

THE IMPLEMENTATION OF RIO DECLARATION AND AGENDA 21 IN CHINA SINCE 1992

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ABSTRACT

This paper provides an overview of the implementation of the Rio Declaration and Agenda 21 by China since 1992. The overview finds that China has made great efforts to implement those documents. The current Chinese law, policy, strategic development plan and institution indicate that China is trying moving toward the direction of sustainable development and has made considerable progress. However, difficulties and challenges to the switch of pattern of economic growth are also serious. Therefore, greater efforts and firm measures need to be taken to achieve the goal of sustainable development.

China participated in the UN Conference on Environment and Development held in Rio De Janeiro in 1992 and signed all the major legal documents concluded, including Rio Declaration on Environment and Development, Agenda 21, Framework Convention on Climate Change, Convention on Biological Diversity, and the Forest Principles. The Standing Committee of the National People's Congress of China ratifies the Framework Convention on Climate Change on 5 Jan. 1993, 14 months before it entering into effect, and ratified the convention on Biological Diversity Convention on 5 June 1993, 6 months before it entering into effect.

POLICY, PLAN AND LAW

China has actively engaged in implementing Rio Declaration and Agenda 21 since the Rio Summit. A number of important new policies, plans and laws were made for carrying out the Rio principles and Agenda 21 after the Earth Summit. The major developments and progress made since 1992 are the following.

- 1) The adoption of the Ten Important measures** on Environment and Development by the Chinese Government, which for the first time officially adopted the concepts of sustainable development and the strategy of sustainable development, in August, 1992.
- 2) The establishment of the Leading Group of China's Agenda 21** and the Center for the Management of China's Agenda 21 in the central government in August, 1992. Up to October, 1996, there have been 21 provinces, autonomous regions and the cities directly under the jurisdiction of central government established leading groups for implementing China's Agenda 21.
- 3) The adoption of the National Agenda 21** – The White paper on China's Population, Environment and Development in the 21st Century (China's Agenda 21) by the State Council on 25 Feb. 1994, less than two years after the conclusion of the Rio summit.

China's Agenda 21 is a far reaching comprehensive and operational strategic plan. According to China's Agenda 21, the strategy of sustainable development of China consists of three integrated parts – sustainable economy, sustainable society and sustainable environment and natural resources.

China is a developing country. China's Agenda 21 states that China must keep a proper high rate of economic growth in order to eliminate poverty and meet the basic material needs and the increasing cultural needs of people. Only by keeping Chinese economy in growth by a proper high rate, can China accumulate and invest more of its national income into environmental protection. Therefore, economic development is the key not only for economy itself, but also for the environmental protection in China. The Agenda sets forth an average rate of 8-9% annual GNP growth for the remaining years of this century. The Agenda calls for reforming economy and switching to the track of sustainable development.

The Agenda states that the Chinese strategy of sustainable development emphasizes the sustainable development of society. Sustainable social development requires China to carry out a number of important public policies, such as maintaining public order and social stability, population growth control and population quality improvement, justice distribution of social wealth, carrying forward the moral and cultural tradition, strengthening education and training, housing and medical condition improvement, and the enhancement of the sense and capability of sustainable development of the population, especially, of the government leaders at various levels of the government.

The Agenda states that the China's sustainable development is based on the sustainability of natural resources and ecological environment. It calls for protecting the life supporting capacity of the nature and solving the major ecological problems, such as soil erosion, desertification, deforestation, and loss of biodiversity. It calls for prevention and control of pollution and improvement of urban and rural environment conditions. The Agenda sets forth the general goal of environmental protection for the year 2000 as: basically putting environmental pollution under control; improving environmental quality of major cities; slowing down the trend of ecological deterioration; and gradually harmonizing the economic, social, and environmental developments.

The Agenda declares that China will actively participate in global environmental protection and increase international cooperation in the fields of greenhouse gas control, save alternative substances and CFC and relevant technology, toxic chemicals and hazardous wastes control, marine environmental protection and biodiversity conservation.

4) The integration of China's Agenda 21 into the National Five-year Plan for Social and Economic Development and the Outline of Long-term Social and Economic Development Objectives for the Year 2010.

The Central Committee of the Chinese Communist Party proposed the strategy of sustainable development to the National people's Congress on 28 September 1995. The National People's Congress adopted the strategy and integrated the principles and measures of the China's Agenda 21 into the National Five-Year Plan for Social and

Economic Development and the Outline of Long-term Social and Economic Development Objectives for the Year 2010 on 17 March, 1996.

5) The adoption of major national, regional and local action plans for implementing China's Agenda 21 by the various ministries of the central government and departments of the local governments.

For implementing Agenda 21, China adopted a Priority Program for China's Agenda 21, which specifies the areas and projects that development and co-operation are most needed. In order to eliminate poverty, China adopted a seven-year plan for alleviating poverty, which is called Helping Eighty Million People in Seven Years Plan. For controlling pollution and harnessing the land and natural resources, China adopted a Trans0Century Green Project. The project focuses on problems of water pollution in some major river and lake basins, acid rain and SO² emission. A Total Quality Control Plan for Industrial Pollutants was adopted in 1996, which applied the policy of pollutants ceiling all over China through local governments.

Other action plans include the Forestry Action Plan for China's Agenda 21 adopted by Forestry Ministry, which was approved by the State Council in 1995; the China's Water Conservation Agenda 21 and the National Plan for Medium-and-Long-Term Water Supply and Demand adopted by Water Resources Ministry; the Program and Ninth Five-Year Plan of Water Pollution Control in the Huai River Basin; the China's Ocean Agenda 21 and Action Plan, etc.

Many governments at the provincial and lower levels have adopted their local Agenda 21 and Action Plan for implementing the national ones. For example, Yunnan Province, southwest of China, which has the largest portion of the tropical rainforests in the mainland of China, established a Biodiversity Protection Committee in the provincial government and carried out its biodiversity conservation plan in April 1995.

In addition, there are some relevant important developments took place before the adoption of China's Agenda 21. Examples of this kind include the National Planning Program for the Control of Desertification in 1991-2000 and the National Action Plan for the Control of Desertification of China, China's Biodiversity Conservation Action Plan (1994) and the National Program of China for Phasing Out of Ozone Layer-Depleting Substances and Action Plan (1993).

6) Framework of environmental legislation

China has established a large framework of environmental legislation since 1979. The framework consists of six groups of laws, regulations, treaties, and environmental standards.

The first group consists of the Constitution of PRC (1982) and its amendments (and the Environmental Protection Law of PRC (1979, 1989).

The Constitution lays down the legal basis for the state power of environmental protection and regulation by providing that "The State protects and improves living environment and ecological environment, prevents and controls pollution and other public hazards".¹

The Environment Protection law (1979, 1989) are considered as “comprehensive basic law” or “the Charter” of environmental protection in China. The Environmental Protection Law of 1989 stipulates all basic and important matters of environmental protection in China. Its purpose is “to protect and improve living environment; to prevent and control of pollution and other public hazards; to protect human health; and to promote the socialist modernization of PRC.”² It establishes the guiding principles and basic regulatory systems for environmental protection. It stipulates the basic legal requirements for exploiters of natural resources, which prohibit them from disturbing or damaging protected natural areas and lands. It stipulates the basic legal requirements for prevention and control of pollution. Polluters have, at least, the following legal duties: 1) to incorporate environmental protection into their business budget and plan; 2) to establish responsibility systems of environmental protection in their enterprises; 3) to take effective measures to control and eliminate pollution; 4) to report their pollutants discharged.

The Environmental Protection law established the governmental organization on environmental administration system of China. In this system, the Central Government, through the Environmental Protection Commission (EPC) under the State Council and the State Environmental Protection Administration (SEPA, previously called National Environmental Protection Agency, NEPA), takes the leadership and performs the function of comprehensive coordination.³ The local governments, mainly through their environmental protection agencies, administer and manage environmental affairs within their jurisdictions, and assume the responsibility of safeguarding sound environmental quality in their jurisdictions.⁴

The Environmental Protection law provides that all units and individuals have the duty to protect environment and the right to report to the government or to file a lawsuit against the violators of environmental law.⁵ It imposes three kinds of penalties upon the violators: 1) administrative penalty; 2) civil penalty; and 3) criminal penalty.⁶

The second group consists of pollution control laws and the related implementing regulations. Those laws include Marine Environment Protection Law (1982), Law on Prevention and Control of Water Pollution (1984, 1996), Law on Prevention and Control of Air Pollution (1987, 1995), Law on Prevention and Control of Pollution Caused by Solid Wastes (1995), Law on Prevention and Control of Noise Pollution (1996). For the areas that have not covered by environmental statutes, there are regulations issued by State Council or ministries

The third group consists of natural resource laws and the related implementing regulations. Those included Forest Law (1984, 1997), Grassland Law (1985), Fishers law (1986), Mineral resources Law (1986, 1996), Law on Coal Mining (1996), Land Management Law (1986, 1988, 1998), Water resources Law (1988), Water and Soil Conservation Law (1991), Wild Animal Protection Law (1988), Cultural Relics Protection Law (1982, 1991).

The fourth group consists of laws and regulations related to environment protection. Those laws include General Principles of Civil law (1986), Criminal Law (1979, 1997), Administrative Litigation Law (1989), Law on Civil Procedure (1991), Law on Criminal Procedure (1979, 1996), Law on Administrative Penalty (1996), State

Compensation law (1994), Urban Planning Law (1989), Law on Standardization (1988), Law on Territorial Sea and Contiguous Zone (1992), Law on Agriculture (1993), Law on Electricity (1995), Law on Township and Village Enterprises (1996), and Law on Exclusive Economic Zone and Continental Shelf (1998). The related regulations include Administrative Reconsideration Regulation (1990, 1994), Urban Appearance and Environmental Sanitation Management Regulations (1992).

The new Criminal law (1997), specifies environmental crime as a new category of crime. The law imposes criminal punishments on those who committed crimes related to radioactive wastes, toxic substances, hazardous wastes, aquatic resources, endangered wild animals, land management, mineral resources and forests management.⁷

The fifth group consists of international environmental treaties (including treaties, conventions, agreements, protocols etc) that China ratified. International treaties are implemented in China through domestic legislation and regulations. Those treaties include Basel Convention on Control of Trans-boundary Movement and Disposal of Hazardous Wastes (1989), Vienna Convention on Ozone Layer Protection (1985), Montreal Protocol (1985), Montreal Protocol on Substances that Deplete Ozone Layer (1987, 10990, 1992), Framework Convention on Climate Change (1992), Convention on Biological Diversity (1992), Convention on Law of the Sea (1982), Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matters (1972), International Convention for the Prevention of Pollution from Ships (1973, 1978), Convention on Combating Desertification (1994), Ramsar Convention on Wetland Conservation (1971), Convention on Ban of International trade in Endangered Species (1973), Convention on Cultural and Historical Heritage Conservation (1972), Convention on Nuclear Safety (1994), etc. In addition, China has contracted bilateral environmental agreements with many countries.

The last group consists of various environmental standards. According to the National report of the State of the Environment (996), there were 347 national standards for environmental protection and 28 sector environmental standards by the end of 1996. Those standards include ambient environmental quality standards, pollutant discharge standards, monitoring methodology standards, environmental specimen standards, and basic scientific standards. In addition to the state standards, China encourages the adoption of voluntary environmental standards such as ISO 14000 by enterprises. Chinese government has approved 13 cities and districts of cities and 55 enterprises to experimenting the ISO 14000 by the end of 1997. There were 21 enterprises passed the ISO 14000 experimental certification.⁸

7) Implementation and Enforcement of Law

In the recently years, China has strengthened its effort to enforce environmental Law. This effort is expected to continue.

The National People's Congress has strengthened its supervision on the environmental law enforcement. Congressional inspection groups were sent out to different provinces and autonomous regions each year. The inspections groups hold meetings with local environmental regulatory agencies, local people's congress, local committees of Chinese People's Political Consultative Conference (CPPCC) to

investigate the situation of environmental law enforcement. The inspection groups conducted on-site inspection and listened to the complaints of local residents about environmental problems. When the congressional inspection groups discovered problems in the enforcement at the inspected localities, they informed the local government and required the local government to take legal action to correct the problems. A group of news reporters from major newspapers usually accompanies the congressional inspection groups. Major issues and cases in environmental law enforcement were publicized through news media in time. At the provincial and lower levels, the local people's congresses conducted the inspections also. The congressional inspections have become an effective way of pushing forward the environmental law enforcement.

Strong actions to enforce law have been taken by the governments both at the central and local levels. The State Council made a decision to closing down 15 kinds of small sized, heavy polluting factories, such as small scaled paper pulp mill, dying mill and electroplating mill all over China in 1996. Deadlines had been set for those factories to change to clear production, otherwise they would be ordered to close down. This decision has been carried out by provinces. According to the National report of the State of the Environment (1996), China has closed down over 60,000 such polluting sources.⁹

The first phase of the water pollution control in Huai River Basin had successfully completed by the end of 1997. According to the 1997 Report on the State of the Environment released by SEPA, up to 31 December, 1997, among 1,562 targeted water polluting sources in the basin, 71.4% had completed pollution control tasks, 14.3% had either suspended, or changed production, or had bankrupted, or close down, 14.3% had been ordered to stop production and to eliminate pollution.¹⁰

A number of illegal trans-boundary movements of hazardous wastes and other wastes were discovered by the customs administrations and environmental protection bureaus in the east and southeast coastal regions of China in recent years. Those cases were reported to the Secretariat of the Basel Convention. The wastes involved in those cases were mostly returned to the exporting countries. The wastes which did not return were properly disposed according to the requirements of the Basel Convention and Chinese law.¹¹

Because there is no systematic, nation-wide statistics on the cases of environmental law enforcement, it is hard to know how many environmental enforcement actions and environmental litigation had been taken each year. It is noted that there are many reports on environmental cases by news media, such as newspapers, radio and TV broadcasting.

INSTITUTIONS

China has established a nation-wide environmental regulatory institution since the adoption of its Environmental Protection law in 1979.

A new government department – environmental protection department has been established at both the level of central government and the levels of local government. At the central level, the department is called State Environment Protection Administration (SEPA). At the local levels such as provincial, city, and county levels,

it is called Environmental Protection Bureaus (EPB). SEPA is authorized by the Environmental Protection Law of PRC to “conduct unified supervision and management of the environmental protection work throughout the country”. (Article 7). The local EPBs have the power to “conduct unified supervision and management of the environmental protection work within areas under their jurisdiction”. (Article 7 of the Environment Protection Law). In March, 1998, the National People’s Congress approved the proposal of the State Council on the reform of the government organization. As a result of the organization reform, NEPA has been strengthened and promoted to the ministerial level. The name NEPA has been changed into SEPA (the State Environmental Protection Administration).

In addition to SEPA and EPBs, a number of commissions and ministries in the central government, as well as their counterparts at the local governments share the environmental regulatory power and play important roles in environment protection. The major related commissions and ministries are the State Development Planning Commission, State Economic and Trade Commission, State Family Planning Commission, Ministry of Land and Natural Resources, Ministry of Science and Technology, Ministry of Construction, Ministry of Water Resources, Ministry of Agriculture, Ministry of Health, Ministry of Foreign Trade and Economic Co-operation, Ministry of Labour and Social Security, Ministry of Public Security, State Industry and Commerce Administration, Customhouse Administration of China.

In the recently years, non-governmental environmental organization began to develop. The Friend of Nature, an organization based in Beijing, is the first influential environmental NGO in China. Other NGOs include the Earth Village, a local organization based in Beijing, and the China Division of the Wetland International. In some universities, there are student environmental groups and organizations. For example, in Wuhan University, one of the major university in China, there is a student group called The Green Youth Association. Those organizations conducted a lot of various environmental education activities.

In term of political participation and influence, the more important organizations for reflecting grassroots opinions on environmental issues are the Chinese People’s Political Consultative Conference (CPPCC) and its counterparts in the provincial and major city levels, as well as the eight non-communist parties. The role of the CPPCC and the non-communist parties in the political life of China has remarkable increased in recent years. CPPCC is a multi-parties political forum headed by the Communist Party. Environmental issues has been a hot topic in almost all sessions of both the National Conference of CPPCC and the conferences of its local counterpart. The leaders of the Chinese Communist Party at both the central and local levels have regularly consulted with the other co-operating political parties and the representatives of non-party people for all the important decision making, including decisions on environmental affairs, in the recent years. The suggestions and criticisms are well received by the Communist Party. Many of the suggestions and criticism are related to environmental and ecological issues, and many of them are reflected by the major decisions made by the Communist Party, the People’s Congress and the State Council. For example, the draft of the Ninth National Five-Year Plan for Social and Economic Development and the Outline of Long-term Social and Economic Development Objectives up to the Year 2010 had been sent to all the non-communist parties for

comments and their leaders had been consulted by the leaders of the Communist Party before the Communist Party made the formal proposal to the National People's Congress.

PROBLEMS AND SOLUTIONS

For achieving sustainable development, China needs to overcome at least the following two basic problems.

1) **Backward industrial technology and poor management of production**
In China, Industries are basically equipped with technologies at the level of 1960s or early 1970s. Some of them are still using technology of 1950s. The use of those out-of-dated technology means waste of natural resources in production process at one hand, and producing pollution at the other hand. Generally speaking, the production management of Chinese enterprises are poor. Poor management of production causes the additional pollution and other environmental problems which otherwise would not happen under good management. Statistics show that in terms of GDP produced by per Kg energy resource, Japan is 15 times higher than China, Germany and France are 9 times higher than China, United States is 5 times higher than China.¹²

Rapid development of township and village industrial enterprises (TVIE) has greatly promoted the economic growth. But they also caused serious pollution and ecological problems. While some TVIE are equipped with advanced, clean technology, most of them are using backward technology in production and poorly managed in terms of environmental protection. Data shows that the industrial waste water discharged by TVIE in 1995 had occupied 21% of total amount of the national waste water discharge and increased by 120.5% based on the level on 1989.¹³ Among the waste water discharged by TVIE, COD discharge occupied 44.3% of the national total and increased 245.5% based on the level of 1989. Total suspending substances discharge occupied 47.9% of the national total and increased 524% based on the level of 1995.¹⁴

2) **Environmentally unsustainable economic growth and the deterioration of environment**

As the above mentioned data on energy efficiency showed, the economic growth of China still follows the traditional mode of economic growth, a growth based on high consumption and high waste of natural resources. China's super-large scale of population and the limited per capita natural resources make the problem of unsustainable development even more acute. The experience of industrialized countries has proved that this kind of economic growth is unsustainable in terms of the supporting capability of the Earth.

The general trend of environment degradation has not been stopped so far, although enormous effort has been put into environmental protection. According to the Report on the State of the Environment released by NEPA in 1997, water resources shortage and water pollution have become a factor constraining the economic and social development of China. The World Bank recently reported that about half of the monitored urban river sections in northern China do not meet the lowest ambient standards, making the water unsuitable even for irrigation. Only about 8% of the

monitored urban river sections in northern China meet the standards for direct human contact.¹⁵

Air pollution is serious in many Chinese cities. Major Chinese cities have particulate and sulfur levels that exceed WHO and Chinese standards two to five times, and are among the highest in the world. Air pollution has been an important factor contributing to the high mortality rate of chronic obstructive pulmonary disease in China. The World Bank report state that “[w]hile smoking is the most important proven risk factor for chronic obstructive pulmonary disease in high-income countries, nearly equal rates of the disease among men and women in China (despite the fact that few women smoke) suggest that high concentrations of indoor and outdoor air pollutants are the main cause of chronic obstructive pulmonary disease in China.”¹⁶

Solid wastes is another serious environmental problem. According to the 1997 Report on the State of the Environment by NEPA, although the rate of industrial solid wastes re-utilization increased 2.2% in 1997, the total rate of industrial solid wastes re-utilization is only 45.2%. That means that 45.8% of the total solid wastes are not being re-utilized. In addition, there is a very large amount of household produced solid wastes. Most of the household wastes are disposed by simple landfill, which not only occupies large land space, but also causes water and air pollution.

Coastal water pollution is expanding. The ecological environment of fishing grounds in the coastal areas are seriously deteriorated. Near coastal fishery production remarkably decreased due to the dramatic decreasing of fishery resources. The current pattern of economic growth is not sustainable. Just the cost of damages resulted from air and water pollution each year is conservatively estimated as high as 54 billion US Dollar of roughly 8% of China’s GDP.¹⁷

3) Solutions

The solution to the environmental problems of China lies in the comprehensive implementation of China’s Agenda 21. The goal of China’s sustainable development strategy is to building up a country with sustainable economy, sustainable society and sustainable natural resources and environment supporting basis. The Chinese sustainable development strategy requires China to do a good job in the following areas.

- ♣ Continuing the economic reform and changing the mode of growth from the traditional high resources consumption and waste one to the mod eof sustainable development.
- ♣ Keeping properly high economic growth so as to eliminate poverty and to enhance the economic capability for environmental protection.
- ♣ Increasing investments for science and technology and continuing reform the systems of scientific research, so as to lay down a strong scientific knowledge basis for economic and social development in the next century

- ♣ Increasing investments for education so as to comprehensively increasing the education level of Chinese population and prepare a high quality human resource for the next century.
- ♣ Continuing control the growth rate of population so as to avoid the disaster of over growth of population.
- ♣ Increasing investments for environmental protection so as to stop the current trend of environmental deterioration and improve the nation's environmental supporting capability.
- ♣ Improving the legal and policy making system so as to make the political process of China meet the requirements of sustainable economy, sustainable development, including encouraging public participation of environmental protection affairs.
- ♣ Strengthening land management, including natural resources regulation, land use planning, urban planning, harnessing of major river and lake basins, and reforming the price system for natural resources.
- ♣ Strengthening the administrative capacity in environment protection.

The World Bank recently suggested that “China can turn its assets – an increasing market orientation, rapid economic growth, and strong administrative capacity – into advantages for preserving and improving its environment for future generations. To do so, China must harness the market to preserve the environment by ensuring that prices reflect environmental costs. It must harness growth by creating incentives for private investments and by making wise public investments. And it must harness its formidable administrative capacity through better regulations at the national level, new regional initiatives for water basins and sulfur control, and enhance urban planning and enforcement at the local level.”¹⁸ The Bank believes that China's environment can improve dramatically if assertive policies are adopted promptly and systematically.

The new developments in Chinese law, policy, strategic development plan and institution indicate that China is trying moving toward the direction of sustainable development and has made considerable progress. But difficulties and challenges to the switch of pattern of economic growth are also serious. Therefore, greater efforts and firm measures need to be taken to achieve the purposes of those laws, policies and plans.

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- ¹ Article 26 of the Constitution of PRC
- ² Article 1 of the Environment Protection Law of PRC
- ³ Article 7 of the Environment Protection Law of PRC
- ⁴ Article 16 of the Environment Protection Law of PRC
- ⁵ Article of the Environment Protection Law of PRC
- ⁶ Article 35-45, Environment Protection Law of PRC
- ⁷ Article 338-346, Criminal Law of PRC (1997)
- ⁸ National Environmental Protection Agency, National Report on the State of the Environment (1997).
- ⁹ National Environmental Protection Agency, National Report on the State of the Environment (1996)
- ¹⁰ .. National Environmental Protection Agency, National Report on the State of the Environment (1997).
- ¹¹ One of the cases in the William Ping Chen case of 1997. On 13 Jan. 1997, the First Intermediate People's Court of Shanghai City sentenced William Ping Chen, an American citizen, to 10 years imprisonment and a fine of 500,000 yuan for committing a crime of smuggling into China 16 containers of wastes, including 238 tone of household wastes and some hospital wastes, both are prohibited by Chinese law. William Ping Chen was ordered by the court to be deported.
- ¹² ..The Environment Protection and Resources Conservation Committee, National People's Congress of PRC, China Resources, China Aerospace International Holdings, Ltd., 1997, p33.
- ¹³ Report of National Investigation on Township and Village Industrial Polluting Sources, NEPA, Ministry of Agriculture, Ministry of Finance, State Statistics Bureau, 1997.
- ¹⁴ ..Id.
- ¹⁵ ..World Bank, Clear Water, Blue Skies : China's Environment in New Century, World Bank, p 13.
- ¹⁶ Id., p. 17-78
- ¹⁷ Id., p.23
- ¹⁸ ..Id., p. 111.