

Annual Report of the EXAMINERS FOR ENVIRONMENTAL GUIDELINES (FY2012)

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 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 the parties affected, 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 dialogue between the parties concerned.

JBIC established the Procedures in October 2003 in advance of other export credit agencies or bilateral aid agencies and prior to the adaptation of the “common approach” environmental review recommendations adopted by the OECD.

(2) Publication of the Annual Report

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

(3) JBIC’s Institutional Reform

In April 2012, JBIC set off on a new start as a policy-based financial institution wholly owned by the Japanese government separated from the Japan Finance Corporation (JFC), pursuant to the Japan Bank for International Cooperation Act (JBIC Act), promulgated and came into effect on May 2, 2011.

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

<http://www.jbic.go.jp/en/about/environment/guideline/disagree/pdf/en-disagree-2012.pdf>

² JBIC Guidelines for Confirmation of Environmental and Social Considerations
http://www.jbic.go.jp/en/about/environment/guideline/business/pdf/pdf_01.pdf

2. Appointment of new Examiners for Environmental Guidelines

In October 2012, JBIC appointed two new Examiners for Environmental Guidelines. Their profiles are below:

Professor Takashi Hayase (in the photo, left)

Graduate School of Fisheries Science and Environmental Studies, Nagasaki University

After he completed the M.E. course at the Graduate School of Engineering at Kyoto University in 1977, he joined the Environment Agency (presently the Ministry of the Environment). In 1991, he received a commission to be Policy Adviser of Environmental Impact Management Agency (BAPEDAL) in Indonesia. And then he became Head of the International Technology Research Office in the Administration Department at the former AIST (Agency of Industrial Science and Technology) under MITI (Ministry of International Trade and Industry, presently METI (Ministry of Economy, Trade and Industry)). Since 1997, he has served the present position. He obtained a PhD. in Engineering at Kyusyu University.

His recent topics of research include citizen participation and involvement in environmental policy-making, environmental issues in developing countries and education for sustainable development. His recent publications include *Approach to Environmental Studies/ Humanities and Social Sciences* (in Japanese, Kyushu University Press, 2001, joint work), *Global Environmental Issues and Political Measures* (in Japanese, Minerva Shobo, 2003, joint work), *Local Environmental Agenda and Response* (in Japanese, Minerva Shobo, 2012, joint work).

Professor Hiroshi Matsuo (in the photo, right)

Law School, Keio University

He completed the B.A. course at the Faculty of Law at Keio University in 1985 and finished a LL.D. program specialized in law at the Graduate School of Hitotsubashi University in 1990. Later he became Associate Professor in the Department of Commerce at Yokohama City University and then became Professor at the Graduate School of International and Business Law, Yokohama National University. Since 2003, he has served the present position.

His special field of study is Civil Law and Law and Development. His recent topics of research include governance and law, legal assistance for developing and transitional countries, comparative study of civil law and common law, and theory of property rights. His recent publications include *Good Governance and the Rule of Law* (in Japanese, Nihon Hyoronsha, 2009), *A System of Civil Law, 5th edition* (in Japanese, Keio University Press, 2010), *Guarantee of Property Rights and Theory of Compensation for Takings* (in Japanese, Taisei Shuppansha, 2011), *How To Read the Civil Law Reform* (in

Japanese, Keio University Press, 2012), *A Basic Theory of Law and Development* (in Japanese, Keiso Shobo, 2012).



3. Report on Activities in FY2012

(1) Objections

There were no objections submitted during the course of FY2012 (April 2012 to March 2013). Concerning the objections raised to the Panama Canal Expansion Project, with respect to making a decision to commence the Procedures was suspended in FY2011, JBIC Examiners conducted information-gathering on the current status, etc. of the proceedings at the other international and regional organizations, continuously.

(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's Inspection Panel and other institutions

Multilateral development banks such as the World Bank have successively introduced accountability mechanisms over the last decade similar to JBIC's Procedures. The World Bank's Inspection Panel, established in 1993, has received more than 80 objections, and thus has a long history compared to other international and bilateral financial institutions.

The World Bank's Inspection Panel initiated the Meeting of Accountability Mechanisms in International Financial Institutions and Related Institutions and held annual meetings from 2004. In September 2012, the ninth meeting was held by the European Investment Bank (EIB) in Luxembourg with the participation of several

international financial institutions and bilateral institutions.³

At this meeting, some organizations reported several issues related to accountability mechanisms, including outcomes of Rio+20, compliance and mediation, Independent Accountability Mechanisms' (IAMs) functions, trends and best practices, IAMs in co-financed projects, enforcement of human rights - effectiveness and outcomes, and getting more visibility as the IAMs group. Other specific activities and cases were also presented by organizations, and there were active discussions and opinion exchanges among participants.⁴

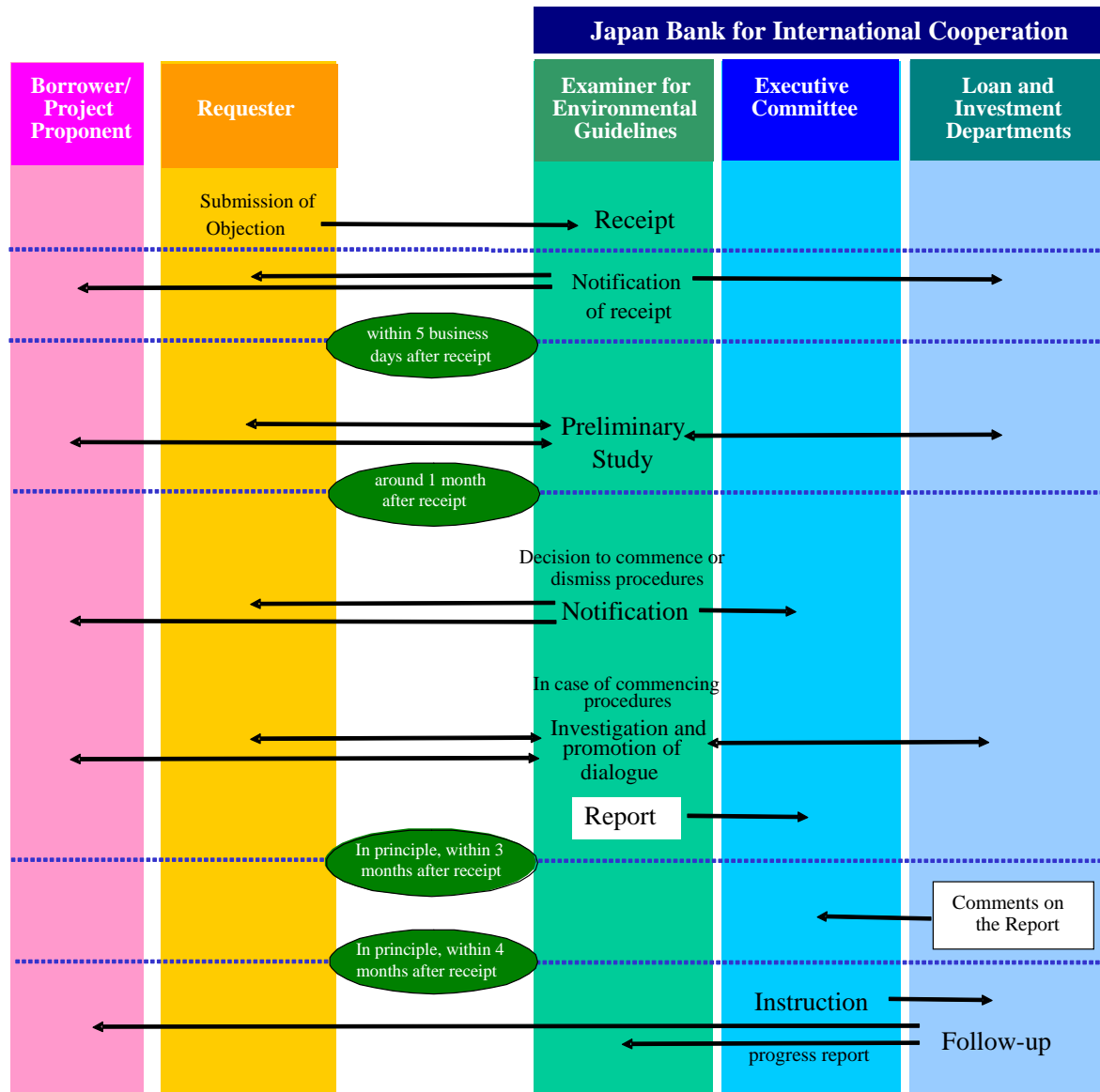
Through these activities, JBIC Examiners have proactively exchanged views on how to ensure the fair and appropriate implementation of the processes of the Procedures, including desirable procedural steps in practice.

³ Participants: 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, EU Ombudsman, OPIC Office of Accountability, Canada Office of Extractive Sector Corporate Social Responsibility Counsellor, UNDP Office of Audit Investigations, BSTDB Internal Audit Department, NIB Office of Chief Compliance Officer, NEXI Examiner for Guidelines on Environmental and Social Considerations in Trade Insurance, and JBIC Examiner for Environmental Guidelines.

⁴ Concurrently, an event related to this IAMs meeting was carried out. At the event, some members of the IAMs meeting, attendants from civil society and academics interacted with each other.

4. Objection Procedures

(1) Flow of the Objection Procedures



(2) Submission of Requests

A request to raise 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: <http://www.jbic.go.jp/en/about/environment/guideline/disagree/index.html>

(Sample)

Request

Date: _____

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

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

We wish to keep our names not disclosed 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) 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
- (E) 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
- (F) Causal nexus between JBIC’s non-compliance with the Guidelines and the substantial damage
- (G) Resolution desired by the Requester
- (H) Facts concerning the Requester’s consultation with the Project Proponent
- (I) Facts concerning the Requester’s consultation with JBIC’s Operational Department
- (J) 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.

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

[THE END]