ENVIRONMENTAL IMPACT ASSESSMENT IN JAPAN

Ministry of the Environment
Index

1. The EIA System in Japan

2. The Environmental Impact Assessment Act
   (1) Objective
   (2) Revision of the Environmental Impact Assessment Act
   (3) Projects subject to EIA
   (4) Who implements EIA?
   (5) Procedure of EIA
   (6) Primary Environmental Impact Consideration
   (7) Judgment of Class-2 projects (Screening)
   (8) Procedure for the draft of the assessment method (Scoping)
   (9) Implementation of EIA
   (10) Procedure for the Draft EIS
   (11) Procedure for the EIS
   (12) Reflecting the assessment results in the project scheme
   (13) Impact Mitigation Reporting
   (14) Special cases

3. EIA system of local governments
   (1) Current state of the system of local governments
   (2) Relationship between the Environmental Impact Assessment Act and the local ordinances

4. Further information on the EIA system in Japan
   (1) Environmental Impact Assessment Network
   (2) Access to the Environmental Impact Statements (EISs)
1. The EIA System in Japan

In Japan, a system on EIA (Environmental Impact Assessment) was first introduced in 1972 for public works. The systems relating to port and harbor planning, reclamation, power plants and the Shinkansen bullet (super-express) train were established later around 1980. In the course of implementing EIA under these systems, the need for an integrated system/standardized rule was recognized. Therefore the environmental impact assessment bill was proposed to the Diet in 1981 but failed to pass in 1983.

After the bill became void, a standardized rule of “Implementation of Environmental Impact Assessment “was set up through a Cabinet decision in 1984. Furthermore, local governments also promoted the establishment of their own ordinances and guidelines on EIA.

Later, a review of the system began when promotion of EIA was stipulated in the “Basic Environment Law” enacted in 1993. As a result, corresponding to the framework of the new environmental policy as well as referring to EIA systems in other countries, the “Environmental Impact Assessment Act” was enacted in June 1997. Since the enactment, in accordance with the EIA Act, a total of 142 projects in the sector of road, power plant and other field projects have been completed the EIA procedures so far.

In April 2011, the Revised EIA Act was enacted in which an EIA procedure at the planning stage (Primary Environmental Impact Consideration) and a procedure for reporting and announcing results of the measures for protecting the environment (Impact Mitigation Reporting) were incorporated.
### 2. The Environmental Impact Assessment Act

#### (1) Objective

The Environmental Impact Assessment Act was formulated from the idea that EIA is essential for preventing serious environmental impacts and promoting a sustainable society.

Its objective is to consider environmental conservation properly by establishing a procedure for the EIA of large-scale projects and reflecting the assessment results in the decision-making (including project licensing).

#### (2) Revision of the Environmental Impact Assessment Act

In 2011, the Environmental Impact Assessment Act was revised after it had gone through relevant experts meetings, deliberations in the Central Environment Council, public comments and others. The amendment was to address new issues identified in 10 years experiences during the implementation of the law, such as the need for EIA procedures at an earlier stage, and to address change of EIA roles in diversification and complication of issues and problems on environmental policy, such as conservation of biodiversity.

### TOPICS: Issues on amendment of the Environmental Impact Assessment Act

**<Main Amendments>**

Enforced in April 1st, 2012

- Addition of projects provided with grants to projects subject to EIA
- Obligation to hold a public session at the stage of the assessment method determination
- Obligation for the publication of the documents prepared by the project proponents (environmental assessment documents) via internet
- Stipulation of the procedure to have opinions from Minister of the Environment in the selection of evaluation items
- Enabling direct submission of opinion from the designated cities to the project proponent
- Stipulation of the procedure to gain advice from the Minister of the Environment when a prefectural governor etc. is the issuer of the license etc.

Enforced in April 1st, 2013

- Establishment of Primary Environmental Impact Consideration
- Establishment of Impact Mitigation Reporting
13 types of projects are subject to the Environmental Impact Assessment Act including the construction of roads, dams, railways, airports and power plants.

Among them, large-scale projects that could have a serious impact on the environment are categorized as “Class-1” projects and are required to follow the procedure of the Act. The projects ranked next to the Class-1 projects in scale are grouped as “Class-2” projects for which the judgment whether to follow the procedure for EIA is determined individually. In other words, all Class-1 projects and the Class-2 project judged to be subject to EIA must follow the procedure for EIA in the Act.

Large scale port and harbor planning is subject to the EIA as well.

The types and sizes of projects are described in the table on the next page.
Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

Opinions of the Minister of the Environment

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<table>
<thead>
<tr>
<th>Year</th>
<th>Process of establishing the Environmental Impact Assessment Law</th>
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<tbody>
<tr>
<td>1972</td>
<td>1981 Enactment of the Basic Environment Law</td>
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After the bill became void, a standardized rule of “Implementation of Environmental Impact Assessment” was set up through a Cabinet decision in 1984. Furthermore, local governments also promoted the establishment of their own ordinances and guidelines on EIA.

Later, a review of the system began when promotion of EIA was stipulated in the “Basic Environment Law” enacted in 1993. As a result, corresponding to the framework of the new environmental policy as well as referring to EIA systems in other countries, the “Environmental Impact Assessment Law” was enacted in June 1997. Since the enactment, in accordance with the EIA Law, a total of 142 projects in the sectors of road, power plant and others have been completed the EIA procedures so far.

In April 2011, the Revised EIA Law was enacted in which an EIA procedure at the planning stage (Primary Environmental Impact Consideration) and a procedure for reporting and announcing results of the measures for protecting the environment (Impact Mitigation Reporting) were incorporated.

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(4) Who implements EIA?

Project proponents implement EIA by themselves. This is because EIA is the process for putting environmental considerations into the project design through exchange of views and information among the entities concerned and because project proponents know best about proposed project and have the best position to modify/adjust the project.

By considering all environment-related issues and necessary measures in advance through information gathering and disclosure on possible impacts of the project, environmental issues are better addressed during the construction and operational phases of the project.
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1972 EIA for public works
1981
1984
1993
1997
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2011
2013

(Year)

Process of establishing the Environmental Impact Assessment Law

- Approval of “On the Environmental Conservation Measures Relating to Public Works” by the Cabinet
- Submission of “Environmental Impact Assessment Bill” to the Diet (void in 1983)
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- Enforcement of “Environmental Impact Assessment Law”

Institutionalization of the system by administrative guidance instead of law

Legal recognition of EIA

Enactment of the “Basic Environment Law”

Revision of the “Environmental Impact Assessment Law”

Complete enforcement of the Revised “Environmental Impact Assessment Law”

- Primary Environmental Impact Consideration
- Impact Mitigation Reporting

In Japan, a system on EIA (Environmental Impact Assessment) was first introduced in 1972 for public works. The systems relating to port and harbor planning, reclamation, power plants and the Shinkansen (super-express train) were established later around 1980. In the course of implementing EIA under these systems, the need for an integrated system/standardized rule was recognized. Therefore the environmental impact assessment bill was proposed to the Diet in 1981 but failed to pass in 1983.

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Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

Opinions of the Minister of the Environment

Total

On-going

Completed

Aborted

Waste disposal site

Road

River

Railway

Airport

Power plant

Landfill

Readjustment

1972 EIA for public works

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1984

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(Year)

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Primary Environmental Impact Consideration enables environmental consideration at the early stage; a Document on Primary Environmental Impact Consideration is compiled by each proponent of Class-1 projects, which includes the information on evaluation items to be properly considered for environmental conservation at the stage of planning of project location, scale and others.

In the preparation of the Document, alternative plans on a project location, scale and others are compared, and opinions of citizens, experts, local governments and others are considered in regard to possible impacts on living environment, natural environment and others caused by the project.

Project proponents should reflect the results of the Primary Environmental Impact Consideration in the Scoping and subsequent procedures. Each proponent of Class-2 projects can voluntarily implement the procedures noted above.

## TOPICS: Increased opportunities for Minister of Environment’s opinions

In the environmental assessment, it is adequate to seek opinions outside the project for more appropriate environmental considerations. In the EIA Act, Minister of the Environment, responsible for the protection of the environment, can give opinions to all the projects that require licenses etc. by the national government.

Act amendment of 2011 gave the Minister of the Environment additional opportunities to give opinions to the project proponent at the stages of Primary Environmental Impact Consideration, Scoping Document and Impact Mitigation Report.
Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

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Institutionalization of the system by administrative guidance instead of law
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Legislation on EIA
Enactment of the “Basic Environment Law”
Revision of the “Environmental Impact Assessment Law”
Complete enforcement of the Revised “Environmental Impact Assessment Law”
Primary Environmental Impact Consideration, Impact Mitigation Reporting

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### TOPICS: Procedure for Environmental Consideration at earlier stage

Before the amendment of the EIA Act, the framework of the project (location, scale, etc) was determined prior to the EIA stage thus it was difficult to deal with alternative plans in some cases.

In contrast, Primary Environmental Impact Consideration, introduced by the amendment of the Act, made it more flexible to deal with alternative plans at the planning stage, and is expected to provide more effective way to avoid or reduce environmental impacts.

In the system of some foreign countries, EIAs are carried out at even earlier stage of planning or policy making, to provide even more effective way to consider the environment. In the future, it is necessary for our country to consider these types of EIAs at the earlier stage of the project.

### Stage of Primary Environmental Impact Consideration in Japan

<table>
<thead>
<tr>
<th>Flow of the Planning and Implementation of the Projects</th>
<th>Overseas (ex:EU)</th>
<th>Japan</th>
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<tbody>
<tr>
<td>Planning Stage for framework of the project (location, scale, etc)</td>
<td>EIA Directive (2003 Final revision)</td>
<td>Procedures before the amendment of the Act</td>
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<td>Planning Stage for detail of the project</td>
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<td>Project Implementation</td>
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### Enactment of the Environmental Impact Assessment Law

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### Process of establishing the Environmental Impact Assessment Law

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8. Legislation on EIA
9. Enactment of the “Basic Environment Law”
10. Revision of the “Environmental Impact Assessment Law”

### Judgment of Class-2 projects (Screening)

The procedure for deciding whether EIA should be applied to projects is called “Screening”.

In the Environmental Impact Assessment Act, whether EIA should be applied to a project is determined in accordance with the scale of the project. However, the extent of the environmental impacts does not necessarily depend only on the project scale. For instance, even though a project near a school, a hospital, an intake point for drinking-water production, or a reclamation project filling a wetland inhabited by many wild birds, are small in scale, these projects could have serious impacts on the environment.

Therefore, the decision on whether EIA should be applied to a Class-2 project is made individually on a case-by-case basis.

The judgment is made by the issuers of licenses etc. in accordance with the judgment criteria (for example, decisions on road projects are made by the Minister of Infrastructure, Land, Transport and Tourism; decisions on power plant projects by the Minister of Economy, Trade and Industry, etc.). In making the judgment, opinions from the prefectural governor who is well-acquainted with the local situation should be taken into consideration.

#### Screening Diagram

- **Environment Minister**
  - Guideline
- **Issuers of Licenses etc.**
  - Judgment criteria
  - Submission
  - Judgment (within 60 days)
  - Notification
- **Project proponent**
  - Outline of the project
  - Assessment required
  - Assessment by Act not required
- **Prefectural governor**
  - Opinions (within 30 days)

### Examples of projects that are small in scale but are required to be assessed.

- Criteria associated with the nature of the project
  - A thermoelectric power plant using fuel causing more serious air pollution
  - A road that is a part of a comprehensive project, which could cause serious environmental impacts.
- Criteria associated with the regional situation
  - A dam near the nesting ground of golden eagles
  - A project within a National Park
  - A road passing through an area where the concentration of nitrogen dioxide (NO2) exceeds the ambient environmental quality standard.
(8) Procedure for the draft of the assessment method (Scoping)

With regard to road construction projects, for example, the issues to be dealt with in environmental impact assessment will have differences between road projects proposed in a nature rich mountainous region and other ones proposed in an intensively developed and air-polluted urban region.

With this view, environmental impact assessment shall be implemented in accordance with local circumstances and context. Therefore, opportunities to hear opinions from the citizens and local governments are organized before deciding the assessment method. By collecting the opinions at the earlier stage of the project, those opinions are able to be considered in selecting the evaluation items, and as a result the project can be assessed in a more site-oriented way.

This procedure is called “Scoping”.

Specifically, each project proponent prepares “Scoping Document” that describes the assessment method (survey, forecast and evaluation), sends it to relevant prefectural governor and the municipal mayors, publicly notifies the document (public notification) and allows anyone to see it at local government offices, at the proponent’s offices and on websites (public comment) for a period of one month.

In addition, each project proponent shall organize public meetings to explain the contents written in the “Scoping Document”. Anyone who has opinions about the Scoping Document from the standpoint of environmental conservation can express his/her opinions. The proponent sends the summaries of those opinions to relevant prefectural governors and municipal mayors. Later, the prefectural governor expresses his/her opinions to the proponent after hearing opinions from the municipal mayors, while also taking into account the opinions from the general public.

The project proponent decides the assessment method giving due consideration to these opinions.

Taking into account the opinions from prefectural governors, the project proponent can, if necessary, seek technical advice on items to be considered and methods to be employed in EIA from the Competent Minister.

The Competent Minister has to hear opinions of the Minister of the Environment before giving technical advice to the proponent.

The project proponent decides on the assessment method giving due consideration to these opinions.
(9) Implementation of EIA

After the Scoping, the project proponent implements survey, forecast and evaluation of the environmental impacts in accordance with the evaluation items and methods decided through the scoping procedure, considers the measures necessary to protect the environment, and comprehensively evaluates the environmental impacts when such measures are taken.

In addition, the proponent carries out EIA referring to related laws and regulations, basic guidelines for all types of projects, and ordinances or guidelines which the Competent Ministers stipulate for individual projects. Information and outputs from Primary Environmental Impact Consideration are also utilized at the maximum for the implementation.

Survey

The project proponent collects the information through the existing materials from the governments, scientific knowledge from experts and field survey in order to acquire the local environmental information required for forecast and evaluation.

Forecast

The project proponent forecasts quantitatively the amount of impact on the environment or change in the state of the environment during the construction and operational phases. It is conducted by the numerical calculation by mathematical models, experimental model, citation or analysis from the existing cases. If it is difficult to obtain quantitative results, qualitative results are obtained.

Evaluation

The project proponent considers if the possible environmental impacts by the project are avoided or reduced to the extent possible, and if the standards or targets concerning environmental protection are satisfied.

TOPICS: Best-effort pursuit type assessment

In the Environmental Impact Assessment Act, “Best-effort pursuit type” assessment, in which the proponent, in order to minimize the environmental impacts, compares several alternatives and considers if further feasible measures are taken, is chosen over “Target clearance type” assessment, in which the proponent sets certain goals and just satisfies them. Using this “Best-effort pursuit type” assessment, it is expected that discussions among citizens, local governments and the project proponent will be made toward a better project scheme in the context of environmental protection.
Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

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**Procedure for the Draft EIS**

After the survey, forecast and evaluation are completed, the next procedure is to listen to opinions concerning the results of the assessment.

The project proponent prepares a Draft Environmental Impact Statement (EIS) that describes the assessment results and his/her approach to addressing environment protection, and sends it to the prefectural governor and the municipal mayors. The proponent also publicly notifies the document and allows anyone to see it at local government offices, the proponent’s offices and on websites for a period of one month. Within this period, due to the thick volume and specialized contents of the Draft EIS, meetings are also held to explain the contents of the Draft EIS to the public.

Anyone who has an opinion about the Draft EIS can make a submission concerning environmental protection.

The project proponent sends the summaries of those opinions and his/her response to them to the prefectural and municipal governments. Later, the prefectural governor expresses his/her opinion after hearing the opinions from the municipal mayors, while also taking account of the opinions from the general public.

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*1 : The mayor of each city specified by Cabinet Order can directly submit his/her opinions if the extent of the environmental impact is restricted within the area of the city.

* : Cities specified by Cabinet Order: Sapporo, Sendai, Saitama, Chiba, Yokohama, Kawasaki, Sagamihara, Niigata, Shizuoka, Hamamatsu, Nagoya, Kyoto, Osaka, Sakai, Suita, Kobe, Amagasaki, Hiroshima, Kitakyusyu and Fukuoka
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   (6) Primary Environmental Impact Consideration
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   (8) Procedure for the draft of the assessment method (Scoping)
   (9) Implementation of EIA
   (10) Procedure for the Draft EIS
   (11) Procedure for the EIS
   (12) Reflecting the assessment results in the project scheme
   (13) Impact Mitigation Reporting
   (14) Special cases

3. EIA system of local governments
   (1) Current state of the system of local governments
   (2) Relationship between the Environmental Impact Assessment Law and the local ordinances

4. Further information on the EIA system in Japan
   (1) Environmental Impact Assessment Network
   (2) Access to the Environmental Impact Statements (EISs)
The procedure for EIA prior to the project concludes with the public notification of the final EIS. However, EIA itself is not the purpose; it is extremely important for the project proponent to reflect the results of the assessment in the project scheme.

The projects subject to the Environmental Impact Assessment Act are projects to be approved, authorized, subsidized or conducted by the national government. In other words, the government can decide whether the projects will be implemented or not.

The project-related laws (such as the Road Act and the Railway Business Act) give approval to a project, although the requirements for such approval do not necessarily include considerations relating to environmental protection.

In this context, the Environmental Impact Assessment Act includes provision not to give authorization to projects that do not take enough environmental protection into account.
Impact Mitigation Reporting

After the procedure for the EIS is completed and the construction is started, a follow-up survey is conducted in order to monitor environmental conditions at the construction and operation stages. The necessity for such survey is considered in accordance with the magnitude of impacts on the environment in cases where measures for protecting the environment have small numbers of installation and/or high uncertainties. The project proponent determines the necessity of the survey and specifies it in the EIS.

After the construction is finished, the project proponent compiles and publishes a document about the follow-up survey, along with the measures for protecting the environment to cope with the conditions identified during the survey and the progress of the measures taken. This is called the Impact Mitigation Reporting.

Procedure for Impact Mitigation Reporting

TOPICS: Purpose of obligatory Impact Mitigation Reporting

The results of the follow-up survey or the effects of some measures for protecting the environment cannot be fully predicted at the time when the procedure for EIS is completed. The purpose of obligatory Impact Mitigation Reporting is to disclose the progress of the measures taken to the citizens who are interested, and to complement the substance of measures taken by having opinions from the Minister of the Environment etc.

In addition, since the measures for protecting the environment include highly technical information, sharing extensively the result of the measures taken, instead of closing it among the persons involved, is also helpful for complementing EIAs in other projects.
Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

Opinions of the Minister of the Environment

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1972 EIA for public works
1981
1984
1993
1997
1999
2011
2013
(Year)

Process of establishing the Environmental Impact Assessment Law

Approval of “On the Environmental Conservation Measures Relating to Public Works” by the Cabinet
Submission of “Environmental Impact Assessment Bill” to the Diet (void in 1983)
Decision on the “Implementation of Environmental Impact Assessment” by the Cabinet
Enactment of the “Environmental Impact Assessment Law”
Enforcement of “Environmental Impact Assessment Law”

Institutionalization of the system by administrative guidance instead of law
Legal recognition of EIA
Legislation on EIA
Enactment of the “Basic Environment Law”
Revision of the “Environmental Impact Assessment Law”
Complete enforcement of the Revised “Environmental Impact Assessment Law”

In Japan, a system on EIA (Environmental Impact Assessment) was first introduced in 1972 for public works. The systems relating to port and harbor planning, reclamation, power plants and the Shinkansen (super-express train) were established later around 1980. In the course of implementing EIA under these systems, the need for an integrated system/standardized rule was recognized. Therefore the environmental impact assessment bill was proposed to the Diet in 1981 but failed to pass in 1983.

After the bill became void, a standardized rule of “Implementation of Environmental Impact Assessment” was set up through a Cabinet decision in 1984. Furthermore, local governments also promoted the establishment of their own ordinances and guidelines on EIA.

Later, a review of the system began when promotion of EIA was stipulated in the “Basic Environment Law” enacted in 1993. As a result, corresponding to the framework of the new environmental policy as well as referring to EIA systems in other countries, the “Environmental Impact Assessment Law” was enacted in June 1997. Since the enactment, in accordance with the EIA Law, a total of 142 projects in the sectors of road, power plant and others have been completed the EIA procedures so far.

In April 2011, the Revised EIA Law was enacted in which an EIA procedure at the planning stage (Primary Environmental Impact Consideration) and a procedure for reporting and announcing results of the measures for protecting the environment (Impact Mitigation Reporting) were incorporated.

(14) Special cases

When the project is included in city planning
- The prefectural and municipal governments responsible for the city planning perform the procedure instead of the project proponent.
- EIA proceeds along with the procedure for formulation of city planning.
- The assessment results are also reflected in the city planning.
- Impact Mitigation Reporting is carried out by the proponent of the city planning project.

Port planning
- The assessment is made not for the project, but for the port planning, and is carried out by port management bodies.
- Primary Environmental Impact Consideration, Screening, Scoping and Impact Mitigation Reporting are not carried out.

Power plant
- The national government (Minister of Economy, Trade and Industry) presents his/her opinion to the Scoping Document and the Draft EIS.
- Impact Mitigation Reporting is limited to the publication of Impact Mitigation Report.
Implementation Status of the Legal EIA Procedures in Japan (as of 31st March 2012)

Opinions of the Minister of the Environment

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(1) Environmental Impact Assessment Network

The Ministry of the Environment provides information on Environmental Impact Assessment through the internet as follows.

- Environmental Impact Assessment Network
  URL: http://assess.env.go.jp/index.html
  The network provides the following information.
  - Information on cases of on-going and completed EIA procedures
  - EIA systems of local governments
  - Information on seminars, workshops and committees on EIA,
  - Overseas Information (English)

- Homepage of the Ministry of the Environment (English)
  URL: http://www.env.go.jp/en/

(2) Access to the Environmental Impact Statements (EISs)

During the public inspection, the documents of EIA are available on websites of the project proponent etc. which are introduced in the EIA network of MOE. After the public inspection, some documents of the project are available on website or at the EIA network of MOE.

When you have any questions on opinions about EIA based on EIA Act, please contact the Environmental Impact Assessment Division, Minister’s Secretariat, Ministry of the Environment as shown on the next page.

(Please note that we are unable to answer to question for environmental impact assessment of each project.)
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Government of Japan
1-2-2, Kasumigaseki, Chiyoda-ku, Tokyo, Japan
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2020