

# JBIC

## Environmental Guidelines and its Objection Procedures

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Examiner for Environmental Guidelines,  
Japan Bank for International Cooperation

# Today's Topics

1. What is JBIC?
2. What is Environmental Guidelines?
3. What is Objection Procedures and Why we need it?

Fortunately we have no Objection received so far, and thus unfortunately we have no case study to share today.

# 1. What is JBIC?

- Status: Governmental Financial Institution
- Purpose: To contribute to the sound development of Japan and international economy through lending and other financial operations
- Establishment: October 1999  
by the integration of former **Export Import Bank of Japan: JEXIM-Bank** (ECA) and former **Overseas Economic Cooperation Fund: OECF** (ODA Loan Agency)
- Office: Tokyo (Head) and Osaka (Branch)  
26 overseas representative offices
- Outstanding: JPY 20,205 billion as of Aug 2004  
(equivalent to USD 185 billion)

# Major Financial Tools of JBIC

## OOF LOANS and INVESTMENTS

- Export Loans
- Import Loans
- Overseas Investment Loans
- Untied Loans  
(procurement is not tied to Japanese supply)
- Guarantees
- Equity participation

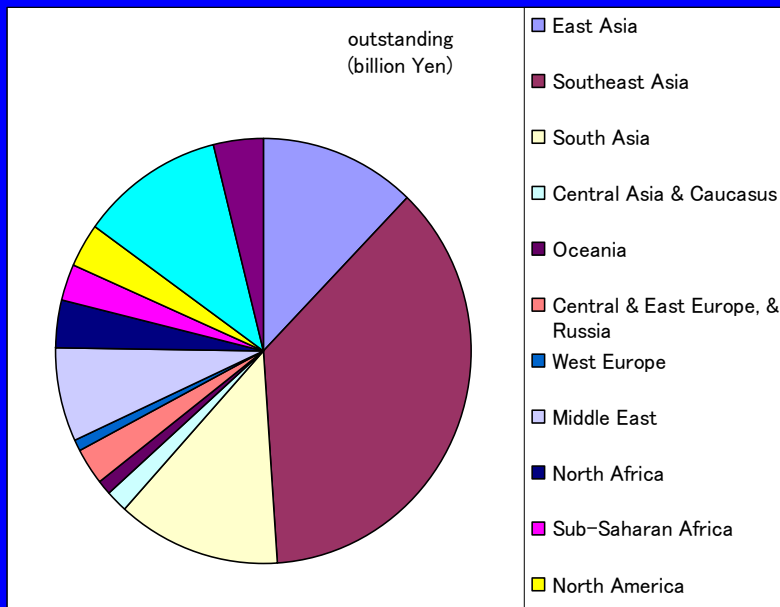
## ODA LOANS

- ODA Loans
- Overseas Investment Loans

# JBIC Lending Activities

## geographical distribution of outstanding

### By Regions



### Major Countries

	country	outstanding (bil Yen)
1	Indonesia	3,561
2	China	2,242
3	Philippines	1,351
4	India	1,314
5	Thailand	1,227
6	Brazil	917
7	Pakistan	640

# JBIC's contribution to mitigating climate change

## EXAMPLES of JBIC financing projects

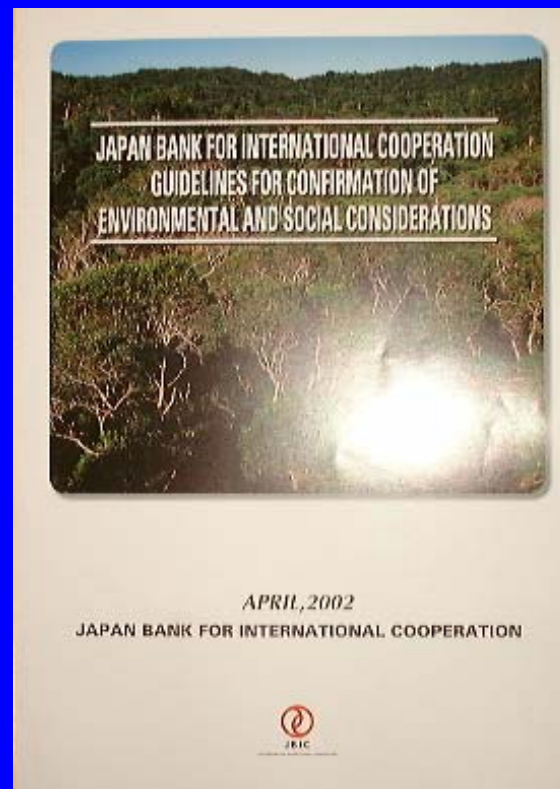
- Japan Carbon Fund (under preparation)
- Lahendong Geothermal Power Plant Project in Indonesia:  
20 MW-class JPY 6 billion.
- Zafarana Wind Power Plant Project in Egypt:  
120MW-class, JPY 13 billion.
- Loess Plateau Afforestation Project in China:  
approx. 3,000 km<sup>2</sup> afforestation, JPY 12 billion.

## Loess Plateau Afforestation Project in China



## 2. What is Environmental Guidelines?

the Guidelines for Confirmation of  
Environmental and Social Considerations



## 2. What is Environmental Guidelines?

- Chronology:

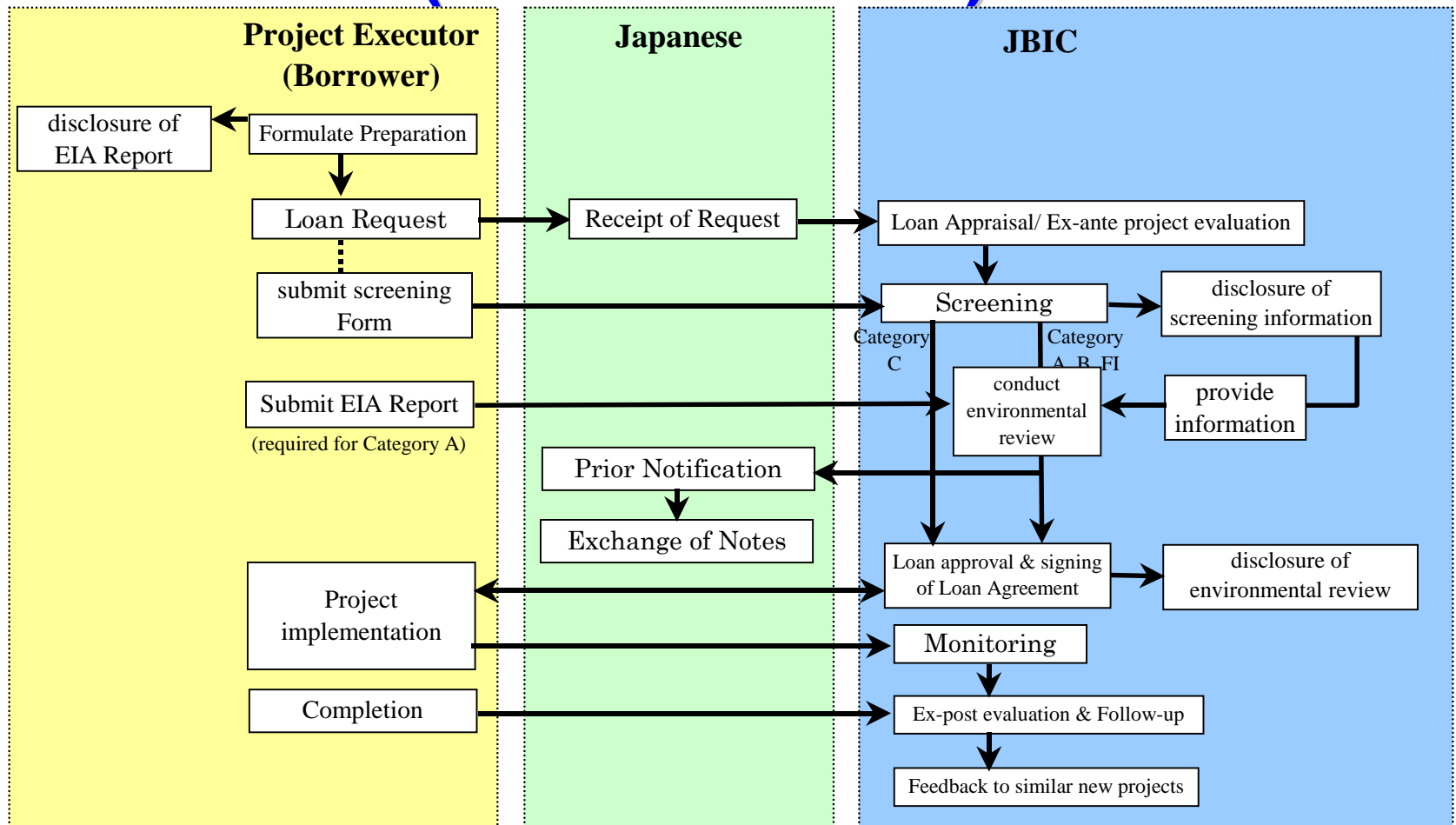
- Establishment of JBIC in October 1999
- preparation of Guidelines including public consultation processes
- Establishment of the Guidelines in April 2002
- Implementation of the Guidelines in October 2003

- Purpose:

to encourage project proponents to implement appropriate **environmental and social considerations** in accordance with the Guidelines, by making clear its procedures, criteria for decision-making and requirements



# Flow Chart of Environmental Guidelines Process (for ODA Loans)



# Major Features of the Guidelines

- A) Importance of project stakeholders, including local residents affected by the project and local NGOs
- B) Three stage confirmation process: screening, environmental review, and monitoring
- C) Proactive information disclosure by JBIC
- D) Emphasis on monitoring to follow up environmental and social review
- E) Taking environmental reviews into account for decision-making and Loan Agreements
- F) Sign-off power of Environmental Analysis Department
- G) Objection Procedures to secure sound implementation of the Environmental Guidelines

## A) Importance of project stakeholders, including local residents affected by the project and local NGOs

- For projects with a potentially large environmental impact, sufficient consultations with stakeholders, such as local residents, must be conducted via disclosure of information.
- Appropriate consideration must be given to vulnerable social groups, such as women, children, the elderly, the poor, and ethnic minorities.
- For category A projects, EIA report required to be made available in the country and to the local residents where the project is to be implemented.

## B) Three stage confirmation process: screening, reviewing, and monitoring

- i. Classifies the project into one of the 4 categories:  
Category A: significant adverse impact on environment,  
Category B: potential adverse impact is less than Category A  
Category C: likely to have minimal or no adverse impact  
Category FI: sub-projects cannot be specified prior to JBIC's approval  
e.g. funding to financial intermediary
- ii. Conducts a review of environmental and social considerations when making a decision funding, to confirm that the requirements are duly satisfied, and
- iii. Conducts monitoring and follow-up after the decision has been made on funding

## C) Proactive information disclosure by JBIC

- JBIC discloses the project name, location, and outline and sector of the project; and its category classification and the reasons for the classification
- For category A and B projects, JBIC publishes the status of major documents on environmental and social considerations by borrowers and related parties, such as EIA reports and environmental permit certificates, etc.
- Paying due consideration to the confidentiality of the commercial and other matters of the borrowers and related parties.

## D) Emphasis on monitoring to follow up environmental and social review

JBIC in principle confirms through the borrower over a certain period of time, results of monitoring the items which have a significant environmental impact by the project proponents. This is in order to confirm the project proponents' undertaking of environmental and social considerations for category A and B projects.

## E) Taking environmental reviews into account for decision-making and Loan Agreements

- JBIC takes the results of environmental reviews into account for its decision-making on funding. If appropriate environmental and social considerations are not undertaken, JBIC may decide not to extend funding.
- If it becomes evident that the borrower and the project proponents have not met the conditions required by JBIC under the Guidelines, JBIC may in accordance with the Loan Agreement, suspend the disbursement or declare all the principal outstanding at the time to be payable immediately.

## F) sign-off power of Environmental Analysis Department

- Environmental Analysis Department, different from Loan Departments, is in charge of review a project before signing of L/A if appropriate environmental and social considerations are undertaken in line with the Environmental Guidelines.
- Approval of Environmental Analysis Department must be needed before submission of the Board and Governor of JBIC.

G) In order to secure sound implementation  
of the Environmental Guidelines

**the Objection Procedures**

**and**

**the Examiners**

**were established**

### 3. What is Objection Procedures and Why we need it?

# What is the **Objection Procedures**? (1/3)

Procedures to submit objections concerning  
JBIC Guidelines for Confirmation of  
Environmental and Social Considerations

# What is the Objection Procedures? (continue...2/3)

- Objection Procedures are referred to in JBIC's Environmental Guidelines to ensure appropriate implementation of and compliance with the Guidelines.
- Examiners, as an independent organ,
  - 1) investigate facts as to whether or not JBIC Guidelines have been complied with **by JBIC** and report the result to the Governor.
  - 2) encourage dialogues to assist early resolution of disputes on environmental / social problems caused by project (to be) funded by JBIC.

# What is the Objection Procedures? (continue...3/3)

- Objection Procedures are stipulated by “Procedures to submit objections concerning JBIC Guidelines for Confirmation of Environmental and Social Considerations.”

<http://www.jbic.go.jp/english/environ/pdf/objection.pdf>

- Chronology:

Apr 02: establishment of the new Environmental Guidelines

Jun 02-Mar 03: public consultation on Objection Procedures

Jul-Sep 03: selection of Examiners

Oct 03: the Guidelines and Objection Procedures come into force

# Basic Principles of Objection Procedures

- **Independence:** direct control of the Governor and independent from the Operation Departments of JBIC
- **Neutrality:** impartial hearing opinions of all parties  
e.g. requester of objection, Operation Departments, and borrower
- **Efficiency/Promptness:** making report within 3 months after the acceptance of a request
- **Transparency:** the activities of Examiners are open to the public, while considering confidentiality of business

# How does it apply?

## ➤ Who can file a request?

two or more residents of a country who have suffered substantial damage caused by JBIC related project or who are likely to suffer such damage in the future.

Agent thereof, if unavoidable

## ➤ Which project can be applied?

to the projects in which substantive request for funding is made on or after Oct.1.2003.

# How is the process going?



Receipt of Request

Notice of Acceptance

*--- within 5 business days, in principle, after the receipt*

Preliminary Investigation

Decision to commence / not to commence Procedures

*--- approximately 1 month after the acceptance*

Investigation and Encouragement of Dialogues

Report to Governor

*--- within 3 months, in principle, after the acceptance*

Opinion by Operational Department

*--- within 4 months, in principle, after the acceptance*

Follow up by Operational Department

# In OOF Loan Procedures



Loan request to JBIC

Loan preparation/negotiation

Execution of L/A

Implementation of project

Completion of disbursement

A Request can  
be submitted

(a request regarding  
monitoring provisions  
may be submitted  
after the completion)

# In ODA Loan Procedures

Loan request to GOJ

JBIC's appraisal ⇒ Report to GOJ

GOJ's pledge, E/N

Execution of L/A

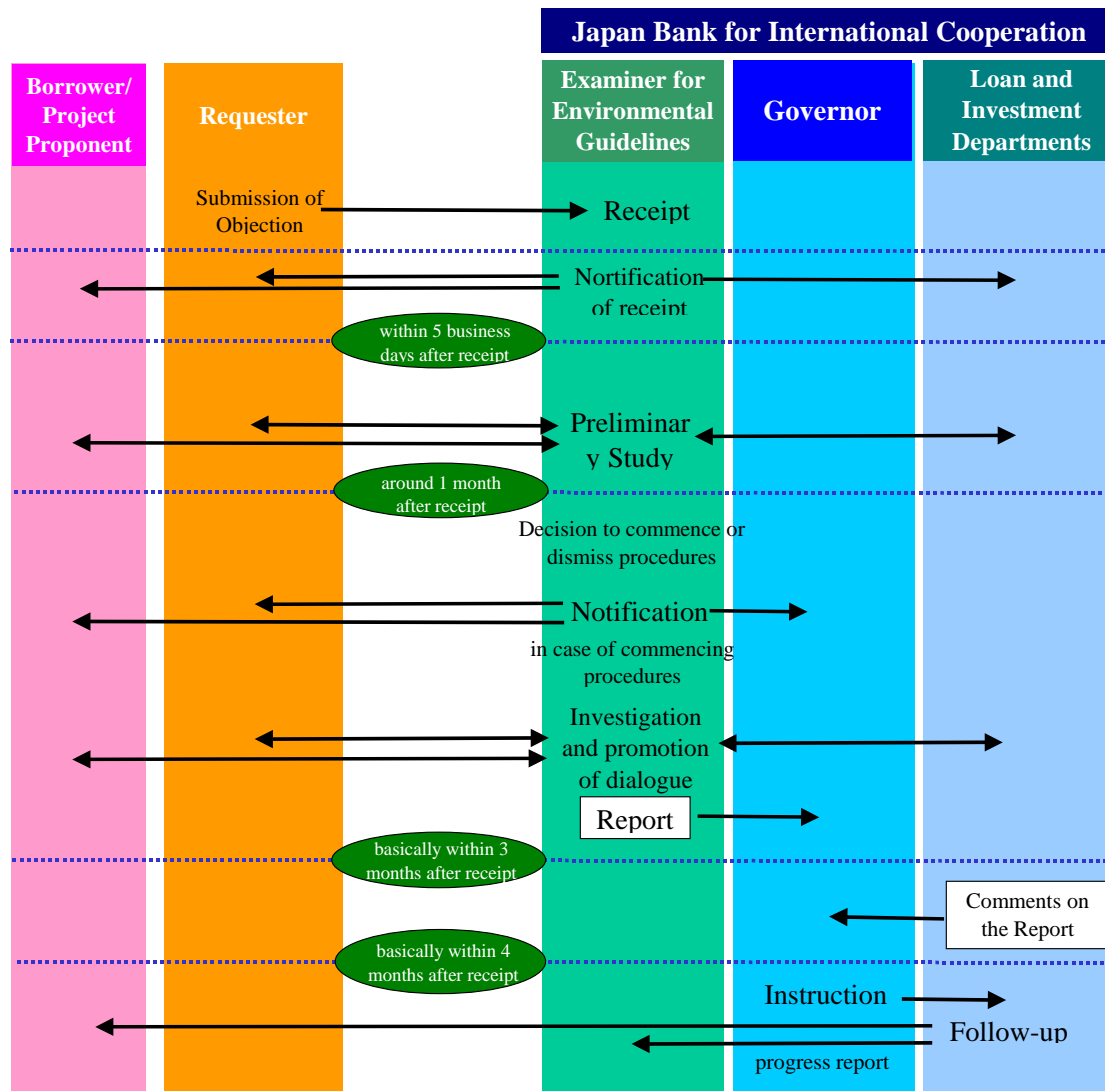
Implementation of project

Completion of disbursement

A Request  
can be  
submitted

(a request regarding  
monitoring  
provisions may be  
submitted after the  
completion)

# the Flow of Objection Procedures



# What will happen to borrowers, if an objection is submitted?

- Notification
  - Acceptance of a request
  - Examiner's decision to commence / not to commence the Procedures
  - Examiner's report after investigation
  - Operational Department's opinion on the report
- Examiner's field visit
- Dialogues with requesters by mediation of Examiner, if agreeable.

# Disclosure of Information

- The Examiner's report and the opinion of JBIC Operational Department thereto
- The status of acceptance of requests and the progress of the Procedures
- The Examiner's annual report, including the status of implementation by Operational Department of the instruction by the Governor

# EXAMINERS

who implements Objection Procedures

## **Kazuo MATSUSHITA (left)**

- Professor, Graduate School of Global Environmental Studies, Kyoto University
- Visiting Professor, the United Nations University

## **Junji ANNEN (right)**

- Attorney
- Professor, Seikei Law School

# Organizational Structure of the Examiners

Governor

## Loan Operation Dept.

International Finance Dept.  
Development Assistance Dept.  
Corporate Analysis Dept.  
Country Analysis Dept.  
Environmental Analysis Dept.

## Examiners for Env. Guidelines

**Mr. Matsushita:**

Professor, Kyoto University

**Mr. Annen**

Attorney and Professor, Seikei Law  
School

## Office of Examiners

2 staffs of JBIC

# major discussion points during public consultation (1/2)

**equal footing vs.**

**transparency/problem solving**

Existence of Objection Procedures may become competitive disadvantage of Japanese companies against companies in other countries since Objection Procedures is unique to JBIC.

Meanwhile, transparency of procedures and problem prevention/solving are essential to the aim of the Environmental Guidelines.

- Period to submit objections
- Eligibility of requesters of objections
- Disclosure/transparency but business confidentiality

major discussion points during public consultation  
(continue...2/2)

Experiences of MDBs **vs.**

## Limitation of Bilateral Institution

- Multilateral Development Banks (MDBs), e.g. WB and ADB, have a lot of experiences of accountability mechanisms which are approved by the boards of governors including representatives of developing countries.
- JBIC Environmental Guidelines are established by the Governor of JBIC. Investigation on facts of compliance are carried out based on the agreement among concerned parties.

# Mechanisms of other institutions

## International Organizations

- 1993 IBRD/IDA's Inspection Panel
- 1995 ADB's Accountability Mechanism (revised in 2003)
- 1999 IFC/MIGA's Compliance Advisor/Ombudsman (CAO)
- 2003 EBRD's Independent Recourse Mechanism

## Japanese Organizations

- 2003 JBIC's Objection Procedures on Environmental Guidelines
- 2003 NEXI (Nippon Export and Investment Insurance)'s Objection Procedures on Environmental Guidelines
- 2004? JICA (Japan International Cooperation Agency)'s Objection Procedures on Environmental Guidelines

# Thank you very much!

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