

(This is a translation by WALHI - The original document was written in Indonesian.)

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To:
Ms. OKU Mami
Mr. SASE Hiroshi
The Examiners for Environmental Guidelines
Japan Bank for International Cooperation (JBIC)
(Mr. HOSHINO Kazuaki and Mr. TOYONAGA Shinsuke, the Former Examiners)

Cc: Mr. HAYASHI Nobumitsu, Governor, JBIC

Opinion on the Report of the JBIC Examiners regarding the Cirebon Coal-fired Power Plant Project – Unit 2 in West Java, Indonesia

We have read the "Examination Report on Objection to Cirebon Coal-fired Power Plant Project - Unit 2, West Java, Indonesia" (the Report), and are very disappointed and even resentful.

First of all, JBIC's objection procedure is supposed to be a kind of remedy for residents who have been damaged by projects in which JBIC is involved. However, due to the fact that the Examiners for Environmental Guidelines (the Examiners) has so disregarded the testimonies of residents like ourselves, and has analyzed and judged, focusing on so-called "comity" to the Indonesian government, we can't help but wonder for whom this objection procedure was created. Neither the examiners nor JBIC should forget that they are addressing the environmental, social, health, and cultural issues of the same human beings, whether in Japan or in Indonesia.

The report also states that "As a result of our investigation, we could not find that the actual damages stated by the Requesters have been incurred or that is likely to be incurred in the future. In addition, no violations of the Environmental Guidelines by JBIC were found." However, we believe that the examiner's understanding, investigation, and verification were extremely inadequate, as described in the opinion in the table below.

We would appreciate it if you could review our opinions compiled below, re-examine whether JBIC has properly confirmed the environmental and social considerations with respect to the specific issues raised by us in our objection letter, and reconsider the status of compliance with the Guidelines on the issues pointed out.

Finally, we reiterate our strong request to JBIC not to provide further financing for Cirebon Unit 2 in order to avoid worsening the environmental and social impacts on our community.

Opinions on individual contents of the report

Relevant part in the JBIC Examiners' Report	Opinion of the Requesters about the contents of the Report
<p>(a) Loss of livelihood and income opportunities by small-scale fishermen (Para 2)</p> <p>(i) regarding the results of the plankton and benthos monitoring carried out by the Project Proponent from 2014 to 2020, a third-party organization assessed that the sea water contained sufficient nutrients for fish and shellfish, (ii) statistics about the fish catch near the Project site show that, while there are variations, the catch is largely stable, (iii) the Requestors have only expressed the reduction in fish catch before and after the Cirebon Project Unit 1 was completed as well as before and after the Project is forecast to be completed in terms of how they perceive it, and (iv) the Requestors have not presented documents showing details of their income before project completion, we could not find the reduction in fish catch and its likelihood as well as the loss of income opportunities and their likelihood.</p>	<ul style="list-style-type: none"> ● Inappropriate analysis and conclusions <ul style="list-style-type: none"> - Regarding (i), the decision should first be based on the findings of an independent, credible research team, not on the results of the operator's monitoring. In addition, the fact that "the sea water contained sufficient nutrients for fish and shellfish" alone cannot be the basis for not recognizing a decrease in fish catches. Other conditions of the marine environment (vibration, water temperature, etc.) should also be verified and concluded. - The statistics in (ii) are presumably the figures traded at the TPI (auction sites) that remain with the relevant local government agencies, and may represent the catches of fishermen who have fishing boats. Small-scale fishermen like the Requester who do not use fishing boats do not trade at the TPI (TPI does not allow them to sell in small quantities, for example, less than 100 kg. Thus, small-scale fishermen cannot sell their catch at TPI, even if they have 50 kg of catch. In fact, there is no TPI in Kanci Kulon village.), but bring their catches directly home from the coast and consume them at home or sell them to their neighbors. Thus, it is inappropriate to conclude using the figures from the statistics. - With regard to (iii) and (iv), as mentioned in (ii) above, the testimony is one of the most important pieces of information because the catch of small-scale fishermen like the Requester who do not use fishing boats is something that is not kept in statistics. Testimonies should not be disregarded with the understanding that they "only expressed in terms of how they perceive it." Since the case should be judged by collecting as many testimonies as possible, the necessary information should have been collected by using outside experts to conduct interviews in the field for a longer period of time.
<p>(b) Worsening air pollution and damage to health (Para 2) symptoms of coughing etc. are held to vary significantly depending on environmental conditions and individual patterns of health behavior and health. Therefore, the reasonable probability that symptoms of cough etc. are occurring due to the completion of the Project is not considered likely.</p>	<ul style="list-style-type: none"> ● Inadequate information collection <ul style="list-style-type: none"> - Testimonials, not statistics alone, are one of the most important pieces of information because "to vary significantly depending on individual patterns of health behavior." Since the case should be judged by collecting as many testimonies as possible, the necessary information should have been collected by using outside experts to conduct interviews in the field for a longer period of time. Indeed, from the beginning we have requested that JBIC conduct an independent investigation for at least six months.
<p>(b) Worsening air pollution and damage to health (Para 2 and 3) the report from a third-party organization</p>	<ul style="list-style-type: none"> ● Insufficient information/explanation <ul style="list-style-type: none"> - The name of the third-party organization, the date the report was prepared, the figures and survey method described within the report, and detailed survey results should be provided as documentation. A "List of materials that served as Basis for Judgment of Examiners" is not sufficient.

	<p>- Regarding the air pollution and damage to health, we believe that JBIC should make independent institutions conduct tests, rather than relying on a third-party organization which could be close to the government or the project proponents.</p>
<p>(i) Procedures for Participation in Consultation The Requestors state that JBIC overlooked that the procedures for resident participation in consultation with the Project Proponent etc. were not conducted in an appropriate manner. On this point, it can be considered that JBIC confirmed that, in accordance with the Republic of Indonesia Minister of the Environment Regulation No. 17/2012 (hereinafter “Minister’s Regulation”), consultation meeting procedures such as listing notifications of holding the meetings in local newspapers at least ten days before the meeting date were appropriately carried out when holding public consultations with the Project Proponent etc.</p> <p>(ii) Regarding Disclosure of Information Moreover, regarding methods of information disclosure, according to the Minister’s Regulation, it requires disclosure through TV, on the internet, and/or bulletin boards when applying for environmental permits as well as disclosure online and/or in mass media such as newspapers when permits are issued. For the Project, we found that disclosure was made via newspapers etc. at the time of application and on the internet at the time of permit issuance. Therefore, we could not find that Grounds for Request A constitute a violation of the Environmental Guidelines.</p>	<ul style="list-style-type: none"> ● Insufficient verification <ul style="list-style-type: none"> - The Guidelines state, "sufficient consultations with stakeholders, such as local residents, must be conducted via disclosure of information from an early stage where alternative proposals for the project plans may be examined. The outcome of such consultations must be incorporated into the contents of the project plan." On the other hand, the Examiners did not confirm or verify the residents' claim that "despite the fact that the residents explained their concerns about the negative impacts on their livelihoods, the details of their concerns were never incorporated into the AMDAL or the project plan." ● Inappropriate analysis and conclusions <ul style="list-style-type: none"> - While referring to "disclosure through bulletin boards, etc.," during the online interview on July 6, 2022, the Examiners presented the Requestor with a photograph of the bulletin board notice and asked whether the Requestor had ever seen such a posting. The Requestor responded clearly that we had never seen such a notice. In this regard, the Examiners did not conduct a proper analysis of whether meaningful disclosure of information had been made, rather than merely whether the disclosure was made as a formality. - The fact that it is very rare for residents to purchase/subscribe to newspapers and that access to the Internet is limited to a few residents has not been taken into account at all. In this regard, our objection letter states that "Ministry of Forestry and Environment Regulation No. 17 of 2012 on Guideline for Public Participation in EIA and Environmental Permit stipulates the announcement methods not only through the internet but also through notice boards at the project site and/or activity that is accessible for the affected community."
<p>(b) Regarding Claim B (Para 4) (1) the legal effect of the Former Environmental Permits continued until the New Environmental Permits were issued and the validity relating to environmental permits was ongoing, (2) the West Java Provincial Government issued the New Environmental Permits on July 17, 2017, and (3) the initial court decision related to the legality of the New Environmental Permits (the Second Judgement) reasoning that the issuance of the New Environmental Permits annulled the Former Environmental Permits and at the same time was based on the First Judgement, we could not find that JBIC’s financing violates the laws and plans relating to the environment of the Republic of Indonesia.</p>	<ul style="list-style-type: none"> ● Insufficient verification <ul style="list-style-type: none"> - The Requestor has informed JBIC and the Examiners that there was no proper disclosure of information to the residents and even no consultation with the residents in the process of issuing the new environmental permit. However, the Examiners have not conducted any fact-finding or verification on this point. - In fact, the residents, including the Requestor, received information about the new permit from WALHI West Java, not from the provincial, district or village governments.
<p>(b) Regarding Claim B (Para 6) courts in the Republic of Indonesia do not always specify in advance the date that a decision will be handed down. Considering these two</p>	<ul style="list-style-type: none"> ● Inappropriate analysis and conclusions <ul style="list-style-type: none"> - Instead of using the general standard of " not always specify in advance the date that a decision will be handed down," the Examiners' decision should be based on what happened in the lawsuit

<p>facts, this statement by the Requestors does not influence the above conclusion.</p>	<p>pertaining to this case. In this case, the judgment date was made known to the parties involved in the lawsuit, and naturally the project proponent should have been aware of it. Since the loan agreement was concluded on April 18, 2017, JBIC should naturally have confirmed the provisions related to environmental and social considerations included in the contents of that agreement. If JBIC did not confirm the progress of the lawsuit, or if the project proponent did not inform JBIC of the judgment date, it can only be said that both parties disregarded the environmental and social considerations related to this project.</p>
<p>(c) Regarding Grounds for Request C (Para 3) it is clear that variations exist due to social and geographical conditions because environmental regulation standards are not set at as threshold values above which damage to health would occur as well as because there are no absolute standards globally common.</p>	<ul style="list-style-type: none"> ● Inappropriate analysis and conclusions - It is our understanding that the standards are set because exceeding the standards does not immediately cause health hazards, but may lead to health hazards in the long term. Whether in Japan or in Indonesia, the same human health is involved, and therefore, from the perspective of prevention, standards related to health should be handled in accordance with good practices.
<p>(c) Regarding Grounds for Request C (Para 3) viewed from the perspective of comity based on respect for the sovereignty of the Republic of Indonesia, it cannot be said that there is a problem with the above decision made by JBIC.</p>	<ul style="list-style-type: none"> ● Lack of respect for the objections, claims, and testimony of residents - Although the JBIC emphasizes the comity based on respect for the sovereignty of the Republic of Indonesia, is it not important to respect the rights of residents in the objection procedures of the JBIC Guidelines, which examines objections related to damage suffered by residents?
<p>(c) Regarding Grounds for Request C (Para 3) (Moreover, the Cirebon Project Unit 1, which precedes the Project, far from that, was highly praised by the competent authority the Ministry of Environment and Forestry for gradually reducing toxic substances through the deployment of even more advanced technology than previously.)</p>	<ul style="list-style-type: none"> ● Insufficient information/explanation - At least we have not received any explanation that more advanced technology is being utilized in Unit 1 than previously. The information and data obtained by the Examiners should be presented as documentation of what advanced technologies are being used and how emissions of hazardous substances are being reduced. A " List of materials that served as Basis for Judgment of Examiners " is not sufficient.
<p>(d) Regarding Claim E (Para 2) the Examiners acknowledged that JBIC, in its environmental reviews prior to the start of construction of the Project, had recognized the possibility that there was a discrepancy between the spatial plan - the ground of the Project - and the content of the Project but had deemed it not necessary to seek the opinions of concerned organizations and stakeholders based on that environmental permits had been obtained in accordance with the environmental laws and standards of the host nation and local governments concerned,</p>	<ul style="list-style-type: none"> ● Inappropriate analysis and conclusions - If JBIC was aware of the possibility of discrepancies between the spatial plan and the project details, it should seek objective opinions from third parties even further, rather than making decisions based solely on the opinions and actions of a government agency. - Most of the government's opinions have not been verified by facts on the ground, so in this case we believe it is still important for JBIC to seek opinions from independent experts in spatial plan in Indonesia.
<p>(d) Regarding Claim E (Para 3) it can be said that the issue of the Bandung Administrative Court judgement on April 19, 2017 (the First Judgement), that the Former Environmental Permits were illegal was remedied by the issuance of the New Environmental Permits based on that judgement (see the Second Judgement). In addition, as mentioned above, the Project Proponent and JBIC followed the intent clarified by a competent</p>	<ul style="list-style-type: none"> ● Inappropriate analysis and conclusions - Although it states that "JBIC took all reasonable measures," JBIC clearly did not take any reasonably possible steps to obtain information on the date of the judgment, which was the day before the date of the loan agreement for this project, during the decision-making process leading to the loan decision, including the environmental review. The date of judgment (April 19, 2017) was made known in advance to those involved in the lawsuit. If JBIC had sincerely intended to confirm compliance with the Guidelines, it could have sought opinions and

<p>national agency, and JBIC took all reasonable measures. Therefore, viewed from the perspective of comity based on respect for the sovereignty of the Republic of Indonesia, it cannot be said that there is a problem with the above decision made by JBIC.</p>	<p>information from stakeholders, including the project proponent and relevant agencies, residents, NGOs, etc. The fact that JBIC did not properly confirm the progress of the lawsuit can only be described as a disregard for the environmental and social considerations related to this project.</p> <ul style="list-style-type: none"> ●Lack of respect for the objections, claims, and testimony of residents - Although the JBIC emphasizes the comity based on respect for the sovereignty of the Republic of Indonesia, is it not important to respect the rights of residents in the objection procedures of the JBIC Guidelines, which examines objections related to damage suffered by residents?
<p>(e) Regarding Grounds for Request F (Para 2) the Project Proponent has installed fishing reefs and provided fishing nets to local fishermen. In addition, the Project Proponent was recognized for implementing a wide variety of CSR programs for residents, such as mangrove protection and conservation activities, microfinance, vocational training, life and accident insurance, and free health check-ups.</p>	<ul style="list-style-type: none"> ●Insufficient verification - Compliance with the Guidelines should be verified not in terms of the implementation of various CSR programs, but in terms of effectiveness, i.e., whether the project propoments have "improved their standard of living, income opportunities, and production levels, or at least restored them to pre-project levels." In addition, data and information should be presented to determine that such effectiveness of the program has been ensured.
<p>(e) Regarding Grounds for Request F (Para 2) according to interviews with local residents by JBIC and on-site inspections by the Examiners, CSR programs by the Project Proponent are recognized as contributing to and becoming important activities for local communities. Also, the programs were highly acclaimed in a CSR program assessment survey conducted by a third-party organization.</p>	<ul style="list-style-type: none"> ●Insufficient verification - Although " CSR programs by the Project Proponent are recognized as contributing to and becoming important activities for local communities," compliance with the Guidelines should be verified with respect to whether the program has "improved their standard of living, income opportunities, and production levels, or at least restored them to pre-project levels." The Requestor have informed JBIC and the Examiners that there has been no recovery or improvement in the fishing grounds and catches of small-scale fishermen. However, the Examiners have not conducted any verification in this regard. ●Insufficient information/explanation - The name of the third-party organization, the date the report was prepared, the figures and survey method described within the report, and detailed survey results should be provided as documentation. A "List of materials that served as Basis for Judgment of Examiners" is not sufficient.
<p>(e) Regarding Grounds for Request F (Para 3) although the Examiners confirmed that there are residents who have not received the CSR program benefits provided by the Project Proponent, the receipt of CSR program benefits is not the obligation of the target residents, so even if some of the subjects of the CSR programs, including the Requesters, did not receive benefits, the above conclusion will not be affected.</p>	<ul style="list-style-type: none"> ●Insufficient verification - Compliance with the Guidelines should be verified not in terms of whether or not the CSR program was received, but in terms of its effectiveness i.e., whether the project propoments have "improved their standard of living, income opportunities, and production levels, or at least restored them to pre-project levels."
<p>(f) Other (Para 2) Whether the statement that the Project Proponent provided bribes to government officials is true or false is uncertain, and any relevance of</p>	<ul style="list-style-type: none"> ●Insufficient information/explanation - With regard to the bribery, the Report states only that " true or false is uncertain ", but the Requestor informed the Examiners that the Corruption Eradication Commission, an independent

<p>this statement based on the Environmental Guidelines cannot be found.</p>	<p>agency of the Indonesian government, is investigating the bribery. The Examiners should have described such important information as well in the Report.</p> <ul style="list-style-type: none"> ● Insufficient understanding - The Requestor provided the information because the said bribery is allegedly related to the permit for the Project, which is also related to compliance with the Guidelines. It is simply a lack of the Examiners' understanding for the Examiners to state "any relevance of this statement based on the Environmental Guidelines cannot be found."
<p>(f) Other (Para 3) along with the progress of the construction of the Project, the fishermen who were operating near the Project site are moving to the mouth of the river on the east side of the Project site. Therefore, with regard to that fish catches near the mouth of the river are expected to decrease when the Project is completed, we could not find the occurrence or the likelihood of such actual damage.</p>	<ul style="list-style-type: none"> ● Insufficient understanding - Due to the reduced catch in the vicinity of PLTU 1 and PLTU 2 and the impact on access to fishing grounds, small-scale fishermen who do not have boats have to go to the coastal areas in Cirebon City (west side) and near the mouth of the river in Kalibangka, Pangarengan Village, Pangenang District (east side), either by spending money on transportation or by swimming for a long time. The Requestor emphatically informed the Examiners of such current situation. However, this point is not mentioned at all in the Report. On the other hand, the fact that the Report only addresses the possibility of reduced catches near Kalibangka, as shown on the left column, makes us question whether the Examiners fully and adequately understands the issues that the Requestor is claiming.
<p>(f) Other (Para 4) regarding the statement of the smell of chlorine due to inadequate wastewater treatment in the site of the Cirebon Project Unit 1, and polluting the sea, such as the discharge of wastewater into the seawater and the foaming of the seawater, we could not find such facts according to the statistical data on the state of seawater pollution and the on-site inspection by the Examiners.</p>	<ul style="list-style-type: none"> ● Insufficient information/explanation - It should have been explained what statistical data the Examiners reviewed and how the Examiners drawn conclusions about the smell of chlorine and the discharge of wastewater/the foaming of seawater. ● Inappropriate analysis and conclusions - Can the smell of chlorine and the discharge of wastewater into seawater/foaming of seawater be judged solely on the basis of statistical data? In addition, since the smell of chlorine and foaming of seawater do not occur constantly (24 hours a day), it is not possible to draw conclusions from the on-site inspection by the examiner, which is a short inspection.
<p>(3) Agreement between the parties on the encouragement of dialogues and record of dialogues held between the parties a. Date of dialogue promotion: April 13, 2016 b. Content of dialogue: Explanation of the content of the CSR programs, etc.</p>	<ul style="list-style-type: none"> ● Insufficient understanding - The meeting held in Bandung on April 13, 2016 was an AMDAL-related meeting and not a meeting between the parties. - Regarding the meeting with the project proponent, our objection letter states the following. It is questionable whether the Examiners have a firm understanding of the contents of our objection letter. <p>"As we already had experience no response from PT. CEP to our statement, we have tried to tell our concerns to Marubeni, one of the investors in PT. CEP and PT. CEPR, through an NGO, Wahana Lingkungan Hidup Indonesia (WALHI). WALHI had a meeting with Marubeni on May 18, 2016 in Tokyo and explained our concerns and problems which we have already experienced from the Unit 1 Project and will experience from the Unit 2 Project in the near future. But Marubeni showed the different view or recognition from ours on the facts we have raised about the Unit 1 and the</p>

Unit 2 projects.”

(Signed by the Requesters/Residents affected by Cirebon 2 coal-fired power plant)