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# VIII. Main Conclusions and Recommendations

## A. Institutional Reasons for the Subsistence Risk of Land-Loss Farmers

**T**he current land acquisition system in the PRC has evolved gradually under the regime of the planned economy. For decades, this system has played a key role in infrastructure construction, such as transportation, energy, and water conservancy, for the State's establishment of a modern industrial system and particularly for urban development. At that time, after paying appropriate compensation for land acquisition, the State intended to turn land-loss farmers into urban permanent residents who were employed by "new land" users and, thus, received welfare as townspeople and workers of the State. In this way, land-loss farmers' long-term livelihood and welfare provision was to be guaranteed. Farmers viewed land acquisition positively due to the guarantees made by the State. However, alongside the movement toward a market economy in the PRC, the land acquisition system was not reformed appropriately, and the former compensation and resettlement measures no longer meet the requirements of a market-oriented economy. These institutional shortcomings have been the main factors causing subsistence risks for land-loss farmers.

**Shortcoming 1:** The overly wide scope of land acquisition rights, where no "public interest" is evident. This is evident in the following aspects: (i) the scope of "public interest" is not defined in law, and land acquisition goes beyond the scope of "public interest"; (ii) the State monopolizes the primary market of land for construction (i.e., only the Government can convert agricultural land to land for construction); and (iii) no system is in place to fully monitor the legality of land acquisition requests.

**Shortcoming 2:** Low compensation standards and unreasonable valuation methods. These are evident in the following aspects: (i) lower compensation standards for land acquisition, which is inadequate for land loss farmers to restore their original living standards;

(ii) taxes and fees take a greater share in the costs entailed in land acquisition; (iii) although the proportion received by land-loss farmers in the compensation for acquisitioned land is basically reasonable, in some undeveloped regions it tends to be relatively low; (iv) in current compensation standards, land value is not given full consideration, nor is the social security protection for farmers, let alone compensation for farmers' land contracting and operating rights; and (v) current valuation methods for land acquisition compensation do not take into account the potential value of land utilization.

**Shortcoming 3:** Imperfect resettlement policy, with no guarantee for land-loss farmers' long-term livelihood. This is evident in the following aspects: (i) current rules provide incomplete provisions on resettlement measures for land-loss farmers; (ii) no employment promotion policy is formulated for land-loss farmers; and (iii) no basic living guarantee system—relevant to land-loss farmers' situations—exists.

These three system shortcomings are the main causes for subsistence risks for land-loss farmers and, thereby, become the main causes for social risks. Therefore, to strengthen the PRC's capacity building of risk management of land acquisition resettlement, the PRC must start with reform of the land acquisition system. Through advancing such reform, a new land acquisition system can be established, which is in line with internal conditions and which can meet the requirements of socialist market economy development.

## B. Building the PRC's Capacity to Manage Impoverishment Risks

### 1. Specify the Intent of "Public Interest"

The scope and the intent of "public interest" should be specified in relevant laws and specific categories pertaining to land acquisition. In deciding the scope of land acquisition, the reform plans should give full

consideration to the current national conditions and the basic fact that the PRC is still a country that lacks capital and has great demand for land. Land acquisition should be reduced step by step:

**Stage One:** Adopting Plan III, whereby the scope of land acquisition is defined as (i) land used for energy, transport, water conservancy and other infrastructures, and other public interest projects supported by the State and (ii) land used for development within the scope of urban (excluding “organic” townships) construction purposes.

**Stage Two:** Adopting Plan I, “public interest” is defined as public facilities and public welfare undertakings that take the State as their investment entity, do not aim to make profit but serve the general public good of society, and have benefits shared by society, including military installations, road used for transport, energy, water conservancy, municipal and other public facilities and other public places invested in by the State, governmental office facilities and cultural, education, health, technical and other public buildings invested in by governments and public groups. Any other land-use projects should be withdrawn from the scope of land acquisition.

For the longer term, the scope of land acquisition will be strictly defined. A clear distinction must be made between public use and nonpublic use, be it a single land-use project or continuing projects. In the short term, the Decisions of the State Council Concerning Deepening of Strict Land Administration will be carried out to explore ways of making rural collective land used for construction more market-based.

## 2. Establish and Improve the Review Mechanism for Legitimacy of the Intended Purposes of Land Acquisition

By amending the approval system of land acquisition in the LAL, establish a review mechanism on legitimacy of land acquisition purposes. The State Council or provincial government should strengthen ex ante examination of legitimacy of land acquisition purposes. Establish a mitigation system when land acquisition purposes are illegal. The affected collectives or persons should be able to request the relevant administrative authorities for an administrative review, or lodge an administrative litigation in the court when land acquisition purposes are deemed illegal.

## 3. Establish Ways to Acquire Rural Collective Land for “Nonpublic Interests”

Quicken institutional reform for collective land use, and acquire rights to use collective land through the market, after land used for “nonpublic interests” purposes has been excluded from land acquisition scope. As a result, MLR should make necessary legal adjustments to the collective land-use system (these are currently under consideration), and permits for land used for collective construction purposes directly to enter market circulation on certain conditions, and to correct price distortions in the process of cultivated land changed to noncultivated land in order to promote stable development of the land market.

## 4. Standardize the Behavior of the Government

Standardizing the behavior of the Government is the key to promoting the reform of the system of land acquisition. At present, local government is not only the land administrator but also the representative of the State-owned landowner. In addition, it also represents the land users when it reports approval status for land acquisition to the provincial government and the State Council. As a result of these different responsibilities, many disadvantages arise. With the separation of the functions of the Government from those of enterprises, and the diversification and demarcation of subjects of investment, the behavior of the Government can be standardized in stages. Land used by the Government should then be limited to the land used for public interest, and the only function of the Government is to unify land acquisition and provide land for land users.

## C. Acknowledge Farmers’ Property Rights over Collective Land and Offer Land Acquisition Compensation

### 1. Further Specify the Intent of “Compensation”

Presently, people and property (land) are considered in land acquisition compensation. Compensation is based largely on policy, that is, compensation to reestablish livelihoods. The improvements suggested for the farmland pricing method are designed to mainly incorporate the principle that compensation for acquisitioned land should mainly consist of

compensation for the abandonment of land. The price paid for farmland could be viewed as compensation for land property. The correction also takes into account policy factors, such as per-capita arable land amount and minimum guarantee level for urban residents. Therefore, in the process of providing compensation for the acquisitioned land, what needs to be made clear is that land property should provide the basis for compensation, with other subsidies and allowances introduced as separate considerations in land acquisition. This will assist the transition to paying land acquisition compensation solely for land property rights in the future. Subsidies and allowances for persons should be paid separately through an established social security system. The issue of land-use rights is currently under consideration by the Government.

## 2. Have Multiple Valuation Methods that can be Compared against Each Other

To date, there is only one method to calculate compensation for acquisitioned land. In order to ensure the objectivity of the calculation results, compensation prices must be specified in the future. According to the actual condition of current land use and the application scope of each method, such methods as output value multiple method, case correction method, deduction from anticipated price of land for conversion of use method, and the correction of farmland price method can be used. Preferably, two or more calculation methods should be adopted, and the market situation should be taken into comprehensive consideration.

## 3. Progressively Move toward Compensation based on Market Prices

With the improvement of calculation methods for compensation, the establishment and refinement of the land acquisition compensation system, and strengthening awareness of farmers about land rights, the proportion of policy compensation and that of land property compensation will change. Policy compensation will gradually give way to land property compensation, and the market will decide the compensation price, especially if collectives are gradually given more negotiating rights. Meanwhile, negotiations should be encouraged between organizations that need land and the farmers as a group, including full participation of affected farmers, to discuss and reach agreement on compensation and resettlement compensation.

## D. Establish Employment Promotion Mechanisms and a Basic Living Guarantee System with Long-Term Livelihood

### 1. Employment Promotion Policy

An employment promotion policy has to be enacted for farmers affected by land acquisition:

- (i) Introduce an employment promotion policy and implement a policy of microcredit or loans to the farmers affected by land acquisition, and establish a financial security mechanism for employment funds (loans).
- (ii) Make efforts to exploit existing employment opportunities in communities and to expand rural employment channels. At the same time, help affected farmers to run, under contract, the farm enterprises and to continue to engage in farm production, which will utilize their existing skills.
- (iii) Intensify employment training. Provide training of all levels and forms with a stress on relevance, practicability, and effectiveness, which are sensitive to the employment needs and structural changes in the labor market.
- (iv) Provide employment services and business support. Combine self-employment training with instruction in business start-up, microcredit or loans and taxation remission, and continued business support in order to provide a link-up service for the affected farmers. Provide free employment introduction and vocational instruction for the affected farmers.
- (v) Establish and develop reemployment support mechanisms. For example, support mainly targeted at "40/50" persons (female, 40 years old and above; and male, 50 years old and above) and families in which the couple are both unemployed in an effort to ensure at least one of them is employed. This requires the development of mechanisms to identify "at risk" people in difficult conditions and also a follow-up tracking system.
- (vi) Establish and implement nationwide training programs for farmers affected by land acquisition, which are project-induced, and develop integrated training resources through

pilot work, and innovate training methods and improve training quality.

## 2. Basic Living Guarantee System

A basic living guarantee system suited to affected farmers has to be established. Affected farmers who go into cities and towns may choose to participate in the urban-based social security system. However, without policy support, affected farmers cannot easily participate in existing social security systems, and these are not developed in the rural areas. Therefore, all local governments should take measures to establish a form of basic living guarantee system for affected farmers as part of a broader, strategic and longer-term policy to develop a village-based security system to parallel the provision for urban residents. In particular, an old-age security system is the key point in constructing a long-term social security system for farmers affected by land acquisition.

## 3. Security Fund for Affected Farmers

A security fund has to be established for resettling affected farmers. In order to ensure the implementation of employment promotion policies and the construction of a system of basic living guarantees for farmers affected by land acquisition, local governments should establish a security fund for resettling the affected farmers. The fund may be raised in the following ways, based on the State or local government's public fiscal responsibilities in the construction of a social security system for the affected farmers:

- (i) From the local government finances, contributions in this regard include aspects, such as the outlay for the administration and operation of the social security agencies for affected farmers, special subsidies to cover the old-age insurance, medical insurance and so on, and expenditure to cover funding gaps arising from reduced charges to farmers or to increase their income standards.
- (ii) From the local government's net income from land transfer.
- (iii) From yields from nationwide social security funds, from contributions by units and individuals within society, and from income from the liquidation of State-owned assets.

## 4. Resettlement Diversification

The resettlement of affected farmers has to be diversified. To resettle the farmers affected by land acquisition, the concerned authorities need to explore flexible resettlement modes appropriate to local conditions. In highly market-oriented areas, including developed areas and the areas on the borders of cities, the reserve land resettlement method could be adopted, which would give the affected collective and individual farmers their own opportunities to engage in nonfarm development. Where land is acquired for the purpose of project construction and where there will be stable income and long-term returns, investing land compensation funds to gain shares could be adopted as a further option, subject to agreement of the affected farmers. This would not only help to lessen the short-term financial pressure on the Government, but also help maintain and provide long-term revenue for farmers affected by land acquisition. In addition, in areas where conditions are favorable, employment channels should be created and expanded.

## E. Establish Open and Fair Land Acquisition Procedures to Empower Farmers

Land acquisition procedures constitute an important part of the land acquisition system. Elsewhere, in countries with developed market economies, in the course of the government obtaining land, the current landowner has the right to participate throughout, with access to information and proceedings, and the right to negotiate and appeal through arbitration in court against any dispute, such as land compensation. Taking into account the prevailing conditions in their own local regions, developing countries have also introduced land acquisition procedures into their legislation. Within each of the key steps in land acquisition (application for land acquisition – pre-announcement – negotiation on compensation resettlement – submission for approval – examination and approval – announcement – implementation of compensation resettlement – handing over of land) steps can be taken to more fully include farmers in the process:

- (i) Coordination should be brought in compensation and resettlement work. Negotiations should be conducted with the collective and

farmers whose land is to be acquisitioned with regard to the compensation standards and resettlement channels. Farmers' ideas should be heard. Early investigation and negotiation should replace the compensation register process within the current laws and regulations.

- (ii) Change the current practice of land acquisition announcement. A procedure of pre-announcement would more fully include farmers. That is, after deciding on the land for acquisition, the Government should issue a pre-announcement immediately, notifying the affected collective and farmers, specifying the range of land acquisition, as well as the time limit for construction and planting. At the same time, the preliminary investigation register for compensation should be prepared, and negotiations on compensation resettlement should be conducted. If the unit affected by land acquisition suffers any loss because the land acquisition is not approved or not approved within a certain period of time, the Government or concerned unit should pay compensation according to the actual losses. Next, combining the current two announcements after the land acquisition is approved into one. This announcement should be issued after the land acquisition program is approved according to law. Upon expiration of the announcement, the compensation resettlement will be implemented, and land will be released.
- (iii) Establish a judicial decision mechanism to solve land acquisition disputes. As for disputes raised by collective landowners that the land acquisition is unlawful, that compensation is unreasonable, or that the resettlement has not been implemented, the judicial authorities will settle the dispute in line with judicial procedures. Thus, government authorities will participate in the decision of land acquisition disputes as little as possible. For any illegal behavior in land acquisition on the part of the Government, farmers may seek judicial relief, and apply for national compensation. Intensified law enforcement and firmer judicial decisions will ensure

the land acquisition in the public interest is effectively enforced and, while safeguarding the country's interests, also protect land-loss farmers' legal rights and interests from being infringed, and promote social stability.

## F. Recommended Supporting Policies

- (i) Accelerate the process of building the property rights system for rural collective land.
- (ii) The land acquisition system reform should be related to the rural collective land-use system. In normalizing the rural collective land distribution, MLR should limit the exercising range of land acquisition rights under "public interest" step by step, and open channels for more market-oriented methods of land acquisition to obtain land for construction. It should also probe the formulation mechanism and evaluation method for land acquisition prices based upon the market for rural collective land used for construction.
- (iii) Reform the current land tax system. In a market economy, the Government should obtain land proceeds through levying estate tax and land value-added tax, as well as through other channels, instead of obtaining proceeds directly through collecting charges in various headings within the land acquisition process. The financial authorities should secure guarantees for necessary administrative expenditure of relevant departments and reduce the dependence on administrative charges.
- (iv) Reform the current review system for performance of local government leaders. The safeguarding of farmers' rights and interests, while at the same time developing the economy, should be regarded as important when reviewing local government leaders' performance. Local governments should promote growth in a coherent, planned, and structured fashion to meet the needs of the economy, rather than implement "prestige" projects or development for development's sake as a means of claiming "leadership" or "progress" which, ultimately, misuses State land and infringes farmers' interests.