

JAPAN INTERNATIONAL COOPERATION AGENCY (JICA) OBJECTION PROCEDURES
BASED ON THE GUIDELINES FOR ENVIRONMENTAL AND SOCIAL CONSIDERATIONS
(Draft) (Translation of Japanese Version)

- Changes in the contents are indicated by underlines.
- Changes pertaining to translation and/or wording only are indicated in italics.

1. Policy

To ensure compliance with the Japan International Cooperation Agency (hereinafter referred to as “JICA”) Guidelines for Environmental and Social Considerations (hereinafter referred to as “*the JICA Guidelines*”), which were promulgated in April 2010 and revised in MM/YY, JICA hereby establishes Examiners for the Guidelines (hereinafter referred to as the “Examiners”) who directly report to the JICA’s President and are independent of departments responsible for individual projects and environmental analysis (hereinafter referred to as the “Operational Departments”), and JICA sets forth the following Objection Procedures based on *the JICA Guidelines* (hereinafter referred to as the “Procedures”).

2. Objectives of the Procedures

- (1) To investigate whether JICA has complied with *the JICA Guidelines* and report the results to the President *in order to ensure JICA’s compliance with the JICA Guidelines.*
- (2) To *facilitate consensual dialogues between the parties concerned for the prompt resolution of disputes on specific environmental and/or social issues that arose from JICA’s alleged or confirmed non-compliance with the JICA Guidelines. The parties concerned refers to the parties that have submitted objections (hereinafter referred to as the “Requesters”) and “Project Proponents” which refers to host country governments related to the project, which may include local governments, borrowers, and/or project executing agencies.*

3. Basic Principles

- (1) Independence: The Examiners will be appointed as an *authority which are independent of the Operational Departments and directly report to the President.*
- (2) Neutrality: The Examiners must hear the opinions of all parties impartially and from a neutral standpoint, without taking the part of the Operational Departments, the Project Proponents, or the Requesters.
- (3) Efficiency: The Examiners must efficiently process the submitted objections.
- (4) Promptness: The Examiners must promptly process the Procedures and must, in principle, complete their activities by submitting a report within four (4) months after the commencement of the Procedures.
- (5) Transparency: While considering the *objective of facilitating dialogues between the parties concerned, appropriate handling of information regarding the Project Proponents, and safety of*

the Requesters, the activities of the Examiners must, in principle, be open to the public and must contribute to the *improvement* of JICA's accountability.

4. Tasks of the Examiners

- (1) JICA assigns two or three Examiners who are independent of the Operational Departments.
- (2) The President appoints Examiners who meet the following requirements based on the opinions of a selection committee:
 - 1) Have no interest in relations with JICA's environmental and social considerations business; and
 - 2) Have no employment relationship with JICA for at least two years before the appointment.
 - 3) Are fluent in Japanese and English.
 - 4) Have knowledge on one or more of the following: environmental and social considerations, international cooperation, and law.
- (3) The aforementioned selection committee consists of members that JICA selects through a fair and appropriate process from the realms of academia, the business community, the government of Japan, the governments of developing countries, NGOs, etc.
- (4) The Examiners' term of duty is three years, and selection for a second term is permitted. JICA will not employ Examiners during the three years directly following the end of their assignment.
- (5) One of the Examiners takes charge of each request *to raise objection (hereinafter referred to as the "Request")*. The Examiner in charge is decided through discussion among the Examiners, taking into consideration the characteristics of the request as well as other factors. He/she will prepare an investigation report after taking into account the other Examiners' views. If opinions are divided among the Examiners, the Examiner in charge will make a comprehensive judgment while also including the opinions of the other Examiners in the report.

5. Powers and Duties of the Examiners

- (1) In order to attain the above-mentioned purposes, the Examiners shall have the following powers:
 - 1) To have free access to the information necessary for their activities, including, but not limited to, documents and records possessed by JICA;
 - 2) To be able to interview JICA's personnel and to ask that they submit relevant documents;
 - 3) To be able to ask relevant departments of JICA to make arrangements to interview third parties, including persons concerned other than JICA's personnel, and to request the submission of relevant documents; and
 - 4) To utilize external experts as needed to perform their duties.
- (2) In order to faithfully perform their duties, the Examiners shall have the following obligations:
 - 1) To faithfully perform their tasks with regard to the requests submitted;
 - 2) To take due care of the human rights of the Requesters and other parties concerned and of the handling of information about host countries, and not to behave in such a manner as to unduly

injure the Requesters and/or other parties concerned. In particular, when conducting interviews and facilitating dialogues between the parties concerned, the Examiners shall consider the risks of retaliation, etc. against the parties concerned, and confirm the need for safety measures and confidentiality in advance;

- 3) Not to use information to which the Examiners have had access in performing their tasks for any purposes other than these tasks; and
- 4) To comply with the Procedures.

6. Projects Covered by the Procedures

Requests may be submitted with respect to the projects of 1) Loan Aid, 2) Grant Aid (excluding projects executed through international organizations), 3) Technical Cooperation for Development Planning, 4) Technical Cooperation Projects, and 5) Projects similar to the above and related studies to which *the JICA Guidelines* apply, in which substantial damage has actually been incurred or is likely to be incurred in the future due to JICA's non-compliance with *the JICA Guidelines*.

7. Qualifications of the Requesters

- (1) A Request must be submitted by two or more residents of a country who have suffered actual damage or who are likely to suffer damage in the future as a result of JICA's non-compliance with *the JICA Guidelines* regarding a project for which JICA provides cooperation.
- (2) If it is unavoidable in view of the particular circumstances of the region in question, etc., a submission of Request and subsequent procedures may be carried out by a representative, provided that the Requesters are identified and the representative is duly authorized by the Requesters.

8. Period within which to Submit a Request

For loan aid, grant aid (excluding projects executed through international organizations), technical cooperation for development planning, technical cooperation projects, and projects similar to the above and related studies to which *the JICA Guidelines* apply, a Request may be submitted *after JICA's disclosure of the project categorization until one year after the completion of the project*. *When JICA checks the monitoring results pursuant to the JICA Guidelines after the completion of the project*, a Request pointing out *the monitoring results* and JICA's non-compliance with the *relevant provisions* of the *JICA Guidelines* may be submitted during the time in which JICA is *checking the monitoring results*.

9. Contents of a Request

A Request must state the information *shown in 1) to 8) below* in Japanese, English, the official language of the relevant country, or language used by the Requesters. If the Request is written in a language other than Japanese or English, it is necessary for the Examiners to translate the Request

into Japanese or English before commencing the Procedures; therefore, it may take some time before the acceptance of the Request is announced.

- 1) Names of the Requesters
- 2) Addresses or places of contact of the Requesters

A Request must be submitted in the Requesters' real names and *their contact information must be clearly indicated*. Personal information of the Requesters shall be protected under "the Act on the Protection of Personal Information Held by Incorporated Administrative Agencies, etc.," and shall not be disclosed to outside persons and the parties concerned without the consent of the Requesters. When special consideration is required for the handling of the Request to avoid disadvantages such as retaliation, the Requesters may describe such needs in the Request.

- 3) Project which is the subject of the Request

- Country name
- Project name
- Project site
- Project outline

The name of the project does not have to be stated precisely; however, the Requesters are required to provide *sufficient* information to *identify the project in question*. If the project name is not precisely stated, *more time may be required for the confirmation and identification with the Requesters before the Examiners accept the request and notify the Requesters*.

- 4) Description of actual damage incurred or likely to be incurred by the Requesters as a result of JICA's non-compliance with *the JICA Guidelines*

- 5) Efforts for dialogue with the Project Proponents, including their grievance redress mechanism

In order to encourage dispute resolution through the parties' own efforts, the Requesters are asked to *make effort* to engage in dialogues with the Project Proponents, including utilizing the grievance redress mechanism of the project, prior to the submission of a Request. For this reason, it is necessary to state in the Request the dates and times of such dialogues, the names of persons with whom the Requesters engaged in dialogues, the contents of the responses of the other parties, and other facts concerning the Requesters' *efforts* to engage in dialogues with the Project Proponents, including the grievance redress mechanism. If there were unavoidable reasons for which the Requesters could not *make effort* to engage in dialogues with the Project Proponents, such reasons should be stated *in the Request*, and the Requesters are required to make effort to consult with the Operational Departments of JICA including Overseas Offices. When the Requesters seek consultation with the Operational Departments, the Operational Departments shall recognize the importance of the information provided by the Requesters and respond appropriately while giving consideration to the safety of the

Requesters.

6) Efforts for dialogue with JICA

The Requesters are asked to *make effort to engage in dialogues* with the Operational Departments, regarding substantial damage that has actually been incurred or is likely to be incurred in the future due to JICA's non-compliance or alleged non-compliance with the JICA Guidelines, prior to the submission of a Request. For this reason, it is necessary to state in the Request the dates and times of such communication, the names of the persons with whom the Requesters communicated, the contents of the Operational Departments' responses, and other facts concerning the Requesters' actions for dialogues with the Operational Departments. The Requesters may also state the reasons for which the Operational Departments' responses were considered to be insufficient. *To enable the Requesters to engage in appropriate dialogues with the Operational Department in a timely manner, JICA's public relations department and/or Overseas Offices must promptly introduce the Operational Department in charge of the project in question whenever they receive an inquiry to JICA. The Operational Departments must make efforts to engage in dialogue with the Requesters and acknowledge the importance of the information provided by the Requesters, reflecting such information in screening, environmental review, or checking of monitoring results pursuant to the provisions of the JICA Guidelines.*

7) Resolution desired by the Requesters

The Requesters shall state their expected solution and/or their preferred mode of investigation, i.e. greater emphasis on facilitating dialogues for dispute resolution, or review of compliance with the JICA Guidelines, or both in equal measures.

8) If a Request is to be submitted by a *representative*, the Requesters must explain the necessity to submit the Request through a *representative* and attach evidence that the *representative* has been duly authorized by the Requesters.

In addition to the above, it is desirable to include the following information in the Request.

9) Relevant provisions of *the JICA Guidelines* considered by the Requesters to have been violated by JICA and the facts constituting such non-compliance as alleged by the Requesters

10) *Cause-and-effect relationship* between JICA's non-compliance with *the JICA Guidelines* and the damage.

10. Process of the Procedures

(1) Submission of a Request

The Requesters submit a written Request (refer to attachment) to the Examiners by post, e-mail or delivery by hand.

(2) Acceptance of a Request and Notifications to the Requesters and the Project Proponents

The Examiners shall, so long as the names and the *contact information* are stated in the Request, notify the Requesters, the Project Proponents, and the Operational Departments of the

acceptance of the Request using the sample form attached hereto, within five (5) business days after the receipt of the Request. However, no personal information on the Requesters shall be disclosed to the Project Proponents.

(3) Preliminary Investigation

- 1) The Examiners shall check the Request to confirm whether or not it contains all of the required information. *If there is a deficiency, the Examiners may ask the Requesters to provide complementary information.*
- 2) As necessary, the Examiners may interview the persons concerned with respect to *the eligibility* of the Requesters.
- 3) The Examiners shall, with the intention of preventing *improper use of the Procedures*, check the Request to confirm that it was *submitted in conformity with the purpose of the Procedures*.
- 4) *In principle, the Examiners shall complete the preliminary investigation* approximately one (1) month after the acceptance of a Request, and *decide* whether or not to commence the Procedures. If it requires more time to obtain or confirm the necessary information, the Examiners shall inform the Requesters accordingly.

(4) Decision to Commence the Procedures

- 1) If, according to the examination form attached hereto, the Examiners deem that the Request satisfies the requirements to commence the Procedures and that the descriptions in the Request are fairly reasonable, they shall make the decision to commence the Procedures, and shall inform the President, the Requester, the Project Proponents, and the Operational Departments of the decision in writing. The Examiners may also inform them if the priority/emphasis will be put on either facilitating dialogues for dispute resolution or on the review of compliance with the JICA Guidelines, based on the Request as well as the result of the preliminary investigation.
- 2) If a decision not to commence the Procedures is made, the Examiners shall inform the President, the Requester, the Project Proponents, and the Operational Departments of the decision and the reasons for the decision in writing. Even if a decision is made not to commence the Procedures, the Examiners may transfer the Request to the Operational Departments, if they deem it useful for the examination and *check of monitoring results* of the project. The President and the Requesters shall both be notified of this transfer.
- 3) The Examiners may suspend the decision to commence the Procedures if a dispute concerning the project is pending in other resolution proceedings and the Examiners deem that the issues involved in these dispute resolution proceedings and those involved in the Procedures are substantially similar and that it is not necessary to commence the Procedures according to the objectives of the Procedures. If it is decided to suspend commencement of the Procedures, the President, the Requesters, a host country, etc., and the Operational Departments shall be notified in writing. If the intention of the Requesters to continue the

Procedures is confirmed after the grounds for suspension have ceased to exist, the Examiners may decide to commence the Procedures.

- 4) In view of the legal principle of double jeopardy, if a Request was submitted in the past concerning the same damage, a decision not to commence the Procedures may be made, provided that this shall not apply to a new Request based on a new fact not known at the time of the prior Request.
- 5) The Requesters may submit their opinion in writing to the Examiners if a decision not to commence the Procedures is made. The Examiners must faithfully consider the opinion submitted by the Requesters and shall convey that opinion to the Operational Departments, as necessary. The opinion submitted by the Requesters shall be disclosed on the website in accordance with “14. Disclosure of Information” of the Procedures.

(5) Investigation of the Facts *Concerning JICA’s compliance with the JICA Guidelines*

- 1) In order to investigate the facts of JICA’s compliance with *the JICA Guidelines*, the Examiners shall directly interview the Requesters or their representative about the matters with respect to which the Request has been submitted, whenever possible.
- 2) The Examiners shall interview relevant persons in the Operational Departments and ascertain the facts concerning (i) environmental and social considerations conducted during or before decision-making and (ii) monitoring. The Examiners may inspect any and all materials used by the Operational Departments when conducting this confirmation of environmental and social considerations and monitoring *results*.
- 3) When necessary, the Examiners may interview residents who have the same view as that of the Requesters, residents who have different views from that of the Requesters, Project Proponents, specialists, and other persons concerned. If the Examiners intend to interview the *Project Proponents*, the Examiners may request the Operational Departments to make initial arrangements to conduct interviews.

(6) *Facilitation of Dialogues for the Resolution of Disputes*

- 1) The Examiners may *mediate between the affected peoples including the Requesters and Project Proponents to facilitate dialogues for dispute resolution*. In addition, the Examiners may conduct individual interviews.
- 2) The Examiners must listen to the opinions of the persons concerned in *an impartial* manner, and *use caution* when conducting individual interviews *so as* not to diminish people’s trust in the Examiners’ neutrality.

(7) Utilization of External Experts

The Examiners may utilize external experts as needed for investigation of facts regarding compliance with *the JICA Guidelines* or for facilitation of dialogues for dispute resolution. Under the direction of the Examiners, JICA shall implement procedures related to contracts with the external experts, on the basis of the related laws, regulations and internal rules.

(8) Matters Handled Cautiously in Implementing Investigation and Activities to Encourage

Dialogues The Examiners may temporarily suspend their investigation and activities to encourage dialogues if a dispute concerning the project becomes pending in other dispute resolution proceedings, and if the issue in those proceedings and the issue in these Procedures are substantially similar and it is not necessary to commence the Procedures according to the objectives of the Procedures. The President, the Requesters, the Project Proponents, and the Operational Departments will be notified if such a suspension occurs. If the intention of the Requesters to resume the Procedures is confirmed once the grounds for suspension cease to exist, the Procedures shall be resumed.

11. Report to the President

- (1) Within four (4) months after the commencement of the Procedures, in principle, the Examiners shall prepare a report, using the sample form attached hereto, which sets forth the results of the investigation of the facts of compliance with *the JICA Guidelines*, the progress of dialogues, and the agreement between the parties concerned if a settlement is reached. The Examiners must submit this report to the President.
- (2) If the Examiners determine that JICA has not complied with *the JICA Guidelines*, the Examiners may recommend to the President possible measures to correct such non-compliance, as necessary.
- (3) If the Examiners are unable to ascertain the facts as to whether or not JICA has complied with *the JICA Guidelines*, or if the parties have agreed to dispense with the investigation by the Examiners of the facts of JICA's compliance or non-compliance, the Examiners shall report to the President the progress of the dialogues and of the said agreement between the parties concerned.
- (4) If the Examiners believe that more time is required for investigation or for the *facilitation* of dialogues, the Examiners may report to the President the particulars of further required activities and the reasons why such activities are indispensable. Upon receipt of such a report, if the President decides that there is a suitable degree of unavoidable reasons to extend the period, the President may extend the period for up to four (4) months.
- (5) The Examiners' report shall immediately be sent to the parties concerned and disclosed on the website. The parties concerned may then submit to the Examiners their opinions on the contents of the report. The opinions of the parties concerned along with the Examiners' report shall be disclosed on the website in accordance with "14. Disclosure of Information" of the Procedures. The Examiners shall pay due respect to such opinions, and if they deem that the opinions contain matters useful for confirmation of the monitoring results of the project in question, they may transfer the opinions to the Operational Departments. The Operational Departments shall reflect the opinions in supervision of the project including confirmation of the monitoring results, as necessary, when the opinions are transferred to them from the Examiners.

12. Opinions of the Operational Departments

Within one (1) month after the submission of the Examiners' report to the President, the Operational

Departments *shall submit their opinions in writing to the President as necessary*. The Departments shall set forth their opinions on the Examiners' report, and, if the Examiners concluded in the report that JICA has not complied with the JICA Guidelines, the Operational Departments shall set forth measures to be taken to ensure JICA's compliance with the JICA Guidelines.

13. Responses to Examiners' Report and Recommendations

- (1) Any instructions issued by the President in consideration of the Examiners' report, the opinions of the Operational Departments, and the opinions of the parties concerned shall be implemented by the Operational Departments.
- (2) The Examiners shall be informed of the status of the Operational Departments' implementation of the instructions issued by the President. When necessary, the Examiners will interview the Requesters and other relevant persons in order to gather and report related information to the President in the annual report of activities. If the Examiners deem it necessary, they may report to the President, at any time, the status of the Operational Departments' implementation of the instructions issued by the President. In addition, on the basis of the investigation results of individual cases in which it was concluded that JICA did not comply with the *JICA Guidelines*, the Examiners may state, in the annual report, their advice for the comprehensive and organizational measures to be taken to ensure JICA's future compliance with the *JICA Guidelines* and other matters.

14. Disclosure of Information

- (1) Information on the Procedures shall be disclosed in accordance with the following:
 - 1) The Examiners, after the acceptance of the Request, shall publicize the summary (country name, project site, project name, outline of the damage and JICA's alleged non-compliance with the *JICA Guidelines*) on JICA's website.
 - 2) The Examiners, after the commencement of the Procedures, shall publicize the Request in whole or in part on JICA's website, with confirmation that it does not contain any information whose disclosure is not required by the Procedures and/or by statute.
 - 3) The Examiners' report, the opinions of the parties concerned, and the opinions of the Operational Departments shall be sent to the parties concerned and promptly publicized on JICA's website, with confirmation that they do not contain any information whose disclosure is not required by the Procedures and/or by statute.
- (2) Since the Examiners' report and the opinions of the Operational Departments must, in principle, be publicized, they must not contain any information whose disclosure is not required by statute. If, in order to make the report meaningful, it is indispensable to state in the report any information whose disclosure is not required by statute, the prior consent of the parties concerned must be obtained.
- (3) Other documents that the Examiners have prepared in the performance of their duties shall be

publicized pursuant to the provisions of applicable laws.

- (4) The Examiners shall prepare an annual report of activities using the sample form attached hereto and shall publicize it on JICA's website. Since the annual report of activities is a document that is prepared in order to be publicized, it must not contain any information whose disclosure is not required by statute.
- (5) The Examiners shall publicize their *contact information* on JICA's website. *In addition, the Examiners must endeavor to make their presence and activities widely known to the public by preparing and publishing pamphlets and posting information on JICA's website, etc., in collaboration with JICA's Public Relations Department and other related departments including the Operational Departments.*
- (6) The Operational Departments must endeavor to make the presence and activities of the Procedure known to the affected peoples, etc., in cooperation with the Project Proponents.
- (7) The working language used in the disclosure documents on JICA's website shall be English, while Japanese *and the official language of the host country* and/or language(s) widely used in the host country shall *also* be used as necessary.

15. Secretariat

A secretariat shall be organized to support the Examiners' duties and to process work in relation to the Examiners. The secretariat consists of several JICA personnel.

16. Review of the Procedures and Interim Provisions

- (1) The Procedures shall be reviewed, in principle, concurrently with the review of the *JICA Guidelines*. This review shall be conducted with a transparent process, in consideration of the opinions given and the evaluations made by the users and the Examiners that have accumulated up to the time of the review.
- (2) The Procedures shall become effective in MM/YY and shall be applied to projects to which the *JICA Guidelines* apply.

Note: If there is any ambiguity in the English version and/or any inconsistencies with the Japanese version, the Japanese version shall prevail.