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HCFC Phase-out in China HCFC production Sector and PU Foam Sector

RESETTLEMENT POLICY FRAMEWORK

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Foreign Economic Cooperation Office
The Ministry of Environmental Protection

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I. Introduction

This document constitutes the Resettlement Policy Framework (RPF) for the 2nd phase HCFCs phase-out project in production sector and PU foam sector in China. At the 19th Meeting of the Parties to the Montreal Protocol in September 2007, the Parties agreed to accelerate the phase-out of HCFCs. China, as Article 5 country, has frozen production and consumption of HCFC by 2013 and reduced HCFC production and consumption by 10% by 2015, by 67.5% by 2025, and complete phase-out by 2030, while allowing for servicing an annual average of 2.5 percent during the period 2030 to 2040. Regulations on the Management of Ozone Depleting Substances (hereinafter referred to as Regulations) were issued in June 2010. These Regulations define the objectives and roles of Ozone-Depleting Substance (hereinafter referred to as ODS) management at the national level, establish the quota system and total amount control strategy, and clarify the legal duty for illegal production and consumption, as well as import and export. This is the first regulation that converted the international environmental convention which China has joined a specialized domestic regulation.

On the basis of the achievement of HCFC reduction goal of the 1st phase, the Executive Committee of the Multilateral Fund for the Implementation (ExCom) has approved the “Preparation Reserve Fund Project of the 2nd Phase HCFCs Phase-out Management Plan in China’s PU Foam Sector” at the 73rd Meeting in November 2014; in November 2015, has approved the “Preparation Reserve Fund Project of the 2nd Phase HCFCs Phase-out Management Plan in China’s HCFCs Production Sector” and the World Bank was assigned as the international implementing agency to assist Project Management Organization (hereinafter referred to as PMO) in China at the 75th Meeting. In December 2016, the 2nd Phase HCFCs Phase-out Management Plan in China’s PU Foam Sector has been approved by the Executive Committee of the Multilateral Fund for the Implementation at the 77th Meeting and the entire phase-out of the use of HCFCs as the foaming agent in such section will be achieved before the end of 2025. The 2nd Phase HCFCs Phase-out Management Plan of China’s HCFCs Production

Sector has also been prepared completely and submitted to Executive Committee of the Multilateral Fund for the Implementation for the approval in March 2017.

Both environmental and social safeguard policy frameworks of HCFCs phase-out in Production and PU foam sectors in China are parts of the HPMP preparation. The production and consumption of HCFC has reduced 10% in project implementation period, and almost all of the project enterprises conducted activities in the original sites. As it was unclear how many and which specific project enterprises might require land for possible expansion or relocation led by the project investment support, a RPF was prepared to set out the principles and procedures for land acquisition and resettlement. The preparation of RAP was to steer the project design and implementation to minimize potential social impacts and provide compensation and work opportunities/livelihood recovery to the displaced persons. Through provision of compensation and other forms of assistance, the income and living standard of the displaced persons could be improved or at least restored to the level prior to the project phase-out.

The phase I project has closed 5 production lines of 5 HCFC production enterprises and converted 54 PU foam enterprises. The closure of the HCFC production lines did not involve land acquisition and involuntary resettlement, whilst conversion of the 54 PU enterprises gave rise to relocation of four enterprises. One of them moved to an industrial park 50 kilometers away from the original site, and the other three just relocated to industrial parks within a few kilometers. None of them led to acquisition of rural collectively-owned land and involuntary resettlement of rural or urban residents. In order to investigate the social impacts of the phase I project, FECO commissioned a third party consulting institution to study social impacts of all 5 HCFC production enterprises and 5 relocated PU foam enterprises. The results of the study showed that the phase I project has not led to involuntary resettlement or related social impacts.

The phase II project will close 10 HCFC production lines, involving about 10 production enterprises; and it will also convert 500 PU foam enterprises. The closure of production enterprises will not involve land acquisition; whilst the conversion of PU

enterprises may cause relocation of a small number of enterprises. As phase II there are 500 smaller enterprises and the needs for relocation due to change of production are less than phase I which only 4 of the 54 participating companies were relocated. As such, it is estimated proportionally 10-15 PU enterprises may be relocated as a result of phase II project implementation, but they are not likely to result in involuntary resettlement as mostly likely they will only occupy land in industry parks. There is a possibility that 2-5 SMEs may need to expand production, hence require to acquire surrounding land for expansion. The likelihood of involuntary resettlement is expected to be very low as such expansion is normally allowed in industry parks but not in urban/peri-urban areas. In summary, the phase II project may trigger OP4.12 only by a very low possibility.

Nevertheless, the project has updated the RPF of phase I project, and updated relevant laws and regulations that the project needs to follow, in order to identify, supervise and mitigate project activities that may lead to negative impacts of resettlement, and to ensure that project affected people can share the benefits of the project.

II. Project Description

The Multilateral Fund will provide financial and technical support to eligible enterprises in order to meet the objective of total phase-out of the 2nd phase HCFC in production and consumption sectors and assist to find the alternatives to replace HCFCs. In view of the newly-added closure types of production lines of production enterprises, the 2nd phase HCFC phase-out Project will consist of the following categories: (1) PU foam sector: ① Foam enterprises whose conversion to alternative technology (e.g. hydrocarbon) at present location (hereinafter referred to as conversion at present location); ② Foam enterprises whose conversion to alternative technology (e.g. hydrocarbon) involve relocation of their facilities (hereinafter referred to as conversion at new location); ③ Existing polyol system houses providing technical support on low GWP alternatives that may be flammable and provide the pre-blended polyol with hydrocarbon to small and medium foam enterprises (hereinafter referred to as system

house conversion); ④ Foam enterprises engaging in identification and testing of potential substitutes. (2) HCFC production Sector: ⑤ HCFC production reduction, ⑥ Closure of HCFC production lines.

This RPF shall be applied when land acquisition and resettlement is caused by the HCFC phase-out project. According to the phase I implementation, it is estimated 10-15 PU enterprises may need to move to designated mature industrial parks, and 2-5 enterprises may need to acquire surrounding land for expansion, mostly likely in industry parks. Relocation or expansion of these enterprises is not likely to cause involuntary resettlement, but we cannot guarantee that phase II project will definitely not cause any involuntary resettlement resulted from project land use. This RPF sets out policies and procedures to ensure that the implementation of project land acquisition and resettlement follow relevant national laws and regulations and comply with World Bank safeguard OP4.12 Involuntary Resettlement. In the course of actual operation, the enterprise shall abide by the basic principles formulated in this framework and carry out the work in combination with the local laws and regulations.

III. Policy Objectives and Key Definitions

OP 4.12 provides essential guidance on objectives and principles that are applicable in HCFC phase-out projects generating land acquisition and resettlement-related impacts. Key objectives and definitions are as follows:

Every reasonable effort will be made to avoid or minimize the need for land acquisition, and to minimize all resettlement-related adverse impacts. If land acquisition and associated adverse impacts cannot be avoided, the principle objective of the RPF is to ensure that all persons subjected to adverse impacts (“displaced persons” as defined below) are compensated at replacement cost (as defined below) for lost land and other assets and otherwise provided with any rehabilitation measures or other forms of assistance necessary to provide them with sufficient opportunity to improve, or at least restore, their incomes and living standards.

“Displaced persons” refers to all of the people who, on account of the activities listed above, would have their (1) standard of living adversely affected; or (2) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed temporarily or permanently; (3) access to productive assets adversely affected, temporarily or permanently, or (4) business, occupation, work or place of residence or habitat adversely affected, and “displaced person” means any of the displaced persons.

"Replacement cost" is the method of valuation of assets which determines the amount of compensation sufficient to replace lost assets, including any necessary transaction costs. Compensation at replacement cost is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in OP 4.12, Para. 6.

“Land acquisition” is the process whereby a person involuntary loses ownership, use of, or access to, land as a result of the project. Land acquisition can lead to a range of associated impacts, including loss of residence or other fixed assets (fences, wells, tombs, or other structures or improvements that are attached to the land).

“Rehabilitation” is the process by which displaced persons are provided sufficient opportunity to restore productivity, incomes and living standards.

“Cut-off Date” is the date prior to which the ownership or use establishes eligibility as displaced persons for compensation or other assistance. The cut-off date is established in the RAP. It normally coincides with the date of the census of affected persons, or the date of public notification regarding the specific civil works that would cause displacement. Persons coming into the project area after the cut-off date are not eligible for compensation or other assistance.

IV. Key Principles

World Bank’s OP 4.12 establishes several key principles to be followed in resettlement planning and implementation. Of particular relevance for this RPF are the following:

- a) Wherever possible, project designs and RAPs should be conceived as development opportunities, so that displaced persons may benefit from the services and facilities created for, or by, project activities.
- b) All displaced persons are entitled to compensation for lost assets, or to alternative but equivalent forms of assistance in lieu of compensation; lack of legal rights to the assets lost will not bar displaced persons from entitlement to such compensation or alternative forms of assistance.
- c) Compensation rates as established in a RAP refer to amounts to be paid in full to the individual or collective owner of the lost asset, without depreciation or deduction for taxes, fees or any other purpose.

- d) When cultivated land is acquired, effort should be made to provide land-for-land replacement.
- e) Replacement house plots, sites for relocating businesses, or replacement agricultural land should be of equivalent use value to the land that was lost.
- f) The resettlement transition period should be minimized. Compensation for assets should be paid prior to the time of impact, so that new houses can be constructed, fixed assets can be removed or replaced, and other necessary mitigation measures can be undertaken prior to actual displacement.
- g) Displaced persons are to receive support (direct assistance or allowances) to meet moving expenses or for temporary subsistence until they can resume productive activities.
- h) Displaced persons should be consulted during the process of RAP preparation, so that their preferences regarding possible resettlement arrangements are solicited and considered; RAPs are publicly disclosed in a manner accessible to displaced persons.
- i) Displaced persons should be consulted during the process of RAP preparation, so that their preferences regarding possible resettlement arrangements are solicited and considered; RAPs are publicly disclosed in a manner accessible to displaced persons.
- j) Responsibility must be clearly established for meeting all costs associated with land acquisition and resettlement, and for ensuring that sufficient funds are available as they become needed.
- k) Clear institutional arrangements must be established to ensure effective and timely implementation of all resettlement and rehabilitation measures.
- l) Adequate arrangements for effective supervision will be made on implementation of all resettlement measures.

- m) Methods by which displaced persons can pursue grievances will be established, and information about grievance procedures will be provided to displaced persons.

V. Chinese Legal and Regulatory Framework

For any land acquisition and resettlement activities in China, they will follow a set of national laws and regulations, which include:

- (1) Property Law of the People's Republic of China (issued on March 26, 2007 according to the Order of the President of the People's Republic of China (No.62) and implemented as of October 1, 2007);
- (2) Land Administration Law of the People's Republic of China (issued in 1986 and amended in 1998 and 2004 respectively), the pertinent provisions of the Land Administration Law of the People's Republic of China (State Council Order No.256 1998).
- (3) The pertinent provisions of the Land Administration Law of the People's Republic of China (issued on December 27, 1998 according to State Council Order No.256 and implemented as of January 1, 1999); .
- (4) Regulation on Dismantlement Basic Farmland Protection (State Council Order No.257 1998).
- (5) Regulation on the Compensation and Dismantlement of Houses on State-owned Land. (State Council Order No. 590, 2011).
- (6) Assessment Method on Housing Expropriation of State-owned Land (Jianfang [2011] No.77);
- (7) Circular of the Ministry of Land and Resources Concerning the Issuance of the Guiding Opinions on Improving the System of Compensation for Requisition

- of Land (Circular No. 238, issued by Ministry of Land and Natural Resources (MLR) in 2004),
- (8) Regulations on deepening the reform provisions of strict land management (Guofa [2004] No.28).
 - (9) Circular of the State Council Concerning the Issues of Strengthening the Control of Land (Guofa [2006] No.31).
 - (10) Measures for Announcement of Land Acquisition (MLR Order No.10).
 - (11) Circular of the General Office of the State Council on the approval and transmission of the Guidelines submitted by the State Council Ministry of Labor and Social Security on employment training and social security for Landless farmers (Guobanfa [2006] No.29).
 - (12) Relevant Questions Concerning the social security for Landless farmers (Circular No. 14, issued by Ministry of Labor and Social Security in 2007).
 - (13) Urgent Notice of the General Office of the State Council on Further Regulating Strictly Land Acquisition and Demolition Management to Effectively Safeguard the Legitimate Rights and Interests of the People (Guobanfa [2010] N0.15);
 - (14) Measures for the Implementation of the Regulation on Land Survey (MLR Order No.45);
 - (15) Measures for Land Registration (MLR Order No.40);
 - (16) Urban and Rural Planning Law of the People's Republic of China (the Order of the President of the People's Republic of China (No.47));
 - (17) Provisions on the Agreement-based Assignment of the Right to Use State-Owned Land (MLR Order No.21);

- (18) The General Office of the State Council on Promoting The Guidance of Urban Population Intensive Areas of Hazardous Chemical Production Enterprises Relocation (Guo Ban Fa 2017 No. 77).

Provincial and local implementation regulations

- (1) Notice of the General Office of the People's Government of Shandong Province on Issuing the Interim Measures for Compensation and Resettlement Standards and Dispute Coordination and Adjudication for Land Acquisition in Shandong Province (LZBF[2007] No.52);
- (2) Administrative Measures for Land Expropriation of Shandong Province (Order No.226 of the People's Government of Shandong Province);
- (3) Regulations on Land Consolidation of Shandong Province (passed at the 16th Session of the Standing Committee of the Twelfth People's Congress of Shandong Province on September 24, 2015 and implemented as of January 1, 2016);
- (4) Regulation on the Compensation and Dismantlement of Houses on State-owned Land of Shandong Province (passed at the 11th Session of the Standing Committee of the Twelfth People's Congress of Shandong Province and implemented as of November 27, 2014);
- (5) Notice of the People's Government of Shandong Province on Further Completing Compensation and Resettlement for Land Acquisition to Effectively Safeguard the Legitimate Rights and Interests of the Landless Farmers (Luzhengfa [2010] N0.15)
- (6) Notice of the People's Government of Zhejiang Province on Adjusting and Improving Compensation and Resettlement Policies for Land Acquisition (Zhezhegnfa [2014] No.19);
- (7) Implementing Measures of Zhejiang Province for Land Administration (amended for the second time at the 8th Session of the Standing Committee of the Eighth People's Congress of Zhejiang Province on January 29, 1994);

- (8) Regulations on Land Consolidation of Zhejiang Province (passed at the Standing Committee of the Twelfth People's Congress of Zhejiang Province on September 26, 2014 and implemented as of January 1, 2015);
- (9) Regulation on the Compensation and Dismantlement of Houses on State-owned Land of Zhejiang Province (passed at the 10th Session of the Standing Committee of the Twelfth People's Congress of Zhejiang Province on May 28, 2014 and implemented as of October 1, 2014);
- (10) Notice of the People's Government of Zhejiang Province on Adjusting Compensation Standard for Land Acquisition (Suzhengfa [2013] N0.131);
- (11) Regulation on Land Administration of Jiangsu Province (amended for the second time at the 9th Session of the Standing Committee of the Tenth People's Congress of Jiangsu Province on April 16, 2004);
- (12) Notice of the Office of Land and Resources of Jiangsu Province on Issuing the *Interim Measures for Implementation Management of Land Development and Consolidation Project in Jiangsu Province* (SGTZF [2016] No.320);
- (13) Notice on the Issuance of Several Questions Concerning *Regulation on the Compensation and Dismantlement of Houses on State-owned Land* Implemented by Jiangsu Province (Suzhengfa [2011] No.91);
- (14) Notice of the General Office of the People's Government of Sichuan Province on Forwarding the *Opinions of the Provincial Office of Land and Resources on the Relevant Questions Concerning Adjusting Compensation and Resettlement Standards for Land Acquisition* (Chuanbanhan [2008] No.73);
- (15) Implementing Measures of Sichuan Province for Land Administration (Revised for the fourth time on July 27, 2012);
- (16) Notice of the Office of Land and Resources of Jiangsu Province on Issuing the *Interim Provisions on Land Consolidation Project Management of Sichuan Province* (CGTZF [2004] No.164);
- (17) Notice of the Office of Land and Resources of Guangdong Province on Issuing Compensation and Protection Standards for Land Acquisition of Guangdong (YGTZGZ [2016] No.1);

(18) Implementing Measures of Guangdong Province for Land Administration (Issued according to Announcement No.16 of the Standing Committee of the Guangdong Provincial People's Congress on August 23, 1991);

(19) Interim Provisions on Development and Consolidation Project Management of Provincial Investment Land in Guangdong Province (Trial) (2002);

These laws and regulations form the legal basis for providing compensation and rehabilitation to those affected by land acquisition and resettlement activities. Key provisions of Land Administration Law, Circular No. 238, Regulations of the State Council on Deepening the Reform Provisions of Strict Land Management and Urgent Notice of the General Office of the State Council on Further Regulating Strictly Land Acquisition and Demolition Management to Effectively Safeguard the Legitimate Rights and Interests of the People are highlighted below.

5.1 Key Provisions of the Land Administration Law

Article 2

The state may, out of necessity of public interest, requisition land collectively owned in accordance with law.

Article 10

Land owned by peasant collectives that belongs lawfully to peasant collectives of a village shall be operated and managed by collective economic organizations of the village or by villagers' committees; land already owned by different peasant collectives that belong to two or more different collective economic organizations in the village shall be operated and managed by the rural collective economic organizations in the village or by villagers' teams; land already owned by peasant collectives of a township (town) shall be operated and managed by rural collective economic organizations of the township (town).

Article 12

Any change to be lawfully made in land ownership, in the right to the use of land or in

the purpose of use of land shall be registered.

Article 31

The State protects cultivated land and strictly controls conversion of cultivated land to non-cultivated land.

The State applies the system of compensation for use of cultivated land for other purposes. The principle of “reclaiming the same amount of land as is used” shall be applied to any unit that, with approval, uses cultivated land for construction of non-agricultural projects, that is, the unit shall be responsible for reclaiming the same amount and quality of the cultivated land it uses. If conditions for such reclamation do not exist or if the reclaimed land fails to meet the requirements, the unit shall pay expenses for reclamation in accordance with the regulations set by people's governments of provinces, autonomous regions and municipalities directly under the Central Government and the money shall exclusively be used for reclamation.

People's governments of provinces, autonomous regions and municipalities directly under the Central Government shall formulate plans for land reclamation, see that the unit that uses cultivated land reclaims land according to plan or arrange reclamation according to plan, and conduct inspection before acceptance.

Article 36

Non-agricultural construction must use the land resources economically. Whereas wasteland can be used, no cultivated land should be occupied. Whereas inferior land can be used, no good land should be occupied.

Article 46

Where land is to be requisitioned by the State, the requisition shall, after approval is obtained through legal procedure, be announced by people's governments at or above the county level, which shall help execute the requisition.

Units and individuals that own or have the right to the use of the land under requisition shall, within the time limit fixed in the announcement, register for compensation with

the land administration department of the local people's government by presenting their certificates of land ownership or land-use right.

Article 47

Land requisitioned shall be compensated for on the basis of its original purpose of use.

Compensation for requisitioned cultivated land shall include compensation for land, resettlement subsidies and attachments and young crops on the requisitioned land.

Compensation for requisition of cultivated land shall be six to ten times the average annual output value of the requisitioned land for three years preceding such requisition.

Resettlement subsidies for requisition of cultivated 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 amount of requisitioned cultivated land by the average amount of the original cultivated land per person of the unit the land of which is requisitioned.

The highest resettlement subsidies for each hectare of the requisitioned cultivated land shall not exceed fifteen times its average annual output value for the three years preceding such requisition.

Standards of land compensation and resettlement subsidies for requisition of other types of land shall be prescribed by provinces, autonomous regions and municipalities directly under the Central Government with reference to the standards of compensation and resettlement subsidies for requisition of cultivated land.

Standards for compensation for attachments and young crops on the requisitioned land shall be prescribed by provinces, autonomous regions and municipalities directly under the Central Government.

For requisition of vegetable plots in city suburbs, the land users shall pay towards a development and construction fund for new vegetable plots in accordance with the relevant regulations of the State.

If land compensation and resettlement subsidies paid in accordance with the provisions

of the second paragraph of this Article are still insufficient to help the peasants needing resettlement to maintain their original living standards, the resettlement subsidies may be increased upon approval by people's governments of provinces, autonomous regions and municipalities directly under the Central Government. However, the total land compensation and resettlement subsidies shall not exceed 30 times the average annual output value of the requisitioned land for the three years preceding such requisition.

Article 48

Once a plan for compensation and resettlement subsidies for requisitioned land is decided on, the local people's government concerned shall make it known to the general public and solicit comments and suggestions from the collective economic organizations, the land of which is requisitioned, and the peasants.

Article 49

The rural collective economic organization, the land of which is requisitioned, shall accept supervision by making known to its members the income and expenses of the compensation received for land requisition.

The compensation and other charges paid to the unit for its land requisitioned is forbidden to be embezzled or misappropriated.

Article 56

If the construction unit uses the state-owned land, it shall use the land in accordance with the stipulations of the land compensated use or approval documents of administrative allotment of land-use right. If it is necessary to change the use of the land, it shall be approved by the original people's government with the consent of the land administration department of people's government. Therefore, if the land use is changed in the urban planning area, it shall be agreed by the relevant urban administrative department before approval.

Article 57

Where land owned by the State or by peasant collectives needs to be used temporarily for construction of projects or for geologic prospecting, the matter shall be subject to approval by the land administration departments of people's governments at or above the county level. However, if the land to be temporarily used is located in the area covered by certain urban planning program, the matter shall be subject to agreement by the urban planning administration department concerned before it is submitted for approval. The land user shall, depending on who owns the land and who has the land-use right, enter into a contract for the temporary use of the land with the land administration department concerned, or the rural collective economic organization, or the villagers committee and pay compensation for it in accordance with the provisions of the contract.

The temporary land user shall use the land for purposes stipulated in the contract for temporary use of the land and may not build permanent structures on it.

Generally, the period for temporary use of land shall not exceed two years.

5.2. Key Provisions in the Circular No.238

(1) The Formulation of the Unified Standards of Annual Output Value. The departments of land and resources at the provincial level shall, in conjunction with other departments concerned, work out the unified minimum standards for annual output value, which shall be announced and executed after the examination and approval by the people's governments at the provincial level. Factors such as types and quality of arable land requisitioned, peasants' input, prices of primary products and the categories of farmland shall take into account when deciding the value of average annual output.

(2) The Determination of the Unified Multiple of Annual Output Value. The unified multiple of the value of average annual output for calculating land compensation and resettlement subsidies shall comply with the principle of non-decrease of the standards of living of the peasants whose arable land has been requisitioned and shall be decided within the limits prescribed by laws and regulations; compensation for requisitioned land calculated with reference to the prescribed multiple of the value of average annual

output shall increase the multiple upon approval of the people's governments at the provincial level if it is unable to maintain the original living standards of the peasants whose land has been requisitioned and still insufficient to pay social security expenses for peasants who have lost land due to requisition; the total land compensation and resettlement subsidies shall be 30 times the value of the average annual output of arable land, or shall be subsidized by a proportion of proceeds from the sale of State-owned land use rights under the overall planning of a local people's government if they are still insufficient to maintain the original living standards of the peasants whose land has been requisitioned. Compensation for arable land that is authorized to be requisitioned shall be implemented in compliance with the maximum compensation standards announced by the local people's government.

(3) The Formulation of the Comprehensive Prices of Farmland in Resettlement Areas.

In the areas where conditions permit, provincial-level departments of land and resources may make comprehensive land prices in counties (or cities) within provincial boundaries together with the administrative departments concerned, which shall go into effect upon approval and promulgation by the people's governments at the provincial level and shall be applied to compensation for land requisitioned. In calculating the comprehensive prices of farmland, the categories and rates of arable land, its production value, location, per capita quantity as well as demand and supply or the local economic development levels and the minimum standards of living should be given full consideration.

(4) The Allocation of Compensation for Land. In accordance with the principle of distributing land compensation funds mainly among peasants whose land has been requisitioned, land compensation funds shall be appropriately allocated within rural collective economic organizations. The people's governments at the provincial level shall guide detailed ways of allocation. In the areas where land is expropriated and rural collective economic organizations are dissolved, all compensation for land shall be applied for the restoration of agricultural production and livelihood of the peasants whose land has been requisitioned.

(5) Rehabilitation by Agricultural Production. During requisitioning of peasants' collective land beyond urban planning areas, first priority shall be given to providing peasants with necessary cultivated land for continuity of agricultural production by utilizing the rural collective land reserves, the contracted land returned voluntarily by the contracting rural households or the newly added arable land after land circulation and land consolidation.

(6) Rehabilitation by Reemployment. Favorable conditions shall be created to provide free technical training and assign corresponding posts to peasants whose land has been requisitioned. Under equal conditions, the land users shall give priority to creating employment opportunities for peasants whose land has been requisitioned. During requisitioning of peasants' collective land within urban planning areas, the peasants losing their arable land due to land acquisition shall be incorporated into urban employment system and a social security system shall also be established.

(7) Rehabilitation by Dividends. Regarding land with long-term stable earnings to be used in any projects, under the premise of rural households' willingness, the rural collective economic organizations, the land of which is requisitioned, shall regard land compensation as stocks or converge the land-use right of the land approved for construction purposes into stocks through consultation with the land users. The rural collective economic organizations and rural households shall receive dividends by means of preference stocks based on the contracted conditions.

(8) Rehabilitation by Resettlement. In the area where peasants losing land due to land acquisition are not provided with basic production and living conditions, the local government shall organize their resettlement into other areas on the basis of fully soliciting opinions from the rural collective economic organizations and rural households whose land has been requisitioned.

5.3 Key Provisions of Regulations of the State Council on Deepening the Reform Provisions of Strict Land Management

(12) Perfect compensation method for requisitioned land. The living standards of the peasants whose land has been requisitioned shall not be decreased due to the land acquisition. It needs to ensure the full and timely payment of compensation for land, resettlement subsidies and attachments and young crops on the requisitioned land as per the laws.

(13) Appropriately resettle the peasants whose land has been requisitioned. The resettlement into other areas shall be conducted for the landless peasants without basic production and living conditions. The Ministry of Labor and Social Security shall put forward as soon as possible the guiding opinions on employment training and social security for landless peasants together with relevant departments.

(14) Perfect land acquisition procedure. During the land acquisition, it needs to safeguard the rights and interests of peasant's collective ownership and contractual right of land. Prior to the approval of requisitioned land according to law, it's necessary to inform the peasants whose land has been requisitioned of the use, location, compensation standard, resettlement way of the requisitioned land; speed up the establishment and improvement of coordination and adjudication mechanism for compensation and resettlement dispute of requisitioned land and safeguard the legitimate rights and interests of the peasants whose land has been requisitioned and the land users. Land acquisition matters approved shall be publicized except in exceptional circumstances.

(15) Strengthen the regulation for the implementation process of land acquisition. The requisitioned land shall not be used forcibly if the compensation and resettlement plan for requisitioned land is not practicable.

5.4 Urgent Notice of the General Office of the State Council on Further Regulating Strictly Land Acquisition and Demolition Management to Effectively Safeguard the Legitimate Rights and Interests of the People

(2) Strictly implement rural land acquisition procedures and properly do the compensation for requisitioned land

Prior to land acquisition, it's necessary to make announcement and solicit public opinions; the reasonable requirements proposed by the masses must be solved properly and the forced land acquisition is not allowed. Compensation standards for land acquisition published and implemented by the people's government of the province, the autonomous region and the direct-controlled municipality shall be strictly followed. It needs to strengthen the regulation for the implementation process of land acquisition, ensure the timely and fully payment of compensation fees for requisitioned land and prevent the issues such as arrears, withholding and embezzlement. Where the land acquisition involves in the demolition of peasants' housing, it's necessary to conduct the demolition after those peasants are resettled, properly solve the housing problems for the peasants whose land has been requisitioned and practically ensure that the original living standards of the peasants whose land has been requisitioned is not decreased and guarantee their livelihoods for a long term. Where land acquisition and demolition are involved in the construction of major projects, it needs to take lead in strictly implementing the required procedures and compensation standards.

(3) Control the demolition scale of urban houses and conduct the demolition according to law

Urban housing demolition must be conducted strictly in accordance with the law and on the basis of fully respecting the intentions of the resettlers about the exchange of property rights and monetary compensation and other aspects. Before the project approval, it needs to organize expert argumentation, extensively solicit opinions from all sectors of society in particular the resettlers, and conduct social stability risk assessment.

(5) Perfect working mechanism and timely resolve contradictions and disputes

All local and related departments shall, in strict accordance with requirements of the petition letter assessment in place, the approval procedures in place, the policy publicity in place, and compensation and resettlement in place, establish and improve the land acquisition and demolition information communication and collaboration mechanism, timely grasp and resolve the emerging and tendentious issues and prevent the accumulation and intensification of the contradictions; improve the responsibility system for petition of land acquisition and removal, speed up the establishment of the all-through petition information system, actively explore the dispute investigation and mediation mechanism for land acquisition and demolition, and take various effective ways to do the ideological work of the masses to prevent simple and brutal suppression for the masses and avoid triggering a new petition. Local people's governments at all levels and related departments shall go deep into the places with many problems to accept visit or go visit, take the initiative to listen to the appeals of the masses, and solve the problems in the initial stage. All local governments shall strengthen the situation analysis and judgment and promptly initiate emergency plans in the event of a vicious incident to ensure stable control of such incident and prevent the expansion of the situation; strengthen and improve the propaganda work and give full play to the important role of supervision and guidance by public opinions.

VI. The comparison of resettlement principles and project solutions

Involuntary resettlement principles of Chinese laws and regulations and the World Bank safeguard OP4.12 are both people-oriented that seek to avoid involuntary resettlement, emphasis sustainable development, and require restoration or improvement of livelihoods and live standards compared to pre-project levels, and protect the legitimate rights and interests of affected people.

The main differences between the Chinese laws and the World Bank principles are shown in the following table. The project should adopt solutions recommended in the table in order to achieve compliance with the bank safeguard OP4.12.

Table 1 Comparison of principles of involuntary resettlement between World Bank and Chinese laws and project solutions

NO.	COMPENSATION ITEM	WORLD BANK SAFEGUARD REQUIREMENTS	CHINESE REGULATIONS AND STANDARDS	PROJECT SOLUTIONS
1	Land	Compensation should be sufficient to offset any loss of income and restore long-term income generation potential.	The compensation standard is based on the annual output value.	Land for land compensation is difficult to achieve in China. The project should monitor income restoration of those severely affected families, especially the vulnerable groups; provide assistances to livelihood restoration where needed; and allocate special assistance fund in order to provide assistances for people who need help.
2	Vulnerable group	Special assistances for vulnerable groups, especially families in poverty, is required.	The law does not require a social impact analysis, so compensation is only based on the loss of assets.	The project should identify vulnerable groups during the land survey, formulate related supportive measures in the resettlement action plan, and allocate corresponding fund
3	Consultation and information disclosure	The affected people should be informed and consulted as early as possible.	Although regulations have promoted the transparency of the compensation process, affected persons have little voice on project decision-making and the duration for project disclosure is short.	The consultation should begin in the early stage of the land expropriation process. The resettlement action plan should be publicized to the affected people in accordance with the world bank's requirements.
4	No legal title	All structures, legal or illegal, are eligible for compensation at replacement cost.	People without local <i>Hukou</i> (residency registration status) do not have the same right of local people; illegal buildings are not compensated.	Project affected persons, owners or users of illegal structures, are entitled to compensation according to World Bank's requirements.
5	Monitoring, evaluation and reporting	The world bank requires internal and external resettlement monitoring	Except for reservoir projects, there are no relevant requirements.	The Resettlement Action Plan should define requirements for international and external monitoring, as well as reporting.

VII. Sub-project Screening

In case land acquisition and involuntary resettlement is triggered, this policy frame should be strictly followed. A social safeguard screening will be carried out by a domestic social safeguard specialist commissioned by the subproject owner in order to determine the scale of land acquisition and impacts of resettlement. Chinese government regulations and laws and World Bank safeguards policies should be followed when and as required. The screening will look into basic information on (1) amount of land acquisition required for the project; (2) amount of buildings to be demolished; (3) number of households or persons to be resettled; (4) number of people to be affected by land acquisition; and (5) whether the subproject owner are willing to comply with resettlement policies. Based on the information and screening, relevant social safeguard instrument will be suggested for the subprojects concerned.

VIII. RAPs Preparing and Approving

The overall responsibility for preparation and implementation of any necessary RAPs rests to individual subprojects. They will work with local government agencies (e.g. Land Resources Administration Bureau, Social Security Bureau) with direct responsibility for acquiring land and implementing resettlement measures. FECO will be responsible for urging the sub-project¹ owner involved in any land acquisition and resettlement to prepare the RAP in accordance with this framework. The RAP will be submitted to the World Bank for review and approval at least six months before the commencement of land acquisition.

Once it is determined that land acquisition or any associated impacts are essential to complete any project activities, and the land scope and site to be acquired is decided, resettlement action planning should begin and a qualified consulting team should be hired by the sub-project owner to prepare the RAP. The subproject owner will provide all necessary support and arrangements for a census survey to identify and enumerate

all displaced persons, and a socioeconomic survey to determine the range and scope of adverse impacts in the affected area. The census survey must cover 100% of the persons to be displaced; the socioeconomic survey may be undertaken on a sample basis. The surveys, which may be undertaken separately or simultaneously, determine whether a full RAP or an “abbreviated” RAP (as defined in OP 4.12, Annex A) is necessary. When the number of persons affected exceeds 200, a full RAP is necessary. Where impacts on all displaced persons are relatively minor, or fewer than 200 people are affected, an abbreviated RAP may be prepared. Impacts are considered “minor” if the affected people are not physically displaced and less than 10% of their productive assets are lost.

If a RAP is necessary, it will be prepared in accordance with the policy principles and planning and implementation arrangements set forth in this RPF. The RAP is based on accurate census and socioeconomic survey information, and establishes appropriate mitigation measures (e.g., compensation for assets, transitional assistance, and economic rehabilitation assistance) as appropriate for all categories of adverse impacts. Depending on the categories of impacts, the RAP specifically addresses the following

- a) Description of the activity causing land acquisition.
- b) Range and scope of potential adverse impacts.
- c) Purposes and objectives of RAP.
- d) Socioeconomic survey and baseline census survey information.
- e) Review of relevant laws and regulations relating to land acquisition and resettlement.
- f) Specific compensation rates (or alternative measures) for all categories of affected assets.
- g) Other measures, if any, necessary to provide opportunities for economic rehabilitation of displaced persons.
- h) Eligibility criteria for compensation and all other forms of assistance.
- i) Relocation arrangements, if necessary, including transitional support.
- j) Organizational arrangements for implementation.

- k) Consultation and disclosure arrangements.
- l) Resettlement implementation schedule.
- m) Grievance procedures.
- n) Costs and budget.
- o) Supervision arrangements.

If the land acquisition of the new sites has completed within recent two years since the discussed sub-project participates the phase II project, or since appraisal of the phase II project, the subproject enterprise is responsible for the preparation of a Due Diligence Report to make sure that there is no legacy issue in compensation and resettlement.

The content of the due diligence report should include (but not limited to) the following:

- a) Resettlement impacts of the project ,including affected land types, quantity of land acquisition and land use, affected people (quantity and composition) compensation measures, status of compliance with national and local regulations;
- b) The negative economic and social impacts of land expropriation;
- c) Changes in land use and land tenure caused by land expropriation, and the risks and impacts resulting from land expropriation;
- d) Social conflicts and legacy problems caused by land expropriation;
- e) The complaints, feedback and opinions of the affected communities;
- f) Feasible corrective measures (if applicable) in accordance with the requirements of this RPF.

If an abbreviated RAP is to be prepared, it also must be based on principles and planning and implementation arrangements established in this RPF. An abbreviated RAP normally includes the following contents,

- a) A census survey of displaced persons and valuation of assets.
- b) Description of compensation and other resettlement assistance to be provided.
- c) Eligibility criteria.
- d) Consultation and disclosure arrangements.

- e) Organizational arrangements for implementation.
- f) Timetable and budget.
- g) Supervision arrangements.
- h) Grievance procedures.

In the process of resettlement planning and implementation, gender factors should be taken into account. Through extensive and equal participation and consultation of women affected by land acquisition and relocation, the sensitivity of gender issues should be understood to promote social equity and gender equality. Equal participation and gender sensitivity will be reflected in the implementation of the project, such as targeted capacity training, consulting, compensation, livelihood rehabilitation and other related project activities.

In addition, the project will also pay attention to other vulnerable groups, to understand their vulnerability and sensitivity of land expropriation process, ensure they are all involved in the process of land expropriation, and formulate relevant supporting measures to prevent their income from decreasing because of land acquisition, and enjoy the benefit of the project.

IX. Implementation Arrangements

All displaced persons are eligible for compensation and/or other forms of assistance, as relevant to the nature of impacts affecting them.

In general, people eligible for compensation would include those affected in the following ways:

Land to be permanently acquired for the project: This includes a) owners with formal legal title, b) land users eligible for formal legal title under the Chinese law, and c) those residing on, or using, state land prior to an established cut-off date, usually the date of public notification regarding the specific civil works activity that would cause displacement. Displaced persons in categories a) and b) are entitled to compensation at replacement cost. In lieu of formal compensation, displaced persons in category c) are

provided with alternative forms of assistance, in value equivalent to replacement cost.

Loss of houses, other structures and fixed assets, including trees and standing crops:

Owners of houses and other assets (regardless of whether they hold land title or building permits for structures erected prior to the cut-off date).

Losses associated with temporary impacts: This includes temporary loss of land, and transitional costs associated with moving, or disturbance to businesses during construction.

Specifically, displaced persons will be entitled to the following types of compensation and rehabilitation measures,

1. Displaced persons losing farm land

a) The preferred mechanism for compensation of lost farm land will be through provision of replacement land of equal productive capacity and satisfactory to the displaced person. If satisfactory replacement land cannot be provided, compensation at replacement cost should be provided.

b) Displaced persons should be compensated for the loss of crops at market price, for cash trees at net present value, and for other fixed assets (ancillary structures, wells, fences, irrigation improvements) at replacement cost.

c) Compensation will be paid for temporary use of land, at a rate tied to duration of use, and the land or other assets will be restored to prior use conditions at no cost to the owner or user.

d) Provision of livelihood restoration assistances to vulnerable groups.

2. Displaced persons losing residential land and structures

a) Loss of residential land and structures will be compensated either in-kind (through replacement of house site and garden area of equivalent size) satisfactory to the displaced person or in cash compensation at replacement cost.

b) If after partial land acquisition the remaining residential land is not sufficient to

rebuild or restore a house of other structures of equivalent size or value, then at the request of the displaced person the entire residential land and structure will be acquired at replacement cost.

- c) Compensation will be paid at replacement cost for fixed assets.
- d) Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area and will be assisted in identifying alternative accommodation.

3. Displaced persons losing business

Compensation for loss of business will involve, as relevant: (i) provision of alternative business site of equal size and accessibility to customers, satisfactory to the displaced business operator; (ii) cash compensation for lost business structures; and (iii) transitional support for loss of income (including employee wages) during the transition period.

4. Infrastructure and access to services

Infrastructure (such as water sources, roads, sewage systems or electrical supply) and community services (such as schools, clinics or community centers) will be restored or replaced at no cost to the communities affected. If new resettlement sites are established, infrastructure and services consistent with local standards will be provided at no cost to the relocated persons.

X. Rehabilitation Measures

Most of the sub-projects will be carried out in the suburbs, since it is near the city, industrial and other off-farm activities were the main ways of living, and incomes from agriculture will be a small portion. In order to mitigate adverse impacts from land acquisition, mitigating measures should be taken by subproject owners, including: (1) compensatory payment for land loss and (2) Provide assistances to livelihood restoration of affected persons, in particular to vulnerable groups, and (3) provide social

security such as endowment insurance, vocational training and reemployment assistance to eligible affected person as appropriate. These measures make sure that the living standard of affected people be restored or improved. The RAP shall assess the significance of impacts to be imposed on displaced persons, and provide measures to assist those displaced persons in adapting to a new living environment.

XI. Consultation and Disclosure

To promote active project participation and adaptation to changed living circumstances, displaced persons should be provided with opportunities to participate in planning and implementation of the project. Displaced persons should be consulted on preferences and concerns during the resettlement action planning process. All displaced persons should be informed of potential impacts and proposed mitigation measures, including compensation rates. The RAP will be disclosed, in a manner and location accessible to displaced persons and the public.

1 Participation in Preparation Stage

- 1) The responsible persons of the local government and each relevant department held discussions and briefing meetings to introduce major technical standards, construction meanings, and project schedule, etc. so as to make the local government understood all conditions of this project in detail.
- 2) Publicize and report the related legal regulations and construction condition so as to let the affected people and the public have good understanding of this project.
- 3) Collect opinions of the affected people on land acquisition and house demolition.

- 4) Publicize the work of land acquisition and house relocation, as well as the implementation schemes.

2 Public Participation in Land Acquisition, House Relocation and Implementation

A. Participation in House Reconstruction

(1) Housing compensation criteria

Before the houses relocated, the relevant resettlement authority will consult and sign an agreement with the resettlers on the compensation criteria for the houses. The consulting results will be disclosed before the agreement signed so as to put the resettlement under public supervision.

(2) Location of new house site

During preparation of the land acquisition, removal and resettlement, the relevant department has carried out a survey on the new house site, construction mode and other issues.

(3) Demolition of old houses

All the old houses to be demolished will be compensated at replacement cost.

B. Participation in Management of Land Compensation

The use of compensation fund should be decided after consultation and discussion with affected people and affected communities.

C. Participation in Project Construction

In order to ensure the affected persons to get benefits from the project, the local people will be encouraged to take part in the project such as provision of local materials and labor force.

XII. Implementation Arrangements

Once land acquisition is confirmed and preliminary design is adopted, field investigation on details of the land and its ground attachments should be carried out by

the local qualified agencies employed by sub-enterprise. During the on-site investigation, scope of land acquisition and the impacts should be measured carefully and recognized by affected people. Social and economic background survey should be carried out to understand the degree of resettlement and the willingness to remove the relocated people. Based on the investigation, The RAP should be prepared by social and immigration experts employed by subproject owner side. The RAP reviews organizational arrangements to ensure that implementation procedures are clear, that responsibility is clearly designated for provision of all forms of assistance, and that adequate coordination among all agencies involved in RAP implementation is assured.

The RAP should include institutional arrangements, list the responsibilities and responsibilities of the executive agencies, and assess the executive capacity. If there is a gap in capacity, we should put forward suggestions for capacity-building. The resettlement plan of action should ensure the clear implementation of the procedures and the full coordination of institutions involved in the implementation of the resettlement program.

The RAP must include a detailed implementation schedule, linking the project construction timetable to resettlement-related activities. The implementation timetable should establish that compensation (in cash or in kind) should be paid in 3 months prior to the initiation of civil works.

XIII. Costs and Budget

Each resettlement action plan will include detailed cost of compensation and other rehabilitation entitlements and resettlement of displaced persons, and the project enterprise is responsible for the source of funds. The cost estimates will also include adequate costs for contingencies, livelihood restoration cost and assistances for vulnerable groups. The resettlement action plans will explicitly establish sources for all funds required, and resettlement fund flow should be compatible with the timetable for payment of compensation and provision of all other assistance. As the principle

requirement, the fund circulation shall benefit directly the impacted group as far as possible and the intermediate procedures and links shall be reduced to the greatest extent during such process.

XIV. Grievance Redress Procedure

In order to ensure that consultation, disclosure, and community engagement continues throughout the project implementation, the enterprises will establish a grievance mechanism, to make sure that all complaints of affected persons will be responded in time.

Sub-project owner should announce the grievance redress procedure to the affected groups or individuals during the public consultation. The grievance mechanism shall consist of (1) recording and reporting system, including written and oral grievance; (2) persons in charge of grievance; (3) Time required to grievance respond. The procedure is as follows, any people affected by adverse environmental impacts from the sub-project may write or talk to the sub-project owner directly and the sub-project owner should solve the issues with limited certain time. If affected people are not satisfied with the result, they may forward their grievance to the provincial PMO and the land and resource administration department. If the decision of land and resource administration department is not acceptable to the affected people, they may forward their appeal to a court. Such a grievance mechanism will be specified in the resettlement plan of the sub project.

The relevant units shall conduct on-site investigation if resettled persons present difficulties, problems and dissatisfaction, fully solicit the affected person's advice, and put forward opinions objectively and impartially according to the principles and standards of national laws and regulations and resettlement plan.

XV. Resettlement Supervision

To ensure that all affected people get adequate compensation, and to ensure that their incomes and ways of living are recovered after relocation, project implementation should be under internal and external supervision. Subproject owner is responsible for the internal supervision and external supervision and evaluation should be conducted by an independent qualified agency contracted by the project owner.

Internal Supervision

The overall goal of internal supervision is to guarantee the implementation according to approved "Resettlement Action Plan". Specific goal is as follows: (i) according to planned schedule and budget, to inspect the implementation condition of the important issue during resettlement and the project preparation stage. (ii) ensure to have the unblocked channel for consulting and ideal exchanging between the affected persons and manager; (iii) guarantee that the affected persons would get the full payment on time; and (iv) check whether the complaint is handled according to time limited. It is the resettlement implementation organization to take the responsibilities for the internal supervision.

The External Independent Supervision and Evaluation

The external supervision institution employed by the project enterprise will carry out regular supervision and evaluation on the land acquisition and relocation as well as resettlement from the outside of resettlement organization, to supervise and evaluate whether the target of the resettlement is realized, by which evaluation opinions and proposals will be put forward on the resettlement and restoration of the resettlers' living standards, and to provide predicting and alarming system to the project management and reflecting channel to the resettles. The external supervision institution should provide supervision reports and management recommendations to enterprises every three months. Enterprises will report FECO and the World Bank at the same time, so as

to keep abreast of the project process and problems. The contents of the supervisory report should be included in the project progress report

The external supervision institution will be the consultant for the local PMO in relation to project-led resettlement. It will conduct follow-up investigation, supervision and evaluation of the resettlement activities according to the RAP and provide advice for decision-making.

Main Indicators for Supervision

A. Progress: including preparation, implementation of land requisition and resettlement.

B. Quality: including civil work construction quality and degree of resettles” satisfaction.

C. Investment: including allocation and use of the funds

Main Indicators for Evaluation

A. Production and living conditions of resettlers

(1) Economic conditions: household economic development before and after resettlement, including assets, production materials, subsistence materials, income, etc.

(2) Employment: changes in employment, including employment rate, assistance to the different PAPs, especially the vulnerable PAPs and minority.

(3) Development in community: local economy in resettlement host sites

B. Infrastructure

Changes in infrastructure in the affected area before and after the Implementation

C. Enterprises and institutes

Changes in the business condition and environment before and after resettlement