

Comparative Analysis of DMC Legal Framework and ADB Safeguard Policy Statement:

Involuntary Resettlement

People's Republic of China

(A) ADB Safeguard Policy Statement	(B) Corresponding DMC Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
Policy Principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.			
Key elements (1): Project areas are screened at an early stage to identify, past, present or and future involuntary resettlement impacts and risks.	National legislation has no similar requirements. Lower levels of government generally are responsible for determining project preparation processes, but generally do not specifically require a separate early screening process.	No equivalence.	Prior agreement that field-based screening will be undertaken before TORs for resettlement plan are finalized.
Key elements (2): The scope of resettlement planning is determined through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	National legislation generally has no requirements for a census or survey of potentially affected persons (except for large-scale water and hydropower projects). Lower levels of government generally are responsible for determining project preparation processes, but generally do not specifically require a census or survey of potentially affected persons.	No equivalence.	Prior agreement that a field-based census and/or survey will be conducted to identify and enumerate all persons affected by resettlement impacts and risks.
Policy Principle 2: Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population.			

¹ "Full Equivalence" denotes that DMC legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the DMC legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no DMC legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

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Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.			
Key elements (1): Meaningful consultations are conducted with affected persons, host communities, and concerned nongovernment organizations.	National legislation has no similar requirements. Lower levels of government generally are responsible for project communications, but generally engage in providing information to, rather than consulting with potentially affected persons.	No equivalence.	Prior agreement on scope and methods for consultations with affected persons, along with any relevant host communities or concerned nongovernment organizations.
Key elements (2): All displaced persons are informed about their entitlements and resettlement options.	Chinese legislation does provide for providing information relating to compensation and some other aspects of the resettlement process. (See Decree No. 10, Ministry of Land Resources on Methods of Land Acquisition Notification, 2002. Also: Provisions of the People's Republic of China on the Disclosure of Government Information, 2007). But current legislation does not specifically require full provision of information relating to all potential entitlements or resettlement options.	Partial equivalence.	Prior agreement in context of Resettlement Plan (RP) on scope of information to be provided to displaced persons.
Key elements (3): The ability of displaced persons to participate in planning, implementation, and monitoring and evaluation of resettlement programs is ensured.	No similar requirements.	No equivalence.	RP includes relevant measures providing displaced persons opportunities to participate in resettlement planning, implementation and monitoring.
Key elements (4): Resettlement plans and arrangements pay particular attention to the needs of vulnerable groups, especially those below the poverty line,	No specific resettlement plans required. Any vulnerable groups affected by a project generally may be eligible for assistance otherwise already established, but resettlement-related legislation does not require that any special assistance measures be established for them as part of the project.	No equivalence.	RP establishes appropriate means of assistance for poor and other vulnerable groups affected by the project.

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the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.			
Key elements (5): A grievance redress mechanism is established to receive and facilitate resolution of the affected persons' concerns.	State Council Regulation 28 (2004) On Deepening the Reform on Strict Management of Land (Article 14) promotes use of judgment mechanisms to address disputes. There are no specific requirements in national legislation to ensure that a grievance redress mechanism is in place to address resettlement-related concerns or issues.	Partial equivalence.	RP includes appropriate project-level mechanism to address grievances or concerns of affected persons.
Key elements (6): Plans and arrangements support the social and cultural institutions of displaced persons and their host population.	No similar requirements.	No equivalence.	As relevant, RP includes measures to support the social and cultural institutions of displaced persons and host communities.
Key elements (7): A social preparation phase precedes compensation and resettlement decision-making for projects with involuntary resettlement impacts and risks that are highly complex and sensitive.	Planning requirements are higher for large-scale water sector projects, but do not specifically require a social preparation phase preceding compensation and resettlement decision-making.	No equivalence.	For projects with complex or sensitive impacts and risks, RP includes social preparation phase to precede compensation and final resettlement decision-making.
Policy Principle 3: Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			
Key element (1): Livelihoods of all displaced persons are improved, or at least	Given a paucity of replacement land of equivalent productive value, Chinese legislation focuses on cash compensation.	No equivalence.	Agreement that RP will be designed and implemented with the objective to improve, or at least restore, livelihoods

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restored through land-based resettlement strategies when affected livelihoods are land based where possible, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods,			of displaced persons. RP to include land availability assessment to determine the extent to which replacement land may be available, and otherwise reviews feasibility of non-land-based alternatives for income generation.
Key element (2): (Where compensation is not paid), livelihood strategies include prompt replacement of assets with access to assets of equal or higher value.	Legislation focuses upon payment of cash compensation.	No equivalence.	Same as above.
Key element (3): Where compensation in cash is to be paid, it is provided promptly and at full replacement cost.	Legislation promotes valuation of lost rural land in terms of its average agricultural output value, and compensation is calculated as a multiple thereof. This formulation often reflects replacement cost in rural areas, but may be deficient if the multiple is insufficient or if the land has a high value independent of its agricultural output (e.g., real estate value).	Partial equivalence.	Means for determining valuation and compensation at replacement cost reviewed in RP.
Key element (4): Where possible, livelihood strategies provide for additional revenues and services through benefit sharing schemes.	No specific requirements.	No equivalence.	TORs for RP require consideration of feasibility for provision of additional revenues and services through benefit-sharing schemes.
Policy Principle 4: Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.			
Key element (1): Relocated persons are provided secure tenure to	National legislation relating to urban housing provides for independent valuation, compensation at market value, or provision of replacement housing of equivalent value at the request of affected persons. (See State Council Regulations on Collection and Compensation for Houses on State-Owned Land, 2011.)	Partial equivalence.	RP, as relevant, provides for housing improvement to minimum community

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land, better housing at resettlement sites, and comparable access to employment and production activities.	Arrangements generally assure security of tenure. Rural housing acquisition most typically relies on cash compensation based on categories reflecting primary materials used in construction. No special measures in legislation provide for improved housing or for comparable access to employment and production activities.		standards, and arrangements for access to employment and production activities.
Key element (2): Relocated persons and host communities are provided integration assistance, and project benefits are extended to host communities.	No specific requirements	No equivalence.	As relevant, RP provides means to promote integration of displaced persons and host communities, and means to extend project benefits to host communities.
Key element (3): Economically displaced persons are provided transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities.	Similar planning measures may be required for large-scale water projects but may not always be required for projects in other sectors.	Partial equivalence.	As relevant, RP includes livelihoods improvement or restoration planning measures.
Key element (4): Civic infrastructure and community services are restored or improved.	No specific requirements.	No equivalence.	RP includes review of impacts on infrastructure and services, and provides measures as warranted for their restoration or improvement.
Policy Principle 5: Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.			
Key element (1): Resettlement measures include improving the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum	Generally, no specific measures to improve the standards of living of displaced poor or other vulnerable groups. Displaced persons of officially designated retirement age become eligible for state assistance.	No equivalence.	RP includes measures to improve standards of living of displaced poor and vulnerable groups as warranted in project context.

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standards.			
Key element (2): In rural areas, the displaced poor and other vulnerable groups are provided with legal and affordable access to land and resources.	No specific requirements in resettlement-related legislation. General provisions of law determine whether, and to what extent, affected individuals in rural areas obtain protections as communal members.	Partial equivalence.	RP reviews resettlement arrangements in rural areas to ensure adequate treatment of affected individuals or households who are commune members, or that adequate alternative arrangements are put in place.
Key element (3): In urban areas, the displaced poor and other vulnerable groups are provided with appropriate income sources, and legal and affordable access to adequate housing.	No specific requirements in resettlement-related legislation. General provisions of law in many urban areas provide for income and housing assistance.	Partial equivalence.	As relevant, RP includes measures to ensure that the displaced poor or vulnerable in urban areas are provided with appropriate income sources, and legal and affordable access to adequate housing.
Policy Principle 6: Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.			
Key element (1): Procedures are transparent, consistent and equitable if land acquisition is based on negotiated settlement.	Compensation rates are administratively determined through application of prescribed valuation processes. Only limited scope for marginal adjustment of compensation rates through negotiation.	No equivalence.	RP assesses scope and methods for negotiation in resettlement processes.
Key element (2): If land acquisition is based on negotiated settlement, outcomes ensure improvement, or at least restoration, of incomes and livelihoods.	Same as above.	No equivalence.	Same as above.
Policy Principle 7: Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.			
Key element (1):	No similar requirements; legislation restricts compensation to those legally entitled.	No equivalence.	Prior agreement that persons

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Displaced persons lacking titles or recognizable legal rights to land are eligible for resettlement assistance.			lacking legal title or recognizable legal rights are to be deemed displaced persons, eligible for resettlement assistance as provided in RP.
Key element (2): Displaced persons lacking titles or recognizable legal rights to land are compensated for loss of non-land assets.	No specific requirements.	No equivalence.	Prior agreement that persons lacking legal title or recognizable rights to land required for project purposes will be entitled in RP for compensation at replacement cost for non-land assets.
Policy Principle 8: Prepare a resettlement plan (RP) elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.			
Key element (1): RP is prepared, elaborating on displaced persons' entitlements.	Except for large-scale water sector projects, there are no specific requirements to prepare a resettlement plan.	No equivalence.	Prior agreement on scope and process requirements for RP.
Key element (2): RP includes an income and livelihood restoration strategy.	Same as above.	No equivalence.	Same as above.
Key element (3): RP includes institutional arrangements for its implementation.	Same as above.	No equivalence.	Same as above.
Key element (4): RP includes a monitoring and reporting framework.	Same as above.	No equivalence.	Same as above.
Key element (5): RP includes full estimation of costs and establishes financial responsibilities.	Same as above.	No equivalence.	Same as above.

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Key element (6): RP includes a time-bound implementation schedule.	Same as above.	No equivalence.	Same as above.
Policy Principle 9: Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.			
Key element (1): A draft RP (including documentation of the consultation process) is publicly disclosed in a timely manner before project appraisal.	There are no specific requirements to prepare or disclose a resettlement plan in draft prior to project appraisal.	No equivalence.	Prior agreement on RP disclosure arrangements.
Key element (2): The draft RP is disclosed in an accessible place, and in a form and language(s) understandable to, affected persons and other stakeholders.	Same as above.	No equivalence.	Same as above.
Key element (3): The final RP and any subsequent updates or revisions are similarly disclosed.	There are no specific requirements to re-disclose a final resettlement plan or any subsequent updates.	No equivalence.	Same as above.
Policy Principle 10: Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.			
Key element (1): Resettlement planning includes consideration of opportunities to enhance the number, reach or scale of benefits to local communities.	No specific requirements.	No equivalence.	TORs for RP include consideration of opportunities to enhance the number, reach or scale of benefits to local communities.
Key element (2): Full costs (and benefits) of	No specific requirements.	No equivalence.	ADB project review and appraisal to require

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resettlement are included in calculation of overall project costs and benefits.			consideration of resettlement-related costs in project cost-benefit analysis.
Key element (3): For projects likely to cause significant involuntary resettlement impacts, formulation and implementation of a stand-alone resettlement project is considered.	No specific requirements.	No equivalence.	Agreement between ADB and project proponents as to whether consideration of a stand-alone resettlement project is warranted.
Policy Principle 11: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.			
Key element (1): Compensation is paid and other resettlement entitlements are provided before physical or economic displacement.	Regulations generally require compensation and other financial forms of resettlement assistance to be paid before physical or economic displacement.	Full equivalence.	N/A
Key element (2): Resettlement processes are closely supervised throughout project implementation period.	No systematic provisions for resettlement supervisions throughout the project implementation period.	No equivalence.	RP establishes organizational arrangements for project supervision.
Policy Principle 12: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.			
Key element (1): Resettlement outcomes, including impacts on standards of living of displaced persons, are monitored and assessed.	Except for large-scale water projects, there are no requirements to monitor and assess outcomes, including impacts on standards of living of displaced persons.	No equivalence.	RP establishes arrangements for periodic monitoring of implementation and assessment of outcomes.
Key element (2): Extent to which objectives of RP have been achieved is assessed, with reference	Except for large-scale water projects, there are no requirements to formulate resettlement plans or to evaluate the effectiveness of their implementation with reference to baseline conditions.	No equivalence.	Same as above.

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to baseline conditions and information obtained through resettlement monitoring.			
Key element (3): Resettlement monitoring reports are disclosed.	No specific requirements to prepare and disclose monitoring reports.	No equivalence.	RP establishes frequency for monitoring reports and arrangements for disclosure.

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