

3.2 Detailed Summary of the Main Laws and Policies for Resettlement Planning

3.2.1 Land Administration Law

The “Land Administration Law of the People’s Republic of China” was revised on August 29, 1998. The new land law prescribes the following standards: compensation for farmland should be four to six times the annual average per mu (1/15th ha) output value of the last three years before acquisition, which is higher than earlier standards such as three to six times; resettlement allowance for acquired farmland should be four to six times the annual average per mu output value of the last three years before acquisition, which is different from the earlier allowance. Acquired farmland is adjusted to 15 times the annual average output value of the last three years before acquisition by comparing with the original 10 times. To the land contributor whose original living standard can not be maintained, the resettlement allowance may be increased by provincial people’s government. The total amount of the compensation for land acquisition and resettlement allowance is raised to the thirty times from the original twenty times.

The specific provisions of new land laws and resettlement regulations are as follows:

Article 2 - The State may, in the public interest, lawfully appropriate land owned by collectives.

Article 46- Where land is to be acquired by the State, the acquisition shall, after approval is obtained through legal procedure, be announced by people’s governments at or above the county level, which shall help execute the acquisition.

Article 47- Land acquired shall be compensated for on the basis of its original purpose of use.

Compensation for the acquisition of cultivated land shall include compensation for land, resettlement subsidies and attachments and standing crops on the acquired land. Compensation for acquisition of cultivated land shall be six to ten times the average annual output value of the acquired land for the three years preceding the acquisition. Resettlement subsidies for acquisition of cultivated land shall be calculated according to the agricultural population to be resettled. The agricultural population to be resettled shall be calculated by dividing the amount of acquired cultivated land by the average amount of the original cultivated land per person of the unit the land of which is acquired. The standard resettlement subsidies to be divided among members of the agricultural population to be relocated shall be four to six times the average annual output value of the acquired farmland for three years preceding such acquisition. However, the highest resettlement subsidies for each hectare of the acquired cultivated land shall not exceed fifteen times its average annual output value for the three years preceding such acquisition.

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

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

Government.

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

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

The State Council may, in light of the level of social and economic development and under special circumstances, raise the standards of land compensation and resettlement subsidies for acquisition of cultivated land.

Article 48- Once a plan for compensation and resettlement subsidies for acquired land is defined, the local people's government concerned shall make it known to the general public and solicit comments and suggestions from the collective economic organizations, the land of which is acquired, and the peasants.

Article 49 The rural collective economic organization, the land of which is acquired, shall accept supervision by making known to its members about income and expenses of the compensation received for land acquisition.

The compensation and other charges paid to the unit for its land acquired is forbidden to be encroached on or misappropriated.

Article 51- The standard of compensation for acquisition of land to build large or medium-sized water conservancy or hydroelectric projects and the measures for resettling relocated people shall be prescribed separately by the State Council.

3.2.2 Relevant Regulations for Implementing of Land Administration Law

Article 25- After approved in accordance with law, the program of land acquisition shall be executed by the people's government of city, county where the acquired land is located, and the government shall make public the department approving the land acquisition, approval document number, use and scope and area of the land to be acquired, compensation standard for acquired land, resettlement method for agricultural persons, time limit of performing compensation for acquired land, etc. in the township (town) and village where the acquired land is located.

With the comments of the rural collective economic organization and farmer whose land acquired, the program of compensation for acquired land and resettlement shall be submitted to city and county people's governments and then organized to execute by the land administrative department of the city and county people's governments. In case of conflict with compensation standard, the people's government at levels above county shall coordinate

it. If the coordination fails, the case shall be adjusted by the people's government, which approved the land acquisition. The resettlement conflict shall not effect on execution of land acquisition program.

3.2.3 Stipulations of Compensation for Land Acquisition and Resettlement of Large- and Medium-Sized Water Conservancy and Hydroelectric Power Projects

The "Stipulations" are mainly for resettlement, which provide legal guarantee for China's resettlement work and legal maintenance for resettlers' rights and interests.

Article 5- For land acquisition of large and medium-sized water conservancy and hydroelectric power projects, the construction unit will pay compensation for land acquisition and resettlement allowance in accordance with following standards:

- (1) Compensation for acquired farmland is three to four times the annual average per mu output value of the last three years before acquisition. Resettlement allowance for each agricultural person to be resettled is two to three times the annual average per mu output value of the last three years before acquisition. With regard to the land acquired for large-sized flood control, irrigation and drainage projects, the standard of compensation for land acquisition may be lower than the above standards and the specific standards will be stipulated by the Ministry of Water Resources together with relevant departments.
- (2) With regard to compensation for other lands and resettlement allowance, provincial, autonomous region and municipality directly under the central government shall stipulate in the light of the item (1) of the clause.

Article 17- The State establishes a fund of reservoir area construction for the maintenance of large and medium-sized water conservancy and hydroelectric power projects and the support of resettlers' production development.

Article 19- When the State allocating expenses such as supporting agriculture, financing poverty reduction, communication, culture and education, sanitation, etc. appropriate consideration shall be given to the resettlement area for living arrangement and production development of resettlers.

When the State sets up production development projects in resettlement area and project beneficial area, the resettlers shall be given consideration.

Article 20- The time of supporting resettlers by the State is five to ten years since the date of completing execution of resettlement program.

3.2.4 Law of Villager Committee Organization

Article 2 - Villager Committee is an autonomous mass organization at the grassroot level, with self-management, self-education and self-service, carrying out democratic elevation, democratic decision-making, democratic management and democratic supervision. Villager Committee handles public affairs and welfare, mediating local disputes and cooperating to maintain social peace and order within the village, as well as report villagers' opinions and requirements to the people's government and raise proposals.

3.2.5 Notification of Setting up Later Period Support Fund for Hydroelectric Power Project and Reservoir Area

It is defined by the Notification that a later period, a support fund for large and medium-sized hydroelectric power projects and reservoir areas shall be set up from January 1, 1996. A unifying support policy and support standard of the State is executed for the resettlement of hydroelectric power and water conservancy projects. The fund drawing is restricted in the range of RMB250-400 yuan per resettler and per year. The unit managing the hydropower station and reservoir will authorize the drawing amount for fund from per kWh electric power energy of hydropower station which is put into commission in 1986 and later.

Specific drawing standard and method of provincial fund shall be raised in the form of scheme by provincial electric power bureau, hydroelectric power department and water conservancy department and determined by provincial people's government and submitted to the State Planning Committee, the Ministries of Finance, Electric Power, and Water Resources for filing. But provincial electric power bureau is an approval unit by the end of a year and the maximum drawing is no more than RMB0.005 yuan from per kWh electric power energy.

3.2.6 Specifications for Inundation Treatment Design.

The Specifications for Inundation Treatment Design for Reservoirs of Water Conservancy and Hydroelectric Power Projects, which is jointly issued by the Ministries of Electric Power and Water Resources, is a guiding principle for the design work. The specifications define the scope of inundation treatment of reservoir; design standard, main task of each design stage and design content, raise the requirements of comprehensive development and planning of the reservoir area and indicate the principles and basis of compensation and investment calculation for reservoir inundation treatment.

3.3 The Legal Basis for the Detailed Site Investigation

There are a number of documents that guide the detailed site investigation of the Material Index (physical assets inventory) inundated by the ZPSPP reservoir. These are listed below:

- **Treatment Design Standards for Reservoir Inundation for Water Conservancy and Hydroelectric Power Projects:** These technical specifications are the basis of design for inundation treatment and resettlement planning for reservoir inundation caused by hydroelectric power projects in China.
- **Investigation Stipulations for Material Index of Reservoir Inundation for Water Conservancy and Hydroelectric Power Projects:** These 'stipulations' indicate in detail the scope of the detailed site investigation, its methodology, the statistical and registration requirements for assembling a reservoir 'material index', and other directions for the staff involved in a detailed site investigation.
- **Outlines of the Treatment Design for the Reservoir Inundation of the Zhanghewan Pumped Storage Power Station:** These 'Outlines' are prepared by the project designers based on the 'Design Standards' and 'Investigation Stipulations' cited above. They take

into account the practical conditions of the Zhanghewan Reservoir and contain directive outlines for the design principles, methods, contents, level of detail, etc.

- **Investigation and Measurement Prospectus of Material Index for Reservoir Inundation of Zhanghewan Pumped Storage Power Station**: The ‘Prospectus’ is for the field-level surveyors. It details the work requirements and provides other technical guidance, for instance for ascertaining the reservoir inundation slope and boundary lines, and so on.

3.4 ADB Policies

In addition to following the laws, regulations and policies of the Peoples Republic of China, the ZPSPP resettlement planning has made reference to the ADB’s policies on resettlement, especially the following principles:

- Where population displacement is unavoidable, exploring all viable project options should minimize it.
- People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the project.
- People affected should be informed fully and consulted for resettlement and compensation options.
- The absence of a formal legal title to land by some affected groups should not be a bar to compensation; particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance provided to help them to improve their status.
- Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities.
- As far as possible, involuntary resettlement should be conceived and executed as a part of the project.

The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.

3.5 Measures proposed to bridge the gap between ADB and China policies

As far as resettlement, there are some difference between policies of ADB and Chinese Government, as the executive agency, the ZPSPO and JCRO will communicate with ADB as much as they can, and do their best to meet the requirements of ADB.

- In China, since the land belongs to the State or collective, farmers own the title of use right, the resettlement policy will pay more attention to the proper compensation and assistance. As a result, APs will receive the proper quantity and quality of land and

assistance after their relocation. With the compensation for their lands and houses and necessary assistance from resettlement implementing agencies, APs can restore their livelihood.

- According to Chinese regulations, no entitlement is considered for illegal land developers, tenants and renters. However, the EA understands the ADB's requirements for entitlement and compensation. Therefore, it is agreed that all APs, legal and illegal, are taken into consideration and accounted for. All APs including tenants and APs without legal title will directly receive full compensation. Tenants/laborers will be guaranteed of a rental contract equal to the remaining years of their previous contract and contract terms will be equivalent to those of the old contract. Renters of affected houses/buildings will be guaranteed of a rent contract at the same terms of the rent before.
- In China, the policies require the resettlement should be completed in 2 stages, first, after receive the compensation for land and houses, the APs can reconstruct their house and re-establish the foundation of living. Second, APs will receive latter help and develop their livelihood. According to the ADB's requirement, the EA will follow the principles of the Bank to ensure that adequate compensation, rehabilitation and other support will be available up-front to the APs at the same time.
- The policies of China require giving APs the same treatment without gender consideration. However, ADB policies require the vulnerable people will be paid a close attention, the female-headed households and the disabled will be given special care and help. The EA has followed the principles of the Bank and has integrated the issues of vulnerable groups, including gender into the resettlement planning and implementation.