

Annual Report  
of  
the Examiners for the JICA Guidelines  
for Environmental and Social Considerations

Fiscal Year 2014

The Examiners for the JICA Guidelines  
for Environmental and Social Considerations

Japan International Cooperation Agency  
(JICA)

## Objection System

To ensure compliance with the “Guidelines for Environmental and Social Considerations” published in April 2010 (hereinafter referred to as the “Guidelines”) of Japan International Cooperation Agency (hereinafter referred to as “JICA”), JICA has appointed external examiners for the Guidelines (hereinafter referred to as the “Examiners”), who are to report their findings directly to the President of JICA (hereinafter referred to as the “President”) and are independent from the departments of JICA responsible for individual projects and environmental analysis (hereinafter referred to as the “Operational Departments”).

The objectives of the Objection System are (1) to investigate whether facts behind alleged JICA’s non-compliance exists or not and report the results to the President, aiming to ensure JICA’s compliance with the Guidelines; and (2) to encourage dialogues among the parties concerned, such as those who submitted objections (hereinafter referred to as the “Requesters”), the borrower countries or those who carry out the project (hereinafter referred to as the “Project Proponents”), by their mutual consent, to promptly solve specific environmental and social disputes arising from JICA’s non-compliance with the Guidelines in the context of JICA-supported projects.

The Examiners are required to achieve the objectives in compliance with basic principles, namely, independence, neutrality, efficiency, promptness and transparency.

For the details of the procedures for submitting a request to raise objections (hereinafter referred to as the “Request”), please refer to the “Objection Procedures Based on the Guidelines for Environmental and Social Considerations” (proclaimed in April 2010) (hereinafter referred to as the “Objection Procedures”), posted on the following website: <http://www.jica.go.jp/environment/guideline/pdf/guideline02.pdf>.

### Annual Report of the Examiners

This annual report has been prepared to publicize the activities provided by the Examiners for Fiscal Year 2014, in accordance with the Objection Procedures.

## Acknowledgements

This annual report has been prepared in accordance with the Objection Procedures.

As stipulated in the Objection Procedures, the objectives of the Examiners' activities are to find the facts whether JICA has complied with the Guidelines or not and to encourage dialogues among the parties concerned, to promptly solve specific environmental and social disputes of JICA-supported projects, thereby ultimately encouraging JICA's compliance with the Guidelines. For Fiscal Year 2014, the Examiners investigated three (3) Requests in accordance with the Objection Procedures.

The Examiners would like to take this opportunity to thank you all who cooperated in taking the procedures in response to the relevant Requests.

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## I. Outline of the Activities for this Fiscal Year

### 1. Number of the Requests received

The Examiners received the following three (3) Requests for Fiscal Year 2014.

- (1) Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar

The Examiners received the Request regarding Thilawa Special Economic Zone (Class A Area and 2,000 ha Area) Development Project in the Republic of the Union of Myanmar on June 6, 2014.

- (2) Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam

The Examiners received the Request regarding Hanoi City Urban Railway Construction Project (Hanoi Metro Line 2) in Socialist Republic of Vietnam on October 28, 2014.

- (3) Mumbai Metro Line 3 Project in India

The Examiners received the Request regarding Mumbai Metro Line 3 Project in India on February 10, 2015.

### 2. Number of cases with respect to which the procedures were determined to be commenced/ suspended/ not to be commenced

The number of cases with respect to which the procedures were determined to be commenced for Fiscal Year 2014 was one (1), i.e., “Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar. There were no cases being suspended. The number of cases with respect to which the procedures were determined not to be commenced were two (2), namely, the “Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam” and the “Mumbai Metro Line 3 Project in India”.

- (1) Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar

On July 4, 2014, based on the results of the preliminary investigation, the procedures with respect to the Request were commenced.

- (2) Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam

On December 4, 2014, based on the results of the preliminary investigations, it was determined not to commence the procedures with respect to the Request.

- (3) Mumbai Metro Line 3 Project in India

On March 10, 2015, based upon the results of the preliminary investigations, it was determined not to commence the procedures with respect to the Request.

### 3. Review and analysis of the reasons for the suspension and/or making decisions not to

### commence the procedures

The reasons why the decisions were made not to commence the procedures with respect to the Requests submitted to the Examiners during Fiscal Year 2014 are as follows:

- (1) Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam
  - (i) The negotiation among stakeholders is now on-going and it is still in an early stage with respect to the compensation process in this project.
  - (ii) Since no specific provisions of the Guidelines alleged to be violated by JICA has been stipulated in the Request, whether or not there is any non-compliance with the Guidelines could not be determined even from the results of the preliminary investigations.

For these reasons, the Examiners have determined that it is premature to commence the procedures on this Request.

- (2) Mumbai Metro Line 3 Project in India
  - (i) Since the permission to be granted by the Board of Tree Authority has not yet been obtained for the commencement of the construction of the public green space, making any definitive decision is not appropriate while such internal procedures are still underway in India.
  - (ii) Since the dialogues among the Requesters, the Project Proponents and the parties concerned are now on-going and still in an early stage, it is not sufficient for them to specify the issue to be addressed and find a resolution.

For these reasons, the Examiners have determined that it is premature to commence the procedures on this Request.

#### 4. Number of investigation reports issued by the Examiners in response to the Requests

For Fiscal Year 2014, one (1) investigation report was prepared by the Examiners for the Guidelines in response to the Request regarding "Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar".

The Examiners submitted their investigation report to the President of JICA on November 4, 2014, upon the confirmation and review of the investigation results, including the results of the interviews conducted with the Requesters, the Operational Departments, the agencies that are engaged in the project led by the Myanmar government, relevant authorities, JICA's experts, the project affected persons ("PAPs"), NGOs and other organizations, and other materials obtained therefrom.

## 5. Analysis with respect to the non-compliance with the Guidelines alleged in the Request

Based on the investigation report on the “Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar,” it is concluded that non-compliance with the Guidelines was not found under the above-mentioned project.

- (1) Meanwhile, in order to reduce the PAPs’ anxiety and solve remaining issues, particularly livelihood restoration, the report suggested that JICA pay attention to the followings:
  - (i) JICA will clarify its position that it will assist in resolving disputes between the Myanmar government and the PAPs and encourage communications between various stakeholders, including the PAPs, and the Myanmar government. While the tripartite meetings seem to be serving as opportunities where the PAPs voice their opinions and requests, meetings should provide the opportunities to discuss realistic ways to meet their needs and solve issues. For such purpose, it is recommended to set a meeting, such as the one between the Myanmar government and the PAPs. In addition, JICA will act as the arranger/operator of such meeting and prepare a fair and reliable facilitator who can take the interests of both the PAPs and the Myanmar government into account and develop a workable and mutually acceptable agreement.
  - (ii) In addition, local and international NGOs’ participation is also required to support the PAPs who are in a weaker position than the Myanmar government. A hybrid model meeting, where the experts who have knowledge of income restoration program (“IRP”) participate in the meeting together with the several stakeholders, will be held. It is recommended that JICA will actively provide support to arrange and operate such meetings by, for instance, proposing a dispatch of personnel who understand the situations in Myanmar and/or have expert knowledge of the advanced precedents in other countries.
  - (iii) The meetings should, in principle, be made public and it is suggested that JICA should help the Myanmar government so that the information is adequately disclosed and transparency of information to the stakeholders is maintained. It is desirable that a meeting notice specifying the date, time and location would be sent to the PAPs concerned at least one (1) week prior to the scheduled meeting date, with agenda and as much information as possible. In addition, the procedures for preparing the minutes of a meeting and approving it at the following meeting should be set in place.
  - (iv) To restore livelihood, changing the PAPs’ ways of thinking is also imperative. For those who are expecting additional compensation payments and have lost their willingness to look for a sustainable livelihood measures should be taken to enhance their willingness to restore their livelihood by, for instance, showing them other cases of resettlement and successful experience in as much detail as possible.

- (2) Furthermore, in “3.6 Continuous support” of the Report, the Examiners offered the following proposals, as the lessons learnt for subsequent phase (2,000 ha Area) of the project as well as possible solutions to the remaining issues regarding the Class A Area.
- (i) It is suggested that JICA guide the Myanmar government to take enough time to prepare the resettlement work plan and the IRP. One of the lessons learnt from the Class A Area is that the PAPs tend to focus on the amount of compensation and ask for early payment. However, taking a certain period of time to help the PAPs take a realistic view of their new circumstances and also to convince them of the importance of livelihood restoration through consultations may eventually lead to enhanced willingness to work among the PAPs, thus preventing problems from occurring. It is also suggested that, by showing cases of resettlement and livelihood restoration in other countries, including Japan, JICA explain that taking sufficient time to consult with the PAPs is efficient as a means to an end, although it may seem like a tedious task at first.
  - (ii) Dialogues between the parties concerned should be prioritized first in reconciling different stakeholder opinions. It is desirable that JICA respond to questions from the stakeholders in the form requested, in order to obtain the trust of the stakeholders.
  - (iii) It is desirable that JICA assist the Project Proponents in ensuring that a notice of the consultations should be sent to the PAPs concerned at least one (1) week prior to the scheduled meeting date, since being polite and allowing enough time for the expected participants to prepare are required to build and maintain good relationship between the Project Proponents and the communities.
- (3) In the Report, the Examiners further suggested the following specific points:
- (i) It is desirable that JICA assist the Myanmar government in implementing measures to address the issue on flooding that happens on the areas lower than nearby roads, including dialogues between the Myanmar government and the PAPs to establish a framework in which the PAPs can participate in flood prevention work.
  - (ii) The wells need to be further improved for user convenience, including the locations. In doing so, it is desirable for JICA to assist the Myanmar government in listening to the PAPs’ views and opinions to repair them and/or construct new ones.
  - (iii) The measures to mitigate a change in living environment for the PAPs, in addition to vocational training should be provided, as they will need time to get adjusted to their new environment and restore their livelihoods. It is desirable that, for instance, JICA assist the Myanmar government in responding appropriately to the PAPs’ requests and taking action, including the provision of a kitchen garden for those who have requested one, and plans to plant street trees.

- (iv) At the field visit, an issue on toilet drainage was raised by the PAPs. Although vault toilet facilities were made available for the PAPs after the resettlement (which were not available for them before), they appeared to be feeling burdened by tank emptying and pumping cost. The Examiners have been told that although the Myanmar government presented a measure to address the issue, the PAPs are planning to make a counter proposal and the Myanmar government is currently waiting for it to be submitted. It is desirable that JICA assist the Myanmar government in implementing a measure to address the issue at the earliest possible time.
- (v) Where the PAPs strongly hope to continue farming, it is desirable that JICA assist the Myanmar government in giving advice to them at the earliest possible time, for instance, presenting them with some successful cases, e.g., a family used compensation and/or assistance and rented some farmland from others to continue farming.

## II. Users' Opinion

### 1. Opinion submitted by the Requesters

- (1) Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar

The Requesters of the “Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar” submitted their opinion to the Examiners on December 3, 2014, in response to the Examiners’ Investigation Report. Since the opinion included the necessary information for the Operational Departments to conduct the monitoring of the project, including, but not limited to, the details of the resettlement agreements and water quality, the above-mentioned opinion was forwarded to the Operational Departments in accordance with the Objection Procedures, on December 17, 2014. The Examiners will further collect necessary information regarding the opinion.

- (2) Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam

On December 9, 2014, the Requesters submitted their opinion to the Examiners in response to the results of the preliminary investigation on the “Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam.” In their opinion, the Requesters, while indicating their intent to accept the results of the preliminary investigation by the Examiners in a constructive manner, presented the following proposals to JICA, namely, (1) that JICA shall adopt a mediation process in which any dispute arising between the Project Proponent and the PAPs will be resolved under the initiative of JICA; and (2) that such process whereby the PAPs are allowed to participate in the implementation process of the project shall be systematically applied to the project. Since the opinion included the necessary information for the Operational Departments to conduct the monitoring of the project, the above-mentioned opinion was

forwarded to the Operational Departments in accordance with the Objection Procedures, on December 17, 2014. The Examiners will further collect necessary information regarding the opinion.

## 2. Opinion submitted by the Operational Departments

On December 1, 2014, the Operational Departments responsible for the “Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar” submitted an opinion in response to the Investigation Report issued by the Examiners to the President of JICA, as follows:

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In response to the Examiners’ proposals to reduce the PAPs’ anxiety and solve remaining issues, particularly livelihood restorations, JICA will endeavor to carry out the following measures:

- (1) With regard to the Examiners’ proposal (i) (stated in I.5 (1)(i) above), while respecting ownership on the part of both PAPs and the Myanmar government, sincere support and other efforts will be provided to ensure that consultation between PAPs and the Myanmar government provides opportunities to discuss realistic ways to meet their needs and solve issues.
- (2) With regard to the Examiners’ proposal (ii) (stated in I.5 (1)(ii) above) above, the participation of local and international NGOs has been permitted in consultations and other meetings taking place through now and JICA has not identified any particular impediments to such participation. JICA will closely monitor the situation to ensure that such interaction continues in the future as well. With regard to the participation of experts and facilitators possessing knowledge of related subjects including IRP, JICA will make every effort to realize this goal, while listening to the views of various experts and others.
- (3) With regard to the Examiners’ proposal (iii) (stated in I.5 (1)(iii) above), JICA will provide support to ensure transparency in consultation between PAPs and the Myanmar government. JICA will make efforts to ensure that, to the extent possible (for example, when both the PAPs and the Myanmar government, or either of these parties, have made clear the agenda in advance), a meeting notice, the meeting agenda, and other information are provided at least one (1) week prior to the meeting, and to provide support so that the form of meeting minutes is appropriately considered and consulted on between the parties concerned from standpoints such as those of transparency, efficacy, and efficiency.
- (4) With regard to the Examiners’ proposal (iv) (stated in 1.5 (1) (iv) above), paying attention to the proposals from the Examiners JICA will continue to provide assistance to the efforts of the Myanmar government, including holding participatory workshops

for PAPs, to increase PAPs' motivation to recover their own livelihoods. JICA also will share the Examiners' proposal in this regard with stakeholders and other interested in this relocation of PAPs and request their cooperation to enable support intended to increase PAPs' motivation to recover their own livelihoods.

- (5) With respect to the issues to which continuous support is further required as the result of the investigation, i.e., possible solutions to the remaining issues of the Class A area, and lessons learnt for and applicable to, the subsequent phase of the project (2,000 ha Area), JICA will keep in mind the need to help the PAPs take a realistic view of their new circumstances and also to convince them of the importance of livelihood restoration through consultations between PAPs and the Myanmar government in accordance with the spirit and the intent of the Examiners' proposals in future assistance and other efforts.
- (6) In order to respond to the specific issues, in the event of any matters requiring resolution between the parties concerned, sincere support and other efforts will be provided to create opportunities to discuss realistic ways to meet their needs and solve issues to ensure that realistic solutions are formulated between the parties concerned. JICA will continue to provide the Myanmar government with the assistance needed to implement these solutions.

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### III. Status of the Implementation of Instructions made by the President

#### 1. Report submitted by the Operational Departments concerning the status of the implementation of instructions made by the President

In respect to the "Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar," the President made instructions as of December 5, 2014 to Private Sector Partnership and Finance Department as the Operational Departments handling the project, advising that "the policies stated in the opinion issued by Private Sector Partnership and Finance Department dated December 1, 2014, shall be steadily implemented, while sincerely reflecting the Examiners' proposals given in their report as well as fully considering the opinions raised by the Requesters and the status of the local site."

As of the end of March 2015 for Fiscal Year 2014, the Examiners were informed by the Operational Department with respect to the status of the implementation of the instructions issued by the President, as follows:

- (1) Status of implementation of the Examiners' proposals
  - (i) Encouragement of dialogues between the PAPs and the Myanmar government

In order to resolve the issues that the PAPs encounter in the local site, the

Operational Departments endeavored (a) to create a framework of dialogues, progressively and in the manner acceptable to the local circumstances, through a hybrid model meeting held among the participants, including but not limited to, the international/local NGOs and the experts possessing knowledge of related subjects, such as IRP, as the Examiners proposed; and (b) to facilitate dialogues between NGOs and the experts, etc., by arranging a facilitator therefor. (c) Currently, the plans for the countermeasures agreed upon among the NGOs and the experts at the above-mentioned meeting are being reviewed at the participatory workshops for the PAPs (said workshops are proceeded by a hybrid model meeting in which a facilitator, NGOs and the experts participate).

(ii) Invitation of Facilitators

For the above-mentioned meeting with the NGOs and the experts, JICA's experts are acting as the arranger to invite a facilitator who has a wide network of personal contacts in the Myanmar civil society and experiences in working for a private company in the field of social consideration, in an effort to facilitate the discussions held among the NGOs, the experts, the Myanmar government and JICA's experts.

(iii) Consultations with the PAPs

Countermeasures (a provision of the "Assistance for Transition Period"; and an establishment of the "Regional Development Fund") that were agreed upon at the above-mentioned meeting with the NGOs and the experts were presented by JICA's experts to the Myanmar government (the Thilawa SEZ Management Committee) and negotiated among them. The Myanmar government accepted the above-mentioned countermeasures.

The Myanmar government held the participatory workshops for PAPs several times in January 2015 with the assistance of JICA's experts, in which the local experts with the social development and community development acting as facilitators, as well as the participants from the NGOs, etc. in and outside of Myanmar. Each of the issues to be resolved were consulted among them and it was concluded that the countermeasures therefor or others would be reviewed by working groups that would be organized among the PAPs.

A working group consists of five (5) PAPs and is supported by the facilitators for the participatory workshops for the PAPs, local monks, the NGOs in and outside of Myanmar and JICA's experts.

(iv) Measures to be taken for the particular of issues (including the environmental improvement of the resettlement site)

With the assistance of JICA's experts, consultations were held by the Myanmar government with the PAPs in respect to the measures for the flooding (including, the drainage channels and raising the ground level), installation of septic tanks to toilets, and wells, etc. aiming at the improvement of the facilities' functions. Resulting therefrom, the following measures were carried out:

1) Measures for flooding (drainage channels and raising the ground level):

In response to the request by the Thilawa SEZ Management Committee, Investigations are currently conducted to identify the status at the site by the consultant retained by the Myanmar government with the assistance of JICA's experts.

2) Septic tanks to toilets: The same as stated in the above.

3) Wells:

For the improvement of wells, cleaning of the open wells and replacement of the equipment including the pumps, which are the hand-pump type open wells, was conducted by the Myanmar government, with the assistance of JICA's experts.

(2) Others

- Resettlement of the residents for the next phase (2,000 ha Area)

For the development for the next phase, the details, including the area subject to the development and the method in which the procedures are to be implemented for the development, are under negotiations between the public and private sectors in both Japan and Myanmar, however, the schedules therefor have not yet been specified.

The procedures pertaining to the resettlement of the residents are being prepared by the Myanmar government with the assistance of JICA's experts.

(The foregoing is notified to the Examiners by the Operational Departments.)

2. Examiners' Opinion regarding the Report Submitted by the Operational Departments

The Examiners have recognized that the Operational Departments have sincerely endeavored to implement the issues instructed by the President under the "Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar" as set forth in their report. Since the relocation of the residents of the 2,000 ha Area is expected at the next phase of development, it is necessary for the Operational Departments to further collect necessary information and closely monitor the status of such local site.

#### IV. Management Structure for Implementation

##### 1. Examiners

The “Examiners” have been appointed by the President pursuant to the Guidelines and the Objection Procedures both of which were proclaimed on April 1, 2010, and enforced on July 1, 2010.

##### 2. Secretariat for the Examiners

In order to process works in relation to the Examiners, a Secretariat was organized in accordance with the Objection Procedures. For Fiscal Year 2014, four (4) personnel worked for the Secretariat for the Examiners.

End of Document

## Reference Materials

1. Requests
  - (1) Request regarding the Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar;
  - (2) Request regarding the Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam; and
  - (3) Request regarding the Mumbai Metro Line 3 Project in India
2. Notices of the Results of Preliminary Investigation
  - (1) Notices of the Results of Preliminary investigation on the Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar;
  - (2) Notices of the Results of Preliminary investigation on the Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam; and
  - (3) Notices of the Results of Preliminary investigation on the Mumbai Metro Line 3 Project in India
3. Investigation Report
  - (1) Investigation Report of the Examiners for the JICA Guidelines for Environmental and Social Considerations on the Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar
4. Opinions
  - (1) Opinion on the Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar
    - Opinion of the Operational Departments on the Investigation Report submitted by the Examiners; and
    - Opinion of the Requesters on the Investigation Report submitted by the Examiners
  - (2) Opinion on the Hanoi City Urban Railway Construction Project in Socialist Republic of Vietnam
    - Opinion of the Requesters on the Notice of the Results of the Preliminary Investigation