

Comments	Response of NEXI
1 . Comments on overall contents including developing process of the draft	
<p>I appreciate your coordinating with JBIC's Procedures in developing your draft version of "Procedures for Submitting Objections ("the Procedures") on Guidelines of Environmental and Social Considerations in Trade Insurance ("the Guidelines")." But it is regrettable that the draft was disclosed only on the very day of the opinion exchange on Feb. 17. With such little exposure it is impossible for us to have a sufficient discussion or give adequate comments. Immediately after the day of opinion exchange, you entered into the next stage of public comments period. But we have not been informed of the next process on the Procedures. As the next process after the period to receive public comments, NEXI should take sufficient time to reply to the comments and to exchange opinions further with each stakeholder. And it is indispensable for NEXI to coordinate with JBIC's similar procedures.</p>	<p>NEXI had disclosed on its website the revised draft of the Procedures coordinated with JBIC as well as notice of the 2nd meeting, more than two weeks before the meeting.</p>
<p>On February 17, NEXI suddenly held a meeting to exchange opinions on the Procedures. We had been given only less than one week before the meeting and NEXI disclosed and distributed the draft for the first time at the meeting. We had not had any time to study the draft beforehand and as a result there were only three persons who gave comments at the meeting. NEXI should give at least ten-day period of notice as well as advance information before the meeting to exchange opinions upon receiving public comments. At the Feb. 17 meeting, adequate answers were not given to the questions. Such meeting is meaningless in terms of opinion exchange. At the meeting for opinion exchange held after receiving public comments, NEXI should give adequate and clear answers to each question and opinion, and should incorporate the results into the revised draft in order to get a consensus.</p>	
<p>ECAs' policy on environmental and social considerations has received an international attention and NEXI is no exception. However, NEXI's draft is written only in Japanese and its public comments period is three weeks, which is extremely short. Even though NEXI's customers are Japanese companies, requesters should be affected people living overseas. At least English information should be provided and hearing should be conducted in English.</p>	<p>We will prepare the English version of the Procedures and disclose on our website.</p>

<p>Guidelines on environmental and social considerations by ECAs in OECD countries are to be developed in accordance with OECD Common Approaches. But NEXI's new Guidelines are almost the same as JBIC, which is to be applied to ODA projects as well as international financial businesses. Therefore, if other ECAs develop their guidelines in accordance with the OECD Common Approaches, Japanese private sector might be placed at a disadvantage in the international competition. To avoid such situation, I would like NEXI to work toward the realization of "equal footing" with other ECAs in terms of the contents of the Guidelines and the Procedures.</p>	<p>NEXI has been actively explaining and informing on the Guidelines to other ECAs by utilizing meetings such as OECD and APEC. We would like to make the same effort with regard to the Procedures. NEXI recognizes the importance of considering the "equal footing" with foreign private companies in terms of the operation of the Procedures and its public disclosure in particular. And as is stipulated in Japan's Freedom of Information Act, the rights, competitiveness and other legitimate interests of Japanese companies should be concerned as reasons for non-disclosure. With this in mind our Examiner (tentative title) will conduct information disclosure on the Procedures with discretion so as not to include the non-disclosed matter in the corporate information.</p>
<p>It is our duty to consider environments but if our new standard is above the level of environmental consideration regulations conducted by other similar agencies in the competitors' countries, Japanese companies might have adverse impact on the international competitiveness/business opportunities. We have already submitted a letter of request to JBIC on the Procedures in order to avoid such impacts. We will appreciate your special considerations on the situation of Japanese private companies participating in the international plant business.</p>	
<p>2 . Comments on objection period (Article 5)</p>	
<p>Objections should be received after completing a series of examination procedures even before the conclusion of the insurance contract. On submitting the objections before the conclusion of the contract we also had an argument at JBIC's public consultation. Business community expressed their concern on competition with other countries, but in reality it is hard to imagine that the overseas competitors would conclude an insurance contract with other ECAs instead of NEXI for the project in which big argument occurred on environmental and social considerations until just before the contract and objections were submitted. On the projects with risks big enough to split opinions on compliance /non-compliance of the Guidelines until the very last, submission of objections should be considered even before the insurance contract.</p>	<p>At the time before the conclusion of the insurance contract, business order has not been accepted yet. If the objection were submitted at such a point, fair competition might be prevented by abuse of the Procedures. To avoid such risk and thus prevent disadvantage in the competition with other countries, NEXI has decided to receive objections after the conclusion of the insurance contract. To ensure the adequate environmental consideration, NEXI has revised the draft in terms of outside comments before the conclusion of insurance contract, in which the Examiner may request the sections in charge of underwriting to respond to the comments and report it to the Chairman. And as an exceptional case, even before the conclusion of insurance contract, NEXI's serious non-compliance with the Guidelines is pointed out by external party and if the Chairman deems it necessary based on the report by the section in charge of underwriting and taking into account the the size of the environment and social impact the project should have, probability of the impact, and the benefit of the project, we believe it</p>

According to the draft of the Procedures, objection period is to begin after the conclusion of the insurance contract but the objections should be received a little before the conclusion. NEXI should start receiving objections just before the conclusion of the insurance and should see if any significant problem occurs during a certain period of time. Insurance contract should be concluded after confirming it hasn't occurred. In this way the adequate environmental considerations will be ensured. But if you receive objections only after the conclusion of the insurance contract, I believe there is no meaning of establishing the Procedures. It is actually impossible to change the insurance contract after the conclusion and thus it will be extremely hard to address adequately for the environmental considerations. NEXI's concern is that if objection is allowed before the conclusion of the insurance contract, there may be a lot of cases in which objection is submitted in order to prevent the conclusion of the insurance contract. But taking world bank cases for example, such cases have not been reported. It is quite realistic to receive objection before the conclusion of the insurance contract. And it is obvious that the action for environment consideration is more effective if it is done before the conclusion of the insurance contract.

The draft of the Procedures stipulates that submission of the objection is allowed after concluding the relevant insurance contract. It was the major issue in JBIC's case as well. Even before the conclusion of the insurance contract, the objection should be received in some critical cases (such as a case where dispute has not been settled until the conclusion of the insurance contract.) If JBIC revises its draft of the Procedures in the process of development, NEXI should at least follow suit.

According to the draft of the Procedures, objection period is "between the conclusion of the insurance contract and the completion of the supply of funds." And in case where concerns on environment are submitted from outside at the time that is not included in the defined period, NEXI's underwriting sections will take an appropriate action (if it is before the conclusion of the insurance contract) or objection pointing out NEXI's non-compliance with the monitoring provision will be submitted (if it is after the completion of the supply of funds). If the objection is submitted during the stipulated period, excessive adverse impact on private sector's export business or overseas investment will be avoided. But if the objection is received before the conclusion of the insurance contract, private sector's competitiveness might be severely damaged.

<p>Submission of the objection should be allowed not only during the period of monitoring but also until the completion of the supply of funds. NEXI's draft stipulates that "...for a project in the monitoring period in accordance with the Guidelines, objections pointing out NEXI's non-compliance with the monitoring provision of the Guidelines may be submitted." Submissions of the objections concerning the overall Guidelines should be allowed until the completion of the supply of funds.</p>	<p>NEXI's authority on Project Sponsors would decrease after the completions of the supply of funds and thus we only receive objections pointing out NEXI's non-compliance with the monitoring provision.</p>
<p>3. Comments on contents of the Request (Article 6.1)</p>	
<p>"A request" requires detail of consultation with NEXI's underwriting section (Article 6.1.9). But NEXI does not have overseas offices and thus the "Requester" can contact with the NEXI only by letter, fax or e-mail. In reality "consultation" is impossible. This clause should be changed as "communication by letter, e-mail, etc."</p>	<p>We will not exclude communication by letter or e-mail as a means of "consultation".</p>
<p>4 . Comments on translation fee for an official language (Article 6.7)</p>	
<p>According to the draft of the Procedures, a "request" written by a local official language should be translated in English or Japanese at the requester's expense. It actually means that a request is accepted only if written in English or Japanese. Not a few people in developing countries have a life of self-sufficiency with less than 1\$/day. NEXI should not make such people pay translation expenses of several dollars per page. NEXI's effort to provide opportunity to submit objections is appreciated. But if you force local residents to pay such huge money that is not so at all for NEXI, global community would not accept NEXI's attitude. Objections in a local official language should be accepted, as is the case with JBIC.</p>	<p>We have revised the draft of the Procedures so as not to ask the requester to translate from a local official language in the project country to Japanese or English.</p>
<p>According to the draft, if the request is written in a local official language of the project country, NEXI will ask for translation to the requester or ask to pay the translation fee to the requester. It virtually exclude people who would submit objections in their official languages. NEXI explained at the information exchange in February 17 that NEXI would not reject the request in a local official language by asking for translation fee. But it is impossible in reality for the requester to pay for the translation which costs several dollars per page. To charge such fee to the requester virtually means to exclude submission in a local official language. It is totally unacceptable.</p>	

5 . Comments on the receipt of the Request (Article 7.1,2)	
NEXI should ask the requester to submit the written request by mail, fax, e-mail or by hand. NEXI's overseas offices should receive the request as well. But a sealed envelope should be opened by the Examiner.	We will revise the draft of the Procedures so that NEXI's overseas offices will receive the request as well. Also, we ensure that the Examiner or staff member(s) in charge will open the envelope if clearly requested.
The acknowledgement of the receipt of the Request is to be notified "as long as it includes a name of the Requester and address". If translation is required, the notification of acknowledgement may be delayed. With regard to such cases, NEXI should stipulate on the maximal period of delay in the draft of the Procedures and must notify to each requester on how long they should wait.	There will be so many local official languages used for the request. We would like you to understand it is difficult to estimate how long it will take. When we figure it out, the Examiner will notify to the requester immediately.
The draft stipulates that if requested, the requester's personal information will not be disclosed to the insured or the project sponsor. Such information should not be disclosed to NEXI staff members except the Examiner. In the case of IBRD's independent inspection panel, anonymity is guaranteed even against its management staff.	NEXI's staff members have obligation to protect official secret. There is no concern that they would give the requester's personal information to the project sponsor.
6 . Comments on Preliminary Examinations (Article 7.3,4,5)	
When/after affected people or people who might be affected submit objections, the Examiner should give adequate advice to them if necessary, such as submission requirements, description of the objection and submission process.	As is written in Article 7.3 (request of correction), if there are any deficiencies in the Request, the Examiner may ask the Requester to correct them. In such a case the Requester will be given adequate advice by the Examiner. Also as written in Article 16.6 (disclosure of information), the Examiner himself as well as NEXI's PR Group will make an effort so that the Examiner's presence and activities will be widely known.
In order that general public can give the Examiner information/opinions on objections, NEXI should provide dedicated e-mail address and make it widely known.	As stipulated in Article 16.6 (disclosure of information), the Examiner will disclose his/her contact address on NEXI's website and will make an effort in cooperation with its PR Group by such a means as brochures so that the Examiner's presence and activities will be widely known.
The Examiner should carry out on-site survey even in the process of the Preliminary Examination if necessary. IBRD's independent inspection panel implements on-site survey in its preliminary examination process in many cases and according to an IBRD report, it has actually helped a lot to make an adequate decision.	We would like you to understand that Preliminary Examination is actually the documentary examination to obtain the minimal information before we decide whether we start Formal Investigation which includes on-site survey. We do not mean, however, to exclude every possibility to visit the site in the process of Preliminary Examination.

<p>When the objection is found valid in the Preliminary Examination process and the Formal Investigation is carried out, the relevant insurance contract should be suspended (if before the contract conclusion) or insurance cover should not be carried out (if after the contract conclusion) until the formal investigation is finished and the Examiner's recommendation is released.</p>	<p>If the objection is submitted before the conclusion of the relevant insurance contract, NEXI will consider appropriate actions for the environmental and social considerations according to each project's situation as well as the objection into consideration. We do not think we should apply uniform measure such as reservation of insurance contract.</p> <p>And in the case of objection after the conclusion of the insurance contract, it is not reasonable to give the insured such penalty as termination of the contract just because of NEXI's non-compliance of the Guideline. Actions such as termination of the insurance contract is carried out in accordance with the insurance policy.</p>
<p>7 . Comments on notice of the fact of rejection and its reason (Article 8.2, 8)</p>	
<p>If the objection is rejected, the Examiner should give its reason to the Requester in writing. And if the Requester has comments on the result, he/she should send comments to the Examiner in writing. The reason of rejection should be disclosed in public together with the Requester's comments.</p>	<p>Please see Article 8.2 on notice of the rejection and its reason and Article 8.8 on receipt of the Requester's opinion. Regarding the disclosure of the Requester's opinion by NEXI, NEXI thinks it is inappropriate since it is not written by NEXI. Disclosure will be carried out in accordance with Article 16, in consideration of undisclosed matter.</p>
<p>8 . Comments on the Preliminary Examination expense when material false is found (Article 8.9)</p>	
<p><u>Asking the Requester for the expense of the Preliminary Examination</u> The Procedures stipulate that in the process of trade insurance, if the objection is rejected because of the material false in the writing of the Request, the Examiner may ask the Requester for the expense of the Preliminary Examination. It is quite natural for people trying to submit objections in order to prevent environmental and social damages to regard such attitude of NEXI as a threat. Of course false objections should be rejected at the stage of the Preliminary Examination. But it is not acceptable for people in the developing countries to be forced to pay the examination expenses depending on the writing in the objections. This stipulation was quite controversial at JBIC's public consultation. JBIC eliminated the relevant clause. This stipulation is not acceptable at all.</p>	<p>NEXI has revised the draft of the Procedures so as not to ask for Preliminary Examination expenses to the Requester. With regard to prevention of abuse, we will pay attention so that the public benefit of the project country that the relevant project is to bring in will not be unfairly damaged. We also added Article 7.5, stipulating as follows: "The Examiner shall, considering the public benefit of the host country, from the viewpoint of avoiding undue influence on the implementation of the project and preventing abuse, check the objection to confirm that the objection was submitted in good faith and adequately in conformity with the purpose of the procedures."</p>

<p>The draft of the Procedures says that in case where material false is found in the Request, the Examiner may ask the Requester to pay the expense for the Preliminary Examinations. JBIC faced barrage of criticism at its public consultation in terms of the objection procedures and was forced to eliminate. Even if this stipulation did exist, there would be no effectiveness and it is just a threat. If the Requester knew that he/she would be asked for so much money that he/she cannot pay even by spending the whole life, he/she would never try to provide any uncertain information. Such situation would result in rejecting the essential meaning of the procedures. When you say "material false," it is quite subjective. This clause should be eliminated. If you insist it be necessary to prevent abuse by the competitors, you should stipulate the clause so as to prevent abuse by the competitors and should not stipulate the clause so as to discourage the legitimate objections of the affected people.</p>	
<p>9 . Comments on Formal Investigations (Article 9)</p>	
<p>I have an impression that the Examiner's authority is violated by this clause. I believe that you should continue the environmental and social considerations even after the conclusion of an insurance contract. The wording of "implemented before the conclusion" indicates NEXI's narrow point of view toward environmental and social considerations. This wording should be amended.</p>	<p>NEXI's environmental and social considerations are to be checked at the stage of screening, environmental review before the conclusion of an insurance contract and monitoring after the conclusion of an insurance contract. Article 9.2.2 indicates that NEXI will confirm the fact concerning environmental and social considerations before and after the conclusion of the insurance contract. NEXI has amended the draft of the Procedures to clarify the above intention.</p>
<p>The draft of the Procedures says, "To inspect all the materials used by NEXI". I think "all the materials" include documents made by NEXI itself during the period of review and monitoring. I would like to know if "the materials used by NEXI" include materials made by NEXI.</p>	<p>"The materials used by NEXI" will include materials made by NEXI.</p>
<p>According to Article 9.3, "the Examiner can ask the insured and the project sponsor to payin case where the material defects are confirmed...." What is the legal basis for NEXI to ask for such payment? Do you intent to include this clause in the environmental special clause on the insurance contract? With regard to the project sponsors, which legal basis do you have in mind to make them pay such expenses? This is the matter between NEXI and the project sponsors and I would like NEXI to negotiate and make contracts directly with them.</p>	<p>We eliminated Article 9.3 so that the examination cost would not be charged to the insured or project sponsors.</p>
<p>It is prerequisite to deal with the objection from the neutral standpoint. But on charging the insured and the project sponsor for the preliminary and formal investigations, I would like to ask NEXI to act carefully, based on the truth.</p>	
<p>We know NEXI's "principle of break-even". But I think cost for maintaining the "system" of the environmental and social considerations is equal to the cost for developing the export credit system. The idea that only the stakeholders in the relevant projects are responsible for the cost is not acceptable and it should be avoided.</p>	

<p>I request to eliminate the regulation of Article 9.3. This Procedures has been made in order for NEXI to comply the Guidelines.</p>	
<p>It may be necessary to ask for help to the Japanese government so that you can request the relevant foreign governments to submit documents which they have or ask for cooperation when the Examiner visits the site.</p>	<p>The Examiner, also as NEXI staff member, is entitled to request NEXI's sections in charge to arrange for hearing and submit documents regarding the third party including the Requester, the insured and the project sponsor. In case where cooperation of the Japanese government is considered effective, we may ask for cooperation.</p>
<p>I think the Examiner should conduct interviews with the relevant NGOs when carrying out examination/investigation. What does NEXI think about it?</p>	<p>As stipulated in Article9.2.4, the Examiner will interview residents, the insured, the project sponsor, specialists, the government of the project country and other persons concerned. In case where NGOs are regarded as specialists or other persons concerned, the Examiner could carry out interviews with them.</p>
<p>10 . Comments on Encouragement of Dialogues (Article 10, 11)</p>	
<p>Can the Examiner play a more positive role in which he/she not only mediates a dialogue but also proposes solution to the dispute? We would like to see more positive attitude of the Examiner in solving the problems by utilizing the Procedures.</p>	<p>Please understand that NEXI's involvement in the dispute solution is limited since we are not the party concerned of the project.</p>
<p>This "Procedures" is for checking NEXI's compliance/non-compliance in terms of the Guidelines. Thus NEXI should carry out its own procedures regardless the project is under dispute in the other dispute resolution proceedings.</p>	<p>If the project's disputing point that is the subject of objection in the Procedures is identical with other ongoing disputing point of the proceeding of the project country, the Procedures may affect its proceeding. In this case, the Examiner may suspend the decision of commencing the procedures or reject the objections. When carrying out the Procedures, we respect sovereignty of the project country and its effort to solve the project-related problems and we consider so as not to intervene the host country unreasonably.</p>

1 1 . Comments on Period of Report to the Chairman (Article 1 2.1.4)	
<p>According to the draft of the Procedures, the Examiner shall formulate a report on the result of the investigation regarding the compliance of the Guidelines within three months after the receipt of the objection. But to complete the report within three months, including the Preliminary Examination, means rough and quick examination. The draft of the Procedures also regulates that, in case where "there is a fair amount of unavoidable circumstance to extend the period," extension of the period up to two months is possible. But I think it is an exceptional case. If you fix the procedure period as three months and need certain procedures in order to extend the period, it may cause inefficiency in the examination. Fixed procedure period of three months is not adequate in terms of taking enough time and to carry out examination which is fair, efficient, independent and highly technical. As seen in the NGO proposal, it may take at least six to seven months to complete the whole procedures if based on the experience of the international institutions.</p>	<p>As pointed out, "promptness and efficiency" is emphasized in this Procedures and it is the reason we have set the Examiner's activity period as three months. And to clear up the concerns expressed in the opinion, we can extend the period up to two months if absolutely necessary. NEXI thinks three months plus another two months is long enough to fulfill the Examiner's activity efficiently as well as fairly.</p>
<p>It is important to deal with the objections quickly but in some cases it may also be important to take enough time especially in the Formal Investigation in order to decide appropriately on compliance/non-compliance of the Guidelines. It should be extremely difficult to finish all the activities within three months after the receipt of the objection and I think at least six months is necessary. Please reconsider on this point.</p>	
1 2 . Comments on Follow-up (Article 1 5)	
<p>The draft does not stipulate the Examiner's monitoring. The Examiner should monitor regularly on the status of implementation of the instructions given by the Chairman. The Examiner must report on the result of the monitoring and its report should be disclosed. The Examiner should also collect information on the status of the implementations from the Requester . The Requester's accord is required in case of completing the monitoring.</p>	<p>Such monitoring as pointed out is stipulated in Article 15 and 16. The Requester will be asked for providing information if necessary, with regard to the implementation and completion of the Chairman's instruction by the sections in charge of underwriting.</p>
<p>The Requester as well as the Chairman should be informed of the status of implementation of the instructions given by the Chairman.</p>	<p>It is stipulated in Article 16.5, on the disclosure of the annual report of activities made by the Examiner.</p>
1 3 . Comments on Information Disclosure (Article 1 6)	
<p>The Examiner should be responsible for the information disclosure.</p>	<p>As stipulated in Article 19.4, disclosure should be carried out as the duty of the Examiner.</p>

<p>A list of people who participated in the interviews should be turned in and disclosed together with the report.(Only individual status will be disclosed if required so.)</p>	<p>As indicated in the outline, hearing record will be attached to the relevant report. Undisclosed matter by information disclosure law such as names and other private information will not be included and thus names of people will not be on the hearing record.</p>
<p><u>Details of disclosed documents and timing of disclosure</u> The following documents should be disclosed at an appropriate time. Acknowledgement of the Request (number of acknowledgement only) Detail of the Request (after the Preliminary Examination) Result of the Preliminary Examination(immediately) Reason of rejection of the Request (immediately) Counterargument of the Requester against the rejection(immediately) Report :including a list of people having interview(immediately after completion) The Requester's opinion on the report (immediately after the hearing) Opinion report of the underwriting sections on the future compliance of the Guidelie (immediately after submission) The Chairman's instruction(immediately) Monitoring report of the Examiner(immediately after completion) Completion of the Examiner's obligation(immediately after completion) Annual report of activities(immediately after completion) Other opinions submitted by the Examiner(immediately)</p>	<p>Some have already been stipulated in the draft. We will revise the draft further considering your opinions. According to Article 16.1, the Examiner's report and opinions of the underwriting sections will be disclosed immediately. However, it is not adequate for NEXI to disclose "Counterargument of the Requester against the Rejection" and "the Requester's opinion on the report" since they are not made by NEXI. And regarding "other opinions submitted by the Examiner," it is difficult to disclose all of them since it might prevent sound opinion exchange within NEXI. Monitoring report is to be included in the annual report of activities, which we have answered at 12.</p>
<p>14 . Comments on the Examiner (Article 17 , 18、 19、 20、 21 and 22)</p>	
<p>I suggest the title of "Environment Examiner" be "Objections Examiner" so as to avoid the confusion with NEXI's Environment Group.</p>	<p>We will consider the title of "Examiner of Environmental Guidelines."</p>
<p>Title "Objection Examiner" will be more favorable since we may associate the present title with the section in charge of credit analysis.</p>	
<p>According to the draft of the Procedures, only one person is to be appointed as the Examiner. But I'm afraid only one person may not be enough to judge fairly and correctly. He also is to mediate dialogues along with examining on the compliance of the Guidelines and it means more businesses to do in the future. "Examiner" should be three, not only one. "Chief Examiner" should be elected by mutual vote and at least one out of three should work full-time.</p>	<p>We have revised the draft of the Procedures so that we can appoint one or two persons "Examiner." Although the present number of the Examiner is one, we believe we can keep neutrality.</p>
<p>In the draft of the Procedures, NEXI seems to be considering only one Examiner. As a full-time Examiner only one person may be enough, but you need at least one more part-time Examiner in case of contingency.</p>	

<p>I ask for the organization which deals with the objections neutrally, efficiently and promptly. I think minimal staff is enough since keeping a large organization may result in the increase of the burden of the insured such as premium hikes. From this point, it should be adequate to appoint one "Examiner" to work under the direct control of the Chairman and independent of the underwriting section.</p>	
<p>The Examiner should be entitled to ask directly the companies concerned to submit documents necessary for examination.</p>	<p>Article 18.3 stipulates that the Examiner has the power to ask NEXI's relevant departments to make arrangements to request third parties to hold hearing and submit documents. We believe NEXI's arrangement will help the Examiner make the first contact with people for hearing. After the first contact, the Examiner will be able to contact directly with the relevant people and in this sense we believe the Examiner has the rights that you have pointed out.</p>
<p>In the wrap-up comments of JBIC's 6th public consultation, Mr. Yajima, chairperson, said, "It seemed that there is a broad convergence of discussions toward the view that under extreme circumstances where a serious problem could arise, the Examiner may actually make a recommendation for suspending the loan." NEXI should stipulate in the draft that the Examiner may provide his opinions to the Chairman on the suspension/cancellation of insurance cover if more damage is expected through the progress of the relevant project during its assessment period. And if such opinions are submitted, those opinions should be disclosed in view of accountability. On the specific powers of the Examiner including the above, consensus should be obtained from the insured.</p>	<p>Article 12.2 stipulates that if the Examiner determines that the Guidelines have not been complied with, he may recommend to the Chairman possible measures to cure such non-compliance. And its detail is included in the Examiner's report.</p>
<p>According to the draft of the Procedures, the Examiner can state his opinion in the annual report of activities regarding the measures to secure compliance of the Guidelines which became clear through submission of the objections. The Examiner should have the right to report directly to the Chairman concerning the system development for better environmental and social consideration.</p>	<p>The Examiner is under the direct control of the Chairman. The Examiner is to report directly to the Chairman and it is natural for him to report directly to the Chairman on his duties if necessary.</p>
<p>The appointment of the Examiner is a very important process since he/she must gain confidence of each stakeholder and must be competent enough to carry out the objection procedure adequately. Appointment procedure of the Examiner should be carried out by persons who are independent of NEXI, through the selection committee consisted of several stakeholders such as academic experts, related government agencies, industrial sector and NGOs. Its procedure should be disclosed.</p>	<p>To secure neutrality in the selection process, NEXI has revised the draft of the Procedures so that we set the selection committee with no concern in the businesses of NEXI and/or no concern with persons to be the parties concerned, and the Examiner is appointed by the name of the Chairman from among candidates recommended by the selection committee. It is difficult to disclose the selection process to the public, however, since personal information such as ability and qualification of each candidate is included in it.</p>
<p>The draft the Procedures does not stipulate specifically how to select the Examiner. But this procedure should be carried out by the persons as third party so as to secure transparency. As JBIC has proposed, you should accept candidates from the public and select an appropriate person through the selection committee of several stakeholders.</p>	

<p>The draft of the Procedures says that the Chairman should appoint the Examiner who is a person with no concern in the business of NEXI. The Examiner should also be the person who can consider the Guidelines and the Procedures from the neutral and fair standpoint. I do not insist on selection from the general public as long as those requirements are met.</p>	
<p>The Examiner should have excellent skills of communication with people with a different point of view apart from qualifications such as fairness and research skill.</p>	<p>Those qualifications will be considered when selecting the Examiner.</p>
<p>In view of obtaining experience, the Examiner's term of duty should be three years rather than two years, especially for the first term.</p>	<p>The Examiner might be re-elected and we believe that two years is enough to obtain experience.</p>
<p>It does not matter whether or not staff members belong to NEXI but they should have enough knowledge and experience on environmental and social consideration and problem solution. Staff candidates should be accepted from the general public, selected and recommended by the Examiner and appointed by the Chairman. The number of the staff members may depend on the number of objections, but I think at least two to three members are necessary to do their jobs including publicity activities. The Secretariat should avoid frequent access from NEXI and should not be involved in the Examiner's decision making process.</p>	<p>The Secretariat's duty is to support the Examiner and its staff should have a good knowledge on NEXI. Therefore, we believe the staff members should be appointed from among the NEXI staff. Its number will be one or more than one, and we will consider the adequate number based on several aspects such as number of objections. The primary role of the Secretariat is to support the Examiner and we believe the Secretariat will not be involved in the Examiner's decision making. In addition, undue access from NEXI's underwriting sections to the Secretariat should be avoided.</p>

The purpose of the Procedures is to prevent environmental and social damages incurred by the project with NEXI's insurance cover due to failure to comply with the Guidelines. The Examiner is required to act from "fair standpoint," rather than "neutral standpoint".

The purpose of the Procedures is to examine NEXI's compliance or non-compliance of the Guidelines as well as to encourage dialogues between the parties concerned. Therefore, the Examiner should not belong to any specific parties and is required to be neutral. We also recognize the importance of fairness. For example, we accept the Request written in the official language of the project country and we may not disclose the Requester's information to the project sponsors if requested.

15 . Comments on Review (Article 23)

The Procedures should be reviewed at least once a year through consultations with the parties concerned on the purpose of the review of business activities . For the revision of the Procedures, it is necessary to hear the opinions of NEXI's underwriting sections, former Requesters and relevant NGOs.

As stipulated in Article 23, the Procedures will be reviewed concurrently with the review of the Guidelines in principle. And it will be conducted in consideration of the accumulated opinions and evaluations given and made by the Parties Concerned, other related persons and the Examiner.

I propose to hold the "joint meeting on compliance," which consists of a wide range of stakeholders such as academic experts, government ministries/agencies, industrial sector and NGOs. The purpose of the meeting is to discuss the policy issues in order to keep NEXI's adequate environmental and social considerations, which would be revealed through the objections. The outcome of the discussion will be incorporated into the specific policy in the future.

The establishment of the meeting has been suggested also in the NGO proposal against JBIC's procedures which was announced in August 2002. The meeting should be held once a year with the participation of the Examiner and all the relevant staff members. The Examiner compiles his report to the Chairman based on the opinions in the meeting and the Chairman should develop policies based on the Examiner's report. The meeting with such nature will play an important role in not only developing the Examiner's annual report but also securing transparency and accountability of the Procedures. Moreover, it will provide a good opportunity for reviewing both the Guidelines and the Procedures.

As stipulated in Article 23, the review of the Procedures will be conducted in consideration of the accumulated opinions and evaluations given and made by the Parties Concerned, other related persons and the Examiner.