

PRC THEMATIC REPORT NO. 4

**Reforming the Legal and Policy Framework
for Land Acquisition to Manage Impoverishment Risks**

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I. Current Legal and Policy Framework for Land Acquisition in the People's Republic of China (PRC)

A. Legal Basis for the State to Requisition Land

1. Provisions in the Constitution of the PRC

a. Provisions concerning land ownership

Article 10 of the Constitution of the PRC states that:

- Land in the cities is owned by the state.
- Land in the rural and suburban areas is owned by collectives, except for those portions that belong to the state in accordance with the law; house sites and private plots of cropland and hilly land are also owned by collectives.

b. Provision concerning land acquisition by the State

The state may, in the public interest, lawfully expropriate or requisition land by paying compensation to collectives.

2. Provisions in the Land Administration Law of the PRC

a. Provisions concerning land ownership

Article 2: The PRC practices socialist public ownership of land, namely, ownership by all the people and collective ownership by the people working the land.

b. Provisions concerning land acquisition

Article 2: The state may, in the public interest, lawfully expropriate or requisition land by paying compensation.

Article 43: All units and individuals that need land for construction purposes shall, in accordance with law, apply for the use of state-owned land, with the exception of those that have lawfully obtained approval for using land owned by peasant collectives of their own collective economic organizations to build townships or town enterprises or to build houses for villagers and those that have lawfully obtained approval for using land owned by peasant collectives to build public utilities or public welfare undertakings of a township (town) or village.

The state-owned land mentioned in the preceding paragraph includes land owned by the state and land originally owned by peasant collectives but expropriated by the state.

B. Compensation for Land Acquisition

1. Principles for Resettlement Compensation

Subject to Article 47 of the Land Administration Law of the PRC, land expropriation shall be compensated based on its original purpose of use.

2. Compensation Matters

Article 47 of the Land Administration Law of the PRC states that compensation for expropriated cultivated land shall include compensation for land, resettlement subsidies, and for attachments and young crops on the expropriated land.

a. Compensation for land

This is compensation for losses of investment in and proceeds from land caused by the state's land acquisition against the landowners. Landowners are the objects of compensation.

b. Resettlement subsidies

This is compensation for land-loss farmers whose livelihoods are affected due to the state's requisition of collective land from those who rely on land for their main productive means and income source.

c. Compensation for young crops

Lump-sum economic compensation for losses caused by land acquisition against the crops growing on the requisitioned land such as paddy, wheat, corn, potato, and vegetables.

d. Compensation for attachments on the acquired land

Payments for relocation and restoration of various buildings and structures on the requisitioned land, such as houses, wells, roads, pipelines and aqueducts, as well as compensation or felling charges for forest (trees) on the requisitioned land.

e. Other compensation

Compensation other than the compensation for land, resettlement subsidies, compensation for attachments on the requisitioned land, and compensation for young crops—This is compensation paid for other losses caused by land acquisition against the affected units and farmers, such as water restoration charges for conservancy facilities, charges for loss of working time, relocation charges, and infrastructure restoration charges.

3. Compensation Standards

a. Standard of compensation for expropriation of cultivated land

Subject to paragraph 2, Article 47 of the Land Administration Law of the PRC, compensation for expropriation of cultivated land shall be six to 10 times the average annual output value of the expropriated land for the 3 years preceding such expropriation.

b. Standard for resettlement subsidies for expropriation of cultivated land

Subject to paragraph 2, Article 47 of the Land Administration Law of the PRC, the standard

resettlement subsidies to be divided among members of the agricultural population of a collective needing resettlement shall be four to six times the average annual output value of the expropriated cultivated land for the 3 years preceding such expropriation. However, the highest resettlement subsidies for the expropriated cultivated land shall not exceed 15 times its average annual output value for the 3 years preceding such expropriation.

c. Standards of compensation for attachments and young crops

Subject to paragraph 4, Article 47 of the Land Administration Law of the PRC, provinces, autonomous regions, and municipalities directly under the central Government shall prescribe the compensation for attachments and young crops on the expropriated land. Provinces, autonomous regions, and municipalities have developed their own regulations on the standards for compensation for attachments and young crops on the requisitioned land when implementing the Land Administration Law of the PRC.

d. Standards of land compensation and resettlement subsidies for expropriation of other types of land

Subject to paragraph 3, Article 47 of the Land Administration Law of the PRC, standards for land compensation and resettlement subsidies for expropriation of other types of land shall be prescribed by provinces, autonomous regions, and municipalities directly under the central Government by reference to the standards of compensation and resettlement subsidies for expropriation of cultivated land. Generally, provinces, autonomous regions, and municipalities have developed their regulations on the standards of land compensation and resettlement subsidies for the expropriation of other types of land, which is, by developing the implementation measures of the Land Administration Law of the PRC, considering local actual conditions and within the limits stated by law. But these standards are all lower than the compensation standard for cultivated land. For example, the Land Administration Regulations of Hebei Province states that: compensation for expropriation of land other than cultivated land shall be five to eight times the average annual output value of the cultivated land, which is in the same village (town) as the expropriated

land for the 3 years preceding such expropriation. Compensation for expropriation of unutilized land shall be four to five times the average annual output value of the cultivated land, which is in the same village (town) as the expropriated land for the 3 years preceding such expropriation.

The Decision of the State Council on Deepening the Reform of Strict Land Administration, issued in October 2004, states that land acquisition compensation measures shall be improved. If land compensation and resettlement subsidies paid in accordance with the provisions of the current law are still insufficient to help the land-loss farmers to maintain original living standards, the resettlement subsidies may be increased upon approval by the people's governments of provinces, autonomous regions, and municipalities directly under the central Government. If the total of the land compensation and resettlement subsidies are still insufficient to help the land-loss farmers to maintain original living standards when reaching the legal upper limit, the local people's governments may pay subsidies with income received from compensated use of state-owned land.

4. Objects of Land Acquisition Compensation

Subject to provisions of law, compensation for land acquisition shall be fully paid to the APs as follows:

- (i) If the land is owned by the rural collective economic organization, it shall be paid to the rural collective economic organization whose land is requisitioned;
- (ii) Resettlement subsidies are exclusively for arranging production and living for the land-loss farmers; and
- (iii) Compensation for attachments and young crops shall be paid to the owners of attachments and young crops on the requisitioned land.

5. Payment of Land Acquisition Compensation

Subject to Article 25 of the Implementation Regulations of the Land Administration Law of the PRC, land acquisition compensation shall be fully paid within 3 months from the date of approval of the land acquisition and resettlement programs.

C. Resettlement Policy for Land-loss Farmers

1. Overall Principle for Resettlement of Land-loss Farmers

Subject to Article 47 of the Land Administration Law of the PRC, an overall requirement for resettlement of land-loss farmers is to enable the farmers needing resettlement to maintain their original living standards.

The Decision of the State Council on Deepening the Reform of Strict Land Administration, issued in October 2004, requires that land-loss farmers shall be resettled properly. Land acquisition compensation and resettlement subsidies shall not only enable the land-loss farmers to maintain their original living standards but shall also guarantee their long-term livelihood.

2. Mode of Resettlement

Subject to Article 47 of the Land Administration Law of the PRC, the main mode of resettlement now is to allocate a part of the charges (resettlement subsidies) from the land acquisition compensation to be used especially for the production and living of land-loss farmers, the standard for which is four to six times the average annual output value of the expropriated cultivated land for 3 years preceding such expropriation. This mode of resettlement is called cash resettlement. Generally, resettlement subsidies are paid to those responsible for the resettlement of land-loss farmers. For example:

- (i) If the people needing resettlement are resettled by their rural collective economic organization, the resettlement subsidies shall be paid to the rural collective economic organization.
- (ii) If they are employed by another unit, the resettlement subsidies shall be paid to the employer.
- (iii) If they intend to find a job by themselves instead of needing resettlement by the rural collective economic organization, or another unit, the resettlement subsidies shall be paid to the individuals or used for the payment of insurance premiums of the resettled people upon agreement with the APs.

In addition, Article 50 of the Land Administration Law of the PRC also states that the local people's government at all levels shall support the rural collective economic organizations—the land of which is expropriated—and the peasants in their efforts to engage in the development of other business operations or to start enterprises.

The Decision of the State Council on Deepening the Reform of Strict Land Administration, issued in October 2004, states that within the planned area of a city, the local people's government should include landless farmers affected by land acquisition into the urban and town employment system and into the established social security system. Outside the planned area, when collectively owned land is taken, the local people's government should reserve necessary cultivated land for the farmers or provide appropriate jobs for them within its administrative area; where local provision does not meet basic productive and living conditions as set out under Article 47, then landless farmers should be resettled in different area(s).

The Ministry of Land and Resources issued the companion document Guiding Opinions on Improving the Land Acquisition Resettlement System of the Decision of the State Council on Deepening the Reform of Strict Land Administration at the end of 2004. It further clarifies the ways of resettlement for land-loss farmers, including resettlements through agricultural production, new jobs, shareholding and dividend distribution, and relocation in other places. The details are as follows:

a. Resettlement through agricultural production

In the acquisition of the farmers' collective land outside the urban planning area, rural collective flexible land, and contracted land¹ returned voluntarily by contracting farmers, circulation of contracted land, newly increased land through land development, and rearrangement, shall be utilized first to provide arable land to land-loss farmers to continue with their agricultural production.

b. Resettlement through new jobs

Conditions shall be created proactively to provide land-loss farmers with free labor skills training and to

arrange appropriate jobs. Similarly, land users shall absorb and employ land-loss farmers in a preferential way. In the acquisition of farmers' collective land inside the urban planning area, land-loss farmers shall be involved in the urban employment system and a social security system shall be established for them.

c. Resettlement through shareholding and dividend distribution

If the land is used for a project that has long-term steady returns, and if the affected farmers agree, the rural collective economic organizations may buy—through negotiations with the land users—shares with the land acquisition compensation and resettlement subsidies, or with the land use rights of the approved land used for construction. Rural collective economic organizations and farmers shall receive proceeds with preferential shares through contract agreements.

d. Resettlement through relocation in other places

If no basic production and living conditions can be provided for the land-loss farmers in local areas, then after the opinions of the rural collective economic organizations and farmers are fully solicited, the Government may relocate the farmers in other places.

D. Procedures for Land Acquisition

1. Declaration of Land Acquisition

Articles 20 and 23 of the Implementation Regulations of Land Administration Law of the PRC expressly specify detailed procedures for the declaration of land acquisition:

a. A survey on land acquisition conditions

The people's government of cities and counties shall, in accordance with the needs of urban development or after the prospective land users file a petition for use of land (through the local land administration departments) carry out a field survey in the village or unit of which land is under acquisition. This survey must be done taking into consideration the agricultural population, per capita arable land, annual output value, land area, land type, and land ownership of the village or unit affected.

¹ The subject of the contracted land-use right can be changed legally, ensuring that there are no changes of original purpose of the contracted land.

b. Drafting of a land acquisition program

A land acquisition program is the basis for the Government to approve land acquisition and carry out land acquisition compensation and resettlement. Land administration departments of the people's governments of cities and counties shall draft the land acquisition program based upon a comprehensive survey of the prospective site.

c. Reporting to the people's governments at the provincial level or the State Council

Land administration departments of the people's governments of cities and counties shall submit the land acquisition program and other materials necessary for approval to the land administration departments of the people's governments of the cities (prefectures) for assessment. If the materials are eligible and complete, they can be reported to the people's governments at the provincial level or the State Council for approval.

The Decision of the State Council on Deepening the Reform of Strict Land Administration, issued in October 2004, expressly states that before land acquisition is formally approved according to law, local land resource departments shall inform the affected farmers of the purpose, location, and compensation standard, resettlement modes for the land to be requisitioned. The field survey results shall be subject to confirmation by the rural collective economic organizations and affected farmers. If deemed necessary, land resource departments shall organize a hearing. The Government requires that relevant materials should be provided to affected farmers for the purposes of the hearing before land acquisition can be formally approved.

Articles 19 and 20 of the Provisions on Hearing for Land Resource state that before the land acquisition is approved according to law, land administration departments shall inform the rural collective economic organizations and farmers in writing that they have the right to require holding a hearing. If a party requires a hearing, the hearing shall be organized.

2. Review and Approval of Land Acquisition

Land acquisitions shall be reviewed and approved by the State Council of people's governments at the provincial level. The approval authority is expressly stated in Article 45 of the Land Administration Law of the PRC.

a. Approval authority of the State Council

Approval shall be obtained from the State Council for expropriation of the following land:

- Capital farmland (basic farmland),² cultivated land not included in basic farmland that exceeds 35 hectares (ha); and
- Other land that exceeds 70 ha.

b. Approval Authority of the people's governments at the provincial level (smaller holdings)

Expropriation of land other than that provided for in the preceding paragraph shall be subject to approval of the people's governments at the provincial level. Specific approval authority of the people's governments at the provincial level covers:

- Expropriation of cultivated land less than 35 ha (excluding capital farmland);
- Expropriation of other land less than 70 ha.

3. Implementation of Land Acquisition

Implementation procedures for land acquisition are stated in Article 46 of the Land Administration Law of the PRC and Article 25 of Implementation Regulations of the Land Administration Law of the PRC, including:

a. Announcement of land acquisition program

Where land is to be expropriated by the state, people's governments of cities and counties shall announce, after approval is obtained through legal procedure, the expropriation. Units and individuals that own or have the right to the use of the land under expropriation 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.

² Basic farmland refers to cultivated land which cannot be occupied for construction purposes, according to the overall land utilization plan. The main purpose is to protect basic farmland to meet the needs of farm products by people and the development of society and the economy. Generally, basic farmlands are fertile and have high production.

b. Formulation of land acquisition compensation and resettlement programs

Land administration departments of the people's governments of cities and counties shall, based upon the approved land acquisition program, further verify the holders of land ownership, holders of the right to the use of land, as well as attachments and young crops on the land to formulate the programs for land acquisition compensation, resettlement of people, and relocation of attachments on land.

c. Announcement and implementation of land acquisition compensation and resettlement programs

Upon confirmation, land acquisition compensation and resettlement programs shall be announced by the relevant people's government administration. Opinions of the affected rural collective economic organizations and farmers shall be solicited to revise the land acquisition compensation and resettlement programs. Relevant payment shall be made to the affected rural collective economic organizations and farmers. Programs for resettlement of people and relocation of attachments on land shall be confirmed.

The relevant provisions in Articles 9–11 of the Guiding Opinions on Improving the System Regarding Land Acquisition Compensation and Resettlement by the Ministry of Land and Resources are as follows:

Article 9. Informing about Land Acquisition.

Before land acquisition is approved according to law, local land resource departments shall inform the rural collective economic organizations and farmers in writing of the purpose, location, compensation standard, and resettlement modes for the land to be requisitioned. After informing, if the rural collective economic organizations and farmers build and place any attachments and young crops on the requisitioned land, no compensation will be paid to them.

Article 10. Confirmation of Land Acquisition Survey Results. Local land resource departments shall carry out surveys in respect of the ownership, type, area of the land to be requisitioned, as well as the ownership, type, and quantity of the attachments on the land to be requisitioned. The results shall be subject to confirmation by the rural collective economic organizations, farmers, and holders of right to the attachments on the land to be requisitioned.

Article 11. Organizing the Land Acquisition Hearing. Before land acquisition is approved according to law, local land resource departments shall inform the rural collective economic organizations and farmers that they have rights to apply for hearing for the compensation standard for the land to be requisitioned and the resettlement modes. If a party applies for a hearing, the hearing shall be organized in accordance with the procedures specified in the provisions on hearing for land resource and relevant requirements.

E. Other Provisions

1. Specific Provisions on Land Acquisition Announcement

To regularize implementation by the people's governments after the land acquisition program is approved, the form, content, time, and place of land acquisition are specifically stated in Circular No. 10 of the Ministry of Land and Resources of the PRC.

Article 2. These measures are applicable to the land acquisition announcement, land acquisition compensation and resettlement program announcements.

Article 3. If the farmers' collectively owned land is to be requisitioned, the land acquisition program, land acquisition compensation and resettlement programs shall be announced in writing in local villages or teams where the land is requisitioned.

Article 5. The land acquisition announcement shall contain the following:

- (i) land acquisition approving authority, approval document number, approval date, and approved purpose of the land under requisition;
- (ii) holders of title, location, type, and area of the land under requisition;
- (iii) land compensation standard and resettlement modes for agricultural population; and
- (iv) time line and location for executing the register for land acquisition compensation.

Article 6. Rural collective economic organizations, villagers, or other rights holders whose land is under requisition shall, within the time limit fixed in the announcement, execute the registration procedures for compensation at the designated place by presenting their title deeds.

In case the rural collective economic organizations, villagers, or other rights holders whose land is under requisition fail to execute the registration procedures for compensation, the matters to be compensated shall be subject to results of survey conducted by the land administration departments in the cities or counties concerned.

Article 7. If the land acquisition program is to be approved by the land administration departments in the people's governments in cities or counties together with relevant departments, the land acquisition compensation and resettlement programs shall be agreed upon, within 45 days from the date of land acquisition announcement, with the holders of title to the land under requisition as a unit, and announced.

Article 8. The land acquisition compensation and resettlement program announcements shall contain:

- (i) location, type, area of the requisitioned land of the rural collective economic organization, as well as the type and quantity of attachments and young crops on the requisitioned land, agricultural population needing to be resettled;
- (ii) land compensation standard, amount, target of payment, and manner of payment;
- (iii) resettlement subsidy standard, amount, target of payment, and manner of payment;
- (iv) compensation standard and manner of payment for attachments and young crops on the requisitioned land;
- (v) specific resettlement modes for the agricultural population; and
- (vi) other specific measures related to land acquisition compensation and resettlement.

Article 10. Land administration departments of people's governments of relevant cities and counties shall solicit different opinions of the rural collective economic organizations, villagers, or other holders of rights whose land is under requisition in respect of the land acquisition compensation and resettlement programs. A hearing shall be held for the party concerned, if necessary. If any modification to the land acquisition compensation and resettlement programs is really needed, the modification shall be made in accordance with relevant laws, rules, and the approved land acquisition program.

Article 12. After paying the land acquisition compensation and resettlement subsidies to the rural collective economic organization, the land administration department of the people's government of relevant cities and counties shall have the right to require the rural collective economic organization to provide the payment list within a given time.

Article 13. Land administration departments of people's governments of cities and counties shall accept any inquiry about the contents of land acquisition announcement, contents of land acquisition compensation, and resettlement program announcements as well as any complaints on problems in the implementation, and accept review by the public.

Article 14. If no land acquisition announcement is issued according to law, the rural collective economic organizations, villagers, or other holders of rights whose land is under requisition have the right to require issuing the announcement, and refusing to execute the registration procedures for land acquisition compensation.

Article 15. If any dispute arises because compensation and resettlement have not been implemented in accordance with the land acquisition program, including land acquisition compensation and resettlement programs approved according to law, it shall be subject to resolution by the people's government of a city or county. If this fails, local people's government at the next higher level shall decide it. No dispute over land acquisition compensation and resettlement shall affect the implementation of land acquisition programs.

2. Specific Provisions for Hearings on Land Acquisition Compensation and Resettlement

In the process of land acquisition implementation, land-loss farmers may apply for a hearing according to law if they have any objection to the land acquisition compensation and resettlement programs. Articles 19 and 20 of Circular No. 22 of the Ministry of Land and Resources of the PRC on the Provisions on Hearing for Land Resource that before any land acquisition is approved according to law, land administration departments shall inform the parties concerned in writing that they have the right to require holding a hearing. If a party requires a hearing, it shall be organized.

3. Provisions on the Supervision of Land Acquisition Implementation

Notice of the Ministry of Land and Resources on Strengthening the Land Acquisition Administration (Guotuzifa [1999] No. 480, issued on 24 Dec.) points out that the system should be open and should establish a supervision mechanism in the unit whose land is requisitioned. Every region shall, in accordance with the provisions of law, disclose the working procedures of land acquisition, and make land acquisition compensation and resettlement more transparent. All fees for land acquisition must be paid fully and duly without any arrears pursuant to provisions of law. Every region shall clear the unsettled problems of land acquisition fees in arrears by taking effective measures. Land administration departments of cities and counties shall be responsible for supervision and shall urge relevant units to settle such problems within a time limit. Any behavior of embezzling, retaining, or misappropriating the land acquisition fees shall be investigated and prosecuted according to law. All land acquisition compensations and resettlement subsidies paid to the rural collective economic organizations shall be managed through opening a financial account to be used by the villages (teams) and managed by the towns. Land administration departments of cities and counties shall make greater efforts to supervise and assist the rural collective economic organizations to establish a system of open use of land acquisition fees. If the compensation and resettlement subsidies are to be used under collective arrangements, the consent of more than two thirds of the members in the rural collective economic organization shall be obtained. The receipt, payment, and purpose of the land compensation shall be made known to the members of the rural collective economic organizations to allow supervision by them and to avoid any malpractice.

Decision of the State Council on Deepening the Reform of Strict Land Administration (2004) No. 28 points out the need to strengthen supervision of the implementation of land acquisition. When land acquisition compensation and resettlement are not in place, the land cannot be used through forcible means. The people's governments of provinces, autonomous regions, and municipalities should work out the procedures for distributing land compensation within the rural collective economic organizations based on the principle of land compensation being primarily used for the farmer households whose land has been taken.

The rural collective economic organizations should make public the status of revenue and expenditure and distribution of land compensation to their respective members and allow monitoring by all. Agricultural and civil affairs departments should strengthen the monitoring of distribution and use of land compensation within the rural collective economic organizations.

The Guiding Opinions on Improving Land Acquisition Compensation and Resettlement, issued by the Ministry of Land and Resources at the end of 2004, points out the need for disclosure of approved matters relating to land acquisition. For the land to be requisitioned upon approval according to law, except in special circumstances related to the state's confidential provisions, the Ministry of Land and Resources and provincial land resource departments shall disclose the approved matters for land acquisition to the public through the media. Land resource departments of counties (cities) shall announce the approved matters for land acquisition in local villages or teams of which the land is requisitioned in accordance with the provisions in the Measures for Announcement for Land Acquisition.

a. Payment of land acquisition compensation and resettlement subsidies

After the people's government of cities and counties approves the land acquisition compensation and resettlement programs, the land acquisition compensation and resettlement subsidies shall be paid to the appropriate rural collective economic organizations within the time limit stated by law. Local land resource departments shall cooperate with the agricultural and civil affairs departments to supervise the distribution and use of land acquisition compensation and resettlement subsidies within the rural collective economic organizations.

b. Supervision and verification after the land acquisition is approved

Land resource departments at all levels shall supervise and verify the implementation of land acquisition programs approved according to law. If the land-loss farmers' living standards are degraded due to land acquisition, local land resource departments shall cooperate with relevant departments of the governments to take effective measures to improve the land-loss farmers' production and living, and maintain social stability.

4. Punishment for Violating Laws and Regulations in Land Acquisition

a. Article 410 of the Criminal Law of the PRC

Government agency officers who with severe misconduct, violation of the land administration rules, misuse of official power, illegal approval of land expropriation or occupancy, or transfer of state-owned land use right illegally at a low price, will be sentenced to a maximum of 3-year fixed-term imprisonment or be arrested. Those who cause heavy losses to the state or collectives' interest will be sentenced to more than 3-year fixed term but less than a 7-year fixed-term imprisonment.

b. Article 78 of the Land Administration Law of the PRC

Where units or individuals that have no authority to approve expropriation or use of land unlawfully approve the use of land, or they do so by overstepping their authority, or approve the use of land at variance with the purposes defined in the overall plan for land utilization, or approve the use of land in violation of

the procedure prescribed by law, the documents of such approval shall be void and the persons directly in charge and other persons directly responsible for illegally approving such expropriation and use of land shall be administratively sanctioned in accordance with law. If the violations constitute crimes, criminal responsibility shall be investigated in accordance with law. The land illegally approved for use shall be taken back. If the parties concerned refuse to return the land, they shall be regarded as illegal users. Units or individuals that cause losses to the parties by illegally approving expropriation or use of land shall bear the liability to pay compensation in accordance with law.

c. Article 79 of the Land Administration Law of the PRC

Whoever embezzles or misappropriates compensation or other relevant charges paid to a unit whose land is expropriated or other relevant charges paid to a unit whose land is expropriated, and the violation constitutes a crime, shall be investigated for criminal responsibility in accordance with law. If the violation is not serious enough to constitute a crime, he shall be given administrative sanctions in accordance with law.

II. Overview of Innovations in Policy and Practice of Resettlement Risk Management

A. State-Level Policy Innovation

The State Council and the Ministry of Land and Resources (MLR) have made concerted efforts to improve land expropriation policy with a view to addressing the defects in the prevailing land expropriation system, where compensation standards for land expropriation are on the low side, resettlement measures are not well implemented, and land expropriation procedures are unreasonable, besides the problems that arise in land expropriation caused by these defects.

1. Improving Regulations and Systems and Strengthening Land Expropriation Administration

Since 1999, the MLR has paid attention to the amendments of rules and systems, strengthened land expropriation administration, issued a series of normative documents and measures, and continuously improved the prevailing land expropriation system. In recent years, it has successively issued the Notice on Strengthening the Land Expropriation Administrative Work (Guotuzifa [1999] No. 480), the Measures on Announcement of Land Requisition (Guotuzifa [2001] No. 10), the Notice on Practically Doing Well the Land Expropriation Compensation and Resettlement Work (Guotuzifa [2001] No. 358), the Notice on Practically Maintaining Valid Interests of the Land-taken Farmers (Guotuzifa [2002] No. 225), the Notice on Further Taking Measures to Implement the System of Strictly Protecting Cultivated Land (Guotuzifa [2003] No. 388), the Regulations on Hearings of Land Resources, requiring each level of land resources administrative departments fully to understand the significance of good practice in land expropriation work, and to fulfill the duties of land resources administrative departments according to law, make a strict review of land expropriation compensation

and resettlement according to law, strengthen the post-approval tracking and review work of land expropriation, and assure enforcements of various statutory land expropriation systems. At the same time, it has actively sought effective solutions to land expropriation issues, investigated and prosecuted law, or discipline-breaking behaviors in land expropriation, and promoted the valid interests of land-taken farmers, while assuring land use for economic construction purposes.

2. Strengthening Auditing of the Implementation of Approved Land Expropriation Plans

The MLR organized an audit team made up of land expropriation administrators and policy researchers annually, and conducted follow-up and review of implementation of approved land expropriation plans in selected regions. In these reviews, the members of the audit team take into account materials submitted for approval of land expropriation and land expropriation compensation and resettlement plans, interviews and investigations, visits to land-taken farmers to examine and verify the implementation of land expropriation compensation and resettlement plans, check projects in which land expropriation compensation and resettlement expenses are not duly paid and request due payments within a time limit. The auditing work has effectively boosted the local governments' consciousness in handling affairs according to the law, and maintained land interests of farmers.

3. Actively Advancing Reform of the Expropriation System for the Long Term

Together with strengthening the land expropriation administrative work and enforcing the prevailing regulations and policy rules, the MLR has also taken a longer-term view. It also actively studies and explores

the direction of reform of the land expropriation system in seeking more permanent solutions to land expropriation issues.

In 1999, the MLR formally set up a task team to study the reform of the land expropriation system, engaging in theoretical research and on-site survey work. This task team has carried out studies and continuously fed their findings into decision making at the national level. In 2000, the study on the reform of the land expropriation system was formally listed in the soft science research plan of the MLR. In 2002, the Leading Group Office of Central Rural Work conducted a survey jointly with the MLR for improving the land requisition system. In the same year, the reform of the land expropriation system was also listed in the key research topics of the MLR. The development of these research activities provides a theoretical basis for exploring and resolving many of the major problems to be confronted in the design of the land expropriation system. In the meantime, the MLR also started two rounds of reform pilot work in 19 cities in 2001.

To resolve the problems that have arisen in land expropriation in the PRC, the key is to resolutely reform the unreasonable parts of the prevailing land expropriation system, and to develop a new system, consistent with social-market approaches to economic development, and consistent with the current situation in the PRC. Since 2003, the Leading Group Office of Central Rural Work has taken the lead in organizing relevant departments in drafting central policy documents related to the reform of the land expropriation system. The reform pilot work of land expropriation system organized by the MLR has also been further deepened. The drafting work of Land Expropriation and Requisition Rules and the amending, counseling, and drafting work of relevant articles of the Land Administrative Laws led and organized by the Legislative Affairs Office of the State Council are ongoing.

4. The State Council's Decision to Improve the Land Expropriation System

In October 2004, the central Government issued the Decision of the State Council on Deepening Reform and Strengthening Land Administration, on the condition that no major amendments are made to the laws, made important improvements to the prevailing land expropriation system, which are specifically described here:

a. It raises the requirements for land expropriation compensation

The fourth special report points out that land expropriation compensation and resettlement shall not only sustain the original living standards of the land-taken farmers, but shall also provide land-taken farmers with security for their long-term livelihoods. The measures on land expropriation compensation shall be revised. For those who have been paid land compensation and resettlement subsidies according to existing laws and regulations, but the payments are not sufficient to restore the original living standards and to pay for social security costs, the people's governments of the provinces, autonomous regions, and municipalities should approve increases in resettlement subsidies. When the aggregate amount of the land compensation and resettlement subsidies reaches the legal ceiling and still cannot ensure that land-taken farmers restore their original living standards, the local people's governments may use the revenue from the paid use of public land to subsidize them.

b. It puts forward more express policies on resettlement approaches for land-taken farmers

In city planning, the local government should integrate the land-taken farmers into the employment and social security systems of cities and towns. Outside the planning, the Government should keep necessary farmland or arrange appropriate jobs for land-taken farmers in its jurisdiction during the acquisition. The land-taken farmers that lack the basic conditions for their production and living should be relocated.

c. It makes important supplements to land expropriation procedures, especially to preapproval procedures

Before land expropriation is submitted for approval according to laws, the land-taken farmers shall be advised about: (i) the purpose and location of land proposed to be expropriated; (ii) compensation standards and resettlement approaches; and (iii) the results of surveys on the status of land proposed to be expropriated (to be confirmed by the land-taken rural collective economic organizations and farmers). If necessary, the land resources administrative departments

shall organize hearings according to relevant provisions and make relevant materials known to and confirmed by the land-taken farmers as the necessary materials for approval of land expropriation.

B. Local Government Innovations in Policy and Practice of Land Acquisition

1. Provincial Governments' Policy Measures

a. Jiangsu

With improvement of living standards, thanks to social and economic development in Jiangsu Province, the previous land-loss compensation standards have become out of date. Against this background, and in the light of relevant laws and social development levels as well as current land values, Jiangsu decided to divide the province into four areas in which different compensation standards apply.

On 19 December 2003, the provincial government issued the Notice on Adjusting Land Acquisition Compensation Standards, which came into effect 1 January 2004. This move is expected to set a new benchmark. According to the new standards:

- (i) Compensation for croplands should be 10 times the average output in the previous 3 years from the expropriated land. The minimum standards for the output, according to the four categories, are yuan (CNY) 27,000; 24,000; 21,000; 18,000/ha in the first, second, third, and fourth categories respectively.³
- (ii) Resettlement subsidy for the land-loss farmers is calculated based on numbers of resettled farmers, which is determined by the area of land taken divided by the average land available for a certain economic group before the land is expropriated. The minimum resettlement subsidy falls into four categories, namely, CNY20,000; CNY17,000; CNY13,000; and CNY11,000 respectively.

³ In Jiangsu, the province is divided into four categories of areas in which different compensation standards apply according to the different socioeconomic development and land value in each area. For example, Xuanwu district of Nanjing in Jiangsu province is regarded as the first category and its minimum standard of land compensation is yuan (CNY) 27,000/hectare (ha); Liuhe district of Nanjing in Jiangsu province is regarded as the second category and its minimum standard of land compensation is CNY 24,000/ha; Haimen city in Jiangsu province is regarded as the third category and its minimum standard of land compensation is CNY21,000/ha; and Dongtai city in Jiangsu province is regarded as the fourth category and its minimum standard of land compensation is CNY18,000/ha.

(iii) Resettlement resulting from major water conservancy or hydropower projects follows the relevant provision by the State Council, while compensation for land lost in coal-mine cave-in is provided differently. Compensation and resettlement subsidy for acquisition of land for other purposes are subject to adjustment in local areas, based on Regulations on Land Management in Jiangsu Province.⁴

(iv) Farmers whose land owned by the collective is taken are entitled to compensation, and the payment should be made in full within 3 months upon approval of the compensation and resettlement plan. The land taken should not be utilized unless payment of compensation is complete. In case the collective fails to allot other land for the farmers to contract, and whose quality and quantity is not comparable to the land taken for the farmers concerned, then they are entitled to no less than 70% of the land compensation. In case the land-loss farmers do not need resettlement arranged by the rural collective economic organizations, then they should receive the resettlement subsidy instead.⁵ All due compensation for the farmers should be disbursed on time and in full. Deduction, embezzlement, or appropriation is strictly forbidden and any violation of this rule is subject to legal penalty.

(v) Upgraded compensation standards as well as guaranteed funding for this expenditure are answers to the farmers' immediate concerns and will help stabilize society and ensure economic development. According to the provincial government's requirements, innovative ways should be employed to make the public realize why it is necessary and important to upgrade the standards and to implement the new standards in earnest.

⁴ Compensation for a similar plot of land will vary depending on the purposes of land acquisition and the standards of land acquisition compensation and can have nothing to do with who acquires the plot of land. In general, in a developing area, land acquisition compensation for major water conservancy or hydropower projects is about CNY150,000–300,000/ha and other construction projects is about CNY450,000–600,000/ha in accordance with land laws and regulations.

⁵ Compensation for land expropriated includes land compensation, resettlement fees, and compensation for attachments or green crops on the land. When land-loss farmers need to be resettled by rural collective economic organizations, the resettlement fees should be paid to the rural collective economic organizations. When land-loss farmers do not need to be resettled by the rural collective economic organizations, the resettlement fees should be paid to the land-loss farmers or be used to pay their social insurance if they consent. Besides resettlement fees, farmers should also receive land compensation fees and compensation for attachments or green crops on the land.

Local authorities should take it as their bounden duty and make all the appropriate information known to all; farmers in particular, and place themselves under public scrutiny. Land-use approval and management should be further disciplined and no rush for approval is permitted before the new standards take effect. Circumventing the new rules or delaying compensation is also forbidden. Land management authorities at all levels should strengthen supervision of the compensation and resettlement work to ensure good results.

Meanwhile, the provincial government also provides that as of 1 January 2004, trial approaches to compensate for land-loss farmers would take effect and a basic living insurance system shall be developed for this group.

b. Zhejiang

Provincial authorities take very seriously the social security of the land-loss farmers. In early 2003, several departments, including labor and social security department, jointly released opinions on how to deal with this issue. Local authorities in this province have explored new ways to improve the lives of affected farmers. To address this issue and guarantee their basic living standards, the provincial government released in the 73rd conference of the standing committee, a Notice on Improving Management for Land Acquisition (No. 27 [2002]), to the effect that:

- (i) Basic living standards of the land-loss farmers should be given more attention.

A security system should be put in place. According to the requirement by the provincial authorities, such a system should be built in all localities, different from the basic old-age insurance or other social insurance for urban residents, which at the same time should be integrated with the former. According to relevant provision of the Law on Rural Land Contracting of the PRC, those registered as farming population are entitled to this special insurance system. The names of this group should be determined by the local authorities based on results from discussion by members of economic groups or in villagers meeting. Insurance policy will vary in light of age groups. Priority should be given to the working-age group and nonworking-age group.

- (ii) Old-age insurance should be provided for nonworking-age people and individual account and social fund pooling should be combined.

For working-age people, a one-off payment for living allowance insurance, based on local standards, is to be made and a special account should be opened. For people under working age, a lump-sum resettlement subsidy should be paid. When they become new entrants in the labor market, the social security program should cover them.

- (iii) Ensure the basic living allowance for the land-loss farmers is paid in time and the fund for this purpose should be properly managed.

Funding can be made available by using resources from the Government, the collective, and individuals.

- (iv) Employment for land-loss farmers is another priority.
- (v) Meanwhile, medical care for them should be properly dealt with by taking innovative approaches.
- (vi) Other relevant work to ensure basic living standards for them is not to be neglected. Based on this opinion, local authorities should develop and perfect localized approaches to solve these problems.

c. Shanghai, Chongqing, Shandong, and other provincial governments also issued relevant policy measures.

2. Local Governments' Policy Measures

Some local governments have made great efforts to assist in employment of the land-taken farmers and the establishment of basic livelihood security for land-taken farmers.

a. Jiangsu

Jiangsu Nanjing Jiangning Development Zone, the Science Park, and Lukou all set up employment agencies, providing market-oriented employment services and assistance for the landless laborers. In the meantime, they monitor and issue indicators and make efforts to help the landless laborers obtain employment each

year. In 2003, the Development Zone, the Science Park, and Lukou resettled 5,000, 3,000, and 1,000 laborers, respectively. Meanwhile the Development Zone also set up public welfare enterprises resettling land-taken persons over 35 years old, for instance, setting up garden companies, providing cleaners, gardeners and other jobs, and one job for each household or family. For example, the Development Zone Cleaning Company was established to arrange employment of over 700 persons. A subsidy of CNY1,000 for each person is also given to enterprises employing self-employed persons between 25 and 35 years old. For enterprises that have recruited a proportion of landless laborers beyond 30% in the current year and signed labor contracts over 3 years, a 30% deduction or refund will be granted according to the annual income tax accrued that year.

b. Hangzhou, Zhejiang Province

In Hangzhou, it first advances the transition of employment modes for nonagricultural residents turned from agricultural ones and prioritizes employment support. After handling unemployment registration, the landless laborers, if they meet the specified conditions, may apply for a Hangzhou Employment Aid Certificate and enjoy the same policy treatments as aid to urban residents with employment difficulties. Second, it grants a 2-year unemployment security to facilitate a balanced transition of the landless laborers job transition. During the transition procedures for turning agricultural residents to nonagricultural ones, the land-taken farmers may enjoy unemployment insurance benefits and outpatient medical subsidy standards for that year, and lump-sum payments of 24-month unemployment premiums equivalent to urban unemployed persons. If they are unemployed after gaining urban unemployment registration, the unemployed may apply for unemployment benefits as provided from the next month, and enjoy unemployment insurance, treatment, and employment services equivalent to urban unemployed persons. Third, according to the financial capabilities and actual living standards of the land-taken farmers, it formulates a pension policy with minimum-standard premiums and minimum-standard benefits. Fourth, according to the principle of proportional sharing by governments, rural collective economic organizations and individuals, 30% of the unemployment insurance and pension premiums paid by the land-taken farmers shall be assumed by the municipal public finance.

c. Ningbo, Zhejiang

In March 2004, Ningbo issued the Opinions on Quickening the Progress of the Pension Security Work for the Land-taken Persons. After assessment, the funds needed for pension security of the land-taken persons, except the contributions assumed by individuals according to the specified standards, still had a shortfall to be raised and assumed by the Government (the Government shall assume CNY45,000 for each person). This city took the lead in the whole province to establish a pension security risk fund system for land-taken persons, and fund sources are 2% of net income generated from the assignment of the city's state-owned land use right, 1% of the city's current fiscal revenue. According to statistics of the city's fiscal bureau, in 2003, the whole city raised a social security risk fund of CNY163 million, of which the municipal public finances provided CNY32 million.

d. Yushan District, Maanshan City, Anhui Province

To solve the relocation and employment problems of the land-taken farmers, Yushan District of Maanshan, Anhui set up a farmer vocational training center that included seeking governmental support, making market operations, adjusting measures to local conditions and getting trained nearby, developing farmer preliminary training and skill training, and thus, improving relocation and employment capability of rural laborers. The center plans to arrange 1,000 land-taken farmers to participate in free preliminary training each year, and after passing the training, issues preliminary training completion certificates, serving as an important basis for participating in skill training and recruitment by employers.

e. Hunan

Some cities in Hunan have also made active efforts in employment training for land-taken farmers. Liuyang Bio-medical Park had over 2,000 landless farmers after land expropriation, for which the park administrative committee provided free training. Over 600 of them realized job transfer and employment in park enterprises or park service sectors and other service posts. Zhuzhou Tianyuan (Economic Development Zone) had 5,088 landless farmers, for whom the district public finance spent a training fee of CNY1 million each year and

3,521 landless laborers have realized job transfers and employment by now. Through training, Zhuhui District of Henyang has over 2,000 persons employed in district enterprises, project engineering, and service sectors.

f. Shangrao County, Jiangxi

Although Shangrao County is an undeveloped district, the county government has taken active measures in advancing the employment of land-taken farmers. In 2003, the county government formulated and issued the Provisional Measures on Employment and Reemployment of the Landless Farmers in the Planning Urban Area of Shangrao County, requiring to actively develop free vocational proposals and free vocational training for them after handling the procedures for changing agricultural residents to nonagricultural ones for the landless farmers in the planning urban area of the county. Based on choice, Shangrao Employment Bureau recommends preferential employment of the land-taken farmers in industrial park enterprises or labor service exports to other provinces and foreign countries. In the meantime, to encourage enterprises in Shangrao County to recruit land-taken farmers, the county government reduces or exempts relevant taxes payable by enterprises. From January to March 2004, according to market demand and trainees' choices, it held three employment-training courses, trained 526 land-taken farmers free, and recommended the employment of 256 persons.

Many places have actively implemented employment promotion policies, explored better approaches to resettle land-taken farmers, and looked to improving the living conditions of land-taken farmers.

C. Pilot Experiments to Reform Land Expropriation and Resettlement

1. Land Expropriation Experiments in Pilot Cities

Since 2001, the MLR has initiated reform experiments of the land expropriation system in 19 cities of 12 provinces (municipalities or autonomous regions) in the PRC, successively including: Jiaxing and Wenzhou of Zhejiang; Guangzhou, Foshan and Shunde of Guangdong; Nanjing and Suzhou of Jiangsu; Fuzhou and Xiamen of Fujian; Qingpu District of Shanghai; Shijiazhuang of Hebei; Shenyang of Liaoning; Chengdu of Sichuan; Tongzhou District of Beijing; Luoyang and Xinxiang of Henan; Suihua of Heilongjiang; Maanshan of Anhui; and Nanning of Guangxi.

Pilot cities have actively embraced and conducted experiments under the overall guidance of the MLR for reform of the land expropriation system. Taking into account the practical situations within these different regions, the results have provided models of good practice for the improvement and reform of the existing land expropriation system. Instances of good practice in pilot localities are described in this section of the report. The reform in the pilot work cities is as follows:

a. Shijiazhuang, Hebei Province

The pilot for land acquisition system reform in Shijiazhuang targets higher land acquisition resettlement fees to implement an experimental reform on three aspects: (i) centralized land acquisition and enhanced governmental role; (ii) standard land compensation for acquisition, determining the compensation standards in different areas; and (iii) a trial of resettlement with retained development land. Emphasis of the reform was on regularizing governmental behavior and establishing a mechanism suitable for the basic living guarantee of land-loss farmers.

b. Luoyang, Henan Province

In Luoyang, the reform was launched in respect of the working procedures of land acquisition, form of allocation of compensation for land acquisition, farmer resettlement modes, and land use types. The pilot aims (i) to develop land acquisition, land supply, and resettlement compensation systems compliant with economic development; (ii) establish scientific and complete land acquisition procedures to ensure the farmers right to know the inside story and right to participate; (iii) develop different compensation methods for land acquisition through diversified modes according to different local conditions to protect the farmers fundamental interest; and (iv) resettle the farmers properly with different measures according to different local conditions.

c. Xinxiang, Henan Province

The pilot for land acquisition system reform in Xinxiang mainly covers: (i) implementing open, fair, and efficient land acquisition procedures; and (ii) implementing a combined policy of resettling the affected farmers with money and retained land to ensure their long-run livelihood.

d. Shenyang, Liaoning Province

The land acquisition system reform in Shenyang aims to (i) establish a new land acquisition system meeting the requirements of a socialistic market economy system, properly coordinating and disposing the land and economic relationship among the state, collective economy organization, and individual farmers. Detailed reform included implementing open, fair, and efficient land acquisition procedures; (ii) establishing valuation system for land acquisition plot price and bulk land price; (iii) establishing an effective restrictive mechanism to reasonably allocate and use the land compensations; and (iv) probing into new approaches to resettle the affected farmers through multiple modes, such as involving them in the social security system.

e. Suihua, Heilongjiang Province

Details of land acquisition reform in Suihua includes: (i) determining land compensation through comprehensively considering three land categories and according to the local natural, economic, and social conditions; (ii) appropriately increasing the land acquisition resettlement compensation and prioritizing the payment of compensation to affected farmers; (iii) simplifying the land acquisition procedures; (iv) increasing the resettlement options; and (v) establishing a land administration system of combined land acquisition and reserve, separated land administration, and land acquisition affairs, as well as separated land acquisition and land supply.

f. Chengdu, Sichuan Province

The reform pilot in Chengdu is to encourage and lead the money-based housing resettlement through multiple resettlement modes centering on social security, and simplifying the land acquisition procedures. Chengdu City implements market-oriented policy, encouraging and leading money-based housing resettlement, implementing unified policy and standards for housing resettlement of persons turning from agricultural residents into nonagricultural residents, resettling them with money and available houses (or houses to be built), and encouraging them to select resettlement with cash. Basic living is guaranteed for persons exceeding the working age. Persons within the range of working age are encouraged to find new

jobs. Persons turning from agricultural residents into nonagricultural residents are included into different types of social security by different age range.

g. Maanshan City, Anhui Province

The reform pilot in aims to: (i) adopt multiple market-oriented resettlement modes such as cash compensation; (ii) probe into multiple modes of resettlement and housing approaches for affected farmers; (iii) implement the new administration system of separated administration, settlement of affairs, and arbitration of dispute; and (iv) simplify the land acquisition procedures. Combining the provisions concerning the compensation of multiples in the Land Administration Law, Maanshan City sets its land compensation at CNY36,000/ha (minimum average annual output value CNY x 3 times) ~ CNY276,000/ha (maximum average annual output value CNY2,300 x 8 times). Seventy percent of the land compensation is directly paid to the resettled persons. The housing resettlement standard in Maanshan City is CNY20,000 per person, with additional CNY10,000/person for an only child. Persons turning from agricultural residents into nonagricultural residents either can buy commercial houses sold at limited price provided by the Government or buy commercial houses on the market themselves. Farmers' resettlement houses provided by the Government will be built under the municipal governments' unified plans, and implemented by the district governments. Currently, Maanshan City mainly implements cash-based resettlement. Persons turning from agricultural residents into nonagricultural residents whose per capita household income are lower than the minimum standard of living guarantee for urban residents will be included into the urban social security system.

h. Jiaxing City, Zhejiang Province

The land acquisition reform in Jiaxing City is to do the following

- (i) Reform the form of resettlement, resettling the APs through modes such as retirement insurance, and guaranteeing the basic living of land-loss people. Details are:
 - Land acquisition is carried out under the unified policy of the county or

- municipal government; the Government is fully responsible for the resettlement of APs. The Labor and Social Security Department along with the Land Resource Administration Department are responsible to organize the resettlement.
- Resettlement subsidies will not be paid directly to the affected villages and farmers any longer, but transferred to the account of resettlement fees opened by the labor department, which to be operated in a closed way and directly allocated to the individual account of the APs.
 - For APs who meet the condition of payment of general social retirement insurance (above 16 years), the labor department will open an individual account for social security. When such payment is made for 15 years and the person reaches the retirement age, retirement pensions will be paid on a monthly basis.
 - APs are resettled through multiple modes with the priority of retirement insurance.
- (ii) Resettlement funds for APs will be raised through multiple modes. The use of land compensations will be regularized. There are seven detailed policies:
- Adjusting the use of land compensation appropriately, specifying that other than the purpose stated by the county, the land compensation can also be used for the living arrangement of APs.
 - Recent land compensation can be considered together with the resettlement subsidies to solve the livelihood problem of the APs.
 - Resettlement subsidies are permitted to exceed the legal standard, paid by the land-using entity, and incorporated into the account of resettlement fees opened by the Labor and Social Security Department.
 - If the condition permits, any rural collective economic organization can use its collective assets to improve the retirement insurance treatment for the members of this collective economic organization.
 - It is specified that the originally existing land compensation and resettlement subsidies can be used to provide livelihood for the original APs who really have difficulties in their life.
 - Upon approval by the civil affairs department, livelihood relief will be granted to APs who have turned from agricultural to nonagricultural residents (if they really have difficulties in life) and meet the condition of minimum living guarantee.
 - Organizational systems or villages and teams established after the villages are removed will be cancelled. The villagers committee shall allocate land compensation (including the original resettlement subsidies) reasonably to the members of the original collective economic organization through establishing funds and joint stocks by following the open, impartial, and fair principles under the supervision and leadership of the county and town governments. Priority consideration shall be given to looking after the APs who have received a lump sum of resettlement fees. However, no consideration will be given to the APs who have reached retirement age at the time of land acquisition and have received monthly retirement pensions.
- (iii) Land acquisition procedures are simplified and regularized to make the work more efficient and offer land use guarantee for the rapid development of national economy. Details of such reform are:
- Land acquisition is done as a project and in batches. Land acquisition negotiation and resettlement of people in a project will be advanced to the time the acquisition is reported to the province for approval, and implemented simultaneously.

- The farmers' passive compensation register is changed to active land acquisition investigation and negotiation by a competent land administration department.
- Another process of signing a land acquisition agreement will be added upon the completion of land investigation and negotiation.
- Two announcements for land acquisition for a project will be changed to one announcement, namely, integrating the original government announcement and announcement of the competent land administration department into one announcement.
- The process of reporting the land supply below 5 ha for specific projects to the provincial government for approval is withdrawn. Instead, it will be examined and approved by Jiaying Peoples Government with the authorization of provincial government and reported to the provincial department for a record.
- Land acquisition procedures are regularized and supervision mechanism is established.

i. Suzhou City

Land acquisition system reform in Suzhou City mainly includes:

- (i) Combining the commercial insurance arrangement with lump-sum money compensation

In accordance with the provision in the documents of Suzhou Municipal Government, Suzhou City divides the agricultural population needing resettlement after land acquisition into three ranges of age, and identifies them as three types of resettlement targets.

- (ii) Compensating year-by-year by land area

Some areas pay land acquisition compensation to the farmers by land area calculated in mu. Settlement is made on a yearly basis and compensation is paid to each household to allow the land-loss farmers to receive a long-term return. The annual land compensation standard ranges from CNY9,000/ha, CNY12,000/ha, to CNY13,500/ha.

- (iii) Centralized investment, regular dividend distribution

Some areas in Wuzhong District, Wujiang, and Suzhou City use a compensation arrangement method of using the land acquisition compensation for centralized investment operation and regularly distribute dividends to the farmers each year.

Land acquisition compensation is collected together for capital operation to offer the farmers a long-term living guarantee through establishing joint-stock land cooperatives, land foundations, and other organizations in villages and towns.

j. Foshan, Guangdong Province

Main practices in land acquisition system reform in Foshan are to:

- (i) Develop uniform compensation standards and establish a system for land acquisition compensation standards

Based on extensive research, Foshan defines a standard to calculate compensation by using the comprehensive average output value, quantifying the land compensation and resettlement subsidies in the land acquisition compensation, and unifying the compensation standard for land acquisition. The People's Government of Foshan City issued the Administrative Regulations on Diverted Use and Acquisition of Agricultural Land of Foshan on 5 March 2001, expressly specifying the land compensation and resettlement subsidy standards. In April 2003, Foshan also issued the Notice on Implementing Programs to Develop District-based Uniform Land Compensation Standards to every district, aiming to develop uniform land acquisition compensation standards by districts across the city and quantifying the land acquisition compensations.

- (ii) Adopt a market-oriented resettlement mode allowing coexistence of cash compensation and retained land

Currently, Foshan mainly adopts a method of combining cash compensation and retained land. That is, when the Government needs to expropriate land of a collective economic organization for urban construction, besides cash compensation paid to the farmers, it will

retain as much as 10% of the expropriated land to be managed and used by the rural collective economic organization in a unified way to offer development space for the affected farmers.

- (iii) Reasonably allocate land acquisition compensation and resettlement fees to safeguard the legal right and interest of the affected farmers.

The experimental measures state that 20% of land compensation should be retained in the collective for public welfare purposes, 80% allocated to individual farmers, instead of keeping most of the land compensation in the collective as in the past. This allocation mechanism has greatly ensured that land compensation is really paid to the affected farmers, and provides funds for the farmers' own construction and development. At the same time, they can prevent the farmers' interest from being impaired due to improper use of the land compensation by the villagers committee, thus the farmers land property right can be realized in reality.

- (iv) Reform the implementing procedures of land acquisition to ensure it is implemented openly, fairly, and efficiently
- (v) Detailed operating mode

Pre-examination of land use; preannouncement, negotiation on land acquisition compensations and resettlement, signing of compensation agreement, land acquisition reported for examination and approval announcements (land acquisition and compensation program announcements), land supply (issuance of land use approval document or letter of approval).

k. Shunde District, Foshan

Main practices of land acquisition system reform in Shunde District, Foshan are to:

- (i) Unify the standards for compensation. Establish the system of standards for land acquisition compensation. The new Land Administration Law raises the standards for land acquisition compensation, but still follows the method that the land acquisition compensation is calculated by the output value of the expropriated land as in the original law.

- (ii) Implement a resettlement system of combined cash compensation and retained land to offer long-term and steady living guarantee for the farmers whose land is expropriated.
- (iii) Allocate the land acquisition compensation and resettlement fees reasonably, ensure the legal rights and interest of the farmers whose land is expropriated.
- (iv) Improve the land acquisition procedures and make land acquisition more transparent.

l. Wenzhou

Main practices of the land acquisition system reform in Wenzhou are to:

- (i) Raise the standard of resettlement compensation and grant compensation according to the comprehensive compensation standard for plots. Compensation for land will not vary according to land utilization after acquisition. Wenzhou has completely revised its policy on land acquisition compensation and resettlement issued in 1999 (Document Wenzhengfa [1999] No.133) and developed the new Administrative Measures for Expropriating Farmers Collectively Owned Land of Wenzhou, defining the citywide uniform annual output value of different types of land, and adjusting the standard of compensation for land.
- (ii) Use the resettlement land flexibly and fully, properly resettle the affected farmers through diversified modes. Besides cash compensation, Wenzhou also defines a certain percentage of the expropriated arable land as well as different sections of the expropriated arable land for the affected entities to launch secondary and tertiary industries and offer jobs for the farmers; the resettlement land can also be transferred with payment or reclaimed by the Government with payment.
- (iii) Utilize the transfer proceeds to establish social security systems for land-loss farmers.
- (iv) Wenzhou has adjusted its previous working ideas and procedures so that the Government can carry out integrated land acquisition, monopolize the primary land market, and centralize the supply of construction land. Previously, land acquisition and supplying land for construction were combined. No land

acquisition was permitted without a project. In the new system, land acquisition is carried out according to a plan. In this way, land acquisition is separated from supplying land by maintaining a land reserve (land bank). Newly acquired land to be used for construction is first entered into the reserve bank and then supplied according to the demand for land, type of project, potential land value increment, market supply, and demand.

m. Fuzhou, Fujian Province

Main practices in land acquisition system reform in Fuzhou are to:

- (i) Adopt comprehensive types of compensation standards for land acquisition, namely, define the compensation standards for land acquisition by various factors such as locations and purposes.
- (ii) Implement flexible and diverse modes of resettlement to offer them opportunities to earn a living and produce. It is specified that more than 70% of land compensation and 100% of resettlement subsidies must be paid directly to the farmers, eliminating the problem where compensation funds are retained at different levels, and easing to some extent conflicts that occur in the course of land acquisition.
- (iii) Improve the early-stage work in land acquisition. The coordination role of township governments and village collective organizations is brought into full play. Confirmation of the status of land, checking of crops, and valuation of compensation are organized properly. Compensation agreements for land acquisition are entered into between the construction unit and the unit whose land is expropriated. The basis of land acquisition compensation is determined in advance to prevent conflicts and delays after approval of compensation and resettlement.

2. Summary of Reform Work

The reform work of the above pilot cities can be summarized as follows:

a. Reform of land expropriation compensation

When assessing land expropriation compensation, many localities (mainly cities) have gone beyond the valuation methods specified in the prevailing laws and made a comprehensive analysis of local conditions, economic development status, local farmers living standards, and other factors to determine a relatively fixed measurement standard within a wider area (for instance, taking a township or village as the unit of analysis), rather than just consider the average annual output of the land-loss farmers expropriated land for the preceding 3 years. Even when assessing agricultural output, as one of the factors in a wider location analysis, it is then a comprehensive measure of average annual output based on general conditions for farmers in the local area.

Thus, location factors of the land under consideration are taken into account when determining land compensation and resettlement subsidy standards, and differentiated by the requisitioned land's transport links, distance to the local city and grade of city. For example, Suzhou divides location directly according to urban districts and county-level cities; Nanjing divides directly according to main urban areas, urban districts, and five counties; both of which directly exhibit location conditions related to cities and to their grades. Shunde and Foshan tried uniform standards for land expropriation compensation and resettlement within the scope of the whole city as well as increasing their standards for land expropriation compensation. Early in 2000, Shunde increased the standard for land expropriation compensation by 47% taking into account local livelihood requirements. The municipal government also provided that it would make corresponding adjustments on this standard according to the retail price index for the last year published by the price administrative department. After beginning reform pilot work, the municipal government expressly provided again in relevant documents that if land of the former administrative villages, which have been changed to neighborhood committees, was used for urban construction, the standard for land expropriation compensation would move upward by 15% of the original basis. Foshan established its uniform pilot concerning its standards for land expropriation compensation by reassessing the whole city's land compensation and resettlement subsidies. The new standard was 36% higher than before.

b. Exploring multiple approaches to improve resettlement of affected farmers

Good practice is to purchase pension insurance for land-taken farmers, as represented by social pension insurance scheme tried in Jiaxing of Zhejiang and commercial pension insurance resettlement tried out in Suzhou. After Jiaxing had reformed its methods of resettlement, the land expropriation work was uniformly planned and handled by the local government. The resettlement subsidies were not paid directly to the land-taken rural collectives and farmers, but were transferred by governmental departments to a resettlement special-purpose account, established by the labor department, and then sent to the accounts of each individual resettled person. The land-taken farmers are registered as urban householders and are, thus, subject to different standards for living expenses and pension fund payment, according to different ages. Suzhou divides the land-taken farmers requiring resettlement into three levels according to age, and purchase commercial pension insurance according to these criteria, and then insurance companies pay out from pension funds on a monthly basis. Chengdu and other large cities have also started to establish pension insurance systems for landless farmers.

The practice of pension insurance should help resolve long-term livelihood security problems of land-taken farmers, especially elderly landless farmers after land is requisitioned. This will be significant in maintaining social stability. However, it does not fundamentally solve employment problems for surplus young laborers, which has the potential to undermine social stability. As a result, in addition, many regions have explored diverse resettlement modes in attempting to meet the demands of farmers across a range of risk factors.

Wenzhou, Foshan, Shunde, and other localities have also tried to give farmers long-term livelihood security by setting aside some land for resettlement. For example, based on land-use resettlement indicators, Wenzhou had the regional government reassign a proportion of the requisitioned cultivated land area for the use of land-taken rural collective economic organizations to engage in operations in the secondary industry or the service sector.

c. Improving land expropriation procedures and standardizing land expropriation

A further aspect of good practice is, before approving land expropriation, to discuss with land-taken villages the standard for land expropriation compensation, or to sign a land expropriation compensation and resettlement agreement. According to relevant provisions of the Land Administrative Law, after land requisition plans prepared by local governments are approved, land expropriation compensation and resettlement plans specific to each expropriated unit or individuals shall be prepared. However, it has to be recognized that due to verification of ground properties (such as authorization of the output standard per unit of land, determination of compensation multiples and other problems) it is often difficult to reach an agreement with the land-taken collectives or individuals, which may bring conflict and affect implementation of land expropriation. In this connection, after making a land expropriation survey, Wuxi of Jiangsu first negotiates with the municipal (district) governments of the land users and the expropriated units, reaches uniform land expropriation agreements, and then has the municipal (district) governments, bureau of land resources, and land users jointly negotiate with the expropriated villages to formulate land price plans and land compensation and resettlement plans. Thereafter, the land resources administrative department reports for approval of land requisition on a systematic basis according to the reporting procedures specified by law.

Many pilot cities maintain a form of land expropriation agreement, sign agreements with the expropriated units before seeking approval for land expropriation or, at the time of land expropriation, compensation registration, and combine such agreements with two announcements and one registration. Since agreement has been reached with the expropriated villages on land expropriation compensation, resettlement measures, and other issues before land expropriation has been announced, land expropriation plans can be successfully implemented after approval, avoiding conflicts due to disagreement with standards for land expropriation compensation after announcement.

Finally, some pilot study localities have implemented a land requisition advance notice system. For

instance, Heilongjiang implements a system of advance notice on land expropriation. After the preliminary survey and before preparation of land expropriation plans, they hold a village representative assembly, issue an advance notice on land expropriation; advise on the place, scope, and other information of land proposed to be requisitioned; publicize the results of verification on properties; and after these are confirmed by each party, use them as a basis for preparing land requisition plans and for conducting land expropriation compensation registration. Before preparing land requisition plans, Chengdu has the municipal or county land resources administrative department publicize the results of surveys at expropriated villages, accepts deputations from collectives, and addresses the issues raised.

D. Lessons from State-Level Pilots for Land Acquisition and Resettlement System Reform

1. Shijiazhuang, Hebei Province

- (i) Innovations in the land acquisition procedure, adjusting the sequence of land acquisition announcements; developing negotiation for land acquisition resettlement compensation; settling disputes in the land acquisition effectively; and greater transparency
- (ii) Establishing a relatively superior mechanism of resettlement compensation for land acquisition.
- (iii) Retaining land to be used for development.

2. Xinxiang

- (i) Optimizing the review and approval procedures for land acquisition, implementing open, fair, and efficient land acquisition systems.
- (ii) Adopting diverse resettlement modes, ensuring that young farmers will be employed and the elderly will be looked after properly.

3. Shenyang

- (i) Implementing open, fair, and efficient land acquisition procedures.
- (ii) Defining the population contracting the land according to law.

- (iii) Establishing the system of plot price and bulk land price evaluation.
- (iv) Specifying the percentage of use and allocation of land acquisition compensation.

4. Suihua

- (i) Simplifying the land acquisition procedures.
- (ii) Raising the resettlement compensation standards.
- (iii) Administrative system to separate land acquisition from land supply.

5. Jiaying

- (i) Unifying and raising awareness.
- (ii) Reducing land acquisition disputes and improving land acquisition efficiency.
- (iii) Offering long-term livelihood guarantee for land-loss farmers and creating a steady development environment.
- (iv) Converting land-loss farmers into urban residents and accelerating the urbanization process.
- (v) Widening the coverage of social insurance and improving the regulating capacity of social insurance funds.

6. Foshan

- (i) Effectively ensuring land needed for economic development.
- (ii) Promoting social stability.
- (iii) Farmers' land property right is protected.
- (iv) Endowing farmers with the right to know the whole process and ensuring equitable participating rights.

7. Wenzhou

Unified land acquisition in Wenzhou satisfies the farmers, land users, and government, mainly by:

- (i) Reduced land wastage and farmers losses. Previously, since the land was expropriated based on projects, land users had greater decision-making power over location and it was easy to cause land wastage by leaving odd corners and edges that were difficult to farm.

- (ii) Helping the villages obtain more blocks of land to be used for resettlement and develop the collective economy.
- (iii) Easing the work and pressure of village cadres. Sporadic land acquisition in the past caused different compensation to be paid to farmers resettled from each land acquisition due to different sequence of time and different acceptance of compensation by the users. Now, land acquisition is carried out once, the village pays identical compensation to the farmers, so it is easy to manage the relationship properly.
- (iv) Users need only to apply for the use of land with the land department, without the trouble of bargaining with the village in respect of the land acquisition compensation, and significantly shortening the time to apply for executing the procedures for the use of land. At the same time, due to the uniform land acquisition and average-cost land supply, there is no any unreasonable phenomenon that the land acquisition cost was sharply different for the land in the same section and for the same purpose as the type of land was different prior to the land acquisition.
- (v) Intensifying the Government's monopoly over the primary land market and enhancing the Governments regulating and controlling capacity. The phenomenon where users buy and sell land directly from and to the village collectives illegally can be put to an end.

III. Reforming the Policy Framework for Resettlement Management in the PRC

Responding to the weaknesses in the PRC's current land acquisition system, and benefiting from the successful practices of system innovation in some regions as well as foreign progressive experience, the MLR provides the following ideas for further reform of the land acquisition system:

A. Standardize Government Behavior: Judiciously Use the Land Acquisition Right

Excessively wide use of land acquisition is one of the defects in the current land acquisition system in the PRC. The direct consequence of which is that many local governments increase the land acquisition range continuously by virtue of their land acquisition right to seek rapid growth of the economy in their own local region within a short period. This will enhance the performance of government officials within their term of office, but prejudice the farmers' vital interest. Land acquisition right in other countries are only used for public purposes. The nature of public purpose of land acquisition has become a precondition for the land acquisition right to be exercised.

The key to pushing forward land acquisition system reform is to standardize government behavior. First, the aim of land acquisition should be specified. In accordance with the PRC's laws and international conventions, the aim of land acquisition should be for the public interest. The connotation and extension of public interest should be defined expressly. Land acquisition for nonpublic interest shall be abandoned as it infringes upon the farmers land property rights. Second, the exercising range of land acquisition right should be strictly limited. Currently, in the application for the use of land by cities, the urban government represents both the land administrator and land user, which has caused many malpractices.

As the governments and enterprises are separated, and investors are diversified, the Government can only use the land for public welfare. The Government's function will be primarily to expropriate land uniformly and supply land to users.

Based on the short-term fact of industrialization, accelerated urbanization, and rapid economic development in the PRC, it is somewhat hard to expropriate land within the range of public interest. Therefore, it can only be practical and realistic to narrow the range of land acquisition gradually. While following the principle to ensure the supply of land to be used for economic construction and safeguard the legal rights and interests of land-loss farmers, the area of land acquisition in the near future has to be strictly controlled, expropriating the least amount of land, especially agricultural land to be converted to nonagricultural use. Marketable houses can be removed out of the range of land acquisition. When conditions permit, the land used for industries, various development zones and parks will be removed out of the range of land acquisition. Finally, land will be really expropriated within the range of public interest.

B. Confirm Farmers' Property Rights over Collective Land, Pay Land Acquisition Compensation in line with the Rules of a Market Economy

Land compensation serves as the core of land acquisition issues, also a difficult area in the land acquisition system reform. To determine land acquisition compensation, not only the land value prior to acquisition should be included but also the location, supply and demand situation of the land market, development conditions of the local economy as well as the Government's macro policies. Many regions have done a lot of research and innovation in respect of the valuation methods for land compensation to ease the conflicts in the land

acquisition process, which complies with international conventions. The government of a country with a market economy may obtain land by compulsory means for public objectives, but must pay equitable compensation at a fair market price to the landowner, leaseholder, or occupant.

To assess the land compensation, what is important is to establish the valuation system for regional area price and plot price for land acquisition. The regional area price for land acquisition means the average level of land acquisition price determined according to local regional conditions, within a certain area, using plots with similar land conditions as a unit, and upon comprehensively considering the location, land quality, potential land value, and supply and demand relationship of the land resource. This price should consider the production function and social security function of land expropriated. The plot price under the guidance of the regional area price is the land acquisition price determined upon reevaluating the actual conditions of the plot of land. When finally determining the plot price, the value of young crops and ground attachments on the land expropriated should also be reasonably evaluated and involved.

C. Guarantee the Long-Term Livelihood of Affected Farmers and Include them in the Social Security System

The Report of the 16th Communist Party Congress pointed out that to build and improve a social security system adapted to the economic level is an important guarantee for social stability, lasting stability, and durable peace in the country. In places where conditions permit, rural retirement insurance, medical insurance, and minimum living guarantee systems should be established. Rural land in the PRC has two functions: agricultural production and farmers' social security. Moreover, along with population growth, it has been clear that security is more important than production. To reform the land acquisition system, try to establish and improve the social security system to ensure the long-run livelihood of land-loss farmers.

To involve land-loss farmers into the social security system for urban workers will inevitably increase the social burden. While raising the standards of resettlement compensation, the regions where the conditions permit may either negotiate with local social security organizations to determine the basic

amount of insurance in accordance with its economic development, per capita living standard and financial guarantee capacity; or actively raise and build social security funds for the land-loss farmers through adjusting the allocation relationship of land proceeds. First, when there is a wider space to increase the percentage of land acquisition fees in the construction project budgets, the increased land acquisition fees may be included in the social security funds for land-loss farmers. Second, the Government may put a certain percentage of the net proceeds from the land transfer into the social security funds for land-loss farmers. In addition, the land-loss collective economic organization should also transfer some money from the cumulative funds or land acquisition compensation of the collective into the social security funds for land-loss farmers.

To resettle land-loss farmers, there is also a need to emancipate the mind, adjust our measures to local conditions, and find out multiple resettlement modes proactively. In areas with highly market-oriented land such as economically developed areas and urban-rural conjugation sites, state land may be retained to endow the land-loss collectives or farmers with preferential development rights. In land acquisition for a project with stable profits and long-term returns, it can be tried to buy shares with the land use rights or compensation, which will ease the Government's financial pressure in the short term and provide long-term returns to the land-loss farmers. If a job is available to employ a land-loss farmer, the employment channel shall be increased proactively. The employment training system shall be established for land-loss farmers to improve their employment skills. Policy support shall be granted to self-employment operators for them to have long and stable earnings.

D. Empower Farmers: Establish Open and Fair Land Acquisition Procedures

In the course of obtaining land by the government in countries with a market economy, the landowner has the right to participate in the full process of land acquisition, having full rights to know the entire process and participate, along with the right to negotiate and appeal in a court of law against any decision such as land compensation. Some regions in the PRC have done helpful research with regard to procedures in the practice of land acquisition. The land acquisition procedures in the PRC may be

changed to follow these steps: (i) application for land acquisition; (ii) preannouncement; (iii) negotiation on compensation; (iv) application for approval; (v) review and approval; (vi) announcement; (vii) implementation of compensation and resettlement; and (viii) release of land.

The specific measures are:

First, developing additional negotiation processes in land acquisition compensation. Negotiations should be conducted with the collective and farmers whose land is to be expropriated with regard to the compensation standards and resettlement mode/s. Farmers' ideas shall be heard. Early investigation and negotiation shall replace the advance compensation register process stated by laws and rules.

Second, changing the practice of advance land acquisition announcement. Introduce the procedure of preannouncement. That is, after deciding the land acquisition, the Government shall issue a preannouncement immediately, notifying the collective and farmers whose land will be expropriated, specifying the range of land acquisition, as well as time limit of construction and planting. At the same time, conduct the preliminary investigation to register for compensation and negotiate the compensation. If the unit whose land will be expropriated has any loss because the land acquisition is not approved or not approved within a certain period, the Government or relevant unit shall pay compensation for the actual losses. Combine the current two announcements after the land acquisition is approved into one. This announcement shall be issued after the land acquisition program is approved according to law. Upon expiration of the announcement, the compensation will be implemented, and land will be released.

Third, it is suggested that the PRC should establish a judicial mechanism for land acquisition disputes. As for the problems raised by collective landowners that the land acquisition is unlawful, the compensation is unreasonable, and the resettlement is not implemented, the judicial authority will settle the dispute in line with judicial procedures. Thus, the Government's role in the decisions of land acquisition disputes will be reduced. For any illegal behavior in land acquisition by the Government, farmers may seek judicial relief, and apply for national compensation. Intensified law enforcement and stronger judicial decisions will ensure that land acquisition for public interest goes smoothly, safeguards the country's interest, and effectively protects the land-loss farmers' legal rights and interests from being infringed, and safeguards social stability.

E. Proactively Coordinate all Associated Activities, Vigorously Promote Matching Reform of Relevant Systems

Establishing a new land acquisition system without matching reform of relevant systems will be very difficult. Therefore, active efforts should be made for coordination among departments, fully respecting and vigorously promoting matching reform of related systems.

First, reform of other land systems related to land acquisition system reform and relevant work shall be accelerated. Speeding up the process of building rural collective land property rights system is of foremost importance. Specifying the key institution and main powers and functions of rural collective land property rights and issuing the farmers title deeds for collective land at a faster pace are also important. Lawmaking concepts shall recognize and respect the farmers' collective land property rights, endowing the collective land property rights with due legal position. The land acquisition system reform shall be combined with the rural collective land-use system. Under the precondition of normalizing the rural collective land circulation,⁶ the exercising range of land acquisition rights step-by-step should be restricted, avenues to obtain land to be used for other types of construction through market-based approaches should be built, and methods for valuation of land acquisition prices based upon the circulation market of rural collective land to be used for construction should be explored.

Second, the current local land tax system should be reformed. Under a market economy, the Government should obtain land proceeds by levying estate tax and land VAT as well as other channels, instead of obtaining taxes by directly collecting charges under various names in land acquisition. The financial authorities should offer guarantees for any necessary administrative expenditure of relevant departments and reduce the reliance on administrative charges.

In addition, the budget system for construction projects should be reformed. The budgetary provision for land acquisition should be increased in construction project investments. Land acquisition compensation should offer long-run livelihood for the land-loss farmers. Land acquisition cost should be determined according to the rules of the market economy. Provincial

⁶ The change of subject of land-use right.

and departmental agreements must not reduce the land acquisition compensation amounts. The development stage should be guided by progressive concepts for the economic drive. Seeking temporary economic growth without regard to the long-run consequence should be stopped, giving up arable land and taking it from the farmers.

Finally, the current performance review system

for local government leaders should be reformed. Safeguarding the farmers' rights and interests while developing the economy should be regarded as an important criterion in reviewing the leaders' performance. Seeking economic growth unilaterally, carrying out image projects and directed projects, randomly occupying or misusing arable land, and infringing farmers' interest should be avoided.

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