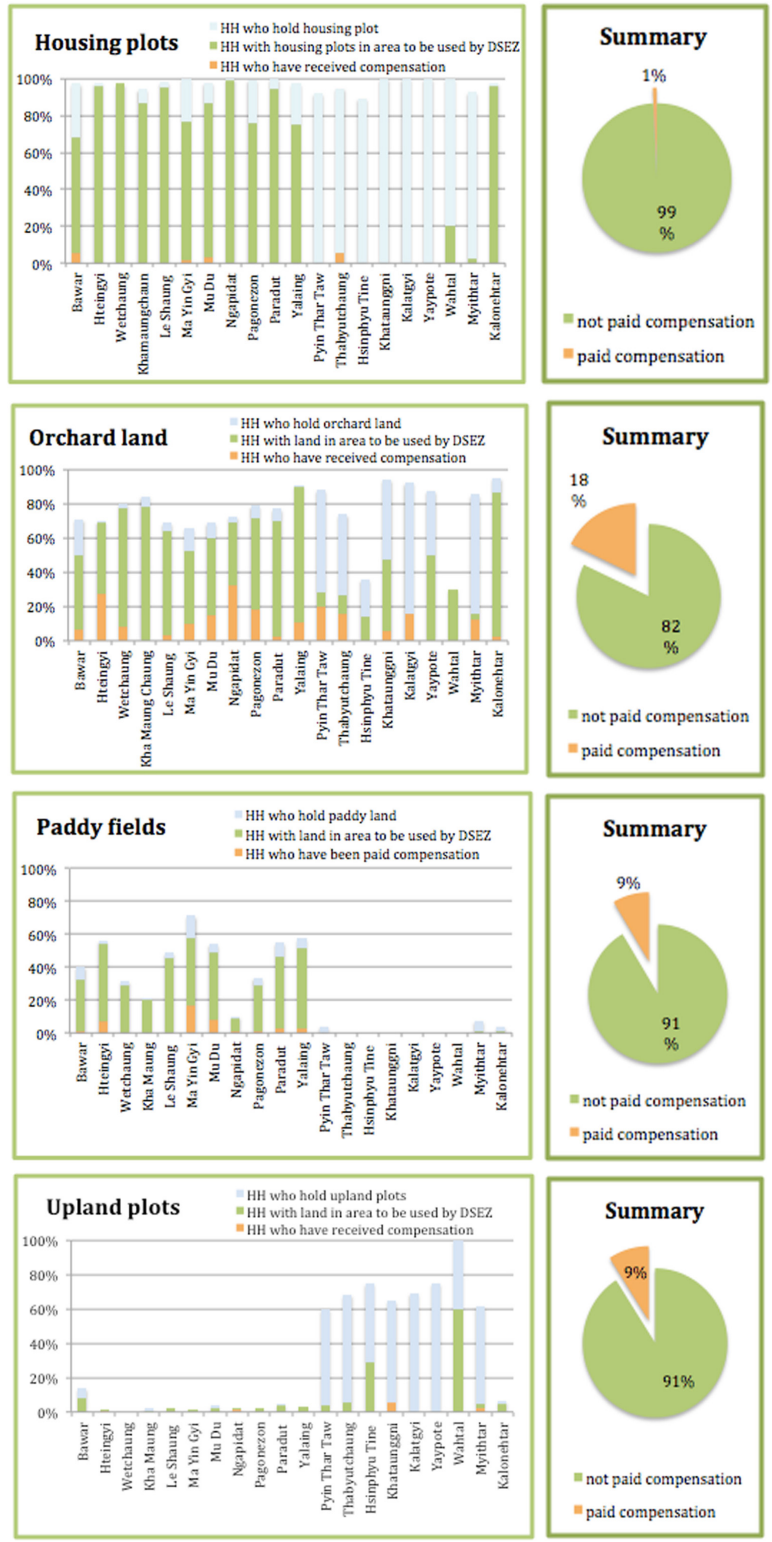


Figure 2.13

Housing plots Amongst the households surveyed who own their housing plot, four fifths (79 percent) are living in areas designated for use by the DSEZ project. Only 1 percent of households reported that they had received compensation for the loss of their homes and housing land.

Orchard land Around 84 percent of the households who have orchard land have learned that their orchard fields are in the area designated for use by the DSEZ project. However, less than 1 in 5 of these households (18 percent) have received some level of compensation for orchard land.

Paddy fields Almost all (90 percent) of paddy owners have fields located inside DSEZ area. Just over 8.5 percent of paddy owners have received some compensation for their fields, while 91.5 percent report that they have received nothing at all.

Upland plots Of the households who have developed upland plots, 30 percent have been informed that their lands will be used by the DSEZ project. So far only 5 households or 9.09 percent report that they have received compensation.

These testimonies of respondents are illustrative of the delays in issuing compensation:

- A female farmer in Htein Gyi village: “[Its been 3 years since they constructed the road]. We haven’t made money for 3 years. Although they promised to give us reimbursement, they didn’t. They took pictures of our orchard, but they didn’t give us anything. Though we waited in hunger with expectation, they didn’t give us anything.”

- Female orchard farmer in Wet Chaung village: “If [the authorities] are going to pay the reimbursement to a specific farm that they have designated, they should survey that farm alone. But, they instead measured every farm, and they didn’t allow us to plant [on surveyed land]. They can [survey] if they reimburse for everything after they have done the survey.”

- A female resident in Yalaing village: “It has been 3 years now that they came and measured our farm, but we haven’t received any reparation yet. We are frustrated. Our farm is under guard by my husband in fear of it being bulldozed. They don’t allow us to work it, or to clear any forest. Since then, we haven’t cultivated. The trees were small in the time of their measurement, [but] they are now big and tall, so we wonder how they are going to compensate them. We want them to grant the reparation as soon as they have measured, not waywardly, without discipline. What they are doing right now is just bullying.”

- A male resident in Htein Gyi village said: “We would be satisfied if we received what they promised us. They said that they would do everything properly so that no one should worry. If they were good to their word, then there is nothing further for us to say.”

- A male paddy farmer in Mayin Gyi village said “We thoroughly couldn’t accept the manner that the Thai had done this, [it was] like

robbing the farms. It was too bad that we had to pursue them in order to ask those people to give us [compensation] after they had first taken away.”

Of those who had been partially or fully compensated, most payments were made by company officials (37 percent), government officials (29 percent) or at a meeting attended by government officials, company officials and local authorities (30 percent).

Receipts

Only 9.3 percent of respondents that received compensation were issued with official documentation to record the calculation and payment of the compensation. As many as 59 percent of those who received compensation received no documentation of the compensation payment; 30 percent received some unofficial piece of paper. Photographs of payment records show that a wide variety of formats were used. Some were fairly detailed, such as the one from Htein Gyi village (overleaf) which includes the company name and details the number, type and age of tree crop to be compensated, along with details of date and various signatures indicating approval by representatives of both ITD and the Max Myanmar company, the owner, the Village Administrator, the Township Perennial Farms Officer, and the Township Land Records Officer. Others are a simple paper slip typed or handwritten in English and including details only of the name of the owner, the total area, and the total amount of compensation (a signature and date has been added in one example). It must be assumed that the amount of compensation recorded in the typed example (7.68 kyat) is incorrect. In the final example, a scrap of paper was issued with handwritten Burmese script indicating the name of the owner and the sum of compensation paid.

Amounts of compensation
 Seventy two percent of respondents reported that the company did not establish a standard pricing structure for the determination and allocation of compensation. Eighteen percent were not sure and three percent said that although a system had been explained to them, this system was not applied. Only 7 percent of households reported that there was a standard set of rates for compensation. In addition, just over half of all households reported that the rate of compensation not only changed, but changed frequently. Only 4 percent of households responded that the price did not change at all.

Sixty nine percent of respondents reported that the calculation of compensation was not fair or equal. In focus groups, it was reported that company officials and authorities had bargained with individual households over compensation payments.

Affected persons closer to authorities reportedly received higher amounts of compensation. Affected persons with better access to information and a stronger capacity to understand the transactions involved were able to negotiate higher compensation. In Kalonehtar village, for example, the focus group participants reported that private business persons engaged in land speculation and acquisition prior to communities being informed about project activities, in order to access compensation funds.

Who paid the compensation?

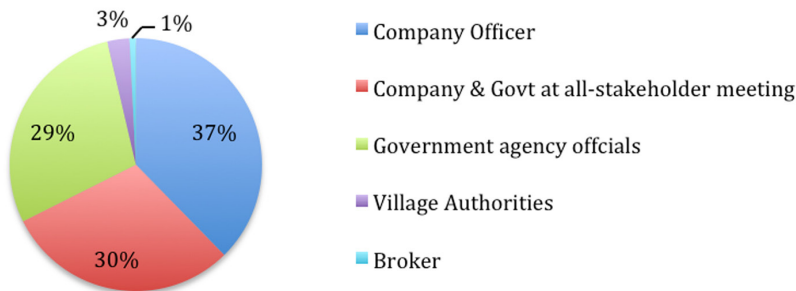


Figure 2.14

Did you receive documentation of the compensation payment?



Figure 2.15

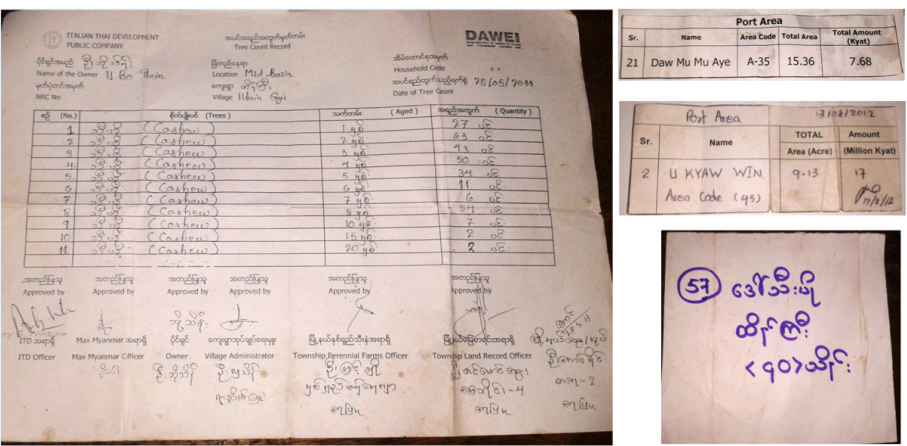


Figure 2.16 : There was no standardisation of payment records issued to households following payment of compensation. As many as 59% of households who received compensation were not issued with records.

Was your compensation fair and equal to that received by others affected by the same project?

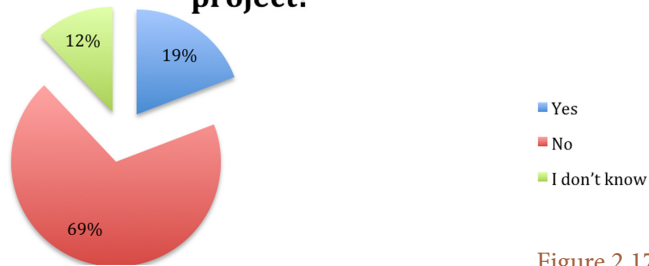


Figure 2.17

said “we didn’t know which organization came and performed the task or who were the people that gave us compensation. We didn’t know how to respond to the people who came and asked us things.”

- A female paddy field and orchard farmer from Paradut village described how her neighbour received 75 lakhs of compensation per acre

while she received only 45 lakhs per acre, despite the fact that they both grow the same kind of mango trees. She suggested that the compensation was allocated on the basis that “the person who knew how to speak well received more while another person who didn’t got less.” She went on to say that “if they feel well-disposed towards a certain person whose farm is on a hill, they offer him the same price as that for an orchard on the plain, whereas if they are not well-disposed towards someone, no matter that his farm is located on the plain, they give him the same amount of money as they would offer to the owner of a farm on a hill, which is usually lower than that for an orchard on the plain.”

- A fisherman from Htein Gyi village, “the guys who turned our lives upside down granted us a only a little bit of compensation, just a tiny little bit. We don’t know how much they did offer. Right now, they kicked us out via the broker. We are given nothing. They intentionally drove us out.”

The following testimonies paraphrase information given by focus group participants:

Lack of transparency and equity in compensation

- Company representatives bargained over the compensation amount (paraphrased from words of farmer from Pagawzone village)
- Some people received 80 lakhs per acre, whilst others received only 4 lakhs per acre (paraphrased from discussion amongst Htein Gyi village farmers)
- A fisherman and paddy field farmer from Mudu village explained that “what is happening right now is that the company has paid 500 lakhs, but the locals received only 5 lakhs. The local people have no idea where the missing money is.”
- Furthermore, a female paddy field and orchard farmer from Paradut village: “In the act of giving the reimbursement there wasn’t any mutual contract on the paper. It was given by writing down something with a soft pen on a piece of card like a token. For example, let’s say the appraisal is 100 lakhs; when they actually give me the money, there are a bunch of go-between people. So that’s why when it reached to my hand, it was only about 70 lakhs”
- An orchard farmer from Wet Chaung village

Incorrect calculation of entitlements to compensation

- 2 acre plots were measured as only 1.5 acres (Pagawzone villagers)

- *“They made the assessment as 200 plants per acre, but we planted 250 [per acre]”* (Yalaing villagers).
- A farm worker from Bawar village said that the compensation was not priced equivalently to other locations of the same size, with the rate only being 30 percent of what should have been received per acre.
- Residents of Lae Shaung village suggested that compensation allocations were dictated by bias, with the price for a first class acre of farmland or paddy field not remotely reflecting the value of the crop or the price paid for it originally.
- Farmers from Lae Shaung village said that ITD had promised compensation that was commensurate to the land surveyed, and that if land had been properly compensated, they would have been happy to purchase alternative orchard land outside the SEZ site. However, they said that they did not consider the money offered by ITD to be legal as it was not sufficient, and was paid in advance to just a few people.
- Farmers in Hsin Pyu Tine reported that they were not given compensation because: *“we don’t have a “land grant” in our hands”* i.e. because they did not have official documentation of their land rights.
- On land where various types of tree were grown – *“I have 900 plants. I received reimbursement only from one kind of tree, whether it was rubber or mango. I don’t appreciate it. The trees were planted before the Thai company came, 8 years ago now. Even so, they reimbursed me only for one kind of tree.”* (young male orchard farmer, Wet Chaung)
- Another orchard worker from Wet Chaung village said that mango and betel nut trees were not included in compensation calculations, just the rubber trees – *“[however] all brought money as a means of income, on which we are dependent for our living.”*

No compensation for persons affected by project activities

- A paddy field worker from Mayin Gyi village described how his paddy fields were flooded and lost due to the collapse of a hill behind the road near his fields – as a result of development work. *“If the paddy fields are considered, they are about 200 acres. The reimbursement for those fields has not yet been granted at all.”*
- Villagers from Lae Shaung village also said that compensation should be offered for farmland, orchards and livelihoods that have been damaged by development work and its consequences [not only for land that has been confiscated].

Calculation of compensation did not take into account the diversity of livelihoods affected by displacement

- Compensation was offered for the trees on land, but not for the land itself and the value it provides – for example as providing shade for cattle, *“In order to tend the cattle we planted mango trees for shade. Although there would be 10 acres, only 10 lakhs would be received because there were only 10 trees grown there.”* (Mudu villagers)

Alignment of compensation with international standards for involuntary resettlement

Ninety one percent of households surveyed said that compensation is not enough to sustain their family's future. The main concern expressed in focus group discussions is that compensation is insufficient to restore livelihoods, pre-displacement levels, let alone support improvement of livelihood options. The implication is that compensation payments that have been made or offered are inconsistent with that to which affected persons are entitled by law.

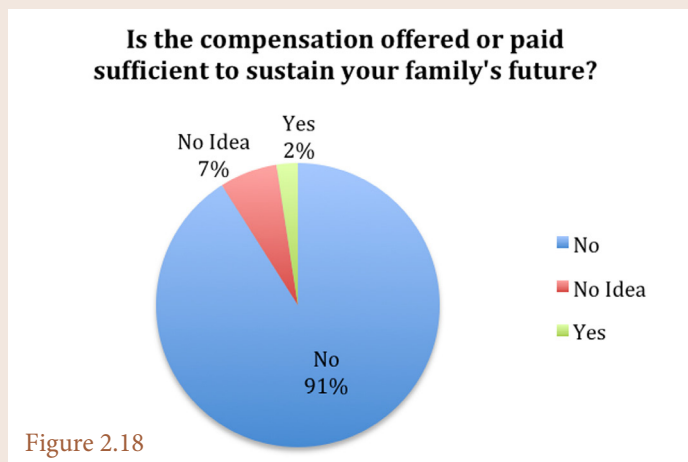


Figure 2.18

In many cases reported, compensation was given only in consideration of the loss of the trees planted on land and not for the land itself. Even when a figure was given to compensate for the confiscated land, some respondents indicated that this was based upon the market value of land in the area from which displacement occurred. However as discussed in Part 3, compensation must be sufficient to enable affected persons to purchase or otherwise access land in another location – where land may be more expensive than the land from which one has been displaced. An equivalent area of land in an alternative location should be suitable to sustain similar livelihoods and at least the pre-displacement standard of living.

In order to meet the principle of restoring livelihoods to pre-displacement levels, compensation must take into account the market value of replacement land, not just that of the land being acquisitioned.

This issue is illustrated by the testimony of affected persons :

- An elder male from Mudu village said: *“Right now, the price of the piece of land in the village of Bawar [is] from 250 to 300 [lakh kyats]. At the village of Mudu, the offer [of compensation] for the piece of land is 20 to 30 [lakh kyats] per acre. So after selling with 20, an acre of farmland could only be bought with 300 - we couldn't afford to do it. If some people who deserve to have something of value are given 200 lakhs, we also like to be given 200 lakhs. We couldn't accept it if we will be given 100 or 50 lakhs while some people receive 200 lakhs.”*
- A male paddy farmer in Mayin Gyi village said: *“If we were to receive 30 lakhs for an acre, we may need hundreds of [lakhs] to buy a paddy field out there like the one we had here. We only know how to farm. With what are we to eat if there is no paddy field? If we are to buy land somewhere else, and grow paddy, the price of paddies beyond this vicinity would also skyrocket. They [other landholders] also grow up eating rice.”*

Use of compensation payments

As noted above, some people in lowland villages expressed that they would be more willing to accept displacement if the compensation offered was sufficient to enable them to purchase equivalent land elsewhere to sustain their livelihoods. Of those who had received cash payments, only 30 percent of respondents invested this compensation in potential income-generating activities (land and business investments); only 3 percent reported saving the cash. Reports from the focus group

indicate that the low rates of compensation described above may be a major reason why the majority of households who received compensation did not use their money to purchase additional land.

Servicing debt was the most common reported expenditure with 39 percent of respondents saying this was the primary way in which the compensation funds were spent. Experiences of displacement in Myanmar and other parts of the region, indicate that there is a direct correlation between the delayed and unsystematic payment of compensation and the accumulation of debt by affected persons.

How have you used compensation money?

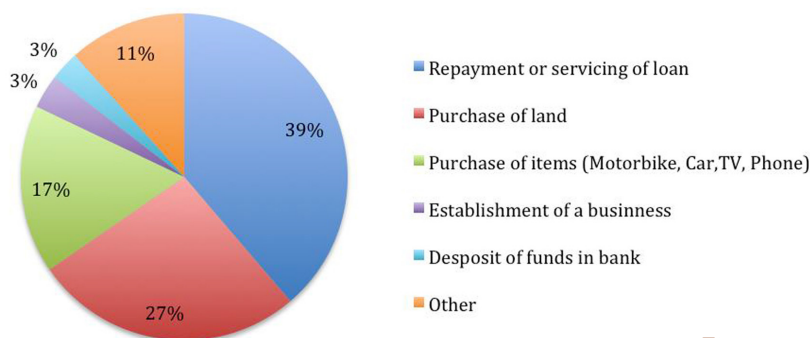


Figure 2.19

In some instances, compensation funds have been spent to pay for essential items such as food and clothing, in the absence of any regular income to restore displaced livelihoods. In Mythtar village, for example, focus group participants reported that compensation has only covered the loss of earnings so far. Some respondents reported having spent most or all of the compensation that they received on essential expenditure:

‘There is not even one half left right now. After all the money has been used up, there are some who have gone to Thailand

[to pursue work].’ (Male paddy farmer in Mayin Gyi village).

Many respondents indicated they were not confident that cash compensation could be effectively used to restore their livelihoods because they do not have the skills or experience required to manage such amounts of cash over a period of time. No support for the development of financial literacy skills appears to have been provided by government or company officials.

‘Not only is the compensation money insufficient, we don’t know about the management of money. Even though the money is supposed to be deposited in a bank, we have only heard of the term ‘bank.’ We don’t know how it works, and we don’t have any idea how to manage the compensation money’ (Affected person in Thabyu Chaung village).

‘The reimbursement money we received has been used in donations and in turning my boys from young men into monks, and in [miscellaneous] spending. I didn’t know how to use those moneys well.’ (Female paddy and orchard farmer in Paradut village)

Preparing for the future

As discussed, agricultural lands are being confiscated to make way for the DSEZ project, but agriculture is the primary means of livelihood in the project areas. In areas that have been demarcated but not yet confiscated, farmers have been instructed by officials not to invest in their fields, preventing them from planting new crops even while their land is still in their possession. In other areas, lands are being rendered unusable as a result of landslides and water channel blockages due to DSEZ project operations. As the environment is deteriorating, people are less able to access resources that were previously easily accessible. Without adequate compensation for people to secure alternative livelihoods to replace those lost, many households expressed great concern over their future.

Only 5 percent of households could confidently state that they have already prepared for relocation by preparing an alternative livelihood. Even fewer (1 percent) had confidence that

the government was making arrangements to ensure that their livelihoods would be secured in future.

When focus groups discussed the loss of land, they mentioned not only the loss of agricultural land but also of other lands and natural resources from which they source food and water. The following testimonies describe vividly the fears of local people about their current and future livelihoods.

- Male paddy farmer in Mayin Gyi village: “Currently the paddy fields on which we had

been depending are not possible to cultivate any more. With what shall we eat?”

- Elder male paddy farmer in Paradut village: “Since the waterway had changed, we couldn’t work on the farm again any more. The paddy fields were gone. [the (unnamed) organisation] responded us that they would channel the water down when ... the dam is [constructed]. I asked them who would take that responsibility. They answered me that there wasn’t anyone who could take that responsibility. It could be a real weakness for the next generation if we don’t have a place to work for a living.”
- A resident in Pagawzone village noted, “because [the company] blocked the upstream there occurred landslides and water could not be used

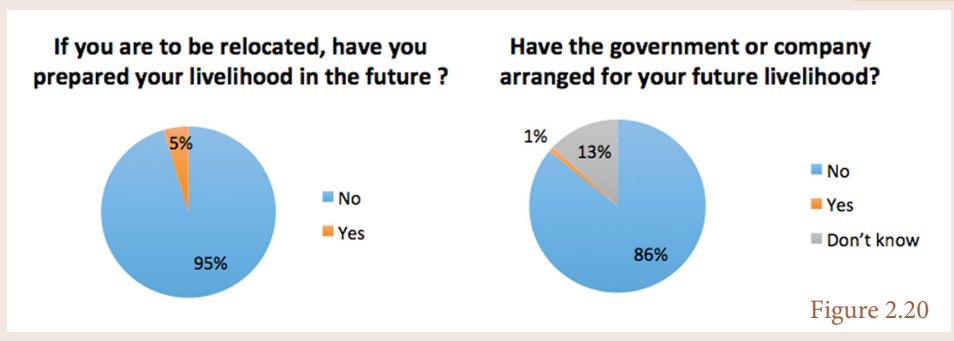


Figure 2.20

in the time of flood. And because of such blockage, there was a lack of fish in the water, and in the process, fish are becoming scarce. In the past fishing business for the family was quite alright, but now things have changed, and fishing is becoming an obsolete career. And the price of fish has gone up.”

- Male orchard and paddy farmer in Mudu village: “Trees which had been planted were bulldozed. There were a group of [orchard farmers] who couldn’t harvest their [tree] crops even for the first time. They were crying”
- Male orchard farmer in Kalonehtar village:

“We lost our pieces of land due to the project. Most of us didn’t receive the reimbursement from the construction of the road. We lost our own place where we grow vegetation and live on. The fish that we accustomed to fish in the stream also are not caught on account of earth that was fallen into it. The water also is no longer palatable”.

- Male orchard farmer and shopkeeper in Paradut village: *“After the paddy season is over, we grew crops and vegetables. We got foods to eat as well as money out of them. What if we moved [to the resettlement village], what kind of vegetables would we grow there then? Even a roselle leaf would not be easy to find”.*
- Elder male orchard and paddy farmer in Paradut village: *“Back in [the past], everything was natural; falah¹⁷, taro, and dog fruits appeared in their own season. We were able to search and eat them. We could live with ease. Now the mountains and forests are gone. When the paddy fields have been [taken]... since the farmers only know farming work, how we are to survive?”*
- Elder unemployed in Mudu village: *“In the past we were accustomed to pick up and gather shell fish, oysters, and crabs, etc. Right now things have changed, our livelihood has been hit.”*
- Female orchard farmer in Wet Chaung village: *“When forests are around, our family members could live and get by on charcoal manufacturing business. We could use charcoal in cooking meals. Now when they are gone, we couldn’t do anything.”* A young unemployed male in the same village also said: *“Jobs to live by are getting rare. There is more need of money where no forests exists.”*

In these circumstances, the uncertainty

surrounding the future of the project and the delays in project implementation adds to the stress expressed in the affected areas. The lack of information and failure to address questions of affected people leaves them unable prepare their future, and decide on their best course of action now. For example:

- Male orchard farmer in Khamaung Chaung village: *“If the project happens for sure, the jobless people could come and enter inside and make money. Right now a tenant farmer could not be hired for a daily job, we the local people have nothing to make a living... We would like to know if [the project] is accomplishable or not. We want to know for certainty. [If] the project is not going to be continued we might plant the trees again. If [the project] won’t happen we need to do a nursery for the plants again. That’s why we would like to know immediately.”*

Resettlement arrangements

Villagers report that despite promises made to them, they have seen very little support provided to them or any other communities in neighbouring villages. Resettlement arrangements are a central feature of the ITD visitor centre. Various displays are presented at the exhibition containing scale models of the three types of resettlement houses, which have been designed to house the families displaced from the DSEZ area.

So far 480 houses have been built in a large area within Bawar village, however these houses are mostly lying empty, as target beneficiaries villagers are reluctant to move into some of the newly built houses. The collapse of a roof, following storms, has not built any confidence in the quality of construction. Villagers in Mudu demanded a guarantee from the authorities that the houses would be safe for 10-20 years, but they report that

¹⁷ A type of spicy nut used for chewing and cooking.



DDA

Relocation model house at the visitor centre



DDA

Lack of farmland and low quality construction are key reasons why families are unwilling to resettle to the official site in Bawar

following an inspection by the Department of Housing, no guarantees were given. Currently only one family is living in the Bawar resettlement site, in a very difficult situation, as described in case study 1.

One of the most frequent concerns expressed about the relocation site is that there is insufficient land available for farming in the Bawar area to accommodate all the farming families which are expected to be moved there. As reported earlier, land prices in the local area are reportedly several times higher than the rate offered in compensation to the villagers.

Farmers resettled to this community will be forced to find another source of livelihood if they cannot access farmland. Some authorities have told people that they will be taught new agricultural methods to be able to grow crops intensively in the patch of garden space in front

of the resettlement houses. In Mudu, villagers were told that they would be taught to process tamarind seeds, and “make big companies out of coconut fibres, by using the new machineries that they have”. However no additional details were provided to them when they asked more about what would be done, where and how.

Farmers are concerned about how they will feed themselves and their families if they are forced to move to the resettlement site at Bawar, described by villagers of Yalaing as “a parched field”. As a male orchard farmer in Khamaung Chaung village put it,

“if I really have to move the [resettlement] place now, I need a monastery and a school. And I need a hospital and a clinic. In addition, our village must have all water and electricity ready. It is okay if there is a forest of mango trees as they said. The housing and farmland we require must be achieved, or we will not be moving”.

Illustrating the complete lack of standardised and sufficient documentation, this woman holds the only documentation received from ITD after being informed of compulsory resettlement.



SEM

Case studies of displacement

Case Study One

Hardship of family moved to Bawar resettlement site

Husband and wife Aye Swe (48 years old) and Ma Lay (45 years old) moved to the Bawar resettlement site from March 2013. Their house used to be located in Cha Khan fishery village nearby Kilometer “0” in Dawei DSEZ project, but their homes were destroyed to clear the land for the project. Altogether, 4 families moved to resettlement site, but they experienced many problems because lack of water, lack of transportation and their children couldn't go to school. Three families moved out after a couple of months, finding somewhere else to go. However, Aye Swe and Ma Lay remain.

Before when they lived in Cha Khan, the family's livelihood depended on fishing. They were able to earn around 5,000-10,000 kyats per day. Before they lived together with their children. But now two of their children, who are 7 and 9 years old, have to live in a monastery. One daughter, who is 13 years old, has had to drop out of school and now works in a nearby fishing village where she earns a daily wage processing fish catches, amounting to 90,000 kyat per month. She sends this money back to her parents, who rely on it for their main income. The daughter currently stays with the boat owner for whom she works.

Aye Swe has to hunt small wild animals in the bush such as rats and squirrels around the site for their living. When work is available, they earn around 1,000-1,500 Kyats (US\$1-1.50) per day for daily labour. But work is not available everyday. They received 1,000,000 Kyats in compensation for the loss of their land, but all the money has been spent and the family is now in debt. The only support that the company has given them after they moved here was to fetch water once every 3 days. Since ITD left the project in November 2013, they do not have electricity for their household. Unlike the other three families, they do not have anywhere else to go, so they live at the resettlement site alone.

Case Study Two

Livelihoods threatened, villagers prosecuted in Cha Khan village

Soe Naing (45 years old) was born at Cha Khan village and his family has relied on fisheries since his parents' generation. Cha Khan has an old spirit house which fishery communities around the area give respect to and they hold a ceremony once a year. Villagers recall that Cha Khan was established more than 100 years ago, and is as old as Htein Gyi village. There are currently 30 households in this village and 3 boat owners. Each boat needs 10 workers to go fishing which means that these boats provide livelihoods for the whole village. Villagers earn around 5,000-10,000 Kyats per day from fishing. During July-August every year, 15 families return to Htein Gyi village where they have a house but no farmland, and work as daily wage labourers. Meanwhile the remaining 15 households who only have houses in Cha Khan, continue year-round fishing at Cha Khan.

Before there were mature casuarina trees, known as sea pines, along the 4-5 miles of the beach. Fish used to come to feed under the shade and villagers could catch the fish. Three years ago, ITD company destroyed all the sea pines, and also destroyed around 300 acres of mangrove forest where the villagers used to hunt for crabs, shrimps, worms, shells, mussels and other kinds of mangrove products.

Soe Naing and other villagers were informed last year that they would have to leave their village without compensation. He and his neighbours refused to leave. All three boat owners, including Soe Naing, are being prosecuted by the authorities for disobeying a public servant under article 188 of the Myanmar Penal Code. They had to hire a lawyer and go to court already several times. Their lives have become difficult and they hope to be able to find a new place to live where they can continue fishing as their livelihoods.

Case Study Three

Dispersal of families, loss of income and loss of food in Yawdut Thar salt making village

Lay Po (45 years old) was born at the salt making village and lived there all her life. There were 11 households in this village, or around 50 people. They used to perform a spiritual ceremony each year to protect their community.

Most families earned around 8000 kyats/bowl of salt or about 40,000 kyats per day. Now no one can make salt anymore. Without any prior warning, ITD destroyed their houses in 2011 to build a road along the beach. Lay Po could not do anything to stop them and had to move out. Now, there are more difficulties in her life. She is living in the house of her older sister, with her 3 children. Before they all went to school but now only one can go to school because she can't afford to send the others.

She has started working as a daily labourer, earning about 1000-1500 kyats /day. Sometimes there is no one to hire them. She also makes money from weaving roofing materials from leaves, finding medicinal plants for sale, and running a small shop stall. She has accumulated debts of 3,000,000 kyats (US\$ 3,000) in the last 3 years. She wants to get fair compensation for the loss of land and her salt plot. She has lost her main source of livelihood.

Other families from the salt making village have been scattered in Htein Gyi, where 5 families had land, and in Paradut (both of these are villages that are still earmarked for relocation to construct the DSEZ). Besides earning money from salt making, many families also used to depend on food gathered from the mangrove. Since the mangrove was destroyed by ITD in 2011, its loss has not only affected families living next to the coast, but also families in Htein Gyi village. Villagers interviewed in Htein Gyi village estimated that around 1 in 5 people used to depend on food from the mangrove, in particular those who are landless. Now these people have to buy food from vendors, or at the market, and their situation is steadily deteriorating.

Summary of findings

Limited access to information prior to and after displacement

- Company and government officials failed to formally inform affected persons prior to the commencement of surveying and construction activities:
 - Only 7 percent of households said they had been notified about the project by the government authorities.
 - Most households (70 percent) received information by word of mouth.
 - Two thirds of households (66 percent) did not receive any information from the government or company in any form. Most of those who did receive information received only information relating to potential positive impacts.
- Only 8 percent of respondents had received written information related to the project, of those only half said they understood what was written.
- The information dissemination activities of project officials were wholly ineffective:
 - Respondents were largely unaware of

the nature and scope of all components of the DSEZ. Only 6 percent of households surveyed and none of the participants of the focus group discussion were aware of the oil and gas industries or the petrochemical complex to be included in the DSEZ.

No meaningful consultation with affected persons

- Free prior and informed consent was not given by the majority of affected people.
 - Only 8 percent of households stated that the government had taken their consent before project activities started. Participants in focus groups indicated that some local officials used deception and intimidation tactics.
- Most people do not want to move.
 - 79 percent of households stated that if they were free to decide, they do not want to be relocated. In the lowland villages, 19 percent were not certain if they would like to move or not. In the focus groups, participants explained that this decision depends on whether adequate conditions were put in place to support them in the new location, such as access to new farmland, housing, electricity and water. In the upland villages, 99 percent of households stated they are not willing to move out.
- Community meetings organised by company and government officials did not constitute meaningful consultation with affected persons.
 - Only 27 percent of respondents attended a community meeting about project implementation. Invitations to meetings were not inclusive. Of those who attended, 82 percent did not actively participate,

because they did not understand the process or they were not invited to ask questions, there were language barriers or because they were afraid. Prior to meeting company and government officials, affected persons had little or no ability to discuss the project in detail amongst themselves. Meetings were described as akin to “one-way” presentations.

- EIA consultations were being held in some villages in May 2013, three years after the commencement of road construction activities through their village.

Deeply flawed compensation process

- Losses have already arisen as a result of the DSEZ and more losses are expected.
 - Focus group participants report that local people have already suffered losses of farmland and natural resources which used to provide both food and income to affected families. Social and health impacts are also of concern.
 - 71 percent of households expect to lose some or all of their land to the DSEZ project.
- Very few families have received full compensation payments.
 - Only 15 percent of households have received compensation and only 3 percent of households surveyed consider that they have been paid in full.
 - Four fifths of those who received compensation are still waiting for completion of payment.
- Where compensation has been paid, it has been insufficient and inappropriate.
 - Ninety one percent of respondents said the amount of compensation paid was insufficient to sustain their family’s future

- Only 27 percent of households used their compensation payment to purchase additional land. Focus group participants explained that rates of compensation paid were insufficient to purchase alternative farmland in the resettlement village and elsewhere.
- 39 percent used compensation money to service debt.
- Calculation and payment of compensation was uneven, ad hoc and lacking transparency.
 - The company did not set a standard pricing structure . Calculations were often inaccurate and inconsistent.
 - Only 7 percent of households reported that a standard system for compensation was established. Focus group participants reported that company officials and authorities had bargained with individual households over the amounts of compensation to be paid. Testimonies noted a lack of transparency and equity in payments, incorrect calculation of entitlements to compensation, and the failure to compensate all livelihoods, as compensation was often focussed on the value of one crop.
 - Focus group participants report that families who have suffered losses of income because of project works, because of impacts such as flooding, landslides and water shortages have not been compensated.
- Many people raised suspicion of corruption in the compensation process.
 - Focus group participants reported that people connected to officials received higher rates of compensation.
 - Only 9 percent of those receiving compensation were given official documentation. Around 30 percent of those paid received an unofficial scrap of paper, while 59 percent received no record of payment at all.
- Resettlement arrangements are inadequate.
 - Case studies indicate that the living standards of those who have been moved out have been lowered.
 - Only 5 percent of households could confidently state that they have already made their own preparations for their future. Only 1 percent had confidence that the government was making arrangements for them, to ensure their livelihoods would be secure in the future.





DDA

Villagers try to stop road construction, undertaken without prior informing or consent – Thabyu Chaung



DDA

Kalonehtar villagers release a “No Dam” balloon during the full moon festival in November 2012 to declare that they do not want a dam to be built in their community.

Part 3:

International, regional, and domestic legal obligations, standards, and responsibilities

Project proponents and partners, including the Myanmar and Thai governments, have legal obligations to respect and protect the rights and human dignity of communities and individuals affected by the DSEZ. As the findings of the quantitative study presented above illustrate, however, those involved in the DSEZ have thus far failed to adequately consider or incorporate affected communities into the decision-making and development process. This has led to a number of human rights issues and violations of legal rights and responsibilities, including: a failure to provide adequate information about the project; lack of meaningful consultation and opportunity to participate in decision-making; inadequate or no compensation offered; a failure to respect fundamental rights to livelihood, health, or food; and insufficient support for those displaced. These issues do not stem from isolated events, but rather as the findings indicate, have been widespread and, in many cases, experienced by the majority of households throughout the villages studied. Systematic failures in the initial implementation of the DSEZ project are causing hardship for affected people. Many have expressed a deep sense of injustice from their treatment and the failure of the government and company to protect their rights.

This section briefly summarises some of the domestic, regional and international laws and standards applicable to the DSEZ. These laws and standards exist to protect the rights of local people, safeguard the environment, and provide mechanisms for affected people to seek justice.

Fundamental human rights

When undertaking a project like the DSEZ, which will have significant social and environmental impacts, there must be adequate analysis of these impacts, as well as proper consultation with affected communities, protection of human rights, adequate compensation, and appropriate

resettlement provisions. As outlined in Part 2, the DSEZ has not satisfied these requirements. Instead, the activities undertaken by the corporate and government actors involved violate or jeopardize a variety of affected peoples' human rights.

These rights are enshrined in multiple agreements, including the Universal Declaration of Human Rights (UDHR), International Convention on Civil and Political Rights (ICCPR), and the International Convention of Economic, Social, and Cultural Rights (ICESCR). Many of these rights are customary international law, and must be protected regardless of location or domestic commitment. Myanmar is not a party to the ICCPR or the ICESCR, but has acceded to other international instruments, including the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which provide for many of the rights included in the ICESCR and the ICCPR. Thailand has acceded to both the ICCPR and the ICESCR. Both Myanmar and Thailand must respect universal human rights. Furthermore, it is not only the obligation of States to respect, protect, and fulfil these rights, corporations must also respect human rights.

Right to adequate standard of living
Everyone has the right to a standard of living adequate for health and well-being, as recognised in the UDHR and the ICESCR¹⁸. One important component of this right is the right to adequate food, which is necessary for basic survival. It has been clarified by the Committee on Economic, Social and Cultural Rights (ECOSOC), that

States have the following existing obligations to respect, protect, and fulfil the right to adequate food:

1. The obligation to **respect** existing access to adequate food requires State parties not to take any measures that result in preventing such access;
2. The obligation to **protect** requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food;
3. The obligation to **fulfil (facilitate)** means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security; and
4. Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to **fulfil (provide)** that right directly.¹⁹

As the UN Special Rapporteur on the Right to Food explains, a minimum core obligation under the right to food is that "States are prohibited to take retrogressive measures, i.e. deliberate measures which result in the deterioration of current level of fulfilment of the right to food".²⁰ Equally, States must regulate activities of individuals or groups so as to prevent them from violating the right to food of others.²¹

As noted in Part 2, most people in the study areas depend on access to land for their living. The majority, around 71 percent of households in

¹⁸ Ibid, art. 11; CRC, art. 27; CEDAW, art. 14; UDHR, art. 25.

¹⁹ Ibid., para. 15.

²⁰ UN Office for the High Commissioner for Human Rights, Special Rapporteur on the Right to Food, <http://www.ohchr.org/EN/issues/food/Pages/FoodIndex.aspx>.

²¹ UN ECOSOC, CESCR General Comment No. 12- The right to adequate food, UN Doc. E/C.12/1999/5 (May 12, 1999), para. 19.

the study areas, reported that agriculture was their primary occupation. The land and environment provides incomes for families from their own land, raising livestock, gathering forest products, or fisheries. Approximately 36 percent of households in the upland villages did not report any monetary income, implying that these families derive their livelihood, and particularly their food, entirely from their land and natural resources.

A total of 71 percent of households surveyed have either already lost, or expect to lose farmland to the DSEZ. Some areas have already been confiscated, but in many of these cases, compensation, resettlement and rehabilitation arrangements have been inadequate. In areas that have been demarcated but not yet confiscated, farmers have been instructed by officials not to invest in these fields, preventing them from planting new crops or nurturing existing crops even while their land is still in their possession. In other areas, farmlands are being rendered unusable as a result of landslides and water channel blockages due to DSEZ project operations, without, so far, any redress. In addition, focus group participants also highlighted the fact that access to certain food and livelihood resources derived from other lands such as forests, grazing land, and fisheries are being reduced.

Thus, those involved in the development and funding of the DSEZ, by removing access to farm and other lands without putting in place adequate arrangements for compensation, resettlement and rehabilitation, are putting at

risk affected people's livelihood and means of survival, in violation of the human right to adequate standard of living. The governments must act to prevent any further violation of the right to food for affected people.

Right to housing and protection from forced evictions

There are several international legal instruments that establish the obligations of States to refrain from, and protect against, forced evictions from land and housing.²² Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person.²³ States must ensure that legislative and other measures adequately prevent, and where needed, punish private parties where it is shown that they have carried out evictions without proper safeguards.²⁴

The Special Rapporteur on adequate housing has provided further guidance on activities and safeguards for evictions. The 'Basic Principles and Guidelines on Development-based Evictions and Displacement'²⁵ presented to the Human Rights Council in 2007, call for any evictions to be carried out consistently with human rights principles and international standards call for any evictions to be carried out consistently with human rights principles and international standards. This means that (1) the eviction in question must be absolutely necessary; and (2) the relevant government must respect rights before,

²² including the UDHR, the ICESCR (Article 11(1)), the CRC (Article 27(3)), the non-discrimination provisions found in Article 14(2)(h) of CEDAW, and Article 5(e) of the ICERD

²³ UN Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx>.

²⁴ UN ECOSOC, CESCR General Comment No. 7- The right to adequate housing (Art. 11.1): forced evictions, UN Doc. E/C.12/1999/5 (May 12, 1999), para. 19.

²⁵ Annex I to the 'Implementation of General Assembly Resolution 60/251 of 15 March 2006, entitled "Human Rights Council": Report of the Special Rapporteur on Adequate Housing,' A/HRC/4/18, 5 February 2007, <http://daccess-dds-ny.un.org/doc/UN-DOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement>.

during and after the eviction.²⁶ If either one of these conditions is not met, the eviction is contrary to international law, and constitutes a violation of human rights.²⁷

An eviction cannot be considered “absolutely necessary,” if the State cannot demonstrate that there is a genuine public interest requiring the eviction and that all possible means of avoiding the eviction were considered.²⁸ In the case of the Dawei SEZ project, the authorities have not demonstrated or provided any analysis that the SEZ and transport links could not reasonably have been located somewhere else where fewer communities would be at risk of eviction. The project has failed to protect against the kind of forced evictions prohibited by international law.

Right to Information, Participation, and Adequate Compensation

In addition to ensuring a necessary public interest, the governments involved must also respect and protect people’s human rights before, during and after any evictions.²⁹ This obligation includes ensuring that affected people are granted access to information, provided an opportunity to participate in decision making, and given adequate compensation. At a minimum, the corporate and government actors involved with DSEZ should ensure that:

- (1) affected people are provided with prior information about any evictions;
- (2) a consultation and negotiation period

is established with all parties involved, including affected communities, local authorities, government, companies, etc.;

- (3) all affected people are provided with fair and just compensation;
- (4) all affected people are provided with adequate and reasonable notice of any evictions;
- (5) government officials are present during any evictions;
- (6) the officials or authorities conducting any evictions must identify themselves and their intentions;
- (7) any evictions take place at a safe time, i.e., not at night or during bad weather;
- (8) those carrying out the eviction do not use force or endanger the security of affected people;
- (9) all affected people are provided with alternative land and housing; and
- (10) such alternative land and housing is adequate.³⁰

There is little evidence that these obligations have been met, or that any meaningful effort has been made to include affected communities in the analysis and approval process or that appropriate notice, consultation, and compensation have been provided. Instead, the evidence presented in this report indicates that for the most part, evictions carried out or threatened as a result of the DSEZ project are illegal under international law. The DSEZ activities have failed in the following ways:

²⁶ Centre on Housing Rights and Evictions, ‘A Guide to Land, Property and Housing Rights in Burma, 2009,’ p.28, http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Myanmar/files/HLP%20AoR/Myanmar_Guide_HLP_Rights_2009_EN.pdf.

²⁷ Ibid, p.29.

²⁸ Ibid.

²⁹ UNCESCR, General Comment 7, 1997.

³⁰ Centre on Housing Rights and Evictions, ‘A Guide to Land, Property and Housing Rights in Burma, 2009,’ p.32 (more detail is provided on pp.33-39), http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Myanmar/files/HLP%20AoR/Myanmar_Guide_HLP_Rights_2009_EN.pdf.

- **Prior information.** Most affected people found out about the DSEZ project informally, and they remain uninformed about what the project will involve. Reports from the focus group discussions reveal that in many cases, affected persons first heard about the project only when officials came to survey their land, farms, and gardens, or by witnessing the commencement of construction activities. Only 7 percent of respondents surveyed said that they had been informed about the project from government authorities. Of those that received information from the government and the company, around three fifths said that this information revealed only positive impacts and benefits of the project, with the remainder, or two fifths, being informed also about some of the potential negative impacts.
- **Consultation with all parties.** Only 27 percent of respondents reported having attended a community meeting about the implementation of the DSEZ project. Of those who attended, 82 percent said they did not participate in the discussion. Most often, this was because those attending were not clear about the purpose and process of the meeting, or because meeting organisers also did not invite any questions or contributions from them. In other cases, those attending said they were afraid to take part or could not understand what was being said. Meetings were described as consisting of presentations by officials rather than constituting any kind of meaningful consultation or dialogue with affected persons.
- **Compensation** has been received by only 15 percent of households. More often than not, payments have been incomplete (four fifths of households who had been paid reported that their payment was incomplete). According to focus group reports, compensation has only been provided for the losses of trees or crops on the land rather than for the land itself.

However, although compensation has been provided only for lost crops, a farmer needs funds to purchase land in a new location as well as invest in crop production on the new land in order to recoup his or her losses. Compensation payments so far therefore have been inadequate to allow the displaced farmer to start a farm elsewhere equivalent or better than the one lost, as required by international guidelines and laws. Information from focus group participants indicated that, the levels of compensation offered to displaced farmers have in many cases been insufficient to buy an equivalent area of land in the village of Bawar, where many of the displaced are expected to resettle. There have been no arrangements for compensation for the loss of other livelihoods, such as loss of agricultural labour work, and other local incomes derived from land other than farmland.

- **Alternative and adequate land and housing has not been provided.** Case studies of the few families who have been resettled in the resettlement village indicate that alternative arrangements have not been adequate. Families subsequently moved out after finding they could not live there because lack of water, lack of transportation and difficulties in sending children to school. Only one family remains in the resettlement village. People appear to have little confidence in the quality of construction of the resettlement houses, and only 5 percent of households surveyed reported that arrangements are in place for their future livelihood. Only 1 percent of households had confidence that the government was making arrangements to ensure that their livelihoods would be secure in future.

Right to Education

The right to education is guaranteed by both the ICESCR and the CRC.³¹ States must take measures to facilitate regular attendance at school and recognize a child's right to be protected from performing hazardous work or work that interferes with his or her education.³² Case studies presented in this report indicate that some evicted families are no longer able to send their children to school. There is therefore a risk that further evictions will raise pressures on household incomes and increase food insecurity to the extent that more children will be forced to leave school to seek work to assist their families in obtaining basic needs, directly interfering with the right to education.

Indigenous peoples' rights

Myanmar, Thailand and Japan voted in favour of the adoption of the UN Declaration on the Rights of Indigenous People (UNDRIP) at the UN General Assembly on 13 September 2007³³. Article 10 of the UNDRIP³⁴ states that: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return." While there is no definition of indigenous people in

Myanmar law, the Karen and Tavoyan people identify themselves as two of the 135 ethnic groups recognized by the Myanmar government. Accordingly, any decision to relocate them should be done with their free, prior and informed consent (FPIC).

As the Office of the High Commissioner for Human Rights (OHCHR) states, FPIC means that:

- "free" implies that there is no coercion, intimidation or manipulation;
- "prior" implies that consent is to be sought sufficiently in advance of any authorization or commencement of activities and that respect is shown with regard to the time requirements of the consultation processes with indigenous groups; and
- "informed" implies that information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any proposed project or activity; the purpose of the project as well as its duration; locality and areas affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks; personnel likely to be involved in the execution of the project; and procedures that the project may entail.³⁵

The OHCHR also stresses that a process to seek the free prior and informed consent of local

³¹ ICESCR, arts 13, 14; CRC, arts 28, 29

³² Ibid, arts 28(1); 32(1).

³³ The UN General Assembly also adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities on 18 December 1992, A/Res/47/135, <http://www.un-documents.net/a47r135.htm>.

³⁴ UNDRIP, adopted by the UN General Assembly on 29 June 2009, https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf. In addition, the Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989 (No. 169) of the International Labour Organization (ILO Convention) deals specifically with the rights of indigenous and tribal peoples. The ILO Convention's provisions are compatible with the provisions of the UNDRIP, and the adoption of the UNDRIP illustrates the broader acceptance of the ILO Convention's principles. For the ILO Convention, see: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C169.

³⁵ Ibid.

communities should explicitly offer the option for communities to withhold their consent (ie to reject the project being proposed), and that consultation and participation are crucial components of a consent process.³⁶ The OHCHR has also clarified that rights of indigenous peoples include the “right to restitution” or to reclaim land that has been taken without FPIC.³⁷ The DSEZ project has proceeded without the FPIC of affected communities. As such, confiscated land should be returned, and participation and consultation undertaken to acquire meaningful consent.

State responsibility and extra-territorial obligations

Both the Myanmar and Thai governments are responsible for the conduct and results of the DSEZ project. The Myanmar government has approved and overseen the activities at the DSEZ, and evicted households, while the Thai government has provided the financial and political backing for the project from its very first MoU in 2008. The new “Special Purpose Vehicle” which has been established in 2013 to take over operations related to the DSEZ, Dawei SEZ Development Co., (DDC) is a 50:50 joint venture between the Thai and Myanmar governments.

Other countries, who may seek to get involved in the project financially or may see some of their public and private sector corporations get involved in the implementation of the DSEZ in the future, however must also be aware of their

obligations to respect, protect, and fulfil human rights of people affected by the project. Indeed, human rights obligations of States extend beyond their own borders.³⁸

Business and human rights

Human rights are not only a matter for governments to address: in recent years, increasing recognition has been given to the need for corporations and investors to observe international human rights standards in their decision-making and project implementation. The UN Guiding Principles on Business and Human Rights (Guiding Principles)³⁹ were developed by Professor John Ruggie, the UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, to take account of the globalized nature of business and corporate activities. Endorsed unanimously by the UN Human Rights Council (HRC) on 16 June 2011, they are seen as the benchmark guidelines that both businesses and States must adhere to in order to minimize human rights abuses that investment and business operations can cause. They provide accepted international standards and serve as guidance for corporate and government actors involved in large-scale developments like the DSEZ. The Guiding Principles implement the “Protect, Respect, Remedies” framework, which articulates three key responsibilities:

1. The duty of the State to protect against

³⁶ Ibid.

³⁷ Ibid.

³⁸ For a very useful summary of international human rights obligations that extend beyond national borders, see Maastricht Principles, the outcome of an expert meeting convened by the Maastricht Centre of Human Rights and the International Commission of Jurists in September 2011, <http://www.maastrichtuniversity.nl/web/Institutes/MaastrichtCentreForHumanRights/MaastrichtETOPrinciples.htm>.

³⁹ UN Guiding Principles on Business and Human Rights, endorsed by its resolution 17/4 of 16 June 2011, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

human rights abuses: States must prevent human rights abuses from third parties, including businesses.

2. The corporate responsibility to respect human rights: All businesses must undertake due diligence to avoid abuses and address human rights impacts in which they are involved.

3. Access by victims to effective remedy: For victims of human rights abuses, both judicial and non-judicial remedy must be available.

It is therefore the responsibility of the governments of Myanmar and Thailand, and the businesses involved in the DSEZ, in this case ITD, as well as current and future investors, to protect and respect human rights as well as provide effective remedies where adverse human rights impacts have already been identified.

Regional Standards

Myanmar's role as Chair of the Association of South-East Asian Nations (ASEAN) places the country in a symbolic leadership position, one that should prompt the government to set an example and critically examine its observance of regional standards, including its human rights commitments and protections. The ASEAN Charter, signed on 20 November 2007 by all ASEAN countries including Myanmar and Thailand, states the purposes of ASEAN, which include the following relevant provisions:⁴⁰

1. To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious

environment (Article 1(4));

2. To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation (Article 1(6));

3. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN (Article 1(7));

4. To promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples (Article 1(9));

5. To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice (Article 1(11)); and

6. To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building (Article 1(13)).

The ASEAN Human Rights Declaration (AHRD) was adopted on 19 November 2012, and reflects the purposes and principles of ASEAN stated in the ASEAN Charter that relate specifically to "the respect for and the promotion and protection of human rights and fundamental freedoms, as well as the principles of democracy, the rule of law, and good governance." The principles protected under the AHRD include the right to an effective and enforceable remedy,⁴¹ non-discrimination and equal protection before the law,⁴² all rights in

⁴⁰ ASEAN Charter, <http://www.asean.org/archive/publications/ASEAN-Charter.pdf>.

⁴¹ AHRD, Principle 5.

⁴² Ibid, Principle 3.

the UDHR,⁴³ a prohibition against arbitrary deprivation of property and interference with privacy and home;⁴⁴ the right to work; the right to an education;⁴⁵ and the right to an adequate standard of living, which includes the rights to food, housing, and a safe, clean, and sustainable environment.⁴⁶ As ASEAN members, Thailand and Myanmar governments must ensure that they abide by their public commitments to respect, protect and fulfil human rights.

Thai Domestic Law

As noted above, as a joint owner of the development company, the government of Thailand has direct responsibility for the DSEZ project's implementation. Thai law governs the behaviour Thai corporate and government actors.

The Thai Constitution 2007 (Section 67(2)) states that:

any project or activity which may seriously affect the community with respect to the quality of the environment, natural resources and health shall not be permitted, unless, prior to the operation thereof, its impacts on the quality of the environment and on public health have been studied and assessed and a public hearing process has been conducted for consulting the public as well as interested persons and the opinion of an independent organization has been obtained, with such independent organization consisting of representatives from private

organizations in the field of the environment and health and from higher education institutions providing studies in the field of the environment, natural resources or health.

Thai environmental law, specifically the Enhancement and Conservation of National Environmental Quality Act 1992, further clarifies that development or infrastructure projects with significant environmental impacts must conduct an Environmental Impact Assessment (EIA) prior to the commencement of such projects.

Furthermore, the National Health Act 2007 requires any projects or activities that may cause seriously impact on environmental quality, natural resources and/or health to conduct an Environmental and Health Impact Assessment (EHIA), and to allow public and stakeholder involvement, including the submission of comments regarding any such projects by independent organizations.

The National Health Act 2007 lists 11 types or categories of projects or activities that may cause serious harm to communities and therefore require an EHIA. These include projects like those to be implemented within the DSEZ. The categories of project that would be relevant to the Dawei SEZ project include: (1) land reclaimed from seas off existing coastal areas; (2) coal mining; (3) industrial estates; (4) petrochemical industry or factories; and (5) ports.⁴⁷

Despite the requirement for analysis of impacts under Thai law, to date, no EIA or EHIA report has been made public. Any analyses that

⁴³ Ibid, Principles 10, 26.

⁴⁴ Ibid, Principles 17; 21.

⁴⁵ Ibid, Principle 31.

⁴⁶ Ibid, Principle 28.

⁴⁷ Notification of Ministry of Natural Resources and Environment, 'Type, size and implementing procedure of project or activity that may cause a severe impact to quality of environment, natural resources and health of a community that requires a government agency, a state enterprise, or a private enterprise to prepare environmental impact assessment report', 2010, <http://www.jetro.go.jp/thailand/pdf/hia.pdf>.

have been conducted, would not be in accordance with Thai or international law unless affected communities were adequately consulted or provided an opportunity to comment.

In the case of the process conducted by the Environmental Research Institute Chulalongkorn University to carry out an EIA of the DSEZ roadlink, after the road had been constructed, local people raised several complaints as noted in Part 2, indicating that they have not been adequately or properly consulted. No information has so far emerged relating to either of the other two planned EIA studies on other components of the DSEZ project.

Myanmar Domestic Law

The law in Myanmar is in the process of changing. In 2014, a new Myanmar Special Economic Zone (MSEZ) law passed in 2014 which revokes the previous MSEZ law of 2011 and the Dawei Special Economic Zone Law of 2011 (DSEZ Law).⁴⁸ However the DSEZ project began when the DSEZ law applied. Thus, both the 2011 DSEZ law and the new MSEZ law are relevant to an analysis of DSEZ project activities.

The first and most important point to note in the 2011 DSEZ is that it does not refer directly to those who hold land rights in the area to be covered by the SEZ. Therefore it omits the important issue of community consultation and consent, the conditions under which land can be taken from existing landholders, and the safeguards required to ensure the rights of the local community. This oversight appears to violate Myanmar's existing human rights responsibilities, as discussed

above.

The DSEZ law does however refer to people indirectly, by setting out the obligations of investors in paying compensation and making transfer arrangements for a set of people who are not clearly specified. Article 34 of the DSEZ Law states that,

the developer or investor shall bear the expenses of transferring and paying compensation of houses, buildings, farms and gardens, orchards, fields, plantations on land within the Dawei Special Economic Zone, if these are required to be transferred. Moreover he shall carry out to fulfil fundamental needs of persons who transfer so as not to lower their original standard.

The DSEZ project has not complied with these requirements. For example, the payment of compensation has been inadequate to maintain the original standard of living of those displaced; payments have been incomplete, compensation has only covered crops ("plantations") and not land (farms, gardens, orchards, fields) no arrangement has been made to address the loss of other livelihoods from the loss of common lands which provided food and incomes. In other words, the company has not borne the costs of transferring homes and farms to a new location, as the law requires, and has not ensured that the fundamental needs of affected people have been fulfilled so that they, at least, maintain their original standard of living.

As in the DSEZ law, the new MSEZ law 2014 also requires that compensation is not limited to crops, but covers land and buildings. As before, the obligation is to pay not only compensation,

⁴⁸ DSEZ Law, <http://www.dica.gov.mm/includes/DSEZ.pdf>. which was enacted under Article 4 of the Myanmar Special Economic Zone Law 2011 (MSEZ Law). <http://www.mcpt.gov.mm/sites/default/files/pdf/laws%20and%20regulation/Miscellaneous/The%20Myanmar%20Special%20Economic%20Zone%20Law.pdf>.

but also pay for transfer and resettlement of affected people. As before, investors and developers must ensure that “the persons who have to leave the land do not fall below their previous standard of living, their fundamental needs are fulfilled and the transfer is easy and smooth”. In other words, as before, these obligations again extend to all who are forced from their homes, not just landowners.

A second point to note is that, Article 35(e) of the DSEZ stated that:

In the Dawei Special Economic Zone, the developer or investor intends to operate affectively [sic] the permitted enterprises on the land permitted to lease or use. As such the enterprise contained in the agreement shall be completed within the prescribed term in the original agreement or up to two years from the day of permission to operate. If not completed, the permission shall be revoked. The said land shall be returned and the buildings on this land shall be removed.”⁴⁹

As all activities have been brought to a halt since late 2013, when the DSEZ law was still in force and there is currently no developer or investor committed to take responsibility for completion of the project, displaced communities are entitled to ask that the land in question should be immediately returned, and ultimately distributed back to the local people.

Thirdly, Myanmar law requires that developers do not cause significant environmental harm. The DSEZ law instructed developers and investors “not to cause environmental pollution and air pollution in respect of his enterprise in

the Dawei Special Economic Zone.”⁵⁰ The new MSEZ 2014 law, requires investors to “follow standards and norms contained in the Myanmar Environmental Conservation Law and international standards and norms”. Likewise, the 2012 Myanmar Foreign Investment Law bars environmentally harmful businesses and industries.⁵¹ The failure to complete adequate assessment of the environmental impacts of the DSEZ contradicts these legal mandates.

Indeed, there is little doubt that the DSEZ will have significant environmental impacts. The Map Tha Phut industrial zone in Thailand gives some indications as to the potential environmental damage that the DSEZ project could have on the local area. Map Tha Phut industrial zone is located in Rayong, on the Gulf of Thailand, and was established in the early 1990s. It is home to a deep seaport, waste water treatment plants and plastics factories, and is one of the world’s largest petrochemical hubs. The environmental and health impacts from the zone have been devastating. Toxic emissions from petrochemical industries have caused permanent damage to the local water supplies, including canals, shallow water wells and rainwater and caused soil contamination.⁵² In 2003, Thailand’s National Cancer Institute found that rates of cervical, bladder, breast, nasal, stomach, throat and blood cancers in Rayong Province were the highest in the country,⁵³ while activists have attributed over 2,000 deaths to the pollution emitted from the Map Tha Phut industrial zone.⁵⁴ The DSEZ project partners must satisfactorily

⁴⁹ This language directly reflects Article 37(e) of the MSEZ law.

⁵⁰ This language directly reflects Article 34 of the MSEZ law.

⁵¹ Myanmar Foreign Investment Law, section 4 (a)-(d). all businesses which are: (a) “detrimental and negative to the customary cultures and tradition of the national races in the country;” (b) “harmful to health of the people;” (c) “detrimental to the environment and ecological system;” and (d) “industries harmful to the community or are toxic,” (among others)

⁵² ‘Dawei: Points of concerns,’ TERRA, August 2012, http://www.terraeper.org/mainpage/images/keysub/1348571066_th.pdf.

⁵³ ‘In Industrial Thailand, Health and Business Concerns Collide,’ The New York Times, 18 December 2009, <http://www.nytimes.com/2009/12/19/world/asia/19thai.html?pagewanted=1&r=3&emc=eta1>.

demonstrate how they will avoid similar extensive, serious, and long-term impacts in the implementation of the DSEZ.

Further legal reform is needed

Land evictions and confiscations are occurring on a large scale all over the country, and people's land tenure rights need to be better protected by domestic legislation. Moreover, such legislation should be consistent with international human rights law with regard to evictions, the provision of adequate food and housing, and the protection of indigenous rights, with the principles of free, prior and informed consent and provision of fair compensation for confiscated land fully enshrined in the legislation. Any such legislation should also provide for fair and transparent judicial and non-judicial dispute resolution mechanisms for handling land conflicts as they arise. These mechanisms must be completely independent of the Myanmar parliament and government, and must be accessible to all Myanmar citizens. Farmers, communities and civil society should play a full and active part in the consultation process in relation to such legislation.

Many countries still lack laws to regulate industrial investment and economic development. As a country newly experiencing many of these issues, Myanmar can benefit from the lessons learned in other countries. Environmental regulation reform in many countries has been adjusted step by step after many problems and negative experiences arose including the negative effects of economic development and many industries.

As Myanmar is opening its borders to foreign investors, many potential conflicts can be generated (between and within communities, with various levels of govt, and different businesses

etc) and many laws will be needed to address the issues arising such as environment and health regulations, town planning laws, land use laws, access to information, pollution control. Without these, the government will be opening itself up to a lot of legal claims in several years time, not only from local communities but also from investors.

Myanmar can improve its participatory approach and build up its regulatory system (including laws, Parliamentary committees, independent authorities, and other mechanisms) learning from relevant experience of other countries, to avoid creating situations where people's rights will be abused.

Commitments to displaced persons from responsible parties

The project developers and responsible parties, namely, the Governments of Myanmar, Thailand, and the Italian-Thai Development Company, have all affirmed that the DSEZ project would be planned and implemented in a manner consistent with international standards on resettlement.

The standards recognised by the responsible parties are (1) the World Bank 2001 Involuntary Resettlement Policy, and (2) the Asian Development Bank 2009 Safeguard Policy Statement. The claims of developers and investors, and the content of the commitments they have made, are outlined below:

- Dawei SEZ project activities will be planned and implemented consistent with applicable 'International Standards':
 - Dawei Development Company Limited (2013), Envi-News, Article 1/June

⁵⁴'Toxic Thailand,' Al Jazeera 101 East, 24 April 2010, <http://www.aljazeera.com/programmes/101east/2010/04/20104219545638882.html>

- Dawei Development Company Limited (2013), Envi-News, Article 2/August
- H.E. Niwattumrong Boonsongpaisan, former Minister of the Prime Minister's Office, Thailand (2013), Dawei Project the New Asian Gateway–presentation to Tokyo Roadshow, 22nd May, page 28
- Dawei SEZ project activities will be planned and implemented consistent with World Bank Policy:
 - ‘The current resettlement practice at DSEZ with assistance from Myanmar authorities is in line with the World Bank's Resettlement Standard.’ H.E. Niwattumrong Boonsongpaisan, former Minister of the Prime Minister's Office, Thailand (22 May 2013), Dawei Project the New Asian Gateway–presentation to Tokyo Roadshow, page 28 Dawei Project the New Asian Gateway–presentation to Tokyo Roadshow, page 28
 - Italian-Thai Development / Dawei Development Company Limited (2012), Dawei Deep Seaport and Industrial Estate Development Project, [Powerpoint presentation] February, slide 29
 - Italian-Thai Development / Dawei Development Company Limited (2013), Dawei Deep Seaport and Industrial Estate Development Project, [Powerpoint presentation] May, slide 73
- Dawei SEZ project activities will be planned and implemented consistent with ADB Policy
 - Italian-Thai Development / Dawei Development Company Limited (2012), Dawei Deep Seaport and Industrial Estate Development Project, [Powerpoint presentation] February, slide 29

The Government of Myanmar, Government of Thailand and ITD have made documented and stated commitments to the aforementioned international standards on involuntary resettlement⁵⁵ in relation to persons and communities displaced by the Dawei SEZ project. Thus the below involuntary resettlement policies are applicable for all persons and communities affected by the Dawei SEZ project.

The overarching objectives of the World Bank's 2001 Involuntary Resettlement Policy affirm that:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.⁵⁶

The above objectives cover the direct economic and social impacts of projects, and are applicable when the involuntary taking of land results in:

- Relocation or loss of shelter;
- Loss of assets or access to assets; or

⁵⁵ Resettlement is considered to be involuntary when persons or communities affected by a project are not allowed the right to refuse the acquisition of land that results in displacement of their shelter, assets or livelihood options.

⁵⁶ World Bank Involuntary Resettlement Policy, Operational Policy 4.12 (2001)

- Loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

Objectives of the Asian Development Bank's Safeguard Requirements on Involuntary Resettlement are:

- To avoid involuntary resettlement wherever possible;
- To minimize involuntary resettlement by exploring project and design alternatives;
- To enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and
- To improve the standards of living of the displaced poor and other vulnerable groups.

The ADB involuntary resettlement requirements apply to:

- Full or partial, permanent or temporary physical displacement (relocation, loss of residential land, or loss of shelter) and;
- Economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) resulting from (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

The evidence presented in this report and discussed above show that the implementation of the project by partners and developers has fallen very short of their stated commitments, and failed to ensure that the human rights of affected people are respected, protected and fulfilled.



Part 4

Conclusion

The Dawei Special Economic Zone (DSEZ) project has been carried out through a poor process which breaches many fundamental human rights, indigenous peoples' rights, and the public commitments made by both the Myanmar and Thai governments on involuntary resettlement and protection of the environment.

The community was given limited access to information about the DSEZ project and displacement. Two thirds of households surveyed did not receive any information from the government or company at all. Of those that received information from the government or company, the majority said that the information revealed only positive impacts and benefits of the project. Very few households surveyed knew of the oil, gas and petrochemical industrial complexes to be built in their neighbourhood, despite the fact that these are central components of the SEZ development plan.

There was no meaningful consultation with affected persons. Only 27 percent of the respondents had attended any meeting about project implementation. Focus group participants described these meetings as "one-way" presentations. Of those who attended the meetings, 82 percent did not actively participate in the discussion, mostly because they did not understand what was happening or there was no opportunity to ask questions. Only 8 percent of households gave the government their consent prior to the start of the project.

The compensation process has not been fair and transparent. Only 15 percent of surveyed households have received compensation. Rates of compensation have been set too low to ensure a sustainable future livelihood for the affected people in the future. The research team

highly suspects the presence of corruption in the investment and compensation process. We request the parties involved make public the list of compensation payments made so that the local people can compare the amount of compensation they received with the published amount. In all cases where records are not correct, action must be taken to ensure adequate compensation is fully paid as quickly as possible.

The above problems have left affected people in a vulnerable position. The people affected by the DSEZ project relied on agriculture on their own lands and depend on the environment for their income. The loss of lands and other resources, and lack of access to adequate lands and resources in compensation, will affect them profoundly. Already, affected people are in need of urgent assistance so that they can recover new livelihoods and feed themselves and their families.

This project is a collaboration between two countries, Thailand and Myanmar. If the relationship with the local people is not improved, the actions of those involved in the project could have a long-lasting negative impact on cross-border relations between Myanmar and Thailand. Myanmar should learn from the missteps of other countries in developing industrial estates to avoid generating major problems for all parties now, and deeper problems decade later.

Local people have expressed that they are not against development, but want development that is not harmful to people or the environment. The governments and other project partners should take people's concerns seriously and work towards sustainable development by improving the livelihood security of the local communities and ensuring environmental sustainability.

Recommendations

To the Thai government:

- Ensure that it complies with all domestic and international legislation in relation to forced evictions, rights to adequate food and housing, and indigenous peoples' rights.
- Investigate and take appropriate measures against all companies domiciled in Thailand that abuse the human rights of communities affected by development projects, regardless of where company operations take place.
- Require all Thai companies to conduct environmental, health and human rights impact assessments before any further operations are commenced.
- As joint owner of the project, the Thai government (along with the Myanmar government) must provide clear information to the public, and in particular to the affected communities, relating to the current status of the project, including the results of the Environmental Impact Assessments, the process of compensation and the arrangements for resettlement. In addition, clarify the processes to be applied in the future implementation of the project, giving clear direction as to how the problems raised in this report should be addressed, and indicating which parties precisely will take responsibility for addressing these problems. The project must not continue while such problems remain unresolved.

To the National Human Rights Commissions of Thailand and Myanmar

- Carry out a full investigation in a transparent, consistent and proactive manner, into all

complaints of human rights abuses, relating to land confiscations and forced evictions as a consequence of the Dawei SEZ project activities or operations conducted by companies domiciled in Thailand and Myanmar, regardless of where such abuses are alleged to have taken place.

- Adopt a collaborative approach with national human rights commissions in other countries, to ensure that the human rights of local communities are protected and respected when the main actors are transnational and cross-border activities and operations are involved.

To the Myanmar government:

- Investigate all credible allegations of corruption involved in the payments of compensation to local communities. Government agents must not be engaged as brokers in land deals.
- The parties involved must make public the list of compensation payments made to allow local people to check that records are correct and if they are not correct, to allow action to be taken to ensure adequate compensation is fully paid as quickly as possible.
- Stop the criminal prosecution of people who refuse to move. People who have been made homeless must be given urgent support.
- Reconsider allowing industrial development in an area where it is likely to cause danger to a large population. Reconsider the location and size of the DSEZ project, so as to minimise the potential impact on indigenous populations, the majority of whom do not want to be

- moved. Explain in a public and transparent manner the reasons for the choice of location of any large-scale projects, identifying clearly the villages, households and populations to be directly and indirectly affected inside and around the project location.
- As joint owner of the project, the Myanmar government (along with the Thai government) must provide clear information relating to the current status of the project, including the results of the Environmental Impact Assessments, the process of compensation and the arrangements for resettlement. In addition, clarify the processes to be applied in the future implementation of the project, giving clear direction as to how the problems raised in this report should be addressed, and indicating which parties precisely will take responsibility for addressing these problems. The project must not continue while such problems remain unresolved.
 - Establish mechanisms for full and transparent consultation and participation of affected people to ensure that their needs and concerns can be heard and addressed in an open, fair and systematic manner. Seek the free, prior and informed consent of affected people prior to taking any decisions about the transfer of land in accordance with human rights.
 - In cases where resettlement may be justified, the government should undertake clear, practical and sensible planning, with the full participation of affected communities and support networks, to ensure the regeneration of livelihoods of the displaced communities elsewhere. All affected people must continue to secure adequate food and housing in future at least to the level enjoyed prior to the commencement of the project, if not to a higher standard.
 - Provide fair and just compensation, through a systematic approach, that enables displaced people to afford equivalent land and livelihood opportunities when land is confiscated. Attention should also be paid to reparation and reimbursement for all livelihoods which will be negatively affected by the project, not only those which are land-related.
 - Provide urgent support to those who have suffered deepening poverty, hardship and health problems as a result of the DSEZ projects. Affected people need support to access, water, electricity, health, education, work, houses, and land.
 - Priority must be given to local communities in allocating local water resources.
 - Comply with – and ensure that local authorities comply with – all domestic and international legislation in relation to forced evictions and rights.
 - Investigate and take action against all companies that abuse the human rights of communities affected by development projects in Myanmar.
 - Ensure that victims of human rights abuses have full access to effective judicial and non-judicial remedies, including an independent, transparent and competent judiciary, land commission and national human rights commission.
- To the Myanmar parliament:**
- Amend the Constitution to include basic protection of, and respect for, the land rights of the people of Myanmar, particularly of indigenous ethnic groups, and to establish secure land tenure for its citizens.
 - Ensure that legislation which governs people's land tenure rights is consistent with international human rights law with regard to evictions, fundamental rights to adequate food and housing, and the protection of indigenous people's rights.
 - Ensure that such legislation provides for fair and transparent judicial and non-judicial dispute resolution mechanisms for handling

land conflicts as they arise, with such mechanisms to be independent of the Myanmar Parliaments and government, and accessible to all citizens of Myanmar.

- Ensure that farmers, communities and civil society play a full and active part in the consultation process in relation to such legislation.
- Study the experience of other countries in developing environmental legislation and mechanisms to regulate industrial development and management, in order to avoid the oversights, omissions and mismanagement that have occurred elsewhere and gain the benefit of international experience. This should focus in particular on the protection of people's health and environmental quality.
- The foreign investment laws should be amended to put in place a proper system for public participation in relevant decisions regarding foreign investment in their area, as well as legal protection for the human rights of people potentially affected by foreign investment projects.

To ITD and any future potential investors:

- Ensure that it complies with the principles of free, prior and informed consent, and engages affected communities in full, frank and meaningful consultation and participation, as well as provides all relevant information to affected communities in advance of any decisions taken within this process.
- Ensure that it conducts full and transparent environmental, health and human rights impact assessments prior to the commencement of any further operations related to the DSEZ. Ensure that impact assessment recommendations are carried out in ways to avoid, minimize or mitigate potential impacts.
- Act responsibly and do not cause harm to the local people.

- Abide by the UN Guiding Principles on Business and Human Rights in all DSEZ project operations and policies.
- Abide by their own commitments to international standards on involuntary resettlement as well as all human rights obligations related to forced evictions and rights to adequate food and housing.
- In cases where resettlement may be justified, ensure just and fair compensation to all individuals and communities evicted. Ensure proper process of relocation and adequate preparations for an alternative site with equivalent land, services and access to livelihoods.
- ITD should reveal its records on compensation payments to indicate who has received how much for what.
- New investors should refuse to engage with the Dawei SEZ project as long as the human rights of affected communities' are not being protected or respected.

To the public in Myanmar, Thailand and internationally, who may be concerned about the situation facing affected people:

- Call on both the Thai and Myanmar governments to protect the human rights of those affected by the Dawei SEZ development project in any way that they can.
- Ensure that any companies domiciled in their respective countries abide by the UN Guiding Principles on Business and Human Rights, and all relevant international human rights instruments.
- Ensure that any companies domiciled in their respective countries conduct full and transparent environmental, social and human rights impact assessments.



ANNEX I:

Dawei Deep Seaport and SEZ – Chronology of Events 2008-2013⁵⁷

2008

19 May 2008

The governments of Thailand and Myanmar signed an MoU establishing the Dawei Deep Seaport and Special Economic Zone (DSEZ) Project which includes a deep seaport and a road link to Bangkok.

19 June 2008

The government of Myanmar and Italian-Thai Development PLC (ITD) signed an MoU to conduct a feasibility study for the Dawei Project.

2010

Local people started noticing construction going on in the area, and some villagers claimed that their lands were invaded or damaged without prior information or consent.

2 Nov 2010

Framework Agreement signed between ITD and MPA (Myanma Port Authority). A 60 year Build, Operate and Transfer Concession is granted to ITD to develop a deep seaport, an industrial estate (including heavy industries such as a steel mill, fertilizer plant, power plant and other utilities), road, rail and pipeline links, and a township.

2011

19 July 2011

The Karen National Union (KNU) stopped ITD's road construction to connect Dawei and Thailand after local communities alleged their lands were destroyed by the company and no

compensation was given. This road will extend 160 kilometres and cut through 21 Karen villages.

15 December 2011

Dawei Development Association (DDA) held a press conference in Yangon to express concerns about the displacement of 32,279 local people, 21 schools, and 23 pagodas in 19 villages. DDA called on the government and developers to:

1. Adhere to green and sustainable development principles to protect the environment and local livelihoods in Dawei
2. Prioritize locals' desires when implementing the project
3. Conduct an EIA and SIA in accordance with international standards
4. Pursue a green and sustainable development that reflects the desires and interests of local communities.

2012

4 January 2012

DDA and locals organized a campaign against the proposed Coal-Fired Power Plant at Maungmagan beach and called for 'green development, not environmentally destructive development.

5 January 2012

Eighteen Thai civil society organizations held a press release to question the Thai government's decision to take 52 billion baht of public money to invest in a deep seaport and industrial estate in Dawei, as well as expropriating land to build

⁵⁷ Compiled by TERRA

a national highway specially to supplement this project. Additionally, the group also questioned the Electricity Generating Authority of Thailand (EGAT) on its plan to buy electricity from Myanmar, which may be too costly and threaten Thailand's national security in the future. Concerns over social and environmental impact were also presented.

7 January 2012

A bilateral meeting between Ministers of Myanmar and Thailand to discuss cooperation on the deep seaport project. During this meeting, DDA sent an open letter to the Prime Minister of Thailand to express concerns over environmental impacts and human rights. The group called on the Thai government to proceed with caution and understanding, and to prioritize human rights in its approach.

9 January 2012

U Khin Maung Soe, Myanmar's Minister of Electric Power, stated in a press release in Yangon that the 4,000MW Coal-Fired Power Plant in Dawei would not be allowed due to its negative environmental impacts.

6 April 2012

Villagers in Thabyu Chaung, a Karen community that would be directly affected by the road construction connecting the Dawei Industrial Estate to Thailand, expressed strong opposition to the project. They walked out during a meeting with the Environmental Research Institute of Chulalongkorn University (ERIC), who came to collect data for an environmental assessment report (EA). Villagers doubted the team's neutrality as they arrived with ITD, the project developer. ITD was unable to give a clear answer on how it would compensate the people affected by the road construction. Locals were extremely dissatisfied with ITD's irresponsible attitude after its invasion of the community's property. This resulted in a road blockade by the villagers in order to prohibit ITD to continue its road

extension project, as their losses were never addressed/compensated by the company. ITD called for a temporary stoppage of work in the area and left the site to work on other projects. The issue still remains unresolved.

2 August 2012

In Kalonehtar, villagers expressed their dissatisfaction with ITD's plan to construct a dam that would flood their village and farmlands while diverting the reserved water for industrial use. The villagers said they don't want to move.

18 August 2012

Sulak Sivaraksa, a prominent Thai scholar; Veerawat Dheeraprasart, Chairperson of Foundation for Ecological Recovery; and Penchom Sae-Tang, Director of Ecological Alert and Recovery – Thailand, at a press conference entitled "Stop Patronizing Dawei Project, Stop Public Debt Hikes", questioned the ethics and governance of the Thai government and related agencies on the Dawei Deep Seaport and Special Economic Zone development project. Forty-two civil society organizations endorsed the statement expressing disagreement with Thai government's intention to use public funding to support the project as it would not only increase public debt but also allow the investments into a country that still lacks strong laws and enforcement mechanisms to protect human rights and the environment. The groups also called relevant government agencies to reveal all information to the public.

September 2012

Transnational Institute (TNI), a human rights group, in cooperation with local communities, released a report, highlighting issues of land grabbing, unfair compensation, and forced resettlement in the Dawei project site. The number of affected individuals, both directly and indirectly, from land grabbing in Dawei is estimated as high as 500,000.

20 September 2012

Affected communities joined in a campaign to oppose the DSEZ Project in Dawei. They criticized the project for being highly polluting and not environmentally friendly. Kalonehtar villagers, who will be affected by the dam project, asked President Thein Sein to express his allegiance to four regulations for foreign investors: 1) Protecting the interests of the people of Myanmar; 2) Protecting the dignity of the State; 3) Protecting sovereignty of the State; and 4) Foreign investment must be environmentally friendly.

Karen communities who are affected by the roadlink construction organized a campaign activity, putting up opposition signs saying “Stop Building another Map Ta Phut in Dawei.”

4 October 2012

Thailand’s Minister of Industry revealed his meeting with the President of Japan’s External Trade Organization in Thailand, Setsuo Iuchi, confirming Japan’s cooperation in the Dawei DSEZ Project among the three leading countries, with Thailand and Myanmar as the other two key players. He also revealed that Japan has expressed its willingness to provide financial support on projects relating to infrastructure.

28 October 2012

Locals in the Nabule area where the proposed deep seaport and Dawei Industrial Estate will be built said that initial constructions for these projects have deteriorated their livelihoods and prevented them from growing their crops in relevant seasons. A local group named ‘Tavoyan Voice’ stated that the DSEZ Project is only beneficial to businesses and authorities while locals have to suffer the impacts created by the project.

15 November 2012

Communities held another protest against the dam project in Kalonehtar, as 182 households would be submerged under the planned new

reservoir, and over 1,000 people would be relocated. The water would be diverted to feed the new industrial estate in Dawei. Locals stated that ITD asked for negotiations to prevent any further delay on the project. On the day that ITD and officials arrived at the village to explain the resettlement plan, they were met with signs saying “No Dam” and “No Relocation.”

22 November 2012

In response to a news report which quoted ITD’s CEO as saying that the majority of the villagers had already been moved, the Tavoyan Voice, a local organization in Dawei, stated that no villager had moved out from their village at this time.

28 November 2012

Media stated that the EIA report of the deep seaport and Dawei Industrial Estate projects are expected to be completed by the beginning of 2013. Locals point out that while the Project started since 2010, ITD only began in September 2011 to hire TEAM Consulting Engineering and Management Co. Ltd., Panya Consultants Co. Ltd., and the Environmental Research Institute of Chulalongkorn University (ERIC) to conduct environmental assessment studies in the three main project areas (which includes the deep seaport and DSEZ, the dam construction area in Kalonehtar, and the roadlinks with Thailand). At present, no information on any of these EIA studies has been revealed to local communities.

2013

17 January 2013

Japanese Prime Minister Shinzo Abe made an official visit to Thailand. Thailand’s Prime Minister Yingluck Shinawatra discussed the DSEZ project with Mr. Abe. The Nation reported that Japan has expressed an interest in taking part in the project to develop the Dawei Port in Myanmar.

19 January 2013

Thailand's Transport Minister Chadchart Sittipunt, expressed confidence that Japan was highly likely to invest in the DSEZ project, adding that the extension of soft loans by the Japanese government to support the project's infrastructure would boost the project's feasibility, as the loans would help to lessen the interest burden during the initial period of the project.

25 January 2013

Cyclists and activists in Myanmar began a 10-day bicycle ride campaign from Yangon to the DSEZ project site in Dawei to raise public awareness of environmental issues of the project.

5 March 2013

DDA submitted a complaint letter to the National Human Rights Commission of Thailand in Bangkok, stating their concerns on violation of human rights and community rights related to the DSEZ project. The group pointed out that the human rights violations have been committed by Thai companies and related agencies, for example, the violation of rights of indigenous and ethnic people – no rights to information and no proper consultation to local indigenous and ethnic people, and more than 32,000 local people are also facing involuntary resettlement and unfair compensation.

28 March 2013

30 villagers from Cha Khan village in Htein Gyi tract, are pressured by the local government authorities to move out from their village to make way for the construction of the DSEZ project. The villagers have refused to move as they have been living in Cha Khan for decades and have made their living from fishing and salt farming for generations.

12 May 2013

Local people affected by the construction of the Dawei roadlink to Thailand refused to be

involved in a public consultative meeting organized by the Environmental Research Institute of Chulalongkorn University, the Thai agency hired by ITD to do the EIA report. The villagers accused that the EIA team has several times failed to provide information related to their study and failed to clarify critical issues such as compensation for damage to lands and crops. They also regarded the approach taken by ITD and the Team, specifically, carrying out studies after construction had begun and properties were already damaged, as a clear demonstration of their 'lack of ethics'.

25 May 2013

Japanese Prime Minister Shinzo Abe began a visit to Myanmar.

DDA submitted a complaint letter to Japanese's Prime Minister Shinzo Abe, the Minister of Finance, the Minister of Foreign Affairs, the Minister of Economy, Trade and Industry, as well as the Governor of Japan Bank for International Cooperation (JBIC), and the President of Japan International Cooperation Agency (JICA), stating their concerns about violation of human rights and community rights related to the DSEZ project. The group noted that Japan must be accountable for any environmental and social impacts and human rights violations caused by the project, if it decides to become involved in the project in any form, including investment or the provision of loans. The letter also highlighted key obligations such as the compliance with human rights and international standards, especially the right of indigenous peoples to FPIC (Free, Prior and Informed Consent); information disclosure in a timely and appropriate manner, and the meaningful participation of local people in the planning, implementation, and monitoring of the Resettlement Action Plan (RAP) as well as in the process of EIA; no coercion or intimidation

of local people and community in the process of involuntary resettlement; avoidance of involuntary resettlement where feasible; no corruption; and respect for human rights in all project activities.

24 June 2013

The Dawei Watch Group stated that residents in Dawei are planning to sue ITD for land loss incurred when ITD built a highway through the villagers' land in Yay Phyu Township. Also, according to a report submitted to the Special Court by farmland owners in the Talaing Yar District, 14 persons disputed the amount of compensation offered for losses to their farmland and livelihoods.

29 July 2013

U Thura Thaung Lwin, Chairman of the Dawei Special Economic Zone Management Committee announced the effort to include Japan as a strategic partner for the DSEZ project with the purpose of obtaining clean coal technology to supply electricity. He mentioned that an invitation letter signed by ministers from Myanmar and Thailand was officially sent to Japan on 24 April to encourage Japan to invest in the DSEZ.

4 August 2013

Myanmar officials say they remain confident that Japan will play a major role in developing the DSEZ project. Japanese officials also said to the media that they are mulling several options to participate in Dawei. Japan External Trade Organisation (JETRO) Yangon executive managing director, Masaki Takahara also said that Japan could share its expertise through planning and infrastructure development, while financing the project could also be considered. "Contribution to the connectivity and development of this region is the task of Japan as one of the largest economies in the region," he said.

9 September 2013

Local villagers blocked a road in Thabyu Chaung village to protest against ITD, accusing the company of failing to keep its promise to compensate them for losses caused by the building of new roads for the DSEZ project. The group also issued a statement criticizing what it described as "unfair and non-transparent compensation" offered by ITD.

29 September 2013

Dawei residents call for halt to the DSEZ project, claiming promised compensation has not been paid and local peoples' dissatisfaction is growing as their farms and orchards are being destroyed by the project construction without their knowledge.

16 October 2013

Myanmar's Eleven Media reports that the officials from the Japanese government told a Myanmar- Japan-Thailand joint meeting, that Japan is reconsidering its involvement in the DSEZ project. "The Japanese government is interested in investing in the Dawei SEZ, but they are not making any decision yet. If the Japanese government wants to get involved in the SEZ, they have to use public funding. So they will explain the SEZ in Japan to any Japanese company that takes an interest," said Deputy Minister of Transport Han Sein, who is the chairperson of the Dawei SEZ scrutinizing committee.

21 November 2013

The Thai-Myanmar Joint Coordination Committee (JCC) met in Bangkok and approved a new framework agreement on DSEZ Project. Three MoUs were signed. The first was a contract between the Dawei Special Economic Zone Authority and DSEZ Development, which is a special purpose vehicle (SPV) jointly owned by Thailand and Myanmar on a 50:50 basis. The SPV will invite investors for the project. The second deal was a tripartite memorandum among ITD, the

DSEZ Authority and the SPV, which determines the remaining operating rights of ITD before it transfers them to special purpose companies (SPCs). The third is an agreement terminating the existing concession of ITD to construct and manage the Dawei project. This concession right will be transferred to the SPV and put up for bids.

U Set Aung, Vice Governor of the Central Bank of Myanmar, said the meeting on the DSEZ Project was observed by representatives from Japan. The management committee also invited investors from Japan to give their proposals for the first-phase development in the Dawei project.

21 November 2013

Dawei villagers block the road between KM37-38 and seize 3 ITD vehicles as they said ITD has failed to compensate for their plantations that were destroyed since the company started the road construction in 2011.

22 November 2013

Mitsubishi announces that the company will team up with Electricity Generating (EGCO) and ITD to build a 7,000MW coal-fired power plant in Dawei, taking stakes of 30%, 50% and 20%. The total output capacity will be equivalent of seven nuclear reactors. The first facility is slated to go into operation in 2015. The plan is to supply 3,000MW within the DSEZ and sell the remaining 4,000 MW to Thailand. Local people have not received any official notification related to this plan.

25 November 2013

The Irrawaddy reports that Japan's government and private sector are taking a renewed interest in the project after previously appearing lukewarm to the proposition. "Dawei Special Economic Zone [SEZ] is a very important project for the region," said Mr. Tadashi Maeda, managing executive officer of Japan Bank for International Co-operation (JBIC), a state-owned

bank, speaking at a Rangoon business seminar staged by Japanese media company Nikkei.

4 December 2013

The DSEZ project is temporarily suspended. Thai and Myanmar workers face unemployment. Myanmar's Deputy Minister for Social Welfare, Relief and Resettlement told The Irrawaddy that villagers from the six villages who will be displaced still have not received compensation and he has no idea who will be responsible for providing the rest of the compensation.

11 December 2013

DDA issued a press release prior to the Japan-ASEAN summit, calling on the Japanese government, development agencies and investors to refrain from investing in the DSEZ until international best practices are firmly in place. The group also urged that the Japanese investors must not invest in dirty industries that will harm local communities and the environment.

13-15 December 2013

A Summit to mark 40 years of ties between Japan and ASEAN is held in Tokyo. It was expected that Japan would announce its plan to invest in the Dawei SEZ project at this meeting. No information has been made public about the discussions on the DSEZ at this meeting, up to the time of going to press.



Annex II: Submission to the Thai Human Rights Commission

Dawei Development Association

Dawei Township, Tanintharyi Region, Myanmar

dda.dawei@gmail.com

National Human Rights Commission of Thailand
The Government Complex
120 Chaengwattana Road, Laksi District,
Bangkok 10210 Thailand

March 5, 2013

Dear **Dr. Amara Pongsapitch**, PhD. Chairperson of National Human Rights Commission of Thailand;
Dr. Niran Pitakwatchara, MD. National Human Rights Commissioner; Chairperson of Sub- committee
on Community Rights

Re: Concerns on Violation of Human Rights and Community Rights related to Dawei Deep Sea Port and Special Economic Zone Project

We, Dawei Development Association, write you to raise our deep concerns on human rights situation due to Dawei Deep Sea Port and Special Economic Zone (SEZ) Project being developed in Tanintharyi Region. We hope the National Human Rights Commission of Thailand will undertake measures that will uphold to international standards of human rights related to this project.

Memorandum of Agreement (MoA) on Dawei Deep Sea Port and Industrial Estate was signed by Myanmar Port Authority and Italian-Thai Development Co. Ltd. (ITD) in June 2008. According to initial agreement, ITD was main developer for the project but it has now become Government-to-Government project under Memorandum of Understanding (MoU) between Myanmar and Thai government in July 2012. The project consists of several components including 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 road-link to Thailand. The project impacts to livelihoods and human rights of local people in three areas which include:

- 1) The 204.5 square kilometer Dawei Deep Sea Port and Industrial Estate situated in Nabule area, 20 kilometers northeast of Dawei City with population of 32,274 from 3,977 households in 21 villages will be evacuated.
- 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 evacuated.
- 3) 132 kilometers long road link area from Dawei SEZ to Phu Nam Ron where an estimate of 50,000 people will be affected.

Human Rights violations occurred by Thai companies and related agencies

- 1) Violation of rights of indigenous and ethnic people – No rights to information and no proper consultation to local indigenous and ethnic people

The project will cause impacts on both indigenous Dawei people living in Nabule since pre- historical era

(before Bagan era) and Karen ethnic people living on the road link project. Nevertheless, all the agreements and plans made between Italian-Thai Development Co. Ltd. (ITD) and Myanmar government were signed without any consultation and informing to local indigenous and ethnic people. Although the project was started to implement in 2010, ITD has later commissioned TEAM Consulting Engineering and Management Co. Ltd., Panya Consultants Co. Ltd., and Environmental Research Institute Chulalongkorn University (ERIC) to conduct Environmental Assessment (EA) in Dawei Seaport and SEZ, water reservoir in Kalohtar and the road-link area accordingly which was started only in September 2011. So far, no information concerning with EA has been disclosed to local indigenous people while the project is still going on. This kind of practices by ITD and other related agencies from Thailand do not respect rights of indigenous and ethnic people to make decision on management of their local resources and land in the communities.

2) Involuntary resettlement and unfair compensation

More than 32,000 Dawei indigenous people in Nabule and 1,000 people in Kalonehtar village have been facing with forced relocation. There is no systematic survey related to relocation and meaningful consultation on the desire on local people. The relocation site has been building without any consent of local people. Worse, the houses in relocation area were built in a low quality as they usually collapse when the wind blows.

At Kalonehtar village, ITD and government are trying to build a reservoir on nearby Talaing Yar Chaung River. The reservoir will cause over 3,000 acres of plantation that all the people from Kalohtar depends flooded and destroyed. The villagers are demanding not to move as they do not want to lose their forest and land with rich resources and biodiversity. But the company put pressure to the local villager with different ways to move.

This practice of involuntary resettlement also does not respect social and economic rights of local people and threaten their livelihood and economic security in Nabule area. According to a research “Local People Understanding of Dawei Special Economic Zone”, 86% of local peoples at Dawei SEZ in Nabule rely on land and agriculture. However, the relocation site in Bawai, Htawa, and Wa Zun Taw located between sea and Tanintharyi mountain range is too narrow to do farming. If the local people in Nabule area are forced to resettle after the finish of construction in relocation site, there will be no place and land to grow food and do farming.

Many unfair and unequal compensation cases have occurred in the project while lands are confiscated for buildings of company office and access road. Though one project implemented by one company, differences are occurred based on areas and power of the residences. There are serious discrimination practices for compensation by ITD. At some areas controlled by Karen National Union (KNU) local people have privileges to participate in decision making for compensation; while at some areas, particularly at Nabule area, local people are being threatened and receive less compensation. Government officials also try to influence compensation process. The worst thing is that the company does not disclose any information related to compensation and this leads corruption of government officials and exploitation of land brokers.

We believe that Thailand as a signatory of Universal Declaration of Human Rights will uphold principles of human rights and fundamental freedom not only individuals and citizens in Thailand but also in other countries. Therefore, we local people from Dawei and Thanintharyi wish that National Human Right Commission of Thailand can take measures to investigate human rights situation and violation related to Dawei Deep Sea Port and Industrial Estate Project by Italian-Thai Development Co. Ltd. and Government of Thailand to bring forth respect human rights of local indigenous and ethnic people in the communities.

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

Yours respectfully, Originally signed by

- DDA -

Dawei Development Association



DDA



Dawei Development Association (DDA)

Dawei Township, Tanintharyi Region, Myanmar

Email: dda.dawei@gmail.com