

Annual Report of the EXAMINERS FOR ENVIRONMENTAL GUIDELINES (FY2016)

1. Introduction

(1) Outline of the Objection Procedures¹

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

- (i) To investigate facts as to whether or not the Japan Bank for International Cooperation (JBIC) has complied with the Guidelines for Confirmation of Environmental and Social Considerations² (“Guidelines”), and to report the results to the Executive Committee to ensure that JBIC complies with those Guidelines; and
- (ii) To promote dialogue between the parties concerned and, based on their consent, to quickly solve specific conflicts concerning environmental or social issues related to JBIC-financed projects which have emerged due to non-compliance with the Guidelines.

The Procedures call for the Examiners for Environmental Guidelines (“Examiners”) to conduct an independent and impartial investigation when objections are submitted by affected parties, such as local residents, in line with the Procedures, and to report the results to the Executive Committee. The Examiners also contribute to the speedy solution of problems by fostering dialogues between the parties concerned.

JBIC established the Procedures in October 2003 in advance of other export credit agencies and prior to the adaptation of the “common approach” environmental review recommendations adopted by the Organization for Economic Co-operation and Development (OECD).

(2) Publication of the Annual Report

The Annual Report details the Examiners’ activities during the previous fiscal year in line with the Procedures.

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

http://www.jbic.go.jp/wp-content/uploads/page/2014/10/36453/en_disagree-2015.pdf

² JBIC Guidelines for Confirmation of Environmental and Social Considerations

http://www.jbic.go.jp/wp-content/uploads/page/2013/08/36442/Environmental_Guidelines2015.pdf

2. Appointment of new Examiners for Environmental Guidelines

In October 2016, JBIC appointed two new Examiners for Environmental Guidelines. Their profiles are below (in the order of the Japanese syllabary):

Professor Hiroshi Kobayashi (photo below, on the left)

Faculty of Economics and Law, Department of Law and Econo-social Administration, Shinshu University.

He first completed the LLB course at the Faculty of Law at Keio University in 1998. Then, he registered as an attorney in 2000 after completion of the legal apprentice training at the Legal Research and Training Institute of Supreme Court of Japan (the registration was deleted in September 2008). After that, he finished the LLM in Energy and Environment at Tulane University Law School in 2005. Additionally, he completed the doctoral course at Waseda University Graduate School of Law and acquired Ph.D. in Law in 2016. Between 2008 and 2016, he was the Associate Professor of Nagasaki University Faculty of Environmental Studies. Since 2016, he has served in the present position. His special field of study is environmental law. His main topics of research include civil liabilities caused by environmental pollution (e.g., soil contamination and marine pollution) and renewable energy laws (including the comparative analysis of renewable energy laws between the United States and Japan). His recent publications include “Chiiki Kankyou Seisaku (Local Environmental Policy)” Chapter 2, “Chiiki ni Okeru Kogai Kankyo Funso Shori no Shoseido no Kiso (the Foundation of Local-Level Systems to Handle Pollution and Environmental Disputes)” (in Japanese, 2012, Minerva Shobo, with other authors), among others.

Professor Koji Shimada (photo below, on the right)

Department of Economics, Ritsumeikan University.

He first completed a Master’s course on Environmental and Sanitary Engineering of Graduate School, Kyoto University. After that, he joined the Japanese Environment Agency in the same year. While in the Agency, he seconded to the Environmental Department of the Aichi Prefectural Government, and the Academy for International Environment in Switzerland. Later he held several positions at the Office of Marine Pollution and Waste Management, and Water Environmental Department (as the Assistant Director). In 2003, he received a Doctoral degree (Engineering) at Kyoto University. Since 2003, he has served in the present position.

As an administrator, he had engaged in the enactment, revision and management of some international environmental laws (for example, the so-called Kyoto Protocol), and domestic environmental laws (for example, the Act on Promotion of Global Warming Countermeasures). After he moved to the university, the main area of his research included that of integrated systems of environment and economy/development. His recent publications include “Developing a long-term local society design methodology towards a low-carbon

economy: An application to Shiga Prefecture in Japan” (2007, Energy Policy, with other authors).



Dr. Hiroshi Kobayashi



Dr. Koji Shimada

3. Report on Activities in FY2016

(1) Objections

There were two objections submitted during the course of FY2016 (April 2016 to March 2017).

A. Date of Acceptance: November 10, 2016

Name of Project: Cirebon Coal-fired Power Plant Project -Unit 1 in West Java

Name of Country: Republic of Indonesia

Present status (March 2018): The examination report was submitted to the Executive Committee and published³

B. Date of Acceptance: December 5, 2016

Name of Project: Central Java Coal-fired Power Plant Project

Name of Country: Republic of Indonesia

Present status (March 2018): The examination report was submitted to the Executive Committee and published⁴

In relation to both cases, after receiving the Objections, the Examiners decided to commence the Procedures (in case of Item A, on January 31, 2017, and in case of Item B, on March 27, 2017, respectively), and carried out the investigation over the compliance or non-compliance with the Guidelines and also the encouragement of dialogues between the parties. Regarding Item A, the Examiners have reported to the Executive Committee on March 21, 2017. The report has been published to the website of JBIC, after confirmation that it does not contain any individual or corporate information or any other information disclosure of which is not permitted by statutes. (Regarding Item B, the report was submitted to the Executive

³“Examination Report on Objection to Cirebon Coal-fired Power Plant Project - Unit 1, West Java, Indonesia”

https://www.jbic.go.jp/wp-content/uploads/page/2013/12/54791/20170321ExaminationReport_en.pdf

⁴ “Examination Report on Objection to Central Java Coal-fired Power Plant Project, Central Java, Indonesia”

https://www.jbic.go.jp/wp-content/uploads/page/2017/06/57363/20170619ExaminationReport_en.pdf

Committee and published in the same way as Item A during the period of the fiscal year 2017).

(2) Public Relations Activities

Details of the Procedures are explained in both English and Japanese on the JBIC website. The backgrounds of the two Examiners are also introduced on the website. The full printed text of the Procedures in English and Japanese is available at the Head Office, West Japan Office and at overseas Representative Offices.

(3) Communication with the World Bank Inspection Panel and Other Institutions

Multilateral development banks such as the World Bank have successively introduced objection procedures, similar to JBIC's Procedures, as well as examining bodies which act in accordance with the procedures, over the last twenty-plus years. Their names vary by agency, but they are recently becoming generally known as Independent Accountability Mechanisms (IAMs). The World Bank's Inspection Panel, established in 1993, has received a total of over 100 objections and thus has the longest history among all accountability mechanisms of various organizations.

Based on the proposal by the World Bank's Inspection Panel, international finance and bilateral institutions have held the Annual Meeting of the Independent Accountability Mechanisms Network ("IAMs Network") since 2004, as an opportunity for those various institutions to share information and views. The thirteenth meeting was held between 6 and 8 of September 2016 in Manila, hosted by the Asian Development Bank (ADB)⁵. The IAMs Network has been expanding, as several participation requests from new international and bilateral institutions continue.

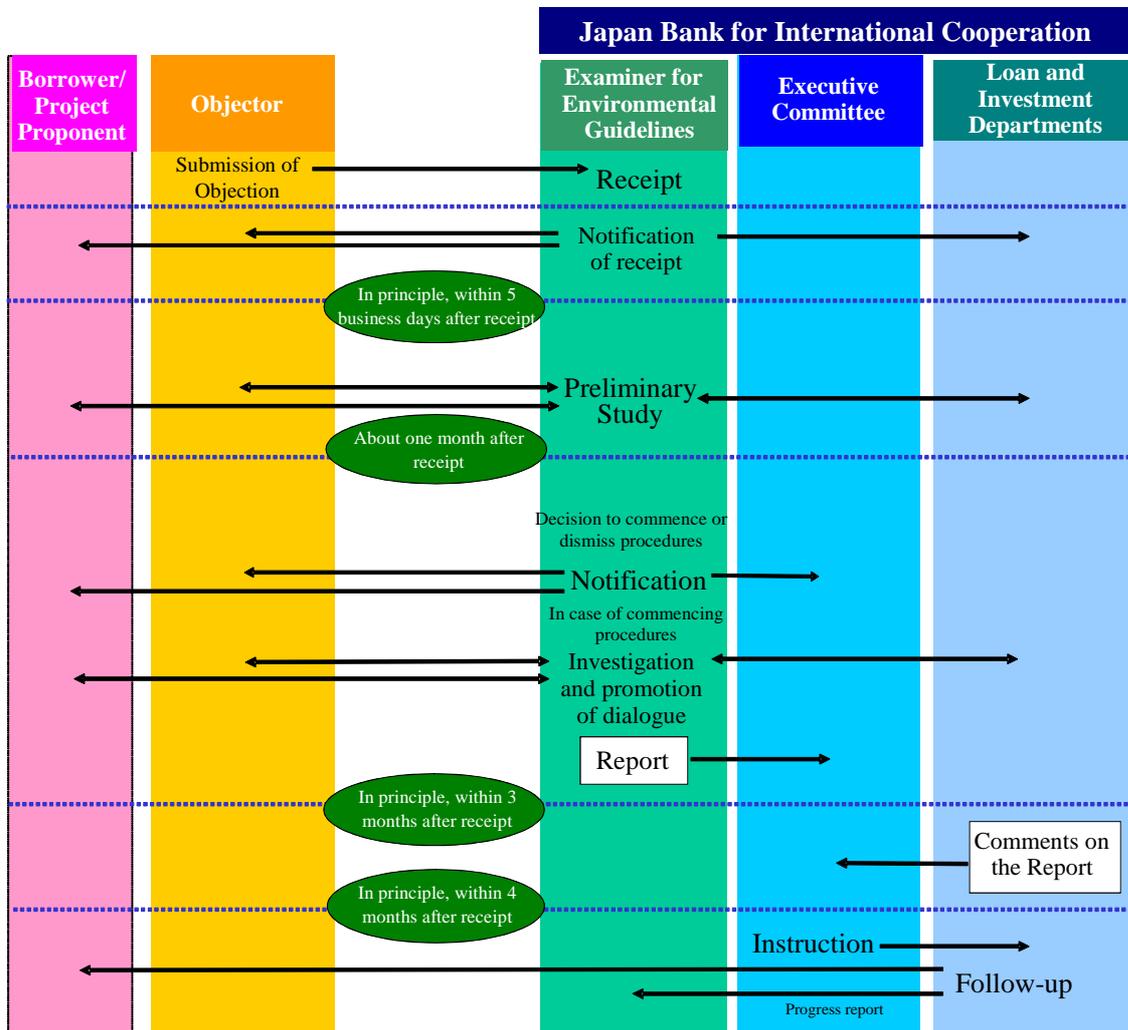
The meeting consisted of an activity report from each IAM and sessions on various themes. Each IAM presented the number of objections received, the sectors in which the objections were raised, and the countries where such projects are located. In the theme-specific sessions, discussions were held on the following topics: the IAMs network sustainability, reprisals issues, review situation of Inspection Panel's policies and training related to dispute resolution, etc.

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

⁵ Participants (excluding JBIC): World Bank Inspection Panel, IFC Compliance Advisor/Ombudsman, EBRD Project Complaint Mechanism, ADB Accountability Mechanism, IDB Independent Consultation and Investigation Mechanism, AfDB Independent Review Mechanism, EIB Complaints Mechanism, OPIC Office of Accountability, UNDP Social and Environmental Compliance Unit, NIB Chief Compliance Officer, BSTDB Internal Audit, and NEXI Examiner for Guidelines on Environmental and Social Considerations in Trade Insurance.

Objection Procedures

(1) Flow of the Objection Procedures



(2) Submission of the Objection

An Objection should be sent to the Examiners:

Address 4-1, Ohtemachi 1-chome, Chiyoda-ku
Tokyo 100-8144, JAPAN

Examiner for Environmental Guidelines,
Japan Bank for International Cooperation

Fax +81-3-5218-3946

E-mail sinsayaku@jbic.go.jp

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

(Sample)

Objection

Date: _____

To: The Examiner for Environmental Guidelines

Japan Bank for International Cooperation (“JBIC”)

- (A) Names of Objector:
(B) Place of contact of the Objector:
[if the Objector uses an agent]
(Name of the agent)
(Place of contact of the agent)

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

Yes / No (circle one)

- (C) Project with respect to which the objections are submitted:
- Name of country
 - Project site
 - Outline of the project
- (D) Substantial damage actually incurred by the Objector or substantial damage likely to be incurred by the Objector in the future as a result of JBIC’s non-compliance with the Guidelines with regard to the Project for which JBIC provides financing
- (E) Relevant provisions of the Guidelines considered by the Objector to have been violated by JBIC and the facts constituting JBIC’s non-compliance alleged by the Objector
- (F) Causal nexus between JBIC’s non-compliance with the Guidelines and the substantial damage
- (G) Resolution desired by the Objector
- (H) Facts concerning the Objector’s communication with the Project Proponent
- (I) Facts concerning the Objector’s communication with JBIC’s Operational Department
- (J) If an Objection is submitted by an agent, the Objector must set forth the necessity to submit the Objection by an agent, and evidence must be attached that the agent has been duly authorized by the Objector.

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

[THE END]