

TECHNICAL NOTES

**INVOLUNTARY RESETTLEMENT
IN CHINA**

**FINAL WORKING VERSION
(05/14/11)**

**CHINA AND MONGOLIA SUSTAINABLE DEVELOPMENT UNIT
WORLD BANK OFFICE IN BEIJING**

**REGIONAL SAFEGUARDS SECRETARIAT
CENTRAL OPERATIONAL SERVICES UNIT**

**EAST ASIA PACIFIC REGION
WORLD BANK**

INVOLUNTARY RESETTLEMENT IN CHINA

TECHNICAL NOTES

TABLE OF CONTENTS

| | |
|---|----------|
| Preface | 1 |
| Background and Purpose: | 1 |
| Summary of the Technical Notes:..... | 2 |
| Topics proposed for future technical notes and/or further analysis | 3 |
| Acknowledgements | 7 |
| TECHNICAL NOTE 1 | 8 |
| Overview of land policies and resettlement practices in rural areas of China | 8 |
| Introduction..... | 8 |
| 1.1 Land tenure system and policies. | 8 |
| 1.1.1 Evolution of the land system and rural social organizations. | 8 |
| 1.1.2 Key features of the current land system..... | 10 |
| 1.1.3 Management and use of village land resources | 10 |
| 1.1.4 Recent debate over China's land system and policies | 11 |
| 1.1.5 Recently-adopted land policies | 12 |
| 1.2 Land acquisition and resettlement policy and practices..... | 13 |
| 1.2.1 Changes in the land system and practices..... | 13 |
| 1.2.2 Land acquisition and resettlement policies | 13 |
| 1.2.3 Resettlement planning under World Bank projects for linear infrastructure in rural areas..... | 15 |
| 1.3 Recent developments | 17 |
| 1.3.1 Changing perceptions of farmland..... | 17 |
| 1.3.2 Protection of farmers' interests and tenure security | 17 |
| 1.3.3 Developing policies in land acquisition..... | 18 |
| 1.4 Conclusions..... | 18 |

| | |
|---|-----------|
| TECHNICAL NOTE 2 | 21 |
| The effects of the project appraisal cycle on resettlement in China | 21 |
| Introduction..... | 21 |
| 2.1 OP 4.12 requirements in project appraisal cycle..... | 22 |
| 2.2 Current resettlement planning practices for WB-assisted projects in China | 22 |
| 2.2.1 Relationship between WB project appraisal and domestic project approval | 23 |
| 2.2.2 Impact on resettlement planning | 23 |
| 2.2.3 Land related legal requirements in the feasibility study stage..... | 23 |
| 2.2.4 Resettlement planning practices model | 24 |
| 2.3 A multi stepped approach towards OP 4.12 requirements..... | 25 |
| 2.3.1 Resettlement process in China | 25 |
| 2.3.2 RP preparation | 26 |
| 2.3.3 RP implementation..... | 26 |
| 2.3.3.1 More detailed work for implementing the RP | 26 |
| 2.3.3.3 Supervision and monitoring..... | 27 |
| 2.3.3.4 Implementation Completion Report | 29 |
| 2.4 Conclusions..... | 29 |
| 2.5 Recommendations..... | 29 |
| TECHNICAL NOTE 3 | 31 |
| The land redistribution process in rural China | 31 |
| Introduction..... | 31 |
| 3.1 The village to household redistribution process | 32 |
| 3.1.1 OP 4.12 requirements..... | 32 |
| 3.1.2 The requirements of national laws and regulation..... | 34 |
| 3.1.3 Land redistribution in Bank supported projects..... | 35 |
| 3.2 Laws, regulations and policy | 36 |
| 3.3 National and provincial policies on involuntary resettlement | 37 |
| TECHNICAL NOTE 4 | 38 |
| Complaints Handling Mechanisms and Monitoring | 38 |
| 4.1 Monitoring | 38 |
| 4.1.1 Pilot Safeguards Compliance Monitoring System (SCMS)..... | 41 |
| 4.1.2 SCMS Outputs, Outcomes, and Dissemination | 42 |
| 4.1.3 Links to the CPS | 44 |

| | |
|---|-----------|
| TECHNICAL NOTE 5 | 45 |
| Consultation and public participation during resettlement in China | 45 |
| Introduction..... | 45 |
| 5.1 Policy requirements for participation and consultation | 45 |
| 5.1.1 Bank policy requirements | 45 |
| 5.1.2 Government policy requirements..... | 46 |
| 5.1.3 Gap analysis in terms of policy requirements..... | 48 |
| 5.2 Participation and consultation in resettlement practice..... | 49 |
| 5.2.1 Institutional arrangements of resettlement in Bank projects..... | 49 |
| 5.3 Participation and consultation in resettlement planning and implementation | 50 |
| 5.3.1 Resettlement planning..... | 50 |
| 5.3.2 Resettlement implementation..... | 51 |
| 5.3.3 Issues and constraints in participation and consultation | 52 |
| 5.4 Information disclosure and grievance redress..... | 53 |
| 5.4.1 Information disclosure | 53 |
| 5.4.2 Redress of grievances | 53 |
| 5.5 Cases of consultation and participation in China..... | 54 |
| 5.5.1 A linear project..... | 54 |
| 5.5.2 An Urban development project | 58 |
| 5.6 Conclusions and Recommendations | 60 |
| TECHNICAL NOTE 6 | 62 |
| Livelihood Restoration Practices in China | 62 |
| Introduction..... | 62 |
| 6.1 Livelihood restoration as resettlement target | 62 |
| 6.1.1 Bank policy requirements for resettlement targets | 62 |
| 6.1.2 Current resettlement targets in China | 63 |
| 6.2 Resettlement means to achieve targets..... | 63 |
| 6.2.1 Overall livelihood restoration | 63 |
| 6.2.2 Methodological nature of the compensation means..... | 64 |
| 6.3 Case studies: Livelihood restoration in practice | 67 |
| 6.3.1 Livelihood restoration in rural resettlement..... | 67 |
| 6.3.2 Livelihood restoration in peri-urban resettlement..... | 69 |
| 6.4 Conclusions and Recommendations | 70 |

| | |
|---|-----------|
| TECHNICAL NOTE 7 | 72 |
| Ethnic Minority Groups in Resettlement | 72 |
| 7.1 The Legal Framework Related..... | 72 |
| 7.2 When OP4.10 Applicable to Resettlement Case..... | 72 |
| 7.3 Conclusion and Recommendation | 74 |
| TECHNICAL NOTE 8 | 75 |
| The use of social security benefits in resettlement compensation packages | 75 |
| Introduction..... | 75 |
| 8.1 Background | 75 |
| 8.1.1 Related Legal Provisions | 75 |
| 8.1.2 Need for a social security scheme..... | 75 |
| 8.2 Types of social security schemes | 76 |
| 8.2.1 Urban social security model (or Beijing/Chengdu Model)..... | 76 |
| 8.2.2 Rural social pension model (or Qingdao Model)..... | 77 |
| 8.2.3 Land-lost farmers Social Insurance model (or Xi'an Model)..... | 77 |
| 8.2.4 Land-lost farmers basic living standard allowance model (or Jiaxing Model) | 77 |
| 8.2.5 Small town social insurance policy (or Shanghai Model) | 78 |
| 8.2.6 Funding Resources..... | 79 |
| 8.3 Primary Observations on Social Security Scheme..... | 79 |
| 8.3.1 The Compulsory Feature of the Social Security Program | 79 |
| 8.3.2 Beneficiary's age | 79 |
| 8.3.3 Low level of pension..... | 80 |
| 8.4 Gaps between OP4.12 and Social Security Scheme | 80 |
| 8.5 Recommendations | 81 |

**INVOLUNTARY RESETTLEMENT
IN CHINA
TECHNICAL NOTES**

Preface

Background and Purpose:

The technical notes on involuntary resettlement were first drafted following agreement between the China and Mongolia Sustainable Development Unit (WBOB) and the Regional Safeguards Secretariat (COSU) on the need to provide an overview of involuntary resettlement issues in particular on aspects that are specific to China.

The technical notes are meant to be summaries that provide readers – such as reviewers and other Bank staff - with a concise overview of some of the main resettlement issues that are important to be aware of and/or may be specific to the context of China. They are based upon the experience of the WB Office in Beijing Social Development specialists who have authored the different notes.

The audience is primarily internal and the purpose of the notes is largely a pedagogical one for Bank staff and experts who are not familiar with the issues related resettlement in the context of China. The technical notes are also meant to foster discussion among the Bank's resettlement and social development practitioners on the state of present policies and practices as well as further additional analytical work on the application of OP 4.12 in the context of China.

The Notes provide a shorthand treatment of eight key aspects related to resettlement in China. The scale and complexity of involuntary resettlement issues in China with its fast evolving land related and social development policies can easily warrant much lengthier and more substantive notes. The technical notes are meant to provide readers with a concise overview of some of the main resettlement issues in the Bank portfolio in China. The Notes summarize a limited number of key aspects of involuntary resettlement; they do not provide in depth or detailed analysis of issues.

For readers interested in more in depth analysis of land policies and legal aspects in China, two WB/DRC studies (China Land Policy Reform for Sustainable development 2005, China Integrating Land Policy Reforms II, 2008) are key reference documents on land policy in China. These reports provide a detailed analysis of land policies and legal requirements as well as the drivers behind the rapidly evolving social context of land

management in China. Although several new land policy reforms have been implemented in the past three years, the WB/DRC Reports remain relevant and are essential reading.

Summary of the Technical Notes:

Note 1 provides a general overview of land policies and resettlement practices in rural areas of China and the application of the Bank's policy on Involuntary Resettlement OP 4.12 within the context of China's evolving policies and practices. It also identifies a series of challenges in the near future related to further foreseeable changes.

Note 2 presents how the cycle of project appraisal affects involuntary resettlement in China. It summarizes the key points as to how Bank OP 4.12 requirements can be met while responding to the challenges of two specific characteristics of involuntary resettlement in China: preparing a RP based upon feasibility studies and the village collective land redistribution process that occurs during project implementation.

Note 3 reviews and discusses the evolving role and mechanisms of collective land redistribution in rural China. It summarily describes the main characteristics of collective land ownership, land allocation, types of land uses including the continuous policy trend to strengthen farmers' individual user rights as well as what happens when land cannot be redistributed which is increasingly the case in China.

Note 4 presents a summary of a recently completed analysis of Complaint Handling Mechanisms in China based on a review of the World Bank's Sustainable Development portfolio in China. Its main findings include the identification of successful entry points, constraints and a series of recommendations to improve the design and implementation of Complaint Handling Mechanisms in the SD portfolio in China. Note 4 also summarizes a pilot Safeguards Compliance Monitoring System (SCMS) developed for the ongoing Hubei Yiba Expressway Project.

Note 5 focuses on legislative requirements, institutional capacity and implementation effectiveness of consultation and public participation during resettlement in China. It provides case studies of community consultation and participation in Bank financed projects and assesses the gaps between Bank policy and government policy and identifies the main areas to be improved.

Note 6 focuses on the issue of livelihood restoration. It explores the experiences and lessons learnt as reflected in the Bank's operations and policy, as well as those particular to China's resettlement context. It analyses measures including a variety of compensation methods for livelihood rehabilitation, and their actual functions and practicability under different socio-economic circumstances. Through case studies, it highlights what is required under the Bank policy OP 4.12, what might be considered as good practice in this regard, and what current practices are in China.

Note 7 highlights the different social security schemes that have recently become part of the livelihood restoration measures for rural residents affected by involuntary resettlements in China. It provides some preliminary observations and includes recommendations as to what Bank teams' should take into consideration when assessing social security schemes.

Note 8 presents a brief Note with respect to involuntary resettlement of Indigenous Peoples in China (e.g. communities or groups considered to be Ethnic Minorities covered by the Bank's OP 4.10). It summarizes how cultural preferences, land based resettlement strategies and livelihoods restoration measures that are culturally appropriate are taken into account as well as how broad community support and free, prior and informed consultation are considered.

Topics proposed for future technical notes and further analysis

The notes are meant to be the first in a series of technical notes and subsequent analytical work on involuntary resettlement policies and practices in China. Each note contains a series of observations and recommendations on additional work or improvements to present practices. Further technical notes - as well as more in depth analysis and detailed work - are proposed for the future on different aspects of involuntary resettlement in China. Additional technical notes - as well as a guidance note - are proposed on the following six topics of involuntary resettlement in China based upon the results and discussions of these notes.

Land compensation rates

Several aspects related to land compensation are discussed through several notes. However, land compensation rates are not covered by the Notes although compensation rates are the most cause of disputes in resettlement in China and that the difficulty of determining replacement costs of collective land is a large part of the problem. Moreover, policies on compensation in China are rapidly evolving and new experiments in various parts of China are taking place.

The issues related to determining land compensation rates that meet the requirements of OP 4.12 in rural areas of China - particularly in rural areas in the process of being urbanized where de facto markets exist – merit a technical note. This should include working with the Ministry of Land and Resources on methods to determine compensation rates of collective land based on recent pilots.

Supervision

As emphasized in Notes 1 and 2 project supervision plays a key role for RPs that are based upon feasibility studies in rural areas where impacts become more precise and village collectives are involved in the detailed resettlement that takes place during the implementation of the RPs. A detailed examination of the process and challenges of

supervising resettlement in China, and the lessons that have been learned so is beyond the scope of the present Notes. However, given its importance, it is proposed as part of one of the topics of a future technical note on resettlement in China which would focus on supervision and the role of monitoring and evaluation.

Policy and legal issues

The notes do not present a comprehensive or complete review of policies and legal regulations on land acquisition and involuntary resettlement in China. Note 1 on land policies and regulations is limited to highlighting some of the key changes through time that affect how the Bank policy on involuntary resettlement is applied in China. No single note provides a review of key policy and legal requirements. Each Note contains solely policy and legal requirements specific to its purpose.

However, the key policy and legal issues related to resettlement in China warrant a technical note in order to provide a review of the main policies and regulations - including recent new landmark policies in urban areas - in a more comprehensive and complete manner. Such a note should include a more thorough but nevertheless concise analysis of the Rural Land Contracting Law, the Property Law and individual farmer's rights e.g. the continuous trend of recognition of individual farmer's rights towards collectives.

Rural homestead parcels

Discussion of rural homestead parcels in the different notes is limited to general references related to land policies. The notes do not contain a summary of specific resettlement issues related to rural homestead parcels. Land policies and regulations applicable to rural homestead parcels differ from productive collective land and are specific in many regards. Furthermore, they have become increasingly important. Therefore a brief description and analysis of the specific issues related rural homestead parcels is proposed as a future technique note given their importance.

Linkage and legacy issues

Linkage and legacy issues are also beyond the scope of the Notes. They may be considered for a subsequent note or subject of discussion if deemed relevant. However, the difficulties related to application of linkage and legacy related issues in China are similar to elsewhere in the Bank. Furthermore, although often misunderstood, they are generally accepted by clients and government counter-parts, in particular when considering legacy issues.

Social security

The use of social security as a measure to restore livelihoods of rural residents affected by involuntary resettlement is a recent development in China. Social security schemes are highly fragmented and fast evolving. A more in depth study is recommended in order to

have a better understanding of how the different social security schemes contribute - or do not - to livelihood restoration and how such schemes should be incorporated into livelihood restoration packages of Bank RP. A more in depth analysis could take the form of a Guidance Note that would include a framework to identify issues and a checklist to help teams determine how and when social security should be considered as a livelihood restoration measure.

In particular, the timeliness of the social security as compensation mechanism that differs depending on the different types of insurance and the different types of workers as well as the mandatory/not mandatory nature of social security as a livelihood restoration measure are key points as per Bank OP 4.12 as indicated in the Note and its recommendations. A better understanding of what mandatory means in the specific context of different jurisdictions and the valuation of social insurance rights within China would be useful to assess when social security schemes can be considered mandatory or when they are not. A better understanding of pension entitlements would also allow to grasp the timeliness of the compensation packages.

Note 7 on social security schemes presents a summary review of the main characteristics of the different schemes with preliminary observations and recommendations. Providing evidence on whether social security schemes are contributing to meeting livelihood restoration objectives or documenting what type of financial management accountability mechanisms are in place at different levels of government is beyond the scope of these Notes. An analysis of larger picture policy background with its foreseeable evolution and its main effects on the use of existing social security schemes, their integration into wider schemes including schemes that give rural residents access to urban social security schemes and the differences between rural and urban social security systems are also beyond the scope of the Note. However, such points, given their importance, should be considered as part of subsequent technical note and/or analytical work related to social security schemes.

Acknowledgements

These technical notes were drafted by Chaohua Zhang, Senior Social development Specialist, SAR, Songling Yao, Senior Social Development Specialist, EASCS, Zhefu Liu, Senior Social Development Specialist, EASCS, Chaogang Wang, Senior Social Development Specialist, SDV, Zong-Cheng Lin, Senior Social Development Specialist, EASCS, Zeng Jun, Social Development Specialist, EASCS. Peter Leonard, Safeguards Focal Point, COSU coordinated the preparation of the technical notes and Charles Warwick, Consultant, edited the draft and final versions of the technical notes.

Comments on the draft version of the technical notes were provided by Jonathan Lindsay, LEGEN, Philip O’Keefe, Lead Social Protection Economist, EASHS, Daniel Gibson, Lead Social Development Specialist, ECAVP, Afshan Khawaja, Senior Social Development Specialist, OPCS, Chaogang Wang, Senior Social Development Specialist, SDV and Marta Elena Morales-Halberg, Lead Counsel, LEGES.

Ede Jorge Ijjaasz-Vasquez, Sector Manager EASCS and Panneer Selvam, Regional Safeguards Coordinator, COSU provided guidance and support to the technical notes.

TECHNICAL NOTE 1

Overview of land policies and resettlement practices in rural areas of China

by Chaohua Zhang

Introduction

The Chinese approach towards planning and implementing involuntary resettlement is unique, containing some distinct characteristics that are the consequential responses to the evolution of its land policies and institutional systems in the past few decades. There are two key sets of factors underpinning this approach. The first relates to its land tenure system and the second its institutional organizations in rural areas. As China moves along its modernization agenda, these two sets of factors have been evolving continuously and rapidly in its fast changing social and economic landscape. These factors have constantly called for corresponding changes or adjustment to its approach in planning and implementing involuntary resettlement programs. This note covers linear infrastructure projects other than reservoirs and focuses on land policies and resettlement applicable to rural areas¹. It aims to provide an overview of these changing factors that underpin the Chinese approach and characteristics in involuntary resettlement planning and implementation for linear infrastructure, at both policy and ground practice levels. It also analyzes how the latest development of the land tenure system and rural social organizations challenges the current planning practice of involuntary resettlement.

1.1 Land tenure system and policies.

1.1.1 Evolution of the land system and rural social organizations.

China's land system of private ownership changed in 1950 when the first land reforms were introduced after the founding of the People's Republic of China. In the intervening years the Chinese land system has experienced a series of changes, which can be divided into three phases. These changes have also been accompanied by corresponding shifts in the institutional organization of the rural population.

The first phase of land reform was in the early 1950s with the objective of equal "*land distribution for all cultivators*". Private farmlands were acquired from rich and wealthy landlords who had large holdings and redistributed to villager farmers.

¹ Reservoirs are covered by specific resettlement policies in China from the Ministry of Water.... The water sector is the only sector which has specific resettlement rules and procedures on involuntary resettlement in China. There is no consolidated national law on land acquisition and involuntary resettlement in China.

The second phase, which commenced in the mid 1950s and ended in the late 1970s, saw the abolition of private land ownership and in its place the creation of the “collectivization” of land resources, with the establishment of the commune system for rural social and political organization. All village farmers were grouped into a three-tier system consisting of production teams, production brigades and communes for agricultural farming and for management of all village affairs. Village leaders were appointed by commune governments.

The third phase started in the late 1970s and has continued to operate until the present. During this period, the commune rural organization system was abolished and villages became self-governing bodies under the “*Village Committee Organization Law*” while townships became the lowest level of government. Village elections, through direct public votes, are held every three years for village leaders. This period saw the separation of land ownership, which is maintained at village collectives, and land use rights that are given to village farmers under household contracts with the village collectives. The collective farming under the commune system was also replaced with a household-based farming system. Collective farmland was distributed to individual households for cultivation through long-term contracts under the Household Responsibility System while the rest of village productive assets remain with the village collectives.

The following timeline provides an overall partial view of this evolution during the past sixty years.

| | |
|------|---|
| 1950 | Land reform under the “Land Reform Law”. Private land of wealthy farmers and those with extensive holdings was confiscated and distributed to landless farmers or farmers with little land. This was intended to achieve “land for all cultivators”. This law mandated local governments to issue land ownership certificates and recognized the right of the land owner to operate, sell and rent owned lands. |
| 1954 | First Constitution confirms farmers’ land ownership and allows land acquisition under eminent domain or nationalization of natural resources. |
| 1956 | Rural collectivization movement turned land ownership from private land into collectives. |
| 1958 | Commune system established (under Party Decree) and private land ownership was abolished. Rural land collective ownership was legalized through revisions of the Constitution in 1975, 1978 and 1982, completing the collectivization of land ownership. |
| 1978 | Commune system abolished, household contract responsibility farming system introduced. |
| 1983 | Household contract responsibility farming system was expanded nationwide, finalized separation of land ownership from use rights. |
| 1986 | First Land Management Law (Land Law) issued, establishing two land ownerships, i.e. state and village collective, and compensation principles and calculation formula. Transfer of land use rights within the village are permitted. |

| | |
|------|---|
| 1988 | Constitution and Land Law revised; the provision banning the renting of land was removed; the regulations contained a new provision allowing land use rights transfer. |
| 1998 | Village Committee Organization Law issued after 10 years of piloting. |
| 1999 | Piloting of land use rights transfer in Anhui Province. |
| 2001 | 11 th Five-Year Plan required “active exploration in the reform of land use rights transfer. |
| 2002 | “Rural Land Contracting Law” issued, reconfirming the farmers’ land use rights through the household responsibility contract system. Prohibits village-wide reallocation of land, limiting reallocation of land to minor adjustments. |
| 2006 | State Council Decree 29 on land issues, echoes Circular 28 and states that “land compensation and resettlement should follow the principle that the living standard of the affected farmers should not be lowered and their livelihood is sustainable.” |
| 2007 | “Property Law” issued, confirming the land contract system, the right of the land contracting farmers to transfer, exchange and sub-contract contracted farmlands within the Land Contract Law, and confirming that land ownership and use rights cannot be used as collateral. |
| 2008 | Party decision on rural reform, emphasizing improving land management, land use rights transfer, land acquisition and compensation; Land Law amended. Farmer’s land use rights are recognized as property rights. |

1.1.2 Key features of the current land system

The land system is anchored in the *Constitution of China* and *Land Administration Law*. There are two types of land ownership under the *Land Law*, i.e. state and collective. All urban lands and lands used by state institutions and enterprises belong to the State, while all cultivated lands and village residential lands are owned by the village collectives. In rural areas while the residential lands of villagers are protected under the “*Property Law*” as “private assets”, village farmers have the “use rights” of the farmlands that they are cultivating under their land use contracts with the village collectives. The initial land contracting was announced and conducted on a national basis. All village members that are registered in the village are eligible for land distribution. However, the actual implementation and progress varies greatly across the country according to a study on land contracting commissioned by the Central Government. The first contracting was announced and conducted in the early 1980s for 15 years, and was later extended for another 30 years. It was announced and conducted on a national basis.

1.1.3 Management and use of village land resources

Management of village farmlands is largely a village collective responsibility. Village farmlands were distributed to each household on a per capita basis. The distribution criteria and procedures vary significantly among the villages. Some villages have regularly conducted “redistribution of contracted land” among the villagers in

consideration of the village collective needs and the population growth. In contrast, some villages still adhere to the household land allocation as it was agreed and conducted in the 1980s despite the demographic changes and population growth. This has led to disparity in per capita holdings among the farmers. Some villages have also reserved lands as “village collective lands”. These are rented out for revenue to run the village management. Land redistribution is still occurring, but this is a decreasing trend. Where this does take place, the scope, level and practice varies, sometimes within groups of farmers and sometimes in the entire village. The Rural Land Contracting Law of 2002 prohibits village-wide reallocation; limiting reallocations to small adjustments. Nevertheless, studies by Tao and Hu (2007) and Derringer and Jin (2009) indicate that reallocation of land is still going on namely because village leaders and households are not aware that reallocation of land is no longer permitted.

The Constitution and the *Land Law* forbid the sale of lands, including agricultural land. Nevertheless, they do allow the transfer of land use rights, including the contracted use right of agricultural land. However, presently, such transfers of land use rights are limited to within the village. Land acquisition under eminent domain is permitted for public work. The principles and procedures of land acquisition are described in the *Land Law* and various other government decrees and decisions.

1.1.4 Recent debate over China's land system and policies

In the past three decades, rural development and issues related to rural population have been important subjects of policy debates in the reform process. These are called “san nong issues”, which stand for farmer, agriculture and rural areas. Of these, land has surfaced as a central theme. This became evident during the debate concerning the protection of farmers’ land tenure during an unrelenting series of land taking which occurred under the name of “eminent domain” for State-backed capital construction over these decades. Rapid capital investment and urban expansion have consumed large amounts of agricultural land through state acquisition under the *Land Law*. The current practice has often severely underestimated the “market value” of the agricultural lands, thus deeply eroding the interest of the village farmers and seriously threatening their land tenure security. This practice by the government is often viewed as one that has seriously affected the interests of the farming population, and one which is not compatible with the government’s attention and emphasis on rural development and of providing assistance to farmers. This is particularly so in semi-urban areas, a grey border zone of two policy practices of land taking. In rural areas, land acquisition follows the Land Law and compensation rates are determined following the formula prescribed in the Land Law in the absence of land markets. Urban areas follow market in determining leasing prices for lands and they are substantially higher than rural areas. With rapid urbanization, farmers are keenly aware of the potential market value of their lands and constantly demand to follow market prices rather than following the Land Law, contrary to the ruling of the Land Law. This has led to many conflicts with local administration who are authorized only to follow the law.

There has been a significant amount of public concern expressed in both academic and policy circles regarding the protection of the rights and interest of farmers, particularly in areas of land acquisition under “eminent domain”. As a result, a wide range of ideas and recommendations have emerged. They include the following:

- Clarify, strengthen and broaden the land-use rights of farmers and rural residents which remain uncertain in spite of the policies adopted.
- Establish a market for land use rights transfers and allow farmers to trade their land use rights within their contract period on a commercial basis.
- Adopt one type of land ownership, i.e. state ownership, and conduct a one- time state-wide allocation of land to all farmers.
- Privatize land ownership and fully return land ownership to the cultivating farmers.

1.1.5 Recently-adopted land policies

The Party Congress held in late 2008 adopted substantially significant policy decisions resulting from the many years of debate on these land issues. This is a strategic and decisive shift of government attention and public resources towards the rural population, agriculture and rural development. This is widely considered to be the second major “land reform” in China. The highlights of the decision regarding agricultural land are namely as follows:

- Strengthening the land contracting system and confirmation that land use rights are property rights.
- Establishing and improving trading markets for land contract user rights.
- Allowing farmers to trade their land use rights through transfer, rent, exchange and share-holding under certain conditions.
- The trading of land use rights does not alter the collective ownership of the land, and cannot change the nature of its use, and should not harm farmers’ interest.
- Farmers’ residential plots are explicitly protected under the “*Property Law*.”
- Reform of the land acquisition system by more strictly defining the land needs for public and commercial purposes and the intention of gradually narrowing down the scope of land acquisition,
- Improvements to the compensation system which further recognizes livelihood restoration as compensation criteria.
- Land compensation to be adequately and timely delivered to village collectives and farmers and also to address the issues of employment, housing and social security for the farmers affected.

1.2 Land acquisition and resettlement policy and practices

1.2.1 Changes in the land system and practices

China has largely experienced two phases of practices for land acquisition and compensation. Prior to the introduction of the *Land Law* in the mid 1980s, land acquisition and compensation followed the ideology of contributing to state construction — “sacrificing individual interests for the sake of public interest and benefit”. The fundamental principle was to place state and collective interests before individual ones. The state paid a token amount as compensation to villages and land reallocation among villages was common. Sometimes it even took place across communes and this process was managed by the government. In major infrastructure projects where large amounts of land were taken, the compensation was mostly conducted through reallocation of land resources. During this time, land was considered a public resource and capable of being publicly shared across villages. At this time, farmland acquisition did not significantly affect individual farmers, as land was managed and cultivated in a collective fashion. Land reallocation as a compensatory or resettlement measure was negotiated, decided and managed by the government at commune and county level.

The introduction of the household responsibility system in the early 1980s changed the land acquisition and resettlement practices and policies. This system reintroduced the farmer households as the farming units, replacing the collective farming system. This triggered corresponding changes in the land tenure system as well as the acquisition and compensation policy. 1986 witnessed the issuance of the first *Land Administration Law* that legally established the village collective land ownership and principles as well as procedures for land acquisition and compensation for public works. Furthermore, rapid development over the past two decades has required and introduced changes in land compensation and resettlement practices under the village collective ownership.

1.2.2 Land acquisition and resettlement policies

China has adjusted its approach to land acquisition, compensation and livelihood restoration along with changes in the land systems. From the mid 1950s to the 1980s, land was commonly considered a state resource and land reallocation was a standard practice as a compensatory or resettlement measure in the event of public acquisition. The compensatory package and land reallocation was negotiated, decided and managed by the governments at commune, and county levels and above, depending on the scale of acquisition and resettlement. Sharing of land resources took place even across counties and provinces. Where per capita land holding dropped below minimum landholding, the state would transfer part or all of the villagers to urban resident status and provide them

with non-farm jobs in state enterprises or institutions. This is the so-called “farm to non-farm transfer.”

The *Land Administration Law*, issued in 1986, first established the village collective land ownership and decreed terms and principles for compensation and livelihood restoration. The *Land Law* did not allow cash distribution of land compensation funds to individual farmers, and it required land reallocation to the affected farmers and the collective use of the compensation money for productive purpose. This was the standard practice in compensation and resettlement. Under such situations, the land acquisition impact was shared by all members of the villages. The same applied compensation funds for lost lands. The World Bank considered this practice of “land for land” to be the best practice under its resettlement policy.

The 1999 amendment to the *Land Administration Law* partially responded to the *Village Self-Administration Law* and recognizes the gradual expanding use of cash distribution of compensation funds among the affected village farmers. It introduced one key provision that gave the villages the authority under the *Village Committee Law* to decide on the disposal of its land compensation funds and livelihood rehabilitation measures. It allowed cash distribution of land compensation funds among the affected villagers, but with approval from a two-thirds majority in the village council where all village members are participating or represented. The Rural Land Contracting Law of 2002 prohibits village-wide reallocation; limiting reallocations to small adjustments. Village land reallocation, though still being practiced, is proving more and more difficult as land resources are becoming increasingly scarce and farmers are demanding better security of their land use rights. At the same time, as the state shifts its development focus to rural areas, particularly to land-loss farmers, more options have become available for livelihood restoration for the affected villages. These include vocational training for non-farm employment and social security programs.

At the same time, several decrees were issued regarding the management of land acquisition and compensation. Two key decrees are No. 28 and 29 issued respectively in 2004 and 2006. The primary purpose was to tighten the control of land acquisition for public works and guard against the rapid loss of agricultural lands. The decrees further clarified respective responsibilities at different levels of government as well as the review and approval procedures, and emphasized the need for monitoring and supervision of land acquisition processes. Decree 29 issued in 2006 states that land compensation and resettlement should ensure restoration of living standards and the sustainability of the livelihood of the affected farmers. It also states that vocational training and social security programs should be properly implemented for the land-loss farmers, and its cost should be included in the resettlement budget and that any cost shortfalls should be provided by local government. If the financing of this cost is not ascertained, the project should not be approved.

1.2.3 Resettlement planning under World Bank projects for linear infrastructure in rural areas

Under its current rural land system and village organization, China has adopted a collective approach in planning and implementing its compensation and livelihood restoration. This is mainly reflected in the livelihood planning process and the livelihood packages offered.

Under the Chinese system, livelihood planning and restoration is largely a process of redistribution and reallocation of collectively owned resources in the villages. This resource pool includes lands, cash, non-farm employment opportunities, as well as quotas for social security programs. This planning process involves three key parties, i.e. project authority, village collective and farmer households. This is a major difference from a situation involving private land ownership which only has the state and the affected households and where individual entitlements can be established initially during the preparation stage in accordance with the relevant policies. Furthermore, in China, this village collective decision-making process that finalizes individual entitlements and specific livelihood restoration measures often occurs at the late phase during project implementation, in particular for linear infrastructure projects, when project design is more detailed.

The World Bank policy requirements, however, arguably have different procedure requirements than Chinese domestic projects in terms of the level of information required before project implementation. In the latter, resettlement planning is a gradual detailing process as part of the engineering design which develops from an initial general program with estimated impacts, costs and the approach for compensation and rehabilitation. The key purpose is to assess the impact and to estimate costs. Detailed livelihood planning is carried out at the village level through the village committee as a consultative and participatory process run by the villagers themselves and their leaders under the oversight of local resettlement bureaus and/or other government entities. It commences when land acquisition impacts are finalized, with an impact zone demarcated on the ground following detailed engineering design. It usually involves numerous household level consultations, negotiations, village meetings and is completed with household level agreements for compensation and resettlement. These agreements and measures, which are village decisions that require approval of local and/or regional authorities responsible for resettlement, are generally not submitted for review or approval to the Bank.

The World Bank policy requires a resettlement action plan *before* appraisal. Many technical details are usually expected to be available for assessment of its compliance and adequacy. However, most linear infrastructure projects in China are appraised on the basis of an engineering feasibility study where the land impacts cannot be finalized and a detailed village level planning exercise cannot be meaningful conducted because of the lack of precision of the feasibility study. Practices in World Bank projects have thus adapted the planning approach for livelihood restoration to address this issue. Livelihood options available to the village collective before the World Bank appraised an investment

are developed from socio-economic and impact surveys based on the feasibility study and preliminary technical design, relevant World Bank and national policies, and consultations with the villages and village households. These are documented in a resettlement plan as required under the World Bank policy. During project implementation a more detailed planning process is undertaken at each village level to determine impacts upon individual households based on detailed technical designs. This process is undertaken by the village committees and their local leaders. It is meant to be run by the villages themselves and involve village council meetings where all village households are expected to participate, as well as household-wide consultations. The local and regional government entities responsible for resettlement play a monitoring and guiding role in this process. The different livelihood options applicable to the village are finalized and further detailed into household-specific livelihood options through this process. The household-wide measures are announced and posted in the villages and documented in household agreements/contracts for implementation.

Under such an approach, individual household entitlements for livelihood restoration follow a similar gradual detailing process. At the project appraisal stage for World Bank-financed projects, the livelihood measures for households at village level normally include the following options:

- Land redistribution to the affected farmer households and collective use of the compensation funds for productive purpose. Land to be redistributed can come from (i) collectively reserved land; (ii) land returned to villages from those who have taken up urban residency; (iii) uncultivated land to be developed with compensation funds; and (iv) contracted lands to be withdrawn from fellow village households. This option varies greatly among the villages and is subject to the caveat of being limited to minor adjustments. .
- Cash payment to the land-loss households. This option is being increasingly selected, particularly in linear projects where land loss at household level is usually small. It could be partial or complete cash payment.
- Non-farm job provision. This option is becoming used less frequently in resettlement planning as a livelihood rehabilitation measure. This is largely because, with the reforms of state-owned enterprises, employment is mostly regulated by the market and the government now has less control than it had previously under the planned economy. However, there are job opportunities available in state institutions and there are also organized efforts in interior provinces to export labor to the developed areas.
- Vocational training and extension services. Vocational training always accompanies non-farm employment that is planned as part of the livelihood development program. This has been given a strong emphasis since the recent financial crisis which has caused huge loss of jobs, particularly for the rural migrant laborers as well as farmers who have suffered land losses. Local governments have been charged with the responsibility of drawing up detailed

programs in this regard. Extension services have been part of the normal government functions to support village farmers in their non-farm activities. This support is normally planned as part of the land-based livelihood rehabilitation programs.

- Social security program. This is a new program being extended to rural areas as part of the attention given to rural development. The Central Government policy is being rolled out into local rules and regulations. Its applicability varies across the country (see Note 6).

1.3 Recent developments

1.3.1 Changing perceptions of farmland

The land acquisition, compensation and livelihood restoration practices in China have remained fairly constant until the early 1980s. The household farming system changed the relationship between farmers and the collectively owned farmland. Rural reform starting in the late 1970s presented village farmers with many opportunities for their economic benefit. These changed the perceptions of the farmers towards their contracted land and, over the years, their sense of land use rights has grown and become more established. This challenges the conventional approach of land reallocation within the villages in rural areas.

1.3.2 Protection of farmers' interests and tenure security

China has experienced a rapid urbanization process over the past two decades as well as a significant increase in infrastructure development. This has required large amounts of land acquisition from rural villages. Some local governments have also used the concept of "eminent domain" to acquire rural farmland for commercial development, such as real estate development or the establishment of high tech, or education zones. By employing this method, the state has essentially capitalized on the rural land acquired at state-stipulated prices and prevented rural land holders from sharing the higher value as their land is converted from rural to urban. Some local governments have arguably abused the concept of eminent domain against state laws. This has been widely perceived as an egregious deprivation of the rights of the rural population and as a result there have been increasing public protests calling for better protection of farmers' interest and farmland tenure security. Various ideas and proposals have been advanced and debated. The latest policies emphasis from the Central Government are generally viewed as a positive response to address these issues and has even been hailed as effectively the second land reform in China.

1.3.3 Developing policies in land acquisition

The increased need for protection of farmers' land use rights has been recognized by the government and the *Land Law* is now under once again under amendment. At the same time, various practices are being piloted for the registration, trade and transfer of land use rights. Equally important to providing an updated legal framework is establishing transparent and democratic governance at the local level to protect land use rights.

Still unanswered are the methods by which land acquisition will be handled in future, especially in relation to use rights and commercialization of use rights. One example is rate evaluation. The current calculating formula is stipulated in the *Land Law* and is not based on the market which was absent at the publication of this law. Obviously this approach would need to change with the formalization of the market for land use rights, and relevant policies would also need to be revised or developed.

1.4 Conclusions and recommendations

China's approach toward land acquisition and involuntary resettlement has been evolving in the past few decades, adapting and responding to the progressive evolution process of its land tenure system. This evolution process is still continuing and so is its policy and approach in planning and implementation of involuntary resettlement.

Central to the Chinese approach in involuntary resettlement is the collective ownership of village land and the collective management of village land resources, including the farmer household land contracting system. These call for a two-tier process in involuntary resettlement planning, as compared to a one-tier process in private ownership situations, on the basis of which the World Bank OP 4.12 is developed. The first tier is with the village collective as the unit of land ownership and the second tier is the farmer households who cultivate land on a contractual basis.

There are three stakeholders involved in this two-tiered planning process. They are the investment project proponents, the village collectives losing land ownership and the village households who are losing the contracted land use rights. Initial resettlement planning starts always with the village collective – the land owner and this results in an agreed RAP that documents at least the policy framework, impacts, land compensation and livelihood assistance package to the village, implementation arrangements as well as steps for the “second-tier planning. While the first-tier planning outlines the general entitlement package regarding land losses, the individual entitlements for each and every affected farmer households will be discussed and worked out within the village following procedures and mechanisms stipulated in the Village Committee Organization Law. This

is largely a re-grouping and re-distribution process of all the collectively held resources, including financial, economic benefits and opportunities.

An analysis of the impact of land acquisition is critical to understand the degree of land-loss impacts and to determine the adequacy of the entitlements as well as the livelihood restoration package. Such analysis has been mostly carried out at village level or on a sample household basis by World Bank appraisals. This has occurred because most World Bank projects are appraised at the feasibility study stage when the project impacts are not yet finalized. Detailed household level impacts are determined at the construction drawing stage when the final details are drawn and demarcated. To require detailed household level impact analysis in the RAP *before* appraisal, or at the feasibility study stage, would require significantly more effort and resources. In addition, it would be difficult to inform affected parties of their individual entitlement as this is determined later during the second-tier village planning process.

A significant period usually elapses between the time of the World Bank's appraisal of an investment project and the village collective decision-making over the detailed livelihood measures at household level. The former is carried out on the basis of an engineering feasibility study, while the latter occurs after all land impacts have been finalized and demarcated at the completion of the detailed technical design/construction drawings during project implementation. The resettlement action plan required *before* project appraisal cannot provide in such case the more detailed and finalized implementation measures at the household level resulting from the collective planning exercise. Thus, the detailed village planning exercise takes place at the completion of detailed technical design during the implementation of the project. Therefore, the RAP should contain measures such as detailed implementation plans for severely affected villages and adequate monitoring (with appropriate indicators) and reporting and grievance mechanisms to ensure its implementation

However, such practices will involve a transition phase and policy gap in the future. With the policy direction set for farmers' land use rights, various piloting practices over land use rights transfers have commenced but the policy regarding land acquisition and resettlement still lags behind. It is expected that new policies and regulations will be issued on land acquisition. There will be a transition period with a policy gap between existing policies and new ones corresponding to the establishment of a market mechanism for land use rights. The aspirations, expectations and perceptions of acceptability in resettlement will differ across the country with various regional underpinning factors. How the Bank handles resettlement in its operations during this period will be a challenge and one which the Bank must be prepared to meet.

There are a number of challenges in land acquisition and resettlement in World Bank-supported projects in the context of a fast evolving China where land policies are a critical pillar to the countries future economic growth and wellbeing of its citizens.

One is the increasing recognition and protection of individual land use rights which will likely become more important in the further reforms ahead. This poses an

almost inherent conflict with the concept of collective land ownership which anchors the land-redistribution-based resettlement planning approach. In the collective decision-making process, it has become increasingly difficult in balancing individual use rights and the village collective welfare. This is especially so with the use and investment of land compensation money in large-scale infrastructure projects and distribution of village collective lands. World Bank projects are no exception in encountering situations where land redistribution is impossible within villages, and land-losing farmer households demand full payment of land compensation funds. China is clearly moving towards the Vietnam model where farmland use rights are already firmly with the farmer households and any land acquisition and compensation are household matters.

The other challenging area is village collective decision making. The Constitution of China defines the village collectives as self-administrative bodies with full authority over their village affairs, including land allocation, collective asset management, and collective financial management. The *Village Committee Organization Law* elaborates further on these functions. However, a democratic election process does not necessarily lead to a democratic and transparent administration. Dominance by elites or powerful families is often reported in village politics and has distorted the collective decision-making process. It is a challenge to ensure transparent, fair and participatory decision making at village level. Good governance and adequate capacity at the local level is a key to protect the land use rights of farmers and ensure that investments loans where the Bank is involved that require involuntary resettlement are carried out appropriately.

TECHNICAL NOTE 2

The effects of the project appraisal cycle on resettlement in China

by Songling Yao

Introduction

This note examines how the cycle of project appraisal in China affects involuntary resettlement. First, it explores the possibility of any non-compliance occurring between project appraisal by the World Bank and project approval by the Government of China. Second, it analyzes different resettlement requirements and approaches in the project cycle between locally-financed projects and Bank-financed projects. Third, it demonstrates that there has been adequate resettlement performance in WB-financed projects in China. Finally, the note discusses resettlement planning and proposes, and some recommendations for practice improvement.

Customarily over the last decades there has been an agreement between the Bank and China which has meant that upon completion and approval of the Resettlement Plan (RP) by the Bank, the Feasibility Study (FS) can be formally approved by the Government of China. The custom was legalized by the National Development and Reform Commission (NDRC) in its official 2005 paper titled *Management Instruction on Project Used Funds from International Financial Organizations and Foreign Governments*. This means that the RP is prepared based on the FS.

The RP covers all essential elements required in the OP 4.12, however, in reality, it is not possible for the FS to provide sufficiently detailed information from which to prepare a RP which should covers accurate and thorough resettlement impacts as well as providing detailed and exercisable resettlement measures. Actually, the modification of the project scope and design after the FS will severely affect the resettlement planning, especially resettlement in rural area, where detailed resettlement actions only can be developed within the affected villages after the project implementation commencement, when the village level will be mobilized to have specific meetings on the particular resettlement measures according to the Autonomy Code on Village Administration. On the other hand, like the FS, which only can guide the following project design and must be upgraded as project preliminary design/drawing design to guide project construction, the RP also needs supplement with more detailed work such as in-depth inventory investigation and consultation, exercisable measure strengthening, institutional actions, etc. according to the RP. So, the RP is essentially a RP, but with more detailed work still to be figured out in implementation stage.

The outcome of the RP as well as resettlement implementation is compliant with the World Bank OP 4.12, with assistance from extensive resettlement supervision and monitoring.

2.1 OP 4.12 requirements in project appraisal cycle

The policy of governing involuntary resettlements related to World Bank-supported projects is described clearly in OP 4.12. The objectives of the policy of involuntary resettlements are as follows: (i) to discuss all the feasible project design schemes in order to avoid or reduce involuntary resettlements as much as possible; (ii) if resettlement is inevitable, such resettlement activity should be conceived and implemented as a sustainable development scheme and sufficient funds should be provided so that the resettlers are able to share the benefits of the project; (iii) meaningful consultations should be conducted with resettlers so that they have the opportunity to participate in the planning and implementation of the resettlement scheme; (iv) the resettlers should be assisted in their efforts to improve their livelihood and; in addition, (v) their standard of living is to be restored to an equal, if not higher level, than it was prior to the relocation or the beginning of the project.

Resettlement planning is an integral part of preparation for Bank-assisted projects, and the preparation and appraisal is also defined by OP/BP 4.12 in the identification stage. Resettlement assignments are expected to: (i) identify any potential resettlement that may occur under the project; (ii) inform the borrower of the provisions of OP 4.12; (iii) determine the type of resettlement instruments: (RP/abbreviated RP, RPF and Process Framework); and (iv) convey such decisions to the borrower and also discuss with the borrower actions necessary to prepare the instruments as well as to agree on the timing for preparing the instruments and monitoring progress.

During project preparation, it is imperative to engage an experienced consultant who can enable the borrower to prepare the resettlement instruments with assistance from the task team (TT). The TT would provide training, instruction, and supervision to the consultant on the preparation, based on the requirements of OP 4.12. In the appraisal stage, the prepared instruments, compliant with OP 4.12, are submitted to the Bank. The TT reviews the instruments and when they are considered to be satisfactory, sends them to the Bank Infoshop. Only after the approval of the instruments by both the Project Management Office (PMO) and the borrower can project negotiation commence. Legal agreements record the commitment of implementing the instrument and the need to report to the Bank on the instrument's implementation by the borrower. The next stage involves implementation and supervision. The borrower is required to implement the instruments and ensure full compliance through regular and extensive internal and external monitoring. Upon full implementation of the instruments, a Resettlement Implementation Completion Report (ICR) should be prepared which evaluates the process and, where needed, suggests remedies or further supervision.

Locally financed projects, except for water related projects with large-middle size, do not require a RP and other RP related actions. All the RP related actions for these water projects are similar to that in World Bank assisted projects.

2.2 Current resettlement planning practices for WB-assisted projects in China

2.2.1 Relationship between WB project appraisal and domestic project approval

In 2005 the NDRC issued the *Management Instruction on Project Used Fund from International Financial Organizations and Foreign Governments*. This divides lending projects into three types: (i) projects whose loan is to be repaid by the State; (ii) projects whose loan is to be repaid by provincial governments; and (iii) projects whose loan is to be repaid by the project owners. World Bank-assisted projects consist of the first two types. For the projects whose loan is to be repaid by the State, Item 17 of the *Instruction* shows that project feasibility studies would be approved only with primary commitment from the WB. For projects whose loan is to be repaid by provincial governments, Item 16 clearly indicates that project feasibility studies can be approved only with project appraisal documents (PADs) of the projects. This means that only with appraisal completion from the WB can the feasibility study be approved by the Chinese Government.

2.2.2 Impact on resettlement planning

On the issue of resettlement, the relationship between World Bank project appraisal and approval by the Government of China means that the completion and approval of the RP by the Bank is a condition for the approval of the FS by the Government of China. This, in turn, means that the RP is to be prepared based on the FS. Although the RP covers all elements required by OP 4.12, the following, at least, needs to be further dealt with in resettlement implementation: (i) impacts of resettlement to be more accurately assessed; (ii) detailed schemes for house restoration within villages should be designed; and (iii) detailed schemes for land compensation redistribution and livelihood development plans within villages should be developed.

2.2.3 Land related legal requirements in the feasibility study stage

In China there exists no unified legal resettlement regulation covering all sector projects. Most of the responsibility for national resettlement management rests with the Ministry of Land Resources (MoL) and NDRC. With the exception of water sector projects, all project FS have only limited content on resettlement, with the sole legal requirement regarding resettlement in FS preparation being the pre-approval of land use.

In the FS, land authorities are required to review the proposed land use and, if they have no objection, pre-approve the land use. This pre-approval is a critical official stage in support of the approval of the project by the Central or Provincial government.

In December 2004, the Ministry of Land Resources issued the *Management Instruction on Land Use of Construction Project*. Item 4 indicated that pre-approval of land use for a project will be conducted by MoL, or by the relevant provincial land department.

The Ministry of Land Resources has delegated the review of pre-approval of city construction land to municipal governments and that of other land to the provincial land department. The review, which should be submitted to MoL for pre-approval, should

cover: (i) whether the proposed land use is compliant with the Master Land Use Plan and land use policy; whether the land quantity complies with the relevant regulations; and whether the proposed farmland development scheme is feasible; (ii) the map of the overall land use plan marking the scope of occupied land by the project along with any other relevant maps; and, (iii) whether the overall plan of land use needs revision because of the project, as well as its justification by relevant experts and an evaluation report of the project impacts on the overall plan, as well as notice of any public hearing meetings on the revision of the overall plan.

In addition, an application report of pre-approval of land use includes project introduction, location selection, land quantity and types, and schemes for farmland development.

If the review concludes that the pre-approval of land use does not require any detailed investigation of either land, houses or other structures, then legal requirements for pre-approval of land use do not entail resettlement planning.

However, the FS outline by NDRC covers only a few elements that are related to the RP, such as quantity of used land and compliance with the master land plan. RP related contents are not covered in the FS for domestically financed projects in China, and the RP is not a necessary project document for most sector projects financed domestically, with the exception of the water sector.

2.2.4 Resettlement planning practices model

In recent decades in China, the FS approval by government has been conditional on completion of the WB appraisal. This results in an RP which is based on the FS. Nevertheless, it is not possible for the RP, based on the FS and typically prepared in less than one year, to provide sufficiently detailed information to establish a Resettlement Plan which accurately and thoroughly covers resettlement impacts as well as specific and exercisable resettlement restoration measures capable of being precisely implemented. Consequently, the RP must be further supplemented with more detailed work in the implementation stage. The present resettlement approach model is illustrated in Figure 2.1:

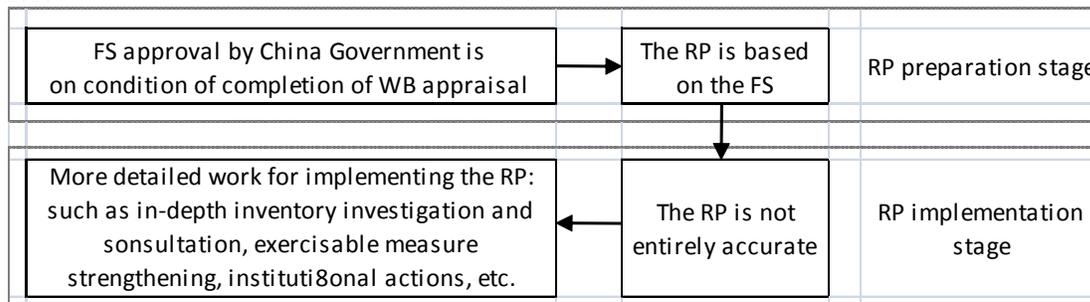


Figure 2.1

2.3 A multi stepped approach towards OP 4.12 requirements

Although resettlement planning is based on the FS, and the RP is prepared in about one year, project resettlement approach can, in the absence of unforeseen circumstances, be usually be considered compliant with OP 4.12.

2.3.1 Resettlement process in China

Among all of the World Bank project sectors only the water sector has in place relatively detailed requirements for resettlement in the project feasibility study. Generally, in other sectors a feasibility study, as required by the NDRC, includes only one chapter of land use analysis in which there is general but not detailed information on the land to be used. Its objective instead focuses on the land quantity and type and on overall compliance with the master land use plan, but not on resettlement of those who may lose land and structures.

A resettlement plan is typically prepared in a limited time based on the FS. Shortly before the start of the resettlement implementation more detailed work for implementing the RP, such as in-depth inventory investigation and consultation, exercisable measure strengthening, institutional actions, etc. is launched based on the detailed project design and the agreed RP. During resettlement implementation, resettlement remedies are explored and implemented if needed based on the findings by extensive supervision and monitoring. The resettlement ICR also can ascertain whether or not the resettlement is in compliance or not and can repeat the remedial steps until full compliance is obtained. The following Figure 2.2 reflects the actual compliance guarantee model:

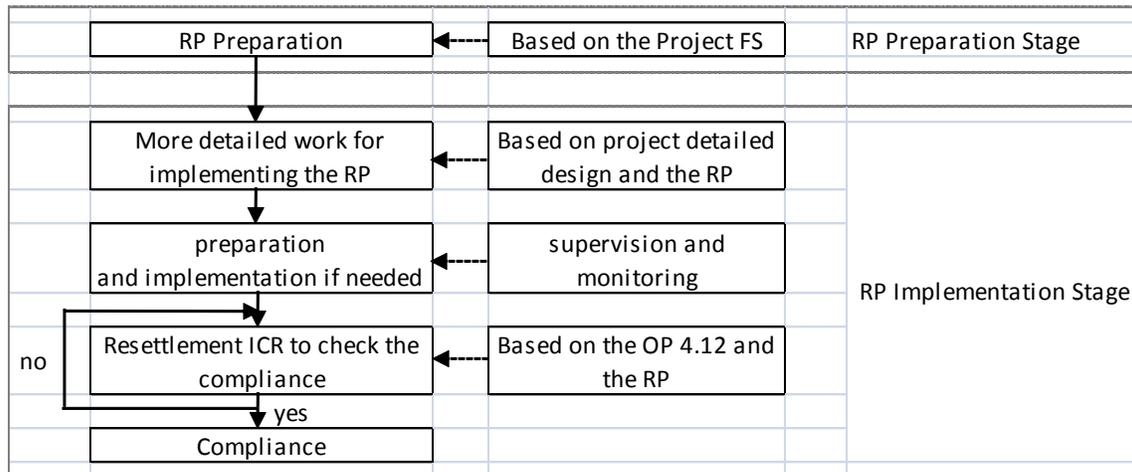


Figure 2.2

2.3.2 RP preparation

Once a project has been approved for feasibility level evaluation, the resettlement planning process, mainly implemented by an experienced consultant with close support from the Bank task team, refines the estimate of the number of affected persons and other resettlement impacts within the project area. At the same time, a delineation of their assets is compiled to enable planning for the compensation package for the affected. At this point in the planning process the resettlement planning organization is developed which will be responsible for planning and implementing the resettlement program. The primary aim is to involve, as much as possible, the local governments and the affected population in the planning process.

The RP establishes all components of the resettlement planning and implementation process, in accordance with OP 4.12. These include, inter alia: (i) all potential resettlement impacts investigated according to the FS; (ii) socioeconomic surveys; (iii) legal framework; (iv) compensation rates; (v) eligibility; (vi) resettlement measures; (vii) site selection, site preparation, and relocation; (viii) housing, infrastructure, and social services; (ix) community participation; (x) grievance procedures; (xi) institutional framework and organizational responsibilities; (xii) implementation schedule; and (xiii) costs and budgets and monitoring and evaluation.

2.3.3 RP implementation

2.3.3.1 More detailed work for implementing the RP

The more detailed work for implementing the RP in implementation stage mainly focuses on the following improvements: (i) the need to more accurately review resettlement impacts; (ii) the design of more detailed schemes for house restoration within villages; and (iii) the development of detailed schemes for land compensation redistribution and livelihood development plans within villages. The work is conducted separately by various levels of governments according to resettlement scale of specific project, which usually consists of many outputs of drawings, tables, official papers, and reports, but does not result in one entire resettlement document.

After the project FS has been approved, the local government will commence the project and the actual resettlement implementation. The more detailed work is developed at the design level of project planning and design. Throughout the design process, the local affected families and officials are fully engaged in the work. Site plans are prepared by the design institutes and are thoroughly reviewed by the individuals who are subject to the plans. Community meetings are convened and suggestions and comments are elicited. The work includes at a minimum:

- **Design and institutional preparation for the planning:** (i) completion of design drawings of the project; (ii) establishment of the Project Management Office; (iii) announcement of the project construction; and (iv) establishment of the city/county railway construction offices (where applicable).

- **Policies and procedures enhancement:** (i) to issue specific compensation rates and resettlement standards by county level government; (ii) commence resettlement planning and implementation by each county level PMO; and (iii) organize work teams on resettlement investigation in each county/district government, including staff from land bureaus, construction bureaus, and other relevant authorities.
- **Detailed investigation of resettlement impacts and its disclosure:** (i) investigate in detail and record the resettlement impacts for each owner of the affected assets in each household, village, or enterprise with the full participation of village leaders, the affected villagers or owners of enterprises; (ii) to disclose and confirm the results of the investigation in each village community; and (iii) to calculate compensation for each affected household, village community, or enterprise.
- **Specific resettlement measures:** (i) to pay the disclosed compensation to the affected via a bank account for each affected household or enterprise; (ii) to arrange residential plots for those who are to restore houses within the original village, or to provide assistance for those who are to purchase houses; (iii) to provide social security program arrangements to those who are eligible; (iv) to provide training on livelihood to the affected persons; (v) to pay cash compensation to urban houses and enterprises based on a commercial evaluation by a certified company; (vi) design of appropriate infrastructure, including water supply facilities; (vii) extensive land development programs, including terracing and soil enrichment and wastewater treatment facilities; (viii) health care and education facilities; and (ix) appropriate technical and social training programs.

2.3.3.2 Approval and implementation

With exception of large scale water projects, there is no uniform requirement for approval of the RP. Approval of resettlement related documents, if needed, rests with various levels of governments.

The implementation of resettlement policy is handled by different authorities at all administrative levels. Apart from the obvious need for coordination between various government agencies, the resettlement offices at the local levels are responsible for drawing up specific plans, allocating new land, approving compensation rates, and supervising infrastructure construction. Much of the detailed work, however, has to be performed at the three lowest levels of the administrative system: the county resettlement office, the township government, and the village committee.

2.3.3.3 Supervision and monitoring

Arrangements for the monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank,

will ensure complete and objective information. Also, performance monitoring indicators will measure inputs, outputs, and outcomes for resettlement activities. This will also be assisted by the involvement of the displaced persons in the monitoring process. In addition, evaluation of the impact of resettlement for a reasonable period after resettlement and related development activities have been completed will allow the results of resettlement monitoring to guide subsequent implementation.

The World Bank conducts two supervision missions on resettlement implementation in each fiscal year during project implementation to allow regular and timely understanding of the resettlement implementation progress and to ensure compliance. Transport, rural sectors have been paying close attention to resettlement supervision and conducting a quite good performance with regular and sound supervision involving social safeguard specialists.

Further, an experienced independent resettlement monitor is engaged to semi-annually conduct regular supervision and to prepare and submit monitoring reports to the Bank. The supervision and monitoring can identify existing issues in resettlement implementation and suggest remedies. These actions together can ensure compliance of resettlement implementation.

Independent monitoring quality much varies among projects, mainly depending on which consultants to be engaged, whether project PMO emphasizes quality of resettlement implementation, and whether there is enough budget for the monitoring assignment. Proper attention to resettlement by the PMO, via clear and particular requirements in Project/Loan Agreement, results in enough budget and qualified consulting services. WB should consider to establish a mechanism to finance resettlement monitoring where resettlement monitoring is poor.

Qualified monitor not only conducts sound monitoring service, measuring progress and quality of resettlement implementation and identifying potential problems in resettlement process, but also provides valuable recommendations, based on their professional findings and experiences/lessons in other projects, to guide the project keeping on the right track to achieve resettlement target. This is why the TT should provide suggestions on monitor engagement.

Currently, there is a pool of consultant companies and individuals in China, who grew up mainly from working with WB assisted projects and are leading resettlement monitoring, other than resettlement research and planning. Good representatives from them include Hohai University, China Agriculture University, Wuhan University, Northern China Water and Hydropower College, Yellow River Resettlement Bureau, Eastern China Hydropower Design Institute, etc. So, it would be ideal, if the PMOs to engage consultants via public bidding process to obtain qualified consultants.

2.3.3.4 Implementation Completion Report

Based on the Resettlement Plan, the Project Management Office will monitor, prepare and submit a resettlement Implementation Completion Report (ICR) to the World Bank. The Bank Task Team will prepare the ICR in accordance with OP 4.12 and the RP. If any non-compliance with OP 4.12 is identified, remedies are required to be detailed in the ICR and will be implemented by the project PMO. The implementation of these final remedies will be reported to the Bank to ensure compliance.

2.4 Conclusions

The customary agreement between the World Bank and the Government of China whereby the completion of the appraisal by the Bank is followed by formal approval of the feasibility study by the government has led to the situation where effectively the RP is prepared based on the project FS.

Obviously, it is not possible for the FS to provide sufficiently detailed information from which to prepare a RP which covers accurate and thorough resettlement impacts as well as detailed and exercisable resettlement. Hence, the present resettlement approach model has been developed over the last decades and has resulted in a RP prior to appraisal stage and more detailed resettlement preparation work in RP implementation, such as in-depth inventory investigation and consultation, exercisable measure strengthening, institutional actions, etc.

An actual compliance guarantee model is available: A RP is prepared in a relatively short time based on the FS, but in the resettlement implementation more detailed work for implementing the RP is implemented based on the detailed project design and the agreed RP. In resettlement implementation, remedies are explored and implemented, if needed, based on the findings by extensive supervision and monitoring. The resettlement ICR also can ascertain whether or not compliance has occurred. If non-compliance is detected, these remedial steps can be repeated until full compliance is obtained.

2.5 Recommendations

High level dialogue is needed to encourage the Government of China to issue uniform resettlement regulation for all sectors to enable proper resettlement planning and implementation for *all* projects in *all* sectors.

In view of the imbalance between the WB project appraisal cycle and domestic FS approval, the Bank should enhance RP implementation management via extensive supervision.

WB management should enhance supervision and monitoring to ensure compliance by separating the safeguard budget and by conducting safeguard supervision by the entire SD, not simply by each TT, in accordance with the safeguard risks. WB

should consider establishing a mechanism to finance resettlement monitoring where resettlement monitoring is poor.

The TT should pursue a commitment letter, endorsing implementation of the RP including the provision of counterpart funds as well as following up the agreed compensation rates, from the county level government responsible for implementing resettlement, prior to project appraisal.

TECHNICAL NOTE 3

The land redistribution process in rural China

by Zhefu Liu

Introduction

This note will review and discuss the role and mechanism of land redistribution in China. If village land is needed for public interest infrastructure for a key State project then the village plays an important role in managing land redistribution through the distribution of cash compensation packages received by the village. However, with continued economic growth, the role of villages has gradually changed in recent years, particularly in relation to emerging real estate markets. Villagers have more opportunities to seek jobs and business opportunities in cities to obtain wages and to increase income. Wages and salaries of rural labors have often become the main family income while in turn elderly farmers have frequently become the main source of labor for managing land, farming and related business. Family income from land was declined significantly among their family income portion in two decades. Rural families are not satisfied with their family income from land to only meet the demands of daily food supply but seeking for their career developments in competition in active labor force markets. Rural population flowing from urban area to rural in every Spring Festival of national traditional holiday could prove the migration tide in country-wide. However, Land not only provides food for the rural residents but also provides a social safety net to families when they cannot earn wages.

The dynamics and mechanisms driving land redistribution in villages located in peri-urban areas will also constitute part of this analysis. Peri-urban villages play an increasingly important role in negotiating the price of their land that is to be acquired, and then redistributing the income within the village. This is a reaction to the market, economic and real estate growth of the last 15 years. For public interest infrastructure for a key State project as urban transport project and waste water treatment plant project, it is the tendency that village refers to the price of the land required by adjacent real estate project to request the equal or upper land compensation rate since no any project entity could take village land forcibly and farmers' entitlement is protected by updated regulation issued by State Council and Ministry of Land Resources. Those provide more space to the village that could negotiate the compensation to the further land users. Free land market is not recognized by legislation, but the land price is well-known by the village to be affected by land acquisition. Farmers become more proactive in discussions in redistributing the cash compensation received from land acquisition and monitoring the process of cash flows. Meanwhile, municipal auditing departments enhance supervisions to the use of land compensation since misuse the land compensation by village committees led increasable complains. Many peri-urban villages have withdrawn

their contracted land since every farmer receives the same compensation if land is required, and intended to invest it in the real estate market if there is a chance. As a result village household incomes may be derived from bonuses generated by village enterprises and in such cases their wages or salaries are often equivalent to what they earn from employment in local labor markets or partial incomes produced by their yearly rented village land. In addition, peri-urban farmers quite often operate their own restaurants or extra room rental for family extra income resources. In generally, peri-urban farmers have multi family income resources than employed workers or laid-off workers who rely on governmental supporting funds.

There have been cases in Bank-supported projects where villages readjust the village contracted land among the villagers. However, since the land resources are limited, the Bank might encourage the farmers' individual cases if they are willing to transfer their land to each other within the village supported by recent Chinese legislation. Cash redistribution among the displaced families is mainstreamed and welcome by the displaced families. Those three options for livelihood restoration will be the center of the mitigation measures and the displaced persons are more independent to make their own decisions.

3.1 The village to household redistribution process

3.1.1 OP 4.12 requirements

OP 4.12 requires that (a) where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and in implementing resettlement programs; and (b) displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

Bank accumulated its experiences in its supported projects it is important that the project entity contracted experienced consulting institute to guide the resettlement action plan during project preparation and resettlement implementation. Land-to-land based strategy, if available, is the center of livelihood restoration measures to mitigate the negative impacts in the Section of Livelihood Restoration in the resettlement action plan, specific to those vulnerable and disable group of the displaced families. Special arrangement, including the location and the quality of the replaced land and housing lots, need to be taken in advance and consulted to those identified vulnerable and disable group of the affected people. Transparent resettlement policy and timely updated resettlement information could enhance the village capacity and receive more positive supports from the farmers as well as to avoid inharmoniousness.

Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land, or alternatively on collective land acquired or purchased for the purpose of resettlement. When replacement land is offered, resettlers are provided with land for which a combination of productive potential, location advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons — if the provision of land would adversely affect the sustainability of a park or protected area, or if sufficient land is not available at a reasonable price — then non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. It is necessary that the lack of adequate land be demonstrated and documented to the satisfaction of the Bank.

Payment of cash compensation for lost assets may be appropriate where (i) livelihoods are land-based but the land acquired for the project is only a small fraction of the affected asset and the residual land remains economically viable; (ii) active markets for land, housing, and labor exist, and the displaced persons use such markets, and in addition there is a sufficient supply of land and housing; or (iii) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost by local market rate. Cash compensation distribution among the displaced persons become more popular since the governmental resettlement policy releases the restriction to cash compensation distribution and the displaced farmers could use the cash to initiate their new career development favorable to the country strategies as to develop more small size of satellite towns around large cities. Meanwhile, village heads and the displaced families do not like to waste their time on the land redistribution, specific to the linear project that do not affect people significant, Moreover, the interaction for land rental among the farmers will become more proactive whatever they are affected by the land acquisition or not.

Wuhan Urban Transport Project: the city approached programs called the development of villages among urban area. Village played extraordinarily important role in consulting to the villagers to reconstruct the entire village according to the city planning, and villagers could benefit greatly from the village reconstruction. Municipality will not receive interests or benefits from the village development program which used to receive high taxation from real estate developer. This way could speed up urbanization and reduce slum area in the peri-urban area and heavy burden to the municipal financing. After the village development, the villages will be converted as urban residential communities to share social security as urban residents and municipality afford the cost of social security from other land development projects.

Yiba Highway Project: Since in China land is collectively owned, the local villages played an important role in the resettlement activities. They were directly responsible for the distribution of resettlement funds, a process that followed these steps:

- The affected villages submitted detailed explanations of how they were affected by the project to the appropriate resettlement organization.

- The resettlement organizations at all levels and the local governments carried out training for village-level administrative departments and directed them to formulate appropriate development plans and resettlement fund use plans in a transparent manner.
- The village-level administrative departments negotiated with the affected persons, establishing the final resettlement fund use plans. These plans were submitted to the county/district level re-settlement offices for review.
- The county/district level resettlement organizations reviewed the resettlement fund use plans and helped the villages to finalize them. No resettlement funds would be disbursed to a village without a feasible resettlement funds use plan.
- Once the county/district level resettlement organizations approved village-level resettlement fund use plans, they then disbursed the resettlement funds gradually according to the approved plans.

Compensation for houses and structures was paid directly to the affected persons. The county/district or township resettlement offices opened special accounts in local banking institutions for affected units, collectives and individuals and deposited funds directly into the accounts.

The resettlement offices at all levels made copies of the compensation rates documents issued by the resettlement office under the project entity sent them to each relocated household, and publicized them in public places.

3.1.2 The requirements of national laws and regulation

The *Land Administration Law of the People's Republic of China (Land Law)* was issued in 1986 and amended in 2004 according to the requirement of the National People's Congress and applies to all land and resettlement issues in both urban and rural areas before the *Urban Demolition Regulation* was issued by the State Council.

Under the *Land Law* there are two types of land in China: — land belonging to the State and land belonging to village collectives or village communities. No individual or entity is eligible to acquire land from village communities without formal official approval. The land law clarifies the ownership of the land and the use rights of the land in urban area. If any entity requires land, the land ownership must be transferred to the State and the entity can exercise the use right of the land for over 30-70 years. The use rights of the land are eligible to be transferred to others with the approval of the government land agencies, and can be extended through an application process upon expiry of the use rights period of the land. Therefore, there is no private and collective land in the urban area. Once public infrastructure project is approved, the project entity has to negotiate the compensation to the land user.

Only village community members are entitled to contract the land for the maximum extended period of 30 years and can be extended endlessly according to Chinese

legislation. If a small number of village members intend to transfer the contracted land to other community members, it is necessary to obtain the support of the community and the land lessee must guarantee to reserve the farming land use. If any entities or private organizations approach the village to rent the land owned by the village community, they also must obtain the agreement from each land contractor as well as the advance approval of the county level of governmental agency. In addition, the contracted village agricultural land can only have been used previously for farming purposes.

The *Law on Land Contract in Rural Areas of the People's Republic of China (Land Contract Law)* was issued to safeguard farmers' long-term use rights of their community land in order to protect their entitlement to the land and promote agricultural economic development. The maximum period for which the contracted arable land can be extended is 30 years, consistent with the *Land Law*. Usually village committees are not allowed to readjust the contracted land within the villages during the period of land contract extension. However, if village individuals suffer natural disasters any subsequent land readjustment must be accepted by two-thirds of the entire villagers and the activities must be approved by the agricultural departments in both the township and county government.

The Central Government issued a regulation in December, 2001 which required all government departments to confirm all land contracts which have been extended for another 30 years. However, the Central Government has issued strict requirements to enhance the farmers' entitlement to use their contracted land, to protect the farmer's interests, encourage farmers to invest their land in a long-term strategy, safeguard food safety in a country-wide strategy, and also to prevent some government agencies from a possible abuse of power. There is no indication that villages could readjust their contracted village land should the contracted land be required by any entities for national interests.

Recommendations: The Central Government has required each province to provide comprehensive compensation rates for acquired land for the approval of the Ministry of Land Resources. The purpose is to protect farmers' benefits in case they receive less than is provided by the Central Government requirements. Task teams should obtain this information from provincial land departments to ensure that farmers do not receive less than the minimum as stipulated in the national requirement.

Most of the provinces have issued their own detailed regulations to implement the updated central government requirements associated to resettlement affairs, in which it is documented that 70% of land compensation and 100% of resettlement subsidies should be allocated to the affected farmers.

3.1.3 Land redistribution in Bank supported projects

Over the past five years, there have been only a few cases in Bank-supported projects where a village sought to readjust the village contracted land among the villagers. However, since the land resources are limited, the Bank might encourage the farmers'

individual cases if they are willing to transfer their land to each other within the village. This updated resettlement policy issued by central government can create the opportunity for those who are willing to migrant to live in cities. More land transferring interactions would be proactive among the private individuals and village community.

In generally, in recent years, Central government intended to release land tighten slightly favorable to the farmers. Lessors are allowed to transfer their land to lessees, but the agreement is required to be signed by both lessors and lessees. However, the agricultural land cannot be used for non-agricultural purposes, for instance; housing lots, etc.

Shiman highway project: The Shiman highway project is located in the mountainous northwest area of Hubei Province in central China. It consists of a 107 km expressway that travels from near Shiyan City to the border with Shaanxi province. About 780 ha of land in four counties were requisitioned for the project, including 363 ha of cultivated land. After the completion of the project civil work and strong support from the project entity, over 113 ha of arable land were created in one of three ways. The most common method (over 93 ha) was by using waste earth from the construction activities to fill ravines. After leveling, they were covered with topsoil. Waste earth was also used to fill unused land and cold spring paddy fields, which changed them from no/low yield to high-yield farmland. Finally, in conjunction with the contractors, construction machinery was used to convert unused slopes into terraces. These newly created lands were returned to rural communities for cultivation at no charge (no reduction in resettlement funds). Poor displaced families were prioritized at first to select the redistributed land.



3.2 Laws, regulations and policy

2004 could well be considered as a pivotal year for resettlement in China with the media reporting many cases associated with displaced persons whose rights were allegedly violated or who were arguably treated unfairly. To ensure that Bank policy is implemented appropriately, the resettlement policy matrix in the RAP may need to address the vast number of laws, regulations and policy governing this issue including:

Land Administration Law of the People's Republic of China (revised August 28, 2004)

Law on Land Contract in Rural Areas of the People's Republic of China (August 29, 2002)
)

Decision of the State Council on Deepening the Reform to tighten up Land Administration (October 21, 2004).

Guiding Opinions on Further Improving Policy on Land Acquisition Compensation and Resettlement (November 3, 2004).

Provisions of the People's Republic of China on the Government Information Disclosure (April 27, 2007).

In addition, there are further regulations governing land ownership and use rights, land compensation rates, resettlement measures for farmers, land acquisition information disclosure, land use verification and approval as well as regulations on house relocation and management of house sites. See Annex 1 for more detail on these regulations.

3.3 National and provincial policies on involuntary resettlement

In most cases where resettlement issues have resulted in aggrieved parties, the Central Government has realized that the provincial compensation rates for land vary significantly. This has allowed some local government agencies the opportunity to reallocate compensation for their own purposes. This has caused the displaced to register their complaints, sometimes in a violent manner. Therefore, provincial compensation must be consistent with national compensation and, provincial governments have been requested to issue their own detailed regulations, in compliance with the national policies, including social security, to safeguard farmers' income.

As a result most of the provinces have issued their own detailed regulations to implement updated Central Government requirements associated with resettlement affairs. It has been documented that 70% of land compensation and 100% of resettlement subsidies should be allocated to the affected farmers. The village committee can only manage the remainder of the compensation for village facilities through public consultations.

Ministry of Land Resources issued a regulation in last year in which the compensation for housing lots of the peri-urban area will be distributed to the house owners, instead of paying to the village committee. The displaced families in peri-urban area will have more opportunities to purchase urban housing.

Recommendation: Bank task team and convulsing institute should be screening the updated provincial land regulation or resettlement policies. Those data information could be downloaded from government website

The World Bank resettlement policy matrix should document the above in more detail regarding the policies of compensation distribution. This could prevent any future misunderstanding of the resettlement policies stated in the RAP and will be capable of being supervised by Bank task teams. The resettlement action plan is requested to clarify specific resettlement policies to be implemented by the project entity.

TECHNICAL NOTE 4

Complaints Handling Mechanisms and Monitoring

by Zhefu Liu

4.1 Monitoring

Resettlement monitoring is the obligation of project entity to ensure that resettlement exercise is carried out in compliance to resettlement action plan as project entity commitment to China central government and the Bank. The monitoring should be executed by project entity, resettlement implementation agencies, and independent resettlement monitoring institute contracted by project entity.

Resettlement monitoring, in China, consists of independent monitoring contracted by project entity and internal monitoring conducted by project entity. Independent monitoring is undertaken twice a year and funded by project entity. Once independent monitoring is completed each time, the generated monitoring report is the subjective to be submitted to both project entity and the Bank. The Bank and project entity are obliged to ensure RAP implementation as per the Project Loan Agreement in China practice.

Resettlement monitoring is to follow up resettlement progress, dynamically evaluate the appropriateness of the RAP and provide decision-making support to project entity, resettlement implementation agencies and the Bank. Continual resettlement monitoring determines if resettlement activities are carried out according to the RAP. Remedial measures are proposed for the improvement of resettlement practices. In the meanwhile, resettlement monitoring is helpful to determine if the RAP meets the demand of resettlement implementation. The recommendations raised by resettlement monitoring and to be carried out by project entity ensure that resettlement implementation reaches or exceeds the standard or level before resettlement.

The Bank Beijing Office published a guidebook of resettlement monitoring in 2002 and this guidebook does support the guidance of the resettlement monitoring on both urban sector and rural sector in details, which provides fundamental guidance to the resettlement monitoring activities for 10 years.

In general, resettlement monitoring are undertaken by Bank task team in field twice a year, independent monitoring as third eyes of project entity and the Bank are to monitoring resettlement activities in the fields twice a year and evaluate the success or failures at the completion of project civil work. Project entity setting up branches of resettlement offices in the engaged cities/counties leads resettlement monitoring at daily

basis. The displaced persons are mobilized to monitoring their entitlement and interests. Meanwhile, independent monitoring is empowered to disseminate resettlement information at timely manner based on the resettlement progress, for instance; independent monitoring disseminates the resettlement policies and information booklets, provides training to the resettlement offices and village heads, collects complains from the displaced persons, evaluates the resettlement practices, submits recommendations to the project entity and the Bank.

Therefore, successful implementation of the resettlement action plan (RAP) requires a mechanism wherein those affected by the project can be informed of their rights, monitoring and lodge complaints, and be confident that any such complaints will be acted on. A specific example of *good practice* for the RAP is to post the resettlement information in timely manners in the affected village community and emphasize the procedures by which the compensation for individuals will be transferred to the individual person's local bank account. If the RAP establishes clear procedures to allocate compensation to the private bank account of the displaced person, it will be much easier to accurately monitor the payment activities.

Shiman highway project: Resettlement monitoring was crucial to ensuring the success of the program. Several methods were used for monitoring and evaluation of resettlement activities including (i) standard reporting systems; (ii) regular liaison meetings with city, county and district resettlement offices; (iii) regular reporting on local progress and emerging problems, and exchange of experience and solutions adopted; (iv) regular field inspections; and (v) ongoing public participation and continual dialogue with those affected to hear their suggestions and views about the resettlement process.

Nine monitoring indicators were adopted by the independent consultant to monitor resettlement effectiveness.

- familiarity of affected persons with the resettlement process;
- regular submission and availability of monitoring reports to the resettlement organizations at all levels;
- regular visits to resettlement organizations to gauge work progress;
- collection of comments on resettlement work from affected persons;
- collection of resettlement information from local residents via surveys;
- community meetings held in public areas convenient to affected residents in order to collect information and feedback;
- regular visits to resettlement sites;
- examination of activities from similar projects to benefit from lessons learned; and,
- staying in touch with affected residents through distribution of booklets, or by telephone, letter, or email, to disseminate information and increase transparency.

Finally, at the completion of the project, the World Bank arranged for a detailed survey to assess the effectiveness of the resettlement effort. If the resettlement activities do not meet the requirement of the RAP, the completion of the resettlement activities will not be

recognized and the resettlement monitoring will be continued until the success of the resettlement work.

In a more general sense, random sample monitoring and survey should be an ideal method to monitor infrastructure projects in China since thousands of households would often be affected by a single project. Alternatively, an independent monitoring institute may be contracted to monitor the resettlement activities of 10% of the affected households. The independent monitoring could act as a third party in monitoring the project twice a year.

Recommendation: The final investigation to the resettlement impacts could be conducted and confirm the accurate impacts on land and property of the displaced families after project negotiation since both parties of the Bank and the project entity are aware of the success of the project negotiation. The resettlement baseline survey and monitoring could be combined into the final investigation and the agreements could be reached by the project entity, displaced families and the village communities as observers. If project entity could arrange the contracted local bank to the village and open local bank account to each affected family three months before resettlement activities, few legacies on resettlement compensation could be remained and the monitoring could be easier.

Successful resettlement cases show that the project entities are capable of conducting the resettlement implementation and monitoring. This method should be encouraged. If the project entities know that they will implement the resettlement work for their projects, they will cooperate with the Bank task team and, as a result, more favorable resettlement policies will be generated. Otherwise, the project might be delayed by unsuitable resettlement policies if the displaced persons are not satisfied with the policies. However, the task team may have to consider the efficiency of monitoring the resettlement activities and the strengthening of the institutional capacity by resettlement perspectives.

Shiman highway project: Once a successful project negotiation is completed, land acquisition and housing demolition will be started very soon. To ensure the success of the resettlement implementation, housing demolition would not be encouraged at winter season, specific to the north of China. Resettlement information booklet should be disseminated to each displaced family and resettlement baseline survey should be undertaken three months before the resettlement relocation and land acquisition. If the resettlement centralized sites are proposed, experienced design institute should be contracted to design the resettlement site with broad consultation to the physical relocated households in advance. The construction of the resettlement centralized sites used to take about two years and it is encouraged that the new resettlement sites are completed before the old houses are demolished. The independent monitoring institute is requested to have site-monitoring and report to the project entity to avoid any significant resettlement event. The responsibilities of the resettlement monitoring institutes in levels of the executive agencies, and the resettlement monitoring fees are highlighted in the RAP as the commitment to be carried out by the project entity. Moreover, monitoring institutional mechanisms need to be delegated in advance as institutional arrangement; resettlement monitoring funds need to be estimated properly to ensure the monitoring to be carried out

to meet the monitoring requirement; village heads and the representatives of the displaced persons need to be mobilized to oversee the resettlement practices.

If the project entities delegate the resettlement work to a third party, the Bank task team must be sure exactly who will implement the resettlement work and involve such a third party into the RAP preparation, including the socioeconomic survey, policy dialogues, as well as measures that will be used to mitigate the resettlement impacts. Effectively, this means that the resettlement implementation agencies need to engage themselves into resettlement issues at an earlier stage of the project preparation.

4.1.1 Pilot Safeguards Compliance Monitoring System (SCMS)

Safeguards Compliance Monitoring System (SCMS) is recommended as a tool for monitoring. The system would be used to strengthen resettlement management and enhance resettlement implementation so as to be consistent with the resettlement policy, disseminate resettlement information in a timely manner, and bridge the interaction between the resettlement offices and the displaced persons.

The screenshot displays the 'The World Bank SCMS' website interface. At the top, there is a navigation bar with a globe icon, the title 'The World Bank SCMS', and links for 'Select Language', 'Sign in', and 'Contact Us'. Below this is a menu with 'Home', 'News', 'Complaints', 'Downloads', and 'Contact Us'. The main content area is divided into two columns. The left column is titled 'Basic Introduction To The Project' and contains a section for 'The Yichang-Badong Expressway'. The text describes the YBE as the last section not yet open to traffic or under construction of the expressway linking Wuhan to Chengdu, passing through Yiling District, Xingshan County, and Zigui County. A 'More Information' link is provided. The right column is titled 'News' and features a link for '08-07-31 Safeguards Review Meeting'. Below the main content, there is a 'Map Of Sections' section with a map showing the project route in yellow and blue. The map includes navigation controls and a legend for 'Map', 'Satellite', 'Hybrid', and 'Terrain'. A 'Downloads' section on the right lists 'Social Assessment', 'Environmental Impact Assessment', and 'Environmental Management Plan'. A note at the bottom states: 'Note: This map is powered by Google Maps. Country borders or names do not necessarily reflect the World Bank Group's official position.'

Figure: 4.1

It is proposed to establish a pilot SCMS to be tested on the upcoming Hubei Yiba Expressway Project. The Hubei Provincial Communications Department has shown an interest in supporting this work. The Yiba project is an expressway traveling through an environmentally sensitive area (including the ‘Three Gorges Geological Park’) and the goal of the project is to introduce innovations which will improve the environmental management in China. See Figure 2.1 below.

The SCMS will be able to provide environment and resettlement information on the project to the public (e.g. download EMP, RAP, resettlement information booklets, etc.) and record information on the environment and resettlement performance against key indicators (e.g., pollution of waterways, damage to sensitive areas, compensation rates for main structures and land, the time taken for displaced persons (DPs) to receive compensation, land occupation before/after land taking, income recovery after resettlement rehabilitation). It will also provide a mechanism for complaints to be automatically logged and forwarded to the appropriate parties.

The SCMS would support the evaluation of resettlement performance and, at the ICR stage; the assembly of the necessary data would be comparatively straight forward.

4.1.2 SCMS Outputs, Outcomes, and Dissemination

Outputs: The SCMS will have two components: (1) the web site interface and (2) the complaint logging system. Figure 3.2 below provides an overview of the SCMS.

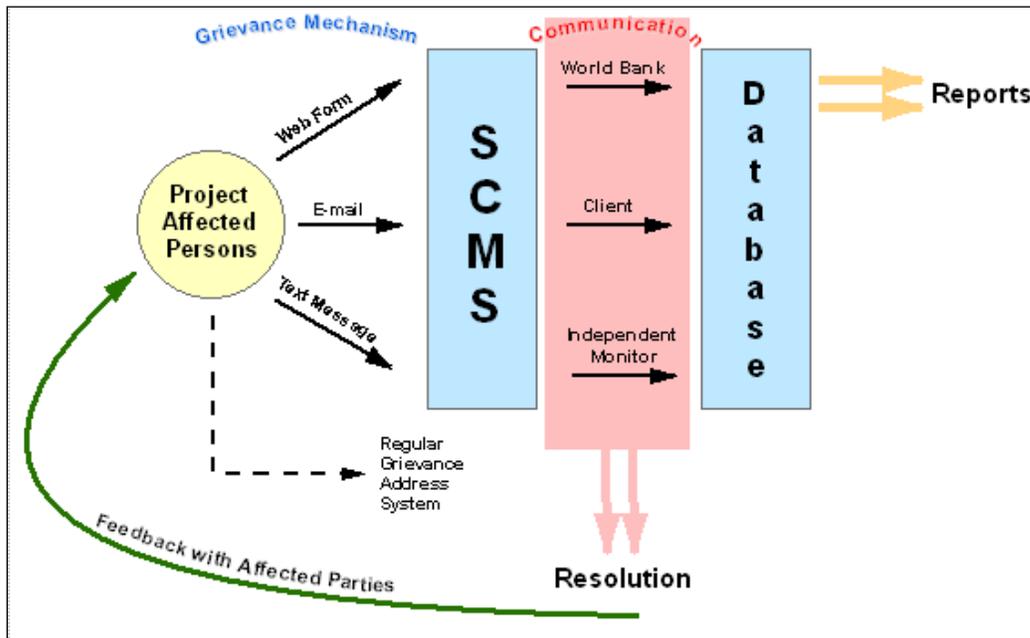


Figure: 4.2

The web site, accessible through www.isafeguards.com, will be used to store and disseminate information on the project's resettlement status. Downloads, such as the RAP and information booklet, will be available as well as summary statistics showing the progress of resettlement. There will also be a mechanism to log complaints, as described below.

The web site will have two areas, one public and one private. The public area would be accessible to anyone and visitors would be able to download various materials and also submit complaints. By contrast, the private areas will have restricted access and will be used by the various parties involved in the project to store key data and to generate reports. In addition, there will be administration functions accessible only to designated users.

A Complaint Logging System (CLS) will be created to handle complaints. This will be done: (i) through a form on the web site; (ii) by sending an SMS message; and (iii) via e-mail. The SMS component of the system is vital since those affected may not have access to the Internet to visit the web site, but they should be able to send an SMS message since mobile phones are ubiquitous and are possessed by most Chinese families.

Therefore the use of this inexpensive and efficient technology in resettlement monitoring should be encouraged. This technology could be considered as a powerful tool to ensure that the resettlement implementation is in compliance with Bank policies.

In the case of web logging the user would open the 'Feedback' page at the site and enter key information (name, contacts, etc) along with details of the complaint.

Upon receipt of an SMS complaint an acknowledgement message would be returned to the complainant indicating that the message has been received and will be processed. Upon resolution the complainant would receive a message by which they can confirm whether the resolution was satisfactory or otherwise. If it is the latter, then additional steps will need to be carried out.

For email logging, an e-mail would be sent to a prescribed e-mail address. An auto-responder would return an acknowledgement and the business flow would be the same as for SMS logging. Upon receipt of a complaint, the message would be automatically forwarded via e-mail to at least three different users. The reporting facility in the system would record the details of the message and sender information. Later, when resolved, the complainant will be notified, by SMS, if possible. The reporting system will record the elapsed time for dealing with the complaint as well as the outcome. The system will be designed to allow anonymous complaints to be made should the displaced person wish to do so.

The outputs from the SCMS will therefore consist of: (i) an operational system for monitoring compliance with safeguards; (ii) user's manuals for operation of the system; and (iii) the successful pilot testing of the SCMS.

Outcomes: It is anticipated that there will be outcomes and impacts from the SCMS on several levels:

- It would ensure that resettlement information is widely disseminated.
- The provision of resettlement progress statistics will be of use to the DPs in the event that resettlement does not proceed as planned.
- It will provide the Bank with an independent method of monitoring compliance with safeguards policies.
- The data collected will be available for monitoring progress reporting of the ISR and ICR in real-time.

The complaints logging system will help ensure that the PMO, local resettlement agencies, and the independent monitoring consultant are performing their jobs effectively as there will be an independent mechanism for recording complaints.

Dissemination: During the pilot testing of the system DPs will be notified of how to make complaints through brochures and information posters. These will cover the web interface, as well as sending SMS messages. In addition, the regular voice hotline will also be covered.

The SCMS is being developed as a multi-language platform which will enable it to be used in projects outside of China. It is also proposed to release the software as an Open Source under the GPLv3 license. This would allow it to be refined and improved on other projects, without continued maintenance from the Bank.

4.1.3 Links to the CPS

The monitoring of resettlement activity is directly related to Pillar 2 of the CPS: Reducing Poverty, Inequality and Social Exclusion. Many of those adversely affected by violation of safeguards policies are the poorest in society. This will provide them with an opportunity to lodge complaints and ensure that these complaints are acted on. The SCMS will ensure that the monitoring of safeguards is carried out to the highest standard possible, with increased involvement on the demand side (i.e. those affected by safeguards) as opposed to previous approaches which have focused more on the supply side (i.e. government agencies).

Good practice: The SCMS could be used when the resettlement impact survey was undertaken since each household could be surveyed. It is encouraged to collect their personal data information by willingness. The system could warm up the displaced families and request them to participate into livelihood restoration discussions and it could also be used to enhance public consultations at project preparation stage.

TECHNICAL NOTE 5

Consultation and public participation during resettlement in China

by Chaogang Wang

Introduction

Participatory approaches in development practice were introduced in China in the late 1980s. Significant lessons have been learnt since these early efforts, and subsequent experience has been expanded to many sectors, and continues to be supported by many bilateral and international agencies. More recently, the strengthening of community responsibility as well as feedback has become a key element of local governance, and as a result, participation has also become a key ingredient of the policies aimed at building a “harmonious society.”

The relevant authorities have paid attention to participation and consultation with affected persons in the process of formulating resettlement policy, and in developing and implementing resettlement plans. Different approaches have been used in engaging affected persons’ involvement in the resettlement process. However, there are still some gaps between Bank policy requirements and government policy requirements and there exists scope for improvement in participation. This note will focus on legislative requirements, institutional capacity and implementation effectiveness in participation in resettlement. It will assess the gaps between Bank policy and government policy and identify the main areas that can be improved.

5.1 Policy requirements for participation and consultation

5.1.1 Bank policy requirements

Because involuntary resettlement can affect people directly and severely, Bank policy stresses the fundamental importance of public information, consultation and participation throughout the project cycle. In Bank-supported projects, the affected population is informed about the project and its consequences, consulted regarding their preferences and options to be afforded them, and encouraged to participate actively in the reconstruction of their lives. The detailed requirements for participation and consultation of the Bank policy on Involuntary Resettlement OP 4.12 state that the objective is for “displaced persons [to] be meaningfully consulted [with] opportunities to participate in planning and implementing resettlement program (para. 2. (b)).

The same policy also has the following required measures:

- a. The displaced persons are a) informed about their options and rights pertaining to resettlement; b) consulted on, offered choices among, and

- provided with technically and economically feasible resettlement alternatives (para. 6. (a)).
- b. In projects involving involuntary restriction of access to legally designated parks and protected areas, the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project (para. 7).
 - c. Resettlement strategy for indigenous people should be compatible with their cultural preferences and are [to be] prepared in consultation with them (para. 9).
 - d. Displaced persons and their communities, and any host communities receiving them, are [to be] provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement (para. 13 (a)).
 - e. Appropriate and accessible grievance mechanisms are established for these groups (para. 13 (a)).
 - f. The borrowers develop procedures for establishing eligibility criteria of displaced persons. The procedure should include provisions for meaningful consultations with affected persons and communities, local authorities, and NGOs (para 14).
 - g. The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in the project design (para. 19).
 - h. Information disclosure: As a condition of appraisal of the projects involving resettlement, the borrower makes the draft resettlement instrument available at a place accessible to displaced persons and local NGOs (para. 22).

5.1.2 Government policy requirements

In China there are a significant number of laws and regulations regarding resettlement. Some key laws and regulations set requirements for participation and consultation in resettlement as follows:

Land Administration Law (amended in 2004)

Once a plan for compensation and resettlement subsidies for requisitioned land is decided, the local people's government concerned shall make it known to the general public and solicit comments and suggestions from the collective economic organizations, from whom the land has been requisitioned, as well as the land users (Article 48).

Land owned by peasant collectives shall be operated under a contract by units or individuals that do not belong to the economic organizations of the said collectives with the agreement of at least two-thirds of the members of the villagers assembly or of the representatives of villagers and submitted to the township government for approval (Article 15).

Implementing Regulation of Land Administration Law (amended in 1999)

When a land acquisition plan is approved, the county or city government should disclose the following information in the townships (town) and villages affected (Article 25).

This includes the agency which approved the land acquisition plan; the number of approval documents; the area, scope and use of the acquired land; the compensation standard of the land to be acquired; the resettlement approaches of agricultural people affected; and the timeframe of compensation process.

The land administration agency of the relevant city or county government will develop a compensation and resettlement plan based on the approved land acquisition plan together with relevant government bureaus and sectors. The compensation and resettlement plan shall be disclosed in the towns or villages affected to solicit comments from rural collective economic organizations and peasants.

In cases where the local people do not fully agree with the standards of land compensation then any disputes on land compensation and resettlement shall not affect the implementation of the land acquisition plan.

Management Regulation of Urban Housing Demolishing and Resettlement (issued in 2001)

The administration agencies of housing demolition and resettlement shall make the following information available to the public when they issue the permission license for housing demolition and resettlement including the responsive agency of the housing demolition and resettlement; the scope of housing demolition; and the timeframe of housing demolition, etc (Article 8).

In addition, the responsive agency shall sign an agreement with affected persons on demolition and resettlement, which includes the manner and amount of compensation; the location of resettlement housing and its floor area; timeframe of relocation; arrangements of transition, and the length of transition, etc. (Article 13)

State Council Circular on Decision to Deepen Reform and Strictly Enforce Land Administration (Document No. 28 issued in 2004)

Before the proposed land to be taken is submitted for approval, its purposes, location, compensation standard, resettlement and rehabilitation measures should be made known to the farmers whose land is to be taken. Also, the results of the survey on the existing situation of the proposed land to be taken must be confirmed by the rural collective economic organizations and farmer households whose land is to be taken. When necessary, the land resources departments should organize hearings in accordance with relevant regulations. The relevant materials that are made known to the farmers and confirmed by them should be regarded as the necessary materials for submitting the land

to be taken for approval. The mechanism of coordinating and adjudicating the land acquisition compensation and resettlement disputes needs to be established and improved so as to maintain the legitimate rights and interests of the farmers and land users from whom the land is taken. With the exception of special circumstances, the approved issues related to land acquisition should be made public (Item 14).

Regulation of Land Acquisition Compensation and Resettlement for Large and Medium Scale of Hydropower Projects (issued in 2006)

The inventory survey shall cover the full range of resettlement impacts and shall be accurate. The results of such an inventory survey shall be made known to the public after they have been confirmed by investigators and affected persons with their signature. Provincial governments shall issue a public announcement in area of project construction and inundation before the inventory survey starts (Article 7).

Broad consultation with affected people and local residents in the resettlement area should be carried out in preparing the Resettlement Plan. Public hearings should be conducted when necessary (Article 15).

In contrast to other policies, the major difference with this regulation is that it requires preparation of a resettlement plan and states that consultation with affected people should be carried out in preparing the resettlement plan. In addition, the results of the inventory survey should be signed by affected persons and made known to the public.

5.1.3 Gap analysis in terms of policy requirements

Four major gaps exist between Bank policy and government policies and regulation in terms of participation and consultation in resettlement:

- Gap One: *Consultation as policy objective*. No government regulations stipulate participation and consultation as one of their policies' objectives. In contrast, the Bank policy highlights participation in its policy objectives.
- Gap Two: *Policy requirements on consultation in project development process*. The requirements for participation and consultation of the government policies and regulations are very general. In contrast, the Bank policy has very clear and specific requirements for participation in project design, resettlement planning, implementation, and monitoring and evaluation as well as grievance mechanisms and information disclosure.
- Gap Three: *Policy requirements on consultation in resettlement*. No government policies or regulations require the participation of affected people in resettlement planning, except in hydropower projects. In contrast, the Bank policy has clear requirements for participation in resettlement planning.

- **Gap Four: *land compensation vis a vis land taking*.** The Bank policy requires that taking of land and related assets may occur only after compensation has been paid. In contrast, the government policies stipulate that disputes on land compensation and resettlement shall not affect implementation of the land acquisition plan if local people do not fully agree with the standards of land compensation.

Although policy gaps exist in the area of participation, such gaps are becoming less significant between newly issued government policies and the Bank policy.

5.2 Participation and consultation in resettlement practice

5.2.1 Institutional arrangements of resettlement in Bank projects

Normally, a number of institutions are relevant to resettlement planning and implementation of Bank-financed projects:

At a national level, the Ministry of Finance (MOF), National Development and Reform Commission (NDRC), Ministry of Land and Resources, Ministry of Rural and Urban Construction and Housing, as well as other line ministries depending on the nature of the project, such as the Ministry of Railway for railway projects, Ministry of Water Resource for irrigation and water projects, are involved

At a local level, the Land Administration Bureaus at provincial, municipal and county level, Project leading groups at different levels, and line government sectors at different levels depending on the type of project are involved. If the resettlement activities are in urban areas, the Housing Demolishing Administration Office will be involved in corresponding cities.

The project owner is the main body in project preparation and implementation. To implement the project, the project owner will establish a Project Management Office (PMO). A resettlement officer will be appointed in the PMO to undertake the following tasks: (a) to conduct consultation with the technical support of resettlement consultants; (b) to review the resettlement plan; (c) to control resettlement funds; and (d) to check, guide and supervise the resettlement progress.

In most cases, township government and village committees can play important roles in resettlement planning and implementation. Township government is the primary government in China. While the village committee is not an authority, it is a mass organization with the capacity of self-management, self-education and self-service. In essence, it is a quasi-authority organization with the function of collective economy management as well as community management and service. The village committee is created by voting. With the guidance of township government, the village committee can

decide land adjustment, housing locations, collective properties handling, land compensation use, labor employment, and other activities.

Project design institutions and resettlement consulting firms will normally be expected to play a major role in resettlement planning. For Bank-financed projects, a resettlement action plan (RAP) must be prepared, although this is not the case for most projects that are to be financed solely by the government. In preparation of the RAP, an experienced resettlement consulting firm shall be hired to carry out the inventory survey, socioeconomic survey and to prepare the RAP. Under the leadership of a PMO, the resettlement consulting firm usually undertakes direct consultation with affected people in the process of resettlement planning and holds meetings with township governments and village committees. Consultation with affected people is normally carried out through individual interview, group meetings, questionnaire and other means.

For all Bank-financed projects which involve resettlement, an external resettlement monitoring agency shall be hired to monitor the progress of the resettlement, the compensation standard and the payment of compensation to affected persons, as well as the implementation of income restoration measures. It will also monitor the quality and the process of public participation and consultation with affected persons and the effectiveness of the grievance process and procedures established in the resettlement planning.

5.3 Participation and consultation in resettlement planning and implementation

5.3.1 Resettlement planning

For most Bank-supported projects, relevant authorities pay attention to participation and consultation with affected people in the process of resettlement planning. In the preparation of the RAP, the PMO can always, as required by the Bank, solicit opinions from representatives and relevant government agencies on the resettlement policies, compensation standards, and rehabilitation measures. Normally, several rounds of consultations are carried out with affected peoples on various aspects during the resettlement planning stage.

This includes consultation on project contents which will occur at the very early stages of project preparation as one part of the resettlement planning. The resettlement consultant will carry out an informed consultation with people on the project contents and design in project areas to solicit the opinion of the project beneficiaries. Such consultations are conducted normally through questionnaire and group discussion on a sample basis.

There will also be consultation regarding resettlement policies of the project. In the resettlement planning, the resettlement consultant will work with the project owners and the relevant government authorities to determine resettlement policies and compensation rates to be applied to the project. Once these policies and compensation

standards have been determined, they should be made available to the affected people. Then the resettlement consultant will conduct consultations with these affected people through meetings to solicit their opinion on the resettlement policies of the project.

A socioeconomic survey is carried out on a sample basis. The results of the survey will help to establish the baseline information and to analyze the extent of the resettlement impacts on the livelihood of affected people. Different groups of affected people will be consulted in the process of this survey by individual interview, group discussion and questionnaire. The topics of consultation may include resettlement policies, compensation rates, livelihood rehabilitation measures, and the special needs of different groups of people. Close attention will be paid to vulnerable groups, such as the elderly, women, minority, single parent households, and *Wubaohu* (households with five guarantees) etc.

To ascertain accurate resettlement impacts, an inventory survey shall be carried out jointly by the PMO, resettlement implementation agencies (land administration bureaus, housing demolition administrations, and demolition companies), as well as resettlement consultants. The inventory survey will cover 100% of the affected people. All affected people will have the opportunity to participate in the process and discuss their concerns with resettlement officials. As a result of the inventory survey, a mutual agreement on the resettlement impacts, compensation rate, and resettlement measures should be achieved between affected people and project owners.

Other approaches, such as individual interview, focused group discussion, questionnaire survey, are quite often used to understand concerns, options and aptitude of different stakeholders, including PAPs, in resettlement planning.

5.3.2 Resettlement implementation

Affected people are encouraged to participate in the whole process of resettlement implementation. More specifically, the affected people will participate in the following activities during resettlement implementation:

This includes participation in the disposal of old houses. Compensation of housing to be demolished is at replacement cost without depreciation. Within a specified time period, affected people can, at their choice, demolish their old houses first and then rebuild the new houses. The salvageable materials from the old houses can be used by the affected people without deduction from compensation.

All affected individuals in the affected village groups can participate in the land re-adjustment and redistribution process for production rehabilitation when the land needs to be redistributed among villagers.

In rural areas the land is owned by the village collective. When the land compensation is paid the village collectives instead of affected households, the affected people can participate in the decision meeting with regard to the use of land compensation. According to *Implementation Regulation of Land Administration Law*, the land compensation will be paid to the village group and shall not be divided up or used for other purposes (Article 26). In such case, land for land compensation might be considered as an option. However, within the duration of the contract for operation of land, any appropriate readjustment between individual contractors shall be made with the agreement of at least two-thirds of the members of the villagers' assembly or of the representatives of the villagers (Article 14, Land Administration Law) .

Besides the consultation process, affected people may have more opportunity to be employed for the project construction work. Normally, project construction will need unskilled labor. In order to ensure that the affected people benefit from the project construction, affected people are always encouraged to participate in the project construction, and favorable conditions will be created to use local materials and local labor force in most cases.

5.3.3 Issues and constraints in participation and consultation

One significant problem can be poor quality of consultation which varies in different projects. The extent of this issue mainly depends on the effectiveness of the PMO, the experience of the resettlement consulting firm, the budget of resettlement planning, and the timing of resettlement planning. For most government-financed projects, the affected people often find out about the demolition of their residence only a few days before the government expects them to move.

Another serious problem arises if there is a lack of staff familiar with participation and consultation. All government agencies have strong technical capacity in project implementation but can, on occasions, lack staff that are familiar with community participation and consultation in resettlement since most government policies and regulations have no specific requirements for this in land acquisition and resettlement planning and implementation.

Lack of practical guidelines on consultation and participation is another constrains. While consultations are both required and useful to promote better development outcomes, there is lack of clarity among Bank staff and Borrowers on the practical aspects of consultations, and on the respective role of the Bank and the Borrower in promoting adequate consultations and participation, particularly in resettlement planning and implementation.

5.4 Information disclosure and grievance redress

5.4.1 Information disclosure

To inform the affected people about the contents of the RAP and to encourage public participation, the PMOs are required to disclose the RAP and relevant resettlement policies by a variety of methods. This includes the following:

The impact survey results must be publicized. After the census survey has been completed, the inventory of all types of impacts will be published and made available to the affected people and communities.

The compensation policies must be clarified. In accordance with the amended *Land Administration Law*, the affected villages should be informed, prior to land acquisition, about the compensation scheme. This includes compensation standards for both land acquisition and housing demolition.

The Resettlement Information Booklet must be distributed. Normally, the PMO is required to prepare a resettlement information booklet which covers the main contents of the RAP, including resettlement policies, resettlement impacts, the extent of entitlement, compensation standards, sites of relocation, and grievance procedures. The booklet will be distributed to each of the resettlement households within the project area before resettlement commences implementation.

A public announcement must be made before the resettlement implementation. Relevant land acquisition and relocation announcements will also be issued through local newspapers, radio, television, broadcasting, and posted bulletins to propagate resettlement policies, compensation standards, and complaint channels in the towns and villages affected using plain language that affected people can readily comprehend.

The RAP must be made available in an accessible place. The resettlement plan shall be placed in PMO offices or local libraries where it is easily accessible by the affected people. In addition, public hearing meetings must be organized. Such meetings will be organized when necessary during resettlement implementation to explain policies, laws and rules, and compensation rates in detail.

5.4.2 Redress of grievances

Public participation is always encouraged in the process of resettlement planning and implementation. Unforeseen problems are often likely to arise during the process. To solve these problems effectively and to ensure that the project construction and land acquisition is carried out successfully, a transparent and effective grievance mechanism, apart from the current grievance channel set up by local government, is required to be

established for the Bank-financed projects. There is an established system whereby grievances may be presented at various levels ranging from village committee to Resettlement Office culminating in civil court. At all stages there are set procedures and minimum times stipulated in which the complainant must be guaranteed a reply or resolution of the matter.

Affected people should be informed of their rights for lodging appeals during participation in the public meetings and should receive a resettlement information booklet. At the same time, the grievance procedures and appeal process are required to be publicized among affected people through the media. The ideas and suggestions on the resettlement shall be documented and submitted to the implementing institutions. Each institution shall not charge for accepting the complaints and grievance of any affected person. The reasonable rates for handling the complaints and grievance shall be paid from the contingency fees of the RAPs.

5.5 Cases of consultation and participation in China

5.5.1 A linear project²

The consultation and participation process in preparation stage of the project includes coordination with local governments and relevant organization, on-site impact surveys, socio-economic surveys (30% sampling) and social evaluation. Detailed discussions and coordination are also conducted on project improvement design, impact surveys and restoration measures, which are reflected in the process of coordination. In the process of project planning, many meetings were conducted with the national, provincial and local bureaus, seen in Table 4-1. Meetings are also conducted with representatives of enterprises, who represent those enterprises getting profits from project construction and operation. The most important is the ascertaining of affected villages and urban neighborhoods. Aside from holding conferences with village residents, conferences were also held with representatives of schools and other institutions that may be affected. There were a series of problems that were discussed and evaluated regarding the number of affected people, institutions, schools and enterprises. The extent of impact was also discussed. For example: the number of people to be relocated; the amount of land to be acquisitioned, the amount of compensation to be paid and the number of schools to be removed.

Table 5-1 Meetings and surveys on stakeholders

| Date | District | Organization | Participants | Number of persons | Content |
|-----------|----------|---|---|-------------------|---|
| 2010-6-20 | Jilin | Development and Reform Commission of Jilin City | Person in charge in different offices and technical persons in design institute | 10 | Location of Jilin Jiaohexi Station, station demolition and land requisition |

² This section is copied from the RAP of a linear project.

| | | | | | |
|-----------|----------------------|--|---|------|---|
| 2010-6-30 | Dunhua | Dunhua municipal governments, development and reform commission, railway construction office and design institute | Person in charge in different offices and technical persons in design institute | 12 | Opinions on location of new stations and city demolition |
| 2010-7-20 | Yanji | Yanji municipal governments, development and reform commission, railway construction office and design institute | Person in charge in different offices and technical persons in design institute | 12 | Opinions on location of new stations |
| 2010-7-9 | Antu County | Antu County People's Government | Responsible persons of different county departments | 15 | establishing the coordination leading group of Anhui for Jihui Railway line |
| 2010-7-25 | Tumen city | Tumen municipal governments, development and reform commission, railway construction office and design institute | Person in charge in different offices and technical persons in design institute | 20 | Opinions on route direction |
| 2010-8-10 | Areas along the line | Affected villages | Affected villagers | 309 | Opinions on railway construction and land requisition and demolition |
| 2010-6-10 | Huichun city | Huichun municipal governments, development and reform commission, railway construction office and design institute | Person in charge in different offices and technical persons in design institute | 20 | Opinions on location of new stations in Huichun |
| 2010-8-15 | Areas along the line | affected villages, design institute and bureau of national land and resources | affected villages, representative of design institute and bureau of national land and resources | 1850 | Opinions on railway construction and land requisition and demolition |

Data source: data compilation provided by design institutes

In the process of the preparation for land acquisition, housing demolition and resettlement, consultations meetings have been conducted by the Resettlement Consultant. Consultations will be mainly held between:

- MOR and the affected provinces, prefectures and county governments
- The railway contractors and prefectures, and county governments along the rail line
- The local RSOs, local Bureaus of Land and Resources and the affected villages and groups
- The local RSOs, villages/groups and farmer households

The content of the consultations will mainly involve the compensation standard for land acquisition and building demolition, the location and the means of new building construction, the schedule of removal, the resettlement methods, etc.

In addition to the consultation meeting with different stakeholders, a survey was also

conducted to understand public opinion to the project and land acquisition. The survey covered 309 people randomly selected. The survey results are summarized in Table 4-2 and 4-3.

Overall, majority of the people expressed that they are in favor of the project construction. Over half of the survey individuals (78%) understood the project is to be constructed, but there are still some who did not understand (6%); A large number of people expressed that they are in favor of the project construction (84%), while 7% of them are not.

The people also clearly expressed that they are worried about the impact of land acquisition and demolition on their lives. When questioned about impacts, 47% of the people considered the project will improve transportation conditions and traveling will become more convenient; 22% of the people considered that project will improve the local investment environment to attract outside investors to invest locally and thus to create more development opportunities for people;

People also mentioned about negative impacts. 71% of them mentioned that the land requisition will affect daily life; 67% is worried about less economic incomes due to land requisition. 20% thinks that the local traffic conditions will be affected during the period of construction, and 33% expressed that the demolished houses will bring in economic loss. 14% of them expressed that they understood relevant compensation policies for land acquisition, but 56% are not very clear on the policies.

People surveyed also provided some suggestions while revolving around their worries (see Table 4-3 for details). 94% of the people hoped the project will not possess their land and houses. 26% of the people hoped to be compensated and resettled according to relevant policies of the State, and being provided with building base. It is obvious that the people are very concerned of whether compensation for land acquisition and demolition would be according to state policies and would be promptly made according to procedures. They requested that resettlement departments ensure the living standards of the affected people, to be resettled where transportation is convenient and to ensure social security measures for people who lost their land and etc. These suggestions reflect that the public has high hopes regarding resettlement for land acquisition and demolition.

Table 5-2 Questionnaire of Public Opinion and Suggestions

Unit: person, %

| No | Questions | Options | results | | | | | | | | | |
|----|---|---|-------------|------------------|-------------|------------------|-------------|------------------|-------------|------------------|-------------|------------------|
| | | | (1) | | (2) | (3) | | (4) | | (5) | | |
| | | | Per sons | Per cent % |
| 1 | Are you clear that the project will be constructed soon? | (1) clear (2) not so clear (3) unclear | 242 | 78 | 49 | 15 | 18 | 6 | - | - | - | - |
| 2 | Do you agree to the construction of the project? | (1) agree (2) disagree (3) not to matter | 259 | 84 | 22 | 7 | 28 | 9 | - | - | - | - |
| 3 | Who do you think the project will benefit? (multi-choice allowed) ? | a) the state (1) Yes (2) No | 299 | 97 | - | - | - | - | - | - | - | - |
| | | b) the collective (1) Yes (2) No | 180 | 58 | - | - | - | - | - | - | - | - |
| | | c) the individual (1) Yes (2) No | 98 | 32 | - | - | - | - | - | - | - | - |
| 4 | What kind of impacts do you think the project will bring to your life and production? | (1) less traveling cost (2) land requisition will affect daily life (3) No effect (4) improved investment environment (5) improved traffic environment | 280 | 91 | 222 | 72 | 35 | 11 | 67 | 22 | 146 | 47 |
| 5 | What kind of impacts will be caused by the line? | (1) no impacts (2) impacts on traffic conditions caused by construction (3) economic losses caused by housing demolition (4) reduced economic revenues caused by land requisition (5) other impacts | 50 | 16 | 63 | 20 | 101 | 33 | 207 | 67 | 7 | 2 |
| 6 | What is the most favorable approach of land requisition and resettlement? | (1) monetary (2) land readjustment (3) social assurance (4) others | 170 | 55 | 164 | 53 | 63 | 20 | 2 | 0.6 | - | - |
| 7 | What your actual approach of land requisition and resettlement | (1) concentrated resettlement (2) unconcentrated resettlement (3) monetary resettlement (4) new housing replacement (5) others | 109 | 35 | 49 | 16 | 78 | 25 | 59 | 19 | 2 | 0.6 |
| 8 | What's your requirements on compensation funds | (1) pay in time (2) pay in full amount (3) reasonable compensation standard | 80 | 26 | 199 | 64 | 72 | 23 | - | - | - | - |
| 9 | Are you clear about land requisition and demolition | (1) clear (2) not so clear (3) unclear | 42 | 14 | 173 | 56 | 95 | 31 | - | - | - | - |

| | | | | | | | | | | | | |
|----|---|--------------------------|-----|----|-----|----|---|---|---|---|---|---|
| | compensation policies | | | | | | | | | | | |
| 10 | Do you know how to appeal when your legal rights are invaded in the process of land requisition and demolition? | (1) clear (2) unclear | 170 | 55 | 139 | 45 | - | - | - | - | - | - |

Data source: field investigation

Table 5-3 Public's Opinion on project Construction

| Issues and topics | Person | Percent% |
|--|--------|----------|
| Resettlement of land-lost people | 12 | 3.88% |
| Not far resettlement, near to the station | 24 | 7.77% |
| not to occupy land and houses | 289 | 93.53% |
| better and faster construction | 153 | 49.51% |
| constructing railway stations locally | 236 | 76.38% |
| participating the construction personally | 212 | 68.61% |
| compensate by law, more coordination with the local residents, open and transparent policies | 145 | 46.93% |
| respect local customs | 106 | 34.30% |
| no impact on drinking waters, restoration after road occupation, less occupation of farmlands | 21 | 6.80% |
| resettlement of the houses and life of demollitees | 35 | 11.33% |
| Open the compensation standard, water and electricity guarantee, road building | 51 | 16.50% |
| resettled houses in places with convenient transport and improved supporting facilities | 68 | 22.01% |
| in accordance with current market compensation standard | 72 | 23.30% |
| higher compensation standard | 105 | 33.98% |
| equal, in time and reasonable compensation | 179 | 57.93% |
| reasonable compensation and resettlement, providing building bases in rural areas | 82 | 26.54% |
| Strictly following the national policies in complementing the rural people. Rural persons with land requisition shall be well treated and enjoy the low guarantee policy | 93 | 30.10% |
| compensation to land requisition and resettlement | 65 | 21.04% |
| land compensation funds shall be given to peasants and concentrated resettlement | 78 | 25.24% |
| full open land requisition fund, fix of special subsidy for demolition | 56 | 18.12% |

Data source: on-site surveys

5.5.2 An Urban development project³

Consultation and participation strategies and methods

During the project preparing phase--feasibility study phase, the SHUEMPO has collected opinions and suggestions for resettlement of affected districts (counties), streets, township government, People's Congress, Political Consultant Committee, people's groups, APs and affected enterprises and institutions.

³ This is copied from a RAP of an urban development project.

From September to November 2004, SHUEPMO has organized staffs to carry out the survey on house conditions and preliminary survey on socio-economic conditions due to different sub-projects in affected areas. The relevant representatives of resettlers has participated in the survey to put forward some opinions about project programs, demolition compensation and resettlement, which will be taken into account during compiling of RAP.

SHUEPMO has also heard opinions on land acquisition and house demolition from residents and affected enterprises and institutions, comprehensive negotiations accompanied. At the same time, the surveys on socio-economy and public opinions and psychology have also been done. In the process of socio-economic survey, the resettlement desire and resettlers' attitude to project have been taken into account.

The detailed survey is a foundation of compiling RAP. The following processes and methods are adopted to encourage public participation and negotiation:

(1) DP Representatives Taking Part in the House Demolition and Relocation

APs and affected enterprises and institutions choose their representatives in portion. By cooperating with neighborhood committees, the representatives solicit opinions and collect rational proposals from APs. In addition to these, regular exchange views with APs should be done as well. Representatives choose to take part in the process of survey for house and its adjoining parts, in confirming compensation standard, in negotiating the agreements on resettlement compensation and rehabilitation, in the construction and distribution of relocation house and so on, so as to reflect the APs' opinions and benefits, and to ensure the judgment and transparency of the project resettlement.

(2) Owners' Negotiating with resettlers about resettlement ways.

(3) Discussion Meetings

Representatives from resettlers, house-demolished enterprises and institutions, shopkeeper of house-demolished shops, women (women should be more than 30% of all representatives) are organized to take part in discussion meetings six months before land acquisition and demolition. The meeting will inform them of the process and further obtain their opinions and suggestions.

(4) Public Meetings

The meetings are held 3 months before land acquisition and demolition, mainly to explain relevant policies, laws and regulations, compensation rates, etc. Thus, resettlers can know and prepare for the resettlement earlier.

(5) Propaganda through Media

(6) Making a Land Acquisition and House Demolition Announcement

The main contents are: brief introduction of the project, the demolition scope, resettlement policies (including compensation rate), and organizations responsible for

resettlement, scheme of resettlement, rights and obligations of resettlers, grievance and appeals, monitoring and evaluation etc.

(7) RAP Disclosure

Placing the RAP reviewed by the World Bank in SHUEPMO and districts' or counties' libraries before the World Bank appraises the Project, propagate the notice in local newspapers so that APs and NGOs can look it up.

(8) Information Handbook of Affected Persons

Main contents of resettlement are compiled as information handbook of Affected Persons, which should be put out to resettles after project was evaluated before the movement. Main contents of information handbook of Affected Persons are general situation of project, project effects, compensation policy, implementing agency and appeal channel and etc.

Public opinions survey

In order to advocate the Project and find out the public opinion about the Project construction and resettlement, the PMO conducted an investigation on public opinion and suggestion in November 2004, to collect the further information from the PAPs and relevant villages and villager teams before compiling this RAP. The survey result shows: 91% interviewee know of the Project, 9% not know much or unclear at all; 88% agree on the Project construction, and 10% don't care; 90% and 82% think it benefit for the State and Collectivity respectively, 88% think it good for individuals; those who think environmental pollution (or short of water) will result in economic loss accounts for 85%, to effect on life quality accounting for 89%, to influence the investment environment taking 81%, to degrade the city image occupying 80%; 96% blame the bad environment (or shortage of water) to take serious or much serious impact on life and work; 100% interviewees appraise the Project will ameliorate their life environment; 82% don't think the project construction will disadvantage them; 92% know or know of the compensation policies for resettlement and demolition ; during the demolition, if the legal right is violated, 98% will appeal to proper institutes.

Participation and Consultation Process

In the process of RAP compilation, the supervision departments, implementation institutions and design departments of land acquisition and demolition for each subproject publicize the resettlement policies in many ways with many channels. The PAPs of the project participated in all the processes of RAP compilation, and details in Table 4.3. (to be included)

5.6 Conclusions and Recommendations

Conclusions

Stakeholder consultations are a necessary step to obtain the views of people who may be affected by development projects. Experience shows that sound participation and consultation can improve resettlement implementation. Well-conducted consultations

provide project affected people with a clear understanding of how the project, and the changes it will bring about, will have an impact on them, as well as meaningful ways to influence decision-making during project design and preparation. Significant progress has been achieved in participation and consultation in resettlement planning and implementation of the Bank-financed projects in China. However, there remains scope for improvement.

- Clearly gaps exist between Bank policy and government policies and regulations on resettlement.
- The government resettlement agencies and PMOs do not have sufficient staff familiar with the techniques of consultation and participation.
- The quality of consultation and participation is not always completely satisfactory, although significant effort in this area has been made.

Recommendations

To improve the quality of consultation and participation in resettlement in China, it may be appropriate to take the following actions:

Policy gaps should be reduced through dialogue with relevant government agencies. The general requirements for consultation and participation stipulated in the *State Council Circular on Decision to Deepen Reform and Strictly Enforce Land Administration* leave scope for more improvement. The entry point for dialogue can be to explore how to improve the enforcement of the State Council's *Circular*.

The institutional capacity of government resettlement agencies and PMOs should be strengthened through integrating capacity building in the process of resettlement planning. The resettlement specialists of the Bank project task team have frequent interaction with relevant government agencies during resettlement planning of Bank-financed projects but currently more effort has been directed toward issues such as compensation rates, rehabilitation measures, and Bank policy compliance. The institutional capacity of government resettlement agencies would be strengthened if more emphasis could be placed on participation and consultation in resettlement planning and implementation.

Detailed guidelines of consultation and participation in resettlement planning and implementation should be developed to improve the quality of consultation. Currently, all requirements which include policies and regulations on participation and consultation in resettlement are general. To improve the quality of consultation in resettlement detailed guidelines should be provided for the resettlement officials of relevant government agencies.

TECHNICAL NOTE 6
Livelihood Restoration Practices in China
by Zong-Cheng Lin

Introduction

This note focuses on the issue of livelihood restoration, an overall target for resettlement. It explores the experiences and lessons learnt worldwide as reflected in the Bank's operations and policy development, as well as those particular to China's resettlement context. Based on a common understanding of "land acquisition as a livelihood issue," it further analyses all efforts and measures made for achievement of the resettlement target, including a variety of compensation methods for livelihood rehabilitation, and their actual functions and practicability under different socio-economic circumstances. It highlights what is required under the Bank policy OP 4.12, what might be considered as good practice in this regard, and what current practices are in China. Case studies across sectors are used as the empirical methodology in the analytical process to review and discuss compliance of the present practices with the Bank policy requirements, and to illuminate the improvement and further development necessary for both innovative resettlement practice and policy application.

6.1 Livelihood restoration as resettlement target

6.1.1 Bank policy requirements for resettlement targets

Involuntary resettlement caused by development interventions often has an enormous impact on local society. If unmitigated, resettlement may give rise to severe economic, social and environmental risks such as impoverishment when people's production systems are dismantled and their income sources lost. To avoid or mitigate such risks, the Bank OP 4.12 Involuntary Resettlement policy clearly sets forth the target of the resettlement program for restoration of people's livelihoods when resettlement is unavoidable in Bank-supported investment projects as follows:

"Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs to enable the persons displaced by the project to share in project benefits." (para. 2)

"Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher." (para. 2)

In most cases, land acquisition results in relocation or loss of shelter, loss of assets or access to assets, or loss of income sources or means of livelihood, whether or not the affected persons move to another location. Occasionally, in the cases of legally designated parks and protected areas, involuntary restriction of access to natural resources results in an adverse impact on the livelihood of the displaced persons. Therefore, the target set for livelihood restoration in the Bank policy means a comprehensive restoration of living standards including housing, income, and access to social and public services. For this purpose, the Bank's policy also requires a series of measures to achieve the target.

6.1.2 Current resettlement targets in China

China has several laws which guide resettlement and land acquisition caused by development investment projects. The major three are the *Peoples Republic of China Constitution* (e.g. Article 10 on land ownership), the *Land Administration Law* (e.g. Articles 8, 10, 13 and 14 on land ownership and use rights, and Articles 46-65 on the procedures and compensation for land acquisition), and the *Property Law* (Articles 42-60 on property rights and compensation for requisition of the properties). There also are several other relevant laws on agriculture, environment, and natural resources. In addition, on the basis of these laws, China has also issued further governmental decrees and stipulations in reference to resettlement, such as the *Stipulations for Resettlement on the Large- and Medium Hydro-Power and Water Conservation Projects* in the water sector and the *Stipulations for Housing Demolition on the State-Owned Land* in the urban sector. Similar to the Bank policy, the key target set for resettlement implementation is to adhere to a principle of development resettlement, by means of assisting productive development of the resettlement affected people to ensure their living standards remain higher, or at least not lower, than prior to resettlement.

In principle, resettlement caused by the investment projects needs to be designed and executed in accordance with requirements of the relevant laws and stipulations. In practice there has been progress in the process of pursuing the resettlement target since the 1980s while laws and policies regarding resettlement have also been advanced. The resettlement programs under the Bank-supported projects in China need to conform to the requirements of both the Chinese law as well as the Bank policy. In comparison, these projects are usually the most progressive cases for achieving the resettlement target. While there are successful cases of domestic resettlement, this paper focuses on the resettlement practice under the Bank-aided projects as the most illuminative representatives of local current practice in pursuing resettlement targets in China's socioeconomic context.

6.2 Resettlement means to achieve targets

6.2.1 Overall livelihood restoration

OP 4.12 highlights the measures required in order to achieve the target of livelihood restoration in real terms. Paragraph 6 reads: "(T)he displaced persons are . . . provided prompt and effective compensation at full replacement cost for losses of assets

attributable directly to the project . . . and provided with development assistance in addition to compensation measures . . . such as land preparation, credit facilities, training, or job opportunities.”

Worldwide experience shows that if resettlers are able to resume their original work, it will be easier for them to restore their livelihoods and living standards, such that farmers have land for agriculture under comparable conditions after relocation, or urban residents retain their jobs or secure opportunities for similar employment. Therefore, for rural resettlement, the Bank policy emphasizes that “preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land, or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken” (para. 11).

However, land and jobs are not, for various reasons, always available, or land might not be the priority choice for some people after relocation. Therefore, the policy also refers to other means as possible endeavors in livelihood restoration. “If land is not the preferred option of the displaced persons, or the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank” (para. 11).

Generally, the means for restoration of resettlers’ livelihoods and living standards could be multiple under different conditions and aspirations. Yet they can be basically classified into three categories: land-for-land approach, monetary compensation, and employment opportunities. According to the Bank’s experience, wherever suitable and acceptable, each of the approaches may contribute to achievement of the resettlement goals, though preference is usually given to the land-based resettlement strategy. The next section will discuss the nature and variety of the approaches from a methodological perspective, and it will be followed by some illustrative cases in China’s resettlement context in the following section.

6.2.2 Methodological nature of the compensation means

Land-for-land approach: It is consistent to view land acquisition as a livelihood issue in rural areas across the world. For land-based displaced people, therefore, a measure of land-for-land on an equivalent level would secure continuity of their livelihood. The substitute land could come directly from government or collective land resources, or indirectly from the land market under coordination of some specific land purchase committee in accordance with local situations.

In China, a land-based compensation strategy prevailed in rural resettlement. Without a local land market, the substitution of land for farm households who had lost

land came mainly from the public land of the home villages or collectives, or through general readjustment and reallocation of the village land. In such cases, compensation for the land acquisition would go to the villages as the land owner. However, the land-for-land approach has been adopted increasingly less in current rural land acquisition due to the following reasons:

- Lack of village public land resources: Except for wasteland (and even village wasteland is being allocated and contracted to village households under the current reform of forestry rights), almost all the village farmland has been contracted to individual households for 30-50 years, and it is becoming increasingly difficult to readjust this land without a consensus from a majority of the village;
- Less aspiration of farmers: In some cases affected farmers have not been satisfied with the substitute land for either its quality or location. Moreover, over the last 20-30 years most of the households in rural China have experienced benefits from remunerative work outside villages or from labor mobility to urban areas. As a result, their labor orientation has become based more on urban migration than on land production. Therefore, most farm households that are affected by land acquisition would prefer cash compensation than land-for-land compensation, especially under overall commercialized circumstances; and
- No rural land market: There is no private land market in China and the usage of the land is not allowed to change alongside the transfer of land use rights even though transfer of land use rights among land contractors is now allowed and, if necessary, encouraged in rural areas.

Monetary compensation: Under some conditions, cash compensation is conducive to livelihood restoration or income generation of affected people, but this usually requires three prerequisites, such as prompt and adequate compensation funds at full replacement cost, a healthy investment environment, and financial management assistance. It is also practicable in some cases that monetary compensation is provided in the form of living subsidies, social security and the aged pension, as needed.

In China, monetary compensation measures are being increasingly used for rural farm households who have lost contracted land. According to the *Land Administration Law* (Article 47), land compensation consists of two parts of payments: one is for the productive value of the land and the other is for the land related labor resettlement cost. In theory, the compensation payments should go to the land owner — the village/collective who is responsible to help rearrange the affected households' economic production. However, increasingly in practice, the village simply conveys most or all of the land compensation payments to the affected households, as long as most of the villagers agree.

Under this condition, however, there may be some increase in the level of uncertainty in livelihood restoration. This is contingent upon how the individual

households view the compensation funds in production rehabilitation. In some cases displaced people would consider the compensation funds in the narrow sense of reimbursement for land asset, and pay inadequate attention to development especially in a unfavorable investment environment. Given this situation, Bank-supported projects always set forth specific rehabilitation approaches in the RP, as the required resettlement instrument, helping to ensure resettlers' housing, living environment, public services, and livelihood restoration as expected. In these cases (such as rural and urban development), resettlement compensation will be detailed down to the household level and rehabilitation strategies and measures will be set forth usually in the village development plans. Normally the village plan, after land acquisition or resettlement, would select a certain model of livelihood restoration and development in accordance with local socio-economic situations. Each of the affected households could be guided by the potential development models for rehabilitation based on its own case, though these models are not necessarily explored on each individual household basis.

As mentioned above, monetary compensation methodology also includes living subsidies, transition allowances, and social security covering a variety of health insurance and pensions. However, except for subsidies for moving and temporary living in the transition period, regular living subsidies and social security (pension in particular) are not usually adopted in China in rural resettlement. This tends to occur only in cases of peri-urban resettlement (such as some municipal economic development zones) in which compensation is normally undertaken together with a preferable policy of allowing a change in rural household registration (Hukou) from agricultural (rural residents) to non-agricultural (urban residents). The national policy requires that land-loss farmers are provided with social security of which local government should contribute a larger share. This program is, however, now conducted informally under some projects on a pilot basis, and experience shows it would appear to be difficult for both local authorities and farmers to pay their respective shares for 15 years.

Employment opportunities are usually an effective method for both income restoration and generation. But obviously these opportunities directly relate to objective economic conditions, macro or micro, as well as the individual capability of displaced peoples. For these reasons, development projects are required to be able to provide assistance programs for displaced peoples' access to employment. Where job retraining is required, resettlement instruments should reflect both the provision of training and also assistance in finding jobs. "Promising jobs without providing other options . . . is not good practice. Similarly, providing employment training without access to employment cannot be construed as adequate rehabilitation" (Resettlement Handbook, p.69).

In China, the employment opportunities to be pursued for livelihood restoration after resettlement vary from region to region and change under different project conditions. A general trend, however, is that there will be more pursuit of these kinds of opportunities in practice, including self-employment with resettlement monetary compensation and labor mobility against a background of migrant labor momentum from rural China. Led by this tendency, almost all resettlement programs establish training and

other assistance programs for resettlers, especially given that land-for-land compensation has currently become much less practicable.

An observable characteristic of the employment assistance methodology is the link between its contents and the governments' overall strategies, and sometimes with local authorities' specific programs. The advantages of these linkages are that the resettlement programs are able to be implemented in a more enabling environment, while the disadvantages are that it provides less specific design or monitoring for the resettlement if no particular requirement is enforced. Therefore, the RP, a keystone of Bank-supported projects with resettlement requirements, will always intend to make its targets and measures in assistance as clear and specific as possible. While there are many cases reflecting good practice in this regard, some uncertainty would still be present in the employment domain and cannot be entirely ruled out in the resettlement process. Various cases will be discussed in the next section and their implementation results illuminate resettlement methodologies in China.

6.3 Case studies: Livelihood restoration in practice

6.3.1 Livelihood restoration in rural resettlement

The Jiangya Reservoir Project caused displacement of 13,514 farmers in 3,327 households in three counties on the borders of Hunan and Hubei Provinces (mostly in Hunan). A lengthy period of dam construction meant that resettlement was implemented for seven years, divided into four stages from 1994 to 2000. As the Resettlement External Monitoring reported, the displaced peoples' overall living standards were improved as follows:

- Housing conditions were visibly enhanced with concrete-brick structured two-floor houses commonly replacing previous mud-wood dwellings, with living areas increasing by 30% per person;
- Infrastructure conditions were also improved: roads were connected to each village, and running water and power supply was linked to each household;
- Social services were established: a series of shops, clinics and schools was designed and constructed around new resettlement sites, supported by appropriate equipment; and
- The economic system was restored on the basis of agricultural production in the new sites: land allocation standard was 0.5 mu of paddy land plus 0.5 mu of dry land per person for family food. In addition, displaced people usually undertook multiple sideline productions and outside remunerative work. Their income in 1998, three years after relocation, was not only higher than prior to moving but also better than that planned in the RP (the standards planned for relocating farmers in 1998 were RMB 1,053 per capita in Cili county and RMB 975 in Sangzhi county, with the actual figures being RMB 1,155 and RMB 1,415). Table 5.1 below shows the statistics of Jiangya displaced people' incomes on average before, during and after the resettlement process.

Table 6.1: Jiangya Resettlers' Income Earning**Unit: RMB**

| Year | Cili County | | Sangzhi County | | Hefeng County | | Damsite |
|------------------------|-------------|------------|----------------|------------|--------------------|------------|---------|
| | Moving back | Moving out | Moving back | Moving out | Moving back | Moving out | |
| 1994 | 966 | 966 | 616 | 616 | 1577 | 1577 | 966 |
| Resettlement beginning | | | | | | | |
| 1995 | 1506 | | | | | | 3046 |
| 1996 | 1404 | 1264 | 1252 | 1252 | | | 1752 |
| 1997 | 1033 | 1258 | 952 | 1254 | | | 3184 |
| 1998 | 1155 | 1522 | 1415 | 1688 | Resettlement Start | | 3084 |
| 1999 | 1140 | 1346 | 791 | 1278 | 3048 | 2447 | 2752 |
| 2000 | 1456 | 1301 | 954 | 1044 | 2127 | 2057 | 2405 |
| 2001 | 1673 | 1509 | 1090 | 1274 | 1220 | 1530 | 1721 |

One characteristic of the Jiangya resettlement was the ability to closely adapt to local situations. It adopted resettlement approaches which were as flexible as possible based on people's wishes and conditions, including land-for-land, living with outside relatives, providing employment in secondary and tertiary industries, self-employment, and social protection. Relevant training and verification assistance were provided in a timely manner so as to help secure the expected results for the generation of the displaced people's livelihood. The resettlement monitoring also summarized the implementation experience in a timely manner.

As normally required, the monitoring of resettlement (both internal and external) was designed in the RP and conducted during resettlement implementation. Besides the overall sets of monitoring indicators to be reported on implementation progress, funds flows, compensation payments, housing and production rehabilitation, and consultation and views of the affected people, there were particular sample survey monitoring livelihood development after relocation. The baseline data were collected before resettlement started (in the Jiangya case, as is partially shown in line of year 1994), and sample surveys were carried out semi-annually on socio-economic situations of at least 20% sampling of housing demolition effects and 5% land acquisition in general. In terms of affected village communities and industries/institutions, there would be another 10% and 20% sampling. After completion of resettlement implementation, there was the resettlement ICR to conclude the resettlement component by the monitoring system.

Xiaolangdi Hydropower Project, financially supported by the Bank, was established in the mid 1990s. It resulted in a ten-year resettlement of more than 158,000 people in Henan as well as some in Shanxi Province. More than 200 new villages were established with about 400,000 new houses built for relocated households, while road connections, water and power supply, as well as social services such as schools and clinics were also built for the new sites covering a total area of more than 10,000 ha.

Livelihood restoration in Xiaolangdi resettlement was mainly reflected in two aspects: improvement of the living environment and production rehabilitation. New resettlement sites were carefully designed from environmental carrying capacity assessment to all related infrastructure construction, land leveling, and road deployment, running water, power supply, public services and private housing plots. Resettlers built their own houses supported by agreed architectural blueprints. New villages and housing provided an immediate successful relocation.

Production was rehabilitated from three areas: general agriculture, urban industry, and migration to outside relatives. According to the environmental carrying capacity analysis, people who resettled in agricultural production were reallocated either 0.8 mu of paddy land, 1.2 mu of irrigated land or 1.7 mu of dry land per person. After three years of relocation, according to the external resettlement monitoring, wheat harvest from two-season cropping could reach an average of 350-400 kg per mu. About 80% of resettled people in Henan Province joined in the agricultural resettlement and most of them undertook comprehensive land production including cropping, livestock breeding, and sideline processing. Some of them ran small businesses in the tertiary industry while many also participated in labor mobility in rural seasonal off-time. The resettled people were satisfied with their livelihood development in agricultural production.

People resettled in industrial production in urban areas might encounter significantly more uncertainty in their livelihood rehabilitation, contingent upon the enterprises business and the resettled people's own capabilities. For instance, the Xiaolangdi project experimented in resettling a whole village of 1,749 farm households with industrial employment in a city, investing in several new power plants and medicinal and chemical factories to employ them. This was carried out in cooperation with local authorities. Meanwhile, the city also reclaimed more than 100 mu of riverside wasteland for elderly resettled people to be able to continue nearby farming. In the long term, however, it was found that there was a level of unsustainable risk relating to either some resettled people's capacity enhancement, continuous investment funds, or enterprises' marketing prospects. These concerns needed closer attention during later stages in the resettlement process. As for people who were apt to live with outside relatives, monetary compensation was the main measure for their relocation and, with administrative assistances as needed, their livelihoods were restored as anticipated.

6.3.2 Livelihood restoration in peri-urban resettlement

Sichuan Urban Development Project resettlement consisted of four subcomponents in four municipalities of Sichuan Province. It featured land acquisition and relocation impact on urban residents and enterprises/institutions, especially around the periphery areas that were demarcated as economic development zones during a rapid urbanization process. As there was no available farmland for these zones, a land-for-land approach was not valid and therefore employment and monetary compensation was the main means for the restoration of resettled people's livelihood.

The Bank-supported subprojects accounted for only some parts of the zone construction in the four municipalities, but the SUDP RPs were commonly recognized and followed by all zone construction. Farmers lost land and became urban residents with a changed household registration status from agricultural to non-agricultural. They received a life-time living allowance of about RMB 105-130 per person per month initially (the difference was based on ages). Meanwhile, they could join various rehabilitation programs provided by local authorities to enhance their skill training, job hunting and employment prospects. As illustrated by the case of Mianyang Scientific Park, the Employment Service Center registered all the surplus laborers and assisted them in finding job possibilities while providing free training in their capacity building. Local government also specifically conducted a “Buying Jobs Program” for groups of people with a low rate of employment by locating suitable positions from different sectors for their participation. The entire Park had a total population of 11,000 people, and of these about 5,000 had marketable labor skills. Through concerted efforts, these laborers were all employed in different sectors, and the Park maintained a zero rate of household unemployment among its population — all of whom were resettled people or migrants under different projects.

Resettled people outside the Development Zones in some other municipalities were treated in the similar ways under the RPs direction, without the life time living allowance though. Land acquisition resulted in all of them changing household registration status to urban inhabitants, and enjoying local social security program on a pilot basis (see previous pages for explanation). As for the enterprises and institutions relocated or affected by the resettlement, restoration of their productive and operational functions was also carefully undertaken and monitored. Good practices and advisable lessons were also drawn from resettlement implementation of these factories and schools in the project municipalities.

6.4 Conclusions and Recommendations

It is evident from the above discussions that the objectives and principles set out in the Bank resettlement related policies and those in China’s relevant laws and regulations have much in common. In practice, the Bank-supported projects can set positive examples in achieving resettlement goals and targets, especially in relation to livelihood restoration and rehabilitation. There are also good practices in this regard in the sectors of transport and urban development (such as resettlement implementation in the Yiba Highway and Fuzhou City Development Projects). The Bank projects can take the lead because the Bank’s policy emphasizes not only the *objectives*, but also the *means* to achieve them, namely, the measures and mechanisms designed in the resettlement instruments, the RP, which are undertaken in the resettlement implementation. The RP is crucial in making the difference. Although Chinese laws and regulations are also concerned with good resettlement practice, there is not yet any equivalent legislation that requires resettlement instruments like the RP in practice – except for the water sector which requires related resettlement technology design in the engineering design.

While the Bank-supported projects provide better resettlement implementation in most cases in China, the Chinese government has also learned to cooperate intensively based on a mutual demand that creates an enabling environment for the possibility of good resettlement practice. As observed and assessed in the *Bank Series Book on evaluation and development, Involuntary Resettlement*: “China’s strong commitment and successful management of this program (Shuikou case, another Bank assistance project) results from its view of resettlement not as a burden, but as an opportunity to pursue economic growth. Resettlement is implicitly approached as a development opportunity, as resettlement funds are used to improve existing lands, make marginal lands fit for agriculture, to expand the area of irrigation, to establish new enterprises, or to expand the scope of existing enterprises” (p.51). Obviously, this provides the basis for successful livelihood rehabilitation.

Overall, it can be said that resettlement practices under the Bank investment projects in China have shown a vision of development pursued by both the Bank and China. In compliance with the Bank policy requirements, these projects have attempted to realize resettlement as development opportunity in close relation to restoration and rehabilitation of resettled peoples’ livelihoods by using flexible and innovative approaches to adapt to the radical changes of the socioeconomic context in China. In view of this trend, further actions are recommended on the basis of the assessment and analysis in this Note, so as to be able to extend the livelihood development of resettlement to a broader range, as well as keep the good practice in the long run:

- The Bank team raise collaboration level with the Chinese counterparts from project intervention to policy dialogue to promote not only resettlement objectives but also practical means for reaching the objectives in national and sectoral legislation;
- The Bank team help pursue and establish the reliable country system of resettlement concerns in China through mutual cooperation on both intervention operations and theoretical researches; and
- The Bank establish a long term monitoring mechanism on resettlement practice in China in collaboration with the China country system, which will not only help illustrate and improve the level of the overall resettlement quality as desired, but also in turn ensure the Bank policy application in a radically developing world.

Led by this tendency, it is foreseeable that further innovative resettlement design and implementation conformed with both the Bank policies and the Chinese laws will be fostered and put in place in the future through concerted efforts between the Bank and the Government of China.

TECHNICAL NOTE 7

Ethnic Minority Groups in Resettlement

by Zhong-Cheng Lin

Preliminary Assessment of OP4.10 Compliance in IP Physical Relocation in China

7.1 The Legal Framework Related

The Bank OP4.10, Indigenous Peoples (IP), has a cross reference to OP4.12, Involuntary Resettlement, requiring that physical relocation, when unavoidable, should obtain broad support from IP based on the free, prior, and informed consultation with them, and the resettlement plan should be made in compliance with the IP's cultural preferences and include a land-based resettlement strategy. In the case of involuntary restrictions on IP's access to legally designated parts and protected areas, a process framework needs to be prepared based on the free, prior, and informed consultation with the affected IP communities.

China has national laws and regulations on ethnic minority concerns and on land acquisition and resettlement respectively. On land acquisition and resettlement, there are the Land, Forest, and Grassland Administration Laws, Rural Land Contract Law, Property Law, Large and Middle Sized Hydro-Scheme Related Land Acquisition and Resettlement Regulations, Regulations for Housing Demolition on the State-Owned Land, etc. On ethnic minorities, there are the Constitution, the Ethnic Minorities' Regional Autonomy Law, and the relevant regulations and decrees. On the whole, there appear to be no specific cross references between the laws and regulations in the two areas, given that the legal framework in each area is intended to view all the populations as an integral whole of which everyone has the equal rights. In the Ethnic Minorities' Regional Autonomy Law, Article 65 specifically highlights that when the state opens up resources for development construction in the ethnic minority autonomous areas, it should give consideration to the interests of the ethnic minority autonomous areas, and take account of local ethnic minorities' productions and lives.

7.2 When OP4.10 Applicable to Resettlement Case

There actually only few cases of ethnic minority groups confronting with resettlement and land acquisition under the Bank supported projects in China. The ongoing projects include the Xinjiang Turpan Water Conservation Project, Guizhou-Guandong Railway Project, and Guanxi Integrated Forestry Development and Conservation Project. Some in the past include the Tarmu River Basin Rehabilitation Project II, Gansu Shule River Basin Development Project, Sustainable Forestry Development Project, etc.

When the Bank supported projects entail resettlement impacts on ethnic minorities who are concerned by OP4.10, the projects must complete all the requirements from either OP4.12 or OP4.10, which would consequently reflect the fulfillment of resettlement requirements with more local ethnic features as different from usual in the following aspects, according to the Bank practice in China:

- Local Languages and Customary Ways Acceptable to Ethnic Minorities. The projects' resettlement information dissemination and consultation campaign would be carried out in both official Chinese and local ethnic languages among the ethnic minority communities to be affected, and either the oral or written communication would be conducted in the forms, time and space acceptable to the customs and habits of the ethnic minorities, too, so as to reflect the free, prior and informed consultation when gaining their broad support. Meanwhile, the safeguard instruments would be also prepared in both Chinese and ethnic minorities' written languages. This practice is fully expressed in those above-mentioned projects' preparation and implementation, such as the projects of Xinjiang Turpan Water Conservation, Tarmu River Basin II, Guangxi Forestry, Sustainable Forestry Development, etc.;
- Special Arrangements as Needed for Ethnic Minority Groups in Relocation. As required by OP4.10, the project resettlement should be planned and implemented to be compatible with the cultural references of ethnic minority groups, apart from OP4.12 usual requirements. The project RAPs, wherever suitable, hence need to pay close attention to local ethnic minorities' special needs by their customary institutions for production and living (namely, cultural characteristics). For instance, the resettlement of a Uygur village community under the Xinjiang Turpan Water Conservation project is planned, among others, to establish a concentrated new site around another familiar Uygur neighborhood which is conducive to keep their safety network. There will be also the new Mosque and common cemetery area built up in the new site as specifically needed in the Uygur custom and Muslim institution of the resettled community. This was also practiced in other projects with ethnic groups who believe in Islam such as the Gansu Shule River project in the Hexi Corridor;
- Particular Line Agency Responsible for Providing Development Services to IP. China has the government agency, State Ethnic Affairs Commission (SEAC), and its subordinate organizations down to the county level, that are particularly assigned for the ethnic minority concerns. As the responsible line agency in the government body, local Ethnic Affairs (and Religious) Bureaus are always required by the Bank task teams to engage in the projects involving ethnic minority issues. Their cooperation and assistance to the projects prove to be valuable resources and assets additional to regular resettlement planning and implementation;
- Land-Based Strategy in RAP Relating to IP. As required in OP4.10, a land-based strategy needs to be included in RAP in view of IP livelihood characteristics

which is usually more land production oriented. In this light, wherever the ethnic minority groups had a land-based livelihood while affected by relocation, their livelihoods would be normally planned to reinstate and rehabilitate with land production again, as exemplified from the Xinjiang Turpan Water Conservation, Tarmu River Basin II, and Gansu Shule River Basin projects. In the case of restriction of the ethnic minority groups' access to natural or/and cultural resources under the Bank supported projects, there always are alternatives discussed and planned in the project Process Framework as the safeguard instrument required by both OP4.12 and 4.10, as expressed in the Sustainable Forestry Development and Guangxi Integrated Forestry projects; and

- OP4.10 Compliance in Monitoring OP4.12 Fulfillment. All RAPs and all EMDP (IPP) under the Bank projects have the design for monitoring of the plan implementation, with both process and impact measuring indicators. For IP in resettlement, the monitoring mechanism would function with cross references so as to be able to ensure the achievements in livelihood rehabilitation and development of the ethnic minority communities as focused by both the social policies.

7.3 Conclusion and Recommendation

As described in the preceding paragraphs, IP (ethnic minority groups in question) in resettlement under the Bank supported projects in China would be safeguarded by both OP4.12 and OP4.10 as the project directly related policies, as well as by the relevant Chinese laws and regulations in a broad sense. As the resettlement would add more adverse impacts on ethnic minority groups in the comparatively vulnerable situation, OP4.10 highlights its cross references to resettlement to strengthen OP4.12 requirements in adaptation to the vulnerable case. In practice, the treatment of ethnic minority groups in resettlement under the Bank financed projects proves to be in conformity with the reinforced requirements of both the policies and domestic laws/regulations.

Given the fact that the situations of ethnic minority groups in resettlement vary from case to case (even though there are not many cases in this regard), cautiousness is suggested not only to be emphasized in project preparation but also kept during implementation of both the RAP and EMDP. Beside the regular supervision and monitoring, closer attention needs to be paid to the dynamics of local ethnic minority communities. As designed through the participation framework in the EMDP, meaningful consultation and informed participation should continuously take place and function throughout the project life cycle in which resettlement is planned, implemented and completed. In turn, the dynamic participation of the ethnic minority communities would also reinforce the project supervision measures so as to warrant a successful resettlement.

TECHNICAL NOTE 8

The use of social security benefits in resettlement compensation packages

by Zeng Jun

Introduction

Encouraged by the Central Government and implemented by provincial and municipal governments, various kinds of social security schemes have been used as part of resettlement compensation packages in different regions of China since 2004. This Chapter introduces the background of the schemes and demonstrates several models of the scheme. At present, this arrangement is still in pilot stage and is under adjustment by governments time to time when needed. The Chapter would help readers to have a basic understanding of the arrangement by presenting several key models of the scheme that under implementation. This note also analyzes the key concerns of the current plan from the perspective of the Bank's Social Safeguards policy compliance. It highlights several issues that task teams need to pay special attention to during preparation and implementation of Bank financed projects that involve involuntary resettlement.

8.1 Background

8.1.1 Related Legal Provisions

The Decisions about the State Council on Deepening Reform and Tightening Land Management (2004) places employment training and social security for land-lost farmers as the key for land management system reform. The decision requests that land compensation be mainly used for farmers, and that a part of the settlement subsidy and land transfer fee be used for a social security scheme for land-lost farmers.

The Guiding Opinions on improving work on employment training and social security for land-lost farmers (2006) articulates the need for comprehensive social security for new and previous land-lost farmers. The basic principle of the guiding opinions is intended to address the problem of land-lost farmers' social security.

8.1.2 Need for a social security scheme

There are about 45 millions of land-lost farmers in China. According to forecasts of the development of urbanization and the demand for construction land, the number of land-lost farmers will increase by about 42 million people in China by 2020. By 2030, the number of land-lost farmers will have risen to more than 100 million. Land obviously is important in the daily lives of farmers, and provides them with fundamental protection.

As a result of a low compensation standard for land requisition in the *Land Law* there is no clear regulation regarding social security for land-lost farmers. This has led to land-lost farmers lacking this necessary protection. Many local governments select the modality of monetary resettlement which is not always sufficient to solve the issues of basic livelihood, employment and social security.

To protect the legitimate rights and interests and properly resolve the long-term livelihood and development issues of land-lost farmers, an institutional arrangement of land-lost farmer's employment and social security is needed and a number of pilot and model schemes have been proposed and under implemented.

By September, 2009, 29 provincial and municipal governments have regulations for land-lost farmers' social security arrangement. As a result, more than 13 million land-lost farmers have been brought into various social security schemes.

8.2 Types of social security schemes

In recent years, most of the provinces or municipalities including Beijing, Jilin, Tianjin, Hebei, Inner Mongolia, Gansu, Shanghai, Jiangsu, Zhejiang, Anhui, Shandong, Fujian, as well as the cities of Xi'an, Chengdu have made and enacted policies aimed at protecting the rights of land-lost farmers by offering social security schemes. According to the Ministry of Labor and Social Security of China, these policies can be categorized into five types of models as follows:

8.2.1 Urban social security model (or Beijing/Chengdu Model)

In some cities, the land-lost farmers may be covered by an urban social security scheme which provides medical insurance for urban workers and unemployment insurance or a minimum standard living allowance for urban residents. The cities of Beijing and Chengdu have successful programs.

Beijing model

The Beijing Municipal Government enacted a statute of land acquisition compensation and relocation in May, 2004. This has different social security policies for two kinds of land-lost farmers registered with a regular non-agricultural residence. First, land-lost farmers of working age will be brought under the urban social security system and the premium they would normally pay to an insurance agent will instead be paid by the land acquisition department from compensation for land acquisition. The premium varies. For example, the premium of endowment insurance, health insurance and unemployment insurance is 60% of the average wage of the year in which land acquisition was approved. Second, land-lost male farmers with non-agricultural registered permanent residence over 60 years old and female land-lost farmers over 50

will be brought under a minimum standard of living of an urban residents system and under a civil administration. The funding of a minimum living standard allowance for urban residents is shared by local public finance department and developers.

Chengdu model

Chengdu Municipal Government enacted a social security code for land-lost farmers with urban residence. According to the codes, the land acquisition department should pay basic endowment insurance, health insurance employment and a living subsidy. For the land-lost farmers whose land had been acquired before the new policy was implemented, a standard of insurance and insurance money will be made in accordance with the district and their age. Land-lost farmers should pay a premium and will receive an insurance subsidy from government.

8.2.2 Rural social pension model (or Qingdao Model)

Qingdao provides a typical example of a Rural Social Pension Model. According to relevant provisions of the Qingdao Rural Endowment Insurance System, a relocation subsidy and compensation for collective land acquisition should be used to pay a premium of rural endowment insurance. The government subsidy is higher for land-lost farmers whose land is less than 0.3 mu than for those whose land is more than 0.3 mu. Land-lost farmers should pay 6% of per capita net income of their last years of income as a premium of basic endowment insurance.

8.2.3 Land-lost farmers Social Insurance model (or Xi'an Model)

Land -loss farmers is a special group which is appeared as a result of land acquisition in urbanization. They are neither farmers nor city residents. So, it's inappropriate to bring them into urban or rural social security system directly. Some provinces and cities,such as Tianjin, Hebei, Inner Mongolia, Anhu, Xi'an, Foshan ect, establish special social security system for Land-lost farmers only. The contents include institution of systems of endowment insurance, medical care insurance and fund management. The newly land-lost farmers pay premium of 5~15years for one-time, which is form land compensation and relocation subsidy. For the land-lost farmers whose land had been acquired before new policy has been implemented. There are different insurance standards for them to choose. Compared with newly land-lost farmers they can share the premium with organization of collective economy and get government subsidy which is account for 23%~30% of the premium.

8.2.4 Land-lost farmers basic living standard allowance model (or Jiaxing Model)

Some provinces established Land-lost Farmer Basic Living Security system. This system is neither a minimum standard of living for city residents nor urban or rural social

security system. Representatives of this model are Zhejiang, Jiangsu, Shandong. Zhejiang is the pioneer, established this system firstly. In each provinces, special account of Land-lost Farmer Basic Living Security has been opened and financed by government, collective and land-lost farmers themselves.

And, the portion of government is from payment of land used and not less than 30% of premium; the portion of collective is from compensation for land acquisition and not less than 40% ; personal portion is from relocation subsidy. The farmers who were over labor age when his land had been acquired will get pension immediately. In principle, the standard is higher than the standard of minimum standard of living for city residents or made on the base of standard of local employment insurance.

Land-lost farmers within labor age pay all premiums for one-time to their own special account. They can receive living subsidy from flexible capital of land acquisition in the early two years of unemployment. After two years with subsidy, unemployed land-lost farmers who satisfied with qualification of a minimum standard of living for city residents can be brought into a minimum standard of living for city residents system. Who get a job and took out social security for urban workers will get unemployment insurance after losing job legally. The money of their special account can be transferred to the account of social security.

And, who can't get job for age or other reasons will get same treatment of the re-employed land-lost farmers when they reached the pension age.

8.2.5 Small town social insurance policy (or Shanghai Model)

This policy has only been implemented in Shanghai. Relevant policies of land-lost farmer's social security were introduced in 2003 by the Shanghai government. According to the policies, land-lost farmers are covered by urban social security. The land developers need to pay a premium of endowment and medical insurance for more than 15 years and supplementary social insurance which contains a subsidy of more than RMB 24 for labor force (male 16-55 and female 16-45). If land-lost farmers find employment within 15 years after the land was expropriated, they need only to pay for unemployment insurance. The money land-lost farmers have paid after employment will be added to the previous payments and the standard of insurance will rise accordingly. The premium of land-lost farmers at retirement age is paid by the land developers and includes a subsidy, cost of living, and medical care. The span of insurance paid for males is 15 years and 20 years for females.

Table 1: Key Characteristics of Different Models

| Model | Major Characteristic | Main Content |
|---------------|--|--|
| Chengdu Model | Incorporate land-lost Farmer into Urban Social Security Scheme | Urban Basic Pension; Urban Basic Medical Insurance Job Hunting Subsidy |
| Qingdao | Incorporate land-lost Farmer | Rural Basic Pension |

| | | |
|-------------------|--|---|
| Model | into Rural Social Security S land-lost scheme | |
| Xi'an Model | Establish Land-lost farmers Social Insurance System | Pension for land-lost farmer Medical Insurance for land-lost farmer Minimum income guarantee |
| Jiaxing Model | Establish Land-lost farmers basic living standard allowance system | Pension for land loss farmer |
| Shanghai Model | Small Town Social Security scheme | Pension Medical Insurance Unemployment Insurance Maternity Insurance Work Accident Insurance Additional social insurance |

8.2.6 Funding Resources

Although Social Security schemes for land-lost farmers are various in different areas of China, the funding resources are almost the same. The government, villages, and individuals contribute to the fund. To support this program, the government uses land-transfer funds; villages contribute from its land compensations; and individuals pay from their resettlement subsidy. However, the level of such a financial supports are also various across the country.

8.3 Primary Observations on Social Security Scheme

The introduction of the social security program has drawn special attention to the long-term livelihood of farmers who have had their land requisitioned. Although this program is necessary, it is still in its testing stage. While recognizing the positive aspects of this experiment, shortcomings have been observed.

8.3.1 The Compulsory Feature of the Social Security Program

At the local level, some features of the social security program are, in reality, compulsory. It is mandatory that all farmers must sign up. This compulsory nature of the program is not in compliance with China's Land Law (Article 26) or the World Bank's OP 4.12. In some provinces the land user transfers the farmer's compensation directly into the Project Affected Persons (PAPs) social security account with the farmer having very little voice in the matter.

8.3.2 Beneficiary's age

PAPs could only benefit from the pension scheme when reach the age of 60 for male, and the age of 55 for female in most provinces. Young land-lost farmers therefore might not interested in joining the scheme, because they might need to wait for decades to benefit from their pension, and the livelihood between the time of land loss and benefit from scheme could hardly resorted.

Box 1: Quote from Young land-lost people

A 37 years old land loss farmer said: “it (social security) is good for my mother, not for me.”

A 31 years old women said: “ if it is not mandatory, I prefer to use my land compensation to do some business.”

-Survey conducted by the National Research Centre for Resettlement, China

8.3.3 Low level of pension

Pension benefits vary throughout China, however, most of them are quite low. For example, in Nanjing of Jiangsu Province, a 40-year-old farmer, who contributed CNY 37,000 towards his social security, would only receive at retirement age (60-years-old for men and 55-years-old for women) around CYN 330 (USD\$51) per month, i.e., USD\$1.7 per day. This amount can provide, at best, only very basic survival necessities.

6.3.4 Distressing Situation for “40-50” Group

Farmers, 40-50-years-old, who have had their land requisitioned, face an especially difficult situation. This group of PAPs must wait one or two decades to qualify for benefits from the pension scheme. In the interim, this group has limited employment opportunities because of their age disadvantage. In addition, they usually have younger children to support.

8.4 Gaps between OP4.12 and Social Security Scheme

The above details indicate that China’s Social Security Program for farmers is still a work in progress. Different parts of China are still at the experimental or pilot stage. However, if social security benefits are used in resettlement compensation packages mandatorily in Bank financed projects, there will be non-compliance with the Bank’s OP 4.12 on Involuntary Resettlement. Table 2 shows such non-compliance based on primary assessment.

Table 2: Major Gaps between OP4.12 and China’s Social Security Scheme

| | |
|---|-------------------------------------|
| OP4.12 Requirements | Current Social Security Scheme |
| Displaced persons have options and rights | Most of Social Security Schemes are |

| | |
|---|--|
| pertaining to resettlement; | mandatory and PAPs have limited voice |
| Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living; | For certain groups of person and in some area of China, the social security scheme could hardly to restore their livelihoods; |
| A project is not considered complete until the resettlement measures set out in the relevant instruments have been implemented. | Some people could only benefit from Pension arrangement after the closure of the project, which make the monitoring impractical. |

8.5 Recommendations

When the Bank's project teams encountered Social Security Program issues during the resettlement planning stage, based on discussion, the following suggestions were proposed:

- 1) Social Security Scheme cannot be mandated for use in resettlement compensation packages. Each Project Affected Persons (PAP) will be guaranteed his/her right of choice.
- 2) During resettlement planning, PAPS should be informed in detail the proposed local social security program and technical help should be provided to PAPs in order to make sure they understand all aspects of the proposed schemes before they make their choice.
- 3) The PMO's Social consultant and local social security authorities should participate in the consultation process.
- 4) The consultation process and conclusion should be recorded in the required Safeguards instruments.

References:

1. Land Administration Law of the People's Republic of China, People's Congress, issued 1986, amended in 2004
2. Implementing Regulation of Land Administration Law, The State Council, 1999
3. Management Regulation of Urban Housing Demolishing and Resettlement, The State Council, issued in 2001
4. State Council Circular on Decision to Deepen Reform and Strictly Enforce Land Administration, The State Council, 2004
5. Regulation of Land Acquisition Compensation and Resettlement for Large and Medium Scale of Hydropower Projects, The State Council, 2006
6. China Resettlement Policy and Practices, Asian Development Bank TA No. 5781, 1999
7. Forced Evictions and the Tenants' Rights Movement in China, Human Rights Watch, 2004
8. Resettlement Action Plans for various Projects financed by the World Bank in China OP 4.12 Involuntary Resettlement, the World Bank, 2001

Annex 1

Regulations on land ownership and user rights

The People's Republic of China practices socialist public ownership of land, namely, ownership by the whole people and collective ownership by the working people. Land in the urban areas of cities is owned by the State. Land in rural and suburban areas is owned by peasant collectives, except for those portions of land which belong to the State as provided for by law; house sites and private plots of cropland and hilly land are owned by peasant collectives. (*Land Administration Law of the People's Republic of China. Article 2 and Article 8*)

To meet the demands of public interest, it is permissible to requisition lands owned collectively and premises owned by entities and individuals or other realties according to the limit of statutory power and procedures. When requisitioning collectively-owned land, it is required, in accordance with the law and in full amount, to pay land compensation fees, placement subsidies, compensations for the above-ground fixtures of the land, seedlings and other fees, arrange for social security fees for the farmers with land requisitioned, guarantee their livelihood and protect their lawful rights and interests. When requisitioning the premises owned by entities and individuals or other realties, it is required to compensate for demolition in accordance with the law and to protect the lawful rights and interests of the owners of the requisitioned realties. When requisitioning the individuals' residential houses, it is required to guarantee the housing conditions of the owners of the requisitioned houses (*Real Right Law of the People's Republic of China Article 42*).

In undertaking land contracts in rural areas, women shall enjoy equal rights with men. The legitimate rights and interests of women shall be protected in contract. No organizations or individuals may deprive the rights of women to land contractual management to which they are entitled, or to infringe upon such right. During the term of contract, the party contracting out the land may not take back the contracted land. During the term of contract, the party contracting out the land may not readjust the contracted land (*Law of the People's Republic of China on Land Contract in Rural Areas, Article 6, Article 26 and Article 27*).

Regulations on land compensation rates

Compensation shall be made for land expropriated on the basis of its original purpose of use. Compensation for expropriated cultivated land shall include compensation for land, resettlement subsidies and compensation for attachments and young crops on the requisitioned land. Compensation for expropriated cultivated land shall be six to ten times the average annual output value of the expropriated land, calculated on the basis of the three years preceding such requisition. Resettlement subsidies for expropriated arable land shall be calculated according to the agricultural population needing to be resettled. The agricultural population needing to be resettled

shall be calculated by dividing the area of such land by the average area of the original cultivated land per person of the unit the land of which is expropriated. The standard resettlement subsidies to be divided among members of the agricultural population needing resettlement shall be four to six times the average annual output value of the expropriated cultivated land calculated on the basis of the three years preceding such expropriation. However, the maximum resettlement subsidies for each hectare of the expropriated arable land shall not exceed fifteen times its average annual output value calculated on the basis of three years preceding such expropriation. (*Land Administration Law of the People's Republic of China, Article 47*)

Local people's governments at or above county level shall take practical measures to protect the land-loss farmers against any decrease in living standards resulting from land acquisition. Land compensation, resettlement subsidies and compensation for attachments to the ground and young crops shall be paid promptly and at the full amount in accordance with law. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall assent to the increase of resettlement subsidies to the farmers rendered landless due to land acquisitions whose original living standards cannot be maintained or whose social security fees cannot be maintained after being paid land acquisition compensations and resettlement subsidies according to the current laws and regulations. In case the total amount of land acquisition compensations and resettlement subsidies reach the legal maximum, yet are still insufficient for the farmers whose land has been acquired to retain their original living standards, the local people's government may compensate for the shortfall by providing income from the use of state-owned land (*Decision of the State Council on Deepening the Reform on Strict Management to land, Article 12*).

Units and individuals that requisition and occupy forest land should pay compensation for forestland and wood as well as resettlement subsidies and forest vegetation restoration costs. Those who use forest land temporarily should pay compensation for forestland and wood and the costs of forest vegetation restoration, and also conduct re-cultivation according to relevant provisions. Entities who fell timber within forests for safe passage for constructing, reconstructing and expanding power (except for erecting transmission lines) and communication facilities should pay compensation for forest and the costs of forest vegetation restoration (*Article 21, Administrative Regulations of Hubei Province on Forestland*).

Regulations on measures to resettle farmers

Local governments at or above county level shall enact specific measures to guarantee the long-term livelihood of the farmers whose land is acquired. For projects with stable benefits, the farmers may buy a share via the lawfully authorized rights of construction land usage. The local government within the city planning districts shall enable the farmers whose land is acquired to participate in the urban employment system and establish a social security system. In acquisition of land owned by farmers collectively outside the city planning districts, the local government shall be obliged to retain the necessary land for the farmers to cultivate or, if this is not possible, arrange

corresponding jobs for them. Land-loss farmers with no basic production and living conditions shall be removed and resettled to another place. (*Decision of the State Council on Deepening the Reform on Strict Management to land, Article 13*)

Peasants with requisitioned land may choose the following resettlement approaches: (i) Based on Agricultural Production Resettlement Method. For collective land beyond the urban planning area, it is necessary to ensure that the land-loss farmers have sufficient cultivated land to continue agricultural production. This may be achieved by utilizing rural collective land, contracted land returned voluntarily by peasants, or new cultivated land created by land transfer and land exploitation and arrangement. (ii) Based on Reemployment Resettlement Method. It is necessary to take action to provide free skills training for peasants with requisitioned land and to arrange proper employment for them. Units using requisitioned land should give priority to these peasants in employment under the same conditions. Peasants using collective land which is completely acquired for urban planning areas should be brought into the urban employment system, and a social security system established for them. (iii) Based on Stock Ownership and Profit Sharing Resettlement Method. For project land which will have long-term stable profits, the rural collective economic organization which has had land requisitioned may negotiate with relevant units to allow the peasants to become shareholders by means of land acquisition compensation or through evaluated use right of approved construction land. The rural collective economic organization and the peasants should sign a contract to ensure that the peasants may gain profits for preference stock. This should occur only on the basis that the peasants have voluntarily entered into such an arrangement. (iv) Resettlement in other places. If local areas fail to provide basic productive and living conditions for peasants with requisitioned land, the government may carry out resettlement in other places provided that it shall give full consideration to the ideas of the relevant rural collective economic organizations and peasants (*Article 2 of Guiding Opinions on further making perfect policy on land acquisition compensation and resettlement*).

Regulations on land acquisition information disclosure

Farmers' collective ownership of land and contractual operation right of land shall be guaranteed during the process of land acquisition. Prior to the report of land acquisition being sent to higher authorities for examination and approval, the purpose, location, compensation rates for land acquisition and the resettlement arrangements shall be made public to the farmers whose land is to be acquired. The country collective economic organizations and farmers must confirm the investigation results of the status of the land to be acquired. If necessary, the Ministry of Land and Resources shall organize a public hearing according to relevant regulations. The relevant materials acknowledged and confirmed by the farmers whose land is to be acquired shall be deemed as the essential materials for report for approval of land acquisition. The establishment of the coordination and arbitration system for solving disputes on land acquisition compensations and resettlements shall be expedited so as to defend the lawful rights and interests of the land-loss farmers as well as the land users. The proceedings of

land acquisition shall be made public after approval, except in exceptional cases. (*Decision of the State Council on Deepening the Reform on Strict Management to land, Article 14*).

The provincial government shall formulate standards for the distribution of land compensation fees within the rural collective organizations based on the principle that the land compensation fees shall be used for the farmer households whose land is acquired. The rural collective organization shall make the information on the revenues and allocation of the land compensation fees available to its members, and receive their supervision. The agriculture, civil affairs and other departments shall strengthen the supervision over the allocation and use of the land compensation fees within the rural collective organization (*Decision of the State Council on Deepening the Reform on Strict Management to land, Article 15*).

An administrative organ shall disclose government information in a timely and accurate manner. Where any administrative organ discovers any false or incomplete information that has affected or may affect social stability or has disturbed or may disturb social management order, it shall disclose the corresponding accurate government information within its scope of duties to clarify. (*Provisions of the People's Republic of China on the Disclosure of Government Information, Article 6*)

An administrative organ shall disclose government information that is voluntarily disclosed through government bulletins, government websites, news releases, newspapers and periodicals, broadcasting, television or any other means which is easy for the general public to access. (*Provisions of the People's Republic of China on the Disclosure of Government Information, Article 15*)

The government at various levels shall set up a place for accessing and consulting government information at national archives and public libraries which is equipped with corresponding facilities and equipment for the convenience of citizens, legal persons or other organizations to access such government information. An administrative organ may, based on actual needs, establish such places as a public consulting room, a site for demanding materials, information board and electronic information screen for government information disclosure. An administrative organ shall provide the government information voluntarily disclosed by it to national archives and public libraries in a timely manner. (*Provisions of the People's Republic of China on the Disclosure of Government Information, Article 16*)

Regulations on land use verification and approval

For a construction project that needs to be verified and approved, the entity using the land for construction shall file an application for a preliminary verification at the stage of feasibility study. For a construction project that needs to be ratified and archived, the entity using the land for construction shall file an application for preliminary verification before applying for ratification and archiving. The preliminary verification shall be finished according to the present measures prior to the ratification or examination and

approval of a construction project. If the construction project has not been preliminarily verified or fails to pass the preliminary verification, the party concerned shall not be approved to convert the land for agricultural use into that for construction use or to have the land requisitioned, nor shall it be permitted or to go through the land supply procedures (*Measures for the Administration of Preliminary verification Examination of the Land Used for Construction Projects, Article 5, Article 15*).

Where land is to be expropriated by the State, the expropriation shall, after approval has been obtained through the relevant legal procedures, be announced by the people's governments at or above the county level which shall help execute the requisition. (*Land Administration Law of the People's Republic of China, Article 46*).

Regulations on house relocation and management of house sites

It is necessary that the land-use standards be checked and carefully ratified. Each peasant household can only own one house site. The total area of such a house site on agricultural land of each household for building and reconstructing houses should not exceed 140 m², and that on unused land (for construction) should not exceed 200m² (*Announcement of the General Office of the People's Government of Hubei Province on Strengthening the Management of Rural House Sites*).

The remover should formulate the planning for relocation and obtain the requisite license for dismantling and removal of housing in accordance with the national regulations. The remover should give compensation to each of the households to be relocated and shall not adopt different compensation rates for different construction items unless this is otherwise stipulated by national laws and regulations. If, after application of the parties concerned, the remover and relocation households or the remover, relocation households and leaseholders fail to reach an agreement on compensation for relocation, the case may be arbitrated by the local house relocation administration (Article 6, 12 and 15, *Administrative Regulations of Hubei Province on Urban House Demolition and Relocation*).

Monetary compensation and exchange of house property rights are two compensation methods which are optional for households being relocated. The amount of monetary compensation should be determined by market evaluation prices of real estate according to factors such as location, purpose and floorage of houses (Article 23 and 24, *Administrative Regulations on Relocation of Urban Housing*).

Annex 2

The template sheet of complaints registration

| | | | |
|--|--|-----------------------|--|
| Name of complainant | | Filing office | |
| Time | | Receiving point | |
| Complaints content registration | | | |
| Problems required to resolve | | | |
| Options to deal with the problem | | | |
| Actual result of problem resolution | | | |
| Signature of complainant | | Signature of recorder | |
| Remark: 1. The recorder shall register honestly the content of complaint and the complainant's requisition; 2. No obstruction or obstacle is existed in the process of appeal; 3. Options taken to deal with the problem should be replied to the complainant within scheduled period. | | | |