

May 21, 2017

To:
Professor Hiroshi Kobayashi
Professor Koji Shimada
The Examiner for Environmental Guidelines
Japan Bank for International Cooperation (JBIC)

Objection Regarding the Cirebon Coal-fired Power Plant Project – Unit 2 in West Java, Indonesia

(a) Names of the Requesters

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

We, the three Requesters, note that we are proceeding as representatives of the community coalition, Rapel (Rakyat Penyelamat Lingkungan: People Environment Safer) Cirebon, which consists of community members from Desa Kanci Kulon, Kanci, Buntet, Waruduwur, Citemu, Bandengan, Mundu, and Luwung, Kecamatan Astanajapura and Mundu, Kabupaten Cirebon, Propinsi West Java. Our group, Rapel Cirebon, was established in 2007 and has continued to raise our concerns about the adverse impacts of the Cirebon Coal-fired Power Plant Project - Unit 1, for which Japan Bank for International Cooperation (JBIC) made a loan agreement with PT. Cirebon Electric Power (CEP) in March 2010, and also Unit 2, for which JBIC also made a loan agreement with PT. Cirebon Energi Prasarana (CEPR) in April 2017. Our concerns are the loss and damage of livelihood, environmental destruction, health damage, terror and intimidation, and social conflict.

(b) Place of contact of the Requesters

1. [REDACTED]
Address: [REDACTED]
[REDACTED]
TEL: [REDACTED]
2. [REDACTED]
Address: [REDACTED]
[REDACTED]
3. [REDACTED]
Address: [REDACTED]
[REDACTED]

The Examiners may also contact us, the above requesters, through the NGOs below, with whom we have been addressing the problems related to the Cirebon Coal-fired Power Plant Project.

Name of the agent: [REDACTED] Wahana Lingkungan Hidup Indonesia (WALHI) West Java

Place of contact of the NGO: WALHI West Java
Address: Jl. Cikutra Baru X No.5, Neglasari, Cibeunying Kaler, Kota Bandung, Provinsi West Java, 40124 Indonesia
TEL: [REDACTED]
E-mail: [REDACTED]

Name of the agent: [REDACTED] Friends of the Earth Japan
Place of contact of the NGO: Friends of the Earth Japan
Address: 2nd Fl. 1-21-9 Komone, Itabashi-ku, Tokyo 173-0037 Japan
TEL: +81 3-6909-5983
FAX: +81 3-6909-5986
E-mail: [REDACTED]

We wish to keep our names undisclosed to the Project Proponent.
~~Yes~~ No (Circle either one)

However, we would like to call your attention on the possible human rights violations on us and our Rapel Cirebon's members, such as intimidation and harassment by police, army, and thugs, because of the fact that we have submitted this objection to the JBIC's Examiners. Thus, it is highly encouraged that the JBIC's Examiners as well as JBIC staff in charge of the project keep reminding the Project Proponents and the Indonesian government of avoiding any human rights violations at the local level.

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

- Name of country: Indonesia
- Project site: Cirebon, West Java
- Outline of the project

The Cirebon Coal-fired Power Plant Project - Unit 2 with a capacity of 1,000 megawatt is estimated to require an investment of USD 2.1 billion and is expected to be operational in 2021. Marubeni (35%), Indika Energy (25%), Samtan (20%), Korea Midland Power (10%) and JERA (10%) have invested in this Cirebon expansion project, and have established PT Cirebon Energi Prasarana (CEPR). CEPR entered into a 25-year power purchase agreement (PPA) with the Indonesian state power utility Perusahaan Listrik Negara (PLN) in October 2015. JBIC disclosed the Environmental and Social Impact Assessment reports and environmental permit certificates for the Cirebon project-Unit 2 in September 2016 at its website, and reviewed the project according to "*JBIC Guidelines for Confirmation of Environmental and Social Considerations*" (the Guidelines) and the other relevant standards. JBIC and the Export-Import Bank of Korea made a loan agreement with CEPR in April 2017 although the details of co-financing for the project have remained to be announced officially.

The Cirebon Coal-fired Power Plant Project - Unit 1 with a capacity of 660 megawatt commenced the construction work in 2007 and started its commercial operation in July 2012. The project has cost USD 850 million. The Cirebon project - Unit 1 has been developed by a consortium PT. Cirebon Electric Power (CEP) consisting of: Marubeni (32.5%), Korea Midland Power (27.5%), Samtan (20%), and Indika Energy (20%). PT. CEP signed a 30-year PPA with PLN in August 2007. JBIC, The Export-Import Bank of Korea, and private banks made a loan agreement with CEP in March 2010 with co-financing USD 595 million.

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

We, as representatives of Rapel Cirebon, present descriptions of damage in aggregate for the communities. As damages encountered or to be encountered by the large number of individual community members are complex and diverse in nature and magnitude, this Objection paper provides overall descriptions of the serious and common impacts felt or to be felt by the community members, including us.

(1)Further less livelihood and income opportunities for small-scale fishermen:

Our small-scale fishermen, most of whom don’t use a boat, traditionally walk in the shallow seawater along the coastal area and catch various types of fish, such as Blanak, Bandeng, Puro, Kedukang, and Sembilang, with fishnet. While the families could sell what we catch as our income source, we could also keep some fish for our own daily meals. Thus, the coastal area, where the Cirebon Coal-fired Power Plant Project is currently located, has been very important for small-scale fishermen and used to be the very productive fishing ground indeed.

We, however, have been severely suffered from less livelihood and income opportunity due to the adverse impact by the Cirebon Coal-fired Power Plant Project - Unit 1. One thing is the jetty located in Desa Kanci Kulon, around which our fishing activity has been disturbed due to the limitation of access. The other thing is the waste water from the project site, including contaminated liquid and thermal discharge, which we believe have caused the sharp drop of fish. As a result, in order to find fish, have we tried to reach further coastal area from the Pangarengan Stream (Sungai Pangarengan) at the east side to the Kalijaga Stream (Sungai Kalijaga) at the west side, which used to be from the Enar Stream (Sungai Enar) at the east side to the Bandengan Stream (Sungai Bandengan) at the west side before the operation of the Unit 1 Project. *(Please also see the map in Annex 1)*

Despite the wider fishing area where we have been trying to find fish after the Unit 1 Project, our fish catchment amount has been still decreased as shown in the following table based on the testimonies of some fishermen in Desa Kanci Kulon when we discussed among us in August 2015 about our fish catchment amount per day with fishing net. Though spending long time to find fish after the Unit 1 Project, we can’t find much and are just exhausted.

Before the Unit 1 Project	After the Unit 1 Project
1 to 30 kg	1 to 1.5 kg
20 kg	5 kg
10 kg	2.5 to 3 kg
10 to 20 kg	1 kg
10 kg	1 kg
25 kg	1 kg
10 kg	2 kg
11 kg	2 kg
15 kg	3 kg
30 kg	2 kg
10 kg	1 kg

This is how the Unit 1 Project has destroyed our enriched coastal environment and has deprived us of our sustainable livelihood and income opportunities. The families who have less livelihood have had no choice rather than relying for their livelihood on not-stable daily-wage works, such as construction labor. Most of the families have never received compensation or remedy from PT.

CEP. Even though some families were provided fishnets and two fishermen were provided two boats, it is not an effective solution because the amount of fish remains less than before the project.

If the Cirebon Coal-fired Power Plant Project - Unit 2 is pushed through, further substantial damage on our small-scale fishermen will be caused and our life will become more difficult. It is because another jetty will be constructed exactly in our small-scale fishing area again (*Please also see the map in Annex 1*) and will certainly disturb our fishing activity. Likewise, we are strongly concerned based on our experience from the Unit 1 Project that the waste water from the Unit 2 Project would more deteriorate the marine ecosystem and would cause more reduction of fish we could catch. Then, where could we go fishing and sustain the life of our family? With the Unit 2 Project, our small-scale fishermen will surely suffer from further less livelihood and income opportunity.

Even though PT. CEPR, like PT. CEP, provides some programs under its Corporate Social Responsibility (CSR), we believe that those are not effective to restore our small-scale fishermen's livelihood and not the right answer. Though we have never heard about any livelihood restoration plan related to the Unit 2 Project, so far.

(2) Air pollution and health damage to be getting worse:

Our local community has been aware of environmental problem, or fly ash from the Unit 1 Project site, depending on the wind direction; mostly north or north-east wind from March to November and west wind from December to February based on our experience as we live in this community for decades. Fly ash fall is found from our individual houses to the public buildings, such as an elementary school in Desa Kanci Kulon.

We are feeling that more cough are coming out in the surrounding area of the Unit 1 Project site. In fact, the AMDAL (Environment Impact Assessment report) on the Unit 2 Project explains in "2.1.6.1 Kasus Penyakit (2.1.6.1 Case of Disease)" that "Data dari Dinas Kesehatan Kabupaten Cirebon menunjukkan bahwa penyakit berbasis lingkungan yang paling banyak diderita oleh penduduk yang berada di sekitar lokasi rencana kegiatan (Kecamatan Astanajapura, Mundu dan Pangenan) adalah penyakit ISPA, diare, gastroenteritis, dan dermatitis. Angka kesakitan dari tiap-tiap penyakit dapat dilihat pada tabel dibawah ini. Dari tabel diatas, dapat dilihat bahwa ISPA merupakan penyakit tertinggi yang diderita oleh masyarakat yang tinggal di wilayah studi dalam 3 tahun terakhir. (Data from Cirebon District Health Office showed that the most environmentally based disease suffered by residents in the vicinity of the planned activities (Astanajapura District, Mundu and Pangenan) is a respiratory disease, diarrhea, gastroenteritis, and dermatitis. Morbidity of each disease can be seen in the table below. From the above table, it can be seen that the ISPA (Infeksi Saluran Pernapasan Akut: Acute Upper Respiratory Tract Infection) is highest disease suffered by people living in the study area in the last 3 years.)". Likewise, it is found that the people in Desa Kanci Kulon are suffering more from cough than the other villages (except Desa Pangarengan) in "Tabel 2-120 Penyakit yang umum diderita masyarakat di desa-desa wilayah studi (Table 2-120 common diseases suffered by the people in the villages of the study area.)".

Nevertheless, we have been never explained by PT. CEP about the results of their monitoring and the implementation method of environmental management related to air pollution after the Unit 1 Project.

According to the figures in the ADMALs of both projects, we cannot see any tremendous improvement in the air pollution control technology of the Unit 2 Project, comparing with the one of the Unit 1 Project, except the figures in emission concentration level of NO_x (*Please see the table below*). In addition, we note that the best available technology used for coal-fired power plants in Japan has not been and will not be equipped both in the Unit 1 and 2 Projects (*Please see the*

table below), while PT. CEPR is saying that they will use the clean coal technology in the Unit 2 Project.

Given the recent health condition in our community after the Unit 1 Project as described in the above, we are seriously concerned about our community's health damage in the long-term, such as a more increased risk of chronic diseases in adults and acute respiratory infection in children caused by exposure to toxic fine particle pollution.

Table: Comparison of the pollution control technology between Cirebon Coal-fired Power Plants in Indonesia and coal-fired power plants in Japan

Name of Power Plant		JBIC Under Consideration	JBIC Supported	Existing coal-fired power plant in Japan			
		Cirebon II ¹	Cirebon ²	Isogo New 2	Isogo New 1	Hekinan 5	Hekinan 1
Proponent		CEPR	CEP	J-Power	J-Power	Chubu	Chubu
Location		Indonesia	Indonesia	Kanagawa	Kanagawa	Aichi	Aichi
Capacity (MW)		1000*1	660	600	600	1000	700
Operation year		2021 (proposed)	July 2012	July 2009	April 2002	November 2002	October 1991
Type of Power Generation		ULTRSC	SUPERC	ULTRSC	ULTRSC	ULTRSC	SUPERC
Height of stack (m)		200	215	200	200	200	200
Mitigation measure against SOx	Standards in Indonesia ³	WLST	CF	DFGD	DFGD	FGD (Type of FGD is unknown)	FGD etc. (Type of FGD is unknown)
Emission concentration (ppm)	750 mg/Nm ³	SO ₂ = 221 (SO ₂ = 625 mg/Nm ³)	SO ₂ = 227 (SO ₂ = 649 mg/Nm ³)	10	20	25	50 (28) () = after improvement in 2002
Mitigation measure against NOx		LNB	LNB	SCR / LNB / TSC	SCR / LNB / TSC	SCR / LNB / TSC	SCR etc.
Emission concentration (ppm)	750 mg/Nm ³	NO ₂ = 251 (NO _x = 510 mg/Nm ³)	NO ₂ = 404 (NO _x = 829 mg/Nm ³)	13	20	15	45 (30)
Mitigation measure against PM		ESP	ESP	ESP	ESP	ESP	ESP
Emission concentration (mg/Nm ³)	100 mg/Nm ³	50	29	5	10	5	10 (5)

DFGD: Dry FGD scrubber

FGD: FGD (Type is unknown)

CF: Compliance fuel (no scrubbers)

WLST: Wet limestone FGD scrubber

SCR: Selective catalytic reduction

LNB: Low NO_x Burner

TSC: Two stage combustion

ESP: Unspecified type of electrostatic precipitator (elektrofilter)

¹ Environmental Impact Assessment (ANDAL), March 2016

² Environmental Impact Assessment (ANDAL), April 2008. The unit of the concentration is assumed as mg/Nm³.

³ BME Berdasarkan PERMEN LH NO. 21 Tahun 2008

(e) & (f) Relevant provisions of the Guidelines considered by the Requesters to have been violated by JBIC and the facts constituting JBIC's non-compliance alleged by the Requesters, and Causal nexus between JBIC's non-compliance with the Guidelines and the substantial damage

Many kind of violations against JBIC Guidelines (January 2015) have been actually found when JBIC made an loan agreement for the Unit 2 Project last April 2017; that is no appropriate process of AMDAL and land acquisition, some illegalities against the Indonesian laws and regulations, and no appropriate and effective compensation and livelihood restoration program for the affected community. In this objection, among those, we would raise the violations related to the process of AMDAL, the illegalities, and the disregard of good practices as described in the following table.

Relevant provisions of the Guidelines	The facts constituting JBIC's non-compliance	Causal nexus between JBIC's non-compliance with the Guidelines and the substantial damage
<p>[Part 1]</p> <p>3. <i>Basic Principles Regarding Confirmation of Environmental and Social Considerations</i></p> <p>(3) <i>Information Required for Confirmation of Environmental and Social Considerations</i></p> <p>Para 4.</p> <p>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.</p> <p>and</p> <p>[Part 2]</p> <p>1. <i>Environmental and Social Considerations Required for Funded Projects</i></p> <p>(5) <i>Social Acceptability and Social Impacts</i></p> <p>Para 1.</p> <p>(S)ufficient consultations with stakeholders, such as local residents, must be conducted via disclosure of</p>	<p><i>Participation:</i></p> <p>First of all, only <u>the selected persons were invited</u> for all the consultations related to the Unit 2 Project.</p> <p>As far as we know, only a couple of our small-scale fishermen from Desa Kanci Kulon came to the meetings only two times, for both of which they were <u>actually not invited</u>. One meeting was held around September 2015 in Desa Waruduwur, and the other meeting was held on April 13, 2016, at the office of Regional Environmental Agency in Bandung. Even though our small-scale fishermen from Desa Kanci Kulon, who were not invited, <u>clearly expressed the strong opposition and rejection against the Unit 2 Project</u> in these two occasions and <u>explained our concerns about adverse impacts on our livelihood by the Unit 2 Project, no discussion on such opinion was followed at all</u> and our opposition and concerns have <u>never been incorporated into the contents of the Unit 2 Project plan or the AMDAL</u>.</p> <p><i>Information disclosure:</i></p> <p>There was <u>no proper information disclosure</u> related to the process of the AMDAL and the environment permit as below, which is stipulated in the Government Regulation No. 27 of 2012 on the environmental permit;</p> <p>(1) No announcement about the environmental permit application as well as the commencement date of the assessment of AMDAL documents;</p> <p>(2) According to West Java government, the environment permit dated on May 11, 2016 was published on July 24, 2016, only through the internet. (Ministry of Forestry and Environment Regulation No. 17 of 2012 on Guideline for Public Participation in EIA and Environmental Permit stipulates the announcement methods not only through the</p>	<p>As JBIC failed to appropriately confirm the said facts, without contacting us, JBIC failed to takes the appropriate facts into account for its decision-making on funding. As a result, JBIC decided to provide a loan for the Unit 2 Project even without encouraging PT. CEPR to improve or ensure appropriate environmental and social considerations.</p> <p>Due to this JBIC's non-compliance of the Guidelines, the Unit 2 Project has been pushed through with JBIC's loan, even without any effective solution to mitigate the adverse impacts on the small-scale fishermen's activity and on the coastal marine ecosystem. Thus, our small-scale fishermen will be suffering from more difficult life with less livelihood and income opportunities.</p>

<p>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.</p>	<p>internet but also through notice boards at the project site and/or activity that is accessible for the affected community.) Thus, we didn't notice that the environment permit had been already issued until the local NGO, WALHI, let us know in September 2016.</p> <p>This is how many local residents have had no appropriate opportunity to participate in the decision-making process of the Unit 2 Project in timely manner and even from an early stage of the project. In fact, our concerns have been never discussed and have been neglected rather than incorporated.</p> <p>JBIC failed to confirm on the above-mentioned facts related to the concrete situation about the participation and information disclosure, in accordance with the environmental impact assessment systems of the host country. JBIC also failed to confirm the facts that sufficient discussions with the affected community had not been held and that the affected community's concerns had not been incorporated into the project plan. JBIC should have confirmed these facts directly with the local community like us, who have raised our concerns to JBIC through the letters.</p>	
<p>[Part 1] 3. <i>Basic Principles Regarding Confirmation of Environmental and Social Considerations</i> (4) <i>Standards for Confirmation of Appropriateness of Environmental and Social Considerations</i> 1) JBIC ascertains whether a project complies with environmental laws and standards of the host nation and local governments concerned, as well as whether it conforms to their environmental policies and plans.</p>	<p>In the Unit 2 project, our small-scale fishermen filed an environmental administrative lawsuit in December 2016, pointing out the illegality of the environment permit which West Java provincial government issued. In the court case, we pointed out the possibility of the project's illegalities against various environmental related regulations, too, as below;</p> <p>(1) Regional Regulation No. 17 of 2011 on Cirebon Regency Spatial Planning year 2011-2031; (2) Government Regulation No. 27 of 2012 on the Environmental Permit; (3) Law No. 26 of 2007 on Spatial Plan; (4) Ministry of Forestry and Environment Regulation No. 17 of 2012</p>	<p>As JBIC failed to appropriately confirm the compliance of the project with Indonesian laws, without contacting us and NGOs, JBIC failed to take the appropriate facts into account for its decision-making on funding. As a result, JBIC decided to provide a loan for the Unit 2 Project even without encouraging PT. CEPR to comply with the environmental laws in Indonesia.</p> <p>Due to this JBIC's non-compliance</p>

<p><i>and</i></p> <p><i>[Part 2]</i></p> <p><i>1. Environmental and Social Considerations Required for Funded Projects</i></p> <p><i>(4) Compliance with Laws, Standards and Plans</i></p> <p><i>Para 1.</i></p> <p>Projects must comply with laws and regulations, and standards relating to environmental and social considerations established by the governments governing the project site (including both national and local governments).</p>	<p>on Guideline for Public Participation in EIA and Environmental Permit.</p> <p>Most importantly, in the recent verdict dated April 19, 2017, Bandung Administrative Court (PTUN) admitted that the Unit 2 Project to be built in two districts, namely Astanajapura and Mundu, <u>doesn't comply with Regional Regulation No. 17 of 2011 on Cirebon Regency Spatial Planning year 2011-2031</u>, which allocates only Astanajapura for the development of power plant. Thus, the court requires West Java provincial government to revoke the environmental permit.</p> <p>In addition, Government Regulation No. 27 of 2012 on the Environmental Permit stipulates that the AMDAL document cannot be assessed in case the business plan doesn't comply with the spatial plan.</p> <p>Further, Law No. 26 of 2007 on Spatial Plan stipulates <u>criminal sanctions</u>: that is, anyone who does not comply with the designated spatial plan shall be subject to imprisonment of three (3) years and a fine of not more than Rp 500,000,000.00 (five hundred million rupiahs). In case of the officials who issued the location permits, the imprisonment could be five (5) years and a fine at the same amount. (Note 1: PT. CEPR has started the land clearing work for the Unit 2 Project, and has been working in Mundu as well as in Astanajapura.) (Note 2: The location permit for the Unit 2 Project covers three (3) districts, namely Astanajapura, Mundu, and Pangenan, which doesn't comply with the Cirebon Regency Spatial Planning.)</p> <p>While we clearly pointed out the illegality related to the spatial plan in our letter to JBIC dated September 28, 2016, FoE Japan's letter to JBIC dated January 24, 2017 and international CSOs' letter to JBIC dated March 23, 2017, JBIC failed to confirm if the project complies with the above-mentioned laws. It is also a fatal violation of its own Guidelines that JBIC didn't confirm the PTUN's verdict by waiting for</p>	<p>of the Guidelines, the Unit 2 Project has been pushed through with JBIC's loan, even without any effective solution to mitigate the adverse impacts on the small-scale fishermen's activity and on the coastal marine ecosystem. Thus, our small-scale fishermen will be suffering from more difficult life with less livelihood and income opportunities.</p>
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	<p>one more day before JBIC made a loan agreement for the Units 2 Project. JBIC should have closely confirmed these illegalities and even the contents of the court case directly with us and our supporters from NGOs and lawyers.</p>	
<p>[Part 1] 3. <i>Basic Principles Regarding Confirmation of Environmental and Social Considerations</i> (4) <i>Standards for Confirmation of Appropriateness of Environmental and Social Considerations</i> 3) JBIC also refers to standards or good practices established by developed countries such as Japan as benchmarks. 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 such deviation, and the measures to rectify it if necessary.</p>	<p>The air pollution control technology to be installed for the Unit 2 Project is not the high-performance and best available technology which has been installed in coal-fired power plants in Japan as described in the above-mentioned table.</p> <p>JBIC failed to properly refer to good practices in Japan and failed to explain why the Unit 2 Project substantially deviates from such good practices, so far. JBIC should not overlook the Japanese companies who are pushing through the export of such pollution, taking advantage of “double standards”, where the low standards and the weak governance under the local government are prevailed. Instead, JBIC should confirm if the same level of consideration to the health of the local residents as such in Japan is made by the Japanese companies, or not, and should confirm their measures to rectify it.</p>	<p>JBIC has never properly referred to the good practices in Japan in terms of the air pollution control measures and has never consulted with PT. CEPR to improve the air pollution control technology to minimize the air pollution.</p> <p>Due to this JBIC’s non-compliance of the Guidelines, our community will be continuously exposed to high-level of toxic fine particle pollution, which could cause serious health damage, especially respiratory diseases, in long-term.</p>
<p>[Part 1] 4. <i>Procedures for Confirmation of Environmental and Social Considerations</i> (3) <i>Environmental Reviews for Each Category</i> For category A projects, borrowers, and related parties must submit following documents and JBIC conducts</p>	<p>As described in the above, in the recent verdict dated April 19, 2017, Bandung Administrative Court (PTUN) admitted that the Unit 2 Project to be built in two districts, namely Astanajapura and Mundu, doesn’t comply with Regional Regulation No. 17 of 2011 on Cirebon Regency Spatial Planning year 2011-2031, which allocates only Astanajapura for the development of power plant. Thus, <u>the court requires West Java provincial government to revoke the environmental permit.</u></p>	<p>As JBIC failed to appropriately confirm if the environmental permit doesn’t and wouldn’t have any problem, without contacting us and NGOs, JBIC failed to takes the appropriate facts into account for its decision-making on funding. As a result, JBIC decided to provide a loan for the Unit 2 Project even without</p>

<p>environmental reviews based on, and after the receipts of these documents:</p> <p>1) Environmental and Social Impact Assessment reports and environmental permit certificates issued by the host governments or other appropriate authority</p>	<p>Though West Java provincial government has already lodged an appeal on April 21, 2017 and then the environmental permit is still valid, it certainly remains to be a critical matter for JBIC to confirm if the verdict of Bandung PTUN, thus the revoke of the environment permit will be valid or not, after the decisions by the high court and the supreme court.</p> <p>While we clearly warned JBIC on the possibility for the environment permit to be revoked in FoE Japan's letter to JBIC dated January 24, 2017 and international CSOs' letter to JBIC dated March 23, 2017, <u>JBIC failed to confirm before its decision to make a loan agreement if the basis of its environmental review, or the environmental permit, doesn't and wouldn't have any deficit.</u> It is a fatal violation of its own Guidelines that JBIC didn't confirm the PTUN's verdict by waiting for one more day before JBIC made a loan agreement for the Units 2 Project. JBIC should have confirmed before its decision and should currently confirm the contents and the implications of the court case directly with us and our supporters from NGOs and lawyers, but not only with the project proponents.</p>	<p>encouraging PT. CEPR to ensure the validity of the environmental permit in the future as well as at the current moment.</p> <p>Due to this JBIC's non-compliance of the Guidelines, the Unit 2 Project has been pushed through with JBIC's loan, even without any effective solution to mitigate the adverse impacts on the small-scale fishermen's activity and on the coastal marine ecosystem. Thus, our small-scale fishermen will be suffering from more difficult life with less livelihood and income opportunities.</p>
<p><i>[Part 1]</i></p> <p><i>5. Disclosure of Information Regarding Confirmation of Environmental and Social Considerations by JBIC</i></p> <p><i>(1) Basic Principles</i></p> <p><i>Para 2.</i></p> <p>JBIC may also, when necessary, seek the opinions of concerned organizations and stakeholders.</p>	<p>While we clearly pointed out the critical matters, such as the illegality related to the spatial plan and the possibility for the environment permit to be revoked, in our letter to JBIC dated September 28, 2016, FoE Japan's letter to JBIC dated January 24, 2017 and international CSOs' letter to JBIC dated March 23, 2017, <u>JBIC didn't seek our further opinions from Rapel Cirebon and our supporters from NGOs and lawyers at all to learn more details.</u></p> <p>It is a fatal violation of its own Guidelines that JBIC failed to seek any further opinions from us till today, and failed to confirm the PTUN's verdict by waiting for one more day before JBIC made a loan agreement for the Units 2 Project. As a result, JBIC couldn't make a decision with the balanced opinions from various concerned stakeholders. JBIC should have sought the further opinions directly</p>	<p>As JBIC failed to seek our further opinions, JBIC failed to takes the balanced opinions into account for its decision-making on funding. As a result, JBIC decided to provide a loan for the Unit 2 Project even without encouraging CEPR to ensure the legal status and the environmental validity of the project in the future as well as at the current moment.</p> <p>Due to this JBIC's non-compliance of the Guidelines, the Unit 2 Project has been pushed through with JBIC's</p>

	<p>from us and our supporters from NGOs and lawyers about the contents and the implications of the court case, but not only from the project proponents.</p>	<p>loan, even without any effective solution to mitigate the adverse impacts on the small-scale fishermen's activity and on the coastal marine ecosystem. Thus, our small-scale fishermen will be suffering from more difficult life with less livelihood and income opportunities.</p>
<p>[Part 2] 1. <i>Environmental and Social Considerations Required for Funded Projects</i> (7) <i>Involuntary Resettlement</i> <i>Paras 2 and 3.</i> 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 a timely manner. Prior compensation, at full replacement cost, must be provided as much as possible. 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.</p>	<p>Till today, there has been no sufficient and efficient compensation / livelihood restoration measure to improve, or at least restore the standards of living of the local residents, such as our small-scale fishermen, who are affected by the Unit 2 Project. In fact, we have never heard or known about any concrete livelihood restoration plan related to the Unit 2 Project, so far.</p> <p>Even though PT. CEPR, like PT. CEP, would provide some programs under its Corporate Social Responsibility (CSR), we believe that those are not effective to restore our small-scale fishermen's livelihood and not the right answer, given that micro-finance programs usually create only the livelihood as a sideline to complement the main livelihood and that skill and vocational trainings entail obstacles for our small-scale fishermen, such as the limitation in educational background.</p>	<p>PT. CEPR and JBIC have failed to ensure the sufficient and effective compensation or support for our affected small-scale fishermen, and thus have failed to ensure the restoration of our small-scale fishermen's livelihood and income opportunities after the Unit 2 Project.</p> <p>Due to this JBIC's non-compliance of the Guidelines, our small-scale fishermen will be suffering from more difficult life with less livelihood and income opportunities.</p>

(g) Resolution desired by the Requesters

Given that it would be difficult for PT. CEPR to push through the Cirebon Coal-fired Power Plant Project - Unit 2 without the JBIC's loan, we believe that JBIC has responsibility for the negative impacts to be caused by the Unit 2 Project on our community.

Thus, to ensure that substantial damages and problems related to the Unit 2 Project are prevented among our community in the long-term as well as in the short-term, we request that JBIC suspends any disbursement for the project and urge PT. CEPR not to push through any construction work at the project site, until JBIC firmly ensures the Unit 2 Project complies with each above-mentioned provisions of JBIC Guidelines, which the project has currently failed to do so. JBIC must ensure the project's compliances with JBIC Guidelines by confirming the final legal status or the verdicts by the High Court or the Supreme Court on the validity of environmental permit as well as by learning and understanding the various risks the project entails from us and our supporting NGOs, but not only from the project proponents.

When JBIC finds that the Unit 2 Project still fails to ensure the compliance with the JBIC Guidelines after confirming and learning the said points, then JBIC must repeal the loan agreement for the project.

(h) Facts concerning the Requesters' consultation with the Project Proponent

We made several protest actions against the Cirebon Coal-fired Power Plant Project - Unit 1 and demanded that the local Cirebon government halt the plant construction during the construction phase. Even though we conveyed our opposition to PT. CEP more than 30 times through demonstrations and media statements, there was no response from them. As a result, our efforts to voice the opposition against the Unit 1 project didn't bear fruit then, and the Unit 1 plant started its commercial operation in 2012.

After a few years since the operation of the Unit 1 plant started, we have found that our life hardship is still not addressed appropriately and have also become more concerned about our health condition, especially our children's, due to continuous fly ash and coal dust fall in our community. As we already had experience no response from PT. CEP to our statement, we have tried to tell our concerns to Marubeni, one of the investors in PT. CEP and PT. CEPR, through an NGO, Wahana Lingkungan Hidup Indonesia (WALHI). WALHI had a meeting with Marubeni on May 18, 2016 in Tokyo and explained our concerns and problems which we have already experienced from the Unit 1 Project and will experience from the Unit 2 Project in the near future. But Marubeni showed the different view or recognition from ours on the facts we have raised about the Unit 1 and the Unit 2 projects.

On December 6, 2016, Rapel Cirebon, represented by 6 small-scale fishermen in this case and assisted by the Advocacy Team for Climate Justice, including WALHI, filed a case to the administrative court (PTUN) in Bandung, demanding the revoke of the environmental permit for PT. CEPR to develop the Unit 2 power plant, which was issued by West Java provincial government. Though the PTUN in Bandung admitted that the Unit 2 Project didn't comply with the local regulation on spatial planning and required West Java provincial government to revoke the environmental permit, the provincial government supported by PT. CEPR has lodged an appeal to the High Court in Jakarta.

We have also sent the copy of our letters in May and September 2016 and our supporting NGOs' letters in January and March 2017, addressing to JBIC as described below, every time to Marubeni and JERA, though we haven't had any direct response from the Japanese companies or PT. CEPR.

(i) Facts concerning the Requesters' consultation with JBIC's Operational Department

We prepared our letter to JBIC in April 2016 to explain our concerns and problems related to the Cirebon Coal-fired Power Plant Project - Unit 1 and Unit 2 and to demand JBIC's appropriate actions for existing problems and JBIC's rejection to provide its loan for the Unit 2 Project. We submitted it to JBIC through WALHI on May 23, 2016 when WALHI had a meeting with JBIC in Tokyo. WALHI explained our concerns and problems to JBIC.

We sent the other letter to JBIC in September 2016 to update some problems mainly related to the Unit 2 Project, which we submitted to JBIC through Friends of the Earth (FoE) Japan on September 30, 2016 when FoE Japan had a meeting with JBIC in Tokyo. In the meeting, JBIC showed as below the different view or recognition from ours on the facts we have raised about the Unit 1 and Unit 2 projects;

- JBIC asked PT. CEP to confirm the facts in the Rapel Cirebon's letter (dated April 2016). PT. CEP did the interviews with the local community, but couldn't find any facts that Rapel Cirebon raised in its letter. Also, PT. CEP couldn't find any relation between the Unit 1 project and the problems that Rapel Cirebon mentioned in its letter. So, JBIC couldn't find any problem in environmental and social consideration for the Unit 1 project;
- JBIC asked PT. CEPR to confirm the facts related to the Cirebon Spatial Planning. It needs to be amended, but has not yet been amended, so far. However, there is a letter from a relevant Indonesian authority dated March 1, 2016, allowing the project to be ongoing while the spatial planning is still under amendment process. So, there is no problem.

As JBIC failed to appropriately confirm the facts we claimed, without directly contacting us or without the appropriate on-site investigation which JBIC coordinate with us, and thus couldn't realize the substantial damages by the Unit 1 Project and the potential damages by the Unit 2 Project on our livelihoods and our health, we submitted the formal objection on the Unit 1 Project to the JBIC's Examiners in November 2016.

It was very disappointing, however, to learn the result of the Examiners' final report dated March 21, 2017, which is quite unacceptable for us. We expected that the JBIC's Examiners learned and understood the issues and the facts from the direct community testimony and the facts at the field when the Examiners came to Cirebon in March 2017. But the Examiners have totally failed to understand the substantial damages we experienced due to the Unit 1 Project and objectively analyze the issues and the facts, which FoE Japan argued in details in its paper submitted to JBIC dated April 18, 2017: that is, the Examiners' investigation was not based on sufficient and objective analysis and not based on sufficient information gathering due to the time constraint etc.

Regarding the Unit 2 Project, after filing the court case in December 2016, we continually conveyed to JBIC the critical problems, such as the illegality related to the spatial plan and the possibility for the environment permit to be revoked, in FoE Japan's letter to JBIC dated January 24, 2017 and international CSOs' letter to JBIC dated March 23, 2017, which Rapel Cirebon also endorsed. However, JBIC didn't contact us to carefully confirm the facts in details related to these problems. As a result, JBIC decided to make a loan agreement on the Unit 2 Project only one day ahead of the verdict by Bandung PTUN, relying only on the project proponents for the information and data.

Thus, we hereby again submit another formal objection on the Unit 2 Project to the JBIC's Examiners. We demand that thorough and in-depth investigation is conducted in truly independent manner, maximizing the

time and the human resources, such as external experts.

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

[REDACTED]