

Annex 10:

Legal Due Diligence and Internal Approvals



10.A Legal Due Diligence

Japan International Cooperation Agency (JICA) operates in Timor-Leste in accordance with the “Agreement on Technical Cooperation and the Japan Overseas Cooperation Volunteers Program between the Government of Japan and the Government of the Democratic Republic of Timor-Leste” signed between the both parties on the 25th of January 2005 and publicized on “Jornal da Republica” of 15th of March 2006.

In the execution of the Funding Activity Agreement with GCF, JICA as AE shall secure authorization from the Government of Japan / Ministry of Foreign Affairs of Japan to negotiate and sign the Funded Activity Agreement (FAA). No other specific agreement is required to implement the proposed GCF funded project besides the Memorandum of Cooperation with the TL government acting as the Co-Implementing Agency for this project. It is also important to note that official approval of the JICA's co-financing project will be made in course of the protocol of the Japanese Government in early 2021, through 'Note Verbale for Japan's Technical Cooperation' from the Embassy of Japan in Timor-Leste.

At the project level, there is no regulatory approval, licenses or permits required since the proposed project is a project co-implemented with the government, DCFCIP and concerned agencies.

JICA's Timor-Leste office was established in Timor-Leste in 2000. Since, the office has over 20 years of experience in executing projects and procuring necessary services and equipments etc. in Timor-Leste. Thus, JICA, as the AE and EE, has the capacity to enter contract on its own name in Timor-Leste. For the procurement of goods, works and services, “International Regulations for Local Procurement in JICA Timor-Leste Office” is in effect. In addition, original procurement guideline and procurement plan will be developed for this project specific procurement. The procurement of Goods and Services for Funded Activities shall be done in accordance with JICA's rules, policies and procedures.

There is no exemption, privilege and immunity on taxes and foreign exchange regulations related to the GCF financed project. JICA TL office and JICA's Technical Assistance (TA) team will handle the customs duties and domestic taxes of goods/equipment directly procured/imported from other countries.

Since the Project is financed through GCF grant, no foreign exchange approvals are required for JICA to receive or transfer funds to/from GCF in USD.

JICA's technical assistance for the JICA's co-financed project are exempt from all direct taxes, except for utilities services, and is exempt from customs duties and charges of a similar nature in respect of items imported or exported for its official use. Tax exemptions apply to Goods and Services procured directly by JICA for JICA's co-financed project. JICA's contractors/procured parties cannot benefit from JICA's tax exemptions.

As stated in the 'Chapter 10 Environmental and Social Considerations' in the Pre-feasibility study, the proposed project is categorized as 'C' under JICA Guidelines for Environmental and Social Considerations (April 2010). As stipulated in Decree law No 5/2011 on “Environmental Licensing Law” of GoTL, the project document should be submitted to the environmental authority for screening, and no other special license, permit and submission of EIA is required to implement the proposed project. The screening result of the ESS categorization will be open to the public through JICA's website once the FP is submitted.

Regarding land rights, it is important to note that the project will not cause any physical displacement, resettlement, land acquisition, or loss of livelihood opportunities.

No insurance policies or regulatory requirements related to the project are applicable.

10.B. Legal Opinion/Certificate of Internal Approvals
Internal approval has been given on the date 19 th June 2020 for the project proposal submission. The legal opinion by JICA's legal adviser (attorney at law) will be submitted to the GCF Secretariat no later than February 2021.