

Social Compliance Audit Report

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Greenhouse Agricultural Development Project (People's Republic of China)

Social Compliance Audit Report for Beigao Base

Prepared by Le Gaga Holdings Limited for the Asian Development Bank

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Social Safeguards Compliance Audit Report

PRC: Greenhouse Agricultural Development Project

Beigao (北高) Base

Le Gaga Holdings Limited

October 1, 2015

ABBREVIATIONS

ADB	-	Asian Development Bank
AESPR		Annual Environment and Social Performance Report
DMS		Detailed Measurement Survey
EIA	-	Environmental Impact Assessment
GRM		Grievance Redress Mechanism
HH	-	Household

WEIGHTS AND MEASURES

kg	-	kilogram
km	-	kilometer
m ²	-	square meter
m ³	-	cubic meter
mu	-	Chinese land measuring unit (1 hector = 15 mu)
ha	-	hectare (10,000 m ²)

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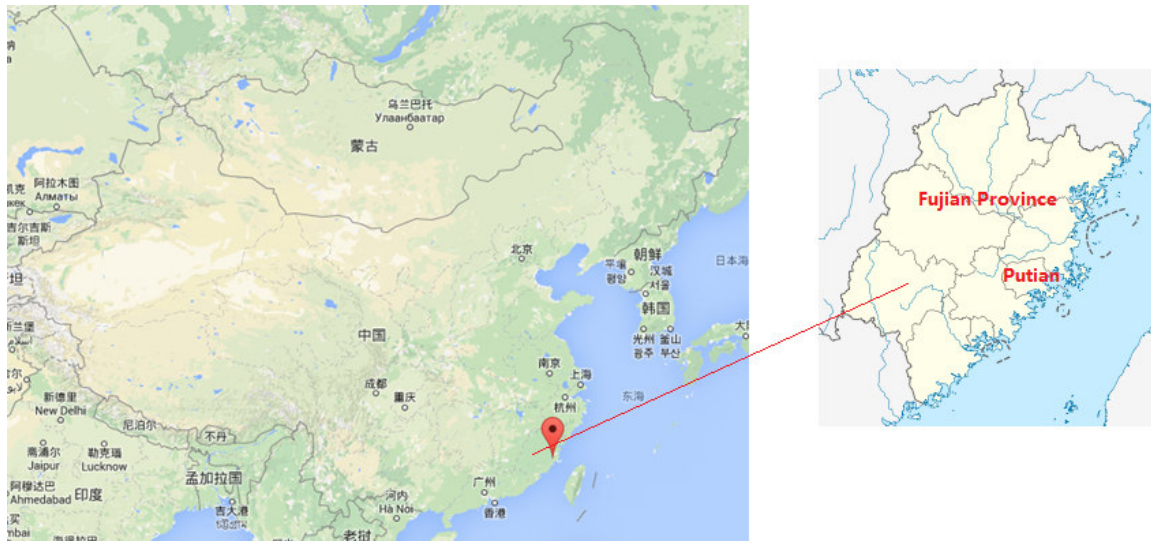
1 INTRODUCTION

1.1 Project Description

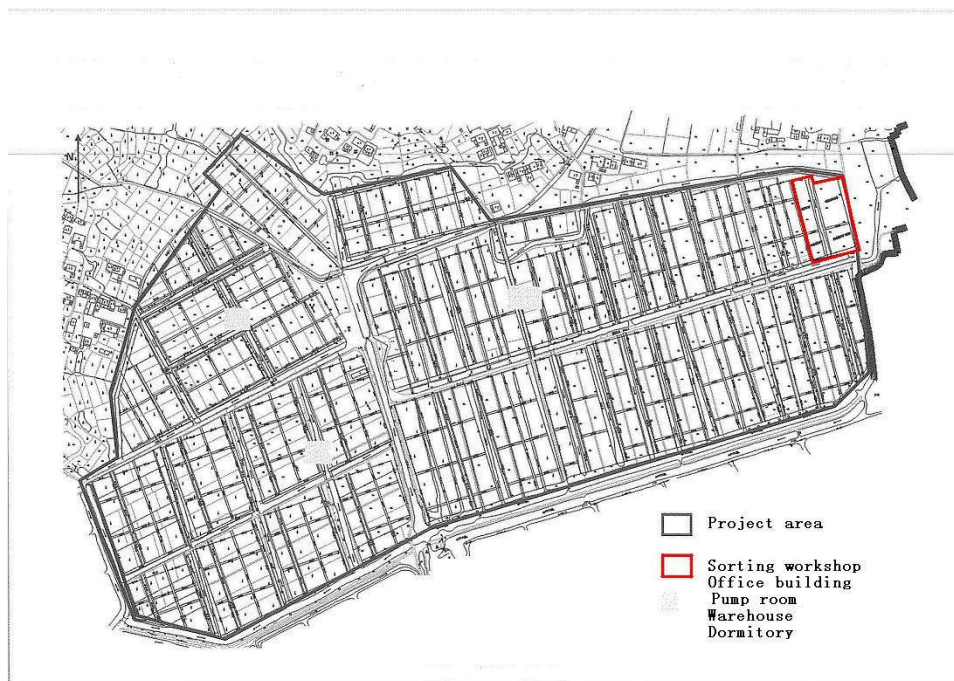
1. The project will support Le Gaga in establishing and expanding a series of modern greenhouse operations in Guangdong and Fujian provinces, which have optimal weather and adequate infrastructure for vegetable production, particularly for providing (mainly in winter) off-season vegetables to the entire PRC and some neighboring countries. All the greenhouses are built on leased farmland and operated by PRC companies owned and controlled 100% by Le Gaga. This social safeguard compliance audit report covers the Beigao (北高) base which locates in Shanqian Village(山前村) of Licheng District (荔城区) which is administrated under Putian City (莆田市) of Fujian Province (福建省).

Figure 14-Location and Layout of Beigao Farm

Location



Layout



1.2 Aims and Objectives of the Audit

2. Land lease agreement of Beigao base has been signed by Le Gaga and Shanqian Village committee on August 10, 2014. The ADB's assistance to Le Gaga falls under the category of 'Corporate Finance' in Safeguards Requirements 4 (Special Requirements for Different Finance Modalities, section H) of the 2009 ADB Safeguards Policy Statement (SPS).¹ As required by the SPS, a Social Safeguards Compliance Audit was undertaken by ESU of Le Gaga for Le Gaga's past and present performance with regard to managing social dimensions of Beigao base, particularly on land lease, indigenous peoples/ethnic minority issues, labor and working conditions, stakeholder engagement, among other related issues.

3. The purpose of the Social Safeguards Compliance Audit is to determine the nature and extent of all social areas of concern at the Beigao base and with corporate practices. The audit was performed in accordance with the SPS 2009, as well as applicable local environmental, social, and occupational health and safety regulatory requirements in the PRC and other ADB social policy requirements related to labor and social protection and gender and development.

¹ The Safeguards Policy Statement is available from <http://www.adb.org/Documents/Policies/Safeguards/default.asp>

1.3 Methodology

4. The methodology adopted for the social safeguards audit included the following activities: (i) a desk review of the Le Gaga's existing environmental and social management system (ESMS); (ii) a review of relevant national laws, regulations and guidelines related to social impact assessment, land acquisition/lease, ethnic minorities and consultation and participation; (iii) interviews with the Project Company's Management and key technical staff, representatives from Shanqian Village and Licheng District Government; and (iv) site inspection of the subproject. The documentary review and interviews were carried out during the course of the site visit with an aim to assess the labor and working conditions, land lease, indigenous peoples, and gender and development aspect of the subproject. The desk review also included a review of project documents and literature including land lease contract with the villages and labor dispatching contract.

5. A list of personnel interviewed is provided in Appendix I. Relevant national laws and regulations are presented in Appendix II.

2 Involuntary Resettlement

2.1 Subproject Description

6. Putian City is located in coastal central section of Fujian Province. The Beigao base is located in Beigao Town of Licheng District. Licheng District has a land area of 269.66 km² with the registered population of 0.46 million. The district is divided into 2 sub-district and 4 townships.

7. In 2013, Licheng District's GDP was RMB 27.5 billion. Farmers' average net income was amounted to RMB 13,000 and the disposable income of urban residents was RMB 29,000. Compared with the level of Fujian Province and Putian City, Licheng District is a developing area. The farmers' average net income of Shanqian village is quite high due to less cash income from non-agricultural income, as Shanqian village locates in the coastal area.

Table 14 Socio-economic Indicators in 2013 (Unit: yuan)

	Fujian Province	Putian City	Licheng District	Shanqian Village
Farmers' average net income	11,184	11,600	11,707	12,600
Disposable income of urban residents	30,816	27,233	25,800	N/A

Source: 2013 yearbook

8. Construction of the base will be commenced from December 2015, and the whole base will be put into operation in June 2016.

2.2 Scope of Land Lease Impacts

9. According to the EIA, totally 1,000 mu collective farmland will be leased from the Shanqian Village. Among the 1,000 mu land, 3.5 mu (2,355 m²) will be used for construction of offices, warehouse, access roads and accommodation facilities. On 30 September 2010, Ministry of Land Resource and Ministry of Agriculture issued the *Notice of Management of Land for Agricultural Facilities [GTZF(2010)155]*(*国土资源部农业部关于完善设施农用地管理有关问题的通知*), and based on this document, the total area for construction of facilities should be less than 3% of the base area. So land using of Beigao base is comply with the national requirement, which is 30 mu.

10. Also based on this document, Le Gaga doesn't need to submit approval to the local land resource bureau for such construction.

11. Land lease agreement of Beigao base has been signed by Le Gaga and Shanqian Village committee on August 10, 2014. Under this agreement, totally 1000 mu from 1248 people will be leased to Le Gaga. On 10th August 2014, 891.28 mu land from 1106 people was transferred to Le Gaga firstly. Land acquisition is based on the willing lessor-willing

lessee principle, and more HHs gradually accepted land lease and transferred the land to Le Gaga. The number of transferred land area and affected HHs is still being increased, and this will be reflected in the annual environment and social performance report (AESPR). (See Appendix V Figure 2)

2.3 History of Land Lease

12. In 2014, Le Gaga and the local government got in touch, and both expressed the interest to cooperation. At that time, the local government was under pressure that more and more farmers discontinued farming. Beigao Township is famous that local people rely on aquaculture and jewelry processing business for living, only the old people farmed on the land and just for self consumption. The per capita arable land holding in the Shanqian Village is less than 1 mu, so the output from the land is very limited.

13. As described in the Table 2, 6 rounds of consultation were conducted in 2014 before signing the agreement.

- Step 1. Tripartite meeting was held with the participation of representatives from Le Gaga, village and township government.
- Step 2. Villagers were invited to visit the nearby Duwei base which is being operated by Le Gaga.
- Step 3. Village assemblies at village and village group level were held.
- Step 4. Based on voting, 93% of the HHs accepted, the rest 7% of the HHs are also supported this project but they prefer more to farming by themselves. For these HHs, the village committee will negotiate with them and adjust or replace the same quality and the same area of land to them in the village group. According to the Organization Law of the Villagers Committees, this decision was approved as the law requires that more than two-thirds should accept.
- Step 5. On August 1~6, 2014, Detailed measurement survey (DMS) for the land was conducted by village committee. The clerk of village committee and each village group's captains were responsible for DMS. The results of the DMS were disclosed, including the location and areas.
- Step 6. On August 10, 2014, Tripartite meeting was held in the village hall of Xinlian Village with the participation of representatives from Le Gaga, village and township government to discuss the key provisions of the contract, include the price for rent and the method of payment.

14. Duwei production base ² was constructed in 2011. Greenhouses, offices, warehouse, access roads and accommodation facilities were built. The current arable areas are 1997.8 mu. The production process is consisting of breeding, cultivation and harvesting. The Duwei production base is located in Duwei Town of Xianyou County. Totally, 1,998 mu land have been leased from 2 villages, and 790 HHs in 2 villages are involved. The Duwei base has been put in operation for 4 years, so this base was selected for visiting.

² This base is one of the two bases covered by the corporate social compliance audit.

15. 120 villagers from 13 village group visited the Duwei base on May 1, 2014. Beigao town government arranged 2 buses and the responsible officials also joined the visit. They went to the green houses to have a look at the operation of the bases and check if it will bring any negative impacts to the local villages. They also had a meeting with local villagers to check (i) if job opportunities generated have been provided to the villagers; (ii) if the rent is paid on time; (iii) how the rent is determined. The villagers were impressive that local people can get higher cash income and also take care of the family.

Table 22 Procedures of Arrangements for Land Leasing

Step	Date	Activities	Key topics	Participants	Conclusion	Remark
1	April 2014	Tripartite meeting	<ul style="list-style-type: none"> ● local socio-economic profile ● local agricultural planting patterns; ● who are the main group farming on the land; ● the average output value of the land; ● if the land once was leased. ● Check the possibility of land lease 	<p>representatives from Le Gaga, village and township government</p> <p>Total 22 people (include 5 women) , 3 from Le Gaga, 19 from village and township government.</p>	The village committee members organized meeting to discuss. At that time, more and more farmers discontinued farming. The village committee members and village group leaders interviewed the villagers to seek advice, and most of the villagers expressed their supports.	
2	1 May 2014	Site visit to Duwei base	<ul style="list-style-type: none"> ● Operation of the bases and check if it will bring any negative impacts to the local villages; ● Job opportunities generated to the villagers; ● If the rent is paid on time; ● How the rent is determined; 	<p>120 villagers from 13 village group; (about 50% were women)</p> <p>Representatives from Le Gaga, and township government.</p>	The villagers are nearly all interested to lease the land to Le Gaga.	Local government afforded the cost of site visit.

3	1-25 July 2014	Internal several rounds discussion	<ul style="list-style-type: none"> Villagers' meeting to determine if the land be leased out to Le Gaga; Arrangements for the HHs who are not willing to lease the land out. (24HHs about 94 people) 	Organized 8 internal meetings at village and group level.	The villagers have some questions. See table 3.	Le Gaga joined the discussion to answer the questions raised by the villagers.
4	30 July 2014	Voting	<ul style="list-style-type: none"> to determine if the land be leased out to Le Gaga 	One household had one vote.	93% of the HHs accepted. According to the Organization Law of the Villagers Committees, this decision was approved as the law requires that more than two-thirds should accept.	HHs who didn't accept(24HHs), benefits of land leasing was introduced and finally they were provided replacement land with same quantity and quality.
5	August 2014	Detailed measurement survey (DMS)	the location and areas	representatives from village and township government	The results of the DMS were disclosed.	If the farmers have queries, the village re-checked the number with the farmers at site again.
6	August 2014	Discussion with Le Gaga and sign the contract	Key provisions of the leasing contract include the price for the rent and the method of payment.	representatives from Le Gaga, village and township government	<p>Sign the contract with the village committee.</p> <p>Disclosing the leasing contract to the villagers.</p> <p>The villagers will entrust the village committee to sign the contract with Le Gaga.</p>	As the supervisor, local government will redress the grievance if necessary.

16. During the several rounds consultation, the villagers had some queries, and local government and Le Gaga has replied fully, so that such high acceptance rate can be achieved. Table 3 presents the queries and replies during consultation.

Table 33 Farmer's Queries and Replies

	Query	Reply
1	If the rent can be paid on time?	<ul style="list-style-type: none"> ● The villagers visited the operating Duwei base, and interviewed the local villagers and were informed that Le Gaga paid the rent on time. ● Beigao Township government has checked the history and reputation of Le Gaga. ● Beigao Township government will closely monitor the payment of rent.
2	If the local farmers can get the job opportunities due to the age and skill?	<ul style="list-style-type: none"> ● The villagers visited the operating Duwei base, and found that the workers are mainly local. ● Le Gaga will give local villagers priorities to get the job and provide necessary training.
3	Labor intensity at the base?	<ul style="list-style-type: none"> ● The villagers visited the operating Duwei base, and found that the work is light. ● Also, at the farm, female workers take the light work, such as cutting grass and picking up vegetables with scissors. For the women sensitive work, such as spraying of insecticide is always assigned to men.

17. A 15-years lease period has been agreed. According to the Land Contract Law, the term of the circulation of the right to land contractual management may not exceed the remaining period of the term of contract between the village and the household. In Shanqian village, the land contract between the village and the individual household was started from 1999, so the remaining period from 2014 to 2029 is 15 years³.

18. On 10 August 2014, Le Gaga signed the Land Lease Contract with Shanqian Village, and the contract was endorsed by Beigao Township Government. Also, all households who accepted land lease signed the entrustment agreement that they entrusted the village committee to sign the land leasing contract. All household's signatures are attached with the contract. Appendix III present the first group of household's signatures. The land lease contract was audited and the clauses required by *The Law of the People's Republic of China on Land Contract in Rural Areas* (effective from March 1, 2003) are included:

- 1) the names and domiciles of the two parties;

³ According to the Law of the People's Republic of China on Land Contract in Rural Areas (effective from March 1, 2003), the collective lands are contracted to the households based on a 30 year-contract. During the contract period, the household can lease the land for agricultural use and also have the right to refuse leasing. In this village, the contract period is 1999 to 2014. Since the land was leased to Le Gaga from 2014, so the remaining period is 2014 to 2029.

- 2) the name, location, area and quality grade of land concerned;
- 3) the term of circulation and the dates of beginning and end;
- 4) the purpose of use of the land concerned;
- 5) the rights and obligations of the two parties;
- 6) the price for the right circulated and the method of payment; and
- 7) Liabilities for breach of the contract.

19. The rent for land was decided based on consultation, as this was the most important concern from the villagers. The gross yield of the first and second planting of rice each year was around 500 kilograms, and the net land output is 300 kilograms. If there is bad weather and plant disease, the output of the land is very limited. Before land lease, the land was used for different crops, mainly for rice and watermelon, and also some land was not cultivated. The land lease contract was signed with village committee. Finally, the rent was finalized based on the national guarantee purchase price for rice of the first year issued by Fujian Provincial Grain Bureau of 350 kilograms, which will be adjusted each 3 years. This rent was highly accepted by the farmers, as they can receive net cash income and all were released from the land, especially the old people. Each year, before the end of January, Le Gaga should pay the rent to the village's account. The village is responsible for allocating the rent to the farmers. The audit verified that Le Gaga paid the rent for 2014 and 2015 on time. For example, the rent of 2014 and 2015 is 945 yuan/mu (according to the national guarantee purchase price for rice on 2014 is 135 yuan/50kg) which has been paid to the farmers. Because we will adjusted each 3 years, so the 2014 and 2015 rent are the same, and the coming 2016 rent will be the same. The receipt of rent of 2015 is attached in appendix IV.

20. For village committee, 50 yuan/mu is set in the lease contract as management fee. The village committee always spends the money for village affairs, such as providing subsidy to the elder people and maintaining the village road.

21. For those households who didn't accept land lease, land was adjusted within the village group and replacement land which had same quantity and quality was provided to them. Gradually, some villagers who originally didn't accept lease land requested to give the land to Le Gaga as they can see the direct benefit and became to trust the company. As mentioned in para 11, this will be reflected in the 2015 AESPR.

22. Interviews with the local villagers verified that leasing of land has been widely accepted and all were satisfied. For these older people who are mostly more than the age of 50, they can get the rent, and meanwhile they can work in the farm to take some seasonal jobs. These jobs are light manual in the greenhouse, mainly are picking vegetables, weeding and packing. The daily payment is 80 yuan based on the inputs. These female farmers can take care of their grandchildren and also get some income, which also improve their social status in the family. In these rural areas, young people go to the big cities as migrant workers and the older people and children stay in the village. Left behind children and elderly is a common social issue in PRC. These older people work together in Le Gaga's base can be regarded as one of their social communication activities. In a family, young people's income is the same as they have migrated out, however, for the elder women, their income

can be increased a lot, as presented in table 4. Also, the old man can have more non-agricultural income as he is released from the land.

Table 44 Annual Income Before and After Land Lease

Before land lease			After land lease			
Net income from land	Other income by old man	Total income	rent	Wage working at the base generated by old woman	Other income by old man	total
800 yuan/mu x 4mu=3,200	6,000	9,200	945 yuan/mu x 4mu=3780	2000 yuan/monthx8monthsx1 person=16,000	10,000	29,780

2.4 Public Consultation

23. For land acquisition and lease, the following laws require the consultation activities:

- a) Article 48 of the Land Administration Law of the People's Republic of China (effective from January 1, 1999, amended on August 28, 2004), which expresses that consultation should be conducted with the local village committee and the farmers who will lose land before finalizing the compensation and resettlement measures; and
- b) Expropriation and Compensation of the Housing on the State-owned Land (Decree 590 of State Council, (effective from January 21, 2011) – the municipal and county government should implement the consultation with the affected people before finalizing the compensation and relocation plan.
- c) Article 48 of the Land Contract Law in Rural Areas stipulates that Where the party giving out contracts gives out the contracts for rural land to units or individuals other than the ones of the collective economic organization concerned, the matter shall first subject to consent by not less than two-thirds of the members of the villagers assembly, or of the villagers' representatives, of the collective economic organization concerned and it shall be submitted to the township(town) people's government for approval.
- d) Article 22 of the Organization Law of the Villagers Committees stipulates that the villagers assembly shall be convened with a simple majority participation of the villagers at or above the age of 18 or with the participation of the representatives from at least two-thirds of the households in the village, and every decision shall be adopted by a simple majority vote of the villagers present.
- e) Article 24 of the Organization Law of the Villagers Committees stipulates that land contract issues should be discussed at the villagers' assembly.

24. As mentioned in previous paragraphs and Table 2 and 3, Local government and Le Gaga have been involved closely in consultation activities on land lease. Especially, for these households who were working outside, the village committee called them and they can

entrust their relatives to vote. The public consultation procedures and activities are complies with the national requirements. (See Appendix V Figure 3~4)

25. During operation, the management of production base has regular meetings with the village leaders. For job opportunities, the information is transferred to the village leaders for quick disclosing to the local farmers.

2.5 Grievance Redress

26. The Land Contract Law has the follow articles to redress the grievance.

(1) Article 51 Where dispute arises over the contractual management of land, the two parties may settle the dispute though consultation and may request the villagers assembly or the township (town) people's government to help settle the dispute through mediation.

Where the parties are not willing to have it settled through consultation or mediation or consultation or mediation is not successful, they may apply to an arbitral body in charge of rural land contracts for arbitration, or directly bring a suit in the People's Court.

(2) Article 52 Where the parties are not satisfied with the arbitral ruling made by the arbitral body in charge of rural land contracts, they may bring a suit in the People's Court within 30 days from the date they receive the ruling in writing. If they fail to file a suit before expiration of the prescribed time limit, the written ruling shall thereupon become legally effective.

27. The local government used its existing grievance mechanism to deal with the problems induced by land lease, so the farmers could find relevant departments to solve their appeal and grievance. The basic procedures for grievance include the following:

- (i) If any farmer is aggrieved by any aspect of the resettlement, he/she can state his/her grievance and appeal to the village committee in oral or in written form. If an oral appeal is made, the village committee will record it on paper and process it. The village committee will make a decision on or resolve it in two weeks.
- (ii) The aggrieved farmer can state the grievance and appeal to the township government in oral or in written form. The township government will decide on or resolve it in two weeks.
- (iii) If the aggrieved farmer is not satisfied with the decision of the township government, he/she can appeal to the county government, which will reach a decision within two weeks.
- (iv) If the aggrieved farmer is not satisfied with the decision of the county government, he/she can bring a suit in the People's Court.

28. As described before, full consultation activities are conducted before signing the land lease contract and all farmer's queries have been addressed fully. By now, those agencies did not receive any appeal and grievance. And these grievance redress channels are working well. Figure 5 is the notice at the village committee to disclose the grievance redress channels. (See Appendix V Figure 5)

3 Ethnic Minorities

29. Key national laws/ regulations/ guidance on ethnic minorities in PRC include Law of PRC on Regional National Autonomy; and Regulation on the Work of Administrative Urban Ethnic Minority (effective from May 31, 1984, amended on February 28, 2001). Also, some provinces also issued local regulations for ethnic minorities. For example, the Fujian Province has the Regulation of Rights Protection for Ethnic Minority (effective from January 1, 2010).

30. Le Gaga's production bases mainly locate in Fujian and Guangdong Province, which are not owned, used by ethnic groups. These provinces are not ethnic minority concentrated areas in PRC, the ethnic minorities only account for less than 2% of the total population. The local scattered ethnic minority people can benefit the same as the Han people to get the better vegetable. Le Gaga's performance on ethnic minorities is highly regarded. Le Gaga's business are labor intensive and have observed an overall tightening of the labor market and an emerging trend of shortage of labor supply. Fujian and Guangdong Province are both highly economic developed in PRC and its difficult to employ local villagers to work on the production bases, as the salaries are not attractive and there are more other non-agricultural job opportunities. In order to solve the labor shortage, many farmers from the southwestern provinces have been employed, and they are mainly come from Yunnan, Guizhou and Guangxi Province. They are nearly all ethnic minorities, and the main groups are Zhuang, Yi and Miao. As of June 30, 2013, Le Gaga indirectly hired 2,379 farm workers through a labor company to perform all agricultural labor work on farms, and ethnic minorities account for 40%. The jobs in Le Gaga are attractive and suitable to them, as they have low education level and technical abilities.

31. When these farm workers go home during festivals, they always introduce Le Gaga to their relatives and more and more workers come to the farm. It's common that the parents work on the farm, and their children go to the local schools. In PRC, the nine-year compulsory education is free. The worker's children can also receive the better education locally. There are no special expenditure and enrolment procedure required. Le Gaga has (i) provided dormitories with free tap water and electricity; (ii) provided gifts during the ethnic minority holidays; and (iii) coordinated with local governments to arrange the children to study in the local schools. In their hometown, the average rural per capita net income is around 5,000 CNY in 2013 according to the yearbooks. These ethnic minority workers can get annual salary of 30,000 CNY in Le Gaga, which is much higher. Also, the children can receive better education in these east coast provinces.

32. The ethnic minority in Licheng District is around 0.5% of the total population. Totally, there are 13 ethnic minority groups. The main ethnic minority group is She and Hui, and they have the same social status with Hans. They all speak the same language as Han. Ethnic minorities are not concentrated in any particular districts or occupation groups in Licheng District, being very spread out on the whole. They do not face any social discrimination and can benefit the same from the project. In the Shanqian Village, all villagers are Han people.

33. The Beigao base will be operated from June 2016. It's planned to recruit and employ 190 people. It's estimated that 40 farm workers will be ethnic Miao and Zhuang people who are from Guangxi Province and Guizhou Province. Some will come from the

previous bases and some will be newly recruited. They all can speak the Han language, while they also speak dialect in private. But they have lived side by side with the Han for long years and intermarried with Han people. These workers have migrated out for non-agricultural working for long years, rather than living in the remote and poor mountain areas. Only 2 different aspects have been identified, including they prefer to have their own taste of food and celebrate their festivals. So Le Gaga will allocate the kitchen to them, with the provision of electromagnetic oven and electric cooker for fire prevention. During their festivals, the company always buys pork as gift to them. Dormitory, kitchen, and washroom have free tap water and electricity.

34. These ethnic minority workers have no particular belief system and associated ritual on farming and living, and they don't have specific cultural requirements that the project must comply with.

35. Le Gaga Putian Company issues the Dormitory Management Rule on 1 January 2015, which stimulates that (i) ethnic minority worker's customs should be respected; (ii) Le Gaga will coordinate with the local ethnic minority and religious bureau to solve any related issues.

4 Gender and Development

36. The Human Resource Department of Le Gaga has appointed staff at the corporate or base level to be responsible for the women's affairs. Le Gaga upholds gender equality and provides equal employment opportunities for men and women during project design, construction supervision, and operation. Le Gaga is sensitive to the special needs and vulnerabilities of women. In headquarter and all bases, priorities are provided to women if the jobs are more appropriate for female staff, such as in the financial, human resource, and laboratory offices. Le Gaga complies strictly with the Law of the People's Republic of China on the Protection of Rights and Interests of Women. All women staff have maternity insurance. Women have gifts at the women's day, and each year the company will provide some feminine hygiene products to them.

37. Le Gaga's business makes a significant contribution to women's employment. As of June 30, 2013, Le Gaga indirectly hired 2,379 farm workers through a labor company to perform all agricultural labor work on farms, and the female workers account for 80%. Among the total 300 staff in Le Gaga, female staff accounts for 30%. Le gaga targets to increase its female allocation from 30% to say 40% in the next 5 years. Men and women are given equal pay for equal work. The Chairman of the Board is female and among the 11 senior management staff, there is also a female production base development director. Le Gaga encourages the contractors to provide equal employment opportunities to women. Generally speaking, the work on the farm is mostly physically light. The facilities and environment is responsive to the needs of women. At the farm, female workers take the light work, such as cutting grass and picking up vegetables with scissors. For the women sensitive work, such as spraying of insecticide is always assigned to men. The dormitories have separate toilets and showerrooms.

38. For Beigao base, priorities will be provided to women if the jobs are more appropriate for female staff. The female people more than 40 years old will be the main workers at the site. The work on the farm is mostly physically light. The facilities and environment is responsive to the needs of women. At the farm, female workers take the light work, such as cutting grass and picking up vegetables. For the women sensitive work, such as spray insecticide is always allocated to men. It's estimated that 80% of the job opportunities will be provided to women.

5 Labor and Social Protection

39. Le Gaga follows the China Labor Law (1995) and the Labor Contract Law (2008) strictly with particular attentions paid to the well-being of all staff in China. Le Gaga provides social benefits to staff members that include pension insurance, medical insurance, maternity insurance, unemployment insurance, and work injury insurance. Le Gaga has not provided the social housing fund to the staff. According to the Social Insurance Law (2010), pension insurance, medical insurance, maternity insurance, unemployment insurance, work injury insurance are the five mandatory insurances, and the social housing fund is not included.

40. Le Gaga encourage the contractors to hire workers from the local community and will select the contractors who have good performance on CSR. The current Social Responsibility Management Manual includes requirements of occupational health and prohibition of child and forced labor, and requires its contractors/subcontractors to comply with the national labor laws and guidelines (child labor, mandated wages, equal pay for equal work, social/medical benefits etc.). The maximum working time is 8 hours each day on the base. Every new staff will be given a job training and orientation via immediate supervisor. Further training would also be given via group discussion and learning activities.

41. All farm workers are hired through labor outsourcing arrangements with a labor outsourcing agency. Le Gaga selected the qualified labor outsourcing agency registered in the labor bureau. Under such labor outsourcing agreement, the farm workers are deemed to be employees of the labor outsourcing agency, and the labor outsourcing agency undertakes the legal obligation to enter into labor contract and pay social insurance for these workers. Some farm workers prefer to join the new rural cooperative medical care system in their hometown. When they are ill at the farm, they can keep the medical bill and reimburse it when they go home at the festival. If they are serious ill and need a lot of money for treatment, Le Gaga always help to pay the fee in advance. On 1st January 2015 the labor outsourcing arrangement was signed between Le Gaga and Xianyou Ruidefeng Agriculture Cooperative. The provisions in the contract for work hours, wages of men and women workers, benefits in terms of accommodation, medical, and social insurance are complied with the China Labor Law (1995) and the Labor Contract Law (2008). In PRC, the Labor Bureau has the standard contract for the companies to sign. Labor Inspection Bureau under the Labor Bureau often goes to the farm to check if the labor law is complied and in the past year there has been no observed noncompliance. Also, if the workers have some complaints related to labor issue, they can contact the bureau.

42. It's estimated that 300 job opportunities can be generated during the construction period from December 2015 to June 2016, and 60% will be provided to the local people. Le Gaga gives local labor a priority when it comes to recruitment. Among the total 190 farm workers, the number of local people is estimated as 150.

6 CONCLUSION

43. **Land Lease.** Land lease of the Beigao base were carried out by villages, Le Gaga and local governments in conformity with government laws and regulations. Le Gaga paid the rent to the village committee on time. The rent was finalized based on consultation. All procedures and measures implemented complied with ADB SPS SR2 requirements, and there is no outstanding noncompliance issue. An effective organizational system has been established at all levels. The responsibilities of the agencies concerned are well defined and their staff is well trained, thereby promoting the successful implementation of land lease. The GRM is working well.

44. **Ethnic Minorities/Indigenous Peoples Safeguards Performance of Audited Subprojects.** The Beigao base will not adversely affect any ethnic minorities or indigenous peoples. Moreover, Le Gaga has high percentage of ethnic minority farm workers and new job opportunities will be generated for the ethnic people. The living customs of these ethnic minorities are respected. Le Gaga has made a significant contribution to improve their income and children's education.

45. **Stakeholder Engagement, Gender and Development, Labor and Working Conditions.** Stakeholder engagement and grievance mechanism was/is running efficiently. Le Gaga upholds gender equality and provides equal employment opportunities for men and women. Women's rights are protected reasonably well. Le Gaga is strictly following the national labor laws and regulations. The work hours, wages of men and women workers, benefits in terms of accommodation, medical, and social insurance are complied with the China Labor Law (1995) and the Labor Contract Law (2008). The farm worker's children can receive the local education without restriction according to the Compulsory Education Law (2006).

7 CORRECTIVE ACTION PLAN

46. There is no outstanding noncompliance issue with respect to the land lease and compensation arrangements. There are also no remaining issues related to ethnic minority aspects and social protection issues. No corrective action is required.

47. In the annual S&E performance monitoring report, the following information will be included:

- (i) Final number of land area transferred to Le Gaga by 2015 and the number of HHS;
- (ii) For those HHS who leased land after 1 September 2014, their signature should be presented;
- (iii) Job opportunities generated during construction and operation, and the number of jobs provided to the local people, women and ethnic minorities;
- (iv) Working and living condition of the ethnic minorities workers at the base;
- (v) If any grievance occur during construction and operation, and the measures to address.

Appendix I- List of persons met

No	Name	Department	Position
1	Chen Hang	Headquarter	Vice-president General manager of ESMS
2	Yan Shengren	Putian Company	General Manager
3	Wu Chan	Beigao Base of Putian Company	Director
4	Cai Liming	Agricultural Bureau of Licheng District	Director
5	Huang Jinhua	Station of Agricultural machinery of Licheng District	Head of station
6	Chen Fan	Shanqian Village Committee	Secretary
7	Chen Yudi	Shanqian Village Committee	Director

Appendix II-Related Laws and Regulations

The key applicable National on social assessment in PRC is *Notice of Application Reports of Projects issued by NDRC (FGTZ [2007] NO.1668)* which requires the analysis of land acquisition and resettlement, and social impact assessment for corporate investment activities. There is no special regulation for social assessment on agricultural project.

Key national laws/ regulations/ guidance on land acquisition and resettlement in PRC include:

- a) Land Administration Law of the People's Republic of China (effective from January 1, 1999, amended on August 28, 2004);
- b) Urban House Demolition Management Regulations (effective from November 1, 2001 and abolished on January 21, 2011), which once is the basis for house demolition on urban areas;
- c) Expropriation and Compensation of the Housing on the State-owned Land (Decree 590 of State Council, (effective from January 21, 2011) which covers the requirements on information disclosure and compensation related to housing demolition and relocation;
- d) Urgent Notice on Enforcing the Administration of Land Acquisition and House Demolition issued by General Office of the State Council (GBF [2010] No.15) which was announced with an aim to arouse the awareness of governmental officials on land acquisition issues. In particular, it emphasizes the need to strictly follow the land acquisition procedure and relevant guidelines for resettlement compensation;
- e) Guidelines on Improving Compensation and Resettlement Systems for Land Acquisition (MLR Fa [2004] No.238) (effective from November 3, 2004) which specifies the compensation standards, resettlement principles, land acquisition procedures and monitoring of the land acquisition process; and
- f) Decision of the State Council on Deepening the Reform and Rigidly Enforcing Land Administration (Guo Fa [2004]28) (effective from October 21, 2004) which highlights the stringent requirements for the management of land and provides direction for the development of comprehensive land management and protection system.

For **land leasing**, the key national laws and regulations include *The Law of the People's Republic of China on Land Contract in Rural Areas* (effective from March 1, 2003) and *Measures for the Administration of Circulation of Rural Land Contracted Management Right* (effective from March 1, 2005) which was issued by Ministry of Agriculture (MOA). In PRC, the collective lands are contracted to the households based on a 30 year-contract. During the contract period, the household can lease the land for agricultural use and also have the right to refuse leasing.

Article 16 of the Land Contract Law stipulates the rights of the rural households:

1) enjoying in accordance with law the rights to use the land contracted, to reap the yields and to circulate the right to land contractual management, and the right to make its own decision regarding the arrangements for production and operation as well as the disposition of the products;

2) enjoying in accordance with lawful right to obtain appropriate compensation for the contracted land that is requisitioned or occupied according to law; and

3) other rights provided for in laws and administrative rules and regulations.

Chapter 5 of the Land Contract Law specially stipulates circulation of the right to land contractual management, and these are the key provisions related with the proposed ADB project. In Article 32, leasing is confirmed as one type of the right to land contractual management. Article 37 stipulates the key clauses of a leasing contract.

Article 32 The right to land contractual management obtained through household contract may, according to law, be circulated by subcontracting, leasing, exchanging, transferring or other means.

Article 33 The right to land contractual management shall be circulated in adherence to the following principles:

1) that consultation on an equal footing, voluntariness and compensation, and no organizations or individuals may compel the contractor to circulate his right to land contractual management or prevent him from doing so;

2) that no change shall be made in the nature of the land ownership or the purpose of use of the land designed for agriculture;

3) that the term of the circulation may not exceed the remaining period of the term of contract;

4) that the transferee shall have the capability for agricultural operation; and

5) that under equal conditions, members of the collective economic organization concerned shall enjoy priority.

Article 34 In the circulation of the right to land contractual management, the contractor shall be the subject. The contractor shall have the right to make his own decision, according to law, on whether to circulate the right to land contractual management and on the means by which to circulate the right.

Article 36 Such fees as the subcontract charges, rent and transfer charges to be collected for the circulation of the right to land contractual management shall be decided on by the two parties through consultation. Proceeds derived from the circulation shall belong to the contractor, which no organizations or individuals may retain or withhold without authorization.

Article 37 Where the right to land contractual management is circulated by means of subcontract, lease, exchange, transfer or by other means, the two parties shall conclude a written contract. Where transfer is adopted for circulation, the matter shall be subject to

consent by the party giving out the contract; and where subcontract, lease, exchange or other means is adopted for circulation, the matter shall be reported to the party giving out the contract for the record.

In general, the contract for the circulation of the right to land contractual management shall include the following clauses:

- 1) the names and domiciles of the two parties;
- 2) the name, location, area and quality grade of land concerned;
- 3) the term of circulation and the dates of beginning and end;
- 4) the purpose of use of the land concerned;
- 5) the rights and obligations of the two parties;
- 6) the price for the right circulated and the method of payment; and
- 7) Liabilities for breach of the contract.

Article 38 Where the parties to the circulation of the right to land contractual management by means of exchange or transfer request registration, they shall apply for registration to the local people's government at or above the county level. If the above is not registered, no one may oppose the third party acting in good faith.

Article 39 The contractor may, within a certain period of time, subcontract or lease part or all of the right to land contractual management to the third party, but the contractual relationship between the contractor and the party giving out the contract shall remain unchanged.

APPENDIX III-Sample of Land Leasing Contract

土地租赁协议书

出租方：莆田市荔城区北高镇山前村民委员会
(以下简称甲方)

承租方：利农农业技术(莆田)有限公司
(以下简称乙方)

为了推进农村农业产业化生产,提高农民经济收入,发展种植高优蔬菜产品,甲乙双方本着诚信互利的原则,经协商一致同意乙方租用甲方农业田块,根据《中华人民共和国土地管理法》、《中华人民共和国合同法》的相关规定,订立如下条款,以资遵守。

一、 租赁经营的土地范围、面积和年租赁费、土地用途:

(一)、租赁的土地面积:1000亩。届时以实际丈量面积为准(主沟渠、机耕路不计算租赁农田面积),实际丈量面积以附件(补充协议)形式确认;要求做到租赁土地连片无插“花”地和养殖场。

地理位置:

(二)、租金及付款方式:每年每亩租金按700斤稻谷计算【按同团国家最低稻谷保护收购价(以福建省粮食局发布的收购价格为标准)折算成人民币支付】;租金每三年调整一次(调整后的租金仍按每年每亩700斤稻谷计算,以福建省粮食局发布的同期收购价格为标准折算成人民币支付);租金按实际丈量面积(亩数)计算。付款方式:每年在1月底一次性付清当年租金,以现金或银行转账方式支付;租金由甲方负责分发给村民,甲方需开统一的农村集体收款交由乙方以做租赁农田的付款凭证。

(三)、甲方同意按约1000亩按实际丈量亩数面积,在2014年8月前交付乙方使用。

(四)、土地用途:种植高优蔬菜等各种经济作物。

二、 租赁期限:15年,自2014年8月至2029年8月止。

三、 甲方负责与租赁土地村民签订流转合同,并提供村民代表会议决议记录和附有村民签字同意租赁土地的花名册。

四、 甲方同意乙方在租赁农田的土地上建设蔬菜生产所需的配套设施(如蔬菜加工场、机房、办公宿舍等配套设施)及土地平整和改良。

五、 甲方同意乙方在利农集团所属公司内部进行调剂对租赁土地的使用。

六、 凡是上级对该片农业用地补助及基础设施款项(如水利设施、道路建设),该款项全部归甲方所有并由甲方负责配套建设;补助其他项目款项(如自然灾害、科研项目、农业生产设施等),则该款项全部归乙方所有并由乙方负责配套建设。

七、 每年租金由甲方负责发放给村民,在乙方遇到村民纠纷或干扰影响乙方正常生产经营等情况,甲方负责出面协调解决,以确保乙方正常生产经营和维护乙方利益不受损害。

八、 租赁期内的特殊情况处理:如遇国家或地方政府开发需要征用承租土地,乙方应无条件服从规划开发的需要,征用赔偿款中的青苗补偿费和地上物农业生产设施补偿费归乙方所有,土地赔偿等归甲方所有之后再由甲方分配给被征用村民手中;被征用土地的租金自土地被征用之日起豁免免除。

九、 甲方的权利和义务:

1、 甲方对被承租土地依法行使所有权、监督管理权。

2、 甲方有权制止乙方在生产经营中的违约、违法行为。

3、 保证所出租土地的完整性,并依据《中华人民共和国农村土地承

包法》及《农村土地承包经营权流转合理办理》相关规定,完善土地租赁所需的相关手续。乙方如果违反协议约定,擅自改变承租土地用途的,如种植林果或挖塘养鱼等,则甲方有权取消本协议,并要求乙方恢复土地原状及承担违约责任。

4、 甲方有权按本协议书的约定向乙方收取土地租赁费。

5、 甲方有义务维护乙方在租赁土地上生产作业,保护乙方利益不受他人侵害;有义务为乙方营造一个安全、稳定的生产经营环境。

6、 甲方不得干涉乙方的自主经营权,不得强行推荐、强、诱导乙方参加乙方的生产。

十、 乙方的权利和义务

1、 乙方有权按协议的约定完全自主经营,包括租赁期土地的使用权和雇佣生产作业工人的自由选择,但同等条件下,乙方应聘用甲方村民。

2、 租赁期间,在同等条件下,乙方享有优先承租的权利。


3、 乙方必须按本协议约定缴纳租金。


4、 乙方必须按本协议约定进行生产经营,保护资产、资源和生态环境,不得进行破坏性、掠夺性经营,不得弃耕抛荒,不得擅自在租赁土地上取土或建设从事农业生产所需配套设施的永久性建筑物。


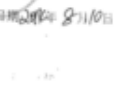
十一、 违约责任:乙方应当按合同约定如期交纳租金,若每年在3月底前不交纳当年土地租金,视为违约,甲方有权单方解除合同,违约方应支付另一方由此造成的一切经济损失;双方均有过错,各自承担相应的法律责任。

十二、 本协议自双方签订之日起生效。

十三、 本协议一式陆份,甲乙双方各执贰份,荔城区北高镇政府和荔城区农业局各执壹份,未尽事宜应由双方再行协商并签订补充协议,该补充协议与协议书具有同等法律效力。

甲方:莆田市荔城区北高镇山前村民委员会 代表: 

乙方:利农农业技术(莆田)有限公司 代表: 

鉴证方:莆田市荔城区北高镇人民政府 代表: 
莆田市荔城区农业局 代表: 

鉴证日期:2014年8月10日

承包土地情况表 一队 <3>

序号	姓名	面积	序号	姓名	面积	序号	姓名	面积
115	许金中	0.24						
	许金林	0.16						
	许金林	0.35						
	许金林	0.28						
	许金林	0.41						
	许金林	0.19						
	许金林	0.44						
	许金林	0.13						
	许金林	0.36						
	许金林	0.41						
	许金林	0.30						
	许金林	0.18						
127	许金林	0.24						

2152.66

Appendix IV-Receipt of Rent of the Year of 2015

福建省村集体专用收款票据 5944696

2015年1月29日

收款人: 利农农业技术(莆田)有限公司

项	目	计量单位	数量	单价	金额
山前村1-13组	利农租用土地租金				842259.60

人民币(大写): 捌拾肆万贰仟伍佰玖拾玖元陆角

收款单位(公章): 利农农业技术(莆田)有限公司

收款人: 陈玉文

财务主管: 出纳: 复核: 经手人:

收款收据 0265162

收款方: 利农农业技术(莆田)有限公司 2015年1月29日

品名	单位	数量	单价	金额
管理费	亩	8422.596	100	842259.60

合计人民币: 捌拾肆万贰仟伍佰玖拾玖元陆角

收款人(盖章): 开票人: 收款人:

正粘贴后面

页次:

APPENDIX V- RELEVANCE PHOTOS

Figure 22 Land for the Beigao Base



Figure 33 Village Committee Members Reviewed the Plan of the Base



Figure 44 Villagers Meeting



Figure 55 Photos of Visit Duwei Base



Figure 6 Notice for Grievance Redress

