

Notice of Decision not to commence the Procedures and Transfer of your Request

September 11, 2018

To: Requesters (26 persons in total)

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

We hereby notify you that your requests to raise objections dated October 31, November 1, November 4, and November 6, 2017 (Acceptance No. 1801; accepted as of May 23, 2018) have been rejected.

The main reason for the rejection is the absence of facts concerning your consultation with the Project Proponent and JBIC’s Operational Department prior to the requests to raise objections (although there was an unavoidable reason for some requesters that prevents the Requester from endeavoring to have dialogues with the Project Proponent, as described in the appendix). We kindly ask you to consult with the Project Proponent and JBIC’s Operational Department, before requesting to raise objections.

Please note that your request to raise objections will be transferred to JBIC’s Operational Department and that we will ask the Department to properly address your matters of concern (such as the influence of environmental pollution on health and livelihood) as needed, through such means as investigations and dialogues. In addition, the Examiner regrets that the acceptance of the requests to raise objections was delayed for more than six months. We would like to add that we will ask JBIC’s Operational Department to prevent recurrence of such a delay.

Thank you again for your interest in JBIC’s procedures to submit objections.

CC: LPSD

Results of Examination

1. Formality requirements of the request

All items are written in Japanese, English or the official language of the country in which the Requester resides.	✓
There are items the descriptions of which are insufficient.	

(Items the descriptions of which are insufficient: _____)

2. Requirements to commence the procedures

(1) Requirements regarding the Requester

The request has been submitted by two or more residents in the country in which the project is implemented.	✓
The request does not satisfy the above requirement.	
The fact that the request has been submitted by the Requester cannot be confirmed.	

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

As a result of identifying the project based on the request, it has been confirmed that it is a project for which JBIC provides funding.	✓
As a result of identifying the project based on the request, it has been confirmed that it is not a project for which JBIC provides funding.	
The project cannot be identified based on the request.	

(3) Period

The request was submitted during the period between the time when a loan agreement was executed and the time when drawdown was completed.	
The request was submitted on or before the time when a loan agreement was executed and, therefore, it is appropriate to transfer the request to the Operational Department for examination.	
The request was submitted after the completion of disbursement and JBIC's non-compliance with the Guidelines concerning JBIC's monitoring was pointed out.	
The request was submitted after the completion of disbursement but JBIC's non-compliance with the Guidelines concerning JBIC's monitoring was not pointed out.	✓

(4) Substantial damage actually incurred by the Requester or substantial 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 which JBIC provides funding

Substantial damage actually incurred or substantial damage likely to be incurred in the future is described.	✓
Substantial damage actually incurred or substantial damage likely to be incurred in the future is not described.	

(5) Relevant provisions of the Guidelines considered by the Requester to have been violated by JBIC and the facts constituting JBIC's non-compliance alleged by the Requester

Provisions not complied with and the facts of non-compliance are fairly and reasonably described.	✓
Provisions not complied with and the facts of non-compliance are not fairly and reasonably described.	

(6) Causal nexus between JBIC's non-compliance with the Guidelines and the substantial damage

Description of causal nexus is fairly reasonable.	✓
Description of causal nexus is not considered to be fairly reasonable.	

(7) Facts concerning the Requester's consultation with the Project Proponent

The Requester has endeavored to have dialogues with the Project Proponent.	
There is an unavoidable reason for the Requester that prevents the Requester from endeavoring to have dialogues with the Project Proponent.	*A
As the Requester has not fully endeavored to have dialogues with the Project Proponent, the Requester should first propose to have dialogues.	*B

*A: Seven requesters in Minh Duc Town fall under this category.

*B: Nineteen requesters, who do not constitute A, fall under this category. The LPSD could not be recognized as an agent of the Requester as of November 22, 2017 in the letter from the LPSD dated the same day, which is asking for dialogues with the representative of JBIC's Representative Office in Hanoi. It is from August 13, 2018 onwards that the LPSD can be recognized as the agent of four individuals among the requesters.

(8) Facts concerning the Requester's consultation with JBIC

The Requester has had communication with JBIC's Operational Department.	
As the Requester has not fully endeavored to have communication with JBIC's Operational Department, the Requester should first propose to have dialogues.	✓

* The LPSD could not be recognized as an agent of the Requester as of November 22, 2017 in the letter from the LPSD dated the same day, which is asking for dialogues with the representative of JBIC's Representative Office in Hanoi. It is from August 13, 2018 onwards that the LPSD can be recognized as the agent of four individuals among the requesters.

(9) Prevention of abuse

There is no concern that the request was submitted for abusive purposes.	✓
There is a concern that the request was submitted for abusive purposes and, therefore, it is inappropriate to commence the procedures.	
There is a serious false description in the request.	

(Describe the reasons why the request is considered to have been submitted for abusive purposes or the matters that are considered to be false.)

[THE END]