

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

Fiscal Year 2019

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 (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 and social considerations 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 exist 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 promote realization of 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: https://www.jica.go.jp/english/our_work/social_environmental/objection/c8h0vm0000013o1l-att/objection.pdf

Annual Report of the Examiners

This annual report has been prepared to publicize the activities provided by the Examiners for Fiscal Year 2019, 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. In Fiscal Year 2019, no Requests have been made.

The Examiners would like to take this opportunity to thank you all who cooperated in the Objection Procedures.

August, 2020

Examiners for the Guidelines

Ms. KANEKO, Yuka

Professor, Center for Social Systems Innovation,
Kobe University

Mr. HAYASE, Takashi

Professor Emeritus, Nagasaki University

Mr. MATSUSHITA Kazuo

Professor Emeritus, Kyoto University

(Listed in the order of the Japanese syllabary)

I. OUTLINE OF ACTIVITIES DURING THIS FISCAL YEAR

1. Number of the Requests received

For Fiscal Year 2019, no Requests have been received by the Examiners.

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, being suspended or rejected for Fiscal Year 2019.

3. Review and analysis of the reasons for making decisions to suspend and/or not commence the procedures

N/A

4. Preparation of the investigation reports by the Examiners in response to the Requests

There were no investigation reports prepared by the Examiners for Fiscal Year 2019.

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

N/A

6. Opinion from the Requesters

N/A

7. Confirmation of Status of the Implementation of Instructions made by the President

In accordance with the first sentence of Paragraph 2 of Article 13 of the Objection Procedures, the status of implementation of the instructions made by the President based on the proposals in the investigation reports prepared by the Examiners are reported to the President in the Annual Report. In Fiscal Year 2019, the relevant Operational Departments reported to the Examiners in May 2020, and the Examiners confirmed the status of implementation of the instructions made by the President for the following two projects.

- (1) Status of the Implementation of Instructions made by the President in respect to the “Thilawa Special Economic Zone (SEZ) Development Project in the Republic of the Union of Myanmar”

With regard to this project, we made proposals in the Investigation Report prepared by the Examiners in Fiscal Year 2014, and subsequently reported the status of the implementation of the instructions made by the President based on these proposals to the President in the Examiners’ annual reports in the succeeding years. In Fiscal Year 2019, we were informed by the Operational Department of the actions taken by the project in Zone A (initially called as

the Class A Area) that was the subject of the investigation and review under the Objection Procedures as summarized in ① and ② below. We also requested the Operational Department to confirm the status of the incident that occurred in Zone B in February 2020, which was the subject area of the next phase of the project as summarized in ③ below.

① Dialogues with Project Affected Persons (hereinafter referred to as the “PAPs”)

The Thilawa Community Coordination Meeting, which was established as a forum for dialogues between resident representatives and the Thilawa SEZ Management Committee (TSMC) and its developers, has continued to be held up to the present. In consideration of the residents' request at the meeting, the TSMC with the support of JICA, is making efforts to restore the livelihoods of the PAPs. The Thilawa Complaint Management Mechanism continues to exist. In 2019 (January to December), 13 complaints were received, of which 6 complaint were resolved and the remaining 7 complaint were under investigation or mediation.

② Delay in Use of Common Land by Residents

The three acres of common land adjacent to the relocation site were maintained for the persons who relocated along with the development of Zone A¹. However, at Thilawa Community Coordination Meeting held in November 2018, the representatives of relocating persons made complaints that they were not able to use the common land, because there were other people claiming ownership thereof. JICA made requests to the Myanmar government several times to resolve this issue, and the Myanmar government referred this issue to dispute settlement procedures by the Scrutinizing Committee for Acquired Land (SCAL) in March 2019. As of May 2020, the procedures by SCAL are still in progress. These procedures are continuously followed up by JICA.

③ Use of Lessons Learnt in the Next Phase

It was Zone A which was subject to the investigation and review under the Objection Procedures (June 2014). In the Investigation Report by the Examiners, proposals were made to make use of the lessons learnt from Zone A in the next phase.² In response to the proposals, JICA is continuing to encourage the Myanmar government to engage in sufficient dialogues with the PAPs on the occasion of acquiring Zone B in the next phase. In February 2020, land-leveling was carried out for farmlands held by households that did not consent to the relocation. JICA, however, requested the Myanmar government to give consideration to the PAPs, and enforcement measures to them were suspended.

Based upon the foregoing, we acknowledge that some efforts are continuing to mitigate the effects on the PAPs in Zone A. However, outstanding issues of concern, such as those

¹ "2. Report by the Operational Department with respect to the status of the implementation of the instructions issued by the President (1) 1" of "Annual Report of the Examiners for the JICA Guidelines for Environmental and Social Considerations (FY 2016)"

(https://www.jica.go.jp/english/our_work/social_environmental/objection/c8h0vm0000013oi1-att/report2016.pdf)

² "3.6. Continuous Support" of "Investigation Report Thilawa Special Economic Zone Development Project in the Republic of the Union of Myanmar"

(https://www.jica.go.jp/english/our_work/social_environmental/objection/c8h0vm00008zvp4f-att/report.pdf)

regarding common land, remain, and JICA is requested to continue to resolve these issues through approaches to the Myanmar government. It is also expected that JICA will continue to make appropriate approaches to the Myanmar government, such as avoiding enforcement measures, by using the lessons learnt from Zone A.

(2) Status of the Implementation of Instructions made by the President in respect to the “Support for Agricultural Development Master Plan for Nacala Corridor in the Republic of Mozambique”

With regard to this project, we made proposals in the Investigation Report prepared by the Examiners³ in Fiscal Year 2017, and subsequently reported to the President on the status of implementation of the instructions made by the President based on these proposals to the President in the Annual Report⁴. In Fiscal Year 2019, the following matters were recognized:

① Promotion of Efforts to Make up for Lack of Information and Transparency

The Ministry of Agriculture and Food Security (MASA)⁵, which is the implementing agency for Mozambique, held a series of meetings with local stakeholders with the aim of providing information and ensuring transparency. In April 2019, a meeting hosted by the Minister of MASA was held in Maputo, where the Minister and officers in charge responded to the questions raised by civil society and farmer groups in regard to the status of response to the Maputo City Administrative Court’s order in August 2018 for the disclosure of information, the issues of land, etc.

As of February 2020, the Ministry of Agriculture and Rural Development (MADER)⁶ and the Mozambique Bar Association had a forum for discussions on the aforementioned order for information disclosure issued by the Administrative Court.

② Facilitation of Discussions Based on Participatory Decision-making Rules

Based on the results of exchanges of opinions conducted in Fiscal Year 2018 by visiting civil societies and farmers' groups in the three northern provinces, in April 2019, MASA (present MADER) held the meeting as aforementioned in ①, and made discussions on how to proceed with public hearings that were proposed by civil society and farmers' groups. Groups that expressly opposed to the project were also invited to participate in the meeting, and also the National Union of Mozambican Peasants (UNAC)⁷ participated, but UNAC issued a statement

³ "Chapter 4: Present Situation and Examiner Recommendations on Promoting Dialogues" of "The Investigation Report Support for the Agricultural Development Master Plan for Nacala Corridor in the Republic of Mozambique"

(https://www.jica.go.jp/english/our_work/social_environmental/objection/c8h0vm0000b81di4-att/mozambique_01_06.pdf)

⁴ "III. the status of the implementation of the instructions issued by the President" of "Annual Report of the Examiners for the JICA Guidelines for Environmental and Social Considerations (FY 2018)" (https://www.jica.go.jp/english/our_work/social_environmental/objection/c8h0vm000013oi1-att/report2018.pdf)

⁵ Ministry of Agriculture and Food Security(MASA): Ministério da Agricultura e Segurança Alimentar

⁶ Ministry of Agriculture and Rural Development (MADER): Ministério da Agricultura e Desenvolvimento Rural. MADER was reorganized from MASA after the general elections held in October 2019.

⁷ The National Union of Mozambican Peasants (UNAC): União Nacional de Camponeses

that no agreement was reached after the meeting. Thereafter, as Mozambique came into the season of the general elections, including the presidential election, which were held in October 2019, the dialogues and public hearings with farmers have not been in progress.

③ Support to the Mozambican Government's Appropriate Efforts

JICA is continuing to encourage the Mozambican government to make efforts to settle lack of information and transparency and to promote discussions based on the rules of procedures for participatory decision-making.

As mentioned above, it can be seen that JICA has made some efforts to support the Mozambican government's efforts to improve information disclosure and transparency, and to facilitate discussions based on the rules of participatory decision-making procedures. However, the situation in Mozambique appears still at a deadlock.

II. PARTICIPATION TO IAM NET

The Independent Accountability Mechanisms Network (IAMnet) is a network for experts involved in strengthening accountability and compliance related to the environmental and social considerations to regularly exchange views, as part of internal controls and audits at international financial institutions and development assistance agencies. Since 2016, the Examiners and the Secretariat of the Examiners of JICA participated in the annual general meetings of IAMnet as observers. In May 2019, following the recommendation of the Examiners, the Secretariat submitted an application for official membership to the Secretariat of IAMnet, which was approved on June 12. As a regular member of IAMnet, we will further cooperate and collaborate with other IAMnet members in an effort to strengthen JICA's environmental and social considerations more effectively and efficiently from now on.

III. MANAGEMENT STRUCTURE

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 of the Examiner

In order to process works in relation to the Examiners, the Secretariat was organized in accordance with the Objection Procedures.

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