

## Chinese Environmental Protection: A Regulatory Crisis

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Chinese Environmental Protection: A Regulatory Crisis      Environmental sustainability has for some time been an issue of concern for China and those concerned with China. Torrid economic growth has effectively transformed nearly every significant aspect of the country's composition, though perhaps none more dramatically than its environment—the country is now home of 16 of the world's 20 most polluted cities. So widespread and devastating have the effects been that Beijing now fears the issue could incite “social unrest”, a prospect in intra-party calculus unsurpassed in solemnity and menace. Relevant data and information has consequently been domestically suppressed which, in addition to being counterproductive, futile and dangerous, can only exacerbate the concerns already present in China's most polluted areas.      Suppression and denial, however, have not generally been the norm. Party leadership openly recognizes the importance and severity of environmental protection and sustainable growth and has prioritized the issues accordingly, “enacting over two dozen major environmental laws and promulgating many more subsidiary regulations. Many of these new laws are transplants of American and European models of environmental regulation, which incorporate modern public health and safety standards and regulatory methodologies. ” National leadership has additionally recognized the fundamentally unbalanced nature of China's current economic model and its persistent and disproportionate reliance on energy-intensive industry. And while recognition and policy prescriptions are encouraging initial steps, progress has been continually stymied through a confluence of implementation inabilities and enforcement failures.      Institutional Structure      As with difficulties curbing intellectual property and copyright infringements, endemic structural weaknesses have proved to be the most prominent source of frustration. Successive Five-Year Plans for National Economic and Social Development and Five-Year Environmental Plans have, according to the Organization of Economic Co-operation and Development, “provided a high-quality framework for pursuing sustainable development and environmental progress. ” Departments and ministries under the State-Council are also reported to have “within their mandates...worked hard to support environmental policy implementation. ” The decentralized nature of China's current governing structure, however, has fostered extensive pockets of enforcement vacuums and perhaps more importantly fundamentally conflicting sets of interests at the sub-provincial level.      The State Environmental Protection Administration (SEPA), charged with promoting sustainable development policies, “enhancing environmental enforcement” and “organizing the formulation and supervision of pollution prevention plans and ecological conservation plans” has only a handful of regional offices (none until August 2006) and relies almost entirely on provincial Environmental Protection Bureaus (EPB) to monitor, inspect and enforce standing policies. Economic liberalization, however, has effectuated a good deal of provincial insularity and operational independence—regional authorities furnish EPB budgets and direct and supervise their activities. This precarious arrangement, while not leaving state-issued directives vulnerable to any kind of explicit disregard or hostility, does serve to cultivate an

environment replete in subterfuge and void of accountability—an atmosphere where corruption thrives. The interests of regional bureaucracy and its local businesses have aligned with dangerous congruency. Bureaucratic health and viability is too often wholly dependent on its constituent industries for revenue generation and symbiotic relationships of this kind between the regulator and the regulated are increasingly pervasive in China's communities. "Field studies have overwhelmingly shown that sub-provincial government agencies have the discretionary means to pursue their own economic policy and often enough form alliances with the local business sector in order to minimize tax transfer to the national tax administration." Local fiefdoms of this kind (often in competition with each other) have thus been positioned to endorse economic output categorically and at the expense of their obligations to abide by and enforce national policy. Nowhere have symptoms of this problem been more evident than in SEPA's anemic ability to implement the policies it crafts. Tales abound. Local enforcement officers whose salary and employment rests in part on the economic viability of environmentally destructive enterprises, will often deliberately fabricate reports. Employment considerations and prospects—all illegal—for financial/professional gain too commonly compel local bosses to condone illegal projects. Further, regulatory inefficiencies and clumsiness, even when conceived with the best of intentions, make enforcement prohibitively difficult. SEPA has proved powerless to ebb the tide. Its own authority is so remarkably feeble that earlier this month, its officials were "denied entry to inspect facilities at a copper company in eastern Anhui province's Tongling city, an area suffering serious water pollution." Locally flouted directives were additionally responsible for the wholesale destruction of the small village of Sugai. Following a serious 2004 industrial spill into the Yellow River, a neighboring town's mills were fined and ordered to shut down and upgrade their pollution equipment. The factories, however, remained unchanged. As imminent disaster loomed again and local officials feared their transgressions exposed, wastewater pools were broken and "diverted into a three-mile strip besides the river where several small villages, including Sugai, stood." Fifty-seven homes sank into a lake of toxic sludge. Sweeping institutional reform will likely be required. SEPA's newly conferred ministerial status may in fact be needed to catalyze substantive reform but it is nominal refashioning of just this kind that has to this point tacitly sanctioned its institutional impotence. Law and policy that is everywhere ignored with sustained impunity is farcical, irrelevant and dishonest. Beijing will need to begin to prioritize the rule of law over appeasing the desires of their local proxies and at the expense of economic growth. A failure to do so carries with it moral hazards of the kind Beijing does not want and can hardly afford.

**Economic Model** It is no secret anywhere that China's development has been founded largely and disproportionately on investment in and production from energy-intensive heavy industry. "Why is a country that grew rich for 25 years utilizing comparatively abundant resources (labor) shifting back toward industries that rely on scarce and strained resources (energy, raw materials, capital, and technology) and that create relatively few jobs?" The answer, suggest Rosen and Houser, is, again, a gross over emphasis on short-term growth borne out by "competition among provinces, counties and cities to grow GDP, the capital stock, tax revenue and corporate profits." The financial system, driven no doubt in large part by state-owned banks funding state-owned enterprises, has been too reliant on supporting

existing industries and too interested in maximizing immediate profits to diversify investments and grow industries befitting China's competitive advantages further up the value-added chain. Land—also a significant cost input for energy intensive industry—"is often deeply discounted and brokered by local governments" and coupled with energy prices that have been and continue to be (though less so) subsidized by the central government, profitability has been too great to forgo. China's economy now produces about 6% of global GDP though is responsible for 49% of global flat glass production, 38% of cement, 35% of steel and 28% of aluminum. This is economic muscle that is entirely unbalanced. Beijing, again, has acknowledged awareness of such imbalances and has committed itself, in principle, to remedial policies. Economic momentum, however, i.e., public and private investments, employment etc., has grown too reliant for interventions or reforms to be significantly direct or aggressive. Incentives are therefore needed and should be expected for the rest of economy, especially service sectors. To this end, the financial services industry must further diversify and liberalize to offer viable products in hope of releasing China's massive precautionary savings and encouraging wider consumption. Substantial public spending should be directed towards cleaning up the areas industry has harmed and ambitious investment incentives in cleaner energy generation need adoption. Amid growing calls for responsible development (product and food safety among them) environmental issues in China will only rise in profile. And if unmoved or offended by pressures from beyond the border, perhaps the numbers will give rise to action. Sulfur dioxide emissions, the main component of acid rain that acidifies fertile soil and kills crops, is responsible, according to Li Xinmin, a top SEPA official, for losses of over \$63b