

HCFC Phase-out in China HCFC production Sector and PU Foam Sector

SOCIAL RISK AND MITIGATION

Foreign Economic Cooperation Office
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I. INTRODUCTION

- 1 This document is aimed at developing the Social Risk and Mitigation Framework for the 2nd phase HCFC phase-out in Production Sector and PU Foam Sector in China. At the 19th Meeting of the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer* (hereinafter referred to as Montreal Protocol) on September 2007, the Parties agreed to accelerate the phase-out of HCFC. China, as Article 5 country, will freeze production and consumption of HCFC in 2013 and will reduce HCFC production and consumption by 10% in 2015, by 67.5% in 2025 with a total phase-out in 2030, while allowing for servicing an annual average of 2.5% during the period 2030 to 2040. Regulations on the Management of Ozone Depleting Substances (hereinafter referred to as Regulations) were issued on June 2010. This Regulations define the objective and roles of Ozone-Depleting Substance (hereinafter referred to as ODS) management at the national level, establish the quota system and total amount control strategy, and clarify the legal duty for illegal production and consumption, and import and export. This is the first regulation that converted the international environmental conventions which china has joined into a specialized domestic regulation.

- 2 On the basis of the achievement of HCFC reduction goal of the 1st phase, the Executive Committee of the Multilateral Fund for the Implementation (ExCom) has approved the “Preparation Reserve Fund Project of the 2nd Phase HCFCs Phase-out Management Plan in China’s PU Foam Sector” at the 73rd Meeting in November 2004; in November 2015, has approved the “Preparation Reserve Fund Project of the 2nd Phase HCFCs Phase-out Management Plan in China’s HCFCs Production Sector” and the World Bank was assigned as the international implementing agency to assists Project Management Organization (hereinafter referred to as PMO) in China at the 75th Meeting. In December 2016, the 2nd Phase HCFCs Phase-out Management Plan in China’s PU Foam Sector has been approved by the Executive Committee of the Multilateral Fund for the Implementation at the 77th Meeting and the entire phase-out of the use of HCFCs as the foaming agent in such section will be achieved before the

end of 2025. The 2nd Phase HCFCs Phase-out Management Plan of China's HCFCs Production Sector has also been prepared completely and submitted to Executive Committee of the Multilateral Fund for the Implementation for the approval in March 2017.

- 3 Both environmental and social safeguard policy frameworks of HCFCs phase-out in Production and PU foam sectors in China are parts of the HPMP preparation. As the guiding framework, the social safeguard framework of the 1st phase period has reduced the social risks during the project implementation for the smooth implementation of the phase-out project in the 1st phase by restraining the sub-project. The implementation experience of the social safeguard framework of the 1st phase have provided sufficient basis for the upgrade and preparation of the social safeguard framework of the 2nd phase. Since many enterprises may be involved in HCFC phase-out project, in order to improve the social safeguard framework of the 1st phase and further understand and reduce the social impacts caused by the project implementation, PMO engaged an investigation team to conduct site visits to 5 HCFC production enterprises and 5 PU foam enterprises among about 130 subproject enterprises in the 1st phase so as to review the environmental and social problems and impacts related to the project in the 2nd phase. The survey results show that our country has closed 5 HCFC production lines and transformed 54 PU enterprises so as to achieve the 10% phase-out goal in 2015. At present, these phase-out activities have been completed basically and no significant and adverse social impacts have been found during the project implementation. In addition, nearly all the project enterprises involved in the activities such as the conversion at present location, conversion at new location, production reduction or closure of production facilities during the project implementation period and these activities may involve the employee resettlement. Thus, it is necessary to provide the framework guidance on the social risks and related mitigation measures for PMO and project enterprises.
- 4 During the screening of the project enterprises of the 2nd phase, in view of that only 10% of HCFC production enterprises will be eliminated in the 1st phase, the types of the production lines to be closed are not included in the project implementation mode. However, many HCFC

production enterprises hope to eliminate thoroughly their production quota and close their production lines in the 1st phase. Via the negotiation and coordination with World Bank, World Bank has approved the types of the newly-added production line closure projects, in order to meet the appeal that the enterprise close the production line completely in the 2nd phase.

- 5 Recently, many laws and regulations related to the social safeguard in China and the security policies of World Bank have been revised. Thus, it is necessary to upgrade the framework document according to the latest social safeguard requirements. Therefore, the goal of this work is to revise the resettlement framework document of the 1st phase for HCFC phase-out, upgrade relevant rules, procedures and systems needed for the project, add newly the framework document for social risks and their mitigation measures and arrange to identify, supervise and slow down the adverse social impacts which may be caused by the activity implementation of various parts of the project, thus guaranteeing that the crowd influenced by the project can enjoy fairly the project benefits.

II. PROJECT DESCRIPTION

- 6 The Multilateral Fund will provide financial and technical support to eligible enterprises in order to meet the objective of total phase-out of HCFC in production and consumption sectors and assist to find the alternatives to replace HCFC. In view of the newly-added closure types of production lines of production enterprises, the 2nd phase HCFC phase-out Project will consist of the following categories: (1) PU foam sector: ①Foam enterprises whose conversions to alternative technology (e.g. hydrocarbon) take place at their present location (hereinafter referred to as conversion at present location); ②Foam enterprises whose conversions to alternative technology (e.g. hydrocarbon) involve relocation of their facilities and no PU foam production is conducted in the present location (hereinafter referred to as conversion at new location); ③Existing polyol system houses providing technical support on low GWP alternatives that may be flammable and provide the pre-blended polyol with hydrocarbon to

small and medium foam enterprises (hereinafter referred to as system house conversion);
④Foam enterprises engaging in identification and testing of potential substitutes; (2) HCFC production Sector: ⑤HCFC production reduction; ⑥ Closure of production lines. The social risks and their mitigation measures will cover the 2nd phase HCFC phase-out project (from 2017 to 2025).

III. PROJECT IMPACTS

- 7 It is possible that the HCFC phase-out would entail social issues, such as impact on employees in the enterprises after participating in the HCFC phase-out projects. In order to understand the potential issues caused by HCFC phase-out in the enterprise level and analyze the actual impact on the employees, the research team was established to collect the information during the site visit. Because there are too many enterprises involved in HCFC phase-out in Production and PU foam sectors, the total number of affected people cannot be accurately quantified. In the site visit, the 10 enterprises were selected as representatives. The site visit shows that after the conversion or production facilities closure, a small number of workers were laid off. Women, the elderly, people suffering from serious illness or chronic disease are more likely to be laid off, which may lead to their livelihood income decline.
- 8 Although the 1st phase of the retrospective survey found no significant social impact caused by the resettlement of employees, to ensure that implementation of downsizing for those subprojects caused by HCFC phase-out follow relevant national laws and regulations and comply with the safeguard policies of the World Bank, Employee Resettlement need to be done in compliance with the policies and procedures set out in this policy framework.

IV. CHINESE LEGAL AND REGULATORY FRAMEWORK

- 9 The principle of the government regulations for employee resettlement is to ensure that any adverse impacts are minimized and properly addressed, and that any affected persons are

provided ample opportunity and compensation, through provision of compensation and other forms of assistance, to improve or at least restore their incomes and living standards.

- 10 Law and regulations of the People's Republic of China need to be considered.
- (1) Law of The People's Republic of China on Employment Contracts (1994);
 - (2) Law of The People's Republic of China on Employment Contracts (revised in 2012);
 - (3) Regulation on the Implementation of the Law of The People's Republic of China on Employment Contracts (State Council Order No. 535, 2008);
 - (4) Social Insurance Law of the People's Republic of China (2010);
 - (5) Regulation on Labor Security Supervision (State Council Order No. 423, 2004);
 - (6) Regulations on Management of Housing Provident Fund (State Council Order No. 350, 2002);
 - (7) Regulation on Work-related Injury Insurance (State Council Order No. 586, Revised in 2002);
 - (8) Regulation on Employee Maternity Insurance of the People's Republic of China (Exposure Draft) (2012);
 - (9) Special Provisions on Labor Protection of Female Employees (State Council Order No. 619, 2012);
 - (10) Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes (2007);
 - (11) Provision on Negotiation and Mediation of Enterprise Labor Dispute (2012);
 - (12) Economic Compensation for Breach and Termination of Contracts Procedures (Laobufa [1994] No. 481);
 - (13) Several Provisions Regarding the Implementation of the *Regulations on Labor Security Supervision* (Order No. 25 of Ministry of Labor, 2004);
 - (14) Employment Promotion Law of the People's Republic of China (Revised in 2015)
 - (15) Provisional Regulations on Collection and Payment of Social Insurance Premiums (State Council of People's Republic of China No.259, 1999);

- (16) Regulations on Unemployment Insurance(State Council of People's Republic of China No.258,1999);
- (17) Tentative Provisions on Payment of Wages (Laobufa [1994] No. 489);
- (18) Measures for Endowment Insurance Transfer and Renewing (2010);
- (19) Vocational Education Law of the People's Republic of China (1996).

Provincial and local implementation regulations:

- (20) Regulation on Employment Contract of Shandong Province (Revised in 2013);
- (21) Regulation on Labor and Social Security Supervision of Shandong Province (2000);
- (22) Regulation on Labor Arbitration of Shandong Province (2017);
- (23) Regulation on Labor Market Administration of Shandong Province (Revised in 2004);
- (24) Regulation on Employment Promotion of Shandong Province (Revised in 2010);
- (25) Provisions on Unemployment Insurance of Shandong Province (2003);
- (26) Provisions on Work-related Injury Insurance of Shandong Province (2011);
- (27) Measures for Social Security Checking of Shandong Province (2003);
- (28) Provisions on Enterprise Wages Payment of Shandong Province (2006);
- (29) Provisions on Enterprise Employee Maternity Insurance of Shandong Province (2007);
- (30) Regulation on Employment Contract of Zhejiang Province (2002);
- (31) Provisions on Labor Supervision of Zhejiang Province (1997);
- (32) Regulation on Labor Security Supervision of Zhejiang Province (2005);
- (33) Administrative Measures for Enterprise Wages Payment of Zhejiang Province (2017);
- (34) Interim Measures for Enterprise Employee Maternity Insurance of Zhejiang Province (1997);
- (35) Regulation on Unemployment Insurance of Zhejiang Province (2004);
- (36) Notice of Zhejiang Province on the Implementation of Several Issues Concerning "Regulation on Work-related Injury Insurance" Revised by the State Council (2011);
- (37) Regulation on Mediation and Arbitration of Labor Personnel Dispute of Zhejiang Province (2016);
- (38) Measures for Imposition and Payment of Social Insurance Fees of Zhejiang Province (2005);

- (39) Regulation on Employment Contract of Jiangsu Province (Revised in 2013);
- (40) Measures for Mediation and Arbitration of Labor Personnel Dispute of Jiangsu Province (2013);
- (41) Regulation on Labor Market Administration of Jiangsu Province (2004);
- (42) Measures for Employment Promotion of Jiangsu Province (2009);
- (43) Provisions on Unemployment Insurance of Jiangsu Province (2011);
- (44) Measures for Implementation of “Regulation on Work-related Insurance” of Jiangsu Province (2015);
- (45) Measures for Implementation of Social Insurance Checking of Jiangsu Province (2003);
- (46) Regulation on Wages Payment of Jiangsu Province (2010);
- (47) Provisions on Employment Maternity Insurance of Jiangsu Province (2014);
- (48) Regulation on Imposition and Payment of Social Insurance Fees of Jiangsu Province (2004);
- (49) Measures for Trial Implementation of Employment Contract of Sichuan Province (1985);
- (50) Measures for Implementation of Labor Dispute Settlement of Sichuan Province (2012);
- (51) Specification for Mediation and Arbitration of Labor Personnel Dispute of Sichuan Province (2012);
- (52) Regulation on Labor Market Administration of Sichuan Province (2006);
- (53) Regulation on Unemployment Insurance of Sichuan Province (2001);
- (54) Regulation on Work-related Injury Insurance of Sichuan Province (2004);
- (55) Regulation on Labor and Social Security Supervision of Sichuan Province (2002);
- (56) Notice of Ministry of Labor of Sichuan Province on Issuing the Supplemental Provisions on Relevant Issues of “Tentative Provisions on Wages Payment” (1995);
- (57) Measures for Trial Implementation of Enterprise Employee Maternity Insurance of Sichuan Province (1997);
- (58) Measures for Implementation of Enterprise Labor Dispute Settlement of Guangdong Province (1995);
- (59) Measures for Enterprise Labor Dispute Settlement of Guangdong Province (2017);

- (60) Regulation on Wages Payment of Guangdong Province (2005);
- (61) Regulation on Unemployment Insurance of Guangdong Province (2013);
- (62) Regulation on Work-related Injury Insurance of Guangdong Province (Revised in 2011);
- (63) Regulation on Labor Security Supervision of Guangdong Province (2013);
- (64) Provisions on Employment Maternity Insurance of Guangdong Province (2015);
- (65) Measures for Imposition and Payment of Social Insurance Fees of Guangdong Province (2011);

Key provisions of Employment Contract Law, Provisional Regulation on Imposition and Payment of Social Insurance Fees, Labor Dispute Mediation & Arbitration Law and Provisions on Negotiation and Mediation of Enterprise Labor Dispute are highlighted below.

4.1. Key Provisions of the Employment Contracts Law on the amendment, termination and ending of employment contract

Article 2

This Law governs the establishment of employment relationships between, and the conclusion, performance, amendment, termination and ending of employment contracts by, organizations such as enterprises, individual economic organizations and private non-enterprise units in the People's Republic of China ("Employers") on the one hand and Employees in the People's Republic of China on the other hand.

The conclusion, performance, amendment, termination and ending of employment contracts by state authorities, institutions or social organizations on the one hand and Employees with whom they establish employment relationships on the other hand, shall be handled pursuant to this Law.

Article 21

During the probation period, the Employer shall not terminate the employment contract unless the Employee has any of the conditions specified in Article 39 and Paragraphs 1 & 2 of Article 40 of this Law. Where the Employer terminates the employment contract during the probation period, it shall explain the reason to the Employee.

Article 25

Except for the conditions specified in Articles 22 & 23 of this Law, the Employer shall not make an agreement with the Employee that the Employee shall bear the liquidated damages.

Article 34

If an Employer is merged or divided, etc., its existing employment contracts shall remain valid and continue to be performed by the Employer(s) which succeeded to its rights and obligations.

Article 36

An Employer and an Employee may terminate their employment contract if they so agree after consultations.

Article 38

A Employee may terminate his employment contract if his Employer:

- (1) Fails to provide the labor protection or working conditions specified in the employment contract;
- (2) Fails to pay labor compensation in full and on time;
- (3) Fails to pay the social insurance premiums for the Employee in accordance with the law;
- (4) Has rules and regulations that violate laws or regulations, thereby harming the Employee's rights and interests;
- (5) causes the employment contract to be invalid due to a circumstance specified in the first paragraph of Article 26 hereof;
- (6) Gives rise to another circumstance in which laws or administrative statutes permit an Employee to terminate his employment contract.

Article 40

An Employer may terminate an employment contract by giving the Employee himself 30 days' prior written notice, or one month's wage in lieu of notice, if:

- (1) after the set period of medical care for an illness or non-work-related injury, the Employee can engage neither in his original work nor in other work arranged for him by his Employer;
- (2) The Employee is incompetent and remains incompetent after training or adjustment of his

position; or

(3) A major change in the objective circumstances relied upon at the time of conclusion of the employment contract renders it unperformable and, after consultations, the Employer and Employee are unable to reach agreement on amending the employment contract.

Article 41

If any of the following circumstances makes it necessary to reduce the workforce by 20 persons or more or by a number of persons that is less than 20 but accounts for 10 percent or more of the total number of the enterprise's employees, the Employer may reduce the workforce after it has explained the circumstances to its Trade Union or to all of its employees 30 days in advance, has considered the opinions of the Trade Union or the employees and has subsequently reported the workforce reduction plan to the labor administration department:

- (1) Restructuring pursuant to the Enterprise Bankruptcy Law;
- (2) Serious difficulties in production and/or business operations;
- (3) The enterprise switches production, introduces a major technological innovation or revises its business method, and, after amendment of employment contracts, still needs to reduce its workforce; or
- (4) Another major change in the objective economic circumstances relied upon at the time of conclusion of the employment contracts, rendering them unperformable.

When reducing the workforce, the Employer shall retain with priority persons:

- (1) Who have concluded with the Employer fixed-term employment contracts with a relatively long term;
- (2) Who have concluded open-ended employment contracts with the Employer; or
- (3) Who are the only ones in their families to be employed and whose families have an elderly person or a minor for whom they need to provide.

Article 42

The Employer shall not terminate the employment contract according to the provisions of Articles 40 & 41 of this Law if:

- (1) The Employee engaging in operations contacting the occupational hazards does not receive the pre-dismissal occupational health examination or the Employee is the patient who is suffering from the suspected occupational disease and accepting the diagnose or medical observation;
- (2) The Employee suffers from the occupational disease or has the work-related injury in the unit of the Employer and confirmed as losing all or part of the labor capacities.
- (3) The Employee suffers from the disease or has the injury not related to the work and the specified medical treatment period does not expire;
- (4) The female Employee is in pregnancy, lying-in and lactation;
- (5) The Employee has been working in the unit of the Employer for fifteen years continuously and will reach the legal retirement age within 5 fives;
- (6) Other conditions specified by the laws and regulations.

Article 44

An employment contract shall end if:

- (1) Its term expires;
- (2) The Employee has commenced drawing his basic old age insurance pension in accordance with the law;
- (3) The Employee dies, or is declared dead or missing by a People's Court;
- (4) The Employer is declared bankrupt;
- (5) The Employer has its business license revoked, is ordered to close or is closed down, or the Employer decides on early liquidation; or
- (6) Another circumstance specified in laws or administrative statutes arises.

4.2 Key Provisions of the Employment Contracts Law on Economic Compensation

Article 46

In any of the following circumstances, the Employer shall pay the Employee severance pay:

- (1) The employment contract is terminated by the Employee pursuant to Article 38 hereof;

- (2) The employment contract is terminated after such termination was proposed to the Employee by the Employer pursuant to Article 36 hereof and the parties reached agreement thereon after consultations;
- (3) The employment contract is terminated by the Employer pursuant to Article 40 hereof;
- (4) The employment contract is terminated by the Employer pursuant to the first paragraph of Article 41 hereof;
- (5) The employment contract is a fixed-term contract that ends pursuant to item (1) of Article 44 hereof, unless the Employee does not agree to renew the contract even though the conditions offered by the Employer are the same as or better than those stipulated in the current contract;
- (6) The employment contract ends pursuant to item (4) or (5) of Article 44 hereof;
- (7) Other circumstances specified in laws or administrative statutes.

4.3 Key Provisions of the Employment Contracts Law on Employee's File

Article 50

At the time of termination or ending of an employment contract, the Employer shall issue a proof of termination or ending of the employment contract and, within 15 days, carry out the procedures for the transfer of the Employee's file and social insurance account.

4.4. Key Provisions of Provisional Regulations on Collection and Payment of Social Insurance Premiums

Article 4

Work Units and individuals paying premiums shall promptly pay social insurance premiums in full amount.

Article 10

Work Units paying premiums shall, on a monthly basis, report to the social insurance agency the amount of social insurance premiums payable and, after assessment by the social insurance agency, pay their social insurance premiums within the prescribed time period.

Article 12

Work Units and individuals paying premiums shall pay their social insurance premiums in cash and in full.

The social insurance premiums payable by individuals paying premiums shall be withheld from their wages and paid for them by their work units.

4.5 Key Provisions on Labor Disputes of the Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes

Article 2

This Law applies to the following labor disputes between the Employer and Employee within the border of the People's Republic of China:

- (1) Disputes generated due to the confirmation of the labor relations;
- (2) Disputes generated due to the conclusion, performance, amendment, termination and ending of the employment contract;
- (3) Disputes generated due to the disenrollment, dismissal, resignation and demission;
- (4) Disputes generated due to the working time, rest & vacation, social insurance, welfare, training and labor protection;
- (5) Disputes generated due to the labor remuneration, medical expenses for the work-related injury, economic compensation or compensation and the like;
- (6) Other disputes specified by the laws and regulations.

Article 3

For the settlement of the labor dispute, it is necessary to base on the facts, follow the principles of legality, fairness, timeliness & mediation first and protect the legal interests of the party pursuant to the laws.

Article 6

In case of the labor dispute, the party shall be responsible for providing the evidences for the claims filed by it. Where the evidences related to the dispute matter are mastered and managed by the Employer, the Employer shall provide such evidences; where the Employer does not provide such evidences, it shall undertake the adverse consequences.

Article 7

Where the number of the Employees involving in the labor dispute is more than ten with the same request, they can elect the representative to attend the mediation, arbitration or lawsuit activity.

4.6 Key Provisions on Labor Disputes of Provision on Negotiation and Mediation of Enterprise Labor Dispute

Article 2

This Provision applies to the negotiation and mediation of the enterprise labor dispute.

Article 3

The enterprise shall execute the democratic management systems such as the employee conference, employee representative conference, disclosure of factory affairs and so on, establish the collective negotiation and collective contract system and maintain the harmony and stability of labor relations.

Article 4

The enterprise shall establish the mechanism used for the communication and dialogue between the labor worker and asset owner and make the employee interest demand expression channel unblocked.

Where the Employee deems that the enterprise has the problems in the aspects such as the performance of the labor contract or collective contract, execution of the labor security laws, regulations and enterprise labor rules & regulations and so on, he/she can raise it to the enterprise labor dispute mediation committee (hereinafter referred to as “Mediation Committee”). The mediation committee shall verify the condition without delay and then make the enterprise conduct the rectification or give the explanation to the Employee.

The Employee can also file other reasonable appeals to the enterprise via the mediation committee. The mediation committee shall convey the appeals to the enterprise timely and give the feedback to the Employee.

Article 5

The enterprise shall strengthen the humanistic care for the Employee, concern the Employee's appeal, pay close attention to the mental health of the Employee, guide the Employee to safeguard the legal rights rationally and prevent the occurrence of the labor dispute.

Article 6

For the negotiation and mediation of the labor dispute, it is necessary to base on the facts and provisions of relevant laws & regulations and follow the principles of equality, willingness, legality, fairness and timeliness.

Article 7

The human resources and social security department shall guide the enterprise to launch the labor dispute prevention & mediation. Specifically, it shall perform the following duties:

- (1) Guide the enterprise to obey the labor security laws, regulations and policies;
- (2) Supervise and urge the enterprise to establish the labor dispute prevention & early warning mechanism;
- (3) Coordinate with the labor union and enterprise representative organization to establish the emergency mediation & coordination mechanism for the major enterprise collective labor dispute and boost jointly the prevention and mediation of the enterprise labor dispute.
- (4) Check the organization construction, system construction and team construction of the mediation Committee within the jurisdiction area.

Article 8

In case of the labor dispute, one party can negotiate with the other party for the settlement via the ways like the meeting, interview, etc.

Article 13

The large and medium enterprises shall set up the mediation committee pursuant to the laws and provide the full-time or party-time staff.

The enterprise with the branch office, branch store or branch factory can set up the mediation committee for the branch as needed. The mediation committee of the headquarters shall guide the mediation committee of the branch to launch the labor dispute prevention and mediation.

The mediation committee can set up the mediation team for the workshop, workshop section, group or group as needed.

Article 14

For the small and micro enterprises, the mediation committee can be set up or the person can be elected by Employee and the enterprise jointly to launch the mediation.

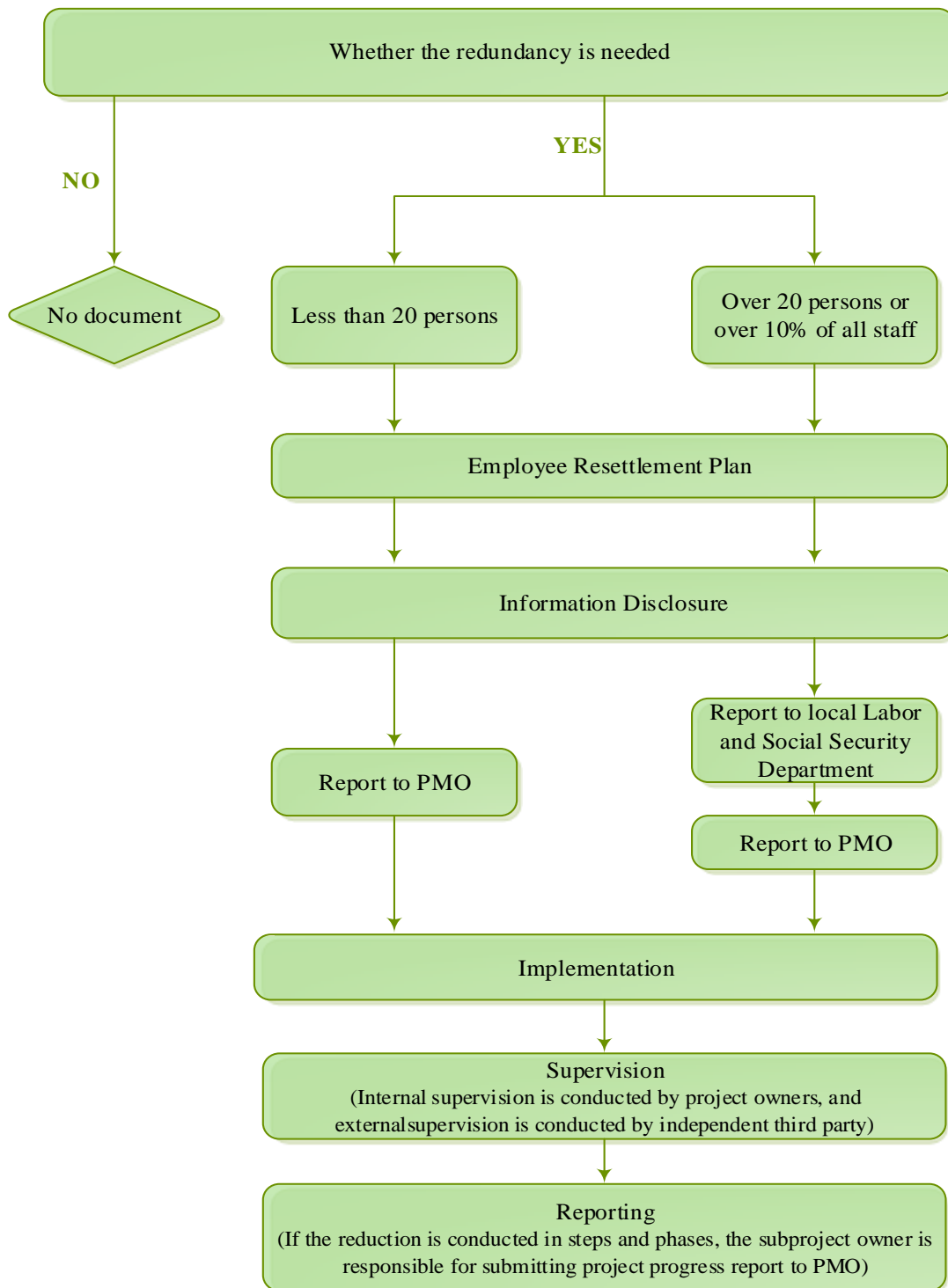
Article 15

The mediation committee shall be formed by the Employee representatives and enterprise representatives with the number determined by both parties via negotiations. The number of the representatives from both parties shall be equal. The Employee representative shall be assumed by the member of the labor union committee or elected by all the Employees while the enterprise representative shall be designated by the responsible person of the enterprise. The director of the mediation committee shall be assumed by the member of the labor union committee or the person elected by both parties.

Article 33

The enterprise shall support the mediation committee to launch the mediation work, provide the office space and guarantee the work expenditure.

V. FLOWCHART OF REDUNDANCY



VI. EMPLOYEE RESETTLEMENT PLAN PREPARING

- 11 For those sub-project related to layoff, the sub project owners are responsible for the preparation and implementation of any necessary Employee Resettlement Plans (ERPs). They will work with local government authorities, such as labor and social security department and financial department to establish ERPs that conforms to China's social security laws and regulations and the security policy of the World Bank.

- 12 Once it is determined that layoff is essential, Employee Resettlement Planning should begin. In order to ensure that employee's identity replace is in place and the social stability, to guarantee the unemployed to have got reasonable economic compensation, the plan will be prepared in accordance with the policy principles and planning and implementation arrangements set forth in this RPF. According to the existing laws and regulations, the employee resettlement specifically addresses the following:
 - a) Guidelines and Basic Principle;
 - b) Applicable Policies;
 - c) Organizations and Responsibilities;
 - d) Information of Employees;
 - e) Employee Resettlement Measures (respectively formulate resettlement measures according to continue holdovers, re-employees, those who turn into social security department to get unemployed insurance, those who turn into social security department to seek jobs by themselves and temporary workers);
 - f) Costs and budget;
 - g) Consultation and Disclosure;
 - h) Supervision and arrangement;
 - i) Complaint procedure.

- 13 In the process of staff resettlement planning and implementation, gender factors should be taken into account. Through extensive and equal participation of employees, and consultation with the managers of enterprises and the reduction of layoffs to female workers, the sensitivity of gender issues should be understood to promote social equity and gender equality. Equal

participation and gender sensitivity will be reflected in the implementation of the project, such as targeted capacity training, consulting, compensation, livelihood rehabilitation and other related project activities.

- 14 In addition, the planning and implementation of resettlement workers will also pay attention to other vulnerable groups (such as middle-aged not reached the retirement age of workers, suffering from severe illness or chronic disease workers, rural household employees, temporary workers and labor dispatch personnel), understand the fragility and sensitivity of them, to ensure their full participation in the resettlement process, formulate relevant supporting measures to ensure their income is not reduced because of the demolition, and enjoy the benefit of the project.

VII. EMPLOYEE RESETTLEMENT MEASURES

Resettlement for the Employees Retained

- 15 Where Subproject enterprises restructured into the state-owned companies, without paying economic compensation to employees who still works in the restructured companies, working year of those employees will be counted continually. When restructured to Non-state enterprises, the original contract can be terminated and a new employment contract should be established after paying economic compensation.

Resettlement for Dismissed Persons that Enter the Labor Market

- 16 Termination of Employment Contract: The employment contract may be terminated after negotiation. If there is no agreement on amendment or termination of contract between the employee and the employer, employee should be informed 30 days before termination or 1 month additional wages should be paid to employees before contact was terminated.
- 17 Economic Compensation Payment: The Employer shall pay economic compensation equal to one month's wage for each full working year. Where the working term is less than one year but more than six months, economic compensation shall be paid in accordance with the standards for one year. Economic compensation for a laborer who has worked for less than six months is

equal to half of one month's wage. The wage calculation standard for economic compensation in these procedures shall refer to the average monthly wage of a labor under the enterprise's normal production conditions for 12 months prior to the termination of the contract and economic compensation shall be paid after the handover.

- 18 Wages Payment: Default wages and medical expenses should be paid one-off when the contract is terminated. If there is economic losses caused by employees, indemnity can be deducted from the wages, and the wages remained after the deduction of compensations can not be lower than the local minimum wage standard.
- 19 Social Insurance and Personal Files Transfer: "Employment Contracts Termination Certificate" should be prepared by sub-project enterprises and social insurance transfer for the affected person should be done in 15 days.

Resettlement for Unemployed Person applying for Unemployment Insurance

Employees with a Non-Rural Household Registration

- 20 Sub-project enterprises shall promptly issue certificates of termination or dissolution of employment relation for the unemployed, inform persons concerned of the rights to enjoy unemployment insurance benefits and submit name lists of the unemployed to social insurance agencies for the record within 7 days of the termination and dissolution of the employment relation. After unemployment, employees shall undergo promptly registration with designated social insurance agencies on the basis of the certificates of termination and dissolution of employment relation issued by their work units, and receives unemployment insurance compensation in 60 days. If the unemployed moves among area where overall planning is conducted, the social insurance credentials are to be moved together and they can receive unemployment insurance at the new agency with the certificates from the original agency.

Contracted Rural Workers

- 21 If a contracted rural worker worked continuously for more than one year, and his/her employer has paid unemployment insurance premium, this employer (subproject enterprises) shall apply

to social insurance agency to request the social insurance agency to pay one-off living subsidy to the rural worker according to the length of his/her service.

Resettlement for Self-employed Persons and Independent Entrepreneurs

- 22 Where the dismissed employee has difficulty in reemployment, including (1) female employee who is over 40 years old;(2) male employee who is over 50 years old;(3) moderate/severe disabilities in legal working age, if they want to apply for individual business license, the employer may terminate employment contract and pay economic compensation, then guide them to apply for the self-employment (own business) social insurance subsidies in social security department.

Resettlement for Special Staff (those injured at work, and 3 types of staff under special conditions)

- 23 When the Employee injured at work submits an application for contract termination application voluntarily, The Employer shall pay medical subsidies for the work-related injury and employment subsidies to the disabled once and for all according to the state provisions on work-related injury insurance. The Employer shall take Injury Certificate back from the employee and then submit it to the labor and social security department, at the same time ,the employer is responsible to terminate injury insurance, after that, employment contract can be terminated.
- 24 The Employer can sever labor relations with employees under special conditions through negotiation in the following situations, such as diseased employees in the medical treatment period, non-work-related injury employees, employees in pregnancy, lying-in and lactation period, and employees who have been working for the Employer continuously for not less than 15 years and is less than 5 years away from his/her legal retirement age.

Resettlement for Temporary Employee

- 25 Labor protection and compensate system must be established by the participating enterprises. The Employer shall supply reasonable working conditions, wages, benefits and compensation to temporary employee as formal staff.

VIII. COSTS

- 26 Each Employee Resettlement Plan will include detailed cost of compensation including economic compensation, internal early retirement living allowance, unpaid social insurance premium and special staff costs. The budgets shall also include adequate contingencies. The Employee Resettlement Plan shall define the source of the fund needed and guarantee that the fund flow is consistent with the compensation payment and the provision of all other assistances. As the principle requirement, the fund circulation shall benefit directly the impacted group as far as possible and the intermediate procedures and links shall be reduced to the greatest extent during such process.

IX. CONSULTATION AND DISCLOSURE

- 27 To promote active project engagement and defend the right of affected persons, affected persons should be provided with opportunities to participate in planning and implementation. All affected persons are to be informed regarding potential impacts and proposed mitigation measures. The ERPs will be disclosed, in a manner and location accessible to affected persons. Establish and improve the project information disclosure mechanism, optimize the resettlement design, and ensure that all the affected persons are fully and fairly involved in the planning, design and implementation of the resettlement.

X. APPROVAL PROCEDURE

- 28 ERPs must stay compliance with national legal procedures and regulations and policies. a) If it is necessary to reduce the workforce by less than 20 persons, the employer may submit ERPs to Worker's Congress or Staff Meeting and announce to the public in time; b) If it is necessary to reduce the workforce by 20 persons or more or by a number of persons that is less than 20 but accounts for 10 percent or more of the total number of the enterprise's employees, the

Employer may reduce the workforce after it has explained the circumstances to its Worker's Union or to all of its employees 30 days in advance, with considering the opinions of the Worker's Union or the employees and has subsequently reporting the Employee Resettlement Plan to the labor administration department, workforce reduction can be carried out.

- 29 During the scheme preparation, the subproject enterprise needs to execute the democratic procedures pursuant to the laws, establish the negotiation & communication mechanism for the employees at all levels, listen to the employee opinions sufficiently and safeguard the rights for knowledge, participation rights, expression rights and supervision rights. The Employee Resettlement Plan which is not perfect with the lack of fund guarantee shall not be implemented.
- 30 All ERPs should be submitted to PMO-(FECO) and World Bank, no objection is needed before the implementation.

XI. GRIEVANCE PROCEDURE

- 31 In order to solve the labor disputes, the sub-project enterprises should abide by the principles of legality, impartiality, timely and mediation, and protect the lawful rights and interests of the personnel according to law who are being reduced.
- 32 In order to ensure that the consultation of employees, disclosure, and community engagement continues throughout the project implementation, the enterprises will establish a grievance mechanism, to make sure that all complaints of affected persons will be responded in time.
- 33 Sub-project owner should announce the grievance redress procedure to the affected groups or individuals during the public consultation. The grievance mechanism shall consist of (1) recording and reporting system, including written and oral grievance; (2) persons in charge of grievance; (3) Time required to grievance respond. The procedure is as follows, any people affected by adverse environmental impacts from the sub-project may write or talk to the sub-project owner directly and the sub-project owner should solve the issues with limited

certain time. If affected people are not satisfied with the result, they may forward their grievance to the provincial PMO and the land and resource administration department. If the decision of land and resource administration department is not acceptable to the affected people, they may forward their appeal to a court. Such a grievance mechanism will be specified in the employee resettlement plan of the sub project.

- 34 The relevant units shall conduct on-site investigation for employees presented difficulties, problems and dissatisfaction, fully solicit the affected persons' advice, and put forward opinions objectively and impartially according to the principles and standards of national laws and regulations and resettlement plan.

XII. SUPERVISION

- 35 Local human resources and social security department is responsible to supervise that employer implementation compliance with labor laws and regulations. The supervision to the employee resettlement of the sub-project is divided into internal supervision and external supervision. The Employer is responsible for the internal supervision, and, ERPs implementation will be monitored by a qualified independent agency.
- 36 The objective of the internal supervision is to guarantee the employee resettlement is implemented according to the approved Employee Resettlement Plan. The specific objectives include:
- (a) Check the implementation conditions of important activities in the project preparation stage and employee resettlement stage according to the implementation schedule and cost budget;
 - (b) Guarantee the unblocked communication channel between the impacted personnel and project leader;
 - (c) Guarantee the impacted personnel can obtain all the compensations on time;
 - (d) Check whether the problem raised by the impacted personnel is responded timely.

- 37 The external supervision institution will conduct the regular supervision and evaluation on the employee resettlement and the like and check whether the objectives of the Employee Resettlement Plan are achieved. The external independent supervision and evaluation will provide the early warning mechanism for the project management and the channel for the impacted personnel to propose the opinions. As the advisory body, the external supervision institution will provide the consultation for the employee resettlement management launched by the local project management organization, carry out the follow-up investigation & survey, supervision and evaluation for the resettlement activities according to the Employee Resettlement Plan and give the suggestions for relevant decisions.
- 38 For the enterprise involving numerous employees with the heavy resettlement task and high stability pressure, it needs to enhance the early warning mechanism and emergency handling mechanism, adopt timely the measures to resolve the conflicts and reduce the social risks. For the unstable factor which may be caused by the employee resettlement, it needs to complete well relevant study & judgment and planning, adopt targeted precautionary measures and report timely to the local party committee government and the superior human resources and social security department.
- 39 When FECO and the Employer meet major employee resettlement dispute problems, it shall be replied and coordinated in shortest time necessary or at most 2 weeks.

XIII. REPORTING

- 40 The project reporting submitted by the sub-project owner should be consisted of the implementation of ERP or the implementation of ERP should be reported separately. If the ERPs implementation is divided into different stages, subproject owner is responsible for submitting implementation progress reports to PMO and WB on a half-year and annual basis. The report should cover key aspects including (not exclusively) the size of redundancy (with data), process and procedures of employee resettlement, compensation (cash and in-kind, skill training and reemployment assistance if any), living standard and livelihoods changes, costs and evaluation. One or two supervision reports shall be submitted annually.
- 41 When meet major employee resettlement dispute problems, such as incident of applying for the higher authorities for help in group, marches and petitions, the employer should notify the FECO and the world bank in the form of a briefing on the day of the event, and form a special report within 3 days to the FECO and the World Bank. Every Employer shall submit the completion status report to FECO and the World Bank after completing all employee resettlement in one month.