



## Announcement

### Update on Dawei Special Economic Zone Initial Phase Development

18 January 2021

The Dawei Special Economic Zone Management Committee (**DSEZ MC**) wishes to advise that it has issued notices to terminate the Concession Agreements for all nine contracted initial phase projects at the Dawei Special Economic Zone (**DSEZ**). The DSEZ MC lost confidence in the capacity of the Concessionaires' to proceed with these projects of national significance after repeated delays, continuing breaches of financial obligations under the contracts and the Concessionaires' failure to confirm their financial capacity to proceed with development.

The DSEZ MC now has the flexibility to reconceive the project and identify new partners to take advantage of this unique and strategic development opportunity for the benefit of Myanmar.

Over recent months, as significant progress, with the support of Thailand government an agreement to the terms of the funding with the Neighbouring Countries Economic Development Agency of Thailand was made for the development of the two-lane road from the DSEZ to the Thai border, which when completed will be a key enabler of the DSEZ project. The Government of Japan has also extended its commitment to participate in the development of the Dawei Special Economic Zone and is preparing to support the conduct of a preparatory survey for the proposed DSEZ deep sea port. Senior officials of the Governments of Myanmar, Thailand and Myanmar recently met for a tripartite working level meeting and we expect to hold tripartite meetings of the Joint Coordinating Committee for the Comprehensive Development in the DSEZ shortly.

Commenting on this, the Chairman of the DSEZ MC, Dr Tun Naing, said:

*"After making all reasonable efforts to bring these initial phase projects to fruition, the Management Committee, with the full support of our higher authorities, is pleased to have taken this decisive step. We will now focus our efforts on finding new partners to unlock the potential of the Dawei Special Economic Zone in accordance with Myanmar's sustainable development policies, and in cooperation with our Thai and Japanese Government partners, whose continuing support we deeply appreciate. We look forward to realising the potential of the DSEZ which will benefit the local community and the nation for years to come."*

For further enquiries please contact:

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#### **Background**

The Concession Agreements for the nine initial phase projects were signed in 2015/2016 following the termination of previous agreements for the development of the full SEZ between the Government and Thai company Italian-Thai Development Public Company Limited (ITD) and the revision of the Dawei SEZ Master Plan to accommodate initial and full phase development stages.

The initial phase projects included an industrial estate, small port, LNG terminal, power plant, township, telecommunications, reservoir, two-lane road to the Thai border and other infrastructure. Special purpose companies controlled by ITD, with the participation of other partners for particular projects, were successful in being awarded Concession Agreements for all initial phase projects, which had been tendered and negotiated with the support of the Government's international consultants.

ITD and the DSEZ MC worked to satisfy most of the conditions to proceed with the development of the initial phase projects throughout 2016 and 2017. In 2018, during negotiations on the form of lease to be used for the industrial estate, ITD sought to renegotiate the terms of the Concession Agreements. The DSEZ MC, with the support of its external legal advisors, engaged in a lengthy process of good faith negotiations with ITD to address the issues an acceptable way, conducting these discussions on the basis of four key principles:

- The Concession Agreements had been extensively negotiated, approved and signed following a disciplined process. Justification for substantial renegotiation need to be established.
- For probity reasons the DSEZ MC could not substantially renegotiate the Concession Agreements without substantial equivalent benefit to public interest being demonstrated.
- DSEZ MC could not agree to override established legal processes.
- DSEZ MC required comfort that the initial phase projects would proceed and ITD must remedy outstanding non-compliances.

In late 2019 the DSEZ MC put forward revised terms for the development of the industrial zone, which would also form the model for the development of the other initial phase projects. These terms addressed many of the concerns raised by ITD. Consistent with the negotiating principles set out above, additional requirements were placed on ITD and the Concessionaire to balance the public interest, and the Concessionaire was also required to remedy outstanding defaults and demonstrate its financial capacity to proceed with the industrial estate project as redefined. ITD failed to do this within the permitted time and the financial defaults remain unremedied. Following due consideration of the situation and consultation with relevant authorities and project stakeholders the DSEZ elected to terminate the initial phase concessions.