

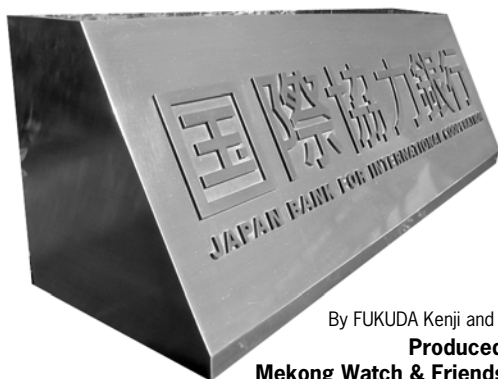
Protect Yourself from Destructive Development

Handbook
on JBIC's
New Environmental
and Social Guidelines



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By FUKUDA Kenji and OHASHI Tamaki

Produced by
Mekong Watch & Friends of the Earth Japan

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We would also like to express our sincere appreciation to our colleagues whose patient feedback improved the initial draft of this booklet and enabled us to complete this final version. Hozue Hatae's contribution of the San Roque Dam case helps to illustrate the social impacts of large dams. Comments from Aviva Imhof, Zakir Kibria, Ikuko Matsumoto, Riei Nagase, Satoru Matsumoto, and Michael Simon were very helpful to fine-tune the content and ensure that the included information was sufficient. Yuki Akimoto and Kevin Li helped us to upgrade our reader-friendliness, and with feedback from Pianporn Deetes, we are happy to know that this guide will be useful for our counterparts in the Mekong Region. We would also like to thank the Charles Stewart Mott Foundation and the Rockefeller Brothers Fund for their support to print and distribute this booklet.

□ What is this guide for?

In developing countries today, there are many dams, power plants, irrigation systems, roads, pipelines, and other large infrastructure projects being built. Unfortunately, these projects sometimes cause problems for people who live near them, or they destroy the environment. Sometimes people lose their homes and land and must move to other places. Sometimes people lose their traditional ways of life when their environments are destroyed. Sometimes the projects damage people's health.

Some of these projects are financed by the Japanese government, and more specifically, the Japan Bank for International Cooperation (JBIC). JBIC is the bank that the Japanese government uses to give loans to governments in developing countries. JBIC also helps Japanese companies that are involved in development projects.

The purpose of this guide is to give you information about two tools you may want to use if you are worried about projects financed by JBIC, or projects that may be financed by JBIC in the future. One tool is a new set of environmental and social guidelines for JBIC. The other is the Objection Procedures also established by JBIC. These two tools contain rules that JBIC must follow and procedures that you can use to get information about projects and tell JBIC what you think. This guide also contains basic information about JBIC and how it makes decisions about the environment and people's livelihoods.

JBIC's new guidelines are called, "JBIC Guidelines for Confirmation of Environmental and Social Considerations." In this booklet, we will call them, "the Guidelines." The Guidelines focus on what must be done to make sure the environment is not destroyed and to make sure that people have chances to tell JBIC what they think about the projects. According to the Guidelines, JBIC must listen to the opinions of people who will be affected by the projects. Because these Guidelines are new, only new projects (projects for which funds are requested on or after 1 October 2003) must follow the Guidelines.

JBIC also established Objection Procedures for the new Guidelines. This means that if people affected by a JBIC project think JBIC did not follow its own rules as they are written in the Guidelines, then they can complain to JBIC using the

Objection Procedures. If a complaint is sent through the Objection Procedures, a neutral Examiner will review and investigate the complaint. We will also explain this procedure in this booklet.

Unfortunately, just because JBIC made new Guidelines does not mean that its projects will stop causing environmental and social damage. We believe the problems will continue unless people affected by projects, NGOs, and others strictly monitor how JBIC uses the Guidelines. This is why we think it is important for people to understand the Guidelines and the Objection Procedures. You may want to use them as tools to demand that JBIC respects your rights. The Guidelines and Objection Procedures are difficult, so we hope that this book will make them easier for people to understand. We also hope that this book will help give you some ideas for things you can do about JBIC projects that are causing environmental or social problems.



□ How to Use this Booklet

This booklet is most useful as a reference tool. It is probably best to read the whole thing once through, because that will give you an overview of what JBIC is, the kinds of projects it does, and the environmental and social requirements those projects must meet. After that, it may be useful to return to certain chapters depending on what information you need.

Below is a description of each chapter. Please read the chapters that are most relevant to your needs. Please feel free to contact us at Mekong Watch if you have any questions.

Chapter 1 What is JBIC? Page 11

This chapter contains basic information regarding JBIC, the kind of work it does, and some common problems caused by the projects it finances.

Chapter 2 The Process of JBIC Financing Page 19

This chapter explains the different stages of JBIC projects from planning to implementation and monitoring. It also explains things you can do at each stage to input into JBIC's decision-making.

Chapter 3 How to get Information Page 35

This chapter explains different ways to get information from JBIC. It explains what kind of information JBIC must give under the Guidelines and Japan's Information Disclosure Law. It also explains who you can ask for information and how you can contact them.

Applicability of the new Guidelines

Before reading this booklet, it is important to understand that it is most useful for new projects. JBIC's new Environmental and Social Guidelines came into effect on 1 October 2003. This means that projects for which finances had been requested before 1 October 2003 are not required to follow these Guidelines. There are older guidelines that do apply to projects before October 1st, but they are much weaker than the new Guidelines. Chapter 7 describes how the new Guidelines can be used for old projects.

Generally, the Guidelines apply to projects for which finances are requested on or after 1 October 2003. But because the Guidelines were actually finished and adopted by JBIC earlier than October, there are parts of the Guidelines that also apply to projects for which finances were requested between 1 October 2002 and 30 September 2003.

The most certain way to know if a project must follow the new Guidelines is by asking JBIC (See Chapter 3, "Finding out if JBIC is involved," page 38). You can also check JBIC's website. On JBIC's website, there is a Project Categorization List (but only in Japanese) which gives dates for when the information was put on the website. The date for each project is near the date that JBIC received the request for a loan for that project. If the date is after 1 October 2003, then it is likely that the new Guidelines apply (but it is wise to ask JBIC to make sure). If the date is between 1 October 2002 and 30 September 2003, then only parts of the new Guidelines apply, and the old guidelines also apply. If the date is before 1 October 2002, then only the old guidelines apply. You can find the link to see the old guidelines on JBIC's website at <<http://www.jbic.go.jp/english/environ/guide/finance/index.php>>

Which Guidelines Apply?

Date of Request for Financing	Applicable Guidelines
Before 1 October 2002	Old Guidelines
Between 1 October 2002-30 September 2003	Old Guidelines and part of New Guidelines
After 1 October 2003	New Guidelines

Paragraph Numbering

Beginning in Chapter 2, you will notice that there are numbers in a column on the left side of the page. The same numbers are also on the left side of the pages in Appendix D and E, which are JBIC's Guidelines and Objection Procedures. When you see the numbers in Chapters 2-7, you can go to the same numbers in Appendix D and E to see how the things we explain in this booklet are written in the Guidelines and Objection Procedures (in the original Guidelines and Objection Procedures, there are no paragraph numbers).

There are 3 kinds of numbers. Examples of these numbers are 4-1-3; P1-6-1; and O2-2.

- ▶▶ Numbers without any letters in front are from Part I of the Guidelines (Appendix D, page 87).
- ▶▶ Numbers with a "P" in front are from Part 2 of the Guidelines (Appendix D, page 99).
- ▶▶ Numbers with an "O" in front are from the Objection Procedures (Appendix E, page 108).
- ▶▶ Finally, if you see "FAQ," that means the information is explained in JBIC'S "Frequently Asked Questions" section of its website. Because there are some things that are not clear in the Guidelines, JBIC decided to include more information in an FAQ section of its website. The List of FAQs can be found at <<http://www.jbic.go.jp/english/base/faq/>>

Abbreviation List

- EIA* *Environmental Impact Assessment*
- FAQ* *Frequently Asked Questions*
- IFO* *International Financial Operations*
- JBIC* *Japan Bank for International Cooperation*
- JEXIM* *Japan Export-Import Bank*
- JICA* *Japan International Cooperation Agency*
- L/A* *Loan Agreement*
- OECF* *Overseas Economic Cooperation Fund*
- OECD* *Overseas Economic Cooperation Operations*
- ODA* *Official Development Assistance*

What is JBIC?



1.1 Introduction

The Japan Bank for International Cooperation, or “JBIC” for short, is the second largest development bank in the world. It was established in 1999 when two large Japanese financial institutions merged. These two institutions were the Japan Export-Import Bank (JEXIM) and the Overseas Economic Cooperation Fund (OECF).

OECF was mainly responsible for providing Yen Loans from the Japanese government to governments in developing countries. Yen Loans are one type of Official Development Assistance (ODA). There are other types of ODA including grant aid, technical assistance and contributions to multilateral institutions, but these types of ODA were given by agencies other than OECF. Implementation of Yen Loans was OECF's responsibility. The Japanese Government says that the purpose of ODA is to promote the economic development and welfare of developing countries. JEXIM did other kinds of International Financial Operations (IFOs) that were not ODA loans, such as export loans, import loans, investment loans, and untied loans. These loans were sometimes made to governments and sometimes to private companies. The purpose of IFOs is to support Japanese companies' exports and investments.

Because JBIC was established by putting these two institutions together, it now is responsible for both Yen Loans as well as the International Financial Operations that JEXIM used to do. JBIC therefore lends to governments of developing countries and also to Japanese and foreign companies.

Comparison of JBIC and the World Bank

billion US dollars

	JBIC	World Bank
Outstanding Loans	192.3	223.1
Annual Lending	17.7	18.5
Number of countries receiving loans	40	91
Number of Staff	883	8800

Source: The World Bank, The World Bank Annual Report 2003, Japan Bank for International Cooperation, Annual Report 2003.

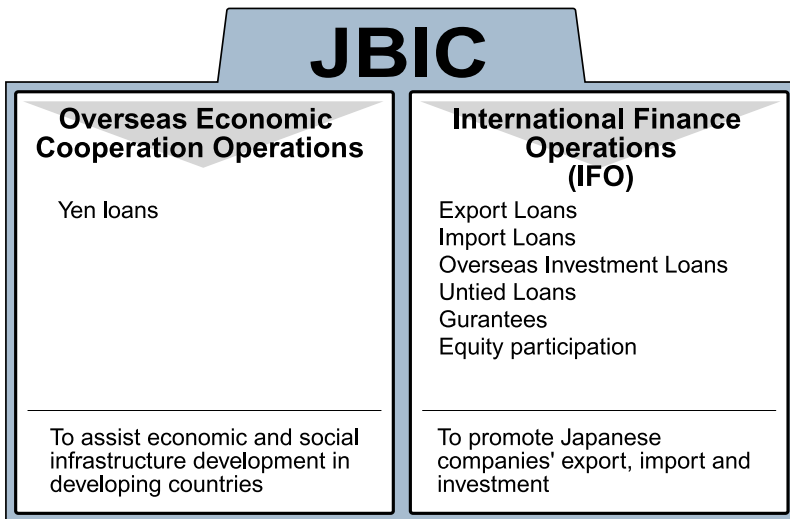


1.2 Types of JBIC Operations

As explained above, JBIC has two main functions. One is to lend money for development projects to governments in developing countries. The other function is to support Japanese corporations.

In order to carry out these two functions, JBIC has various operations that can be divided into two main categories. These categories are (1) Overseas Economic Cooperation Operations, and (2) International Financial Operations. Here is a brief explanation of these categories. For a more detailed explanation, please see JBIC's website at <<http://www.jbic.go.jp/english/base/about/profile/index.php>>

Types of JBIC Operations



1. Overseas Economic Cooperation Operations (OEEO)

The majority of Overseas Economic Cooperation Operations are Yen Loans, and this is one type of Japanese ODA. JBIC gives low-interest and long-term loans to both local and central governments in developing countries. Traditionally, Yen Loans have been given mostly for large infrastructure projects, such as dams, roads, and ports. This is still true today, but some Yen Loans are now being given for social development and projects for environmental protection too.

2. International Financial Operations (IFO)

There are many kinds of financing in this category, such as export loans, import loans, investment loans and untied loans. These loans are not ODA loans. Their purpose is more to support Japanese corporations than to promote development in other countries. Export loans are specifically to help Japanese companies export things such as power plants, oil and gas plants. Import loans are given to Japanese importers and foreign exporters so they can send natural resources and manufactured goods to Japan. Investment loans support Japanese companies to invest directly in other countries. There are other types of loans in this category, including untied loans and guarantees, but at this point, it is not necessary to know the details of each type.

1.3 Characteristics of JBIC Operations

As you can see, there are many different kinds of JBIC operations. But there are some important common characteristics too.

Large projects with large impacts

JBIC tends to finance projects that are large in scale. This is true for both Yen Loan and IFO projects. Some of these projects are infrastructure development projects, such as dams, irrigation systems, and power plants. Others focus on extractive industries, such as oil, gas and mining. These kinds of projects all have large impacts on the environment and on the livelihoods of the people who live near the projects.

Most financing to Asia

JBIC finances projects all around the world. Most of the projects JBIC finances, however, are in Asia. Of all Yen Loans, approximately 80% are given to countries in Asia. About 7% of Yen Loans are to countries in Africa, 6.5% to Latin and South America, 4.3% to the Middle East and 0.8% elsewhere.

JBIC mainly provides loans

JBIC has a few operations that provide grants (funds that the recipient does not have to pay back), but most are loans. JBIC loans have lower interest rates than commercial banks, but governments and companies that borrow from JBIC must still pay back the loans with interest.

Environmental and Social Impacts of JBIC Projects

JBIC has focused its financing on large-scale infrastructure projects, as mentioned above. These projects have caused a lot of damage to environments in many parts of the world. For example, some of the projects financed by JBIC have caused air or water pollution, damaged ecosystems, and led to the loss of biodiversity.

People have also suffered very much because of projects financed by JBIC. Sometimes people are forced to move from their homes and resettle in unfamiliar places. People rarely get enough compensation for lost land and livelihood. Destruction of ecosystems can also make living a traditional lifestyle impossible. Projects can also divide communities or destroy cultures, and this can have especially harsh impacts on women, children, the elderly, ethnic minorities and indigenous peoples.

People suffer not only because of the impacts of projects, but also because projects are poorly planned or not implemented well. Governments and companies have made most decisions, leaving out the local people from decision-making, even though it is the local people who are most seriously affected. There have not been formal mechanisms for people to voice their opinions or raise concerns about problems they face because of development projects. This means that they continue to suffer, and their problems remain unsolved.

Examples of Negative Impacts caused by JBIC Projects

Samut Prakarn Wastewater Management Project (Thailand)

The Samut Prakarn Wastewater Management Project is located near the mouth of the Chaopraya River in central Thailand. It is one of the most controversial projects in Thailand, and was funded by JBIC and the Asian Development Bank. The Samut Prakarn project is a wastewater management plant to treat wastewater from an industrial area 20 kilometers away from the project itself. It is expected to cause severe damage to the sea, where local people are doing mussel farming and other types of fishing. The project site was chosen allegedly because of corrupt land sales. After years of local protests and international campaigns, the Thai Government decided to stop the construction of the project in February 2003. Though construction of the project has stopped for now, the future of the project is still uncertain.





San Roque Multipurpose Dam Project (Philippines)

More than 4,400 people have already been displaced because of the San Roque Multipurpose Dam. Also because of the dam, thousands of people who used to make a living from gold panning cannot do so any more. They have demanded compensation and alternative ways to make a living, but their problems still have not been solved. In the future, thousands of indigenous Ibaloi people that live upstream of the dam also expect to suffer. Their homes, rice terraces, orchards, pasturelands, gardens and burial grounds will eventually be buried or flooded because sediments will continue to pile up behind the dam. People affected by this dam have strongly opposed it since 1995, but it was built anyway. It started commercial operation in May 2003.



The Process of JBIC Financing



2.1 Introduction

In order to stop or change a JBIC-funded project, it is important to understand the different stages of the project from the beginning to the end, i.e. throughout the project cycle. It is important to understand not only what happens during the project cycle, but also who is responsible for each stage. Depending on which stage the project is at, there may be different opportunities or difficulties in voicing concerns to JBIC. Generally speaking, it is easier to influence JBIC's decisions about projects at early stages. After construction begins, for example, it is very difficult to reform project plans, and even more difficult to stop them, even if they are very destructive.

2.2 Main Actors: Project Owner and Borrower

Before explaining the different stages of JBIC projects, it is necessary to know who the main actors are. There are many

different groups involved in the projects that JBIC finances, and this Guide will continue to mention them. The main decision-makers are the project owners and borrowers, in addition to JBIC, the donor.

Project Owners

Project owners are the ones who implement and operate the projects. In the case of a Yen Loan, the project owner is a government agency. In the case of an IFO project, the project owner could be a government agency or a company.

Borrowers

Borrowers are the ones who sign the contracts to borrow money directly from JBIC. In the case of a Yen Loan, the borrower is usually the project owner (the government agency). In the case of an IFO project, the borrower could be the project owner, or it could be a company that is involved in the project, working under the project owner as an exporter.

2.3 Six Stages of JBIC Financing

Stage 1 Project Preparation

What happens in Stage 1?



Preparation by Project Owner

P1-23 This is the first stage of the project cycle, when many important things must be done about environmental and social aspects of projects. For example, environmental impact assessments (EIAs) and social impact assessments (SIAs) must be done during project preparation. Both assessments describe how much damage a project is expected to have. They also include mitigation and monitoring measures to prevent such damage. Some projects require
P1-7-2 resettlement plans, which are plans to move local people from their

homes to another place and the compensation that people should get. All such plans must be made at this stage.

- 3-1-1 The project owner is responsible for project preparation. The project
- P1-2-3 owner must make sure that the EIA and SIA are done. They must
- P1-6-1 also make sure that local people who may be affected by the project
- P2-2-4 are given information about the project and have chances to express
- P1-7-3 what they think about it. The project owner does not actually do the EIA and SIA, but hires consultants to do them. Consultants often have vested interests in making the project happen, so they do not always give a fair report of the problems with a project. This is why people cannot expect a fair assessment of environmental and social impacts unless they also watch the work of these companies and give a lot of information about environmental and social problems to the companies and to JBIC.

What can you do in Stage 1

Warn JBIC about problems

- 3-1-1 JBIC is usually not involved in projects at this stage (unless they are
- 3-1-2 giving Technical Assistance. See "Assistance for Project Preparation" (page 22)). If there are signs that JBIC or Japanese companies might be involved in a project in the future, however, it could be a good idea to send information about your concerns to JBIC at this stage, and ask whether or not JBIC plans to get involved. You can do this by contacting JBIC's headquarters in Tokyo or a local representative office (see Appendix A). It will be a warning to JBIC, so that they know there are problems with the project at the earliest stage. You can try to find out if the project owner is thinking about asking JBIC for a loan. If there are Japanese companies investing or exporting goods for the project, then that is also a sign that JBIC could become involved. If concerns are raised at the project preparation stage to JBIC, JBIC will probably say something like, "we have not received any loan requests, so please contact the project owner about your concerns." But with your warning, JBIC must look at the environmental and social impacts more carefully when they consider financing the project. It is also important

because JBIC could be contacted informally by project owners and given one-sided information from them.

Get Information and Document your Efforts

P2-2-4 At this stage, you should also know that if there is an EIA or SIA for the project, and the owner plans to ask JBIC for funding, the project owner is responsible to make sure you have enough information about the project to decide whether you like it or not. You should get information not only about the benefits of the project, but the damage it will cause as well. You should also have a chance to tell the project owner or the consultants doing the EIA and SIA what you think about the project. Whether the project is finally funded by JBIC or not, it will be useful for you to document your concerns and how you communicate to the project owner from this early stage (See column on Public Consultation on page 49).

Assistance for Project Preparation

JBIC's involvement in projects usually begins after the preparation stage. The Japanese government does have a few programs, however, to help developing countries prepare development projects. If the Japanese government gives money to help a developing country plan a project, then concerns about these projects can be raised at the preparation stage.

One way the Japanese government can give money for a project during the project preparation stage is through JBIC. JBIC gives assistance called Special Assistance for Project Formation (SAPROF). SAPROF is used when JBIC is not satisfied with existing studies for a project and wants more studies to be done before deciding to give Yen Loans. Generally, when JBIC uses SAPROF to assist a project, it is highly likely that JBIC

will give Yen loans for the project after the SAPROF study is finished.

Another way the Japanese government can be involved at the project preparation stage is through a different government agency, the Japan International Cooperation Agency (JICA). JICA implements technical assistance of Japanese ODA. JICA sends Japanese consultants to do development studies in other countries. These studies could be Master Plan Studies, Feasibility Studies, or Detailed Design Studies. After these studies, some of these projects are financed by JBIC, but some are financed by other donors. Sometimes developing countries finance the projects by themselves, and sometimes projects are just abandoned. The reports of these studies can be found in JICA's library in Tokyo. This library can be searched at <<http://lvzopac.jica.go.jp/library/indexeng.html>>.

JICA established its own set of social and environmental guidelines which went into effect in April 2004. If studies for projects you are concerned about are funded by JICA, it is worth reading its new guidelines, which can be downloaded in English, French, Spanish, and Japanese, on JICA's website at <<http://www.jica.go.jp/english/environment/index.html>>.

Stage 2 Request for a Loan

What happens in Stage 2 ?

Official Request to JBIC

The borrower makes an official request to JBIC for a loan at this stage, after project preparation is done. As soon as JBIC receives

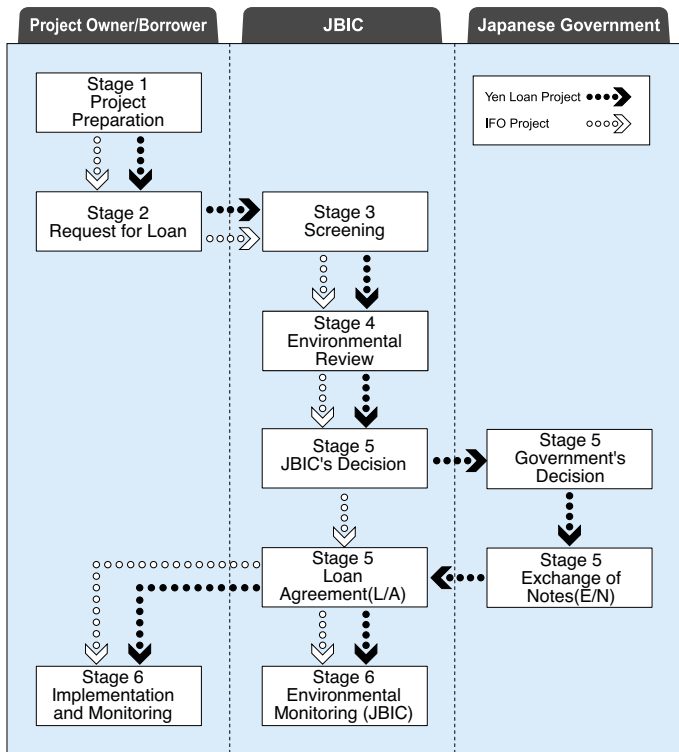
a request for a loan, JBIC is officially involved in the project. This stage is very short.

What can you do in Stage 2 ?

Contact JBIC early!

Because this stage is so short, all you can really do is contact JBIC immediately. If you have concerns about a development project, and your government requested a loan from JBIC for the project, then you should start contacting JBIC about it as soon as possible. Do not wait until after JBIC decides to give a loan. See Stage 3 for more details.

Flowchart of JBIC Financing



Stage 3 Screening and Environmental Categorization

What happens in Stage 3 ?



Screening

- 4-1-1 When JBIC receives a request for a loan, one of the first things it
- 4-1-3 does is screen the project and put it into an environmental category. This means that JBIC looks at the kinds of environmental and social impacts the project is expected to have. Based on this, JBIC will put the project request into one of four categories: Category A, Category B, Category C, or Category FI. The Guidelines give definitions of each category. To explain simply:
- 4-2-1 **Category A** projects are expected to have serious environmental and social impacts. They are mostly large infrastructure projects. Their expected impacts could include relocation of many people, changes in the existing landscape, the use of environmentally harmful substances, and cutting of large areas of forest. Category A projects generally must be reviewed most carefully of all the categories (see Stage 4).
- 4-2-2 **Category B** projects are expected to have some environmental and social impacts, but less serious than Category A.
- 4-2-3 **Category C** projects are not expected to have negative environmental or social impacts.
- 4-2-4 **Category FI** means JBIC gives assistance to an intermediary, such as a government-owned bank. The intermediary decides specifically what kinds of projects to do after JBIC agrees to give funding. If a project has already been identified when JBIC does its categorization, however, the project will be categorized as A, B, or C.

JBIC's Project Categories

	Category A	Category B	Category C	Category FI
Definition	Projects likely to have significant adverse impacts on the environment (eg: dams and mining projects)	Projects likely to have some adverse environmental impacts, but less adverse than Category A projects	Projects likely to have minimal or no adverse environmental impacts	Projects funded by JBIC through a Financial Intermediary and these projects are expected to have impacts on the environment
Environmental Review	JBIC examines the potential negative environmental impacts, and evaluates mitigation and compensation measures	Similar to Category A projects but narrower in scope	No environmental review will be conducted	JBIC checks if appropriate environmental considerations for sub-projects were taken
Environmental Impact Assessment	EIA must be done	EIA not required	EIA not required	EIA not required
	EIAs are available from JBIC and project owner; Must be available in official language	If an EIA is done, it is available from JBIC		
Public Consultations	Public consultations required	Public consultations not required	Public consultations not required	Public consultations not required
	Records of consultations are available from JBIC			
Environmental Review Result	Results disclosed after Loan Agreement	Results disclosed after Loan Agreement	No review is done, so no report is available	Results disclosed after Loan Agreement
Monitoring	JBIC must confirm the result of monitoring	JBIC must confirm the result of monitoring	Monitoring not required	Monitoring not required

Projects are listed on JBIC's Website

5-2-1 After projects are put into Category A, B, C, or FI, they are listed on JBIC's website. The information contained in this list includes the project's name, location, description, the type of project it is, the category it was put in, and the reason for the choice of category. After JBIC puts the projects into categories, JBIC must also make the Environmental Impact Assessments (EIA) available to the public (see Chapter 3 for more details).

FAQ-57 If a project is a Yen Loan project in Category A, it must be put on
 FAQ-58 the Project Categorization List on JBIC's website at least 120 days
 before the loan agreement (L/A) is signed. If it is an IFO project,
 then it must be put on this list at least 45 days before the L/A is
 signed. For more information about L/As, see Stage 5, page 30.

What can you do in Stage 3?

|||||

Check JBIC's Categorization List!

If you are worried about a JBIC project, it is a good idea to check
 this list to make sure that JBIC put it in the right category. If
 you think that JBIC chose the wrong category for a project, you
 can send information to JBIC and explain why you think so.

4-1-2 JBIC puts projects into categories based on the information the
 4-1-4 borrowers provide. But the Guidelines say that if JBIC receives new
 information that shows that the project should be in a different
 category, JBIC can change the category. See Chapter 3 (page 41)
 for information about the Project Categorization List.

4-3-2 The category JBIC chooses is important because JBIC must check
 P2 the social and environmental impacts of Category A projects much
 more strictly than Category B or C. If a project is put in Category
 4-3-3 A, for example, then an EIA must be done and disclosed. EIAs
 explain how much damage a project is expected to have on the
 environment, and are therefore very important. If a project is put
 4-3-4 in Category B, the borrower must give some information about
 environmental impacts, but a full EIA is not required. For Category
 C projects, there is no EIA and no other information is required
 about environmental impacts.

Stage 4 Environmental Review

What happens in Stage 4 ?

Environmental Review

- 4-3-1 After JBIC puts projects into categories, it does environmental
- 1-4 reviews. This means JBIC checks whether the project owner has
- 3-2-3 met the requirements in the Guidelines in regard to environmental
- and social factors. JBIC looks at the kinds of environmental and
- social impacts the projects are expected to have and the plans to
- deal with these impacts. The plans could include ways to prevent
- 4-3-2 problems, ways to make them less serious, or compensation for
- damages people will suffer because of the projects. If a project
- is in Category A, JBIC will do an environmental review based
- 4-3-3 on the EIA report and other environment-related documents,
- including resettlement plans. If it is Category B, JBIC will do
- the environmental review based on the information about the
- environment that the borrower or other people give, but no EIA is
- 4-3-4 required. If it is Category C, then there is no environmental review
- 4-3-5 at all. For Category FI projects, JBIC will contact the intermediary
- to make sure the Guidelines are being respected.

- 3-5-1 If JBIC finds that the project owner has not met the requirements
- 6-1 in the Guidelines and that the project is likely to have negative
- impacts, JBIC will encourage the project owner to address these
- problems. If the project owner does not do what is necessary to
- meet the requirements in the Guidelines, JBIC can decide not to
- fund the project.

What can you do in Stage 4?

Tell JBIC what you think!

This is an important time to change or cancel projects. The Environmental Review stage is very important. It is the last stage before JBIC makes a decision on whether or not to finance a project. Because JBIC has not made any promises to the project

owner at this stage, changes can be made more easily than after JBIC promises financing. Sometimes projects can even be cancelled. So this is a critical time to pressure JBIC to address your concerns about a project.

- 1-2 The Guidelines say that JBIC welcomes views from project
3-3-2 stakeholders, including affected people and local NGOs. If you
5-1-1 are worried about the kinds of impacts a project will have on you, then it is good to tell JBIC about your concerns. If JBIC does not address your concerns, and you expect serious damage, it might be a good idea to file an official complaint to JBIC (see Chapter 6 for information about filing official complaints).

Read the EIA!

- 5-2-1 If the project is a Category A project, request a copy of the EIA
P2-2-3 from the project owner or JBIC. EIAs are difficult to read, but the
P2-2-2 Guidelines require that it is translated into an official or widely used language of your country. We strongly recommend that you read the EIA and tell JBIC if there is any missing or wrong information.

Be Aware of Timing

- FAQ-57 Remember, for Category A Yen Loan projects, there may be only
FAQ-58 120 days from the time a project is listed on JBIC's website (Stage 3) to the time a loan agreement is signed (Stage 5). For a Category A IFO project, there may be as few as 45 days. Stage 3 and 4 can pass by very quickly, so it is often important to tell JBIC about the problems with its projects as soon as possible after they arise. For Category B and C projects, no time requirement has been specified, so contacting JBIC about your concerns should be done as early as possible.

Stage 5 Decision-Making and Loan Agreements

What happens in Stage 5?

JBIC’s Decision on Financing

During this stage, JBIC decides whether or not it should finance a project. This process starts after the environmental review is finished. Depending on the type of project, the decision-making process is a little different.

Decision on Yen Loan Projects

Yen Loan projects involve two decisions, one by JBIC and one by the Japanese government. The process is as follows:

- i. Decision by JBIC Board: First, JBIC’s Board of Directors decides whether or not to fund the project. If the Board decides the project should be funded, it approves the project.
- ii. Decision by Japanese Government: JBIC sends the approved project proposal to the Japanese government. Three ministries in the government—the Ministry of Foreign Affairs, the Ministry of Finance, and the Ministry of Economy, Trade and Industry—review the project proposal. If these ministries agree that the project should be financed, then the project is given final approval at a cabinet meeting.
- iii. Exchange of Notes (E/N) signed between two governments: After cabinet approval, the Japanese government signs an agreement with the government of the borrowing country. This agreement is called the Exchange of Notes (E/N), and it is basically a promise by the Japanese government to give money for a project to the borrowing country’s government.
- iv. Loan Agreement (L/A) is signed: After the E/N, more details are worked out between the recipient government and JBIC, and the details are included in the final contract called the Loan Agreement (L/A).

One problem to watch for is an early Pledge. The Japanese government sometimes makes oral political commitments, called “Pledges,” to give Yen Loans to recipient countries. A Pledge could be made, for example, as a “souvenir” for a visiting minister to take home to his/her country after a visit to Japan, or when a Japanese minister visits a developing country. A Pledge is normally made after JBIC’s environmental review, but sometimes before the review. Even though Pledges are not legally binding, and an L/A must still be signed, it becomes very difficult to cancel projects after a Pledge is made.

Decision on International Financial Operations

Unlike Yen Loans, JBIC can decide by itself whether or not to finance a project with International Financial Operations (export loans, investment loans, and other kinds of non-ODA loans). The process to decide to finance an IFO project is as follows:

- i. Decision by JBIC Board: JBIC’s Board of Directors approves the project
- ii. Negotiations: JBIC negotiates the details of the terms and conditions of the loan with the borrower
- iii. L/A is signed: JBIC and the borrower sign a Loan Agreement

Result of Environmental Review

3-5-1 Whether a project is financed by a Yen Loan or International
6-1 Financial Operations, the Guidelines say that the final decision to finance a project must reflect the results of the environmental review. The Guidelines also say that if there is not appropriate consideration of environmental and social factors, then JBIC can decide not to finance a project.

What can you do in Stage 5 ?

Contact JBIC Before the L/A!

If you are worried about the social and environmental impacts of a project that JBIC is thinking about financing, it is important to recommend that the project plan is changed or cancelled before the L/A is signed. The L/A explains the details of the project and it is a legal agreement between JBIC and the borrower. This means that if JBIC changes its plans, it might mean breaking the agreement signed in the L/A. JBIC can do this only in extraordinary situations, so the earlier you can raise your concerns to JBIC, the better chance you have to make JBIC act on your concerns. Remember, projects that JBIC is considering must be put on the Project Categorization List at least 120 days before L/As are signed for Yen Loans, and 45 days for IFO projects. If you find the project on JBIC's Project Categorization List, this means that there may be very little time to contact JBIC between the time JBIC becomes officially involved in the project and when the L/A is signed. If you contact JBIC before the L/A, it might be possible to delay the L/A until your concerns are addressed by JBIC and the project owner.

FAQ-57
FAQ-58

Push for Conditions to be Included in the L/A!

6-2 The Guidelines say that when JBIC thinks it is necessary, JBIC will try to include environmental and social conditions in the L/A. If you want a project to be reformed (rather than cancelled), you can push for conditions to be included in the L/A. It is important that environmental and social conditions be included in the L/A because the L/A is the basis for JBIC to monitor and supervise implementation of projects by project owners. One problem, however, is that it is very difficult for the public to monitor the implementation of conditions in the L/A because it is not a public document. If you demand that conditions be included in the L/A, it is also important to demand that those conditions be made public.

If you are going to be affected by a JBIC-financed project and are still worried about the environmental and social impacts after the L/A is signed, another step you can take is to file an official objection against the project. This is explained in Chapter 6.

Stage 6 Implementation and Monitoring

What happens in Stage 6 ?



Project Implementation Begins

1-5 When the construction or implementation of a project actually
 3-2-1 begins, JBIC must monitor the project carefully. The project owner
 4-4-1 is expected to make sure that the project does not damage the
 P1-3-1 environment too much and does not harm the people affected
 P1-9-1 by the project. If there is some damage or harm, then the project
 P1-9-2 owner must make sure that the plans to minimize damage, or
 to compensate harm, are also implemented properly. JBIC must
 monitor to make sure the project owner does these things.

What can you do in Stage 6 ?



Monitor Implementation of Project

P1-9-1 Often, project owners do not keep promises to protect the
 environment or to compensate people, even when these promises
 are written in EIAs, SIAs or Resettlement Plans. Also, there might
 be environmental and social impacts that were not foreseen during
 project preparation. At the project implementation stage, it is
 important to make sure that mitigation measures and compensation
 plans in the EIA and Resettlement Plan are also implemented
 properly. If these measures are not implemented, it could be a
 violation of the Guidelines.

JBIC must still listen

5-1-1 If you are affected by a project that JBIC is financing, and you
 4-4-3 face problems at this stage of project implementation, JBIC must
 listen to your complaints. The Guidelines say that JBIC welcomes
 information from stakeholders about project implementation. If
 you send information to JBIC explaining that environmental or
 social damage is happening because not enough care is being taken
 to prevent it, then JBIC will send this information to the project
 owner and the borrower. JBIC will encourage the project owner to
 take some action to investigate the cause of the problems and solve
 4-4-4 them in a transparent and accountable way. JBIC may also do its
 own investigations.

4-4-5 The Guidelines also say that if the project owner does not take
 care of the problems well enough, JBIC can suspend giving loans
 for the project until appropriate action is taken. Although JBIC
 can suspend loans, this has to be done in accordance with the
 agreements signed in the L/A. One big problem, however, is
 that L/As are classified documents now. This means we cannot
 know what a project's L/A says about environmental and social
 conditions to the loans.

If your problems are not addressed by the project owner and JBIC
 takes no action, you may consider filing an official request for
 investigation under the Objection Procedures (see Chapter 6).

How to Get Information



3.1 Introduction

5-1-1 This chapter focuses on how to get information from JBIC and other sources about JBIC and JBIC projects. But it is also important for you to remember to give information to JBIC. This is important because JBIC must consider the information you give very carefully. JBIC must listen to you. If JBIC hears from you that a project will cause a lot of damage, then JBIC must be more careful in deciding what to do. In some cases, JBIC can decide not to finance a project. If you tell them about the difficulties you face, JBIC cannot claim they did not know about your problems.

But of course, in order to tell JBIC about your concerns, you need to know what kind of project JBIC is considering. It used to be very difficult to get information from JBIC. Now, the Guidelines and a new information disclosure law in Japan have made it easier to get some information from JBIC. But depending on what kind of information you need, it can still be difficult.

Following are different sources of information.

3.2 Local Sources of Information

It is possible to get some information in your own country. You can ask for information and project documents from the project owner, or get other information from the media and NGOs.

Information from Project Owner

The project owner is responsible for studies such as Feasibility Studies (documents that describe the technical and financial details of projects) and Environmental Impact Assessments. You should, therefore, be able to get this information from the project owner.

- P2-2-3
P2-2-2 - Environmental Impact Assessment: The Guidelines require that for Category A projects, EIA reports must be available to the public in your country's official language(s). Written materials explaining EIA reports should also be prepared in languages and forms understandable to local people.
- P1-9-3 - Monitoring Results: For projects with serious environmental and social impacts, the project owner must make plans to monitor the project and its mitigation measures. The Guidelines say that "it is desirable that project proponents make the results of monitoring processes available to project stakeholders." It is important to make sure that the project owner accurately explains whether or not the project is causing problems for local people or destroying the environment. It is possible that the project owner will not look at problems you are facing from the project. It is also possible that they will not explain the problems you are facing to JBIC. It is helpful to know how the project owner is explaining the results of monitoring to JBIC. If the project owner says that local people are all happy with the project, then you may need to give JBIC more information about the real situation.

Information from Media

Television and local newspapers are also often good sources of information. They often cover recent changes in a project, or write about politicians' opinions about a project. Sometimes the media will also report activities protesting a project.

Local NGOs

Local NGOs may also have useful information. NGOs have experience with various projects and activities. They might also have connections with other international NGOs, media, or sympathetic politicians. It is often useful to work together with local NGOs that you trust to help you get information about a project.

In cases where you cannot get information locally, it is sometimes possible to get information from JBIC itself or other foreign sources.

3.3 Yen Loan Long Lists

Yen Loan Long Lists are lists of projects that might receive Yen Loans in the future. When the Japanese government and the government of a developing country agree to consider a project for future financing, they put the project on the Yen Loan Long List. These Long Lists are published on the website of Japan's Ministry of Foreign Affairs <<http://www.mofa.go.jp/policy/oda/index.html>> (you may need to do a search of the site inputting the key words "long list" and your country). If a project is on the list, it does not mean that the project has already been approved for funding by JBIC. But there is a chance, of course, that it could be approved. If you see a project you are concerned about on a Long List, then it is a good idea to contact JBIC with your concerns.

3.4 Getting information from JBIC

JBIC has a lot of information that you might need about a project. You can get information from JBIC from their website or by contacting their offices. But before you ask JBIC for information about a project, you must first make sure that JBIC is actually involved in the project you are concerned about.

Finding out if JBIC is involved in the project you are concerned about

Not all projects that involve Japanese financing are JBIC projects. If there is a project you have concerns about, it is important to know exactly who is responsible for the project, and who is giving the funds for the project. There are a few ways to find out if JBIC is thinking about giving funds for the project, or is already doing so.

Check JBIC's website

- 5-2-1 i. When a borrower requests a loan from JBIC, the project proposal is screened and put into a "Project Categorization List," as explained in Chapter 2. This list puts projects into A, B, C, or FI categories, depending on how severe the environmental impacts are expected to be. After categorization, the project is listed on JBIC's website. If a project is Category A, it is listed at least 120 days before the L/A is signed in the case of Yen Loans, and 45 days in the case of IFO projects. The web page for the Project Categorization List is <<http://www.jbic.go.jp/japanese/environ/joho/project.php>>.
- FAQ-57
FAQ-58
- 5-2-2 After the project is approved, and the L/A is signed, the results of the environmental review are also posted on JBIC's website at <<http://www.jbic.go.jp/japanese/environ/joho/review.php>>. Unfortunately, at the time of writing this book, both lists are available only in Japanese. Since JBIC is neglecting

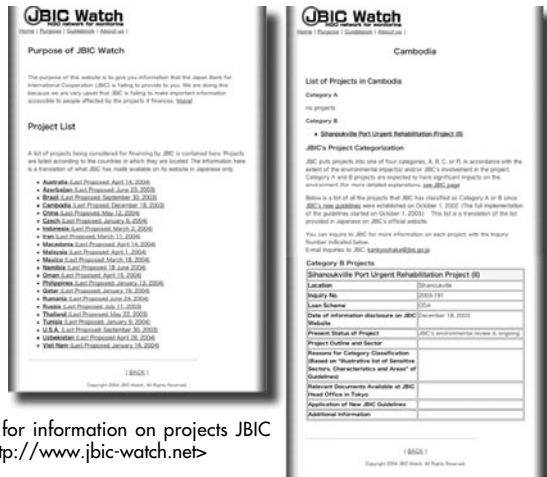
its responsibility to translate these lists, Japanese NGOs have made a website in English to provide this information for you. You can see this site at <<http://www.jbic-watch.net/>>.

- ii. After a Yen Loan project has been approved by JBIC, it will be listed in English on JBIC's website. You can do a search for approved projects at <<http://www.jbic.go.jp/english/oc/project/index.php>>.

Contact JBIC's representative office

If you do not have access to the internet, or if you do not read English or Japanese, contact the JBIC office nearest you. See Appendix A for a list of representative offices. It is a good idea to ask JBIC directly about its involvement in a project anyway, because there is no public list of IFO projects approved by JBIC.

If JBIC has not received any request for a loan for a project, JBIC will not give any information about it. If you need information about a project that is at a stage where JBIC is not yet involved, you need to contact the project owner (the government agency or company that is responsible for the project). See Chapter 5 for more information about contacting JBIC and project owners.



See this website for information on projects JBIC might finance <<http://www.jbic-watch.net>>

Where to find general information about JBIC or JBIC projects

Website

If you have access to the internet, one of the easiest places to get basic information (in English or Japanese) about JBIC projects is from JBIC's website. Website address: <<http://www.jbic.go.jp/english/>>

Representative Offices

JBIC also has 26 Representative Offices around the world. A list of their offices is in Appendix A. You can contact the office nearest you for information.

Head Office

JBIC's headquarters is in Tokyo. You can also contact the headquarters for information if the Representative Office does not help you. The contact information for JBIC's headquarters is also in Appendix A.



Types of Information Available from JBIC

The Guidelines require JBIC to make certain kinds of information available to the public. Unfortunately, some of the information is available only in Japanese. Here is a list of information you can get from JBIC under the Guidelines:

Project Categorization List (in Japanese only)

- 5-2-1 You can see a list of projects that JBIC is considering on JBIC's website. This list is called the Project Categorization List, as mentioned above. This list gives the name of the project, the country it is in, an outline of the project, and the environmental category of the project. It also explains the reason for the category. If a project is put in category A or B, then the list also gives information on whether or not environmental impact assessments and other documents have been sent to JBIC. This is very important information for stakeholders, so we are very disappointed with JBIC that they are not providing this information in English. Since JBIC is neglecting its responsibility, Japanese NGOs have made a website in English to provide this information for you. You can see this site at <<http://www.jbic-watch.net/>>.

Environmental Review Results (in Japanese only)

- 5-2-2 For projects that JBIC has approved and signed loan agreements, the results of environmental reviews are put on JBIC's website.

Environmental Impact Assessments (EIA)

- 5-2-1 For all Category A projects and some Category B projects, you can get EIAs from JBIC's head office. When JBIC receives EIAs for projects, it will say so on the Project Categorization List. If the List says JBIC has the EIA you need, then you can request a copy from JBIC, and the Guidelines require that JBIC makes sure you receive it. The EIA must be available in the official language(s) of your country.

Environmental Management Plans (EMP)

An EMP explains what kinds of measures need to be taken during construction and operation of a project to eliminate negative environmental and social impacts. If eliminating such impacts is impossible, then the EMP explains what needs to be done to reduce the negative impacts. Because the EMP is actually part of the EIA, this document should also be available from JBIC, together with the rest of the EIA. The EMP should also be available in the official language(s) of your country.

Records of Consultations

This is also something that is supposed to be included in EIA reports and available in the official language(s) of your country. When the project owner or JBIC consults with local people or NGOs, they must keep a record of what is discussed at these meetings. JBIC must make the records of these meetings available, together with the rest of the EIA.



Using the Information Disclosure Law

All documents that JBIC has must be disclosed under the Information Disclosure Law of Japan. If you need documents or information about a project, and you cannot get this information locally or by contacting JBIC, then it may be worth trying to get the information through the Information Disclosure Law. The Guidelines require JBIC to disclose the Environmental Impact Assessment, but for other information, JBIC may not be as willing to give it out, especially when the project owner would rather not disclose the information.

Examples of documents related to social and environmental impacts of a project could include resettlement plans, indigenous development plans, or environmental monitoring reports. These are documents that JBIC should disclose in the same way as the Environmental Impact Assessment but is not likely to do so. If JBIC refuses to give you these documents, it is useful to use the Information Disclosure Law. If JBIC still refuses to give you information you requested using this Law, there is a process you can use to try again. You can send a complaint to the “Information Disclosure Review Board.” If this Board finds that JBIC should disclose the document you asked for, then JBIC must give it to you. It is also possible to sue JBIC for violating the Information Disclosure Law.

Unfortunately, the Information Disclosure Law is difficult to use for people who cannot read and write Japanese. Requests for documents using the Information Disclosure Law must be written in Japanese. But aside from this constraint, it is a useful way to get information because it covers all the documents that JBIC has, and has a mechanism to complain if JBIC does not give you the information you want. If you need assistance using the Information Disclosure Law, there are some Japanese NGOs who can help you (see Appendix C).

Information that JBIC will not disclose

There are a few types of documents that JBIC will not disclose. The Information Disclosure Law lists three kinds of information that do not need to be disclosed. These are:

- Information about parties other than JBIC (borrowers, executing agencies, developing countries' governments, private companies, etc.), that was given to JBIC on the condition that it is not made public, or where there is a risk that rights or legitimate interests of such parties will be harmed by being made public.
- Information that would risk unjustly harming frank exchange of opinions or the neutrality of decision making by being made public.
- Information that poses a risk of damage to trustful relations with another country by being made public.

While the Information Disclosure Law allows the above information to remain classified, it is important to remember that the Environmental Impact Assessment and other documents mentioned in the section "Information Available from JBIC" must be disclosed. Even if these documents contain the kinds of information listed above, the Guidelines require that they are made public. JBIC cannot refuse to give you information that the Guidelines require JBIC to disclose.

What must JBIC make sure that borrowers have done?



4.1 Introduction

Many of the problems that local people face with development projects are topics in Part 2 of the Guidelines. We strongly recommend that you read Part 2 of the Guidelines (page 99 in Appendix D). If some of your concerns are about any of the topics in the box in the next section of this chapter, then there may be something in Part 2 of the Guidelines that you can use when you communicate with the project owner and/or JBIC.

- P1 Part 2 of the Guidelines lists the actions that the borrower and project owner must take in regard to environmental and social issues. JBIC must check to make sure that the project owner has met the requirements in Part 2 (Part 1 of the Guidelines lists things that JBIC itself must do, such as screening and environmental review of projects. These topics are covered in “The Process of JBIC Financing,” Chapter 2 of this booklet).

JBIC lists its requirements for project owners and borrowers in Part 2 of the Guidelines because it usually gets involved in projects

at later stages when EIAs and other studies are already finished. But just because JBIC starts involvement late does not mean it can ignore environmental and social issues. JBIC must check to make sure that the project owner and borrower have considered the environment and local people in their project planning, and meet the requirements in Part 2 of the Guidelines.

3-5-1 If the projects do not meet the requirements described in Part 2 of
6-1 the Guidelines, JBIC is required to encourage the project owners to take appropriate actions to prevent negative impacts of the projects. If the project owners do not address these problems, the Guidelines say that JBIC can decide not to finance the projects.

Again, we strongly recommend you to read Part 2 of the Guidelines. When JBIC does an environmental review of a project, it is very effective to point out any contradictions between the requirements in Part 2 of the Guidelines and the actual project design and preparation process. If JBIC approves a project which does not meet the requirements, this can be a basis for filing for an investigation of the project through the Objection Procedures (see Chapter 6 for more details).

4.2 What is written in Part 2 of the Guidelines?

P1 Part 2 contains some requirements for project owners and
P2 borrows to follow regarding things such as environmental impact assessments, project monitoring, information disclosure, public consultations, and participation of stakeholders in certain aspects of projects.

P1-7 The requirements, however, are very general. For example, the World Bank has an entire policy on resettlement, but in Part 2 of the Guidelines, there are only three general points listed about involuntary resettlement. JBIC also sometimes uses phrases like “must promote” or “avoid where feasible.” These are vague phrases

that tend to weaken the strength of the requirement, but it is important that we push so that they are interpreted as requirements and not mere recommendations.

In the box below are some of the topics covered in Part 2 of the Guidelines. Below each topic is an example of some requirements related to the topic. If there are problems with a project related to these requirements, it would be useful to quote the relevant sections in Part 2 when discussing with JBIC or the project owner. It is important to read Part 2 for the exact phrasing. It will not help to quote the box below.

Some Requirements Included in Part 2 of JBIC's Environmental Guidelines

- PI-2-1 When should environmental and social issues related to a project be examined?
At the earliest stages possible.

- PI-2-1 What are requirements for mitigation measures and alternative proposals?
PI-2-2 Such measures must be incorporated into project plans; they must include an analysis of environmental costs and benefits.

- PI-4-1 What topics should be examined in environmental and social assessments?
Impacts on air; water, soil, and ecosystems; involuntary resettlement; indigenous people; cultural heritage; gender; children; communicable diseases such as HIV/AIDS; and impacts that may lead to trans-boundary and global environmental problems.

- PI-5-2 What locations should projects avoid?
Protected areas; conservation areas.

P1-5-1	<p>What laws and standards should be followed? Local and national laws on environmental and social issues.</p>
P2-2-4	<p>When are consultations with stakeholders required? For Category A projects, stakeholders must be consulted during the EIA.</p>
P1-6-1	<p>For what projects should stakeholders' opinions be incorporated in project plans? There must be stakeholder consultations for projects with large environmental impacts, and the outcome of consultations must be incorporated into project plans.</p>
P1-7	<p>What are requirements regarding involuntary resettlement? Avoid involuntary resettlement when possible; sufficient compensation must be given by the responsible party (such as the project owner).</p>
P1-8-1	<p>What are requirements regarding indigenous people? Rights of indigenous peoples in regard to land and resources must be respected; the project owner must make efforts to get the consent of indigenous peoples.</p>
P2-2-3	<p>What kinds of information must be disclosed? EIAs must be disclosed; relevant and sufficient information must be given to people before public consultations;</p>
P1-6-1	information on environmental and social impacts of a
P2-2-2	project must be given to affected people in a language and
P1-9-3	form they understand; and results of monitoring should be made available to stakeholders.
P1-9-1	<p>What are requirements for monitoring? Project owners/borrowers should monitor to check if there are impacts they did not expect; when necessary, project plans should also include monitoring plans.</p>
P1-9-2	

What are requirements for EIAs?

P-2

EIA reports must be written in the official language or a widely used language of the country where the project is located; consultation with local people is required, and they must be given information prior to the consultation; EIAs should predict and assess the project's likely positive and negative impacts, in as quantitative terms as possible.

Public Consultation for JBIC Projects

In various sections of the Guidelines, JBIC mentions the importance of consultations. This is an important feature of the Guidelines, as it gives affected people more chances to raise their concerns during all stages of the projects that JBIC finances.

1-2

The Guidelines say that JBIC recognizes that it is very important for various processes, such as the EIA process or decision-making processes, to be transparent and accountable. JBIC also notes that it is very important for local people and NGOs to participate in these processes. The Guidelines say specifically that JBIC welcomes information from stakeholders. Information and opinions

5-1-1



P1-6-1

that stakeholders give to JBIC will be considered when JBIC does environmental reviews and supervises projects. JBIC knows that it must listen to the voices of affected people.

In cases where projects are expected to have large impacts, the Guidelines require sufficient consultation with stakeholders, and the outcome of these consultations must be incorporated into the project plan. This basically means four things:

- 1) that local people affected by any project JBIC is thinking about financing must be able to express their opinions in discussions with the government agency or company planning the project,
- 2) these discussions must be held from early stages in project preparation.
- 3) project owners must make sure that local people have enough information before such consultations take place.



4) The project owners must make sure that the views and opinions expressed in consultations are documented, and that the project design should try to accommodate those views as much as possible.

But it is the project owner and companies working on the project that decide how to incorporate local people's views in the design. It is therefore necessary for local people and NGOs to follow the process carefully and make sure that their views actually are respected.

P2-2-4

For Category A projects, people must also be consulted during preparation and writing of EIA reports. When explaining projects to local residents, written materials must be provided in a language and form understandable to them. If there is going to be resettlement, then the project owner must promote participation of affected

P2-2-2

P1-7-3



A compensation plan that failed the villagers affected by the Lam Ta Khong dam in Thailand.

PI-8-1

people in the planning, implementation and monitoring of resettlement plans. It is also very important that indigenous people are given information and are able to give their opinions about projects.

Public consultations are a double-edged sword. Consultations give you a chance to raise your concerns directly to project owners, but project owners also try to use consultations as chances to get support for projects. Project owners might inform you of only the positive aspects of projects, or they might try to exclude critical people by inviting only those who support the project. It is important to ensure that enough information regarding both positive and negative impacts is communicated to all people who will be affected by a project before the consultations. If you are affected by a project, you should be able to attend consultations regardless of your opinions about it. In the consultations, you should insist that enough time is given to affected people to explain their views. It is also important that the records of consultations do not exclude critical opinions. It may be useful for affected people and NGOs to also record the consultations so that you can check if official records are accurate.

An informed and open consultation might give you an important space to express your opinions regarding a project. But be careful - public consultations are basically organized by project owners, who can easily abuse them to give JBIC the false impression that projects are supported by local people.

How to Voice Your Concerns



5.1 Introduction

This chapter gives some tips for how to raise your concerns to JBIC. If you think that a project that JBIC is financing will cause damage to your community or environment, or if damage has already happened, then you may want to tell JBIC about it. You may be thinking of doing a campaign against the project, or you may be thinking of just raising your concerns quietly. Either way, the suggestions here can be helpful to make JBIC understand your concerns and, thereby, take appropriate actions to resolve them. Remember, the earlier you contact JBIC, the better chance you have of getting your concerns addressed and preventing damage.

5.2 Get the Necessary Information

In order to effectively voice your concerns, it is important to have enough information about the project to show that the project really is a threat to your livelihood or environment. One of the first steps to voice your concerns, therefore, is to collect information. If you find that there is a JBIC-funded project near you, you have every right to contact JBIC and ask for information. The earlier you start collecting information about the project, the better chance you have of influencing decisions about this project. See Chapter 3 for more details on what kinds of information you can get from JBIC and how to do so.

5.3 Contact JBIC

JBIC is required to listen to you

- 5-1-1 When voicing your concerns, you should know that JBIC is required to listen to people affected by projects it finances.

Where to Contact JBIC

You can contact JBIC officials at the head office in Tokyo or a representative office in your country. See Appendix A for contact information.

How to Contact JBIC

There are several ways you can contact JBIC, such as letters, e-mail, faxes, phone calls, and actual visits to their office. See Appendix A for contact information. We recommend that you first contact the representative office closest to you. If that does not help, then try the head office in Tokyo.

Sending Letters

Letters are useful because they become written documents of your efforts to contact JBIC. These documents can be useful in future efforts to resolve your problems, especially if you file a formal complaint through the Objection Procedures (see Chapter 6). Unfortunately, JBIC does not always reply to letters, though they should. If you write to JBIC with questions about a project, you should also clearly request that they answer you in writing too. This way, you will have a written document of the way JBIC thinks about your questions. Letters are also useful to put pressure on JBIC to help resolve your problems. When you send JBIC a letter, you should also make copies of the letter and keep one for your own records. Also send copies to relevant ministries in Japan and NGOs that are helping you.

Visiting JBIC Representative Offices

See Appendix A for contact information. If you are able to go to the JBIC office, meeting with the JBIC representative responsible for the project you are concerned about can be effective. If you visit a JBIC office, make sure that you document your discussion by taking notes or recording the meeting.

E-mail

You will notice that there are no e-mail addresses to contact JBIC in Appendix A. We do not recommend that your first attempt to contact JBIC be by e-mail. This is because the only way to send an e-mail to contact JBIC generally is through the website of the Tokyo head office, and it is not likely that JBIC will respond in a responsible way to messages sent here. If you really want to try, however, the webpage to do this is <<https://www.jbic.go.jp/english/opinion/index.php>>. After you contact JBIC officials individually, it is possible to communicate with them by e-mail with their individual addresses. But until then, e-mail is not an effective way to make first contact with JBIC.

Whatever way you choose to communicate with JBIC, we strongly recommend that you document your communication with them. When possible, it is best to write down your concerns and ask for responses from JBIC in writing. This way, you can document the kind of communication you have with JBIC. These documents may be necessary later also to prove that you told JBIC about your concerns, and to record what kinds of answers JBIC gave to you.

If you do not speak English or Japanese

JBIC must listen to all stakeholders. It does not matter if you cannot read or write, or if you cannot speak Japanese or English. JBIC should make arrangements for interpreters and translators so that they can communicate with you. Although JBIC should make these arrangements, it may also be a good idea to go with someone you trust who can also help to facilitate communication.

5.4 Identify and Document the Problems

What should you document?

It is very important that you identify exactly what problems you are facing and the reasons for the problems. Problems caused by JBIC-funded projects are sometimes obvious, but sometimes they might not appear right away. Therefore, it is important to tell JBIC about the problems you expect, and document them as they arise. It is also important to be able to explain how these problems are related to the project that JBIC is funding or considering funding. It might be necessary to do some fact-finding and collect information from people in your community who share your concerns. You may also need to request information from JBIC.

You should also document violations of the Guidelines. If you find that the project owner or JBIC does not follow the Guidelines, documentation of how they did not follow the guidelines will make your letters and reports much more convincing and effective.

Why is it important to document your concerns?

Without documentation, it is possible that JBIC will not believe you. Even with documentation, if your government explains differently from what you say, JBIC is likely to believe your government first. Good documentation of your concerns and reasons for those concerns can make protesting against a JBIC project much easier. With good documentation, it is easier both to explain to JBIC what the problems are, as well as to find other people who understand your situation and who may be willing to help you.

How to document?

Documentation can be done with photographs, written statements, recorded interviews, video, or directly explaining to JBIC officials.

When documenting, please make sure to be clear what it is that you are documenting, as well as when, where, and how the information was documented, and whose concerns are being documented. If it is dangerous to share this information with others, then it is not necessary to spread the information widely. But if possible, find an organization that you can trust to help you.

5.5 Contact Project Owners

Although JBIC provides funds for projects, JBIC is not the owner of the projects it finances. This means that the most important decisions about a project are not made by JBIC. The main decision-makers for projects are the project owners, and it is therefore very important to contact them about your concerns. But sometimes project owners do not listen carefully to stakeholders. In such cases, it can be useful to contact JBIC. If JBIC understands your concerns, then as the donor, JBIC can contact the project owners to demand an explanation and recommend changes.

5.6 Use Political Pressure

When project owners and JBIC do not listen to your concerns or fail to address the problems you raise, it might be a good idea to put political pressure on them.

Contact Japanese Ministries

JBIC is directly governed by the Japanese government. The Japanese government is one of the key decision-makers for Yen Loans, and it may have different opinions from JBIC, so contacting officials of the Japanese government can be a good tactic. When you write a letter to JBIC, it is also a good idea to send a copy of the letter to the Japanese government (Ministry of Foreign Affairs in case of Yen Loans, and Ministry of Finance in case of IFO projects). See contact details for Japanese ministries in Appendix B (page 84).

Contact Japanese Members of Parliament

Some Japanese parliamentarians are also interested in the problems caused by JBIC funding, and they can pressure JBIC in various ways, such as raising the issues through parliamentary sessions and official inquiries. It is most effective to get the help of Japanese NGOs to contact Japanese politicians. See the next section on “Working with Japanese NGOs” for more information.

Contact the Media

Press coverage may also have impacts on JBIC's attitude to your problems. JBIC does not like to be criticized in the press. They also do not want to be known for financing projects that hurt people. Contacting the media and getting articles or TV programs to talk about your concerns is another way to pressure JBIC and project owners.

Contact your government

In less democratic countries, putting political pressure on project owners can, of course, be difficult or dangerous. But if it is possible, contact your government. Sending questions about a project or pressuring your own local or national government to listen to your concerns and to work in a positive way to solve your problems can raise the standard of responsiveness for authorities in your own country.

5.7 Working Together with Japanese NGOs

It can be helpful to work together with Japanese NGOs when you communicate with JBIC or campaign against a project funded by JBIC. There are a few Japanese NGOs that are concerned about the environmental and social problems caused by JBIC-funded projects. These NGOs work together with NGOs in the countries where JBIC's projects are, and collect information about the problems faced by communities. Then these NGOs go to JBIC, explain the problems of the project, and try to make sure that JBIC understands these problems.

Working with Japanese NGOs might involve visits by the NGOs to your community to learn more about your concerns. Or they might work with local NGOs to whom you have already explained your concerns. They might invite someone from your community to come to Japan and explain to JBIC and Japanese politicians about the problems you face due to a JBIC project. They might organize interviews with the media so that more Japanese people understand your problems, or ask you to speak at public events so you can tell many Japanese people about your concerns.

These NGOs cannot solve all the problems caused by JBIC projects, but they can help you to make JBIC more responsive to your concerns. If you work together with a Japanese NGO, then it is also more likely that JBIC will take you seriously. It is easier for JBIC to avoid local stakeholders in other countries than to avoid persistent NGO staff who live in Tokyo and can easily go to their office.

Contact information of several Japanese NGOs that are working to reform JBIC can be found at the end of this booklet in Appendix C.

Objection Procedures



6.1 Introduction

When you are collecting information about the problems caused by a JBIC-funded project, you may find that what actually happens in the project is different from what is required in the Guidelines. If you find that your efforts to fix the problems do not work, you might consider using the Objection Procedures.

6.2 What are the Objection Procedures?

JBIC established a mechanism so that people facing problems because of JBIC projects can request an investigation. This mechanism is called the Objection Procedures. More specifically, affected people can request an investigation regarding JBIC's violations of the Guidelines. Requests for investigations are received and examined by “the Office of Examiners in Charge of the Environmental Guidelines” at JBIC. The Examiners are independent from JBIC's Operational Departments, so they

should be neutral. Based on requests by affected people, the Examiners investigate JBIC's work to see if JBIC has violated the Guidelines or not. After the investigation, the Examiners make recommendations to the Governor of JBIC. The Examiners can also bring the affected people and project owner together to discuss the problems and try to find solutions to the problems.

6.3 What can you expect from filing a request?

The Objection Procedures are still new, so there have not been any requests for investigation filed yet (as of August 2004). Therefore, it is difficult to know what to expect at this time. But we can predict some effects based on the experiences of inspections at the World Bank and Asian Development Bank.

02-2 The goal of the Objection Procedures is to solve the problems
02-1 of affected people and to ensure that JBIC complies with the Guidelines. The Objection Procedures involve investigations to see whether or not JBIC violated the Guidelines, as well as dialogues between the project owner and affected people. With the Objection Procedures, JBIC cannot simply ignore the rules in its Guidelines, so we hope that JBIC will follow the Guidelines carefully and prevent some of the problems that have happened in the past.

Limitations of the Objection Procedures

02-1 It is important to understand the limitations of the Objection
06-7-1 Procedures. Even if people suffer and JBIC violates the Guidelines, there is no guarantee for compensation. The Examiners cannot give direct compensation or take action to reduce the problems. They do not have power to force JBIC to take action either. The Examiners can only make recommendations to the Governor of JBIC. It is JBIC's Governor who will make the final decisions, and these decisions must then be implemented by the operational departments of JBIC. These are the same departments that supervised the projects when the problems occurred.

Possible Benefits of using the Objection Procedures

- ❑ A Fair and Transparent Review: If a request for inspection is accepted, the Examiner in charge is expected to do a fair and transparent review of the complaints received and of JBIC's responsibilities. If the Examiner finds that JBIC has violated the Guidelines, JBIC will be urged to take appropriate actions, even if it is not required by law.
- ❑ Strict supervision of Project Owner: If the Examiner finds violations of the Guidelines, it is likely that JBIC will be more careful in supervising the project owner and borrower. This is important because it is the borrower that must compensate the affected people or take measures to repair and prevent environmental damage.
- ❑ Results of the Investigation can be Used as Monitoring and Campaign Tools: Results of investigations must be made public so that the affected people and the public can monitor whether JBIC and the project owner are taking appropriate actions to address the problems pointed out by the Examiner. If the Examiner's report confirms JBIC's violation of the Guidelines, this public report will be a strong tool in the campaign to cancel or change the project.
- ❑ Indirect Effects: The investigation by the Examiner can become a space for affected people to raise their concerns, which are often ignored by the project owner or JBIC. Filing requests for investigation can also bring greater attention to the concerns of affected people. With an investigation, the top level of JBIC, as well as the project owner, will follow the case closely.

Through the whole process of investigation, it is important to continue giving information to the Examiner and to pressure JBIC and the project owner in various ways. Just filing a request and waiting for the Examiner's report may not result in any solutions to the problems of affected people. Using the Objection Procedures should be seen as just one way to hold JBIC accountable.

6.4 Who can file a request for investigation?

Two or More Affected People

05-2-1 People who have suffered direct damage or expect to suffer direct damage as a result of a JBIC-financed project can use the Objection Procedures. To request an investigation of a project through the Objection Procedures, at least two people must file together. These two or more people are called "Requesters."

An Authorized Representative

05-2-2 In cases where it is impossible or dangerous for Requesters to file themselves, they can authorize an agent to file on their behalf. For example, if using the Objection Procedure could result in reprisal from the government, affected people can ask an NGO that they trust to file a request as their representative. This NGO can be a local NGO or an international NGO. It is necessary for the Requesters to explain why it is impossible or dangerous for them to file themselves.

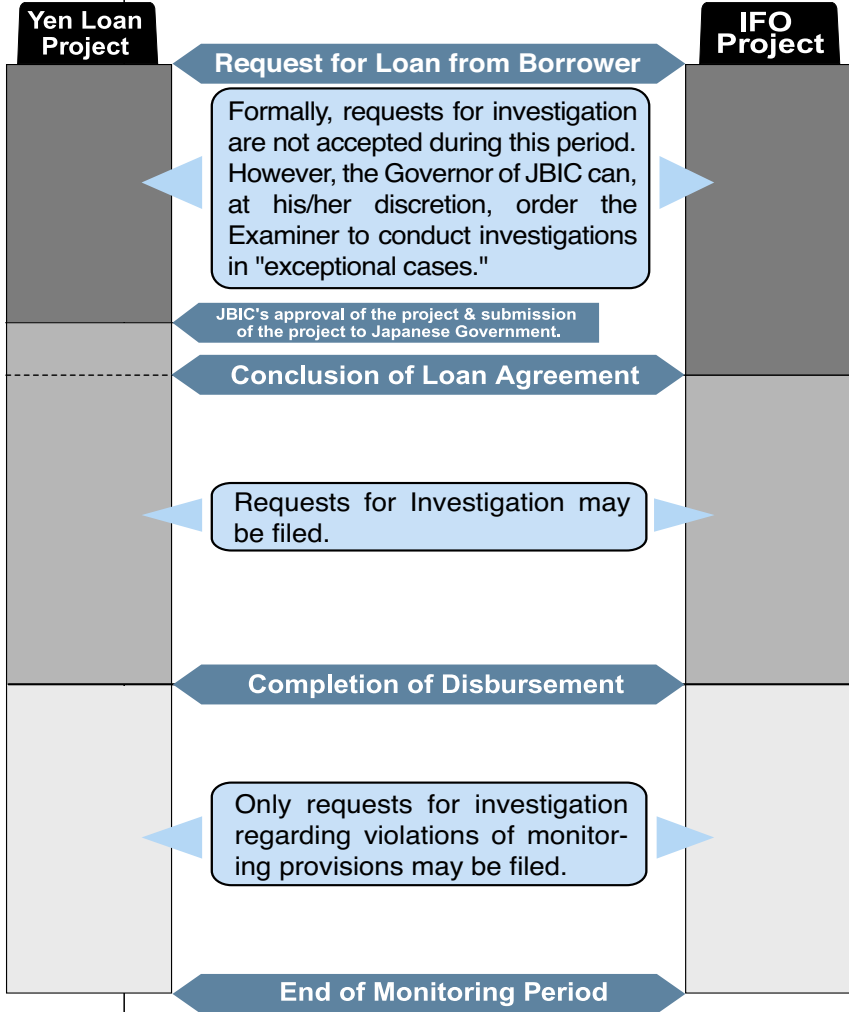
6.5 What projects are subject to the Objection Procedures?

05-1 All projects for which loans from JBIC were requested on or after 1 October 2003 are subject to the Objection Procedures.

05-3-2

6.6 When can requests for investigation be filed?

When requests can be filed



The time limitations are a little difficult, and different depending on the type of project.

Yen Loans

Requests for investigation can be made any time after JBIC's Board of Directors has approved the project and recommended it to the Japanese government for final approval (but the timing of the recommendation is not made public. See Chapter 2, Stage 5 on page 30). Requests must be filed before the loans have been completely disbursed to the borrower.

International Financial Operations (non-ODA projects)

A request for investigation can only be filed after the L/A for the project is signed. As in the case of Yen Loans, a request must be filed before the project's loans have been completely disbursed.

Exceptions to the Above

- Decision by the Governor: In exceptional cases where serious social and environmental impacts are very likely to happen, the Governor of JBIC can order the Examiner to conduct an investigation outside of the time frame explained above (this provision is included in the Summary of Public Consultation Forum, which can be found at <<http://www.jbic.go.jp/english/environ/consult/index.php>>).
- 05-3-5 - During Monitoring: If all the loans for a project have already been given, but JBIC is still monitoring the project as required by the Guidelines, a request for an investigation can still be filed.

Problems with these time constraints

These time restrictions are problems especially for projects that are not ODA loans. After an L/A is signed, it is very difficult to make changes in a project. JBIC is legally obliged to lend money to the borrower after signing an L/A. If JBIC wants to take some action, such as suspending or canceling a loan, it must still follow the agreement signed in the L/A.

Get Help from Japanese NGOs (also see page 60)

It may be difficult for affected people to know exactly when to file a request. If you are not sure if the timing allows you to file for an investigation, you can inquire to JBIC or ask one of the Japanese NGOs listed in Appendix C. We strongly recommend that you work together with a Japanese NGO if you want to use the Objection Procedures. Especially in cases when you file outside the normal period of time in which requests are usually accepted, you will need as much support as you can get from NGOs in Japan.

6.7 Who looks at the requests for investigations?

Office of Examiners in Charge of Environmental Guidelines

- 01-1 JBIC established an "Office of Examiners in Charge of Environmental Guidelines." The Office has two Examiners, and they are hired for a period of two years. Each request for inspection will be reviewed by one of the Examiners. The Office of Examiners is directly under the JBIC Governor. It is independent from JBIC's Operational Department, the department that is responsible for overseeing the projects that JBIC funds. The Examiners are hired from outside JBIC, so they are quite independent, even though the Office is a part of JBIC.

For more information about the current Examiners, see JBIC's website at <<http://www.jbic.go.jp/english/environ/examiner/index.php>>. The names and profiles of the Examiners are listed on this page.

6.8 Where to send a request for investigation

Requesters must send their request, either by themselves or through a representative, to the Office of Examiners in Charge

of the Environmental Guidelines. Requesters must send a lot of information to the Examiners, so please read the following two sections carefully. Contact information for the Office of Examiners is as follows.

Address:

Japan Bank for International Cooperation
Office of Examiners in Charge of Environmental Guidelines
4-1, Ohtemachi 1-chome, Chiyoda-ku, Tokyo 100-8144 JAPAN
FAX : +81-3-5218-3946
E-mail: sinsayaku@jbic.go.jp

6.9 What information should be included in a request for an investigation?

05-4-1 To file a request for an investigation, the information listed below must be provided to the Examiner. A request can be filed in Japanese, English, or the official language of the country where the Requesters are from. Below is a list of the information Requesters must send to the Examiner, followed by an explanation of each requirement. It may be useful to look at Section 4 of the Objection Procedures (Appendix E, page 111) along with the information below.

05-4-2 **A&B** Name and Address of the Requester
05-4-3 These are the real names of the Requesters and addresses where they can be contacted. The Examiner will need to contact the Requesters, so names and addresses must be included in the request for investigation. If Requesters do not want their names and addresses disclosed, then they should write this here as well.

05-4-4 **C** Case with respect to which the Request is submitted
This is the name of the project that is causing damage to the Requesters. It is best to include the exact name of the project if possible. If not possible, then the following information is enough.

- Name of the country in which the project is located
- Where the project is located
- A description or outline of the project.

05-4-5 **D** Description of substantial damage actually suffered by the Requester or substantial damage likely to occur to the Requester in the future

Basically, this is the answer to the question, “how has the project hurt you?” If damage has not happened yet, answer the question, “how do you expect this project to hurt you?” As much detail as possible about the damage should be included. If possible, explain the damages in line with the requirements in the Guidelines, so it will be easier for JBIC to understand.

06-3-3 **Note:** If the issues raised in (D) are being examined by local or Japanese courts, or if the issues are being addressed through other administrative procedures (in the Requesters' country, in Japan, or at other international institutions), the Examiner can wait for that process to finish before deciding whether or not to do the investigation. Issues can be similar, but Requesters should make sure that the issues they raise are not exactly the same as problems currently being raised by judicial or administrative procedures other than the Objection Procedures. If the Examiner decides to wait, Requesters should insist that the issues they raise, and the issues being dealt with through other procedures, are different enough to deserve immediate investigation by the Examiner.

05-4-6 **E** Relevant provisions of the Guidelines considered by the Requester to have been violated and the facts constituting non-compliance alleged by the Requester.

This is one of the more difficult parts of the request. Requesters must explain which parts of the Guidelines JBIC violated. It is not enough just to explain what the problems are. It is necessary to identify parts of the Guidelines that have not been followed. For example, if there was no local consultation with affected people during the EIA, then this could be a violation of Part 2 of the

Guidelines, under the section, “Social Acceptability and Social Impacts” (see Appendix D, P1-6-1) and the fourth point in the section, “EIA Reports for Category A Projects” (Appendix D, P2-2-4).

F Causal nexus between non-compliance with the Guidelines and the damage

05-4-7 Here, it is necessary to explain how violation of the Guidelines led to damage. JBIC wants to know how it is responsible for problems. It does not want to be asked to take responsibility for problems others have caused. This is why it is necessary to explain how JBIC's failure to follow the Guidelines led to harm.

G Resolution desired by the Requester

05-4-8 How do the Requesters want the problems caused by the project to be solved? Is it a question of compensation, a change in the design of the project, canceling the project completely, or something else?

H Facts concerning the Requester's consultation with the Project Owner

05-4-9 Before filing a request for investigation, Requesters must try to communicate with project owners. This can be done through meetings, letters, faxes or phone calls. It is important to document these discussions. Requesters should keep a record of when, where, and who they communicate with. Also keep a record of what is discussed, and what the project owner says. Requesters should also keep a record of any rejections of their attempts to communicate with project owners.

If it is not possible for Requesters to have dialogues with the project owner about the problems caused by the project (e.g. because of the fear of reprisal or intimidation), then the reasons for that must also be explained.

I Facts concerning the Requester's consultation with the Bank's Operational Department

05-4-10 It is also necessary to contact JBIC's Operational Department and

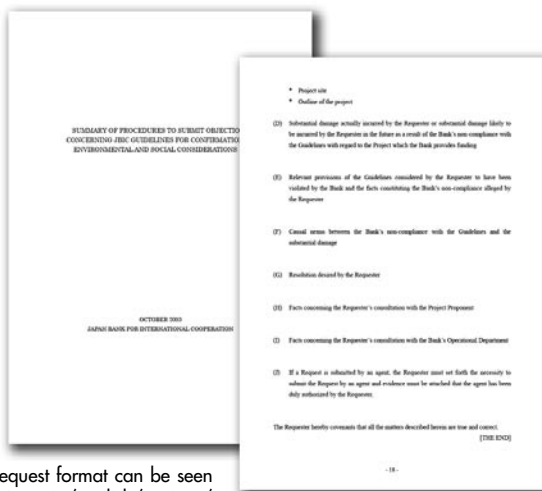
try to resolve problems before filing a request for investigation. When filing a request for investigation, Requesters must explain who they communicated with from JBIC and what they discussed. It is, therefore, very important that any time Requesters try to communicate with JBIC staff, they should document who they speak to, when and where (or how) they speak, and what the JBIC staff tell them.

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.

05-4-11

If Requesters want someone else to file on their behalf (an “Agent”), then it is necessary to give proof to the Examiner that the Requesters have actually authorized the Agent filing the request for investigation. Even if an Agent files on behalf of Requesters, the name of the principle Requester must be written in the request for investigation.

Evidence of authorization can be a letter written by the Requesters, explaining why they need an Agent and who they have chosen to be their Agent.

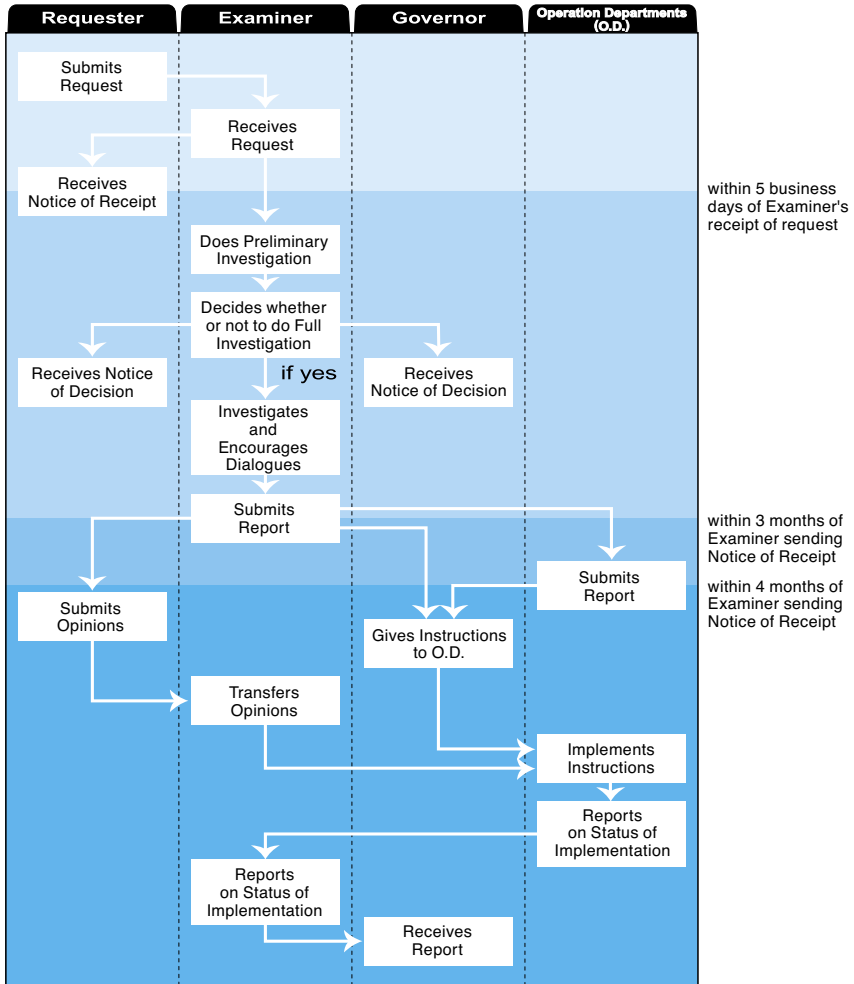


A sample of the request format can be seen at <<http://www.jbic.go.jp/english/envir/pdf/objection.pdf>>

6.10 How do the Objection Procedures work?

The Objection Procedures should flow somewhat like the process below.

Flowchart of the Objection Procedures



Send Request

Requesters send a request for investigation to JBIC's Office of Examiners, including all the information explained in the section above.

06-1-1 **Notification of Receipt**

The Examiner receives the request. The Examiner must contact Requesters to tell them that their request has been received. This must be done within 5 business days after the Examiner receives the request. The Examiner will also contact the project owner, JBIC's Operational Department, and the borrower. If Requesters do not want the project owner to know their names, then they should write in their request to the Examiner to keep their names and contact information confidential. If Requesters do this, JBIC will not give any information about them to the project owner or other outsiders.

Preliminary Investigation

06-2-4 This takes approximately one month. This is the time when the Examiner will decide if the request should be fully investigated
 06-2-1 or not. The Examiner can ask Requesters for more information if
 06-2-2 something in the request is unclear. JBIC is also worried that some
 06-2-3 people will file requests for bad reasons, such as simply wanting to
 make the project owner look bad. So the Examiner will also check
 the motive to make sure that Requesters want an investigation
 because they sincerely feel that the Guidelines were not followed
 and they are suffering as a result.

Decision to begin the Investigation

06-3-1 The Examiner will decide if an investigation should be done
 based on the information in the request. The Examiner can also
 06-3-3 suspend the process if the problems described in the request are
 already being addressed in a court or other official proceeding.
 The Examiner will contact the Requesters, the project owner, the
 borrower, and JBIC's Governor about the decision. If the Examiner

06-3-4 decides that an investigation should not be done, Requesters can file a new request, but they must give new information or raise a different problem. If a request is rejected, Requesters can send their opinion about the rejection to the Examiner.
06-3-5

Investigation and Encouragement of Dialogues

06-4-1 At this stage, the Examiner will interview various people and collect information about the project and the problems raised by Requesters. The Examiner might interview the Requesters, other
06-4-2 people in the Requesters' community, JBIC staff, the project owner,
06-4-3 specialists, and government officials in the relevant country. The
06-4-4 Examiner might also mediate dialogues between Requesters and the project owner to try to reach an agreement on the problems.
06-4-5 The Examiner must remain neutral in these discussions.

Report to Governor

06-5-1 The Examiner must write a report of the results of the investigation within three months of the date that the Examiner sends notice to the Requesters that the request for investigation had been received. In this report, the Examiner will explain if the JBIC Guidelines were violated or not. The progress of any dialogues and agreements between Requesters and the project owner or borrower will also be written in the report. The Examiner can request a 2-month
06-5-4 extension for investigation if necessary. If the Examiner finds that
06-5-2 the Guidelines have been violated, recommendations to bring JBIC into compliance will also be included in the report.

06-5-5 A report will be sent to Requesters, as well as the borrower, the project owner, and others involved. Requesters and others who receive the report can send comments to the Examiner. The Examiner may send these remarks to the Operational Department if they are useful for monitoring.

Opinion of the Operational Department

06-6-1 The Operational Department will send its opinions about the Examiner's report to the JBIC Governor within one month. If the Examiner found violations of the Guidelines, then the Operational Department must also write what it will do to bring JBIC into compliance.

Follow-up:

06-7-1 JBIC's Governor will give instructions that the Operational Department must follow. The Operational Department will also
06-7-2 tell the Examiner about the progress in following the Governor's instructions. The Examiner can write these things in his/her annual report.

07-1  **6.II Information Disclosure under the Objection Procedures**

Generally, as much information as possible will be made available to the public. Some information will be sent directly to Requesters, borrowers, and project owners. Most of that information will also be made available on the Examiner's website.

07-2 The Examiner will notify the Requesters, the borrower, and the project owner when he/she receives a request, and also when a decision is made about whether to do the investigation or not. These notifications will be done in writing.

The Examiner's report and the opinions of the Operational Department will be sent to the parties concerned and will also be made available to the public on JBIC's website. Information about individuals and corporations that is not required to be disclosed will be removed from documents before being made open to the public.

07-1 | The Examiner will also show, on the website, when a request has been accepted and which stage the investigation is at.

Other information, including the request itself and other documents provided by the Requesters, are not made public by JBIC. If Requesters want the documents they send to JBIC to be disclosed, they need to tell JBIC to do so. Requesters can also disseminate such documents themselves by e-mail, on a website, or in other ways convenient for them.



Beyond JBIC's Guidelines



7.1 It is only one tool

The Guidelines and the Objection Procedures are tools that people affected by development projects and NGOs can use in their efforts to oppose destructive projects financed by JBIC. Please remember, however, that they are only one set of tools. In order to effectively oppose projects, it is very important to use different ways to send your message to project owners and to JBIC. If you expect a project that JBIC is involved in will cause damage to your environment and community, it is important to take action at the earliest stage possible. Do not use only JBIC's Guidelines and Objection Procedures. We recommend strongly that you contact Japanese NGOs, raise your concerns with your own government, find people in your government who understand your concerns, launch campaigns against the development project, or use other non-violent ways of protest that are effective in your country. If you use a combination of ways to raise your concerns, there is a better chance of getting your concerns addressed.

7.2 Use other guidelines and standards to help you

3-4-3

In the Guidelines, there are many expressions that are not clear in their meaning. Some people could read them to be strongly in favor of communities affected by development projects. Other people could read them to be strongly in favor of the project owner. It is very important that we push JBIC to interpret the Guidelines so that they actually protect the rights of affected communities. To do this, it is not enough to use only JBIC's Guidelines. It is also important to show JBIC when other countries or other financial institutions have standards that are higher than JBIC's. JBIC's Guidelines themselves say that JBIC will refer to the standards and good practices of other developed countries, international organizations, and regional organizations.

It is possible that JBIC does not know, or does not have an interest in applying all the different standards of other institutions and countries. The World Bank's safeguard policies and the Universal Declaration of Human Rights are typical examples of such standards. If you know of other laws, guidelines, or examples of how other institutions helped protect the rights of affected people, then it is useful to explain these things to JBIC. If you can point out these higher standards and how they could have prevented the problems you are facing, this will pressure JBIC to improve the way they work, and to interpret the Guidelines in favor of affected communities. JBIC does not want to be known to have lower standards than other institutions.

7.3 If you are concerned about an old project, you might still want to try using the Objection Procedures

Both the Guidelines and Objection Procedures are supposed to be used only for projects for which loans were requested after 1 October 2003. We believe, however, that it is not necessary to follow this strictly. For example, when the World Bank established its Inspection Panel, the private sector was not subject to inspection. After the Inspection Panel was used, however, it led to other independent investigations and new reforms of the World Bank system. In the case of JBIC, projects subject to the old guidelines are not subject to the Objection Procedures. However, it is possible that trying to file for an investigation of an old project could lead to other investigations. JBIC cannot ignore complaints about projects they are financing, whether they are old projects or new ones. Please look at Chapter 6 in this booklet, and consider the limitations of the procedures. If you still think it could be helpful, try raising your concerns through JBIC's Objection Procedures.





Japan

□ Head Office

4-1, Ohtemachi 1-chome, Chiyoda-ku, Tokyo 100-8144, Japan
TEL: +81-3-5218-3101, Fax: +81-3-5218-3955

East and Southeast Asia

□ Representative Office in Beijing

3131,31st Floor, China World Trade Center, No.1 Jian Guo Men Wai Avenue, Beijing 100004, The People's Republic of China
Tel.86-10-6505-8989,3825,3826,3827,3828,1196,1197
Fax.86-10-6505-3829,1198

□ Representative Office in Hong Kong

Suite 3706, Level 37, One Pacific Place, 88 Queensway, Hong Kong
Tel.852-2869-8505, 8506, 8507 / Fax.852-2869-8712

□ Representative Office in Bangkok

14th Floor, Nantawan Bldg., 161 Rajdamri Road, Bangkok, 10330, Thailand
Tel.66-2-252-5050 / Fax.66-2-252-5514,5515

□ Representative Office in Hanoi

6th Floor, 63 Ly Thai To Street, Hanoi, Viet Nam
Tel.84-4-8248934,8248935,8248936 / Fax.84-4-8248937

□ Representative Office in Jakarta

Summitmas II 7th Floor, Jl. Jenderal Sudirman, Kav.61-62,

Jakarta Selatan, Jakarta, Indonesia
Tel.62-21-522-0693 / Fax.62-21-520-0975

- ❑ Representative Office in Kuala Lumpur
22nd Floor, UBN Tower, Letter BOX No.59,
Jalan P.Ramlee 50250, Kuala Lumpur, Malaysia
Tel.60-3-2072-3255,2201,2202 / Fax.60-3-2072-2115
- ❑ Representative Office in Manila
31st F, Citibank Tower, Valero St. corner Villar St.,
Makati, Metro Manila, Philippines
Tel.63-2-848-1828, 63-2-752-5682/Fax.63-2-848-1833,1834,1835
- ❑ Representative Office in Singapore
9 Raffles Place, #53-01 Republic Plaza, Singapore 048619
Tel. 65-6557-2806 / Fax. 65-6557-2807

South Asia

- ❑ Representative Office in Colombo
Level 13,Development Holdings 42, Navam Mawatha,
Colombo 2, Sri Lanka
Tel.94-11-230-0470 / Fax.94-11-230-0473
- ❑ Representative Office in Dhaka
IDB Bhaban(5th floor), E/8-A, Begum Rokeya Sharani,
Sher-E-Bangla Nagar, Dhaka 1207,Bangladesh
Tel.880-2-811-4081,6700 / Fax.880-2-811-3336
- ❑ Representative Office in Islamabad
5th Floor, Evacuee Trust Complex,
Aga Khan Road, F-5/1 Islamabad, Pakistan
Tel.92-51-2820119 / Fax.92-51-2822546
- ❑ Representative Office in New Delhi
3rd Floor, DLF Centre, Sansad Marg, New Delhi, 110001, India
Tel.91-11-2371-4362, 4363, 7090, 6200
Fax.91-11-2371-5066, 91-11-2373-8389

Russia

- ❑ Representative Office in Moscow
123610 Moscow, Krasnopresnenskaya Nab.12,
World Trade Center, Office No.905, Russian Federation
Tel.7-095-258-1832,1835,1836 / Fax.7-095-258-1858

Africa

- ❑ Representative Office in Cairo
Abu El Feda Bldg., 16th Floor, 3 Abu El Feda Street,
Zamalek, Cairo, Egypt
Tel.20-2-738-3608,3609 / Fax.20-2-738-3607
- ❑ Representative Office in Nairobi
6th Floor, International House, Mama Ngina Street,
P.O.Box 49526, 00100 Nairobi, Kenya
Tel.254-20-221420,221637 / Fax.254-20-221569

Latin America

- ❑ Representative Office in Bogota
Calle 114 No 9-45 Torre B, Oficina 601,
Teleport Business Park, Bogota, D.C., Colombia
Tel.57-1-629-2436,2437,2438 / Fax.57-1-629-2707
- ❑ Representative Office in Buenos Aires
Av. Del Libertador No.498, Piso19, 1001 Capital Federal,
Buenos Aires, Argentina
Tel.54-11-4394-1379,1803 / Fax.54-11-4394-1763
- ❑ Representative Office in Lima
Av. Canaval Moreyra No 380, San Isidro, Lima 27, Peru
Tel.51-1-442-3031 / Fax.51-1-440-9657
- ❑ Representative Office in Mexico City
Paseo de la Reforma 265 Piso-16, Col.
Cuauhtemoc, Mexico, D.F.06500, Mexico
Tel.52-55-5525-67-90 / Fax.52-55-5525-34-73
- ❑ Representative Office in Rio de Janeiro
Praia de Botafogo, 228- 801 B, Botafogo,
CEP.22359-900, Rio de Janeiro, RJ, Brazil
Tel.55-21-2553-0817 / Fax.55-21-2554-8798

OFFICE OF EXAMINERS IN CHARGE OF ENVIRONMENTAL GUIDELINES

Address: Japan Bank for International Cooperation
Office of Examiners in Charge of Environmental Guidelines
4-1, Ohtemachi 1-chome, Chiyoda-ku, Tokyo 100-8144 JAPAN
FAX.+81-3-5218-3946
E-mail:sinsayaku@jbic.go.jp

Contact Information for the Japanese Government

Appendix B

Ministry of Foreign Affairs (In case of Yen Loan Project)

Loan Aid Division, Economic Cooperation Bureau,
Ministry of Foreign Affairs
Kasumigaseki 2-2-1, Chiyoda-ku, Tokyo 100-8919 Japan
Tel: +81-3-3580-3311, Fax: +81-3-5501-8370

Ministry of Economy, Trade and Industry (In case of Yen Loan Projects)

Financial Cooperation Division, Trade and Economic Cooperation
Bureau, Ministry of Economy, Trade and Industry
1-3-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8901 Japan
Tel: +81-3-3501-1511

Ministry of Finance (In case of Yen Loan Project and IFO Project)

Development Finance Division, International Bureau,
Ministry of Finance
3-1-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8940 Japan
Tel: +81-3-3581-4111

Contact Information for Japanese NGOs

While there are many NGOs in Japan, a limited number actively engage the Japanese government in policy dialogues to reform official aid policies. All the NGOs below have experience in advocating for the rights of communities affected by projects financed by Japanese development aid. Please read the descriptions below and contact the organization that most closely fits your area of concern.

FoE Japan (Friends of the Earth Japan)

3-17-24-2F Mejiro, Toshima-ku, Tokyo 171-0031 Japan
TEL: +81-3-3951-1081, FAX: +81-3-3951-1084
E-mail: finance@foejapan.org

FoE Japan's Public Finance and Environment Program monitors JBIC activities as well as those of NEXI (Nippon Export and Investment Insurance). FoE Japan has developed networks in Southeast Asia, especially in the Philippines. FoE Japan was an active participant in consultations with JBIC to develop and establish the new Guidelines.

Japan Center for a Sustainable Environment and Society (JACSES)

2F Kowa Hiro-o Bldg., 5-2-32 Minami Azabu,
Minato-ku, Tokyo 106-0047 Japan
Tel: +81-3-3447-9585 Fax: +81-3-3447-9383
Email: jacsces@jacsces.org

JACSES has focused its activities on policy analysis of multilateral development banks, and is now developing its networks in South Asia. JACSES has experience monitoring an ADB project in Pakistan and also participated in public consultations with JBIC to establish the new Guidelines.

Japan NGO Network on Indonesia (JANNI)

5F Maruko Bldg., 1-20-6 Higashi-ueno, Taito-ku,
Tokyo 110-0015 Japan
Tel: +81-3-5818-0507 Fax: +81-3-5818-0520
E-mail: janni@jca.apc.org

JANNI's activities focus on issues of human rights, environment and development in Indonesia. JANNI conducts research and advocates for the rights of communities in cooperation with Indonesian NGOs. JANNI also addresses problems of Japanese ODA to Indonesia and advocates for its improvement.

Mekong Watch

2F Maruko Bldg., 1-20-6 Higashi-ueno, Taito-ku,
Tokyo 110-0015 Japan
Tel: +81-3-3832-5034, Fax: +81-3-3832-5039
E-mail: info@mekongwatch.org

Mekong Watch focuses its activities on the Mekong Region (namely Burma, Cambodia, Laos, Thailand, Vietnam, and Yunnan Province of China). Activities include research and networking with communities and NGOs in the Mekong Region, and advocating for improved bilateral and multilateral aid policies in Japan, including JBIC's new Guidelines.

JBIC Watch

<http://www.jbic-watch.net/>

The four NGOs listed above decided to put together a website to provide important information in English that JBIC provides only in Japanese. The information on this page includes the names and location of projects that JBIC is thinking about financing. It also gives information about the availability of documents such as Environmental Impact Assessments. This is a good place to get initial information about projects at an early stage.

Editorial Note: Paragraph numbers marked on the left side of the Guidelines (beginning on page 89) have been added for the purpose of this handbook. These paragraph numbers do not appear in the original text.

Japan Bank for International Cooperation Guidelines for Confirmation of Environmental and Social Considerations

April 2002
Japan Bank for International Cooperation

Preface

Japan Bank for International Cooperation (hereinafter referred to as "JBIC") establishes and makes public "JBIC Guidelines for Confirmation of Environmental and Social Considerations" (hereinafter referred to as the "Guidelines") with the objective of contributing to efforts by the international community, particularly developing regions, towards sustainable development, through consideration of the environmental and social aspects in all projects (hereinafter referred to as "project" or "projects") subject to lending or other financial operations (hereinafter collectively referred to as "funding") by JBIC. Environmental and social considerations refer not only to the natural environment, but also to social issues such as involuntary resettlement and respect for the human rights of indigenous peoples (hereinafter collectively referred to as "environment"). The Guidelines apply commonly to JBIC's International Financial Operations and Overseas Economic Cooperation Operations.

The Guidelines have been formulated on the basis of Japan's approach to international co-operation in environmental conservation, discussions about the international framework on environmental and social considerations and human rights, and discussions held at the Organisation for Economic Co-Operation and Development (OECD) regarding common approaches to the environment and public export credits, which requires consistency between

public export credit policies and environmental conservation policies, and also regarding good environmental practices of the Development Assistance Committee (DAC) and other issues. The Guidelines will be reviewed as necessary in future, taking into account future progress made in these areas.

While encouraging appropriate consideration of the environment and social aspects in projects subject to funding, it is JBIC's policy to provide active support to projects that promote environmental conservation and to projects that contribute to the protection of the global environment, such as projects to reduce greenhouse gas emissions. JBIC also has a policy of being actively involved in the support of enhancing environmental and social considerations in developing countries.

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NB: Part 2 is inseparable from Part 1.

[Part 1]

1. JBIC's Basic Policies Regarding Confirmation of Environmental and Social Considerations

- 1-1 JBIC confirms that project proponents are undertaking appropriate environmental and social considerations, through various measures, so as to prevent or minimize the impact on the environment and local communities which may be caused by the projects for which JBIC provides funding, and not to bring about unacceptable effects. It will thus contribute to the sustainable development of developing regions.
- 1-2 In its confirmation of environmental and social considerations, JBIC places importance on dialogue with the host country (including local governments), borrowers and project proponents (hereinafter collectively referred to as "borrowers and related parties") regarding environmental and social considerations, while respecting the sovereignty of the host country. It also takes note of the importance of transparent and accountable processes, as well as the participation in those processes of stakeholders in the project concerned, including local residents and local NGOs affected by the project (hereinafter referred to as "stakeholders"). JBIC makes clear in its Guidelines the environmental and social considerations required for projects to receive JBIC's funding, and confirms those environmental and social considerations.
- 1-3 In making its funding decisions, JBIC conducts screenings and reviews of environmental and social considerations to confirm that the requirements are duly satisfied.
- 1-4 JBIC makes the utmost efforts to ensure that appropriate environmental and social considerations are undertaken, in accordance with the nature of the project for which JBIC provides funding, as stated in the Guidelines, through such means as loan agreements.
- 1-5 Following funding decisions, if necessary, JBIC will monitor or take steps over a certain period of time to encourage borrowers and related parties to ensure that appropriate environmental and social considerations are undertaken.
- 1-6 In cases where it is involved in the planning and preparatory stages of a project, JBIC will take steps to encourage borrowers and related parties to undertake appropriate environmental and social considerations from the earliest stage possible.

1-7 JBIC consistently strives to improve its organizational structure and operational capacity to achieve sufficient and effective confirmation of environmental and social considerations.

2. Objectives and Meaning of the Guidelines

2-1 The objective of the Guidelines is to encourage project proponents to implement appropriate environmental and social considerations in accordance with the Guidelines, by making clear its procedures (both before and after funding decisions are made), criteria for decision-making and requirements which projects subject to funding are to meet. In so doing, JBIC endeavors to ensure transparency, predictability and accountability in its confirmation of environmental and social considerations.

3. Basic Principles Regarding Confirmation of Environmental and Social Considerations

3-1 (1) Parties Responsible for Environmental and Social Considerations

3-1-1 The project proponents are responsible for environmental and social considerations for the project. JBIC confirms such considerations in light of the Guidelines.

3-1-2 JBIC encourages project proponents seeking funding from JBIC to undertake appropriate environmental and social considerations in accordance with the nature of the project, based on the principles listed in Section 1 of Part 2 of the Guidelines.

(2) Confirmation of Environmental and Social Considerations by JBIC

3-2-1 JBIC does the following to confirm environmental and social considerations;

- (a) classifies the project into one of the categories listed in Section 4.(2) of Part 1 (hereinafter referred to as "screening");
- (b) conducts a review of environmental and social considerations when making a decision on funding, to confirm that the requirements are duly satisfied (hereinafter referred to as "environmental review"); and
- (c) conducts monitoring and follow-up after the decision has been made on funding (hereinafter, such monitoring and follow-up processes will be simply referred to as "monitoring").

- 3-22 JBIC conducts screening and environmental reviews of projects for which it intends to provide funding before it makes decisions on funding.
 - 3-23 In light of the Guidelines and taking into account the characteristics of the project and the particular circumstances of the country and its location, JBIC confirms in its environmental reviews: 1) whether appropriate and sufficient consideration is given to environmental and social issues before the implementation of the project, 2) whether appropriate environmental and social considerations can be expected after JBIC makes decisions on the funding of the project in light of such factors as the state of preparation by the project proponent and host government, their experience, operational capacity, and the state of securing funds, as well as external factors of instability.
 - 3-24 From the standpoint that confirmation of environmental and social considerations is an important aspect in the risk assessment for the funding, JBIC carries out environmental reviews in strict conjunction with its financial, economic and technical review of projects.
 - 3-25 As well as undertaking efficient pre-funding screening and environmental reviews through the appropriate use of "screening forms" and "environmental checklists", amongst other means, JBIC places emphasis on post-funding monitoring.
- (3) Information Required for Confirmation of Environmental and Social Considerations**
- 3-31 JBIC conducts screening and environmental reviews based principally on information provided by borrowers and related parties (in the case of export finance, including exporters). However, JBIC may request additional information from the borrowers and related parties when necessary.
 - 3-32 JBIC recognizes the importance of information received not only from the borrowers and related parties but also from governments and organizations of host countries, co-financiers and stakeholders, and utilizes such information in its screening and environmental reviews.
 - 3-33 With respect to projects that are co-financed by other financial institution(s), JBIC endeavors to exchange information on environmental and social considerations with the other institution(s) concerned.
 - 3-34 For Category A projects (see Section 4.(2) of Part 1), JBIC checks the extent of stakeholder participation and information disclosure being undertaken for

the project, in accordance with the environmental impact assessment systems of the host country.

3-35 JBIC may, when necessary, conduct surveys of proposed project sites by dispatching environmental experts to confirm environmental and social considerations.

3-36 JBIC may, when necessary, seek and make use of opinions from outside experts.

(4) Standards for Confirmation of Appropriateness of Environmental and Social Considerations

3-41 JBIC in principle conducts environmental reviews to confirm that projects meet the requirements for environmental and social considerations stated in the Guidelines in the following ways:

3-42 JBIC ascertains whether a project complies with environmental laws and standards, of the host national and local governments concerned, as well as whether it conforms to their environmental policies and plans.

3-43 JBIC also uses, as reference points or benchmarks, examples of standards and/or good practices regarding environmental and social considerations established by international and regional organizations and developed countries such as Japan. If JBIC believes the environmental and social considerations of the project substantially deviate from these standards and good practices, it will consult with the host governments (including local governments), borrowers and project proponents to confirm the background and rationale for this deviation.

3-44 JBIC takes note of the importance of good governance with regard to projects for the sake of appropriate environmental and social considerations.

(5) Taking into Account for Funding Decisions

3-51 JBIC takes the outcomes of its environmental reviews into account for decisions on funding. If, as a result of its environmental review, JBIC judges that appropriate environmental and social considerations are not ensured, it will encourage the project proponent, through the borrower, to undertake appropriate environmental and social considerations. If appropriate environmental and social considerations are not undertaken, there may be cases where funding is not extended.

4. Procedures for Confirmation of Environmental and Social Considerations

(1) Screening

- 4-1-1 Before starting an environmental review of a project, JBIC classifies the project into one of the following categories. The subsequent environmental review will then be conducted in accordance with the procedures for that category.
- 4-1-2 JBIC requests the borrowers and related parties to submit the necessary information promptly so that it may perform the screening process at an early stage.
- 4-1-3 During the screening process, JBIC classifies each project in terms of its potential environmental impact, taking into account such factors as: the sector and scale of the project, the substance, degree and uncertainty of its potential environmental impact and the environmental and social context of the proposed project site and surrounding areas.
- 4-1-4 JBIC may revise the categorization when necessary, e.g., in cases where environmental impact worth considering comes to light even after the screening based on the information provided by the borrowers and related parties is performed.

(2) Categorization

- 4-2-1 **Category A:** A proposed project is classified as Category A if it is likely to have significant adverse impact on the environment. A project with complicated impact or unprecedented impact which are difficult to assess is also classified as Category A. The impact of Category A projects may affect an area broader than the sites or facilities subject to physical construction. Category A, in principle, includes projects in sensitive sectors (i.e., sectors that are liable to cause adverse environmental impact) or with sensitive characteristics (i.e., characteristics that are liable to cause adverse environmental impact) and projects located in or near sensitive areas. An illustrative list of sensitive sectors, characteristics and areas is given in Section 3 of Part 2.
- 4-2-2 **Category B:** A proposed project is classified as Category B if its potential adverse environmental impact is less adverse than that of Category A projects. Typically, this is site-specific, few if any are irreversible, and in most cases normal mitigation measures can be designed more readily. Projects funded by Engineering Service Loans that are yen loans for survey and

design, are classified as Category B, with the exception of those belonging to Category C.

4-23 **Category C:** A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impact. Projects that correspond to one of the following are, in principle, classified as Category C, with the exception of projects with sensitive characteristics and projects located in sensitive areas as indicated in Section 3 of Part 2:

- 1) Projects for which the JBIC's share is not above SDR 10 million;
- 2) Sectors or projects in which no particular environmental impact would be normally expected (e.g., human resources development, support for international balance of payments, maintenance of existing facilities, acquisition of rights and interests without additional capital investment); or
- 3) Cases in which there is only minor involvement of the project by the borrower or JBIC, such as the export/import or lease of items of machinery or equipment that is not connected with a particular project, and where there would be little reasonable significance in JBIC's conducting an environmental review.

4-24 **Category FI:** A proposed project is classified as Category FI if it satisfies all of the following: JBIC's funding of the project is provided to a financial intermediary etc.; the selection and assessment of the actual sub-projects is substantially undertaken by such an institution only after JBIC's approval of the funding and therefore the sub-projects cannot be specified prior to JBIC's approval of funding (or assessment of the project); and those sub-projects are expected to have potential impact on the environment.

(3) Environmental Review for Each Category

4-31 After the screening process, JBIC carries out environmental reviews according to the following procedures for each category.

4-32 **Category A:** Environmental reviews for Category A projects examine the potential negative and positive environmental impact of projects. JBIC evaluates measures necessary to prevent, minimize, mitigate or compensate for potential negative impact, and measures to promote positive impact if any such measures are available. Borrowers and related parties must submit Environmental Impact Assessment (EIA) reports (see Section 2 of Part 2) for Category A projects. For projects that will result in large-scale involuntary resettlement, basic resettlement plans must be submitted. JBIC undertakes its environmental reviews based on the EIA and other reports prepared by the project proponents and submitted through the borrower.

4-3-3 | **Category B:** The scope of environmental reviews for Category B projects may vary from project to project, but it is narrower than that for Category A projects. The environmental reviews for Category B are similar to that of category A in that they examine potential negative and positive environmental impact and evaluate measures necessary to prevent, minimize, mitigate or compensate for the potential negative impact, and measures to promote positive impact if any such measures are available. JBIC undertakes its environmental reviews based on information provided by borrowers and related parties. Where an EIA procedure has been conducted, the EIA report may be referred to, but this is not a mandatory requirement.

4-3-4 | **Category C:** For projects in this category, environmental reviews will not proceed beyond screening.

4-3-5 | **Category FI:** JBIC checks through the financial intermediary etc. to see whether appropriate environmental and social considerations as stated in the Guidelines are ensured for projects in this category.

4-3-6 | The corresponding environmental checklists for each sector will be referred to in conducting the aforementioned reviews.

(4) Monitoring

4-4-1 | JBIC in principle confirms through the borrower over a certain period of time, the results of monitoring the items which have a significant environmental impact by the project proponents. This is in order to confirm the project proponents' undertaking of environmental and social considerations for category A and B projects.

4-4-2 | The information necessary for monitoring by JBIC needs to be supplied by the borrowers and related parties by appropriate means. When necessary, JBIC may also conduct its own investigations.

4-4-3 | When third parties point out in concrete terms that environmental and social considerations are not being fully undertaken, JBIC forwards such claims to the borrowers and, if necessary, encourages them to request the project proponents to take appropriate action. In the project proponents' response to the claim, JBIC confirms that they carry out the investigation of the specific claim, the examination of countermeasures, and their incorporation into the project plans through transparent and accountable processes.

4-4-4 | Also, when necessary, JBIC may request the cooperation of the borrowers and related parties in conducting its own investigations to confirm the state of undertaking of environmental and social considerations.

4-4-5 | If JBIC judges that there is a need for improvement in the situation with respect to environmental and social considerations, it may ask the project proponent, through the borrower, to take appropriate action in accordance with the loan agreement. If the response of the project proponent is inappropriate, JBIC may consider taking its own actions in accordance with the loan agreement, including the suspension of the disbursement.

5. Disclosure of Information Regarding Confirmation of Environmental and Social Considerations by JBIC

(1) Basic Principles

5-1-1 | JBIC welcomes information provided by concerned organizations and stakeholders, so that it may consider a diverse range of opinions and information in its environmental reviews and supervision of projects.

5-1-2 | In order to encourage concerned organizations and stakeholders to provide information to JBIC at an early stage and to ensure its accountability and transparency in the environmental review process, JBIC makes available, important information on environmental reviews in ways appropriate to the nature of the project, while the environmental review is in progress. JBIC may also, when necessary, seek the opinions of concerned organizations and stakeholders.

5-1-3 | In addition to the aforementioned principles, if requested by third parties, JBIC will provide them with information regarding environmental and social considerations within its capacity to do so.

5-1-4 | JBIC respects the confidentiality of the commercial and other matters of the borrowers and related parties, and observes concurrently the principles of information disclosure and such confidentiality.

(2) Timing of Disclosure and Content of Disclosed Information

5-2-1 | Prior to making decisions on funding and depending on the nature of the project, JBIC discloses information in principle at the timing and with the contents listed below. JBIC endeavors to disclose information in a manner that allows enough time before decisions are made on funding:

- Upon completion of the screening of a project, JBIC discloses, as soon as possible, the project name, country, location, an outline and sector of the project, and its category classification, as well as the reasons for that classification; and

- ❑ For Category A and Category B projects, JBIC publishes the status of major documents on environmental and social considerations by the borrowers and related parties, such as EIA reports and environmental permit certificates, etc. issued by the host government on the JBIC website, and promptly makes available the EIA reports etc.

5-2-2 After executing a loan agreement, JBIC provides the results of its environmental reviews of projects in Categories A, B and FI for public perusal on the JBIC website.

5-2-3 JBIC pays due consideration to the confidentiality of the commercial and other matters of the borrowers and related parties, taking into account their competitive relationships, and encourages them to exclude such confidential information from any documents on environmental considerations submitted by them that may later be subject to public disclosure. Any information that is prohibited from public disclosure in the agreement between JBIC and the borrower may be disclosed only with either the agreement of the borrowers and related parties or in accordance with legal requirements.

6. Taking Environmental Reviews into Account for Decision-making and Loan Agreements

6-1 JBIC takes the results of environmental reviews into account for its decision-making on funding. If JBIC considers that a project is likely to have an adverse impact on the environment due to inappropriate environmental and social considerations, it will encourage, through the borrower the project proponent to undertake appropriate environmental and social considerations. If appropriate environmental and social considerations are not undertaken, JBIC may decide not to extend funding.

6-2 JBIC will make its utmost effort to ensure that the following requirements are met through loan agreements or their attached documents, when it is considered necessary to ensure the enforcement of environmental and social considerations by borrowers and related parties:

- ❑ The borrower is to report to JBIC on measures and monitoring related to environmental and social considerations undertaken by the project proponents. If, due to unforeseen circumstances, there is a possibility that the requirements for environmental and social consideration may not be fulfilled, the borrower is to report this to JBIC;
- ❑ If any problems regarding environmental and social considerations

arise, the borrower is to make efforts for discussions to be held between the project proponents and project stakeholders;

- ❑ When project proponents and the host governments (including local governments) other than the borrower have important roles to play in terms of environmental and social considerations, the borrower is to endeavor to enter into agreements with these parties as well; and
- ❑ If it becomes evident that the borrower and the project proponents have not met the conditions required by JBIC under the Guidelines, or if it becomes apparent that the project will have an adverse impact on the environment after funding is extended, due to the borrower's or related parties' failure to supply correct information during the environmental review process, JBIC may, in accordance with the loan agreement, suspend the disbursement or declare all the principal outstanding at the time, with interest and any other charges thereon, to be payable immediately.

7. Ensuring Appropriate Implementation of and Compliance with the Guidelines

7-1

JBIC endeavors to ensure appropriate implementation of the policies and procedures stated in the Guidelines and compliance with the Guidelines. In order to ensure its compliance with the Guidelines, JBIC accepts objections regarding its non-compliance with the Guidelines and takes the necessary actions.

8. Implementation and Review of the Guidelines

8-1

JBIC verifies the status of the implementation of the Guidelines, and, based on its findings, conducts a comprehensive review of the Guidelines within five (5) years of their enforcement. Revisions may then be made as needed. When making revisions, JBIC will seek the opinions of the Japanese Government, the governments of developing countries, Japanese companies, experts, NGOs etc., while maintaining transparency in the process.

8-2

These Guidelines will come into force from October 1, 2003. The "Environmental Guidelines for JBIC International Financial Operations" and "JBIC Environmental Guidelines for ODA Loans" will apply to projects for which loan applications have essentially been made before the enactment of these Guidelines.

N.B.: If there is any ambiguity in English version and/or any inconsistency with Japanese version, the Japanese version prevails.

P1

Part 2

1. Environmental and Social Considerations Required for Funded Projects

P1-1-1 In principle, appropriate environmental and social considerations are undertaken, according to the nature of the project, based on the following:

(Underlying Principles)

P1-2-1 Environmental impact which may be caused by a project must be assessed and examined from the earliest planning stage possible. Alternative proposals or minimization measures to prevent or reduce adverse impact must be examined and incorporated into the project plan;

P1-2-2 Such examination must include analysis of environmental costs and benefits in as quantitative terms as possible and be conducted in close harmony with economic, financial, institutional, social and technical analysis of the project;

P1-2-3 The findings of the examination of environmental and social considerations must include alternative proposals, mitigation measures and be recorded as separate documents or as a part of other documents. Environmental Impact Assessment (EIA) reports must be produced for projects in which there is a reasonable expectation of particularly large adverse environmental impact; and

P1-2-4 For projects that have particularly large potential adverse impact or are highly contentious, a committee of experts may be formed to seek their opinions, in order to increase accountability.

(Examination of Measures)

P1-3-1 Multiple alternative proposals must be examined to prevent or minimize adverse impact and to choose a better project option in terms of environmental and social considerations. In examination of measures, priority is to be given to the prevention of environmental impact, and when this is not possible, minimization and reduction of impact must be considered next. Compensation measures must be examined only when impact cannot be prevented by any of the aforementioned measures; and

P1-3-2 Appropriate follow-up plans and systems, such as monitoring plans and environmental management plans, must be prepared; and costs of implementing such plans and systems, and financial methods to fund such costs, must be determined. Plans for projects with particularly large potential adverse impact must be accompanied by detailed environmental management plans.

(Scope of Impact to be Examined)

P1-4-1 Environmental impact to be investigated and examined includes factors that impact human health and safety as well as the natural environment, such as: air, water, soil, waste, accidents, water usage, ecosystems, and biota. Social concerns include: involuntary resettlement of the population, the indigenous people, cultural heritage, landscape, gender, children's rights and communicable diseases such as HIV/AIDS and impact that may lead to trans-boundary and global environmental problems; and

P1-4-2 In addition to the direct and immediate impact of projects, derivative, secondary and cumulative impact are also to be examined and investigated to a reasonable extent. It is also desirable that the impact which can occur at any time during the duration of the project be continuously considered throughout the life cycle of the project.

(Compliance with Laws, Standards and Plans)

P1-5-1 Projects must comply with laws, ordinances and standards relating to environmental and social considerations established by the governments that have jurisdiction over the project site (including both national and local governments). They are also to conform to environmental and social consideration policies and plans of the governments that have jurisdiction over the project site; and

P1-5-2 Projects must, in principle, be undertaken outside protected areas that are specifically designated by laws or ordinances of the government for the conservation of nature or cultural heritage (excluding projects whose primary objectives are to promote the protection or restoration of such designated areas). Projects are also not to impose significant adverse impact on designated conservation areas.

(Social Acceptability and Social Impacts)

P1-6-1 Projects must be adequately coordinated so that they are accepted in a manner that is socially appropriate to the country and locality in which the project is planned. For projects with a potentially large environmental impact, sufficient consultations with stakeholders, such as local residents, must be conducted via disclosure of information from an early stage where alternative proposals for the project plans may be examined. The outcome of such consultations must be incorporated into the contents of the project plan; and

P1-6-2 Appropriate consideration must be given to vulnerable social groups, such as women, children, the elderly, the poor, and ethnic minorities, all of whom are susceptible to environmental and social impact and who may have little access to the decision-making process within society.

- P1-7 (Involuntary Resettlement)
- P1-7-1 Involuntary resettlement and loss of means of livelihood are to be avoided where feasible, exploring all viable alternatives. When, after such examination, it is proved unfeasible, effective measures to minimize impact and to compensate for losses must be agreed upon with the people who will be affected;
- P1-7-2 People to be resettled involuntarily and people whose means of livelihood will be hindered or lost must be sufficiently compensated and supported by the project proponents, etc. in timely manner. The project proponents, etc. must make efforts to enable the people affected by the project, to improve their standard of living, income opportunities and production levels, or at least to restore them to pre-project levels. Measures to achieve this may include: providing land and monetary compensation for losses (to cover land and property losses), supporting the means for an alternative sustainable livelihood, and providing the expenses necessary for relocation and the re-establishment of a community at relocation sites; and
- P1-7-3 Appropriate participation by the people affected and their communities must be promoted in planning, implementation and monitoring of involuntary resettlement plans and measures against the loss of their means of livelihood.
- (Indigenous Peoples)
- P1-8-1 When a project may have adverse impact on indigenous peoples, all of their rights in relation to land and resources must be respected in accordance with the spirit of the relevant international declarations and treaties. Efforts must be made to obtain the consent of indigenous peoples after they have been fully informed.
- (Monitoring)
- P1-9-1 It is desirable that, after a project begins, the project proponents monitor: (i) whether any situations that were unforeseeable before the project began have arisen, (ii) the implementation situation and the effectiveness of the mitigation measures prepared in advance, and that they then take appropriate measures based on the results of such monitoring;
- P1-9-2 In cases where sufficient monitoring is deemed essential for the achievement of appropriate environmental and social considerations, such as the projects for which mitigation measures should be implemented while monitoring their effectiveness, project proponents must ensure that project plans include monitoring plans which are feasible;

- P1-9-3 It is desirable that project proponents make the results of the monitoring process available to project stakeholders; and
- P1-9-4 When third parties point out, in concrete terms, that environmental and social considerations are not being fully undertaken, it is desirable that a forum for discussion and examination of countermeasures be established based on sufficient information disclosure and include the participation of stakeholders in the relevant project. It is also desirable that an agreement be reached on procedures to be adopted with a view to resolving the problem.

P2 **2. EIA Reports for Category A Projects**

P2-1-1 The following conditions are met in principle:

- P2-2-1 When assessment procedures already exist in host countries, and projects are subject to such procedures, borrowers and related parties must officially complete those procedures and obtain the approval of the government of the host country;
- P2-2-2 EIA reports (which may be referred to differently in different systems) must be written in the official language or a language widely used in the country where the project is to be implemented. When explaining projects to local residents, written materials must be provided in a language and form understandable to them;
- P2-2-3 EIA reports are required to be made available in the country and to the local residents where the project is to be implemented. The EIA reports are required to be available at all times for perusal by project stakeholders such as local residents and that copying be permitted;
- P2-2-4 In preparing EIA reports, consultation with stakeholders, such as local residents, must take place after sufficient information has been disclosed. Records, etc. of such consultations must be prepared;
- P2-2-5 Consultations with relevant stakeholders, such as local residents, should take place if necessary throughout the preparation and implementation stages of a project. Having consultations is highly desirable, especially when the items to be considered in the EIA are being selected, and when the draft report is being prepared; and
- P2-2-6 It is desirable that EIA reports cover the items enumerated in the Appendix hereto.

2. Appendix

Illustrative Environmental Impact Assessment Report for Category A Projects [NB]

An EIA's scope and level of detail should be decided in accordance with the project's potential impacts. The EIA report should include the following items (not necessarily in the order shown):

- ❑ Executive Summary: concisely discusses significant findings and recommended actions.
- ❑ Policy, legal and administrative framework: discusses the policy, legal and administrative framework within which the EIA report is to be carried out.
- ❑ Project description: describes the proposed project and its geographic, ecological, social and temporal context, including any off-site investments that may be required (e.g. dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities). Indicates the need for any resettlement or social development plan. Normally includes a map showing the project site and the area affected by the project.
- ❑ Baseline data: assesses the dimensions of the study area and describes relevant physical, biological and socio-economic conditions, including all changes anticipated before the project commences. Additionally, takes into account current and proposed development activities within the project area but not directly connected to the project. Data should be relevant to decisions about project site, design, operation, or mitigatory measures; the section indicates accuracy, reliability and sources of the data.
- ❑ Environmental Impacts: predicts and assesses the project's likely positive and negative impacts, in quantitative terms to the extent possible. Identifies mitigation measures and any negative environmental impacts that cannot be mitigated. Explores opportunities for environmental enhancement. Identifies and estimates the extent and quality of available data, essential data gaps and uncertainties associated with predictions, and specifies topics that do not require further attention.
- ❑ Analysis of alternatives: systematically compares feasible alternatives to the proposed project site, technology, design and operation including the "without project" situation in terms of their potential environmental impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training and monitoring requirements. For each of the alternatives, quantifies the environmental impacts to the extent possible, and attaches economic values where feasible. States the basis for selecting the particular project design proposed and offers justification for recommended emission levels and approaches to pollution prevention and abatement.

- ❑ Environmental Management Plan (EMP): describes mitigation, monitoring and institutional measures to be taken during construction and operation to eliminate adverse impacts, offset them, or reduce them to acceptable levels.
- ❑ Consultation: Record of consultation meetings, including consultations for obtaining the informed views of the affected people, local non-governmental organizations (NGOs) and regulatory agencies.

NB This Appendix is based on the World Bank Operational Policy - OP 4.01, Annex B.

P3

3. Illustrative List of Sensitive Sectors,

Characteristics and Areas

P3-1

1. Sensitive Sectors

Large-scale projects in the following sectors:

- (1) Mining
- (2) Oil and natural gas development
- (3) Oil and gas pipelines
- (4) Iron and steel (projects that include large furnaces)
- (5) Non-ferrous metals smelting and refining
- (6) Petrochemicals (manufacture of raw materials; including complexes)
- (7) Petroleum refining
- (8) Oil, gas and chemical terminals
- (9) Paper and pulp
- (10) Manufacture and transport of toxic or poisonous substances regulated by international treaties, etc.
- (11) Thermal power
- (12) Hydropower, dams and reservoirs
- (13) Power transmission and distribution lines involving large-scale involuntary resettlement, large-scale logging or submarine electrical cables
- (14) Roads, railways and bridges
- (15) Airports
- (16) Ports and harbors
- (17) Sewage and wastewater treatment having sensitive characteristics or located in sensitive areas or their vicinity
- (18) Waste management and disposal
- (19) Agriculture involving large-scale land-clearing or irrigation
- (20) Forestry
- (21) Tourism (construction of hotels, etc.)

- P3-2
- 2. Sensitive Characteristics**
- (1) Large-scale involuntary resettlement
 - (2) Large-scale groundwater pumping
 - (3) Large-scale land reclamation, land development and land-clearing
 - (4) Large-scale logging

- P3-3
- 3. Sensitive Areas**
- Projects in the following areas or their vicinity
- (1) National parks, nationally-designated protected areas (coastal areas, wetlands, areas for ethnic minorities or indigenous peoples and cultural heritage, etc. designated by national governments)
 - (2) Areas considered to require careful consideration by the country or locality

Natural Environment

- a) Primary forests or natural forests in tropical areas
- b) Habitats with important ecological value (coral reefs, mangrove wetlands and tidal flats, etc.)
- c) Habitats of rare species requiring protection under domestic legislation, international treaties, etc.
- d) Areas in danger of large-scale salt accumulation or soil erosion
- e) Areas with a remarkable tendency towards desertification

Social Environment

- a) Areas with unique archeological, historical or cultural value
- b) Areas inhabited by ethnic minorities, indigenous peoples or nomadic peoples with traditional ways of life and other areas with special social value

P4 **4. Information Required for Screening Process**

The following data shall be used in principle to conduct screening. When necessary, additional data may be required depending on the nature of the project and peripheral circumstances, etc.

Items to be Listed

- 1. Permits and Approvals**
- Need for permits and approvals for Environmental Impact Assessment
 - Status of acquisition of permits and approvals for EIA
 - Date of issue of permits and approvals for EIA
 - Names of organizations issuing permits and approvals for EIA
 - Status of acquisition of other environmental permits and approvals

P5

- 2. **Project Details**
 - Location of project site
 - Project Description
 - Relevant sector
 - Scale, etc. of project
- 3. **Environmental Impact**
 - Degree of environmental impact
 - Existence of sensitive areas
 - Existence of sensitive characteristics
 - Scale of sensitive characteristics

5. Categories and Items in Checklist

The checklists include the following categories and items related to the environment. When using these checklists, the appropriate items should be checked based on the sector and nature of the project.

Category Item

- 1. **Permits and approvals, explanations**
 - EIA and environmental permits
 - Explanations to the Public
- 2. **Anti-pollution measures**
 - Air quality
 - Water quality
 - Waste
 - Soil contamination
 - Noise and vibration
 - Subsidence
 - Odor
 - Sediment
- 3. **Natural environment**
 - Protected areas
 - Ecosystem
 - Hydrology
 - Topography and geology
 - Management of abandoned sites
- 4. **Social environment**
 - Resettlement
 - Living and livelihood
 - Heritage
 - Landscape
 - Ethnic minorities and indigenous peoples

P6

- 5. **Other**
 - Impact during construction
 - Accident prevention measures
 - Monitoring

6. **Items Requiring Monitoring**

Items requiring monitoring shall be decided according to the sector and nature of the project, with reference to the following list of items.

Items

1. **Permits and approvals, explanations**
 - Response to matters indicated by authorities
2. **Anti-pollution measures**
 - Air quality : SO₂, NO₂, CO, O₂, soot and dust, suspended particulate matter,
 - coarse particulate, etc.
 - Water quality : pH, SS (suspended solids), BOD (biochemical oxygen demand) / COD (chemical oxygen demand), DO (dissolved oxygen), total nitrogen, total phosphorus, heavy metals, hydrocarbons, phenols, cyanogen compounds, mineral oils, water temperature, etc.
 - Waste
 - Noise and vibration
 - Odors
3. **Natural environment**
 - Ecosystems : Impact on valuable species, countermeasures, etc
4. **Social environment**
 - Resettlement
 - Lifestyle and livelihood

NB: For air and water quality, specify whether you are monitoring emission levels or environmental levels. Also, it should be noted that the items which require monitoring will differ depending on whether the impact in question will occur during construction or during the operation of the project.

Editorial Note: Paragraph numbers marked on the left side of the Procedures below have been added for the purpose of this guidebook. These paragraph numbers do not appear in the original text.

Summary of Procedures to Submit Objections Concerning Japan Bank for International Cooperation Guidelines for Confirmation of Environmental and Social Considerations

Preamble

- 01-1 - For the purpose of ensuring the compliance of Japan Bank for International Cooperation (hereinafter referred to as “the Bank”) with the Bank's Guidelines for Confirmation of Environmental and Social Considerations (hereinafter referred to as the “Guidelines”), the Bank hereby establishes the Office of Examiners in Charge of Environmental Guidelines (hereinafter referred to as the “Examiner”) that is under the direct control of the Governor and is independent of the Bank's departments responsible for individual lending or investment projects, or environmental analysis (hereinafter referred to as the “Operational Department”), and sets forth the following summary of procedures to submit objections concerning the Guidelines.
- 01-2 - The summary of procedures to submit objections concerning the Guidelines is based on discussions and various opinions obtained from developing countries and from Public Consultation Forum first held in June 2002, which continued with the wide participation of the general public including academics, industry circles, the Japanese Government ministries and NGOs. A study of the practices at Multilateral Development Banks and Export Credit Agencies of major countries was also made to establish this summary.

Purpose of the Procedures to Submit Objections (hereinafter referred to as the Procedures”)

- 02-1 - To investigate facts as to whether or not Japan Bank For International

Cooperation Guidelines For Confirmation of Environmental and Social Considerations have been complied with by the Bank, and to report the results thereof to the Governor, in order to ensure the Bank's compliance with the Guidelines.

- 02-2 - To encourage dialogues between the parties concerned based on their consent, namely, dialogues between the requester who submitted objections (hereinafter referred to as the "Requester") and the entity which carries out the project (hereinafter referred to as the "Project Proponent"), in order to assist early resolution of disputes concerning specific environmental or social problems which are caused by the project for which the Bank provides funding and which arose due to the Bank's non-compliance with the Guidelines.

Basic Principles

- 03-1 - **Independence**
The Examiner will be appointed as an organ working under the direct control of the Governor and independent of the Operational Department.

- 03-2 - **Neutrality**
The Examiner must hear the opinions of all parties impartially from a neutral standpoint without taking the part of the Operational Department, the party who carries out the project or the party who submitted objections to the project.

- 03-3 - **Efficiency**
The Examiner must efficiently process the objections submitted.

- 03-4 - **Promptness**
The Examiner must promptly complete the Procedures and must complete his/her activities by submitting a report, in principle, within three (3) months after the acceptance of request.

- 03-5 - **Transparency**
The activities of Examiner, while considering the purpose of encouraging dialogues between the parties concerned and the confidentiality of business secrets and other secrets of the borrower and other persons, must, in principle, be open to the public and must contribute to the furtherance of the Bank's accountability.

Powers and Duties of Examiner

- 04-1 - In order to attain the above-mentioned purposes, the Examiner shall have the following powers:

- * to freely access to the information necessary for his/her activities including, but not limited to, documents and records possessed by the Bank;
 - * to interview the Bank's personnel and to ask that they submit relevant documents;
 - * to ask relevant departments of the Bank to make arrangements to interview third parties including persons other than the Bank's personnel and to request submission of relevant documents; and
 - * to use the facilities of the Bank's head office to the same extent as the Bank's personnel.
- 04-2 - In order to faithfully perform his/her duties, the Examiner shall have the following obligations:
- * to take due care of the human rights and business interests of the Requester and other parties concerned, and not to behave in such a manner as to unduly injure the Requester and other parties concerned; and
 - * to otherwise comply with the Procedures prescribed in this summary.

Requirements to Commence the Procedures

1. Cases coming under the Procedures

05-1 A request to submit objections (hereinafter referred to as the "Request") may be submitted with respect to the cases in which the Bank provides funding and in which substantial damage has actually been incurred or is likely to be incurred in the future, due to the Bank's non-compliance with the Guidelines.

2. Qualifications of Requester

05-2-1 A Request must be submitted by two or more residents of a country who have suffered actual and direct damage caused by the project in question or who are likely to suffer damage in the future.

05-2-2 If, in view of the particular circumstances of the region in question, etc., it is unavoidable to do so, a Request may be submitted by an agent, provided that, if a request is submitted by an agent, the name of principal (Requester) must be identified and the agent has been duly authorized by the Requester.

3. Period

- 05-3-1 A Request may be submitted during the period prescribed below.
- 05-3-2 A Request pointing out any Bank's non-compliance with the Guidelines may be submitted during the period, 1) between the time when the Bank indicates the result of its appraisal of the project in question and the time when disbursement is completed in the case of an ODA Loan, which requires procedures by the Japanese government, or 2) between the time when a loan agreement is executed and the time when disbursement is completed in all other cases, respectively.
- 05-3-3 If, prior to the time when the period for submitting a Request starts as set forth above, the Examiner receives comments concerning doubt of the Bank's non-compliance with the Guidelines from an outside person, the Examiner may transfer the case, as necessary, to the Operational Department requesting that the Operational Department appropriately respond to the comments, and report to the Governor. If the case is so transferred, the Operational Department must faithfully respond to the request in accordance with the Guidelines, convey the comments to the Project Proponent and report the results of its response to the Governor.
- 05-3-4 The Examiner may receive from the Operational Department the results of its response, and convey the results to the person who furnished comments or take other actions , as necessary.
- 05-3-5 After the completion of disbursement, a Request pointing out the fact of the Bank's non-compliance with the monitoring provisions of the Guidelines may be submitted during the period in which the Bank is monitoring the matter pursuant to the Guidelines.

4. Contents of Request

- 05-4-1 A Request must state the following contents or information in Japanese, English or the official language of the relevant country. If the Request is written in the official language of the relevant country, it is necessary for the Examiner to translate the Request into the Japanese or English language before commencing the Procedures and, therefore, it may take some time before the acceptance of Request is notified.
- 05-4-2 (A) Name of the Requester;
- 05-4-3 (B) Address or place of contact of the Requester;

- A Request must be submitted in the real name and a contact address must be specified, provided that, unless otherwise required by law, the information on the Requester shall not be disclosed to outside persons. If the Requester desires not to disclose his/her name to the Project Proponent, the Requester may set forth such desire in the Request.
- 05-4-4 (C) Case with respect to which the Request is submitted
 - * Name of country
 - * Project site
 - * Outline of the project
 - 05-4-5 (D) Description of substantial damage actually incurred by the Requester or substantial damage likely to be incurred by the Requester in the future;
 - 05-4-6 (E) Relevant provisions of the Guidelines considered by the Requester to have been violated and the facts constituting non-compliance alleged by the Requester;
 - 05-4-7 (F) Causal nexus between non-compliance with the Guidelines and the damage;
 - 05-4-8 (G) Resolution desired by the Requester;
 - 05-4-9 (H) Facts concerning the Requester's consultation with the Project Proponent;

In order to encourage dispute resolution through the parties' own efforts, the Requester is requested to endeavor to have dialogues with the Project Proponent prior to the submission of a Request. For this reason, it is necessary to state in the Request date and time, names of persons with whom the Requester had dialogues, the contents of response by the other party and other detailed facts concerning the Requester's endeavors to have dialogues with the Project Proponent. If, however, there were unavoidable reasons by which the Requester could not endeavor to have dialogues with the Project Proponent, such reasons should be stated.
 - 05-4-10 (I) Facts concerning the Requester's consultation with the Bank's Operational Department

The Requester is requested to have communication with the Operational Department prior to the submission of a Request. For this reason, it is necessary to state in the Request date and time, names of persons with whom the Requester had communication, the contents of response by the other party and other detailed facts concerning the Requester's communication with the Operational Department. The Requester may also state the reasons why the Operational Department's response was considered to be insufficient.

The Bank's public relations department must, if it receives a request from an outside person, promptly introduce to that person the relevant Operational Department handling the project in question so

that dialogues with the Operational Department can be conducted expeditiously and adequately. The Operational Department must conduct screening and environmental review pursuant to the provisions of the Guidelines, recognizing the importance of information furnished by stakeholders.

- 05-4-11 (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.

Process of Submitting A Request

1. Acceptance of Request and notifications to the Requester and the Project Proponent

06-1-1

- The Examiner shall, so long as the name and the place of contact are stated in the Request, notify the Requester, the borrower, the Project Proponent and the Operational Department of the acceptance of the Request in the form attached hereto, in principle, within five (5) business days after the receipt of Request, provided that, if the Requester desires not to disclose his/her name to the Project Proponent, no information on the Requester shall be disclosed to the Project Proponent.

2. Preliminary investigations

06-2-1

- The Examiner shall read the Request to confirm whether or not all of the required matters are fully set forth in the Request. If the descriptions are insufficient or otherwise inadequate, the Examiner may request that the Requester rectify the deficiencies.

06-2-2

- The Examiner may interview the persons concerned with respect to the facts of whether or not the Requester is qualified to submit a Request, as necessary.

06-2-3

- The Examiner shall, from the viewpoint of preventing abuse, check the Request to confirm that the Request was submitted in good faith and adequately in conformity with the purpose of the Procedures. Abuse of the Procedures will include, but are not limited to the cases in which
 - * the Request is submitted for the purpose of unduly obtaining compensation;
 - * the Request is submitted solely for the purpose of delaying the implementation of the project;

- * the Procedures are utilized for the purpose of damaging the credit or reputation of the Project Proponent;
- * the Request is submitted for political purposes unrelated to the project; and
- * the Request contains material falsehood.

06-2-4 - Unless there is a special circumstance which prevents the Examiner from doing so, preliminary investigations will, in principle, be completed in approximately one (1) month after the acceptance of Request, and the decision will be made whether to commence the Procedures or not.

3. Decision to commence the Procedures

06-3-1 - The Examiner shall, if he/ she deems, in accordance with the examination form attached hereto, that the Request satisfies the requirements of the Procedures and that the descriptions in the Request are fairly reasonable, make a decision to commence the Procedures, and inform the Governor, the Requester, the borrower and the Project Proponent of his/her decision in writing.

06-3-2 - If a decision not to commence the Procedures is made, the Examiner shall inform the Governor and the Requester of the fact of the decision and reasons thereof in writing. Even if the decision not to commence the Procedures is made, the Examiner may, if he/she deems that it is useful for the examination and monitoring the matter, transfer the Request to the Operational Department. Such transfer by Examiner to the Operational Department shall be notified to the Governor and the Requester.

06-3-3 - The Examiner may suspend to make a decision to commence the Procedures or not, if a dispute concerning the project is pending before, or already adjudicated by, judicial or administrative proceedings in Japan or in the relevant country or proceedings of an international organization or other dispute resolution proceedings and if the Examiner deems that the issue involved in such dispute resolution proceedings and the issue involved in the Procedures are substantially identical. In either case in which the decision to commence the Procedures is suspended or the decision not to commence the Procedures is made, such decision shall be notified to the Requester. If, after the grounds for suspension have ceased to exist, the intention of the Requester to continue the Procedures is confirmed, the Examiner may decide to commence the Procedures. Even if the decision not to commence the Procedures is made, a Request may

06-3-4 - be submitted again if it is based on a new fact or a new issue.
- In view of the legal principle of non bis in idem, if a Request was submitted in the past concerning the same damage, the decision not to commence the Procedures may be made, provided that this shall not apply to a Request based on a new fact.

06-3-5 - The Requester may submit his/her opinion in writing to the Examiner if the decision not to commence the Procedures is made. The Examiner must faithfully consider such opinion submitted by the Requester and shall transfer such opinion to the Operational Department, as necessary.

4. Investigations and Encouragement of Dialogues

(1) Investigations on the facts of compliance with the Guidelines

06-4-1 - In order to investigate the facts of the Bank's compliance with the Guidelines, the Examiner may meet with the Requester and directly hear what the Requester tells about the matters with respect to which the Request is submitted.

06-4-2 - The Examiner shall interview relevant persons in the Operational Department and ascertain the facts concerning (i) the confirmation of environmental and social considerations conducted on or before the execution of the relevant loan agreement and (ii) monitoring. The Examiner may inspect any and all materials used by the Operational Department in conducting the confirmation of environmental and social considerations and monitoring.

06-4-3 - When necessary, the Examiner may interview residents having the same view as that of the Requester, residents having different views from that of the Requester, the Project Proponent, specialists, the government of the host country and other persons concerned, provided that if Examiner intends to interview the Project Proponent, the borrower or the government of host country, the Examiner will initially make arrangements to conduct interviews through the Operational Department.

(2) Encouragement of dialogue in an attempt to resolve disputes

06-4-4 - In order to resolve disputes, the Examiner may not only mediate a dialogue for purposes of encouraging the dialogue between the

Requester and other residents adversely affected on the one hand and the Project Proponent on the other hand, but also may conduct individual interviews.

06-4-5 - Examiner must listen to the opinions of the persons concerned in a well-balanced manner, and must conduct individual interviews in such a manner as not to diminish the people's trust in the Examiner's "neutrality".

(3) Matters handled cautiously in implementing investigations and activities to encourage dialogues

06-4-6 - The Examiner may temporarily suspend investigations and activities to encourage dialogue if a dispute concerning the project becomes pending before a judicial or administrative proceedings in Japan or in the relevant country or proceedings of an international organization or other dispute resolution proceedings and if the issue in such a dispute resolution proceedings and the issue in these Procedures are substantially identical. Such suspension of the Procedures shall be notified to the Requester. If, after the grounds for suspension cease to exist, the intention of the Requester to resume the Procedures is confirmed, the Procedures shall be resumed.

5. Report to the Governor

06-5-1 - Within three (3) months after the acceptance of the Request, the Examiner shall prepare a report, in accordance with the form attached hereto, setting forth the results of investigations of the facts of compliance with the Guidelines, the progress of dialogues and the agreement between the parties concerned if a settlement is reached, and submit such report to the Governor.

06-5-2 - If the Examiner determines that the Guidelines have not been complied with, the Examiner may recommend to the Governor possible measures to cure such non-compliance, as necessary.

06-5-3 - If the Examiner is unable to ascertain the facts as to whether or not the Guidelines have been complied with or if the parties have agreed to dispense with the investigations by the Examiner of the facts of compliance or non-compliance with the Guidelines, the Examiner shall report to the Governor the progress of dialogues and said agreement between the parties concerned.

06-5-4 - If the Examiner considers that more time is required for investigation or encouragement of dialogues, the Examiner may report to the Governor the particulars of further activities required and the reasons why such activities are indispensable. Upon receipt of such a report, if the Governor considers that there are a fair amount of unavoidable reasons to extend the period, the Governor may extend the period for a further period of up to two (2) months.

06-5-5 - The Examiner's report shall be immediately sent to the parties concerned. The parties concerned may submit to the Examiner their opinions on the contents of the report. The Examiner shall pay due respect to such opinions and, if he/she deems that the opinions contain matters useful for the monitoring of the case in question, may transfer the opinions to the Operational Department.

6. Opinion of the Operational Department

0-6-6-1 - Within one (1) month after the submission of the Examiner's report, the Operational Department shall submit its opinion in writing to the Governor setting forth its opinions on the Examiner's report and, in the case of decision that the Guidelines have not been complied with, measures to be taken from then on to comply with the Guidelines, as necessary.

7. Follow-up

0-6-7-1 - Instructions issued by the Governor in consideration of the Examiner's report, opinions of the Operational Department and opinions of the parties shall be implemented by the Operational Department.

0-6-7-2 - The Examiner shall be informed of the status of implementation by the Operational Department of the instructions issued by the Governor and report it to the Governor in his/her annual report of activities. If the Examiner deems it to be necessary, he/she may report to the Governor at any time and from time to time the status of implementation by the Operational Department of the instructions issued by the Governor. Also, the Examiner may, based on the results of investigations on the individual cases in which it was concluded that the Guidelines were not complied with, state his/her opinion on the measures to be taken to ensure compliance with the Guidelines and other matters in his/her annual report of activities, as necessary.

Disclosure of Information

- 07-1 - Information on the Procedures shall be disclosed in accordance with the following:
 - (A) Upon submitting of a Request, the Examiner shall notify the Requester, the borrower and the Project Proponent in writing of the acceptance of the Request, in principle, within five (5) business days after the receipt of the Request.
 - (B) If, with respect to a Request submitted, preliminary investigations are completed and the decision to commence the Procedures is made, or the decision not to commence the Procedures is made, the Requester, the borrower and the Project Proponent shall be informed of that fact in writing. If the decision not to commence the Procedures is made, the reasons for such a decision shall be given in writing.
 - (C) The Examiner's report and the opinions of the Operational Department shall be sent to the parties concerned and, after confirming that they do not contain any individual, corporate or other information the disclosure of which is not required by statute, promptly publicized to the public on the website
 - (D) The Examiner shall publicize the status of acceptance of the requests and the progress of procedures on the website, exercising precautions that they do not contain any individual, corporate or other information the disclosure of which is not required by statute.

- 07-2 - Since the Examiner's report and the opinions of the Operational Department must, in principle, be publicized, they must be prepared so as not to contain any individual, corporate or other information the disclosure of which is not required by statute. If, in order to make the report meaningful, it is indispensable to state in the report any individual, corporate or other information the disclosure of which is not required by statute , the prior consent of the parties concerned must be obtained.

- 07-3 - Other information to which the Examiner has had access in performing of his/her duties shall be publicized to the public pursuant to the provisions of applicable laws.

- 07-4 - The Examiner shall prepare an annual report of activities in accordance with the form attached hereto and publicize it on the Bank's website. Since the annual report of activities is a document prepared to be

publicized, it must be prepared so as not to contain any individual, corporate or other information the disclosure of which is not required by statute.

- 07-5 - The Examiner shall publicize his/her contact address on the Bank's website, and endeavor to have his/her presence and activities widely known to the public by preparing and publishing pamphlets and posting information on the Bank's website, etc. in collaboration with the Bank's public relations department.

Review of This Summary and Interim Provisions

- 08-1 - This Summary of Procedures shall be reviewed, in principle, concurrently with the review of the Guidelines. Such review shall be conducted in consideration of the opinions given and evaluations made by the users and Examiner accumulated up to the time of such review.
- 08-2 - This Summary of Procedures shall become effective on October 2003 and shall be applied to the cases in which a substantive request for funding is made on or after October 1, 2003.

[THE END]

(Attached materials)

1. Sample Request
2. Sample Notice of Acceptance
3. Sample Notice to Commence Procedures
4. Sample Notice of Decision not to commence the Procedures
5. Sample Results of Examination
6. Sample Notice to Requester of Examiner's Report
7. Sample Form of Examiner's Report
8. Sample Form of Examiner's Annual Report of Activities
9. Procedure Flowchart

N.B. If there is any ambiguity in English version and/or any inconsistency with the Japanese version, the Japanese version prevails.



About the Authors

FUKUDA Kenji and OHASHI Tamaki are staff at Mekong Watch. Fukuda and Ohashi monitor the environmental and social problems caused by projects financed by the Japanese Government in the Mekong Region. Fukuda has extensive experience advocating with communities affected by the Samut Prakarn and Lam Ta Khong projects in Thailand to raise their concerns with JBIC. He also closely followed the process behind JBIC's new Guidelines for Environmental and Social Considerations. Ohashi works to address the problems related to Japanese grant aid projects, and is responsible for Mekong Watch's English language information dissemination.



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This booklet was produced by:



Mekong Watch

2F Maruko Bldg., 1-20-6 Higashi-ueno
Taito-ku, Tokyo 110-0015 Japan
Tel : +81-3-3832-5034
Fax : +81-3-3832-5039
E-mail : info@mekongwatch.org
<http://www.mekongwatch.org/>

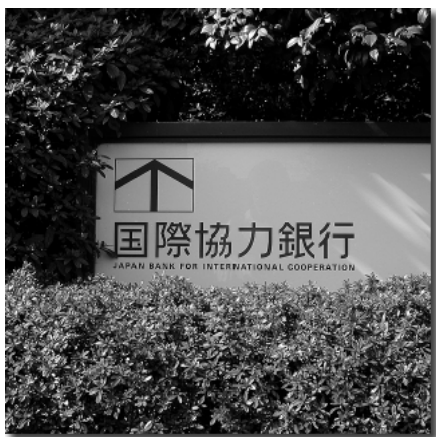


FoE Japan (Friends of the Earth Japan)

Development Finance and Environment Program
3-17-24-2F Mejiro Toshima-ku
Tokyo 171-0031 Japan
Tel : +81-3-3951-1081
Fax : +81-3-3951-1084
E-mail : finance@foejapan.org
<http://www.foejapan.org/en/aid/index.html>

**Protect
Yourself from
Destructive
Development**

Handbook
on JBIC's
New Environmental
and Social Guidelines



By FUKUDA Kenji and OHASHI Tamaki

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