
Challenges, Recommendations, and Next Steps:

*An Overview of Reports
on China's Current Environmental Management Capacity (EMC)*

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Outline

- List of Documents Reviewed
- Challenges
- Recommendations
 - Institutional Reform to Promote China's EMC
 - Technical Support & Capacity Building of the Environmental Agency
- Next Steps
- Report Summaries



List of Documents

1. OECD: *Environmental Performance Review: China, (Part 1 Conclusion and recommendations)*, July 2006
2. Natural Resources Defense Council (NRDC): *Environmental Governance in China: Recommendations for Reform from International Experience*, June 2007
3. Asia Development Bank (ADB): *Country Environmental Analysis for The People's Republic of China, Executive Summary*, May 2007
4. China Council for International Cooperation on Environment and Development (CCICED): *Task Force Report: Environmental Governance in China*, November 2006
5. China Sustainable Energy Program (CSEP): *Policy Recommendations for the Ninth Senior Policy Advisory Council Meeting: III. Promoting Environmental Regulatory System Reform, Energy Savings, and Environmental Protection*, November, 2006
6. World Bank (WB) Notes: *China's Environment: Next Steps in Administrative Reform*, December, 2002

This review also covered reports by Chinese think-tanks, not listed above, produced in collaboration with international organizations. The main findings are incorporated into the summaries for the above reports.



Challenges

1. Insufficient administrative authority and *capacity of SEPA* for policy planning, implementation, and coordination with related agencies.
2. Lack of *cross-sector coordination* to integrate environmental concerns in economic decision-making.
3. Lack of national-level capacity to intervene in *local enforcement*.
4. Unclear allocation of environmental regulatory authority and responsibilities between different levels of government
5. Dysfunctional environmental safeguard procedures (ineffective *Environmental Impact Assessment*)
6. Unreliable *environmental monitoring* and statistics system
7. Over-reliance on command-and-control *administrative measures*
8. *Vague laws* and inconsistency in legislative, executive, and judicial authorities.
9. Limited public access to *judicial enforcement*
10. Limited *public participation* in decision-making and limited access to environmental information.



Policy Recommendations: Institutional Reform

- **SEPA should be a ministry-level cabinet**

- ALL rank this as the 1st or 2nd priority. SEPA has not been upgraded to the ministry level, though a World Bank report raised this issue in the last round of China's Administrative Reform in 2002.
- Two options:
 1. Establish a larger ministry (cabinet) with SEPA's current responsibilities, in addition to environmental and resource-related responsibilities currently belonging to other ministries.
 2. Upgrade SEPA to ministry level (cabinet) without merging responsibilities

Current Status: Continued discussion without action.

What this seminar may advocate: Continued push to upgrade SEPA's rank.

- **National Inter-Agency Coordination Body**

- WB, OECD, and CCICED recommend the formation of such a body, to promote inter-agency coordination and address environmental concerns at the level of macroeconomic policy.
- Could be organized like the former Environmental Protection Committee (EPC) under the State Council or as a new body, chaired by the premier and named the Sustainable Development Committee (WB).

Current Status: there is a National Leading Group for Energy Efficiency Improvement and Pollutant Reduction in the State Council Chaired by Premier Wen Jiabao.

What this seminar may advocate: To maintain this leading group as a permanently active organization.



Policy Recommendations: Institutional Reform

- **Vertical Line of Authority for SEPA over Environmental Protection Bureaus (EPBs)**

- Adopt the US EPA organizational model:
 1. Line authority: SEPA – Regional Offices – Local EPBs
 2. Give SEPA's regional supervision offices full and active authority, beyond monitoring and enforcement (WB, NRDC, CSEP)
- Linear EPB authority under provincial level: Provincial– Municipal– County.
No direct line of authority from SEPA to Provincial EPBs (CCICED)

Current Status: SEPA's regional supervision offices have been established, there are ambitions to grow responsibility beyond just supervision, and follow the US EPA model. Nothing has happened yet. International experiences on regional offices has been collected and reviewed.

What this seminar may advocate: (1) Linear Authority from SEPA-Provincial – Municipal – County EPBs; (2) Capacity building for regional offices to enhance supervision and enforcement function.

- **Local Government Accountability for Environmental Performance**

- CCICED and OECD's report addressed China's positive steps in this area.

Current Status: China has allocated the 2010 pollutant emission reduction target to different government levels. Officials' performance will be evaluated based achievement of the target.

What this seminar may advocate: In addition to higher-level leaders, local governments should also be accountable to local populations or local People's Congresses.



Policy Recommendations: Institutional Reform

- **Increase SEPA's institutional capacity through increased staffing, budgets, and fiscal authority**
 - All reports emphasize this, in addition to the need for better monitoring and enforcement, as SEPA is dramatically dwarfed by China's vast environmental issues.
 - No detailed recommendations on how to enhance capacity and on what scale.
 - Increased funding authority is essential for SEPA to effectively intervene in local environmental management. (NRDC, CSEP)

What this seminar may provide: Clear advice on how to structure and scale the new SEP/Ministry of Environment.

- **Increasing Investment in Environmental Protection (ADB, NRDC, CSEP)**
 - Resources need to be applied strategically and effectively.

Current Status: The proposed environmental investment of 1.4% of GDP for the 11th Five-Year Plan period will be increased to 2%.

What this seminar may advocate: (1) International practices on budget allocation negotiation and mechanisms to guarantee cost-effectiveness; (2) Leverage of private sector investment



Policy Recommendations: Institutional Reform

- **Public Participation**
 - All reports emphasize the role of public participation in policy making and monitoring.
- Current Status:** EIA's public participation clauses have been approved. Regulations for public participation in environmental protection and public access to environmental information are being drafted.
- What this seminar may advocate:** Efforts should be taken to enhance public access to courts and judicial enforcement.
- **Judicial authority and capacity of Environmental Laws and Regulations**
 - NRDC, CCICED, and CSEP emphasized this issue; NRDC's report gives detailed recommendations for improvement.
 - Expanding public and NGO access to the courts and administrative mechanisms for dispute resolution will supplement the enforcement capability of environmental authorities. A citizen-suit provision could be structured to promote compliance while avoiding misuse.
 - China does not have an official mechanism for enforcement by the civil judiciary. Such a system would give the government an important new tool for enforcement.

Current Status: One challenge is a lack of political will to use judicial enforcement, which is currently the last choice after administrative tools and market-based instruments. Also, training needs to be carried out to improve judges' knowledge of environmental issues.

What this seminar may advocate: SEPA, as a government agency, should rely on judicial enforcement to promote compliance.



Policy Recommendations: Measures and Instruments

- **Market – based instruments**

While the political climate in China has allowed for institutional reforms and administrative measures in the environment sector, market-based instruments need to be strengthened to avoid the negative consequences of command-and-control. ADB's report puts this as its most important recommendation.

Highlighted instruments include the following:

- All-in-cost pricing of energy, water, and other nature resources (OECD)
- Higher and better monitored pollution charges (OECD)
- Corporate Environmental Responsibility (CCICED, NRDC, CSEP)
 - ISO14000
 - Environmental information releasing

- **Regulatory Measures**

- Strong EIA: Post-EIA monitoring and other approaches to remedy dysfunctional EIA (ADB, OECD)
- Permit System: NRDC, OECD,
- **Monitoring System:** Though reliability of environmental statistics and data are major challenges to China's EMC, *how* to improve the monitoring system, both in administrative structure and in technical advancement, was not named as one of the important recommendations. OECD and NRDC's report mentioned this issue.



Policy Recommendations: Measures and Instruments

- **Judicial Enforcement** : Urge SEPA use the judiciary as a tool of enforcement.

- **R & D Capacity to provide basis for of policymaking**

- Cost-Benefit analysis of environmental policies.
- Integration of environmental concerns in all economic policies, including price, tax, fiscal budget making, and urban planning.
- Policy evaluation of EIA to identify bottlenecks that diminish EIA effectiveness.
- Develop health- and quality of life-based environmental standards.
- Determine Environmental Health Impact.

Current Status: All of the above policy recommendations to improve R&D capacity of the Environmental Protection Agency have been discussed, with some progress. However, while there is much political momentum for institutional reform, capacity-building to enhance enforcement is a long-term endeavor.

What this seminar may advocate: Among these important recommendations, we should focus on recommendations that have been under-emphasized in the past: (1) strengthening judicial enforcement, (2) enhancing policy review of EIA and post-EIA monitoring; and (3) conducting fundamental research on market-based policies and instruments.



Next Steps

- **OECD**

To achieve a new economic and social development model (a “resource saving and environment-friendly society,” according to the 11th FYP), China will need to:

- i) strengthen implementation of its environmental policies;
- ii) enhance integration of environmental concerns with economic decisions (e.g. fiscal, energy, agriculture, transport, and land-use).

- **ADB**

- Environmental management capacity-building for medium- and small-sized cities, mainly in western China.
- Enhance the effectiveness of EIAs.
- Develop a Macro-level National Environmental Strategy.

- **CCICED**

- Upgrade SEPA to a Ministry.
- Amend environmental laws and regulations to strengthen penalties.
- Establish vertical lines of authority among province jurisdiction.



Reports Summary: ADB

- Released in May, 2007, this report evaluated China’s environmental management in the 10th FYP period.
- Facing diverse and growing environmental challenges, China “has both the financial and human capacities to deal with most of its urgent environment problems,” if it can overcome (1) the challenge to effectively allocate human and financial resources; and (2) institutional and regulatory impediments.
- This CEA identified “Gaps in Environmental Policy and Institutional Framework” for dealing with the widening scope and growing scale of environmental issues. The report proposed eight recommendations to narrow this gap by prioritizing “Early and Expanded Use of Market-Based Instruments to Promote Efficient Use of Natural Resources and Control Pollution.”
- Next steps of this report mainly address ADB’s project areas and lending programs.



Reports Summary: OECD

- Based on data available up to December 2006, the OECD report examines progress made by China since 1990 and evaluates the extent to which the country's domestic objectives and international commitments are being met. Some 51 specific recommendations, covering institutional improvement, administrative tools, and market-based instrument, address China's environmental performance.
- This report names *an implementation gap* as the top challenge and cause for China's failure to meet its environmental targets. This gap led to ineffectiveness and inefficiency in China's efforts to develop policies, regulations, and economic instruments (e.g. pollution charges, use charges, emissions trading).
- OECD's five recommendations for the general capacity of environmental regulation prioritizes the strengthening of implementation capacity nationwide: implement environmental laws and regulations for products and industrial /energy facilities and strengthen monitoring, inspection and enforcement capabilities throughout the country, including through the independence of the enforcement functions of Environmental Protection Bureaus (EPBs).
- Other recommendations related to institutional reform include: (1) elevating SEPA to a ministry; (2) establishing SEPA's supervisory capacity over local government and EPBs; (3) establishing a Leading Group on comprehensive environmental or sustainable development; and (4) holding local government officials accountable for environmental performance.



Reports Summary: NRDC

- This report suggests legal and policy approaches, drawn from international experience, for improving China's environmental governance framework and the efficacy of its overall environmental protection efforts. NRDC placed particular emphasis on judicial enforcement.
- NRDC's report analyzed China's compliance failures for environmental regulation and laws. Policy recommendations not only focus on legislation, policy, and the justice system, but also address the importance of shaping the market to favor better environmental performance.



Reports Summary: CCICED

- CCICED's report was completed and presented to premier Wen Jiabao in November, 2006. The task force sees four major areas that can improve China's environmental governance, emphasizing the importance of the private sector and public participation, in leveraging investment and encouraging corporate social responsibility.
- (1) Improve government capacity to enforce environmental laws and oversee implementation of environmental programs, to enhance the government's capacity to control environmental pollution, and to improve the management of natural resources.
 - (2) Engage the business sector to take a more proactive role in environmental management by providing incentives to those that perform well and punishing those that do not, and by promoting best practices of industrial production and hazardous accident preparedness.
 - (3) Engage civil society by providing greater transparency of information concerning environmental and natural resource conditions and of government decision-making activities, combined with access and participation by stakeholders, NGOs, and the general public.
 - (4) Establish greater policy coherence and planning capacity for both domestic and international environmental and natural resource issues.



Reports Summary: WB

- Released in 2002, WB's report was prepared to contribute to China's 2003 government deliberations on state-level administrative reform. This report prioritized upgrading SEPA to ministry-level.
- This frequently-cited report recommends administrative reforms to strengthen political will and authority for national environmental protection. We have already seen several recommendations adopted, including (1) stronger political commitment; (2) establishment of SEPA's regional supervision office; (3) increased staffing levels; and (4) public participation requirement in the EIA process.
- Other recommendations not yet adopted include the top recommendation to make SEPA a ministry, enhance cross-sector coordination, ameliorate conflicts of interest between resource utilization and protection agencies, establishing linear authority for SEPA over the EPB system, and intensifying public participation.
- This report did include next steps, but this agenda is most relevant to the context of 2002. Please refer to the attached report for details.



Reports Summary: CSEP

- CSEP policy recommendations echo those of the previous organizations, but focus on the energy sector as an area to integrate sustainable energy and natural resource development with environmental regulation, which requires cross-sector coordination and comprehensive policymaking processes.
- In addition, CSEP advocates coordination between China's 2010 20% energy efficiency target and 10% pollutant emissions reduction target.
- CSEP also addresses the role of local Peoples' Congresses to supervise the environmental protection performance of local governments.
- CSEP emphasizes that public interest environmental law is a primary element in improving the system of environmental law.

