

Annual Report of the EXAMINERS FOR ENVIRONMENTAL GUIDELINES

(FY2022)

1. Introduction

(1) Outline of the Objection Procedures¹

The Objection Procedures (the “Procedures”) stipulate their objectives as follows:

- (i) To investigate the facts as to whether or not the Japan Bank for International Cooperation (“JBIC”) has complied with the “JBIC Guidelines for Confirmation of Environmental and Social Considerations”² (the “Guidelines”) and the “Guidelines for Confirmation of Information Disclosure Considerations for Nuclear Sector Projects”³ (the “Information Disclosure Guidelines”), and to report the results to the Executive Committee to ensure that JBIC complies with the two aforementioned Guidelines; and
- (ii) To promote dialogue between the parties concerned based on their consent, to quickly solve the specific conflicts concerning environmental or social issues related to JBIC-financed projects that have emerged due to non-compliance with the two Guidelines.

The Procedures call for the Examiners for Environmental Guidelines (the “Examiners”) to conduct an independent and impartial investigation when objections are submitted by affected parties, such as local residents, in line with the “Summary of Procedure to Submit Objections concerning JBIC Guidelines for Confirmation of Environmental and Social Considerations” (the “Summary”), and to report the results to the Executive Committee. The Examiners also contribute to the solution of problems by promoting dialogues between the parties concerned.

JBIC established this system of the Procedures in October 2003, prior to the adaptation of the “common approach” environmental review recommendations adopted by the Organisation for Economic Co-operation and Development (OECD).

The original Summary set forth in October 2003, as well as the version revised by JBIC as the international wing of the Japan Finance Corporation, were superseded by new Summary established by JBIC in July 2012. Later, in January 2015, JBIC revised the new Summary, mainly to reflect the revision of the Guidelines. In addition, the text of the Summary was

¹ Summary of Procedures to Submit Objections concerning JBIC Guidelines for Confirmation of Environmental and Social Considerations

https://www.jbic.go.jp/en/business-areas/environment/disagree/image/procedure_04_en.pdf

² JBIC Guidelines for Confirmation of Environmental and Social Considerations

https://www.jbic.go.jp/en/business-areas/environment/image/Environemtal_Guidelines_2022.pdf

³ Guidelines for Confirmation of Information Disclosure Considerations for the Nuclear Sector Projects

<https://www.jbic.go.jp/en/business-areas/environment/image/consultation02.pdf>

partly revised again, at the time of JBIC's institutional change in June 2017, and at the time of the establishment of the Information Disclosure Guidelines in December 2017. Furthermore, in line with the revision of the Guideline in May 2022, additional revisions were made to the text of the Summary.

(2) Publication of the Annual Report

The Annual Report details the Examiners' activities during the previous fiscal year in line with the Summary.

2. Appointment of new Examiners for Environmental Guidelines

From the first half period of FY 2022 until September 2022, Mr. TOYONAGA Shinsuke (Attorney-at-Law admitted in Japan and New York State, Yutaka Law Office) and Mr. HOSHINO Kazuaki (Councillor, International Union for Conservation of Nature and Natural Resources (IUCN) and Former Specially Appointed Professor, Kagoshima University Regional Co-creation Center) each held the position of Examiner. Then, in October 2022, JBIC newly appointed two experts as Examiners for Environmental Guidelines as follows (in the order of the Japanese syllabary):

Ms. OKU Mami

Professor, Faculty of Urban Environmental Science, Tokyo Metropolitan University

Major: urban law and policy, environmental law, administrative law

1991: graduated from the Department of International Economics, College of Economics, Yokohama National University

1993: obtained a Master's Degree on International Economics Law from the Graduate School of International Economics and Law, Yokohama National University

1993-1998: Researcher of the Tokyo Institute for Municipal Research

1998-1999: Lecturer of the Faculty of Environmental Science, Nagasaki University

1999-2006: Associate Professor of the Faculty of Environmental Science, Nagasaki University

2006-2020: Professor of the Faculty of Urban Liberal Arts, Tokyo Metropolitan University

2020-present: Professor of the Faculty of Urban Environmental Science, Tokyo Metropolitan University

In addition to the above, she also has experienced the following positions:

2001-2002: Visiting researcher of the Environmental Policy Management Group, Imperial College, University of London

2005-2009: Visiting researcher of the Environmental Committee Research Office, House of Councilors, The National Diet of Japan

Mr. SASE Hiroshi

Professor, Faculty of Law, Gakushuin University

Major: civil procedure, dispute resolution system

2004: LL.B., The University of Tokyo

2016: LL.M., University of Toronto

2004-2007: Research Associate of the Graduate Schools for Law and Politics at the University of Tokyo

2007-2009: Full-time lecturer of the Faculty of Law at Gakushuin University

2009-2016: Associate Professor of the Faculty of Law at Gakushuin University

2016-present: Professor of the Faculty of Law, Gakushuin University

In addition to the above, he also has experienced the following position:

2013-2014: Visiting scholar at Hastings College of the Law, University of California

3. Report on Activities in FY2022

(1) Objection Submissions and Preparation/Publication of Reports

(a) Objection Submissions

There were no objections submitted during the course of FY2022 (April 2022 to March 2023).

(b) Preparation/Publication of Reports on Objection

Regarding the Cirebon Coal-fired Power Plant Unit 2 project in West Java, Indonesia, for which an objection was received in 2017, the process had been temporarily suspended due to ongoing related local court proceedings in Indonesia. However, on July 5, 2022, the resumption of the process was decided by the Examiners as they found that the reasons for the suspension were resolved. The results of their investigation were compiled in a report and presented to the Executive Committee on September 5, 2022. The report was

posted on JBIC's website⁴, after it was checked whether the report contained information of individuals and companies and other information which should be kept undisclosed under law. Having received opinions on the report from the Requesters, the Examiners transferred the opinions to the Operational Department and sent a response to the Requesters.

(2) Public Relations Activities

Details of the Summary are explained in both English and Japanese as well as the backgrounds of two Examiners on the JBIC website. Furthermore, the full texts of the Procedures in English and Japanese are available on the website so as to raise awareness of the existence of this mechanism.

(3) Communication with Objection Mechanisms of International Financial Institutions and Other Institutions

Multilateral development banks, such as the World Bank, have successively introduced objection procedures, as well as examining bodies that act in accordance with the procedures, over the last thirty-plus years. Their names vary by agency, but they are recently becoming generally known as Independent Accountability Mechanisms ("IAMs").

Such IAMs of international finance and bilateral institutions have formed the so-called Independent Accountability Mechanisms Network (the "IAMs Network"). The IAMs Network has held an Annual Meeting since 2004 as an opportunity for those various institutions to share information and views. The 19th meeting, hosted by the United Nations Development Programme (UNDP) and Social and Environment Compliance Unit (SECU), was held in New York, the United States, between October 24 and 27, 2022, with our Examiners and the secretariat in attendance online⁵.

The 2022 meeting consisted of the activity reports from attended IAMs and several sessions on various themes. Each IAM presented information, including the number of objections

⁴ Examination Report on Objection to Cirebon Coal-fired Power Plant Project – Unit 2, West Java, Indonesia https://www.jbic.go.jp/en/business-areas/environment/disagree/image/1701report_en.pdf

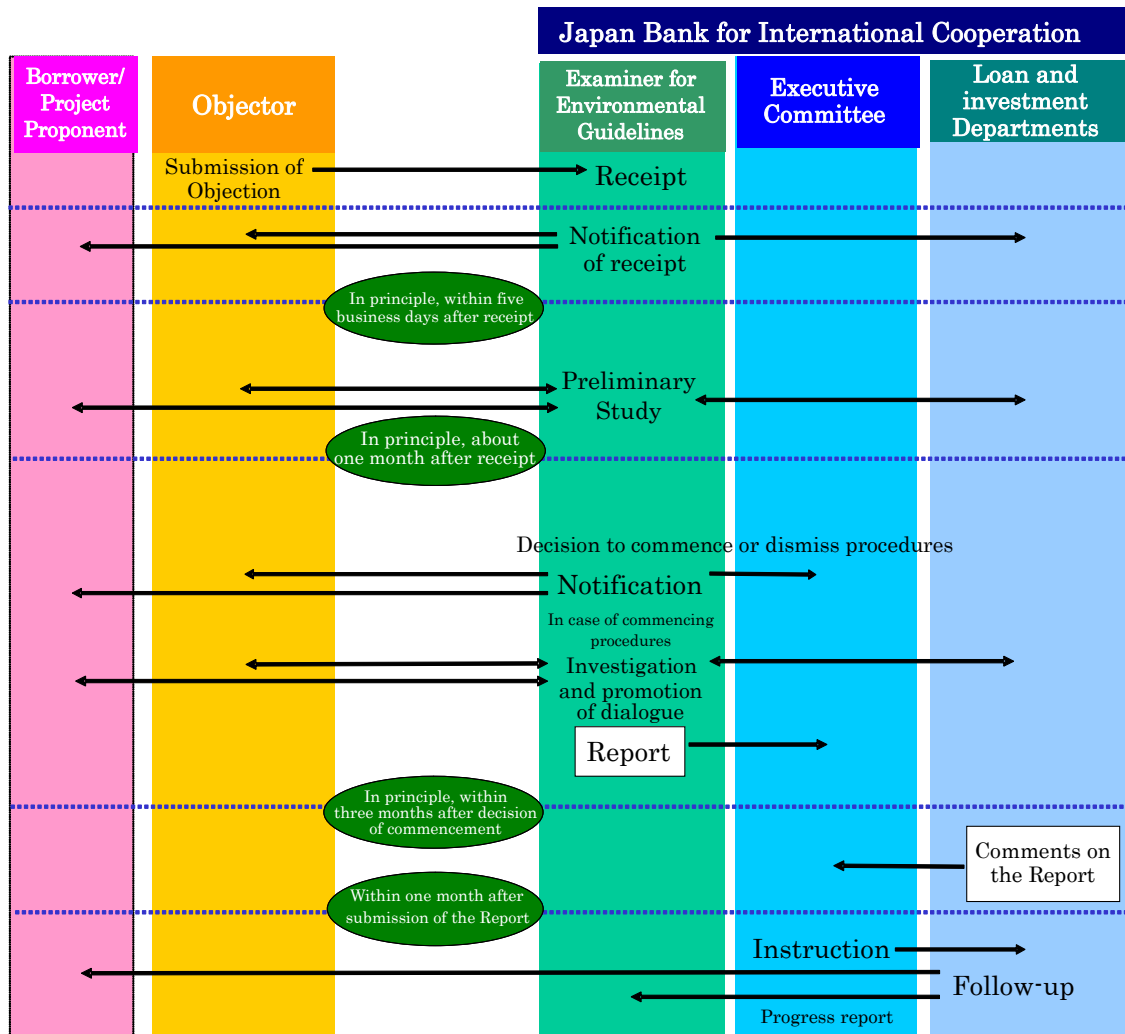
⁵ Participants (excluding JBIC and observers): World Bank Accountability Mechanism, Inspection Panel, IFC/MIGA Compliance Advisor/Ombudsman, EBRD Independent Project Accountability Mechanism, ADB Compliance Review Panel Office of the Special Project Facilitator, IDB Independent Consultation and Investigation Mechanism, AfDB Independent Recourse Mechanism, UNDP Social and Environmental Compliance Unit, Stakeholder Response Mechanism, GCF Independent Redress Mechanism, AIIB Project-affected People's Mechanism, NIB Integrity and Compliance Office, CDB Office of Integrity, Compliance and Accountability, EIB Complaints Mechanism, DEG/FMO/Proparco Independent Complaints Mechanism, AFD Environmental and Social Grievance Mechanism, BSTDB Internal Audit Department, NEXI Examiner for Objection Procedures on Environmental Guidelines and JICA Examiners for the Guidelines for Environmental and Social Considerations.

received, specifics of several cases, and their outreach activities. In theme-specific sessions, discussions were held on topics such as improving the objection process and addressing retaliation risk.

Through these activities, the Examiners proactively exchanged information and views on how to ensure fair and appropriate implementation of the Procedures, as well as on the important points in practice.

Objection Procedures

(1) Flow of Objection Procedures



(2) Submission of an Objection

An Objection should be sent to the Examiners:

Address 4-1, Otemachi 1-chome, Chiyoda-ku

Tokyo 100-8144, JAPAN

Examiner for Environmental Guidelines

Japan Bank for International Cooperation

Fax +81-3-5218-3946

Website: <https://www.jbic.go.jp/en/business-areas/environment/disagree/procedure.html>

Sample Request

Date: _____

To: The Examiner for Environmental Guidelines
Japan Bank for International Cooperation (“JBIC”)

(a) Names of the Requester

(b) Place of contact of the Requester

Address:

TEL:

FAX:

E-mail:

[if the Requester uses an agent]

(Name of the agent)

(Place of contact of the agent)

Address:

TEL:

FAX:

E-mail:

We wish to keep our names undisclosed to
the Project Proponent.

Yes • No (Circle either one)

(c) Project with respect to which the objections are submitted

- Name of country
- Project site
- Outline of the project

(d) Damage actually incurred by the Requester or damage likely to be incurred by the Requester in the future as a result of JBIC’s non-compliance with the Guidelines with regard to the Project to which JBIC provides funding

(e) Causal nexus between the project and the damage

- (f) Resolution desired by the Requester
- (g) Facts concerning the Requester's consultation with the Project Proponent
- (h) Facts concerning the Requester's consultation with JBIC's Operational Department
- (i) If a Request is submitted by an agent, the Requester must set forth the necessity to submit the Request by an agent and evidence must be attached that the agent has been duly authorized by the Requester.

It is desirable that the Request include the following information in addition to the above-mentioned.

- (j) Relevant provisions of the Guidelines considered by the Requester to have been violated by JBIC and the facts constituting such non-compliance alleged by the Requester
- (k) Causal nexus between JBIC's non-compliance with the Guidelines and the damage

The Requester hereby covenants that all the matters described herein are true and correct.

[End]