Findings from the Seventeen-Province Survey on Farmers’ Land Rights in China

Land Contracting Rights, Transfers, Takings, and Urbanization

Landesa

2018
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Executive Summary

The rapid economic development in the past decades, which has mostly benefited urban areas, has driven hundreds of millions of rural dwellers to work in cities, leaving behind an aging population in agriculture. Yet, rights to agricultural land have been and will continue to be farmers’ principal assets and one of key sources of income. The issue of rural land tenure is therefore central to continued economic growth and the development of an equitable society in China. In this context, the Chinese Government has pledged to strengthen farmers’ land rights, transform agriculture, vitalize the rural area, and bridge the rural-urban gap.

On an unprecedented scale, The Central Government has launched a concerted effort to reform policies on rural land tenure. Central to this effort is a series of initiatives to enhance security of farmers’ land use rights, by establishing a nationwide rural land registration system and extending the land contracting term for another 30 years. The Central Government has also enacted reforms on land takings and promoted urbanization development, thereby hoping to reduce income disparity and share growth between rural and urban dwellers.

The 17-province survey conducted in the summer of 2016 offers an insight into the ongoing implementation and outcomes of these rural reforms and pilot initiatives, namely on land registration, transfers, takings, and urbanization. There are positive findings showing significant improvements on securing land rights for women and men farmers. For example, a great majority of surveyed villages reported, in what should be a great benefit to farmers’ security of tenure, that they have not readjusted land since the second round of land contracting; where new land certificates from the registration program are issued, they provide significantly better-documented information on farmers’ landholdings; and the compensation for land takings has seen a steady increase in the past decade.

The survey also revealed many concerning issues that need urgent improvements. For instance, farmers’ access to information and rights to participation in decisions that have substantive impact on their land rights are routinely neglected. This has led to many farmers feeling discontent towards implementation of government policies. Moreover, while laws and policies give rural women land rights and benefits equal to men, women farmers continue to be adversely affected by gender-discriminative rules and even purportedly “gender-neutral” rules made at local level. And, despite the Central Government’s repeated commitments to safeguarding arable land, the survey found that farmland has been exposed to persistent risk of conversion to non-agricultural uses, under the guise of land transfers and urbanization.

As we applaud the achievements of current land reforms, we strongly urge the Government to consider and address the issues pointed out in this report. Many of them are not new, but their severity and scale of impact on the security of farmers’ tenure rights and arable land call for careful review and urgent correction.

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1 National Bureau of Statistics published that the number of rural migrant workers in 2015 was 277.47 million. See Report on Monitoring and Research on Rural Migrant Workers, 2015.
2 See Securing a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era, a report delivered at the 19th National Congress of the Communist Party of China.
3 The percentage of villages that have not readjusted land since the second round of land contracting in all surveyed villages is 77%.
I. Introduction

The most recent 17-Province Survey was conducted in July and August 2016. It was the seventh in a series of large-scale sample surveys carried out since 1999 by Landesa and the Renmin University of China. The surveyed provinces remain consistent throughout all surveys, namely Anhui, Fujian, Guangxi, Guizhou, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Shaanxi, Shandong, Sichuan, Yunnan, and Zhejiang. The population of these 17 provinces altogether makes up three-quarters of China’s rural population.

Since the last survey in 2011, the new leaders in China have invested great efforts in rural land tenure reforms. In 2013, the Third Plenum of the 18th Central Committee of the Communist Party of China (CPC) stressed the importance of securing farmers’ land rights “for a long time without change”, and has recognized the importance of farmers’ rights to possess, use, transfer, and enjoy profits from land and to mortgage their land use rights. In this context, the current survey aims to assess the implementation of a range of rural laws, policies, and new reforms related to securing farmers’ land rights.

Our enumerators surveyed 1,852 villages in 365 counties in the 17 provinces. The team randomly selected 17 – 27 counties that are distributed in multiple municipalities across different GDP levels in each province. Enumerators then surveyed one to six townships per county, and one to four villages per township. Enumerators were also provided with guidance intended to help them identify a well-informed villager respondent to collect mainly village-level information. The team weighted the results using county-level population figures to account for variation in the population. We consider the results to be approximating a fully representative situation of the 17 provinces. The margin of error is ±2.3%; when conducting hypothesis testing, the team set the confidence level to 95%.

1. Household characteristics

Household characteristics provide important background information. From the 1,852 household samples collected, the survey reports a median of four family members as listed in the hukou registration, and a median of 4 mu of land contracted per household (the mean amount of land contracted per household is 6.5 mu). The survey finds that the median amount of household cash income in 2015 is 21,000 yuan (excluding production for own consumption), while the mean amount is 34,677 yuan.

More than three quarters (76%) of the respondents indicates farming as (one of) their current occupation. Almost a quarter (25%) of respondents reports that the household received over 80% of their cash income from farming in 2015 (referred to as “agricultural households”), whereas half of the households (51%) reports only less than 20% of cash income from farming in 2015 (referred to as “non-agricultural households”). Figure 1 shows the distribution of agricultural households and non-agricultural households by province.

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5. For a full list of numbers of counties and villages surveyed in each province, see Annex.
6. The demographics of the respondents are as follows: 78% of the respondents were male and 22% were female. The age of respondents is 54 years old on average.
7. One mu is 1/15 of a hectare, so 4 mu is 0.27 hectare.
The survey finds that, the average size of land contracted by non-agricultural households is less than half (42%) of those contracted by agricultural households; yet, the mean annual income of non-agricultural households is approximately 1.9 times of that of agricultural households. Furthermore, more than a quarter (28%) of non-agricultural households privately lease out land, 12 percentage points higher than the proportion of agriculture households who lease out land.\(^8\) In contrast, one fifth of agricultural households privately leases in land, compared to only 6% in non-agricultural households.

2. Village characteristics

Among all 1,852 villages surveyed, 91.5% of villages are located in rural areas vis-à-vis 8.5% that are suburban villages. The median year when the village conducted the second round of land contracting was 1998.

The reported median distance between the village and the nearest county seat is 15 kilometers (the reported mean is 19 kilometers). There is a statistical correlation between the distance to the nearest urban centers and the reported village affluence: reported affluent villages (defined as income per capita perceived higher than county average) is closer to the nearest urban centers than reportedly less affluent villages (defined as income per capita perceived similar or lower than county average).

Table 1 shows the percentage of villagers who seek work outside their villages. While it is not the focus of this survey, it is reasonable to believe that these people are doing non-agricultural jobs in urban or peri-urban areas and become known as “migrant workers”; a high proportion of people working away from the village also indicate that the remaining village residents are likely to be elders and children. According to the results, over half (55%) of surveyed villages reports that less than 40% of its villagers are doing work outside the village; but 16% of

\(^8\) Statistically significant at 95% confidence level
surveyed villages reports that over 60% of its villagers are working outside the village. The survey also finds that the median amount of daily wage paid to farm hire for all 17 province is 119 yuan, while its average amount vary in each province. Figure 2 shows the proportion of these villages and the mean amount of daily wage for agriculture hire by province.

Table 1 Percentage of People Working Non-agricultural Jobs

<table>
<thead>
<tr>
<th>Percentage of People who Work Outside the Village</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 20%</td>
<td>20</td>
</tr>
<tr>
<td>20 – 40%</td>
<td>35</td>
</tr>
<tr>
<td>40 – 60%</td>
<td>21</td>
</tr>
<tr>
<td>60 – 80%</td>
<td>13</td>
</tr>
<tr>
<td>Over 80%</td>
<td>3</td>
</tr>
<tr>
<td>Not sure</td>
<td>8</td>
</tr>
</tbody>
</table>

Figure 2 Percentage of People Working outside the Villages and the Mean Amount of Daily Wage for Agricultural Hire, By Province

With this background in mind, the following findings are grouped into six thematic sections. The first section presents results and a discussion of farmers’ knowledge of rural land policies; followed by the second section reporting on land readjustments. The third section reports findings on land registration and certificate issuance. The fourth section discusses survey results on land transfers and scale farming; the fifth section reports on findings of land takings and compensation. The sixth section gives a brief overview of urbanization given the relatively small sample size. The final section provides recommendations.
II. Farmers’ Knowledge of Policies on Rural Land

Legal rights are meaningful only to the extent that the intended beneficiaries are aware that the rights exist. The survey continues to measure farmers’ knowledge on key laws and policies that bear significance on their land rights. The results show that majorities of farmers are aware of the important policies that are pertinent to securing their land rights, but more efforts should be invested to increase gender-responsive awareness and understanding.

On the key rural policy of “long term without change”, about half (52%) of the respondents reports they have heard about it, and the other half (48%) says they have not. The survey finds that older respondents are more likely to have heard about the policy. There is also a positive correlation between knowing the policy and the village having conducted the second round of land contracting. The proportion of respondents who have heard about the policy is 9 percentage points higher in villages that have conducted the second round of land contracting, compared to those that have not.

On the basic question about “who owns rural land”, over four fifths (81%) of respondents answer incorrectly or are not aware of the answer: almost two in five (38%) believes the State or township governments own rural land, a third (34%) believes farmers own land, and a further 7% do not know. Only one in five (19%) correctly understand that rural land is owned by village collectives. The survey also finds a statistically-significant relationship between gender and the knowledge of land ownership – the proportion of male respondents who answer correctly is 40% higher than female respondents; more worryingly, twice the number of female respondents does not know the answer compared to male respondents.

Regarding specific rules that bear the greatest relevance to farmers’ tenure security and livelihoods, the survey produces encouraging results. These include questions on three major policies that touch upon farmers’ day-to-day life: collective’s power in land transfers, farmers’ moving to cities, and “married-out” daughters’ land rights. Table 2 shows the results in comparison with the results from the previous survey conducted in 2011.

Table 2 Farmers’ Knowledge on Pertinent Land Policies and Laws

<table>
<thead>
<tr>
<th>Do local governments or village cadres need farmers’ consent to transfer out farmers’ land? (“Yes” is correct answer)</th>
<th>If a family member moves to urban area and settles, should he/she return the land to the village? (“No” is correct answer)</th>
<th>When a daughter marries out, should she return her land to the natal village? (“No” is the correct answer)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Yes</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76%</td>
<td>93%</td>
<td>29%</td>
</tr>
<tr>
<td><strong>No</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12%</td>
<td>5%</td>
<td>55%</td>
</tr>
<tr>
<td><strong>Not sure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12%</td>
<td>3%</td>
<td>15%</td>
</tr>
</tbody>
</table>

As shown from the table, a substantial amount of respondents correctly understand these

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9. Statistically significant at 95% confidence level.
10. “Married-out” women refer to rural women who marry out from their natal village to another village.
11. Numbers may not add up to 1 due to round-ups.
12. The No category also includes “No” and “Yes but only if she receives new land in the marital village”.
policies which aim to protect their land rights. First, in line with the Central Government’s directives requiring land transfers to be voluntary, it is reassuring that an overwhelming majority (93%) of respondents know that farmers need to consent before local authorities can transfer out their land use rights. There is a visible increase of 17 percentage points in proportion from the last survey, indicating positive impact and effective dissemination of the policy by the government. For this question, the survey also finds that respondents over 50 years old have relatively lower share of knowing the correct answer (90%), while respondents of 30 years old or younger all answered correctly. There is a strong negative correlation between respondents’ age and their knowledge of consent – older age groups are less likely to agree that officials need to obtain farmers’ consent before transferring out their land use rights.

Regarding returning farmland, current law states that only if all members of a household moved to a multi-district city and changed “hukou” registration should their contracted farmland be returned to the village. An encouraging two thirds (67%) of respondents correctly answered that if only one member of a household moves to a city and settles she does not need to return land to the village. Again, the proportion increased 12 percentage points compared to the results in 2011, and the proportion of respondents who are unsure dropped 9 percentage points.

Finally, when respondents are asked whether a “married-out” daughter needs to return her land, over two thirds (69%) answered “No” or “Yes but only if she receives new land in the marital village”. Current law says that the natal village cannot take land back from a married-out woman if she does not obtain new land in her marital village. Among the respondents, 13% understand the law correctly while over half of respondents (56%) answered “No”. It is worth pointing out that even if the “No” answer is legally incorrect, the unqualified “No” is closer to the correct answer than unqualified “Yes” answers. This is because in reality receiving new land in the marital villages is very difficult, so the condition which would prompt a married-out woman to return her land to the natal village is rarely met. Therefore the “No” answers is much stronger in practically safeguarding land rights of married-out daughters.

III. Land Readjustments

Land readjustments have been an important but contentious issue. Proponents of land readjustments argue that readjustments can resolve inequality in landholdings resulted from demographic change of rural households and from loss of village land to takings. However, land readjustments are undeniably a major threat to farmers’ tenure security and can prevent them from making long-term plans on the land. After many years of debate and deliberation, central legislators finally adopted a near-all prohibition of land readjustments with narrowly-defined exceptions through the promulgation of Rural Land Contracting Law (RLCL) in 2003.

More than a decade after this centerpiece achievement, our survey finds that an overwhelming

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13 RLCL, art. 26.
14 RLCL, art. 30.
15 Answers to the three knowledge questions on land policies do not have statistical difference between male and female respondents.
three quarters (76%) of villages in the 17 provinces have not readjusted land since the second round of land contracting (or since 1995 if the village has not carried out a second round of contracting). Only one fifth of villages (20%) reports conducting land readjustments. Among villages that have conducted readjustments, 30% engage in “big” readjustments (including periodically and irregularly), where villages re-allocate landholdings of all households; 65% engage in “small” readjustments (including periodically and irregularly), where land parcels are added to or taken from a household’s existing landholdings based on changes to household’s size. 7% of villages that have conducted land readjustments are reportedly engaged in both “big” and “small” readjustments. Figure 3 shows the distribution of villages that have conducted land readjustments by province. Figure 4 indicates the distribution of the latest land readjustments in each year from 1992 (the earliest onset of the second round of land contracting) to 2015. During this period, almost a third (32%) of the latest readjustments took place after 2011.

Figure 3 Land Readjustments since the Second Round of Land Contracting (Or since 1995 If No Second Round of Contracting Was Conducted), By Province

![Bar chart showing the distribution of villages that have conducted land readjustments since the second round of land contracting or since 1995, by province.]

Figure 4 Distribution of the Most Recent Readjustments in Villages that Readjusted Land

![Line graph showing the distribution of the most recent land readjustments in each year from 1992 to 2015.]

The survey finds that farmers’ attitude towards ending land readjustments remains strong. One in six respondents (16%) “strongly support” ending readjustments, whereas less than one in

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16 We do not include data on 2016 because the survey was conducted only in mid-2016.
ten (9%) “strongly oppose” ending it. The aggregated results show that 64% of surveyed households support or feel neutral about prohibiting land readjustments, 30% oppose prohibiting it, and a further 6% are not sure. Interestingly, 20% of female respondents “strongly support” ending readjustments, compared to 14% in male respondents; and 24% of female respondents, 7 percentage points fewer than male respondents (31%), “strongly oppose” or “oppose” ending the readjustment policy. These differences in the options by gender of the respondent are statistically significant.\(^{17}\)

It is likely that the village practice of land readjustments skewed farmers’ understanding of land policies. In villages that have not readjusted land, the proportion of farmers who answer correctly that a household member does not need to return land if she moves to a city is 13.5 percentage points higher than in villages that have readjusted land. Furthermore, in villages that have experienced readjustments, a significantly higher share of respondents (by 26 percentage points compared to the villages that have not readjusted) incorrectly stated that women who marry outside of their village should return their land share.\(^{18}\)

Land readjustments also have a strong correlation with how compensation to land takings is distributed among farmers. The proportion of villages which distribute compensation to all farmers (where the most recent takings took place since 1995) is 14 percentage points higher in villages that have conducted readjustments than in villages that have not.\(^{19}\)

### IV. Land Registration and Certificate Issuance

Before the current registration initiative, keeping land records in rural China relies on the management of land contracts and certificates. However, as land transfers become prevalent and wide-spread land takings altered farmers’ landholdings, the old system of land recordation is increasingly deficient. In particular, it suffers from the problems that most of the records do not specify clear parcel boundaries or locations, identity of joint holders, or subsequent changes to landholdings; as few was digitalized, it is difficult to search, update, and manage.

Recognizing these issues, and in a historical endeavor to fulfill the commitment that farmers’ land rights are “long term without change”, the Central Government launched a national program to reaffirm and register land contracting and operation rights and issue new certificates to farmer households. The main goals are to clarify the numbers, sizes, boundaries, and locations of land parcels,\(^{20}\) and to further lay the foundation for a uniform system that registers both urban and rural property rights.

The registration program was first piloted in 2009, and subsequently implemented in all villages in Anhui, Shandong, and Sichuan province in 2014. It expanded to an additional nine provinces in 2015\(^{21}\) and another ten in 2016.\(^{22}\) The Central Government has set the target to

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\(^{17}\) At p<0.05
\(^{18}\) These correlations are statistically significant at 95% confidence level
\(^{19}\) At 95% confidence level
\(^{20}\) See supra note 4. See also No. 1 Document of 2013.
\(^{21}\) The nine provinces are Jiangsu, Jiangxi, Hubei, Hunan, Gansu, Ningxia, Jilin, Guizhou, and Henan.
\(^{22}\) The ten provinces are Hebei, Shanxi, Inner Mongolia, Liaoning, Heilongjiang, Zhejiang, Guangdong, Hainan, Yunnan, and Shaanxi.
complete registration of land contracting and operation rights by the end of 2018.\textsuperscript{23}

The Ministry of Agriculture (MOA),\textsuperscript{24} among others, issues procedures to follow for local implementation,\textsuperscript{25} and in particular calls for gender equality and protection of women’s land rights when listing representatives of households or joint owners on the certificates.\textsuperscript{26} MOA and the All-China Women’s Federation (ACWF) further circulated a document asking local women’s federations to work with their government counterparts to ensure that women’s names are listed on the certificates.\textsuperscript{27}

15 of the 17 provinces surveyed are designated to implement land registration by mid-2016. The survey asks respondents whether registration has been implemented in their villages, their perceived benefits of registration, the procedures, and villages’ practice of listing family members on the certificates. The survey also records observations from physically produced certificates issued both before and from the registration program. While the survey finds a good number of local practices in compliance with requirements from the Central Government, the current land registration program is not evenly implemented across provinces and there is much room for improvement so as to provide better accuracy and transparency.

1. Farmers’ knowledge

Of all 1,852 village surveyed, in three out of five (61%) villages, the majority of farmers know about the land registration program. The most perceived benefit of registration is “Land would belong to farmers” (39%), followed by “Farmers can make decisions on land transfers” (29%). Despite the fact that land is owned by village collectives, the two most perceived benefits seems to demonstrate farmers’ strong desire for tenure security and the ability to control their contracted land. Figure 5 shows the proportion of each perceived benefit.

Figure 5 Perceived Benefits of Land Registration and Certification

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land would belong to farmers</td>
<td>39%</td>
</tr>
<tr>
<td>Farmers make decision on land transfers</td>
<td>29%</td>
</tr>
<tr>
<td>Farmers can take out mortgage on land</td>
<td>10%</td>
</tr>
<tr>
<td>Villages cannot readjust land</td>
<td>10%</td>
</tr>
<tr>
<td>Can make more investment in land</td>
<td>9%</td>
</tr>
<tr>
<td>No need to return land after moving</td>
<td>4%</td>
</tr>
<tr>
<td>Rent of land transfers becomes higher</td>
<td>4%</td>
</tr>
</tbody>
</table>

The survey shows that about one in ten respondents (11%) do not perceive any benefits with

\textsuperscript{23} See No. 1 Document of 2013, Opinions on Accelerating Development of Modern Agriculture and Further Enhancing Vitality of Rural Development, 31 December 2012.

\textsuperscript{24} Ministry of Agriculture (MOA) has changed to Ministry of Agriculture and Rural Affairs (MOARA) since April 2018. The report will use “MOA” for purpose of continuance.

\textsuperscript{25} See MOA et al., Opinion on Diligent Implementation of Registration and Certification of Rural Land Contracting and Operation Rights, 27 January 2015; MOA, Procedures of Pilot Registration of Rural Contracting and Operation Rights (Trial), 27 June 2012; And, MOA, Opinion on Pilot Registration of Rural Land Contracting and Operation Rights, 2011.

\textsuperscript{26} Ibid, 2015.

\textsuperscript{27} See MOA and ACWF, Meeting Minute on Protecting Women’s Rights and Benefits to Land during Registration of Rural Land Contracting and Operation Rights. August 2014
registration and receiving certificates. In villages where registration has started, 14% of surveyed respondents do not know whether there is any benefit associated with registering land and receiving certificates. The share of female respondents who are not able to answer this question is 7 percentage points higher than that of male respondents.\textsuperscript{28}

2. Progress

Overall, the survey finds that the progress of land registration is behind schedule if it is to be completed by the end of 2018, and the status of implementation varies greatly by province. As of mid-2016, under half (46%) of the surveyed villages has started, is in the process of, or has completed land registration (hereinafter “Implementing Villages”).\textsuperscript{29} 86% of Implementing Villages reports that the majority of farmers know about the registration program, which is 46 percentage points higher than villages that have not implemented registration.\textsuperscript{30}

For farmers, registration is considered complete upon issuance of certificates. The survey finds one in five (20\%) of Implementing Villages, or less than one in ten (9\%) of all villages surveyed, have issued certificates to all or the majority of farmer households (hereinafter “Completion Villages”). In almost three quarters (72\%) of the Implementing Villages, no household has received certificates.\textsuperscript{31} Figure 6 shows the extent to which registration has been implemented and completed and the percentage of villages where, reportedly, most people know about the registration program.

Figure 6 Status of Land Registration in All Surveyed Villages and Knowledge, by Province

\textsuperscript{28} This result is statistically significant at 95\% confidence level.
\textsuperscript{29} The actual number may be slightly higher than the reported rate if the respondent was unaware of the process and erroneously reported that it had not commenced. However, we would not expect the number to be much higher since enumerators were instructed to purposely choose respondents who are likely to be well informed.
\textsuperscript{30} This result is statistically significant at 95\% confidence level.
\textsuperscript{31} 4\% of all surveyed villages has issued certificates to at least someone in the village but the process has not been completed at the time of our survey.
3. Procedural compliance

Aside from measuring the overall progress, the survey asks whether village practice of land registration follows the central guidelines on procedures. The Central Government requires that villages should not use registration as an opportunity to readjust land or take land back from farmers. Reassuringly, the survey confirms that the overwhelming majority (90%) of Implementing Villages did not readjust land before carrying out land registration.

The procedure of land registration aims not only to accurately investigate and record “who owns what”, but also to do so with transparency and participation from farmers before officially registering their landholdings into the database. As prescribed in central policies, Figure 7 illustrates the standard steps of conducting land registration that engage farmers’ participation.

Figure 7 Standard Procedures of Land Registration Prescribed in Central Policies

We assess local compliance to the procedures using Completion Villages, because these villages are supposed to have carried out all these steps before issuing certificates. The results show that among Completion Villages, two thirds (66%) have conducted at least one mobilization campaign and 45% conducted more than one. Second, a large majority (82%) of Completion Villages have conducted land measurement either by aerial mapping (40%) or by field measurement (42%). Third, almost two thirds (63%) of Completion Villages have posted results of land survey in public at least once, and 29% posted more than once. Furthermore, in over three quarters (76%) of the Completion Villages, farmers have confirmed the results of land registration by signature in written form. While these results on local compliance are very positive, it is worth reminding that the Completion Villages only make up 9% of all surveyed villages. Figure 8 shows the proportions of procedural compliance among Completion Villages.

Figure 8 Percentage of Completion Villages in Compliance with Registration Procedures

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MOA, Working Procedure of Pilot Registration of Rural Land Contracting and Operation Rights (Trial), 2012
As shown above, the survey finds procedural inadequacies that lack transparency and participation from farmers. For example, mobilization campaigns should be the very first step that all Implementing Villages carry out to inform and engage farmers, but the survey suggests that only half (51%) of the Implementing Villages have conducted mobilization campaigns. For the other half, respondents report no mobilization campaign was conducted (41%) or not sure whether any have been conducted (7%). Moreover, in all Completion Villages, 13% reports no land measurement was ever carried out; 28% reports that the results of land surveys were not posted in public; and 20% reports that farmers were either not asked to confirm the results or only confirmed them verbally.

4. Share registration

Two types of land registration have been used – registration of parcels and registration of shares. The latter was invented to be used in situations where land parcels have been pooled together and used jointly, such as in the event of large land leases to scale farmers. Under share registration, farmers no longer have use rights to demarcated parcels with clear quantities and boundaries; instead, they receive a set number of shares, calculated as proportions in the jointly-used landholdings. Foreseeing the threats posed to farmers’ land rights, the Central Government strictly restricts the use of registration of shares and stresses that registration of parcels should be the principal method of registering land contracting and operation rights.\[^{33}\] The MOA further requires local implementation to use parcel registration as long as land had been contracted to farmers.

Against this background, the survey finds less than one in ten (9%) Implementing Villages uses registration of shares. There is a statistically significant relationship between land takings and the method of registration: in Implementing Villages that have experienced land takings since 2012, the proportion of villages using share registration is 9 percentage points higher than those that have not experienced any takings since 2012. A marginally significant correlation also exists with scale farming activities – the proportion of villages using share registration increases from 7 percentage points in Implementing Villages without scale farming to 16 percentage points in Implementing Villages where big bosses are leasing land.

\[^{33}\] No. 1 Document of 2015
5. Listing names of joint holders and in particular female family members

According to Chinese laws, land contracting and operation rights are jointly owned by all members in a farmer household, therefore each family member is a joint holder and should be recorded in the land register and certificate. This is particularly important for rural women because women are rarely recognized with their husbands as the head of households. Being listed as family members is almost the only way for women to obtain legal recognition of their land use rights. Hence, a key central document on registration issued by six ministry-level authorities states that the land register shall list joint owners of land contracting and operation rights, and the joint owners on land certificates should reflect the principle of gender equality.

In this vein, the survey asks whether Implementing Villages have listed family members on the certificates, or whether listing family members is a village practice.

What the survey finds is worrying. Only half (53%) of the Implementing Villages list or plan to list family members on the certificates, and almost one in five (19%) do not or will not list them. Further, in over a quarter (28%) of Implementing Villages, respondents are not sure whether or not the new land certificates would list family members, indicating that either the village had not communicated the policy or these villages do not intend to include family members. There is a statistically-significant negative correlation between perceived village wealth and whether the village list or plan to list family members. In the reported wealthy villages (defined as income per capita perceived much higher than the county average), the proportion of reported wealthy villages that list or plan to list family members is 53 percentage points lower than those reportedly poorer villages.

When Implementing Villages do list family members on the certificates, who is considered a member becomes important. In this regard, the survey finds a balkanization of criteria used to determine family membership. Among Implementing Villages that list family members, over two thirds (70%) only list members whose hukou are currently in the household at the time of registration, about one in five (22%) list only family members who received land during the second round of land contracting, and a meager 7% list only family members who are living in the household at the time. Under the patriarchal custom, daughters are seen as “spilled water” who no longer belong to the natal family upon marriage, whereas a son is almost at all times regarded as a family member. Therefore the inconsistencies in the criteria applied to determine family membership predominantly and unfairly affect whether a woman can be listed. Based on this understanding, the survey makes specific inquiries on what would qualify married-out daughters (who are also married-in wives in the husband’s village) to be listed on the land certificates. Figure 9 shows the results.

Figure 9 Percentage of Implementation Villages that List Women on the Certificates based on Possession of Hukou or Land in that Village, among Implementation Villages that List Names

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34 Property Law, art. 103 and 105; Implementing Rules to the Interim Regulations of Registration of Immobile Property, art. 21.
35 MOA et al, Opinions on Diligently Implementing Registration of Rural Land Contracting and Operation Rights.
36 At 95% confidence level.
Married-in wives who not only have *hukou* but also received land in the marital villages have the highest proportion (79%) of being listed on the certificates in the marital villages. It is followed by married-out daughters who retain both *hukou* and land allocation in the natal villages (74%). While these results are reassuring, it is important to know that, on the one hand, it is increasingly difficult to receive new land in marital villages; in reality many married-in wives leave their land behind in the natal villages without receiving new land in the marital villages. On the other hand, many villages have rules that force married-out daughters to move their *hukou* to their husbands’ villages upon marriage. Therefore, women having both *hukou* and land in a village are eligibilities that are unlikely to be met.

With only *hukou* but no land allocation, the proportion of villages that list names of married-in wives drops to about half (55%), while a third (34%) refuse to list their names. If married-out daughters want to register their names in their natal villages since their land is still there, the survey suggests that merely a quarter (28%) of the villages that list family members would grant their wish. For those women that have neither *hukou* nor land, few villages list their names on the certificates.

One finding is particularly devastating – one in ten Implementing Villages that list family members do not list married-in wives regardless of whether they possess land or *hukou*, and one in six (16%) do not list married-out daughters whatsoever. These groups of women would absolutely not be able to register their names to any land certificate because in the counterpart villages they have nothing to support their claims of land rights.

### 6. Issuance and quality of certificates

By law, land contracts and certificates are legal documents to establish and evidence land contracting and operation rights. Even if the practical function of land contracts are gradually replaced by the issuance of certificates and emerging digitalized land register, land contracts are still the most important legal documents that establish farmers’ land rights. As of mid-2016, the survey finds in almost two out of five villages (39%), the majority of farmers received land contracts, and in slightly greater number of villages (44%) the majority does not have land contracts, with a further 16% unsure. Regardless of the land registration program, every

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37 See Property Law, art. 17 and 127.
farmer household should possess a land contract.

The survey moves on to measure issuance of land certificates and the quality of the certificates. As indicated above, one in five of the Implementing Villages has issued certificates to all or majority of households. In the Implementing Villages that have not issued certificates to all or the majority, almost half (46%) did not inform farmers whether certificates would be issued, and another 41% did not inform farmers of when they would be issued.

A certificate of excellent quality should record complete information of farmers’ landholdings, including indispensable information such as contract duration, specific start and end dates, total size of contracted land, number of land parcels, size of each parcel, boundaries of parcels, maps that either show details of each parcel or mark parcels on a village map, and all joint holders of the land use rights. The survey is able to physically examine 95 certificates issued from the current land registration program (hereinafter “New Certificates”) and 449 certificates issued prior to the registration program (hereinafter “Old Certificates”). Our analysis finds a significant improvement in the quality of the New Certificates. Figure 10 shows the differences in quality between new and old certificates by measuring whether they record crucial information of landholdings.

Figure 10 Comparison of Quality between New Certificates and Old Certificates

From the figure, the quality of New Certificates is consistently greater than Old Certificates in all aspects. Such difference is statistically significant with regard to start and end date, parcel numbers, size, and boundaries, parcel map and master map, and listing of family members. The survey finds that more than one third (37%) of the New Certificates is of excellent quality – they record all important information as reported in Figure 10, while less than 1% of the Old Certificates can parallel. In particular, 95% of the Old Certificates do not contain any map, while 91% of the New Certificates include either a parcel map or a village land map.

38 Include both partial and complete information of land
39 At 95% confidence level.
While the registration program produces certificates of much greater quality, it is not without flaws. Even if 37% of the New Certificates is of excellent quality, the other two thirds fail to contain one or several key items of information as to farmers’ landholdings. For example, almost one in ten (9%) does not contain any land map; about a third (31%) still does not list any family members.

Moreover, the survey finds that the New Certificates predominantly (94%) list a man as the representative of household, while only 4% list a woman. None of the New Certificates included both spouses. This confirms our concern that if women are not listed as family members on the certificates, it is almost impossible for them to obtain any legal recordation of their land use rights.

Lastly, nearly no modification was recorded on the New Certificates the survey was able to examine, except for one that recorded land exchanges. These certificates have been issued on average for a period of one and half years. However, none of them records any modifications to changes in the household (marriage, death, and birth), land transfers, or land securitization. One of the major benefits of land registration is to provide farmers, governments, and the public an up-to-date rural land system. Lack of entry of modifications will preclude new family members from being listed as joint holders. More importantly, it could soon render obsolete the entire land registration conducted with large expenditure of effort and money.

7. **Farmers’ satisfaction towards registration**

Finally, the survey asks whether farmers are satisfied with the land registration program. As discussed above, the survey finds that some local implementation is prone to procedural weakness; not listing family members also carry serious harm to tenure security. It turns out that these anomalies are associated with farmer’s dissatisfaction with the registration program.

Overall, about three out of five (59%) Implementing Villages reports satisfaction (including very satisfied and satisfied) towards the program, one in ten (11%) expresses dissatisfaction (including very dissatisfied and dissatisfied), one in five do not care one way or the other, and a further one in ten are not sure.

The survey finds that, all else held equal,40

- Compared to not conducting mobilization campaigns, conducting one mobilization campaign is associated with 14 percentage points increase in the probability farmers reportedly being satisfied or very satisfied; and conducting a mobilization campaigns twice or more is associated with 37 percentage points increase in the likelihood of farmers’ satisfaction with the process;

- Among villages that completed the registration process, neither conducting field measurement nor aerial mapping is correlated with farmer’s satisfaction;

- Among villages that completed the registration process, relative to not posting results in public, posting once, twice, and three times or more is associated with 22, 46, and 59 percentage points increase, respectively, in the probability of farmers being satisfied or

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40 All the following findings are statistically significant at p<0.05, after controlling for province fixed effects.
very satisfied;

- Among villages that completed the registration process, relative to village not asking farmers to confirm results, confirmation by written form is associated with 45 percentage point increase in the share of farmers being satisfied or very satisfied; confirming only orally is not associated with farmers’ satisfaction;

- Finally, among Implementing Villages, listing family members on the certificates, relative to not, is associated with 17 percentage points increase in the share of farmers reported being very satisfied or satisfied with registration program.

V. Land Transfers and Scale-Farming: Let Farmers Make Decisions

Rural land rights markets have seen fast development in recent years. A “moderate level” of scale-farming through land transfers\(^{41}\) has been proffered as a solution to modernize agricultural production in the face of an aging and out-migrating rural population. According to official statistics, as of November 2016, about a third of rural land has been transferred to and operated by various types of cultivators, involving land use rights of approximately 70 million farmer households.\(^{42}\) Farmer-to-farmer transfers with little or no rent used to dominate the nascent land use markets; but nowadays, business entities such as family farms, farmers’ cooperatives, and the so-called “big bosses” and corporations are becoming the driving forces in acquiring land use rights.

While the Central Government encourages transfers of rural land use rights for the development of scale farming,\(^{43}\) it stresses that transfers must by no means cause loss of arable land or harm to farmers.\(^{44}\) It requires transfers be conducted voluntarily, without administrative intervention, and based on farmers’ own decisions as to whether and how to transfer.\(^{45}\) In particular, central policies have promulgated strict regulations over corporate leasing of farmland, especially prohibiting converting farmland to non-agricultural use.\(^{46}\)

In a broad brush, there are two types of land transferees – “scale farmers” and “big bosses”. Scale farmers are usually defined as transferees who are farmers and have spent their career in farming. On the other hand, “big bosses” refer to people, as well as in the form of

\(^{41}\) See Opinions on Improving the Methods of Bifurcating Rural Land Ownership Right and Land Contracting and Operation Rights, 30 October 2016; and National Agricultural Modernization Program (2016-2020) issued by the State Council. In his interpretation of the Modernization Program, Mr. HAN Changfu, the Minister of MOARA, indicates that a “moderate” scale should be at least 100 mu in single-cropping regions of the country and at least 50 mu in double-cropping regions. This can be compared with average farm size of under 10 mu at present.

\(^{42}\) Press Conference on the Opinion on Trifurcating the Ownership Rights, Contracting Rights, and Operation Rights for Rural Land, 3 November 2016.

\(^{43}\) The Third Plenary Session of the 18th Central Committee of the CPC Decisions on a Series of Important Issues Related to Deepening Comprehensive Reforms (November 12, 2013).

\(^{44}\) President XI Jinping stressed this “red line” policy at a conference which took place at Xiaogang village, Fengyang County, Anhui province, on 25 April 2016.

\(^{45}\) See No. 1 Document (2013). See also, State Council, Opinions on Guiding Orderly Transfers of Rural Land Operation Rights and Developing Appropriate Levels of Scale-Farming, 2014; and Opinions on Improving the Methods of Bifurcating Rural Land Ownership Right and Land Contracting and Operation Rights, 30 October 2016.

\(^{46}\) See Opinions on Strengthening Regulation of Corporate Leasing of Farmland and Risk Prevention, 4 April 2015.
corporations, who come with rich capital but often lack cultural and emotional bonds with villages and land. The survey makes parallel inquiries on transfers to scale farmers and “big bosses”, and compare the characteristics of the biggest land transfers made to each type of transferees in a village (hereinafter referred to as “scale farmer transfers” and “big boss transfers”). The following section reports on the findings by comparison.

1. Scale of land transfers

The survey finds that land transfers to scale farmers and big bosses are prevalent across 17 provinces – almost two out of five (39%) of surveyed villages report land transfers are being made in their villages to either scale farmers, big bosses (or corporations), or to both. In detail, 27% of all villages report farmland is leased to at least one scale farmer, while 15% reports farmland is leased to at least one big boss or corporation – 5% of all surveyed villages have land transfers to both scale farmers and big bosses.

Two thirds (67%) of villages that have scale farmer transfers report more than one scale farmer operating in the village, and a third (35%) report there are more than three. In parallel, over half (59%) of villages with big boss transfers report more than one big boss operating in the village, and 29% report more than three. Figure 11 shows the proportion of villages in each province that are experiencing land transfers to scale farmer and big boss.

Figure 11 Percentage of Villages that Currently Have Land Transfers to Scale Farmers and/or Big Bosses (Corporations)

The proportion of villages that have land transfers vary greatly by province. Zhejiang, Jiangsu, and Fujian are among provinces with the highest share of villages with land transfers. While it is not part of the information gathered by the survey, it is worth pointing out that these three provinces also have the highest urbanization rate in all 17 provinces (67%, 68% and 64%
respectively) in 2016.47

2. Process of land transfers

The right to make decision on land transfers is inherent to farmers’ exercise of their land use rights. Upholding this principle, the Central Government has clearly laid out that the decision to, the compensation for, and the method of transfers should be subject to farmers’ own discretion; without their written authorization, village collectives are prohibited to make decisions on transferring farmers’ contracted land. Collectives are also banned from purporting to represent the majority and pooling land together to attract transferees.48

The survey finds that over two thirds (71%) of scale farmer transfers leased land individually from farmer households, but less than two fifths (37%) of big boss transfers are made in this fashion. In terms of negotiation and decisioning, 57% of scale farmer transfers are negotiated directly with farmers, compared to only 27% in big boss transfers. The survey reveals that village collectives (VC) and township governments (TG) are instrumental in a good numbers of land transfers, and such administrative intervention appears more common in transfers made to big bosses (or corporations). Figure 12 illustrates the types and proportion of involvement by the authorities in these transfers.

Figure 12 Involvement of VCs and TGs in Land Transfers to Scale Farmer Households and Big Bosses (or Corporations)

In more than half (58%) of the big boss transfers, land was leased from village collectives or township governments who had first grouped land together from farmers. In contrast, this rate halves in scale farmer transfers (27%). The share of village collectives or township governments making decisions in big boss transfers are also twice the proportion of such cases in scale farmer transfers (Column 3 in Figure 12). The heavy involvement by local authorities raises questions on how many of these land transfers are truly voluntary.

47 National Statistics Yearbook of 2017
48 State Council, Opinions on Guiding Orderly Transfers of Rural Land Operation Rights and Developing Appropriate Levels of Scale-Farming, 2014
In addition, large transfers have higher proportion of administrative involvement relative to smaller transfers. In scale farmer transfers that is beyond 100 mu, the share of transfers that were channeled through VCs and TGs are higher (by 12 percentage points) and those made individually with farmers are lower (by 10 percentage points) compared to those under 100 mu. In terms of negotiation, in transfers over 100 mu, relative to those under, the proportion that involve VCs and TGs in the negotiation are 17 percentage points higher and those negotiated directly with farmers are 21 percentage points lower. This observation holds true for big boss transfers over 200 mu. Relative to those under 200 mu, the proportion of transfers that are channeled through VCs and TGs is 21 percentage points higher, and the proportion that are individually leased from farmers are 15 percentage points lower; the share of transfers directly negotiated with farmers is also 17 percentage points lower in large transfers over 200 mu. These revelations seem to conform to our field experiences that the larger the transfer, the more households it involves; hence the more appealing it is to use VCs and TGs as intermediaries in order to reduce transaction cost. However, farmers subject to these practices are vulnerable to poor access to information, lack of transparency, and forceful persuasion or coercion; this may also breed rent-seeking behaviors from local authorities.

Farmers’ desire to keep land is sometimes disregarded. If farmers are not willing to transfer land, in over a quarter (28%) of the scale farmer transfers farmers were either forced to give up land or have their land moved to the periphery so the scale farmer can have contiguous tracts of land. Almost half (48%) of the big boss transfers follow this pattern. In particular, significantly larger share of farmers (by 19 percentage points) were forced to transfer out their land in big boss transfers of over 200 mu, relative to transfers of under 200 mu. This again confirms the concern that farmers may be coerced into agreeing when the size of transfers becomes large.

3. Transfer contracts

The law requires the parties to a land transfer sign written contracts. Encouragingly, the survey finds that, in two thirds of the transfers (64% in scale farmer transfers and 67% in big boss transfers) majority of households who transfer land sign written contracts. However, in about a quarter of the transfers, the majority of households do not sign written contracts (24% in scale farmer transfers and 27% in big boss transfers). In approximately one third of the transfers that signed contracts (32% in scale farmer transfers and 30% in big boss transfers), all households signed a joint contract. It is particularly worrisome that, in scale farmer transfers where the majority of farmers sign contracts, 31% is signed only between farmers and the village collectives or township governments; this rate increases to 41% in big boss transfers. Figure 13 illustrates the incidence of contract signing and the characteristics of contracts. There are strong reasons to believe that if all farmers sign a joint contract, they do not have access to the contract as it is likely to be kept by the village. Signing contracts only with local authorities also puts both farmers and the authorities at risk if land transferees fail to pay rent or perform other contractual duties.

Figure 13 Percentage of Farmer Households who Signed Contracts and the Types of

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49 Marginally statistically significant, |t|=1.9
50 Statistically significant at 95% confidence level.
51 RLCL, art. 37
4. **Size, rent, and duration**

On the size of land transfers, more than two fifths (42%) of scale farmer transfers is under 100 mu, and only 8% is over 500 mu. On the other hand, almost one in five (20%) of big boss transfers is of 500 mu or more. Figure 14 shows the size of transfers for each type of transferees.

**Figure 14** Distribution of the Size of Scale Farmer Transfers and Big Boss Transfers

The majority of transferees pay rent in annual installments, while a small number use one-time lump-sum payment. For those that pay rent periodically, the survey finds that the median amount of rent paid per mu per year in scale farmer transfers is 550 yuan, while the mean amount is 659 yuan. For big boss transfers, the median amount of rent paid per mu per year increases to 700 yuan, but the mean amount is 1,538 yuan. 89% of rent paid in scale farmer transfers are under 1,000 yuan per mu per year, and almost all (99%) is under 3,000 yuan. Parallel figures indicate that three quarters of rent paid in big boss transfers are under 1,000
yuan per mu per year and 98% is under 3,000 yuan. Figure 15 shows the distribution of rent level between scale farmer and big boss transfers.

Figure 15 Comparison of Rent Level Paid by Scale Farmers and Big Bosses

We also find that about a quarter of land transfers (26% of scale farmer transfers and 23% of big boss transfers) use lump sum payments instead of annual payments. A quarter of the lump sum payments in big boss transfers is more than 20,000 yuan. From these cases we observe, the big payments are very likely to be payments to buy off farmers' land use rights permanently, or for a substantially long period.

There are several arrangements for lease durations and Table 3 shows the proportion of each types used in transfers. The proportion of transfers that lease land until the end of current land contracting in big boss transfers is 6 percentage points higher than that in scale farmer transfers; but “at will” contracts in big boss transfers is only a third of that in scale farmer transfers. Among those fixed-term contracts, the median amount of transfer duration for big boss transfer is 15 years, where the mean is 20 years; for scale farmer transfers, the duration reduces significantly to 5 years as the median and 9 years as the mean.

Table 3 Duration of scale farmer transfers and big boss transfers

<table>
<thead>
<tr>
<th>Duration of transfers</th>
<th>Scale farmers</th>
<th>Big bosses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed term</td>
<td>42%</td>
<td>47%</td>
</tr>
<tr>
<td>Renewable terms</td>
<td>22%</td>
<td>14%</td>
</tr>
<tr>
<td>Till the end of 2nd land contracting</td>
<td>4%</td>
<td>10%</td>
</tr>
<tr>
<td>At will</td>
<td>14%</td>
<td>5%</td>
</tr>
<tr>
<td>Not sure</td>
<td>18%</td>
<td>25%</td>
</tr>
</tbody>
</table>

Figure 16 compares the difference in fixed-term durations between scale farmer transfers and big boss transfers. In scale farmer transfers, the proportion decreases as duration becomes longer, but in big boss transfers it shows an increase of proportion as duration gets longer. It is understandable that with potentially heavier investment, big boss transfers desire longer leases and want to avoid termination at will. Long-term transfers emphasize the importance that the transfer process must be transparent, fair, and voluntary.
5. Purposes of big boss transfers

It is of a primary concern to the Central Government to prevent loss of arable land during land transfers. The survey indicates that only about two fifths (39%) of the “big bosses” or companies are specialized in agriculture, while almost half (49%) are not. This is followed by the finding that only three out of five (61%) big boss transfers use land exclusively for agricultural purposes, including farming grain, vegetables and high-value crops, planting trees, raising livestock, and building agriculture facilities. Almost two fifths (39%) of the big boss transfers involve converting some arable land to non-agricultural uses or leaving it vacant. Even more troublesome, a quarter (25%) of the big boss transfers use land exclusively for non-agricultural purposes. Figure 17 shows the percentage of each purpose in all big boss transfers.

Figure 17 Frequencies of Purposes in Big Boss Transfers

- High-value crops: 35%
- Vegetables/fruits: 31%
- Factories: 20%
- Grain farming: 16%
- Livestock/fishery: 10%
- Trees: 7%
- Vacant: 6%
- Tourism: 6%
- Residential: 5%
- Agri-facilities: 3%

52 Including saplings, flowers, tea leaves, Chinese medicines herbs, tobaccos, etc.
53 Multiple answers allowed therefore the percentage does not add up to 1 as a big boss transfer may include multiple land uses.
The survey finds a series of correlations between purposes of big boss transfers and other characteristics of the transfers. Figure 18 shows the difference between transfers of exclusive agricultural purposes and exclusive non-agricultural purposes. These differences are all statistically significant.\(^{54}\)

Figure 18 Difference in Behaviors between Big Boss Transfers of Exclusive Agricultural Purposes and Exclusive Non-Agricultural Purposes

It is clear from Figure 18 that big boss transfers exclusively for non-agricultural purposes consistently have higher proportions of employing irregular or coercive means in making the transfers, compared to those of exclusive agricultural purposes. In addition, the mean number of rent years of big boss transfers exclusively for agricultural purposes is 16 years, while the mean number of rent years in exclusive non-agricultural purposes rockets to 36 years.\(^{55}\) All land transfers should be for agricultural purposes; conversion of arable land to non-agricultural use is an outright violation of a series of laws and policies, and poses serious threats to the centerpiece policy of safeguarding the “red line” – the 1.8 billion mu of arable land in China.\(^{56}\)

6. Farmers satisfactions with land transfers

While farmers were generally satisfied in most villages having experienced land transfers, there is a notable difference in satisfaction between transfers to scale farmers and to big bosses. The majority of farmers are reportedly satisfied in 87% of scale farmer transfers, but this rate drops to 67% in case of big boss transfers. With respect to dissatisfaction, the majority of farmers are dissatisfied in a quarter (26%) of big boss transfers, as compared to only 7% in scale-farmer transfers. The top four reasons for dissatisfaction against big boss transfers are that the rent is too low (59%), farmers want to farm but no longer have land (30%), farmers cannot find substitute employment (20%), and farmers were not consulted on the amount of

\(^{54}\) At 95% confidence level.

\(^{55}\) Statistically significant at 95% confidence level.

\(^{56}\) The National Agriculture Modernization Program (2016-2020) uses a “sustainable development” indicator which remains unchanged at 1.865 billion mu of cultivated land, and characterizes this indicator as “Binding”.

rent (19%).

In big boss transfers, we find that farmers’ satisfaction has statistical correlations with 1) how land is transferred, 2) whether farmers are allowed to make their own decisions, and 3) purposes of transfers. When land is leased individually from farmers, the share of villages where most of the farmers are satisfied is 35 percentage points higher compared to no individual leasing. Where cadres or officials made decisions without consulting farmers, the share of farmers with majority dissatisfied is 59 percentage points higher compared to those where farmers made their own decisions. Furthermore, where big boss transfers are exclusively for non-agricultural purposes, the proportion of farmers with the majority dissatisfied is 34 percentage points higher than exclusive agricultural transfers.

VI. Spreading Land Takings Continue to Impact Farmers’ Land Rights

The Central Government has pledged to reduce the scale of land takings and reform compensation mechanisms. In 2012, the Report of the 18th National Congress of the CPC called for reforming the land takings system and increasing farmers’ share of proceeds from appreciation of land value. The Third Plenum of the 18th Central Committee in 2013 and the No. 1 Document of 2014 reiterates the need to reduce the scale of land takings and improve compensation package to farmers.57 Pilot programs were officially launched in 2015, including pilots to reduce the scope of land takings, strictly defining public interests, regulating land-taking procedures, and establishing grievance redress mechanisms.58

1. Incidence of land takings

For the entire sample of 1,852 villages, the survey finds that cumulatively over a third (35%) of the villages has experienced at least one incident of land taking since the second round of land contracting (or since 1995 if no second round was conducted), and more than a quarter (27%) of these villages had three takings or more. More recently, since 2012, almost one in five (19%) villages has experienced at least one incident of land taking, and over a third (36%) of these villages had their land taken for the first time. In other words, land takings are spreading to new villages where farmers have not lost land to takings before. The average distance from the village where land takings took place to the nearest urban center is 14 kilometers.

Unless otherwise specified, the following report of findings focuses on the most recent takings that took place in or after 2012 (hereinafter “recent land takings”), so as to gauge impact of recent reforms and improvements. Figure 19 shows the proportion of recent land takings by province.

Figure 19 Incidence of Recent Land Taking by Province (From 2012 to first half of 2016)

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57 In addition to the regular compensation and resettlement subsidy, Document No. 1 of 2014 requires that farmers’ “housing, social security and employment training” be guaranteed. It has also required, for the first time, to compensate dispossessed farmers with a portion of the expropriated land to ensure farmers can benefit from future profits over a longer term.

2. **Purpose of land takings**

According to the law, takings of collectively-owned land must be “for the needs of public interests” despite that there is no further definition of what constitute “public interests”. Our survey finds that almost half (49%) of recent land takings are purely for public interests, including building roads, bridges, schools, landscaping, parks, and irrigation facilities. Still, a significant proportion of recent land takings are partly or fully carried out for commercial interests, including development of urban real estates, industrial zones, factories, and preparation for future commercial development. Approximately a third (32%) of recent land takings involves at least some commercial interests (see Figure 20), and a quarter (25%) are entirely for commercial interests.

Figure 20 Incidences of Reported Commercial Interests in Recent Land Takings

3. **Compensation for land takings**

There are three categories of compensation for land takings under Chinese law: compensation

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59 See Constitution, art. 10; Property Law, art. 42; LML, art. 2.
60 An incident of land taking may include multiple land uses. This figure shows the incidence of each commercial use in all Recent Land Takings.
for loss of land, resettlement subsidy, and compensation for standing crops and fixtures.\textsuperscript{61} Compensation for loss of land, which constitutes the biggest part of the compensation package, is allocated to village collectives who are owners of land;\textsuperscript{62} resettlement subsidies can be paid to affected farmers; and compensation for crops and fixtures is allocated to the owner of these crops and fixtures.\textsuperscript{63} As to distribution of compensation, Ministry of Land Resources (MLR) calls for using land compensation primarily on affected farmer households and reasonably distributing them in a collective.\textsuperscript{64} However, currently there are no national rules on the distribution and such decisions are often subject to the collectives’ discretion in practice.

Confirming this ambiguity, the survey finds that both collectives and farmer households received compensation for takings. In almost half (49\%) of recent land takings, collective received compensation. In over two thirds (70\%) of recent land takings, farmers received or are promised compensation; among them, compensation is allocated only to affected households in 87\% of the circumstances and to all farmers in the collective in 12\% of the circumstances.

The LML states that the sum of compensation for loss of land and resettlement subsidy should not exceed 30 times of the Average Annual Output Value (AAOV) of the three years prior to land taking.\textsuperscript{65} In 2004, the State Council established “restoring farmers’ original living standard and ensuring long-term livelihoods” as a new guiding principle. The concepts of “unified annual output value” and “comprehensive regional price” were later introduced, which were widely seen as efforts to increase compensation to farmers. Figure 21 shows the changes in compensation level for the latest land takings that took place since 1998.

Figure 21 Compensation paid to Collectives and Affected Farmer Households in the Latest Land Takings from 1998 to mid-2006 (Yuan per mu)\textsuperscript{66}

\begin{center}
\includegraphics[width=\textwidth]{figure21.png}
\end{center}

\textsuperscript{61} LML, art. 47
\textsuperscript{62} Art. 26, Implementing Regulations to the Land Management Law
\textsuperscript{63} The Implementing Regulations of the Land Management Law, art. 26
\textsuperscript{64} Ministry of Land Resources, \textit{Instructions on Improving Compensation and Resettlement for Land Takings} (2004)
\textsuperscript{65} LML, art. 47. Compensation for loss of land is set between 6 to 10 times of the AAOV of three years prior to land taking; resettlement subsidy is set at 4 to 6 times of the AAOV and capped at 15 times of the AAOV of three years prior to taking, and compensation for standing crops and fixtures is determined by provincial governments.
\textsuperscript{66} The reported compensations are nominal. The official inflation is attached in Annex II.
As to those received compensation, the survey finds that the mean amount of compensation received by or promised to affected farmers in recent land takings since 2012 is 31,908 yuan per mu (the median amount is 33,000 yuan per mu), and the mean amount of compensation paid to collectives is 32,229 yuan per mu (the median is 30,000 yuan per mu). Compared to previous survey results in 2011 and 2008, the compensation level received by affected farmers and village collectives have increased significantly.

However, the survey also finds that farmers are not compensated in almost a quarter (24%) of recent land takings, and women are sometimes excluded. In a small number of instances where collectives received compensation and distributed it to all members of the collective, not every woman is qualified for compensation. Consistent with the findings on listing family members on land certificates, not having hukou in the village is a critical factor to disqualify women from receiving compensation. Especially as to married-out daughters who retain land in their natal villages, the majority do not receive allocation of compensation from the natal village. There are occasions where married-in wives and married-out daughters are excluded from receiving compensation, despite the fact that they have both hukou and land in the village where land taking took place.

4. Farmers' satisfaction

Overall, in 51% of recent land takings, more than half of farmers are satisfied with the takings. Yet, in 43% of the recent land takings, the majority of farmers in the village are reported to be dissatisfied (hereinafter “Dissatisfied Villages”). Major reasons reported are low compensation level, lack of consultation regarding land takings, and compensation not sustainable (see Figure 22).

Figure 22 Most Cited Complaints by Dissatisfied Villages

<table>
<thead>
<tr>
<th>Complaint</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation was too low</td>
<td>63%</td>
</tr>
<tr>
<td>Farmers were not consulted on the taking</td>
<td>23%</td>
</tr>
<tr>
<td>Compensation not enough to support living</td>
<td>21%</td>
</tr>
<tr>
<td>Lack of non-agricultural jobs and income</td>
<td>20%</td>
</tr>
<tr>
<td>Farmers were not consulted on compensation</td>
<td>14%</td>
</tr>
<tr>
<td>No compensation was promised</td>
<td>11%</td>
</tr>
</tbody>
</table>

The survey also discovers factors that may affect farmers’ satisfaction towards land takings. There is a statistically-significant relationship between satisfaction and the purposes of land takings. Relative to takings that involve commercial interests, farmers’ satisfaction is 14 percentage points higher when the purposes of taking are exclusively for public interests. Furthermore, if the scale of recent land takings since 2012 is under 60 mu of land (4 hectares), satisfaction rate on average is 22 percentage points higher, compared to larger takings. Finally, if forceful eviction happened during recent land takings, satisfaction rate is 26 percentage points lower compared to takings without forceful eviction. Among all recent land takings, 27% involved forceful evictions of at least some affected farmers.
VII. Government-Led Urbanization: Farmers Pushed Away from Agricultural Life

The survey continues to assess the process of government-initiated urbanization programs and their impact on farmers’ lives and land rights. Enumerators were instructed to conduct interviews at relocated sites, as long as villagers have started relocating under urbanization programs.

Of all 1,852 villages, the survey finds 4% has been affected by government-led urbanization programs where farmers’ homesteads were consolidated for alternative uses (hereinafter referred to as “Urbanized Villages”). Jiangsu, Zhejiang, and Shaanxi provinces show the highest percentage of Urbanized Villages (17%, 12%, and 9% respectively).

The median distance between relocated site to the original village is 1 kilometers and the mean distance is 2 kilometers. 56% were relocated to apartment buildings while the rest were moved into single-family houses. 23 shows the location of relocation.

Figure 23 Site of relocation

Farmers were often not consulted in the process of urbanization. In 36% of the Urbanized Villages, farmers were not consulted regarding whether to relocate, where to relocate, or the compensation or resettlement plan. For those that have consulted farmers, Figure 24 shows the proportion of the Urbanized Villages that have consulted farmers on important issues of relocation.

Figure 24 The Percentage of Urbanized Villages that Consulted Farmers on Issues before Relocation

Only in two out of five (41%) of the Urbanized Villages, farmers were notified at least six months in advance, while almost one in five (19%) did not give any advance notice. Moreover,
in 34% of the Urbanized Villages, relocation was not effectively voluntary – farmers had to move or officials made it difficult for them to stay in the original villages.

Large proportion of land, including farmers’ old homesteads and farmland, has been converted to non-agricultural use after urbanization. In 77% of Urbanized Villages, farmers had to give up their old homesteads in exchange for new housing, but the lost homesteads were not compensated in 73% of the cases. These freed-up homesteads were used exclusively for commercial development or left vacant in 69% of the Urbanized Villages; in only 27% of these villages were the homesteads exclusively reclaimed for agricultural use.

Farmers contracted arable land was also converted to non-agricultural use after farmers moved away. After relocation, the majority of farmers no longer farm their own land in 47% of the Urbanized Villages. As a result, in almost a quarter (24%) of the Urbanized Village, farmers’ arable land is developed for non-agricultural use or is prepared for future commercial or industrial development.

While land is urbanized, farmers hardly enjoy any urban welfare or become real urban dwellers. 81% of the Urbanized Villages did not promise any urban welfare to farmers, such as urban hukou, urban social security, urban medical insurance, and urban schooling for children. In fewer than 10% of the Urbanized Villages had farmers actually received the benefits promised.

Urbanization programs do provide improvements in living conditions to farmers, as the majority of farmers in almost two thirds (64%) of the Urbanized Villages are satisfied with the program. Nearly 70% of respondents in Urbanized Villages report better living conditions, and 23% report better access to urban facilities such as hospitals as the top advantages of urbanization. However, the relocation also presents financial and social challenges. An inability to farm or inconvenience in farming is the top perceived disadvantage (23%), followed by high living cost (20%), and having to climb stairs in the new buildings (16%).

The survey results on the so-called “urbanized” villages show similar problems to earlier findings regarding neglecting farmers’ rights to participation in the process. Under urbanization, farmers have not only moved away from old homesteads but many also left the arable land they have farmed, making it possible for profiteers to access and convert land for profits. Given the close distance of the Urbanized Villages to the original villages, it is reasonable to believe that many farmers still reside in the countryside or in remote urban peripheries, but living under more concentrated conditions. Considering the significant impact of urbanization on farmers and arable land, the Government should caution against accelerating progress of urbanization, but ensure the following is achieved for future urbanization programs: 1) enable a participatory process of urbanization where farmers are fully informed and consulted, and can make voluntary decisions on relocation; 2) Include urbanized farmers in urban welfare coverage to help them transform into real urban citizens; and 3) Ensure arable land is not converted to non-agricultural use when urbanization takes place.

67 In another 18% of the Urbanized Villages, farmers were allowed to keep the old homesteads but need to purchase new housing; 5% were not sure.
VIII. Recommendations

Many of the issues discovered by the survey require both improvements in legal framework and implementation. Equally important is farmers’ awareness of the appropriate policies and laws that are designed to safeguard their land rights. The survey findings show that a large number of farmers still does not know about key rural policies or legal rules. Without this knowledge, they are vulnerable when faced with arbitrary village practices of taking back farmers’ land or transferring their land involuntarily. Therefore our first recommendation is for the government to strengthen publicity campaigns and outreach programs to farmers in order to raise their awareness on these policies. In particular, the government should make raising the awareness of women farmers a priority and incorporate gender-responsive methods in their communication and dissemination.

Our recommendations regarding legal changes and improvements in implementation are as follows:

- **Continue strict prohibition of land readjustments**

Periodic land readjustments pose one of the greatest threats to the stability of land use rights. To effectively implement the Central Government’s policy of “long term without change”, prohibiting readjustments of households’ landholdings would be a fundamental start. The survey shows that majority of villages (76%) has not conducted readjustments since the second round of contracting.\(^{68}\) 64% of respondents support ending readjustments or feel neutral about it.\(^{69}\) This clearly shows that a large population of farmers has accepted no-readjustment as a prevailing norm governing land contracting relations in rural China. Any ease on the current ban of land readjustments would be a serious blow to the established practices of the majority of villages, and will not settle well with a great number of farmers who have become proponents of no-readjustments policy. Easing the prohibition of readjustments would be the opposite of the Central Government’s plan to stabilize land contracting relations, and may even jeopardize the harmony of rural society.

Conducting readjustments of landholdings are also incompatible with the future envisioned for rural China. After years of preparation, the Central Government launched the national land registration program as a bid to clarify households’ landholdings and solidify their land use rights. Building upon this, the innovative trifurcation of land contracting and operation rights is positioned to promote transfers of operation rights and modernize agriculture. Hence it is legally and practically inconceivable for villages to continue periodical land readjustments that inevitably undercut these national efforts.

At the 19\(^{th}\) National Congress of the CPC, President Xi Jinping re-emphasizes the resolve to hold the current land contracting relations stable for a “long term without change”, which serves as a foundation to the master plan to vitalize rural China; to further this aim, he

\(^{68}\) In particular, in Guizhou (98%), Guangxi (95%), Jilin (94%), Sichuan (88%), Fujian (89%) and Heilongjiang (88%) province, over 85% of villages has not readjusted land since the second round of land contracting.

\(^{69}\) In provinces including Heilongjiang (61%), Shandong (56%), Yunnan (56%), Fujian (55%), Guizhou (54%), Jilin (51%) and Sichuan (51%), more than half of respondents support or strongly support ending land readjustments.
announced that the contracting term will be extended for another 30 years. Villages and local governments should uphold this long-held policy of the Chinese Communist Party and enforce prohibition of land readjustments, especially when land use rights are extended.

- Improve transparency and participation of the registration program

Land registration and issuance of certificates is key to implementing the above-mentioned “long-term without change” policy and safeguarding farmers’ land rights. The survey results show that considerable progress has been achieved in providing greater tenure security to farmers – certificates issued under the new registration program performs consistently, and in many aspects significantly better at including important information as to farmers’ land use rights. This is commendable and the Government should ensure that all remaining certificates to be issued contain such information.

It was clear from the survey findings that conducting registration in a transparent and participatory manner, namely conducting mobilization campaigns, publicizing the results, and asking farmers to confirm, makes a significant difference in farmers’ satisfaction towards registration. For ongoing and future registration, the implementing authorities need to ensure that both women and men farmers are fully informed of and participating in the process, and farmers have access to the results of land measurements as well as channels to report and correct errors. It is also important to carry out wide publicity campaigns to raise awareness on the objectives and benefits of land registration and possession of land certificates.

As the registration draws to an end, the Government should also seek to establish a system for registering modifications post-registration, and create incentives to encourage farmers, land transferees, and working-level officials to register such changes to land entitlement and land use. This is the only path to creating a living database on rural land.

- Ensure that women’s land rights are effectively recognized and safeguarded

Under the patriarchal culture in rural China, it is often men who head households and dominate decision-making at home and in the community. The patrilocal customs that dictate women change residence upon marriage or re-marriage, further put women in disadvantages in keeping their land use rights. As a result, rural women disproportionately suffer from tenure insecurity including loss of land and deprivation of land-related interests, especially when their marital statuses change. While the law states that rural women have equal rights and benefits to land, there have been few opportunities to effectively recognize such equal entitlement.

But the new registration program presents a historical window of opportunity that should and can drastically change the status quo, by making sure that the newly-issued land certificates list the names of family members and these names are recorded in the land register kept by land resource authorities. To achieve this, authorities in charge of registration should make listing names of family members an indispensable task during registration, as well as a criterion for evaluating local performance and approving completion of registration. As said above, after certificates are issued, the Government should set up mechanisms to update the

70 Law on the Protection of Women’s Rights and Benefits, art. 30 – 32.
certificates so that changes in household membership can be captured in the register and reflected on the certificates.

The survey findings also reveal a balkanization of village rules that result in the exclusion of groups of women from being recognized as family members and listed on the certificates; inevitably some of them fall through the crack due to the inconsistencies of rules between natal and marital villages. According to the law, land use rights are contracted to the households and each household member is a joint owner. Such important rights should not be taken away by arbitrary village practices or rules. Thought should be given to providing a last-resort remedy for women who are not registered on any certificate. The ultimate goal should be that each and every rural woman who is entitled to land use rights get her name listed in the register and on the certificate, regardless of her marital status.

- **Stronger scrutiny over land transfers to protect farmers and arable land**

Large-scale land transfers are present in over a third of the villages surveyed. While the majority of farmers are satisfied with them, the survey findings are concerning with regard to how widely and deeply village collectives or township governments are involved in the process. Commonly, when there is significant administrative involvement, farmers are more likely to transfer land under pressure. Therefore, it should be a priority to ensure that land transfers are truly voluntary and farmers, not the collectives, make ultimate decisions.

To achieve this goal, as procedural safeguards, all land transfers to scale farmers and big bosses should sign contracts, the contracts should be signed between the transferees and farmer households, and each farmer household participating in a large-scale land transfer should have a copy of the contract at hand. If intermediaries such as village collectives or farmers’ cooperatives are involved in the negotiation, participating households need to provide written powers of attorney to authorize delegation. In both cases, the contracts and the written authorizations should be signed by representatives of the households and their spouses in order to let women participate in the decision-making.

In particular, survey results show greater risks posed by big boss transfers if adequate scrutiny was not in place. Big boss transfers are significantly more dependent on using intermediaries, prefer longer transfer duration, and have much higher share that display forceful characteristics than scale farmer transfers. A quarter of the big boss transfers are exclusively for non-agricultural purposes, and the process of these transfers is significantly more coercive on farmers than those for exclusive agricultural purposes. These findings underline the urgent need of enforcing tightened scrutiny and restrictions over land transfers made to big bosses or companies, as outlined in several central policies including the No. 1 Document of 2013 and the *Opinions on Strengthening the Regulation of Industry and Enterprises Leasing Agricultural Land and the Prevention of Risks*. Land resource authorities should also closely monitor land use after land transfers are made in order to ensure arable land is used only for agricultural purposes.

- **Promulgate clear definitions of public purposes and set out differentiated rules to regulate public- and commercial-purpose land takings**

Despite the Government’s effort to reduce and reform land takings, they continue to spread in
the past five years. While the compensation received by affected farmers has been steadily increasing, the problems remain with regard to whether the compensation level can sustainably support the livelihoods of land-losing farmer households. In fact, compensation being too low and not enough to support long-term living is two major complaints from farmers who are dissatisfied. In this regard, the No.1 Document of 2013 directly calls for “raising farmers’ original living standards and ensuring their long-term livelihoods” as a guiding principle to determine compensation standards. It is necessary that this is written into law as the LML is being revised; local governments, who determine and issue compensation standards, should follow the criteria to provide equitable and sustainable compensation to farmers affected by land takings. The approach of setting a maximum percentage of compensation received by village collectives can be introduced. This will ensure that land compensation benefits the most-needed affected farmers, who, after all, are the owners of land use rights and in the majority of the cases the cultivators.

The survey also shows that a considerable proportion of land takings are in part or entirely made for commercial purposes. While the compensation level between public and commercial takings does not differ, a significant difference is found between farmers’ satisfaction towards commercial and public takings. As a major refinement, the revised LML should narrow and clarify the definition of “public interests” for rural land takings, and set up differentiated approaches to commercial land takings with regard to procedures and compensation level. During commercial land takings, affected farmers should have an indispensable role in influencing the decision whether to take land, negotiating compensation packages, and securing other safeguard measures to ensure sustainable livelihoods post-takings. More thoughts should also be given to letting villages directly sell land to commercial developers where it is suitable.

IX. Conclusion

The survey provides an overview of the current rural landscape in China that shows evident enhancement of the security of farmers’ land rights. They are attributable to unwavering commitments from the Central Government and tenacious efforts invested through the years. In particular, the national land registration program presents a historical window of opportunity of legally recognizing women’s entitlement to land use rights for the first time, which, if fully implemented, will profoundly strengthen the security of landholdings and improve women’s status. However, the survey also revealed problems such as procedural abnormalities during land transfers and illegal conversion of farmland to non-agricultural uses that ought to greatly alarm policy makers and implementers.

Going forward, President Xi has pronounced the “Rural vitalization strategy” at the 19th National Congress of the CPC, because the issues of “sannong” – agriculture, countryside, and farmers are of foundational importance to China’s prosperity and people’s wellbeing. In the new strategy, the Government prioritizes inclusive rural-urban development and modernization of agriculture; measures including stabilizing land contracting relations, trifurcating land rights, empowering collective economy, developing moderate and diversified
scale-farming, as well as cultivating new types of agri-businesses, are identified as pathways through which the policy goals can be achieved. It is clear from our survey findings that the foundation and prerequisite to all these efforts is the security of women and men farmers’ land contracting rights. The Government should ensure that current land reforms and initiatives such as land registration are properly and fully implemented before moving on to new measures. The information discovered from the 17-Province survey ought to inform their work on how to best advance the rural vitalization strategy.
X. Annex I  Numbers of Counties and Villages Surveyed by Province

<table>
<thead>
<tr>
<th>No.</th>
<th>Surveyed Province</th>
<th>The Number of Counties Surveyed</th>
<th>The Number of Villages Surveyed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Anhui</td>
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<td>116</td>
</tr>
<tr>
<td>2</td>
<td>Fujian</td>
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<td>113</td>
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<td>3</td>
<td>Guangxi</td>
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<td>Guizhou</td>
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<td>Hebei</td>
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<tr>
<td>Total</td>
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Annex II  Inflation Rate from 1998 to 2016

<table>
<thead>
<tr>
<th>Year</th>
<th>Official Inflation Rate (previous year=1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
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</tr>
<tr>
<td>1999</td>
<td>-0.014</td>
</tr>
<tr>
<td>2000</td>
<td>0.004</td>
</tr>
<tr>
<td>2001</td>
<td>0.007</td>
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Source: National Bureau of Statistics of China