

Annex J

Environment and Law in Burma, August 2001 **EIA SIA OF OIL FACILITIES AND JETTY AT THILAWAR SEZ**

Sources : (web assess on)

Environment and Law in Burma - August 2001 By Peter Gutter*

Pollution by Ships: The International Convention for the Prevention of Pollution by Ships⁷⁵ is a strong treaty and although it was signed, it only partly entered into force. It has detailed regulations for preventing pollution of the marine environment by ships. It contains very specific guidelines on matters such as discharging oil from ships, storing oil on board, carrying harmful substances by ship and dumping sewage and garbage from ships.⁷⁶ However, Burma has only signed Annexes I and II, about the “Prevention of Pollution by Oil” and the “Control of Pollution by Noxious Liquid Substances”. It is not clear whether or not Burma actually tries to follow these guidelines.⁷⁷ Ironically, Burma has not accepted Annexes III, IV and V—about the “Prevention of Pollution by Harmful Substances in Packaged Form”, the “Prevention of Pollution by Sewage from Ships” and the “Prevention of Pollution by Garbage from Ships” respectively. In addition, the Burma Merchant Shipping Act of 1923 does not mention the environment at all, ⁷⁸ only the Burma Ports Act of 1908 contains a (very general) paragraph about harbor pollution.⁷⁹

75. International Convention for the Prevention of Pollution by Ships (also called MARPOL 73/78), done in London on 2 November 1973, amended on 30 October 1992, but only partly entered into force. Accession of Burma on 4 May 1988, entered into force in Burma on 4 August 1988; Burma has only accepted Annexes I and II, both of which entered into force generally on 2 October 1983. “The instrument of accession of the Government of the Socialist Republic of the Union of Burma contained a statement to the effect that the Government of Burma does not accept Annexes III, IV and V of the Convention”. Source: International Maritime Organization, London.

76. For an extensive coverage of the International Convention for the Prevention of Pollution by Ships, see: D. Brubaker, “Marine Pollution and International Law: Principles and Practice”. London: Bellhaven Press, 1993.

77. Even if Burma tries to follow all the guidelines of Annexes I and II, it still does not have to do a lot because Burma’s mercantile marine of 40 ships (bulk 13, cargo 20, container 2, passenger / cargo 3, and petroleum tanker 2) is relatively small. By way of comparison, Thailand has 299 ships and Cambodia 211. Source: Lloyd’s Register of Shipping, London; World Fleet Statistics as at 31 December 1999.

78. The Burma Merchant Shipping Act of 1923, “The Burma Code”, Vol. VII, pp. 233-360.

79. Chapter IV, Section 21(1) of the Burma Ports Act of 1908 says, “No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any port or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods, and no oil or water mixed with oil shall be discharged in or into any such port” (“The Burma Code”, Vol. VII, pp. 376-402).