

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

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**Questions**

- 1. Please provide any information on pig farming in Fuqing City?**
- 2. Please provide any information on government reconstruction work on the highway between Shangjing town and Longtian town? Is there any information on the procedures for compensation for those affected?**

**RESPONSE**

- 1. Please provide any information on pig farming in Fuqing City?**

A 2005 report on the China Today website aimed at attracting Taiwanese investors to China, referred to the high level of pig production in Fuqing City:

Fuqing City in the experimental zone has developed pig production that ranks first in Fujian, in terms of both scale and output value. One of the biggest pig producers in China, Fuqing has 796 private hog farms, contributes 70 percent of Fuzhou's daily pork supply and provides 2,000 pigs monthly to the Hong Kong market. An example of Fujian -Taiwan agricultural cooperation, Fujian Shuangfu Purebred Swine Farm takes the lead in Fujian's pig raising industry (Fan, Y. 2005, 'Ideal Territory for Taiwan Investors', China Today website <http://www.chinatoday.com.cn/English/e2005/e200502/p76.htm> – Accessed 1 September 2008 – Attachment 1).

A January 2008 news article from the China Daily website focusing on eel production in Fuqing (including in Yuxi and Shangjing townships), also refers to the closure of 472 pig farms over 2006 – 2007 in Dongzhang. Dongzhang is approximately 11 kilometres northwest of Shangjing. (The delegate's notes refer to the applicant's former husband running a fish-

farm on the same property.) The pig farms were closed from fear that they would pollute the nearby Dongzhang Reservoir. In this instance pig farmers were compensated:

...Xiuguo's anxiety is shared widely in the county-level city [Fuqing] of 1.2 million people. Here, eel farmers, officials and business associations alike are trying desperately, and justifiably, to counter damaging Western media reports and price fluctuations to rescue the industry.

The coastal city of Fuqing has been known as qiaoxiang, or hometown of emigrants, since the Ming Dynasty (1368-1644). But for the last 20 years it's known more as the highest eel-



producing city. Yang Zonglong set up the country's first eel farm in Fuqing with Japanese eels in 1987. He ventured into the business after studying in Japan, during which he realized the importance of eels in Japanese cuisine. Many people in Fuqing followed Yang, and today the city produces more than 30 percent of China's eels. ...A December 15 New York Times report alleged the water in which Fuqing eels are farmed has become "toxic" because of excessive growth of aqua-farms. The farmers mix illegal chemicals and pesticides in fish feed, which further pollutes the water and threatens consumers' health.

When the water is too contaminated, eel farmers simply move elsewhere – to inland cities such as Sanming, to "start the cycle all over again", said the report.

...Most of Fuqing's eel farms are in the western townships of Yuxi and Shangjing and rely on wells and a limited number of small reservoirs for water. "Eels are extremely vulnerable to bad water," says Zhuang Zheng, a first-line agriculture inspector. "And water cannot turn 'toxic' just because there are too many eel farms in the area."

... Dongzhang residents such as 54-year-old farmer Zhou Yuangui have sacrificed a lot for the reservoir. Zhou was only three years old when a massive resettlement project began in Dongzhang to create space for the reservoir, forcing 75 percent of the population to resettle elsewhere. Zhou's parents moved to Fujian's capital of Fuzhou, but soon they returned to Sanxing village in Dongzhang for want of a stable source of income.

"The authorities had stopped people from any industrial activity in the area so I began raising pigs," Zhou says. "But in 2004, city officials ordered that **all pig farms** be demolished to better protect the source of water. I had to tear down mine in November 2006, for which the authorities gave me 46,800 yuan (\$6,415)."

**Zhou's was among the 472 pig farms to be razed in 2006 and 2007**, which cost the government 66 million yuan (\$9 million). "The pig farmers weren't pleased at first," says Xie. "But now they realize how important water protection is."

The demolition of pig farms forced many villagers out of business. It was a blow to the local economy, but the authorities knew water protection was more important than the temporary setbacks (Hu Meidong and Hu Yinan, 2008, 'Slippery charges land eel farmers in fishy net', *China Daily*, 4 January [http://www.chinadaily.com.cn/cndy/2008-01/04/content\\_6369689.htm](http://www.chinadaily.com.cn/cndy/2008-01/04/content_6369689.htm) – Accessed 1 September 2008 – Attachment 2).

The following map from the *Microsoft Encarta Interactive Atlas* (2000) shows more accurately the locations of Yuxi and Shangjing, Dongzhang, Fuqing (here labelled as Rongcheng), and Longtian:



Source: ‘Shangjing’ 2000, *Microsoft Encarta Interactive Atlas* 2000. (CDROM) – Attachment 3.

**2. Please provide any information on government reconstruction work on the highway between Shangjing town and Longtian town? Is there any information on the procedures for compensation for those affected?**

No information was found specifically identifying reconstruction work on the highway between Shangjing town and Longtian town. Sources provided below indicate that government work on highways and other roads across Fujian and around Fuqing has been planned for the period before 2010.

**Shangjing town – Longtian town Highway:**

Several maps were first consulted for information on connecting roads/highways between Shangjing and Longtian Towns. Based on these undated maps, a normal road exists from Shangjing and terminates near Longtian:

- An undated ‘Fuzhou City Communications and Tourist Map’ map shows a “General Road” from Shangjing and terminating in a “Provincial Highway” in the vicinity of Longtian Town (‘Shangjing – Longtian Road’, (undated) Fujiankids website (<http://www.fujiankids.org/swis/fuzcity/fuzmap.shtml>) and

<http://www.fujiankids.org/swis/fuzcity/prefectl.jpg> – Accessed 20 December 2002 – Attachment 4).

- An undated and detailed “Fujian Province’ map shows a similar road from Longtian to (nearby) Yuxi. Shangjing is not indicated on this map (‘Fujian Province: Yuxi – Longtian Road’ (undated), Fujiankids website <http://www.fujiankids.org/fujian/fujianp/fujmapbg.jpg> – Accessed 2 September 2008 – Attachment 5).
- The detailed map on Chinese language Guang.net also shows a road from Shangjing terminating near Longtian (‘Fuqing City Map’ (undated in Chinese), Guang.net Chinese map website – <http://www.guang.net/map.htm> – <http://www.9654.com/m/fuqing.htm> – Accessed 18 February 2008 – Attachment 6).

A 2006 Fujian provincial government report describes plain style highways as existing in the vicinity of Shangjing town and refers to three highway projects associated with Shangjing town. The *Environmental Management Framework* report, completed by the Fuqing government for a World Bank part-funded road and highway reconstruction project (given in poorly translated English with confusing pagination), refers to a “plain style highway ... distributed mainly over Gaoshan, Haicou, Jiangjing, Jiangyin, Longtian, Shangjing, Yuxi, Yangxia etc.towns”. All these towns are located in the vicinity of Shangjing and Longtian in Fuqing’s coastal area. The same report also refers to “the 90 highway with No.37-126 compiled in Fuzhou city are the content of construction”; and Table 1.1 indicates three “country highway projects” listed for Shangjing town (Fujian Provincial Communications Department & Fujian Provincial Environmental Science Research Institute 2006, *RRIP Component of World Bank Financed Fujian Highway Project Environmental Management Framework*, E1382, vol. 5, March, see respectively pp. 155/16, 129/38 -130/39 <http://go.worldbank.org/NWNB0VHHB0> / [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/17/000160016\\_20060417090743/Rendered/PDF/E138210vol10511t0Framework0for0RRIP.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/17/000160016_20060417090743/Rendered/PDF/E138210vol10511t0Framework0for0RRIP.pdf) – Accessed 18 February 2008 – Attachment 7; for the towns mentioned above, see ‘Shangjing – Longtian Road’ (undated), Fujiankids website <http://www.fujiankids.org/swis/fuzcity/fuzmap.shtml> and <http://www.fujiankids.org/swis/fuzcity/prefectl.jpg> – Accessed 20 December 2002 – Attachment 4).

This report on the project notes that the only significant requisition of land will take place near the Tongsan expressway in Fuqing section, National Highway 324 and Provincial Highway 305:

But on the aspect of transportation area, the whole city even the towns, **the land requisition area is very small**, mostly gathered at the belt of Tongsan Express Highway in Fuqing section, **National Highway 324** and Provincial Highway 305 (Fujian Provincial Communications Department & Fujian Provincial Environmental Science Research Institute 2006, *RRIP Component of World Bank Financed Fujian Highway Project Environmental Management Framework*, E1382, vol. 5, March, see respectively p. 138/47 <http://go.worldbank.org/NWNB0VHHB0> / [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/17/000160016\\_20060417090743/Rendered/PDF/E138210vol10511t0Framework0for0RRIP.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/17/000160016_20060417090743/Rendered/PDF/E138210vol10511t0Framework0for0RRIP.pdf) – Accessed 18 February 2008 – Attachment 7).

## Land expropriation and compensation procedures in Fujian:

Considerable information on formal procedures for land expropriation and compensation for the same Fujian road/highway project is contained in an earlier December 2005 document, available on the World Bank's website: *Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project – Resettlement Policy Framework (Fujian Provincial Communications Department)*. The document provides a policy framework for resettlement and compensation procedures for individuals and communities affected by land acquisition for the road and highway upgrades, even though it is “expected that the influence of land acquisition and house demolition is limited in this project”. This report states that the project is aimed at connecting “about 7,500 administrative villages to any provincial or county arterial highways already paved”:

...According to *Fujian Rural Roads Development Program*, the launch of the “Project of Expanding Rural Roads Network to 5000-Km Each Year” in the later period of the “Tenth Five-Year Plan” and the reconstruction of rural roads network of about 35,000 km before 2010 are **to connect about 7,500 administrative villages to any provincial or county arterial highways already paved** to achieve the goal of building a hardened highway in every administrative village of the province.

... For the rural roads project, as the roads are mostly scheduled for reconstruction, the road surface will be paved with concrete along most of the original roads, **it is expected that the influence of land acquisition and house demolition is limited in this project**. However, in response to possible issues arising from land acquisition and house demolition, it is necessary to work out an overall policy framework for guiding the planning and implementation of the required resettlement measures for land acquisition. *The Overall Policy Framework for Resettlement in Fujian Highway Project III – the World Bank Loaned Rural Roads Reconstruction Project* has been drafted up according to the national and Fujian local laws and regulations and in compliance with the principles of the World Bank's OP/BP 4.12 on Involuntary Resettlement, **the purpose of which is to appropriately relocate the project affected persons (PAPs) so as to make them benefit from the project and to improve or at least restore their standards of living to the pre-project level** (Fujian Provincial Communications Department 2005, *Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project: Resettlement Policy Framework*, December, pp. 1- 2 <http://go.worldbank.org/FFBNN5HND0> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009\\_20060414132038/Rendered/PDF/RP4220CD0v20RelicyFramework1RRIPeng.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009_20060414132038/Rendered/PDF/RP4220CD0v20RelicyFramework1RRIPeng.pdf) – Attachment 8).

Section three of the document (pp. 5-19) is a compilation of the laws and regulations governing procedures of land acquisition and compensation as stipulated by the World Bank, and the Chinese government at the national, provincial and county/prefectures levels including Fujian province. Alongside the principal national legislation, *Land Administration Law of the People's Republic of China (1998)* and *Circular of the Ministry of Land and Resources Concerning the Issuance of the Guiding Opinions on Improving the System of Compensation for Requisition of Land (2004)*, it also quotes from two Fujian government statutes:

- *Procedures of Fujian Province on the Implementation of Land Administration Law of the People's Republic of China (Adopted at the 14th Session of the Standing Committee of the Ninth Fujian Provincial People's Congress on October 22, 1999 and effective as of January 1, 2001)*

- *Circular of Fujian Provincial People’s Government on Strengthening the Administration of Compensation for Land Requisitioned and Protecting the Legitimate Rights and Interests of Peasants Whose Land Has Been Requisitioned (Effective upon approval by Fujian People’s Government on January 14, 2004)*

Section four (pp.19- 22) establishes standards and working procedures based on the above laws and regulations quoted in Section three, with regard to compensation, resettlement procedures, and application and approval of land acquisition. Compensation and resettlement standards are given as follows:

#### 4.1 Standards for Land Compensation and Resettlement Subsidies

In accordance with the provisions, regulations and principles [set out above]... the standards for land compensation and resettlement subsidies for Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project are made as follows:

##### 4.1.1 Standards for Land Compensation

- (1) Compensation for requisition of cultivated land, which refers to paddy field, vegetable plot and fish pond, shall be eight to ten times the average annual output value of land of the same type for three years preceding such requisition; **if it refers to other cultivated land, compensation shall be six to eight times the average annual output value of land of the same type for three years preceding such requisition;** (p.19)

##### ...4.1.2 Standards for Resettlement Subsidies

- (1) Resettlement subsidies for requisition of cultivated land shall be four to six times the average annual output value of the requisitioned land for three years preceding such requisition (p.20)

The procedures for the application and approval of land acquisition for rural roads projects indicate that “land management units and resettlement offices (ROs) at the township level” are to inform affected households “of the purpose, location, compensation standards and relocation ways of land to be requisitioned”, and that “ROs at the township level shall apply for a permit for use of construction land to the administration departments of land and resources at the county (city or district) level”:

#### 4.1.3 Working Procedures of Application and Approval of Land Acquisition

- (1) Working Procedures Before Application and Approval of Land for Project Construction
  - A. Acknowledgement of Land Acquisition. Before application and approval of land acquisition by law, land management units and resettlement offices (ROs) at the township level shall inform rural collective economic organizations and rural households whose land is requisitioned, of the purpose, location, compensation standards and relocation ways of land to be requisitioned. (p.20)

... Since rural roads projects mainly belong to reconstruction ones, land acquisition can hardly occur. If requisition of land is required, it shall be done according to the following procedures:

- A. The ROs at the township level shall draw up a program of land acquisition and a program of compensation for requisitioned land according to the requirements of

*Circular Concerning the Issuance of the Trial Implementation of Format of Administrative Archives for Examination and Approval of Construction Land* (No. 41, issued by Ministry of Land and Resources in 1999)...

**B. ... The ROs at the township level shall apply for a permit for use of construction land to the administration departments of land and resources at the county (city or district) level.** Where the application is within the limit of examination and approval power of the people's governments at the county level, it shall be approved by the administration departments of land and resources at the county (city or district) level; where it is beyond the limit of examination and approval power of the people's governments at the county level, it shall be reported level-by-level to the administration departments of land and resources of prefecture-level cities and Fujian Provincial Department of Land and Resources for approval.

C. The ROs at the township level may carry out relocation and resettlement work after obtaining land use permit (pp.20-21)

The Standards for compensation of Young Crops and Other Attachments refers to pigsties:

#### **4.2.2 Standards for Compensation for Young Crops and Other Attachments**

Compensation for crops shall be one times the previous three years' average annual output value, and compensation for seedlings shall be 60% of cost of production;

... Compensation for other attachments, **such as pigsty**, well, enclosure wall or tomb, shall be made respectively according to replacement price;

Compensation for the affected public facilities, such as electric wire, broadcast line, communication line, transformer, underground cable, irrigation canal and village road, shall be made according to replacement price (p.22)

(Fujian Provincial Communications Department 2005, *Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project: Resettlement Policy Framework*, December <http://go.worldbank.org/FFBNN5HND0> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009\\_20060414132038/Rendered/PDF/RP4220CD0v20Re1icyFramework1RRIPeng.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009_20060414132038/Rendered/PDF/RP4220CD0v20Re1icyFramework1RRIPeng.pdf) – Attachment 8).

The document also quotes from the *Related Provisions of the Land Administration Law of the People's Republic of China (January 1, 1999)*, wherein Article 46 states that individuals seeking compensation are to register with the “land administration department of the local people's government”:

Units and individuals that own or have the right to the use of the land under requisition shall, within the time limit fixed in the announcement, register for compensation with the land administration department of the local people's government by presenting their certificates of land ownership or land-use right (p.8)

#### ***Property Rights Law of the People's Republic of China (2007):***

The new *Property Rights Law of the People's Republic of China* (Promulgation date: March 16, 2007, Effective date: October 1, 2007), and commentary on its content and possible affects, have been examined in two recent RRT Research Responses (RRT Research &

Information 2008, *Research Response CHN32732*, 7 January – Attachment 9; RRT Research & Information 2008, *Research Response CHN32863*, 17 January – Attachment 10). The *Property Rights Law* does address compensation for individuals whose land or real property is expropriated for the purpose of public interest. *Research Response CHN32863* contains the following commentary on a possible positive impact of the new law on “land takings or expropriations”. It is from a November 2007 article by Keliant & Ping in the journal *China Law & Practice*:

...takings and expropriations of land by government have become another major threat to farmers’ land rights in the past decade. The demand for land for industrial or urban expansion continues to grow, as millions of poor farmers are rendered landless. Against such a backdrop, the Property Law was enacted and could become significant and relevant in many aspects concerning rural land rights.

#### THE PROPERTY LAW AND AGRICULTURAL LAND RIGHTS

First of all, the Property Law characterizes farmers’ land rights as property rights or rights in rem (as opposed to contractual rights as apparently defined by previous laws). This definition provides greater legal protection for farmers’ land rights. **In the case of state expropriation of farmland, the concept of property rights dictates that such a loss should be compensated for its full value and the compensation should go to rights-holders who suffer the loss.** The compensation formula that arbitrarily caps the compensation for expropriated farmland, as in earlier laws, needs to be revisited and probably discarded. Instead, the value of the loss must be determined by independent appraisals and mutual negotiation between the parties.

The establishment of land rights as property rights also means that an expropriating government agency must change its current practice that prevents the rights-holders or land-losing farmers from meaningfully participating in the bargaining process. All procedural due process associated with the sanctity of property rights thus should now be afforded to farmers.

... Also of concern are the rules on **land takings or expropriations**. The law and practice concerning the conversion of rural land to urban land must be improved before any meaningful integration can take place. This will have significant impact on how a rural land registration should be designed and eventually integrated with an urban system.

Finally, the issue of land takings must be addressed. **Article 42 of the Property Law seems to be a step forward in stating that, in addition to the compensation provided by the 1998 LML [Revised Land Management Law], affected farmers should have social security and their livelihoods should be protected.** This article formally incorporates the policy directive established by a central document issued in 2004 and is consistent with best practice internationally, **which is that any land expropriation or resettlement must not adversely affect the living standards of the affected people. The key now is to figure out how to put this general principle of law into practice.** As China is beginning to establish a general social security system for all low-income rural residents, it should be noted that the compensation to land-losing farmers should be entirely independent of any general social security they may or may not receive. In other words, the government’s responsibility for providing general social security benefits to its citizens is separate from its duty of offering just and fair compensation for farmers’ loss in land takings (Keliant, Zhu & Ping, Li, 2007, “Rural land rights under the PRC Property Law”, *China Law & Practice*, November – Retrieved 16 January 2008 from ABI/INFORM Global database (Document ID:1392942071- Attachment 11).

Article 42 of the *Property Law* referred to above states the following:

Article 42

For the purpose of public interest, the collectively-owned land, houses and other real property owned by institutes or individuals may be expropriated in line with the procedure and within the authority provided by laws.

For expropriation of collectively-owned land, such fees shall be paid as compensations for the land expropriated, subsidies for resettlement, compensations for the fixtures and the young crops on land, and the premiums for social security of the farmers whose land is expropriated shall be allocated in full, in order to guarantee their normal lives and safeguard their lawful rights and interests.

Where houses and other real properties of institutes and individuals are expropriated, compensations for demolition and resettlement shall be paid according to law in order to maintain the legal rights and interests of the expropriated; where individual residential house is expropriated, the residential conditions of the expropriated shall be guaranteed.

No institution or individual shall withhold, misappropriate, embezzle or privately divide the compensation for expropriation (Chinese Government 2007, 'Property Rights Law of the People's Republic of China', Adopted at the National People's Congress on 16 March 2007 <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/general/property-rights-law-of-the-peoples-republic-of-china.html> – Accessed 21 December 2007 – Attachment 12).

One 2004 report was found to show that police in Fujian have detained persons protesting against compensation levels and land confiscation procedures with regard to a highway:

The alleged failure of local officials to address land-compensation issues also is sparking protests in Fu'an City in the southern province of Fujian, says Lin Zuying, a village chief involved in the protests. Thursday, more than 2,000 people gathered at the Fu'an City Government building to demand the release of several **fellow protesters who have been detained by police**, he says. Local residents allege that the local government has illegally occupied their farmland to build a highway, and that it has offered to pay only a fraction of the compensation required by national laws. "We've been protesting and making trouble for the road construction since the project started," Mr. Lin says (Chen, Kathy 2004, 'Chinese Protests Grow More Frequent, Violent', *Asian Wall Street Journal*, 6 November, China Labour Bulletin website

[http://www.chinalaborwatch.org/Protests%20more%20frequent%20AWSJ.htm?article\\_id=50225](http://www.chinalaborwatch.org/Protests%20more%20frequent%20AWSJ.htm?article_id=50225) – Accessed 19 February 2008 – Attachment 13).

Further information on the treatment of petitioners in China, rural protests against land confiscation and compensation, and the appeals, complaints and petitioning system in China, is available in:

- RRT Research & Information Services 2007, *Research Response CHN32404*, 15 October – Attachment 14;
- RRT Country Research 2006, *Research Response CHN30369*, 26 July – Attachment 15;
- RRT Country Research 2006, *Research Response CHN31124*, 15 December – Attachment 16.

## List of Sources Consulted

### Internet Sources:

#### **Government Information & Reports**

World Bank website <http://go.worldbank.org>

#### **Region Specific Links**

China Today website <http://www.chinatoday.com.cn/English/>

*China Daily* <http://www.chinadaily.com.cn/>

#### **Topic Specific Links**

Yellow Pages China online digital directory website <http://www.yellowpageschina.com/>

World Bank website <http://go.worldbank.org>

#### **Search Engines**

Google search engine <http://www.google.com.au/>

### Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

## List of Attachments

1. Fan, Y. 2005, 'Ideal Territory for Taiwan Investors', China Today website <http://www.chinatoday.com.cn/English/e2005/e200502/p76.htm> – Accessed 1 September 2008.
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8. Fujian Provincial Communications Department 2005, *Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project: Resettlement Policy Framework*, December , pp. 1- 2 <http://go.worldbank.org/FFBNN5HND0>  
[http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009\\_20060414132038/Rendered/PDF/RP4220CD0v20Re1icyFramework1RRIPeng.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/04/14/000012009_20060414132038/Rendered/PDF/RP4220CD0v20Re1icyFramework1RRIPeng.pdf).
9. RRT Research & Information 2008, *Research Response CHN32732*, 7 January.
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11. Keliant, Zhu & Ping, Li, 2007, “Rural land rights under the PRC Property Law”, *China Law & Practice*, November – Retrieved 16 January 2008 from ABI/INFORM Global database (Document ID:1392942071).
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