
II. The Research Design

Introduction. The Ministry of Land and Resources (MLR) attaches great importance to research on the PRC's land acquisition system and the potential for further reform. MLR has already undertaken relevant theoretical studies and on-site investigations since the establishment of the working team for land acquisition system reform in 1999. These studies are relevant to this present report and they include

- (i) Studies and investigations on improving the PRC's land acquisition system cosponsored by the leading group on rural affairs of the central Government and the MLR (2002).
- (ii) The reform of the land acquisition system has entered the agenda of the MLR (2002).
- (iii) The land acquisition system reform studies by China Social Science Fund (2003).
- (iv) The legal economic analysis and studies on the PRC's land acquisition system by China Natural Science Fund (2004).

This research has provided a theoretical foundation for the resolution of the major problems in designing the land acquisition system. In addition, MLR has carried out pilot reform in 19 provinces and regions across the country in a bid to gain practical experience on the reform process.

ADB is particularly interested in the PRC's land acquisition reform and has conducted a series of its own studies on population movement and involuntary resettlement in the PRC, among which RETA 6091 has offered a general framework for our program.¹

¹ Regional Technical Assistance (RETA) 5781 reviewed the resettlement policy and practices at that time in the People's Republic of China (PRC) and identified several gaps in the policy and procedures recommended for strengthening various institutions, formulation of a resettlement policy, and amendments to the existing laws and regulations. RETA 5935 was the follow-up of the activities carried out under RETA 5781 and its outputs included the following: (i) Study on legal principles and framework for national involuntary resettlement; (ii) Study on reformation of rural land institutions and strategy of rural poverty reduction in the PRC; (iii) PRC resettlement plan and implementation guidelines; and (iv) PRC resettlement plan and capacity building.

A. Methodology for RETA 6091

1. Literature Collection and Analysis

On 1 March 2005, ADB and the China Land Surveying and Planning Institute (CLSPI) held a meeting in Beijing to initiate the RETA project and prepare a work plan. Research for the RETA 6091 was implemented formally in the PRC and within 2 months, the study team had drawn together an extensive collection of relevant literature that included

- (i) Current national laws, rules, sub-decrees, regulations, and documents concerning land acquisition, including the Constitution of the PRC, Land Administration Law of the PRC, Implementation Regulations of Land Administration Law of the PRC, Decisions of the State Council Concerning Deepening of Strict Land Administration, Measures for Announcement for Land Acquisition, Regulations on Hearings Relating to State-owned Land.
- (ii) Policy documents issued by sub-ministerial people's governments at the provincial level, specifically: Notice of Jiangsu Province on Carrying Out Land Acquisition Resettlement Properly and Safeguarding the Farmers' Legal Rights and Interests (Suzhengfa, 2002, No.118); Notice of Zhejiang Province on Enhancing and Improving Land Acquisition (Zhezhengfa, 2002, No. 27); Guiding Opinions on Establishing a Basic Living Guarantee System for Land-loss Farmers (Zhezhengfa, 2003, No. 26); Regulations of Shanghai on Compensation for Relocated Houses in the Acquisition of Collectively-owned Land (Hufufa, 2002, No. 13); Measures of Beijing on Compensation and Resettlement for Land Acquisition for Construction (Circular No.148 of the People's Government of Beijing); and

- Tentative Measures of Nanjing on Basic Living Guarantee for Land-loss Farmers.
- (iii) Reports drawn from initiatives in 19 pilot cities, and survey reports from a selection of these cities. The pilot cities included Jiaxing and Wenzhou of Zhejiang Province; Guangzhou, Foshan, and Shunde of Guangdong Province; Nanjing and Suzhou of Jiangsu Province; Fuzhou and Xiamen of Fujian Province; Qingpu District of Shanghai; Shijiazhuang of Hebei Province; Shenyang of Liaoning Province; Chengdu of Sichuan Province; Tongzhou District of Beijing; Luoyang and Xinxiang of Henan Province; Suihua of Heilongjiang Province; Ma'anshan of Anhui Province; and Nanning of Guangxi Autonomous Region.
 - (iv) Study reports, survey reports, and expert interview records of the land acquisition system reform study team of MLR in recent years. Some outputs can be seen in published form in *Researching the Land Acquisition Issue, Exploring the Reform Road* (Volumes I and II) (China Mother Earth Publishing House, 2001, 2003).
 - (v) Academic articles produced by domestic experts on land acquisition and reform, which are published in domestically important periodicals, such as *China Land* and *China Land Science*.
 - (vi) Resettlement Plans, Monitoring and Evaluation Reports from ADB projects in the PRC.
 - (vii) International academic articles.
 - (viii) Material on land acquisition and resettlement processes operating in other countries and regions, for example, Australia, Canada, France, Germany, India, Sri Lanka, Turkey, United Kingdom, United States, and Viet Nam.

The literature relating to the relevant laws in India, Viet Nam, and other countries also proved particularly helpful to the study team.

2. Field Surveys and Data Analysis

After a systematic review of the collected literature, three study teams carried out field surveys from May to June 2005 in order to examine further some of the findings and conclusions in the literature. The study

team, which was assigned to conduct research on the extent and scope of the right to land acquisition in the PRC proposed three initiatives to define the parameters and limits of existing State land acquisition legislation, and conducted and compiled a survey of land acquisition types in the previous 5 years in Shaoxing in Zhejiang Province and Zhenjiang in Jiangsu Province. This research, carried out in June 2005, also assessed, analyzed, and evaluated the proposed initiatives.

The study team that was concerned with examining current valuation methods and compensation standards where land acquisition occurred, developed detailed field survey plans, and carried out field surveys in Nanjing, Ningbo, Wuhan, and Shijiazhuang in May and June 2005. The survey focused on 103 land acquisition cases occurring between 1999 and 2004 in the research areas, which related to land for the use of business, residence, industry, infrastructure construction, school, government agencies, among other uses. A questionnaire survey concerning the current land acquisition compensation standards, the manner of compensation, and asset valuation methods for compensation was administered. The survey was conducted mostly by means of a symposium and interviews. Participants in the study included officials in local authorities of land and resources departments, and other relevant government departments, land acquisition-implementing personnel, land users, experts in nongovernment organizations (NGOs), and land-loss farmer collectives and individual farmers. More than 20 symposia were held in four cities and 284 questionnaires were completed. Information from the surveys provided basic data for the remainder of the research and was used in the assessment of valuation methods for land acquisition compensation.

Another study team conducted research on rehabilitation policies and measures for land acquisition, and also on existing measures for the management of impoverishment risks arising out of land acquisition and involuntary resettlement. First, the study team analyzed the results of a research conducted by the Ministry of Labor and Social Security in 2004 concerning employment training and social security systems for land-loss farmers. Considerable efforts were made in conducting a survey across the country, and nearly 50,000 questionnaires were distributed. The survey data enabled the study team to understand more clearly the living and employment conditions of land-loss farmers after land acquisition had occurred, and the associated risks of impoverishment.

3. National Workshop

Research on land acquisition system reform has been conducted for nearly 7 years in the PRC, and has generated extensive literature; a wide range of views have been aired and discussed. At the same time, MLR has committed to research and development work in land acquisition reform in recent years and has gained valuable policy reform experience and knowledge about practical outcomes. All experts participating in the long-term research effort in the PRC have also participated in the research of RETA 6091, which has facilitated greatly the conduct of the research for the present study, and facilitated dialogue among recognized Chinese experts in the field.

During the 5-month research period, particular importance was attached to group discussions among the project team members, including during the start-up meeting, interim reviews, and in subject area meetings. The workshop on the PRC's Capacity Building of Risk Management of Land Acquisition Resettlement, held in Beijing in August 2005, was a great success. Views and suggestions of experts from ADB provided important guidance for the work of the project team. Experts from the PRC's Ministry of Finance, Ministry of Construction, Ministry of Water Resources, Three Gorges Commission of State Council, All-China Women's Federation, and other relevant research institutions also provided their insights at the forum. Members of the expert study teams held more than 10 study meetings in the course of the research. The views generated from these meetings have been fully presented in this country report and in the four thematic reports that are part of this RETA.

4. Report Writing

Each of the project study teams wrote their draft thematic reports at the end of June, including reports on the scope of land acquisition rights, valuation methods for land acquisition compensation, improving policy and practice in land acquisition, and improving the

legal and policy framework to manage impoverishment risks. In addition, further reports provided commentary on existing laws and regulations on resettlement following land acquisition. The thematic reports reflect each study team's analysis of the results of the survey data, as well as the main conclusions generated in the course of their research. The report on "Asset Valuation in Land Acquisition Compensation" was written based on subreports from Nanjing, Ningbo, Wuhan, and Shijiazhuang. The report, "Scope of Land Expropriation Rights" draws together the literature that was collected for the study. However, some lengthy materials have not been included in the report.

The country report was written based on the conclusions of each study team within the time limit specified in the working schedule for the project. The report has been revised on the basis of feedback received at the national workshop held on 16–17 August 2005.

According to the PRC's laws and regulations, land acquisition refers to turning the collective ownership of land into State ownership, excluding demolishing and reconstruction in cities.² Therefore, in Chinese laws and regulations, "involuntary resettlement" is referred to by the phrase "land-loss farmers", and so for convenience of expression, the latter phrase is used in the reports.

² Under the present laws in the PRC, land in urban districts shall be owned by the State. When houses on state-owned land are demolished, the rights of land use will be taken back which is not "land acquisition". The Ministry of Construction of the PRC takes responsibility for administering the affairs on land expropriation and compensation on state-owned land. Therefore, this report only relates to land acquisition and compensation on collectively owned land.