

(This is an unofficial translation - The original letter was written in Japanese.)

September 3, 2015

Executive Committee,
Japan Bank for International Cooperation

Regarding the JBIC's Reaction to the Objection by the Local Residents on Batang Coal-fired Power Plant Project, Central Java, Indonesia

Regarding the Batang Coal-fired Power Plant Project, Central Java, Indonesia, for which JBIC is currently considering its finance, you must already know about the Objection submitted by 23 residents affected by the Project, according to "Procedures to Submit Objections concerning JBIC Guidelines for Confirmation of Environmental and Social Consideration," (the Procedures) on July 29, 2015. We submit this letter with the following opinions about the due process and information disclosure under the Procedures and the rights of your Executive Committee in this case.

We expect you to look through the following points, and to provide the written answers within two weeks.

1. Process and Information Disclosure for the Objection Procedures

Since the community members had submitted the Objection on the Project, there have been many violations against the Procedures as shown in the following table. We request that JBIC immediately take appropriate action according to the provisions of the Procedures.

Provisions of the Procedures	Current Status
V. Process of submitting a Request	
(p.9) The Examiner shall, so long as the names and the place of contact are stated in the Request, notify the Requester of the acceptance of the Request, in principle, within five (5) business days after the receipt of Request.	In this case, there has been no "Notice of Acceptance" till today from the Examiner to the Requesters.
(p.10) The Examiner shall, in accordance with the examination form attached hereto, make a decision if the Request satisfies the requirements to commence the Procedures, or not, in the Preliminary Investigation. (One of the requirements shown in the examination form is "Period", such as "The request was submitted on or before the time when a loan agreement was executed and, therefore, it is appropriate to transfer the request to the Operational Department for examination.)	In this case, it is not certain if the Examiner conducted the Preliminary Investigation, according to the Procedures, or not.
(p.10) The Examiner shall complete the preliminary investigation, in principle, in approximately one (1)	In this case, there has been no written notice, such as "Notice of Decision

month after the acceptance of a Request, and decide to commence the Procedures or reject the Request. (p.10) If a decision is rejected, the Examiner shall inform the Executive Committee of JBIC and the Requester of the rejection and reasons thereof in writing.	not to commence the Procedures,” till today from the Examiner to the Requesters.
(p.10) Even if the Request is rejected, the Examiner may, if he/she deems that it is useful for the examination and monitoring of the project, transfer the Request to the Operational Department. Such transfer by the Examiner to the Operational Department shall be notified to the Executive Committee of JBIC and the Requester.	In this case, there has been no notice of “Transfer to the Operational Department” till today from the Examiner to the Requesters.
VI. Disclosure of Information	
(p.15) The Examiner shall publicize the status of acceptance of the requests and the progress of procedures on the website.	In this case, “the status of acceptance of the requests and the progress of procedures” haven’t been yet publicized on the website till today.

In addition, as it is stipulated in “3. Period” of “IV. Requirements to commence the Procedures” in the Procedures that “A Request pointing out any of JBIC’s non-compliance with the Guidelines may be submitted during the period between the time when a loan agreement is executed and the time when disbursement is completed,” we understand that the Examiner would make a decision that the Objection (or Request) in the Project, for which JBIC are still considering its finance, doesn’t satisfy the requirements to commence the procedures. However, we would like to reiterate that “Requirements to commence the Procedures” are expected to examine in the Preliminary Investigation, as the contents of “IV. Requirements to commence the Procedures” are included in the examination form used in the Preliminary Investigation, and that the requirements to “receive” the Objection (or Request) are only the names and the place of contact of the Requesters.

2. Rights of Executive Committee in the case that the Objection is submitted before JBIC make any loan agreement

As described in the above, the Procedures stipulate that the period between the time when a loan agreement is executed and the time when disbursement is completed is one of the requirements to commence the procedures. Thus, we suppose that the Examiner would “transfer the case to the Operational Department, and report to the Executive Committee of JBIC”. However, the Chair's Summary of a Public Consultation on March 28, 2003 (to discuss the establishment of the JBIC Objection Procedures) states that;

“The Governor of JBIC shall have the rights to preside the JBIC’s work under the JBIC Law. Thus, even before a loan agreement is executed, in the case that an external actor points out any possibility for JBIC to significantly violate the

Guidelines, it is within the Governor's discretion to exceptionally order the Examiner to take any action like investigation by applying *mutatis mutandis* the Procedures, generally considering the size of environmental and social impacts, the potentiality of impacts, and the benefit from the project etc., based on the report from the Operational Department.”

Given that the Examiner used to be established under the direct control of the Governor of JBIC, but is currently established under the direct control of the Executive Committee of JBIC, we request that the Executive Committee consider and take any action by applying *mutatis mutandis* the Procedures, such as to order the Examiner to investigate the compliance of JBIC Guidelines, based on the above-mentioned Chair's Summary.

Sincerely,

Friends of the Earth Japan
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