# [Translation]

Annual Report

of

the Examiners for the JICA Guidelines for Environmental and Social Considerations

Fiscal Year 2015

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 exit 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 endeavor 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: <a href="http://www.jica.go.jp/english/our\_work/social\_environmental/objection/c8h0vm0000013oi1-att/objection.pdf">http://www.jica.go.jp/english/our\_work/social\_environmental/objection/c8h0vm0000013oi1-att/objection.pdf</a>

## Annual Report of the Examiners

This annual report has been prepared to publicize the activities provided by the Examiners for Fiscal Year 2015, 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 2015, the Examiners conducted (i) investigation on two (2) Requests in accordance with the Objection Procedures and (ii) follow-up investigation on the "Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar" in order to confirm the status of the implementation of instructions made by the President .

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

May 31 2016

Examiners for the Guidelines Mr. ANNEN, Junji Professor, Chuo Law School Attorney-at-law

Dr. HARASHINA, Sachihiko

Dean, Faculty of Policy Information,
Chiba University of Commerce
Professor Emeritus,
Tokyo Institute of Technology, Doctor of
Engineering
Past President,
International Association for Impact Assessment
(IAIA)

Mr. MATSUSHITA Kazuo
Professor Emeritus, Kyoto University

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

# 1. Number of the Requests received

The Examiners received the following two (2) Requests for Fiscal Year 2015.

- (1) New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines The Examiners received the Request regarding New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines on May 25, 2015.
- (2) Mumbai Metro Line 3 Project in India
  The Examiners received the Request regarding Mumbai Metro Line 3 Project in India
  on September 7, 2015.
- 2. Number of cases with respect to which the procedures were determined to be commenced/ suspended/ not to be commenced

There were no cases with respect to which the procedures were determined to be commenced or being suspended for Fiscal Year 2015. The number of cases with respect to which the procedures were determined not to be commenced was two (2), namely, the "New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines" and the "Mumbai Metro Line 3 Project in India" as mentioned above.

- New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines
   On June 26, 2015, based on the results of the preliminary investigation, it was determined not to commence the procedures with respect to the Request.
- (2) Mumbai Metro Line 3 Project in India
  On October 6, 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 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 2015 are as follows:

(1) New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines

A construction plan of "the seaport" that the Requesters assert to be built at "Tabuan Tangnan Panglao Bohol" seems to mean a temporary landing pier. The construction of such temporary landing pier was proposed by the contractor to Department of Transportation and Communications of the Republic of the Philippines (hereinafter referred to as "DOTC"), the implementing agency of the project funded by JICA. It is confirmed, however, that such temporary landing pier will not be built, since the permission required to build such pier was not granted by DOTC.

Since such temporary landing pier will not be built, there seems to be no possibility that any damage due to construction thereof would be incurred as the Requesters assert.

For these reasons, the Examiners have determined not to commence the procedures on this Request.

# (2) Mumbai Metro Line 3 Project in India

No trees in Colaba Woods Garden will be cut as alleged by the Requester, since the Project Proponent changed the original plan pursuant to the request of the residents, after the consultation with the parties concerned, whereby Colaba Woods Garden will not be used for the construction site of Cuffe Parade Station.

For these reasons, the Examiners have determined not to commence the procedures on this Request.

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

For Fiscal Year 2015, no investigation report was prepared by the Examiners.

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

For Fiscal Year 2015, non-compliance with the Guidelines was not pointed out by the Examiners.

# II. Users' Opinion

## 1. Opinion submitted by the Requesters

## Mumbai Metro Line 3 Project in India

The Requesters of the "Mumbai Metro Line 3 Project in India" submitted their opinion to the Examiners on October 25, 2015, in response to the Examiners' decision not to commence the procedures on the Request. In their opinion, it is asserted that if the definition of "Garden" and the approach described by the Project Proponent are maintained, possibilities of pollution of the Garden and environmental deterioration would remain.

Therefore, consultations between the Project Proponents and the Requesters continue.

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

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"

### 1. Instructions made by the President

As reported in the Annual Report for the Fiscal Year 2014, 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."

The points raised in the President's instructions that need to be improved are as follows:

- (1) "Framework to Resolve Issues" and "Continuous Supports"
  - 1) Encouraging Dialogues between the Project Affected Persons (hereinafter referred to as the "PAPs") and the Myanmar Government
  - 2) Invitation of Facilitators
  - 3) JICA's Supports for Transparent Consultations with the PAPs
- (2) "Measures to be Taken for Particular of Issues (including the Environmental Improvement of the Resettlement Site)"
  - 1) Measures for Flooding (drainage channels and raising the ground level):
  - 2) Maintenance of Toilets
  - 3) Improvement Work for Wells
  - 4) Livelihood Restoration

# 2. Report by the Operational Department with respect to the status of the implementation of the instructions issued by the President

The Examiners were informed by the Operational Department of the status of the implementation as of the November 9 2015 with respect to the instructions issued by the President as follows:

# (1) "Framework to Resolve Issues" and "Continuous Support"

# 1) Encouraging Dialogues between the PAPs and the Myanmar Government

The meetings for Multi-Stakeholder Advisory Group (hereinafter referred to as "MSAG") were held in May and September 2015 in order to discuss livelihood restoration of the PAPs of Class A area and so on, among the stakeholders, the participants of which included Thilawa SEZ Management Committee (hereinafter referred to as "TSMC"), the PAPs, NGOs and Myanmar Japan Thilawa Development Ltd. (hereinafter referred to as "MJTD"). It is planned to hold a meeting for MSAG once every quarter. Furthermore, two (2) mediators (a monk and an expert of social development) were selected, considering the opinions of the PAPs, NGOs and TSMC, to facilitate daily discussions between the PAPs and the Myanmar government.

# 2) Invitation of Facilitators

Facilitators of the meetings for MSAG as mentioned above were selected among those who have 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 and those selected accepted the offers.

# 3) JICA's Supports for Transparent Consultations with the PAPs

Financial aid assisting transition was paid to the PAPs pursuant to Social Welfare Support Program which was agreed during the consultation between NGOs and the experts as livelihood restoration assistance. In respect to the Community Development Fund/Micro Finance Program, the business plans therefor have been currently underway and it is planned to commence operation of the fund in December 2015.

### (2) "Measures to be Taken for Particular of Issues"

- Improvement of Flooding, Toilets and Wells: Measures to avoid flood during the rainy season and improvement of toilets and wells took place, with participation of the PAPs. Adjustments were made to vault toilets so that frequency of vaulting can be reduced.
- Livelihood Restoration: Basic vocational trainings were provided to the PAPs during the period from May to August 2015. Furthermore, additional various vocational trainings are now being provided to the PAPs, including the followings: trainings to obtain driver's license for ordinary vehicles, to become designers, to study sewing, and to become appliance repairers.

# 3. Examiners' Opinion regarding the Report from the Operational Departments and Onsite Investigation by the Examiners

The two (2) Examiners, Mr. Sachihiko Harashina and Mr. Kazuo Matsushita, visited the site during the period from November 21 to 23, 2015 and conducted hearings to the Requesters and the parties concerned and collected information, in order to confirm the status of implementation of the instructions issued by the President, reported by the Operational Department as of November 9, 2015 (as mentioned in III. 2. above). As the result of such on-site investigation, substantial improvements were recognized in respect to encouraging dialogues between the PAPs and the Myanmar government through MSAG and/or mediators as instructed by the President. Also, improvements were recognized in measures to be taken for the particular of issues (clean water, toilets and drainage pertaining to the residential environment at the relocation site and livelihood restoration) to some extent, however, further assistance is needed. Amongst, livelihood restoration is not easy.

Two (2) Examiners advised that, it is necessary to provide assistance to the livelihood restoration to be provided by the Myanmar government, by constructing good relationship between the PAPs and the Myanmar government through continuous consultations between them.

# 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.

Under the Objection Procedures, two (2) or three (3) Examiners can be appointed and two (2) Examiners had been appointed up until recently. While no Requests have been made until the end of Fiscal Year 2013, considering the fact that the number of Requests has been increasing thereafter, a selection committee was held pursuant to the Objection Procedures and Mr. Kazuo Matsushita, the Professor Emeritus of Kyoto University, was additionally appointed as Examiner as of September 1, 2015. As the result, there have been three (3) Examiners on and after such date.

#### 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 2015, sever (7) personnel worked for the Secretariat for the Examiners.

End of Document

# Reference Materials

# 1. Requests

- (1) Request regarding New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines; and
- (2) 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 New Bohol Airport Construction and Sustainable Environment Protection Project in the Republic of the Philippines; and
- (2) Notices of the Results of Preliminary investigation on the Mumbai Metro Line 3 Project in India

