
LA SFIDA AMBIENTALE DELLA CINA

-The China's environmental challenge -

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THE JURIDICAL AND CULTURAL PERSPECTIVES

Ph. D. Federica Monti

The **Cultural** perspective

What's China's perception for the *environmental problem* ?

环保 (huánbǎo)

double meaning

to be eco-friendly

environmental protection

“All this stuff about huánbǎo is forced. No one who works at a factory really cares about this intrinsically. [...] Government laws are the only reason anyone cares about huánbǎo.”

– Mr Feng, Chinese entrepreneur interviewed by S. Zhang –

A Chinese saying says::

“People will clear snow from their doorsteps, but not worry about snow on their neighbor’s roof”

The Juridical perspective

Features of the new Environmental Protection Law and **consequences** of the China's environmental challenge:

- **Green fiscal policy** – a special **deduction tax system** and **other special benefits** are provided for those who can demonstrate **constant commitment to the environment**. The **Article 21 of the new Environmental Protection Law** (which will enter in force on January 2015) is an example: "The State adopts policies and measures in terms of fiscal assistance taxation, prices, and government procurement to encourage and support the environmental industries such as environmental protection equipment, comprehensive utilization of resources technics, environmental services and etc.". **Articles 22 and 50** account as well for further examples.
- **Green courts** – in China there are already many *green courts*, but the principal aim is to arrive to a deeper specialization among judges, with reference to all environmental problems distress China nowadays.
- **Mandatory green insurance** – **Article 6, III clause** together with **article 59** and others of the *the new Environmental Protection Law* provide, indeed, **obligations and liabilities for companies** providing as well a **strict penalty system** in case of violation (in particular, in this sense, see also **article 63**).
- **(apparent) less freedom for local authorities** – **Articles 16, 22, 26** (for examples) provide the possibility, for **local authorities**, to have an active role in the regulation of the environmental matters **AS LONG AS not in enmity with general principles provided at central level** by State Council. Local authorities (at all level) shall comply with qualitative fixed standard at national level. The same is for the determination of the so called. *'discharge quotas of pollutants'*.

WARNING for all companies

EIA System is kept in force

What's **EIA**?

Environmental Impact Assessment (EIA) it is a **certification system**, in force since the early 2000s, which **consist in a document/license** authorizing businesses to legally operate in the Chinese context (Warning! It is mandatory only for certain companies/activities, generally those deemed as 'at great risk' for environment). In case of violation of normative precepts, it may be withdrawn by supervisory authorities, with the consequent inability to continue any activity.

EIA certifications are issued by an agencies appointed and authorized at central level; many agencies operating in China are private, but in most cases are state-owned.

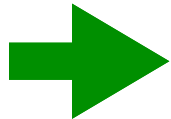
The **EIA agency**:

- analyzes, forecasts and assesses the potential impact on the environment after implementation of "high risk" projects;
- establishes strategies and measures to prevent or alleviate adverse impact on the environment;
- implements a follow-up system and the monitoring.

Problems

Fraudulent valuations, inappropriate and inconsistent estimates with the reality led often to the publication and to the release of **untrue EIA licences/certificates**.

On **March 2014**, Vice Minister of the MEP (Ministry of Environment Protection) Mr. Wu Xiaoqing relates about the aims of an EIA reform system in the State agenda: *"It is addressed to implement the most stringent source protection system, to fully play its role in optimizing economic development, pollution prevention and ecological damage, and to enhance the effectiveness and management of the EIA"*



From MEP inspections, results

- poor quality of EIA Agency, inadequacy of local agencies and lack of preparation;
- many imperfections of the entire system: superficiality in the evolution and control procedures.

EIA system's **reform**

- *Guidelines for the disclosure of government information in connection with the EIA of construction project*
- *Notice on strengthening supervisory and management of EIA*
- *Notice on delegation of EIA Examination and Approval authorities for certain construction projects*
- *Notice on strengthening environmental impact assessment Water conservancy planning*

Conclusions

*Even before that a 'legal' challenge, the **China's environmental challenge** is a **CULTURAL CHALLENGE**.*

*The more deep will be the **perception and the consciousness of the Chinese concept** of 环保 (huánbǎo) the more accurate and efficient will be the **legal system to its protection**.*

Thank You!

FOR YOUR ATTENTION!

Federica Monti

Avvocato - Studio M&G Professionals
Ph.d. Diritto cinese - Università di Roma Tor Vergata
Docente a contratto di Chinese Commercial Law - Università di Macerata
Docente a contratto di Elementi di diritto cinese - Istituto Confucio di Macerata

federica.monti@unimc.it