

## Briefing Paper

### **Untransparent decision-making process and inadequate environmental auditing in the Energy Transition Mechanism of Asian Development Bank**

#### **It goes against an appropriate early retirement of Cirebon coal power plant Unit 1 in Indonesia**



Photo: Fishing port where fishing boats of Waruduwur village are anchored and the Cirebon-1 coal-fired power plant which has been in operation since 2012 (FoE Japan, April 2024)

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**Fair Finance Guide Japan**

## Executive Summary

More than 21 months have passed since a memorandum of understanding (MOU) was signed in November 2022 between Asian Development Bank (ADB), Indonesia Investment Authority (INA), Indonesian State Electricity Corporation (PLN), and Cirebon Electric Power (CEP) regarding the utilization of ADB's Energy Transition Mechanism (ETM) for the early retirement of the Cirebon Coal-Fired Power Plant Unit 1 (Cirebon-1: 660 MW). During this period, the specific framework for the early retirement of the Cirebon-1 using the ETM has been discussed in closed conditions among the four parties who signed the MOU. Opportunities for civil society, including local residents who have expressed concern about the project, to be informed and meaningfully participate in the decision-making process remain extremely limited. Will the early retirement of coal-fired power plants using the ETM be appropriately carried out in the future? This paper clarifies issues by examining the process and public information on the utilization of ETM for Cirebon-1.

### 1. Problems with the framework and decision-making process related to the utilization of ETM for Cirebon-1

"Preliminary Just Transition Assessment" (PJTA) related to the Cirebon Energy Transition Mechanism Pilot Project (ADB Project Number 56294-001) published by ADB on its website at the end of February 2024 made more detailed information about the framework public. The PJTA presented an "Energy Transition Mechanism Activity Timeline" (2024–2035), which predetermined shortening the originally planned Power Purchase Agreement (PPA) duration from August 2042 to **December 2035, shortening it by 6 years and 8 months.**

The timeline also indicates that the Indonesian government is supposed to analyze **the option of repurposing** the Cirebon-1 between 2029 and 2031. Civil society has pointed out that this "repurposing" option could involve the use of co-firing technologies with biomass, ammonia, or hydrogen which are criticized as "false climate solutions" due to their lack of meaningful greenhouse gas (GHG) reduction, as well as the economic and technical uncertainties they entail. However, the PJTA's timeline defers the decision-making on these discussions and analyses, effectively postponing any conclusions on this matter.

Furthermore, according to the PJTA, the ADB is supposed to provide lower-cost ETM funding (a combination of commercial loan, concessional finance, and grant) that will enable the PPA period for Cirebon-1 to be shortened. This funding is supposed to be used for (i) refinancing of the existing debt and (ii) **a one-off special dividend distribution to the Sponsors** to cover foregone dividend cash flow due to PPA tenor shortening and ETM transaction costs. This means that the ETM funds will be used so that the future profits of CEP and its sponsors, Marubeni, Korea Midland Power, Samtan, and Indika Energy, will not get lost.

It is not an exaggeration to say that one of the biggest issues with the overall framework and decision-making process is that **the basic framework and timeline** for using the ETM for Cirebon-1 were **already provided** at the time information was released by the ADB. This is because there was **no opportunity for any meaningful participation** of residents and civil society in the decision-making process of shortening 6 years and 8 months, leaving open the possibility of repurposing the power plant with the false solutions for climate change measures later, and bailing out the big companies. In response to this situation, some local community

organizations and non-government organizations (NGOs) have begun to take an attitude to reject the currently ongoing mechanism and process. If there is no improvement in **transparency, information disclosure, and the participation opportunities for residents and civil society** in the ETM process, it is seriously questionable whether the early retirement of Cirebon-1 will be carried out appropriately from the perspectives of the climate crisis, environment, society, and human rights.

## **2. Problems with ADB's environmental audit regarding the use of ETM for Cirebon-1**

In the "Environmental and Social Compliance Audit Report - Draft Report" (Environmental Audit Report) published by ADB at the end of February 2024 on its website, concerning the Cirebon Energy Transition Mechanism Pilot Project (ADB Project Number 56294-001), an assessment was conducted on the compliance status of the existing Cirebon-1 with the 10 Principles of the Equator Principles (EP) and the Performance Standards (PSs) 1-8 of the International Finance Corporation (IFC). The report provides commentary and findings for each requirement. Additionally, for 36 items that were assessed as insufficient in compliance with the IFC PSs, corrective actions were proposed.

In this environmental audit, both the document review and site visits conducted to assess the impacts of Cirebon-1 were heavily **reliant on information provided by the project operators and government agencies**. It can be noted that there has been **limited information from local residents**, who have been affected by the environment and social impacts of Cirebon-1, and civil society. This particularly suggests that various **impacts on livelihoods, and lack of appropriate compensation as well as livelihood restoration measures may not have been accurately and adequately recognized**. In fact, during this environmental audit, compliance with environmental and social requirements related to impacts on livelihoods, and lack of appropriate compensation as well as livelihood restoration measures were not properly determined or corrective actions were not adequately developed.

### **1) Insufficient information gathering and lack of meaningful early participation opportunities for residents and civil society in the environmental audit**

Of the 741 documents used in the document review for the environmental audit, only 6 documents appear to have been written by residents affected by Cirebon-1 or by NGOs which provide support to them. Additionally, during the site visits conducted for the environmental audit, three focus group discussions (FGDs) were held with residents, as well as meetings with local NGO and community groups. However, if the selection or invitation of participants was conducted through the project operator or village heads, there is a possibility that the information related to the project's environmental and social impacts, compensation, and livelihood restoration measures would reflect the perspectives of the project company or government agencies rather than critical viewpoints. Furthermore, since all these meetings were held at CEP's Vocational Training Center or within corporate social responsibility (CSR) complex, it is necessary to examine whether the environment and conditions were adequate to allow participants to speak freely without feeling undue pressure.

### **2) Inadequate environmental audit regarding impacts on livelihoods and compensation/ livelihood restoration measures**

In this environmental audit, despite the reality of insufficient compliance with the requirements of the EP and IFC's PS, there are items where appropriate analysis is lacking. There are 20 items where **compliance analysis was insufficient or inadequate** with regards to PS 1 "Assessment and Management of Environmental and Social Risks and Impacts," PS 4 "Community Health, Safety, and Security," PS 5 "Land Acquisition and Involuntary Resettlement," and PS 6 "Biodiversity Conservation and Sustainable Management of Living Natural Resources" concerning the impacts on livelihoods and compensation/ livelihood restoration measures. Among them, 16 items **failed to develop any corrective action**, despite the reality of insufficient compliance, due to the lack of appropriate analysis of the compliance status. One of the factors contributing to this insufficient analysis of compliance status and the lack of necessary corrective actions is considered to be insufficient information gathering and the lack of perspectives from residents and civil society, as described in the above.

### **3. Recommendations to the ADB**

It is essential to scrap the predetermined framework and timeline concerning the use of ETM for Cirebon-1, which were agreed upon solely by the four parties. Following this, discussions must ensure meaningful participation from a broad range of stakeholders, including residents, who have been affected by the construction and operation of Cirebon-1, and civil society. Additionally, the environmental audit should be conducted again with a Bahasa Indonesian version developed and made public, ensuring early and meaningful participation of the affected residents and civil society. Otherwise, the past and ongoing social and environmental impacts that the local community has suffered for nearly 17 years since the construction of Cirebon-1 began in 2007 will remain unaddressed, even within the "energy transition" process.

## Background

It has been 1 year and 9 months since the Asian Development Bank (ADB), Indonesia Investment Authority (INA), Indonesian State Electricity Corporation (Perusahaan Listrik Negara or PLN), and Cirebon Electric Power (CEP) signed a memorandum of understanding (MOU) regarding the early retirement of the 660-MW Cirebon coal-fired power plant Unit 1 (Cirebon-1) under the ADB's Energy Transition Mechanism (ETM) on November 14, 2022<sup>1</sup>.

In the briefing paper regarding the use of ETM for Cirebon-1 published by the Fair Finance Guide, "Problems with first use of ADB Energy Transition Mechanism" (December 2022)<sup>2</sup>, it was recommended that "active discussions should take place under an open and transparent process" as an essential element for achieving an effective early retirement and a just transition in relation to Cirebon-1. However, over the period of 1 year and 9 months since the signing of the MOU, the four signees have discussed the concrete framework of the early retirement of the power plant under the ETM in closed settings in absence of other stakeholders, and thus, civil society, including local residents concerned about the problems of this project, has had only an extremely limited opportunity to learn about the project and participate in the decision making process in a meaningful manner.

So far, the four signees of the MOU have disclosed information about the concrete framework of the ETM regarding Cirebon-1 only on two occasions. Specifically, the first time was when "Framework Agreement on a Potential Reduction of the Plant's Operational Term" was signed in December 2023 during the United Nations Climate Change Conference (COP 28)<sup>3</sup> and the second time was when the relevant documents, such as "Environmental and Social Compliance Audit Report", were published on the ADB's website at the end of February 2024<sup>4</sup>.

According to the ADB, the ADB has so far held two major stakeholder engagement activities related to the ETM: one held in Manila, Philippines in addition to another one held in Cirebon, Indonesia<sup>5</sup>. While the local residents and civil society continue to have limited opportunities to participate, would it be possible to make progress toward an appropriate early retirement of the coal-fired power plant under the ETM? This briefing paper will examine processes and related information, which has been disclosed so far, involved in the usage of the ETM for Cirebon-1, and clarify the problems of this project.

Regarding the overview of the Cirebon coal-fired power plant project, major unresolved environmental and social problems, and objections and complaints from local residents, see the previous briefing paper<sup>6</sup>.

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<sup>1</sup> ADB, "ADB and Indonesia Partners Sign Landmark MOU on Early Retirement Plan for First Coal Power Plant Under Energy Transition Mechanism", November 14, 2022.

<https://www.adb.org/news/adb-indonesia-partners-sign-landmark-mou-early-retirement-plan-first-coal-power-plant-etm>

<sup>2</sup> Fair Finance Guide Japan, "Problems with first use of ADB Energy Transition Mechanism", December 2022, <https://fairfinance.jp/media/eyfjfsx5/cirebon-etm-briefing-paper.pdf>

<sup>3</sup> ADB, "New Agreement Aims to Retire Indonesia 660-MW Coal Plant Almost 7 Years Early", December 3, 2023, <https://www.adb.org/news/new-agreement-aims-retire-indonesia-660-mw-coal-plant-almost-7-years-early>

<sup>4</sup> ADB, "Key Stakeholder Engagement Activities", Last update: 7 March 2024, <https://www.adb.org/what-we-do/energy-transition-mechanism-etm#safeguards>

<sup>5</sup> See Footnote 4

<sup>6</sup> See Footnote 2

## 1. Problems with the framework and decision-making process related to the utilization of ETM for Cirebon-1: lack of improvement in transparency, information disclosure, and participation opportunity for civil society

The first announcement regarding the concrete framework for the use of the ETM for Cirebon-1 came through an ADB's news release<sup>7</sup> on December 3, 2023 during COP 28, when the four parties (ADB, PLN, INA, and CEP) signed "Framework Agreement on a Potential Reduction of the Plant's Operational Term", and the announcement revealed that the signees reached a conditional agreement to terminate the power purchase agreement (PPA) between CEP and PLN regarding Cirebon-1 in December 2035, which reduces the 30-year PPA period by about 7 years. The agreement included two conditions: 1) the conclusion of due diligence including environmental, social, and just transition reviews and 2) the results of a study of the technical and financial impact of the early closure of the plant on PLN's electricity system, and the agreement was also described as non-binding. Note that, although the news release indicated that the financing agreement for this project was planned to be signed in the first half of 2024, this has not happened as of September 2024.

Regarding environmental, social, and just transition reviews, included in the conditions of the framework agreement, the three relevant documents published on the ADB's website at the end of February 2024 are presumed to include these reviews. Specifically, the three documents are "Environmental and Social Compliance Audit Report -Draft Report"<sup>8</sup> (environmental audit report), "Preliminary Just Transition Assessment"<sup>9</sup> (PJTA), and "Preliminary Poverty and Social Analysis"<sup>10</sup> related to the Cirebon Energy Transition Mechanism Pilot Project (ADB Project No. 56294-001).

Among these documents, PJTA included the first disclosure of information about not only the process but also a more concrete framework toward achieving just transition in the use of the ETM for Cirebon-1. First, PJTA presents "Energy Transition Mechanism Activity Timeline" (2024-2035) (see Table 1 below) **on the premise of terminating the PPA, which was originally set to end in August 2042, in December 2035, in other words, 6.7 years (6 years and 8 months) earlier.** This timeline shows that the ETM aims for financial closing within 2024.

**Table 1: ADB's "Energy Transition Mechanism Activity Timeline" (2024-2035) (prepared by FoE Japan based on Table 1 in ADB's PJTA (p. 5))**

Year	Activity
2024 (pre-finance close)	Agreement on Post-PPA plan outline and development process.
	Disclosure of the PJTA and Just Transition Plan (JTP) outline.
2024-2030	Ongoing just transition-related activities: ongoing inclusive stakeholder engagement, women's meaningful participation, and assessment of legal, regulatory, and institutional capacity for JTP implementation.

<sup>7</sup> See Footnote 3

<sup>8</sup> ADB, "Cirebon Energy Transition Mechanism Pilot Project: Environmental and Social Compliance Audit Report", February 2024, <https://www.adb.org/projects/documents/ino-56294-001-escar>

<sup>9</sup> ADB, "Cirebon Energy Transition Mechanism Pilot Project: Preliminary Just Transition Assessment", February 2024, <https://www.adb.org/projects/documents/ino-56294-001-dpta>

<sup>10</sup> ADB, "Cirebon Energy Transition Mechanism Pilot Project: Preliminary Poverty and Social Analysis", February 2024, <https://www.adb.org/projects/documents/ino-56294-001-ipsa>

2029-2031	Ongoing activities: Government of Indonesia (PLN and Ministry of Energy and Mineral Resources (MEMR)) analyses on viable "repurposing" options (i.e., updated grid impact and replacement power analyses).
2029-2032	Active discussion and gender-responsive and inclusive stakeholder engagement that realize women's meaningful participation to reach agreement on Post-PPA plan and JTP between ADB and CEP by end of 2032.
2033-2035	Post-PPA plan and JTP implementation period.
2035 onwards	

The timeline also indicates that the Indonesian government plans to analyze **repurposing options** for Cirebon-1 over the period of 2029-2031. The main text of PJTA also includes information about the repurposing (p. 1) and indicates that CEP will work with ADB to finalize and agree on the activities with regard to whether Cirebon-1 will be decommissioned and/or repurposed when the shortened PPA approaches its expiration in 2035.

The definition of "repurposing" may include not only the conversion to renewable energy, such as solar power and wind power, but also the use of co-firing technologies involving biomass, ammonia, or hydrogen in the existing coal-fired power plant, and such a possibility has been a concern of civil society from the beginning when the MOU was signed in November 2022<sup>11</sup>. Co-firing technologies are "false solutions" that fail to reduce greenhouse gas (GHG) emission and involves risks of economic and technical uncertainties<sup>12131415</sup> and there are already serious environmental and social problems; therefore, technologies that prolong the use of fossil fuels should be avoided. However, according to the ETM timeline presented in PJTA, issues such as whether Cirebon-1 will be retired early or repurposed, for example, by switching to another fuel, and specific type of fuel to be used in the case of fuel switching are not recognized as subjects of discussion and analysis at this point, and thus, relevant decision making is pending and postponed.

In addition, PJTA indicates that ADB will provide an ETM facility (benefiting from a combination of commercial loan, concessional finance, and grant) with a lower cost that will allow for the shortening of Cirebon-1 PPA tenor by 6.7 years (6 years and 8 months), and the facility will be used for (i) refinancing of the existing debt, and (ii) a one-off special dividend distribution to the Sponsors to cover foregone dividend cash flow due to PPA tenor shortening and ETM transaction costs. In other words, the ETM funds will be utilized so as not to cause damage on

<sup>11</sup> FoE Japan, "[Joint Statement] Climate, Environment and Social Conditions Require a Further Earlier Closure of Cirebon Coal Plant Unit 1 and a Halt to the Commencement of Operation in Cirebon Unit 2 - Reaction to the Announcement of the 1st Early Closure Plan of Coal Power Plant in Indonesia", November 14, 2022, <https://foejapan.org/en/issue/20221114/10291/>

<sup>12</sup> Kiko Network, "[Briefing Paper] Japan's Ammonia Co-firing Plans Threaten Paris Goals", November 2023, [https://kikonet.org/kiko/wp-content/uploads/2023/11/202311\\_Japans-Ammonia-Co-firing-Plans-Threaten-Paris-Goals.pdf](https://kikonet.org/kiko/wp-content/uploads/2023/11/202311_Japans-Ammonia-Co-firing-Plans-Threaten-Paris-Goals.pdf)

<sup>13</sup> TransitionZero, "Japan's toxic narrative on ammonia", April 13, 2023, <https://www.transitionzero.org/insights/japans-toxic-narrative-on-ammonia-cofiring>

<sup>14</sup> Robert W. Howarth, Mark Z. Jacobson, "How green is blue hydrogen?", August 12, 2021, <https://onlinelibrary.wiley.com/doi/full/10.1002/ese3.956>

<sup>15</sup> FoE Japan, "Seven Inconvenient Truths about Biomass Power Generation", <https://foejapan.org/issue/20220628/7848/>

future profits of CEP and its sponsors, namely, Marubeni Corporation (investment ratio of 32.5%), Korea Midland Power (27.5%), Samtan (20%), and Indika Energy (20%).

The fact that **the basic framework and timeline** for the use of the ETM for Cirebon-1 were **presented as given** when the ADB disclosed the information is one of the most serious problems of the framework and decision-making process in general, and saying so is not an exaggeration given that the local residents and civil society were **not provided with any opportunity for a meaningful participation in the decision-making process** regarding the false solutions for climate change, which shortens the PPA period by 6.7 years (6 years and 8 months) but leaves future possibility for repurposing of the power plant and bails out large corporations. In response to such a situation, Indonesian Forum for the Environment (WALHI) West Java, WALHI, Rapel (Environmental protection people/Cirebon local residents' group), and KARBON (Cirebon student group) jointly released a position paper on February 28, 2024<sup>16</sup>, in which the four organizations strongly condemned the fact that the process and basic framework for the use of the ETM for Cirebon-1 had already been set and firmly rejected any mechanisms and processes currently underway.

In the position paper, the four organizations pointed out the following four problems and refused to participate in the current ETM processes.

#### **(1) Cirebon-1 must retire as early as possible**

In consideration of impacts of imminent climate crisis and also severe impacts the construction and the operation of Cirebon-1 have already had on local residents in terms of their livelihoods, such as salt pans and fishing grounds, as well as their health, it is crucial that Cirebon-1 be retired as promptly as possible and remedial measures for the environmental and social impact, including restoration to the original state, be implemented. It is also obvious that there is no justification for further prolonging the operation of Cirebon-1, given that chronic oversupply of electricity in the Java-Bali power grid is expected to continue for the next decade. Nevertheless, the framework for the early retirement of Cirebon-1, which is currently being implemented using ETM, justifies further prolonging the operation of Cirebon-1 for as long as 11 years.

#### **(2) Preservation of large corporations' profits by "repurposing" coal-fired power plants using "false solutions for climate change" must be avoided**

"Repurposing" Cirebon-1 by using technologies, which will extend the life of coal-fired power generation, will only prolong the impacts on the local communities and environment as well as the impact on the climate due to the power plant. A framework for a just energy transition must prioritize the local communities, the environment, and the climate rather than preserve the profits for large corporations. However, in the discussion over the ADB's ETM, "repurposing" still remains as an option and has not been eliminated. The "false solutions to climate change" that the Japanese government and companies are promoting under the Asia Zero Emission Community (AZEC), such as uncertain hydrogen/ammonia and other technology, whether co-firing or fully-firing (100%), through the framework of coal-fired "repurposing" in the ETM would only bring continued profits to large corporations.

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<sup>16</sup> FoE Japan, "Position Paper on the Application of the Energy Transition Mechanism for Cirebon Coal-Fired Power Plant Unit 1 in Indonesia: We firmly reject the mechanism for the sake of huge greenwashing by major corporations, not for the sake of the climate, environment, and local communities", February 28, 2024, <https://foejapan.org/en/issue/20240228/16374/>



### **(3) Contradiction between the early retirement of Cirebon-1 and the operation of Cirebon-2 must be resolved**

It is not logical to start the operation of Cirebon Unit 2 (Cirebon-2, 1,000 MW), which has a greater total GHG emission than Cirebon-1, while the early retirement of Cirebon-1 (660 MW) is being discussed due to the urgent need for addressing the climate crisis. From the fact that Cirebon-2 began its operation in May 2023, it is evident that the efforts currently in progress under the ETM for the energy transition involving Cirebon-1 is nothing more than a "shell game". Moreover, with the bribery case involving Cirebon-2 coming to light, the operation of Cirebon-2 must be stopped from the perspective of addressing climate change as well as the perspective of the impacts on the environment and the local communities.



Photo: Cirebon-1 coal-fired power plant (in the back), which has been in operation since 2012, and Cirebon-2 that started the operation in May 2023 (Indonesian Forum for the Environment (WALHI) West Java, June 2023)

### **(4) Corporate exemption related to coal-fired power plants, which should become stranded assets, must be avoided**

Large corporations that have been promoting construction and operation of coal-fired power plants must take appropriate responsibility for the fact that they have reaped enormous profits at the expense of the climate, the environment, and the local residents. However, CEP, the project operator of Cirebon-1, will be compensated by the ETM financing for losses to be caused by shortening the PPA period, despite the fact that the local residents whose livelihoods and health have been affected by the construction and the operation of Cirebon-1 and 2 continue to be left without adequate consideration for their damages. With such an ETM framework, private corporations that are still continuing to invest in the coal sector, such as Cirebon Energi Prasarana (CEPR), the project operator of Cirebon-2, will receive a wrong message that it is possible to avoid liability or risk of stranded assets in the future.

The four civil-society organizations were also not involved in the stakeholder consultations about the early retirement of Cirebon-1 held in Cirebon Regency between February 26 and March 2,

2024<sup>17</sup>. In addition, since **there is no indication that the basic framework and timeline related to the early retirement of Cirebon-1 may be reconsidered**, the ETM process still continues without participation of the four civil-society organizations.

Furthermore, although the ADB published the three relevant documents on its website in conjunction with the stakeholder consultations held between February 26 and March 2, 2024 in Cirebon Regency<sup>18</sup>, currently (as of September 2024), the information is not available in Indonesian but available only in English, and thus, the local residents and civil society are still left with an unresolved problem in terms of the access to information in languages and formats that they can understand. Unless **the transparency, information disclosure, and participation opportunity for the local residents and civil society** in the ETM process are improved in the future, it is highly doubtful that the early retirement of Cirebon-1 will proceed in an appropriate manner from the perspectives of the climate crisis, environmental and social impacts, and human rights.

It should be noted that Cirebon-1 is listed as a priority project of "Investment Focus Area #2 Priority Projects: Early CFPP Retirement and Managed Phase-out" in the Comprehensive Investment and Policy Plan (CIPP) (November 2023)<sup>19</sup> developed in the process of Just Energy Transition Partnership (JETP) in Indonesia led by Japan and the U.S. (this document indicates that the early retirement is planned to be completed in 2037 with required funds of US\$ 300 million). The Ministry of Finance (MOF) Japan has repeatedly stated at the regular meetings between MOF and NGOs that **JETP "does not provide so-called support that would prolong coal-fired power generation", such as co-firing technologies and carbon dioxide capture and storage (CCS)**, meanwhile the MOF has stated that **whether or not ammonia/hydrogen co-firing technologies will be supported in the ETM is being discussed**<sup>20</sup>: there may be a double standard between the two international support schemes for energy transition. If Cirebon-1 will be supported in the future under the JETP scheme, it would not be possible to choose "repurposing" by using a co-firing technology or the like under the ETM scheme; however, it is necessary to continue watching the discussion related to "repurposing" under the ETM.

## **2. Problems with the ADB's environmental audit related to the use of the ETM for Cirebon-1**

Among the three relevant documents published by the ADB on its website at the end of February 2024 regarding the Cirebon Energy Transition Mechanism Pilot Project (ADB Project Number 56294-001), "Environmental and Social Compliance Audit - Draft Report"<sup>21</sup> (environmental audit report) is a report of "environmental and/or social compliance audit" (environmental audit) conducted in accordance with "Safeguard Requirements 4: F. Existing Facilities" of the ADB safeguard policy (2009)<sup>22</sup>. The specifics of this provision of the ADB safeguard policy are as follows.

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<sup>17</sup> See Footnote 4

<sup>18</sup> See Footnote 4

<sup>19</sup> JETP Indonesia, "The Comprehensive Investment and Policy Plan (CIPP) for Indonesia's Just Energy Transition Partnership (JETP)", November 2022, <https://jetp-id.org/cipp>

<sup>20</sup> 80th (April 26, 2023), 81st (November 21, 2023), and 82nd (June 6, 2024) MOF/NGO regular consultations (<https://jacses.org/mofngo/>)

<sup>21</sup> See Footnote 8

<sup>22</sup> ADB, "Safeguard Policy Statement", June 2009, <https://www.adb.org/sites/default/files/institutional-document/32056/safeguard-policy-statement-june2009.pdf>

*Safeguard Requirements 4: Special requirements for different finance modalities, F. Existing Facilities (paragraph 12)*

- For projects involving facilities and/or business activities that already exist or are under construction, the borrower/client will undertake an environment and/or social compliance audit, including on-site assessment, to identify past or present concerns related to impacts on the environment, involuntary resettlement, and Indigenous Peoples. The objective of the compliance audit is to determine whether actions were in accordance with ADB's safeguard principles and requirements for borrowers/clients and to identify and plan appropriate measures to address outstanding compliance issues.
- Where noncompliance is identified, a corrective action plan agreed on by ADB and the borrower/client will be prepared. The plan will define necessary remedial actions, the budget for such actions, and the time frame for resolution of noncompliance.
- The audit report (including corrective action plan, if any) will be made available to the public in accordance with the information disclosure requirements of the Safeguard Requirements 1-3. For environment category A projects involving facilities and/or business activities that already exist or are under construction, the borrower/client will submit the audit report to ADB to disclose on ADB's website at least 120 days prior to ADB Board approval.

The environmental audit conducted in accordance with the above provision specifics mainly involves assessment related to compliance status of the ten principles of the Equator Principles (EP) as well as performance standards 1-8 of the International Finance Corporation Performance Standards (IFC-PS), which are environmental and social requirements. The environmental audit report (sections 5.2 and 5.3) presents analyses and results for the respective requirements. In addition, the report (section 6) proposes corrective actions for the 36 items for which compliance status is determined to be insufficient in light of the respective requirements of the IFC-PS.

The validity of the above assessment depends crucially on **whether the past or the current impacts of Cirebon-1 are accurately and appropriately recognized**, not only because it is not possible to appropriately determine the compliance status of the respective environmental and social requirements, but also it is not possible to develop effective corrective actions for improving the compliance status without such an accurate and appropriate understanding of the impacts.

This environmental audit was conducted on the basis of document reviews and site visits to confirm the impacts of Cirebon-1. However, the contents of the environmental audit indicate that both methods heavily relied on **information sources provided by the project operators and the government agencies** or information sources representing their perspectives, and it can be pointed out that **information from the local residents, who have been affected by environmental and social impacts of Cirebon-1, and civil society was limited**.

This fact suggests, in particular, that the impacts raised by the local residents, who have made their grievances regarding Cirebon-1, and by the NGOs, who have supported the residents (see the previous paper<sup>23</sup> regarding the use of the ETM for Cirebon-1), specifically, **impacts on various livelihoods and the lack of adequate compensation/livelihood restoration measures, may not have been accurately and appropriately recognized** in the environmental

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<sup>23</sup> See Footnote 2

audit. In fact, as will be described later, this environmental audit did not appropriately determine the compliance status of the environmental and social requirements nor did it adequately develop corrective actions related to the impacts on the livelihoods and compensation/livelihood restoration measures.

It should be noted that, according to the environmental audit report, the Cirebon Energy Transition Mechanism Pilot Project (ADB Project Number 56294-001) has so far been classified as category B on environment and category C on Involuntary Resettlement and Indigenous Peoples under the safeguard policy; however, the pilot project should be classified as category A in consideration of the unresolved environmental and social problems presented in the previous paper<sup>24</sup>, such as the impacts of the Cirebon coal-fired power generation project on various livelihoods and the lack of adequate compensation/livelihood restoration measures.

**(1) Insufficient information gathering and lack of meaningful early participation opportunities for residents and civil society in the environmental audit**

On the matter of whether or not the past or current impacts of Cirebon-1 have accurately and appropriately been recognized, first, the document reviews will now be discussed. The environmental audit report includes a "Key Document Review List" as Annex B, listing **741 documents**; however, **only 6 of these documents**<sup>25</sup> were considered to be environmental and social impact reports published by the local residents whose livelihoods have been severely damaged by the construction and operation of Cirebon-1, and NGOs that have been supporting such residents, or written requests submitted by them to the project operator, etc. Even if the contents of the documents prepared by the residents and NGOs do not relate to all of the IFC-PS 1-8 and relate only to some of the requirements regarding the impacts on livelihoods and compensation/livelihood restorations measures, such as PS 1 "Assessment and Management of Environmental and Social Risks and Impacts", PS 4 "Community Health, Safety, and Security", PS 5 "Land Acquisition and Involuntary Resettlement", and PS 6 "Biodiversity Conservation and Sustainable Management of Living Natural Resources", it can be pointed out that the information sources may have been biased or the information gathering may have been insufficient in confirming the environmental and social impacts.

In addition, according to the environmental audit report, there were four site visits, as indicated in Table 2 below, between the start of the environmental audit in January 2023 and the publication of the report on the ADB's website in February 2024, in other words, before the stakeholder consultations were held in Cirebon Regency between February 26 and March 2, 2024.

**Table 2: Site visits conducted during the environmental audit related to Cirebon-1**  
(created by FoE Japan based on the contents of the Environmental Audit Report)

Schedule	Objective	Details
February 21, 2023 Initial site visit	To introduce ETM to CEP staff	<ul style="list-style-type: none"> <li>➢ Meetings with CEP personnel</li> <li>➢ Site walkthrough in the power plant area, vocational training center, and CSR complex, etc.</li> <li>➢ Drive-by to neighboring villages of the project</li> </ul>
July 13-15, 2023 Preliminary	➢ To introduce the project	➢ Meeting with village heads (Kanci Village, Waruduwur Village, Kanci Kulon Village, and

<sup>24</sup> See Footnote 2

<sup>25</sup> Documents 249-254 listed in "Appendix B: Key Document Review List", p. 111, the Environmental Audit Report

Stakeholder Engagement	<ul style="list-style-type: none"> <li>➤ To explain ETM process and upcoming stakeholder engagement</li> <li>➤ To gather any initial stakeholder perceptions, concerns, and needs</li> <li>➤ To adjust expectations</li> </ul>	<p>Citemu Village)</p> <ul style="list-style-type: none"> <li>➤ <b>Focus group discussions with women, elderly, and any other vulnerable groups, as well as affected residents, such as green mussel cultivators, shellfish collectors, fishermen, and shrimp harvesters (a total of three times: once each in Waruduwur Village, Kanci Kulon Village, and Citem Village)</b></li> <li>➤ <b>Meeting with local NGO and local community groups</b></li> <li>➤ Meeting with CEP's local partner university for social matters, etc.</li> </ul> <p>Note: all meetings were held at CEP's vocational training center or CSR complex.</p>
August 7-10, 2023 Site visit for environmental, health and safety matters	To conduct assessment for environmental, health and safety matters	<ul style="list-style-type: none"> <li>➤ Site visit to the project site and surrounding areas (environmental monitoring points outside the plant, etc.)</li> <li>➤ Interviews with key personnel in charge</li> <li>➤ Review of relevant documents held on-site</li> </ul>
December 4-6, 2023 Site visit for labor audit	To understand the employment practices and working conditions at Cirebon-1	<ul style="list-style-type: none"> <li>➤ Interviews with employees of CEP, Cirebon Power Service (CPS: O&amp;M of Cirebon-1), and subcontractors under CPS who provide cleaning and facility services, security services, and general services.</li> <li>➤ Discussion with Human resource units of CEP, CPS, and the abovementioned subcontractors.</li> <li>➤ Meeting with representatives of the Manpower Agency of Cirebon Regency.</li> <li>➤ Obtained human resources or labor related documents and records.</li> </ul>

During the above site visits, three focus group discussions (FGDs) with residents, as well as a meeting with local NGO and local community groups, held in the preliminary stakeholder engagement conducted in July 2023 would have been the opportunities to obtain information and perspectives from local residents, who have been affected by environmental and social impacts of Cirebon-1, and civil society.

However, the composition and number of participants are unknown, because the details of these FGDs and the meeting are not disclosed. **If the participants were selected and invited by the project operator or village heads**, there is an undeniable possibility that the information related to the project's environmental and social impacts and compensation/livelihood restoration measures **do not reflect perspectives of those who are critical of the project**, but the perspectives of the project operator or government agencies. In addition, because all of these meetings were held at **the CEP's Vocational Training Center or within a corporate social responsibility (CSR) complex**, it is also necessary to examine whether the FGDs and meeting with the local NGO and local community organizations were held at appropriate locations: **the environment and conditions may have been inadequate to allow the participants to speak freely without feeling undue pressure**. Such possibilities as inadequate considerations indicate that information gathering may not have been conducted appropriately when confirming the environmental and social impacts.



Photos: CEP's Vocational Training Center (left, at Waruduwur Village) and park entrance of CSR complex (right, at Kanci Kulon Village) (FoE Japan, April 2024)

It should be noted that, as indicated above, Rapel, the community group that has filed a objection related to Cirebon-1 to Japan Bank for International Cooperation (JBIC), and WALHI West Java, which has supported Rapel, together with two other organizations, came out the position paper on February 28, 2024 firmly reject the ETM and its processes that are currently in progress at Cirebon-1; however, after a request<sup>26</sup> to the President of the ADB was submitted in May 2023, there were a few exchanges of letters through the ADB's Southeast Asia Regional Department and the ADB's ETM team. Although the ADB sent letters to Rapel and WALHI West Java in 2023, dated on June 30 and August 16, at least, the residents and NGOs did not receive advance notice or invitation with regard to any of the four site visits. Furthermore, regarding the impacts of Cirebon-1 on the livelihoods and compensation/livelihood restoration measures, the ADB never asked the residents and NGOs specific questions or asked them to provide more detailed information or opinions. These facts indicate that **the environmental audit neglected due efforts to ensure that the residents and civil society have opportunities for having meaningful participation at earlier stages.**

## **(2) Inadequate environmental audit regarding impacts on livelihoods and compensation/livelihood restoration measures**

This environmental audit analyzes compliance status of the requirements of the Equator Principles (EP) and IFC-PS and reports the results (sections 5.2 and 5.3 of the environmental audit report); however, despite the fact that there are actual situations in which the compliance status is insufficient, there are items that are not appropriately analyzed. Inadequate information gathering, the lack of perspectives of the residents and civil society, discussed above, are considered to be causes of such an inadequate or inappropriate analysis.

Table 3 below particularly lists 20 items for which **the compliance status analyses are considered to be inadequate or inappropriate** in relation to the requirements of the IFC-PS for which the environmental audit also addresses corrective actions. The relevant requirements of the IFC-PS under consideration here are related to the impacts on livelihoods and compensation/livelihood restorations measures, namely, PS 1 "Assessment and Management of Environmental and Social Risks and Impacts", PS 4 "Community Health, Safety, and Security", PS 5 "Land Acquisition and Involuntary Resettlement", and PS 6 "Biodiversity Conservation and Sustainable Management of Living Natural Resources".

<sup>26</sup> FoE Japan, "Request for Suspension of Loan Disbursement to Unit 2 and Responsible Action for the Early Retirement of Unit 1 in Cirebon Coal-Fired Power Plant Project, Indonesia", May 22, 2023, <https://foejapan.org/en/issue/20230531/13129/>

In addition, in this environmental audit, corrective actions have been proposed for the 36 items for which compliance status is determined to be insufficient in light of the respective requirements of the IFC-PS (Table 6-1 of the Environmental Audit Report); however, there are actual situations in which the compliance status is insufficient due to a lack of appropriate analysis, and, despite this fact, **corrective actions have not been developed for as many as 16 out of the 20 items**, as indicated on Table 3. Inadequate information gathering, the lack of perspectives of the residents and civil society, discussed above, are also considered to be causes of such a lack of necessary corrective actions.

### **3. Recommendations to the ADB**

In order to realize appropriate early retirement and just transition of Cirebon-1, it is essential to ensure, at earlier stages, transparency, information disclosure, and participation opportunities for the residents and civil society in the decision-making process related to the framework for the utilization of the ETM as well as in the process of the environmental audit etc.. However, the four parties, namely, the ADB, INA, PLN, and CEP, have not made any additional public announcement, even though more than half a year has passed since the publication of the environmental audit report etc. on the ADB's website in February 2024, and thus, the residents and civil society are, once again, left in a situation where no information is made available to them.

First, it is essential to discuss the basic framework and timeline regarding the utilization of the ETM for Cirebon-1 in a manner that ensures meaningful participation by a wide range of stakeholders, including residents, who have been affected by the construction and operation of Cirebon-1, and civil society, after a complete rethinking of the given conditions agreed to only by the four parties. In addition, the environmental audit should also be conducted again after preparing and publishing the report in Bahasa Indonesian and ensuring early meaningful participation of the affected residents and civil society. Otherwise, the past and ongoing social and environmental impacts that the local residents have suffered for nearly 17 years since the construction of Cirebon-1 began in 2007 will remain unaddressed, even under the "energy transition" process.

The Mindanao coal-fired power plant (located in Phividec Industrial Estate) in the Philippines is also attracting attention as a candidate for an ETM pilot project; however, no information has been disclosed regarding its details. As with the case of Cirebon-1, it would be too late even if information is disclosed after the decision is already made on the basic framework, etc. related to the utilization of the ETM. In light of the fact that local residents, live in Phividec Industrial Estate (managed by Philippine Veterans Industrial Development Corporation), which can be considered to be negative legacy of the Marcos dictatorship era, have suffered prolonged, serious human rights violation, the ADB and involved parties must take adequate measures so as to ensure meaningful participation of the local residents and civil society in earlier stages.

**Table 3: Environmental audit related to Cirebon-1: analyses of inadequate compliance status  
(created by FoE Japan based on the section 5.3 of the Environmental Audit Report)**

<b>Applicable IFC-PS requirements</b>	<b>Compliance status analyses in the Environmental Audit</b> (partial excerpts of applicable parts)	<b>Problems with the analyses indicated in the left column</b> (in the case in which corrective actions are presented on Table 6-1 of the Environmental Audit Report, corresponding corrective action No. is indicated as "related" information).
PS 1.3 to 1.12 Environmental and Social Assessment and Management System (ESMS)	It is noted that the Environmental and Social Impact Assessment (ESIA) (and AMDAL) did not assess the impacts associated with the decommissioning phase, however, given the planned operating life of the Project with a 30 year PPA, assessment of decommissioning would be largely theoretical, as such this is not considered to be a significant issue although would be relevant consideration for the ETM.	<ul style="list-style-type: none"> <li>➤ The conclusion that a lack of an impact assessment for the decommissioning phase in ESIA is not a significant issue is not valid.</li> <li>➤ For the people who have suffered impacts on their livelihoods due to the Project, in particular, the small-scale fisherfolks, shellfish collectors, etc. who have depended on the coastal/marine ecosystem, it is a serious omission that fundamental problem solving methods, such as restoration of the coastal/marine ecosystem to the original state in the decommissioning phase, were not taken into consideration from the beginning, . A lack of such a perspective may also result in ineffective corrective actions in the current and future countermeasure development.</li> </ul> <p>(Related item: Environmental Audit Report, Table 6-1, Corrective action No. 1)</p>
PS 1.18 Training	<ul style="list-style-type: none"> <li>•Environmental related training covers topics such as hazardous waste management, non-hazardous waste management, wastewater management, biodiversity management, etc.</li> <li>•As for health and safety training, aspects include general OHS awareness training, job-specific OHS training and certifications, firefighting and emergency training.</li> <li>•Details on any training relevant to social aspects requested (e.g. any training around stakeholder engagement, grievance mechanism etc.) were not available during the preparation of this report.</li> </ul>	<ul style="list-style-type: none"> <li>➤ There is no analysis/examination regarding training targeted for the employment of the affected residents as a part of livelihood restoration measures in consideration of the impact on their livelihoods.</li> <li>➤ There is a lack of perspective on priority employment for local affected residents. According to the environmental audit report, all of the 15 CEP employees are university graduates or had higher education and only one person is from an affected village. In addition, regarding the educational background of the 205 CPS employees, 64 (31%) are high school graduates while the rest are university graduates or had higher education, and only 25 (12%) are from affected villages. Furthermore, the residents of affected villages, who are employed by subcontractors (the number is</li> </ul>



		unknown), are hired as non-regular employees. From the perspective of livelihood restoration of the affected residents, analysis should be conducted on whether there is training, etc. in consideration of sustainable employment related to the Project or whether such training, etc. is possible.
PS 1.19 to 1.23 Community Engagement	There were several “demonstrations” associated with the Kanci Kulon village recorded between October and November 2007, however, no further elaboration was provided. The Lender's Technical Adviser (LTA) due diligence (DD) report did not provide any explanation regarding these past “demonstrations”, although did mention that small scale protests were held in the vicinity of the construction site (dates were not specified, maybe presumably around the time of preparing the DD report in 2010), although the risk was determined to be not significant as the Project demonstrated efforts to address the concerns from the local communities including bringing community leaders to other similar power plants in Indonesia and hiring an experienced community liaison officer.	<ul style="list-style-type: none"> <li>➤ There is no analysis/examination regarding causes of the demonstrations during October-November 2007 and the details of concerns of the residents.</li> <li>➤ There is no examination as to whether inviting only the community leaders to other coal-fired power plants was a valid method for addressing concerns of the communities and there is also no examination as to whether concluding, based on such a method, that there is no significant risk was valid.</li> </ul>
	A grievance mechanism is included in the ESIA to allow CEP to respond to community concerns. CEP has provided a current version of the grievance mechanism, as well as a grievance log. Based on discussions with CEP, it was evident that inquiries and concerns are received and responded to.	<ul style="list-style-type: none"> <li>➤ It is inadequate to determine the effectiveness of the grievance mechanism based only on the discussion with CEP.</li> <li>➤ Discussion with and confirmation from a wide range of residents who may use the grievance mechanism are necessary.</li> </ul>
	<i>(no applicable item)</i> (Part of requirement details: Community engagement will be free of external manipulation, interference, or coercion, and intimidation, and conducted on the basis of timely, relevant, understandable and accessible information.)	<ul style="list-style-type: none"> <li>➤ There is no analysis/examination about the community engagement requirements indicated in the left column.</li> </ul>
PS 1.24 Monitoring	(associated with the initial development of the Project), no ongoing monitoring is understood to have undertaken of livelihood restoration specifically designed to mitigate the individual economic losses of those affected, as defined in the 2009 Resettlement Action Plan/ Further commentary on this is provided in Performance Standard 5	<ul style="list-style-type: none"> <li>➤ Regarding the livelihood restoration related to mitigation of the individual economic losses, the lack of continuous monitoring is considered to be a serious compliance violation of the requirement; however, there is no analysis/examination about this aspect. The analysis/examination for PS 5, described below, is</li> </ul>

	below.	also inadequate, and no recommendation is made.
PS 4.8 to 4.9 Environmental and Natural Resources Issues	<p>It is noted that there are green mussel farms located around the jetty (including the Project cooling water intake (located along the jetty) and outflow (located at the coastline) locations). Based on the ESIA, these green mussel farms were not legally established and the Action Plan had recommended for the mussel farms to be relocated. An exclusion zone around the jetty has been established, delineated by yellow marker buoys, communicated to local communities and is patrolled by CEP to support the safety of local mussel farmers and the security of the Project.</p> <p>(Recommendation) CEP to prepare a community health and safety management plan including monitoring and communicating procedures for the green mussel farmers and fishermen operating and navigating around the jetty.</p>	<p>➤ The recommendation mentions not only the green mussel farmers operating around the jetty but also the fishermen; however, the analysis does not mention the small-scale fisherfolks operating on the coast without using boats and any impact on them, and thus, it is not certain whether the impacts are accurately and properly ascertained.</p> <p>(Related item: Environmental Audit Report, Table 6-1, Corrective action No. 31)</p>
PS 5.7 General Requirements	<p>The 2009 Resettlement Action Plan (RAP) confirms that the site chosen would not result in any physical displacement of residential housing and only economic displacement of agricultural land uses and informal mussel farming in the marine environment (the jetty site).</p>	<p>➤ The 2009 RAP mentions agricultural land use and informal mussel farming; however, the small-scale fisherfolks and shellfish collectors are not taken into consideration. There is no analysis/examination nor recommendation about this shortcoming.</p>
PS 5.8 Compensation and Benefits for Displaced Persons	<p>The Project was largely aligned with IFC PS5 requirements, since it offered compensation for lost assets at a level which can be considered full replacement cost. The standard applied to compensating these Project affected Peoples (PAPs) was also broadly considered to have been transparent and consistent.</p> <p>Some categories of PAP however were not individually compensated for losses including sharecroppers/tenant farmers and labourers on farms (Category 5 in <i>Annex E</i>) and or other marine users (Category 6 <i>Annex E</i>) that may have experienced loss of income or subsistence from the displacement of activities.</p> <p>(Annex E)</p>	<p>➤ No problem was recognized in the assessment of the transparency and consistency of the replacement cost standard and compensation standard; however, it needs to be examined whether the determination is dependent on the information and perspective of the project operator. The determination should be made by including interviews with farmers and aquaculture producers, etc. who are the actual compensated parties.</p> <p>➤ It is recognized that tenant farmers, agricultural workers, small-scale fisherfolks, etc. are excluded from the individual compensation targets; however, there is no analysis/examination nor recommendation about this problem.</p>

<p>5. Agricultural land users (sharecroppers/tenant farmers or labourers - on land plots on the Project site) – unknown final number – this was estimated at 21 sharecroppers and 241 labourers households in 2008 Baseline Census for the RAP.</p> <p>6. Other marine resource users e.g. commercial fishermen, shell collectors, mangrove harvesters, small shrimp collectors, crab collectors, fish capturers, (including temporary or permanent livelihood loss).</p>	
<p><i>Livelihood restoration</i></p> <p>The approach adopted by CEP to land procurement was a cash compensation process primarily designed to address Indonesian legal requirements. This was supplemented by a RAP describing broad mitigation actions to achieve livelihood restoration such as access to employment at the Project, communal CSR and livelihood programmes, etc. However, IFC PS5, requires that Livelihood Restoration is tailored to address the quantified individual and specific circumstances of loss/vulnerability of the affected household, and is not provided as a generalised form of support.</p> <p>The 2008 Social Impact Assessment developed and the 2009 RAP described expected impacts on livelihoods at both pre-construction phase – adverse livelihoods impacts on land users due to loss of land at construction phase – adverse livelihoods through reduced access to mangroves, timber and food sources due to site clearance for jetty and main plant site. Both documents also described planned mitigation actions for these impacts including preferential employment policies to allow PAPs access to jobs at the Project, providing continued access to mangroves and fair income from sale of land respectively.</p> <p>These broad mitigations suggest that restoration of livelihoods was only ever planned to be communal in nature, and did not amount to targeted livelihood restoration initiatives offered to displaced PAPs to address losses on an individual household level.</p> <p>Therefore, this fell short of IFC PS5 in addressing the provision of targeted “other assistance to improve or at least restore their</p>	<p>➤ The analysis/examination finds that the Project does not meet IFS PS 5 in addressing the provision of targeted “other assistance to improve or at least restore their standards of living or livelihoods of those affected” and recognizes this as a problem; however, there is no analysis/examination nor recommendation about the status of the PAPs regarding whether they were able to improve or at least restore their standards of living or livelihoods.</p>

	<p>standards of living or livelihoods of those affected” in that livelihood support post-displacement of all categories of PAP has only taken the form of cash plus generalised /communal livelihoods support and CSR.</p>	
	<p><i>Communal Livelihood Restoration</i>  Using the approach adopted by CEP, communal restoration of PAP livelihoods is considered likely to have been achieved on a generalised level, made up of the following:  Preferential employment – CEP confirmed it has always prioritised local/directly affected communities for employment at the plant which would include PAPs and relatives of PAP families.  Access to Livelihoods focused CSR – CEP has been providing small business support, vocational training and communal livelihoods support programmes to directly affected communities under its CSR programme since 2013/4 and much of this has targeted fishing communities surrounding the site i.e. the villages in which PAPs resided. Livelihood programmes include business incubator, shrimp farming, catfish farming, mushroom farming, boat making, fisherman group support, fisherman’s forum and a fish market.  The reach of these activities is well documented and their impact reported on in the CEP Sustainability Reports between 2014-2021. The Project has also been undertaking periodic monitoring and evaluation using an external consultancy and academic partner to assess their effectiveness.</p>	<ul style="list-style-type: none"> <li>➤ Regarding preferential employment, as described above, there are a very limited number of cases where the residents of directly affected villages are employed by CEP and CPS (7% and 12%, respectively), and thus, there is a discrepancy with the analysis result. Furthermore, the number of the residents of affected villages who are employed by the subcontractors is unknown and it is not possible to determine whether preferential employment is applied to these residents.</li> <li>➤ Regarding the access to the CSR programs, interviews should be conducted to determine whether there is a bias in the people with access to the programs.</li> <li>➤ The effectiveness of the provided CSR programs should be examined with regard to whether such programs have improved or at least restored the standards of living or livelihoods of the PAPs.landowners</li> </ul>
	<p><i>Individual livelihood restoration</i>  Preferential employment - CEP has provided data evidencing the employment of nine people related to original landowners at the Project. No other data systematically tracking the provision of preferential employment of individual PAPs as a planned mitigation for specific livelihood losses is known to be available.  Access to Livelihoods focused CSR - Historical records including name and identification, land/plot and compensation data has been provided by CEP for land affected households, and a reconciliation of this data with monitoring and evaluation data on CEP’s CSR</p>	<ul style="list-style-type: none"> <li>➤ It is indicated that nine people are employed related to the landowners; however, it is not clear whether they are employed by CEP, SPS, or subcontractors, and thus, the analysis is inadequate.</li> <li>➤ The analysis/examination recognizes that there is no accurate and definitive baseline livelihoods/vulnerability and also that it would likely be difficult, if not impossible, to accurately assess the extent to which livelihoods have been individually restored in the case of each households, and recognizes these points as problems; however, there is no recommendation regarding these problems.</li> </ul>

	<p>programmes could potentially provide a broad indication of which of the PAPs have participated in livelihoods support activities since displacement occurred. However, since no accurate and definitive baseline livelihoods/vulnerability data was collected on each household across all categories of PAP at the time of displacement it would likely be difficult, if not impossible, to accurately assess the extent to which livelihoods have been individually restored in the case of each household. (Whilst some baseline data was collected it did not cover all dimensions required for a sufficient baseline.)</p>	
	<p><i>Tenant Farmers – Livelihoods loss and restoration</i>  Under IFC PS5 all categories of land user, even those without formal legal rights to use the land they occupy or the natural resource they derive a livelihood from, are eligible for some form of compensation and/or support.  The documentation provided for the land procurement process does not indicate how livelihood losses of the sharecroppers/tenant farmers or labourers, were documented and addressed in the compensation process. It is understood the legal provision was for landowners to take formal responsibility for their tenants as stated in Article- 4 of PT CEP Land Sale &amp; Purchase Agreement. However, there is no evidence that CEP monitored how landowners dealt with their tenant farmers in each case of displacement following the land procurement, to ensure they either benefited from compensation or were at least supported in finding alternative land. It is therefore not known if sharecroppers/tenant farmers or farm labourers were left economically vulnerable by the process.  The RAP commits “to establish impacts on tenant farmers and re-emphasise the responsibilities of land users to ensure that the tenant farmers understand their rights and are not disproportionately affected”. The RAP also observes that “The tenant farmers may be able to continue to work for the landowner in a new area or business, or work as tenant farmers elsewhere in the area if they do not wish to pursue employment in the construction and operation of the power plant”.  However, beyond these high-level statements in the RAP, no</p>	<ul style="list-style-type: none"> <li>➤ Regarding agricultural workers who are eligible for livelihood restoration support as a requirement of IFC PS 5, there is no analysis/examination nor recommendation about the fact that their losses have not been assessed and remedies have not been developed.</li> <li>➤ Regarding tenant farmers who are eligible for livelihood restoration support as a requirement of IFC PS 5, the responsible party and remedies are mentioned, and a problem is recognized in that whether losses of the tenant farmers have been assessed and whether specific remedies have been implemented are unclear, and thus, whether the impacts have been mitigated is also unclear; however, there is no recommendation regarding this problem.</li> <li>➤ The project operator and lenders who made the loans for the Project remain to be responsible for the livelihood restoration of the PAPs; therefore, it is not appropriate to conclude that "Given the time elapsed since the original land procurement, no evidence of implementation of the RAP, it is unlikely that any further realistic action may be undertaken at this stage" and to make no recommendation.</li> </ul>

	documentary evidence of any specific activity to assess losses and establish measures to safeguard livelihoods of tenant farmers affected by the changes in land use, and is not clear that impacts or losses on this category of PAP have been mitigated in a targeted way. Given the time elapsed since the original land procurement, no evidence of implementation of the RAP, it is unlikely that any further realistic action may be undertaken at this stage.	
PS 5.9 Consultation	The consultation process followed in the negotiation of land prices and compensation based on the information available was considered to have been participatory, inclusive and conducted early and was therefore well aligned with the spirit of IFC PS5	➤ It is concluded that the consultation process "was considered to have been participatory, inclusive and conducted early and was therefore well aligned with the spirit of IFC PS5"; however, it needs to be examined whether the available information was provided only by the project operator etc.. The determination should be made also by conducting interviews, etc. with the landowners concerned, etc.
PS 5.10 Grievance Mechanism	The Project has a grievance mechanism aligned with IFC PS1 described in the ESAP dated 2010. The 2009 RAP also states that a Grievance Redress mechanism was developed as part of the communications management elements of the Project and is described under the Environmental and Social Management Plan (ESMP).	➤ The determination should be made not only by confirming that a grievance mechanism has been established, but also by conducting interviews with the residents regarding its effectiveness.
PS 5.11-5.13 Resettlement Planning and Implementation	The 2009 RAP made commitments to undertake socio-economic studies and ongoing monitoring over 7 years to assess impacts on economically displaced and ensure these losses are addressed on an individual level per the requirements of IFC PS5. However, there is no documentary evidence of land acquisition specific monitoring activities taking place since 2009 in the Project documentation and Project confirmed that no specific individual livelihood monitoring of affected households post compensation had been undertaken.	➤ It is confirmed that there has been no sign of monitoring activities after the land acquisition, as committed in the 2009 RAP, and this is pointed out as a problem; however, there is no recommendation about this problem.
	Monitoring and Evaluation report regarding CSR highlights that the majority of CSR and livelihoods support interventions have benefited the populations of Kanci Kulon, Citemu and Waruduwur which are those communities which were directly impacted by the land	➤ There is no examination regarding whether the fact that the CSR and livelihoods support interventions have "benefited" the PAPs has led to the effectiveness as support for "improving or at least restoring the standards of living or livelihoods of the affected

	<p>procurement process and whose communities included the PAPs who benefited from compensation.</p> <p>It is recommended that process of reconciliation of the PAPs and the CSR monitoring &amp; evaluation data is undertaken to assess which of the original PAPs which were displaced, although then later directly benefited from employment and from communal livelihood restoration and CSR.</p>	<p>people" as required in IFC PS 5.</p> <ul style="list-style-type: none"> <li>➤ The past monitoring and evaluation regarding the CSR programs appears to have conducted no analysis/examination about PAPs who have not received benefits of the CSR/livelihood restoration programs. It is necessary to identify those who have not received the livelihood restoration programs and to tailor and implement livelihood restoration programs that are effective for individual households.</li> </ul> <p>(Related item: Environmental Audit Report, Table 6-1, Corrective action No. 33)</p>
<p>PS 5.14 to 5.21 Displacement (Physical Displacement, Economic Displacement)</p>	<p>Compensation for lost livelihoods displaced from agricultural land (salt ponds, rice fields, fish ponds) was provided in cash based on a 'mutually agreed' price, and no other household specific resettlement choices, options or other forms of assistance are understood to have been offered.</p>	<ul style="list-style-type: none"> <li>➤ It needs to be examined whether the "mutually agreed" price was determined depending on information from the project operator and their perspective. The determination should be made also by conducting interviews, etc. with the landowners concerned.</li> <li>➤ Regarding the fact that other forms of assistance were not offered, there is no analysis/examination as to whether such an action was valid compensation/livelihood restoration measures, and there is no recommendation regarding this issue.</li> </ul>
	<p>As there is no evidence either in the land procurement process followed according to law or in the Supplementary RAP, that any specific attention was paid to the needs of vulnerable groups during survey work or other engagements. Documentation suggests that the economic losses of tenant farmers and sharecroppers as well as labourers on farms which were displaced by the project and which may have been considered a more vulnerable sub-set of PAPs, were not assessed and addressed or compensated in any targeted way.</p>	<ul style="list-style-type: none"> <li>➤ It was pointed out that there is no evidence that specific attention was paid to vulnerable groups, such as tenant farmers and agricultural workers, and that their economic losses were not assessed or addressed/compensated. Nonetheless, there is no recommendation regarding the issues.</li> </ul>
<p>PS 6.14 to 6.17 Management and Use of Renewable Natural Resources</p>	<p>The ESIA Action Plan had recommended a fisheries monitoring programme to be developed to allow the assessment of potential impacts of the Project on local fisheries which could provide a useful basis for the resolution of any future claims for compensation for lost fisheries production. Such a fisheries monitoring programme has not been developed, although some fishery catch data has been provided in more recent RKL-RPL monitoring reports since 2022 (it is noted</p>	<ul style="list-style-type: none"> <li>➤ There is no analysis/examination about the fact that continuous fishery monitoring has not been conducted, and fishery monitoring reports were mentioned only for 2022 and 2016, despite the recommendation in the ESIA Action Plan.</li> <li>➤ The 2021 to 2023 monitoring reports concluded, on the basis of information about the species caught and the total weight, that the shallow water conditions were relatively normal and also that the</li> </ul>

	<p>that monitoring fisheries was not reported in the older reports prior to 2022, with the exception of some descriptive commentary on decreasing fish population in the 2016 RKL-RPL monitoring report). Monitoring data presented in the 2021 to 2023 RKL-RPL monitoring reports included the species caught as well as the total weight, with qualitative statements such as “<i>the various types of fish caught by the fishermen could indicate that the shallow water conditions were still relatively normal</i>” and “<i>the existence of PT CEP operating in the coastal area of Cirebon did not significantly impact the decline in fish species in the waters surrounding PT CE's activities</i>” provided, although there were no trends over a longer time period being presented. The LTA monitoring report also do not mention trends relating to fishing.</p> <p>It should be noted decrease in fisheries catch has been one of the complaints from the NGO, RAPEL. An independent research report (2020) has been provided which cited data from the Cirebon Regency Marine and Fisheries Agency’s Fish Production Reports showing that there was already a declining trend prior to the construction of the Project likely due to increase in fishing activity and development of the use of nets.</p>	<p>CEP operation did not significantly impact the decline in fish species; however, there is no analysis/examination as to whether such conclusions are valid.</p> <p>➤ Regarding the decrease in fisheries catch, it is pointed out that no trends over a longer time period have been presented. Nonetheless, it is suggested, on the basis of the 2020 independent research report, that the causes of the decrease in fisheries catch are an increase in fishing activity and the development of the use of nets. However, fisheries catch of small-scale fisherfolks who do not use fishing boats are normally not reflected in data of government agencies or the like; therefore, it needs to be examined whether the results of the independent research are valid. Furthermore, the analysis/examination should also include interviews, etc. with the small-scale fisherfolks.</p> <p>(Related item: Environmental Audit Report, Table 6-1, Corrective action No. 37)</p>
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## **Appendix: The need to examine the environmental review and monitoring by Japan Bank for International Cooperation (JBIC) related to Cirebon-1 -the case of "involuntary resettlement and loss of livelihoods"**

On March 8, 2010, Japan Bank for International Cooperation (JBIC) decided to provide project financing for the Cirebon-1 coal-fired power plant project up to a total of US\$ 595 million<sup>27</sup>. In the decision-making process of this loan, an environmental review was conducted in accordance with the "JBIC Guidelines for Confirmation of Environmental and Social Considerations" (the version established in April 2002) (the Guidelines), and its results have been published on the JBIC's website<sup>28</sup>. In addition, after the loan decision, JBIC continues monitoring in accordance with the Guidelines until CEP completes loan repayment.

Although the JBIC's Guidelines (the version established in April 2002 that is applied to the Cirebon-1 project) does not explicitly refer to IFC-PS, the Guidelines include a provision that, "JBIC also uses, as reference points or benchmarks, examples of standards and/or good practices regarding environmental and social considerations established by international and regional organizations and developed countries such as Japan". In addition, as the international standards JBIC confirms that the projects "meet" regarding environmental and social considerations, IFS-PS is stipulated in the July 2009 revised version as well as the current Guidelines (the version revised in May 2022). Therefore, JBIC must be referring at least to IFC-PS in the environmental review and monitoring of Cirebon-1 based on the Guidelines, and, in light of the spirit of the July 2009 revised version and newer versions of the Guidelines, JBIC is expected to confirm that the project meets with IFC-PS.

As discussed above, in the environmental and social compliance audit (environmental audit) related to Cirebon-1 conducted under the ADB's ETM, the compliance status of IFS-PS 1-8 was assessed, and analyses and results regarding the individual requirements were reported (section 5.3 of the environmental audit report). In addition, corrective actions have been proposed for the 36 items for which the compliance status was determined to be insufficient in light of the respective requirements of IFS-PS (Section 6 of the environmental audit report).

Judging from the contents of the environmental audit, there are items that could be pointed out as possible non-compliance with JBIC guidelines, and thus, it is speculated that there have been problems with the JBIC's environmental review and monitoring. Here, problems with the JBIC's environmental review and monitoring will be discussed regarding, as an example, "involuntary resettlement" in the JBIC's Guidelines.

### **(1) Problems with the environmental review**

First, the environmental audit report reveals the following facts.

- Doosan Heavy Industries & Construction Company (DHI), the EPC contractor related to Cirebon-1, commenced its construction work in late 2007. This suggests, in other words, that the land acquisition was started before that time.
- The environmental permit related to Cirebon-1 was issued on April 29, 2008.
- The Resettlement Action Plan (RAP) was developed in June 2009.

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<sup>27</sup> JBIC, "Project finance and political risk guarantee for Cirebon coal-fired power generation project in Indonesia", March 8, 2010, <https://www.jbic.go.jp/ja/information/press/press-2009/0308-6025.html>

<sup>28</sup> JBIC, "Environmental Examination Report", March 9, 2010, [https://www.jbic.go.jp/en/business-areas/environment/projects/image/3225\\_2.pdf](https://www.jbic.go.jp/en/business-areas/environment/projects/image/3225_2.pdf)

- For the individual PAPs, the offer of "other assistance to improve or at least restore their standards of living or livelihoods of those affected" is not considered, and thus, IFC PS-5 is not met.

The above-mentioned facts indicate the following problems in relation to the Guidelines.

- The construction started before the environmental permit was issued, and this may be in violation of Indonesian domestic laws and may also be in violation of the Guidelines.
- Considering that the land acquisition and construction started in 2007 and that farmers, including tenant farmers and agricultural workers who have been utilizing paddy fields, salt pans, etc., as well as small-scale fisherfolks and shellfish collectors, who had been dependent on the coastal ecosystem, have been already suffering impacts on their livelihoods, the development of RAP in 2009 was, without doubt, too slow as a response to this situation. This suggests that livelihood restoration measures may not have been provided at an early stage of the loss of livelihoods, which is a clear violation of the Guidelines which state that sufficient support must be provided "in a timely manner".
- Since livelihood restoration measures other than compensation payment was lacking at least until 2009, it is highly likely that a requirement of the Guidelines, "to enable the people affected by the project to improve their standards of living, income opportunities, and production levels, or at least to restore them to pre-project levels", was not fulfilled at an early stage at which the affected people suffered impacts on their livelihoods.

However, with the results of the JBIC's environmental review (March 9, 2010)<sup>29</sup>, inadequacies can be pointed out in their confirmation/assessment of facts, as indicated below.

- Regarding the environmental permit, the review states that "Pursuant to the laws and regulations of the Government of Indonesia, the EIA for the project was executed. The environmental permit was issued by Government of West Java", and there is no sign that shortcomings of the process were confirmed/assessed.
- Regarding the social considerations, the review states that "The site has been acquired without any resettlements. Appropriate consideration is made on social environment". This suggests that an essential process for the implementation of the Cirebon-1 project, that is, the land acquisition, may have not been a subject of the environmental review to begin with, and thus, there may have been a serious flaw in the environmental review.
- Regarding the loss of livelihoods, there is also no sign that the confirmation/assessment was conducted regarding the fact that the provision of adequate measures were not considered in the manner to meet IFC-PS 5, or in light of the Guidelines.

## **(2) Problems with the monitoring**

Next, examples of problems with the monitoring will be considered. The environmental audit report points out the following matters.

- There is no sign of monitoring activities by the project operator after the land acquisition, as committed in the 2009 RAP.
- Since no accurate and definitive baseline livelihoods/vulnerability data was collected at the time of displacement, it would likely be difficult, if not impossible, to accurately assess the extent to which livelihoods have been individually restored in the case of each household.
- The project operator has reported the species caught and the total weight for only recent years of 2021-2023 and has not conducted continuous fishery monitoring, and thus, there is no information indicating a long-term trend of the fisheries catch.

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<sup>29</sup> See Footnote 28

It remains very questionable **how JBIC has been conducting its monitoring about "involuntary resettlement and loss of livelihoods"** in such a situation in which there is no sign of monitoring activities by the project operator after the land acquisition, there is also no baseline data, and there is no consideration for the provision of livelihood support for the individual affected tenant farmers and agricultural workers, as discussed above. The situation is the same for the monitoring of the impact on the livelihoods of small-scale fisherfolks, since the monitoring must have been conducted without information indicating a long-term trend of the fisheries catch.

A resident group filed an objection to JBIC regarding Cirebon-1 in November 2016, and, in their written objection, the resident group stated that, despite the fact that residents engaged in small-scale fishery, salt production, etc. have suffered serious impacts on their livelihoods, the project operator provided compensation/livelihood restoration measures to hardly any of the residents and, even if a certain measure was provided, it was not adequate or effective for livelihood restoration. Furthermore, the resident group pointed out a guideline violation in that **JBIC did not conduct appropriate monitoring in accordance with the Guidelines** regarding the above issues<sup>30</sup>.

In response, the investigation conducted by JBIC's "Examiners for Environmental Guidelines" (examiners)<sup>31</sup> recognized that JBIC has confirmed the fact that the Project Proponent has provided compensation for the recovery of livelihoods through dialogues with affected residents who need to be considered as fishermen, salt-makers, and farmers, among others, from the environmental impact assessment stage of the Project" and concluded that "violation of the monitoring provisions has not been acknowledged".

However, the ADB's environmental audit report points out the following matters, and thus, the method and details of the investigation by the examiners, including whether the examiners gathered adequate information and whether the examiners analysed appropriately, should also be examined.

- "Some categories of Project affected Peoples were not individually compensated for losses including sharecroppers/tenant farmers and labourers on farms and or other marine users that may have experienced loss of income or subsistence from the displacement of activities."
- Regarding the project operator's action, "there is no evidence that CEP monitored how landowners dealt with their tenant farmers in each case of displacement following the land procurement, to ensure they either benefited from compensation or were at least supported in finding alternative land."
- "There is no evidence either in the land procurement process followed according to law or in the Supplementary RAP, that any specific attention was paid to the needs of vulnerable groups during survey work or other engagements."

The above is merely an examination limited to the matters related to "involuntary resettlement". The environmental audit report presents analyses and corrective actions for the individual requirements of PS 1-8. The number of corrective actions presented for each PS are as described below.

#### PS 1 Assessment and Management of Environmental and Social Risks and Impacts — 4

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<sup>30</sup> FoE Japan, "Indonesian Villagers Filed the Objection against JBIC "Cirebon Coal-fired Power Plant has made our life worse" Don't finance for the Expansion Plant!", November 10, 2016, <https://www.foejapan.org/en/aid/161110.html>

<sup>31</sup> "Examination Report on Objection to Cirebon Coal-fired Power Plant Project ? Unit 1, West Java, Indonesia", (March 21, 2017), [https://www.jbic.go.jp/en/business-areas/environment/disagree/image/1601report\\_en.pdf](https://www.jbic.go.jp/en/business-areas/environment/disagree/image/1601report_en.pdf)

items

PS 2 Labor and Working Conditions — 10 items

PS 3 Resource Efficiency and Pollution Prevention — 15 items

PS 4 Community Health, Safety, and Security — 3 items

PS 5 Land Acquisition and Involuntary Resettlement — 1 item

PS 6 Biodiversity Conservation and Sustainable Management of Living Natural Resources — 3 items

PS 7 Indigenous Peoples — 0 item

PS 8 Cultural Heritage — 0 item

The details of the environmental review and monitoring by JBIC, including measures against pollution, etc. must be examined so as to clarify the responsibility that JBIC must fulfill on the basis of the Guidelines. By doing so, the existing environmental and social impacts that the construction and operation of Cirebon-1 have caused over many years must be addressed.

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