

Assessment Report on of Implementation Effectiveness of the New Environmental Protection Law of PRC for Two Years (An Abbreviation Version)

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*The new [Environmental Protection Law](#) (EPL) came into effect 1 January 2015, already more than two years ago. What impact has it had? How effective has it been? Well, on 20 April 2017, the working group led by Institute of Environmental and Resources Law under the Civil, Commercial and Economic Law School, China University of Political Science and Law (briefly known as “Institute of Environmental and Resources Law, IERL”) and other leading environmental law experts released the **2nd Annual Report on the Assessment of Effectiveness of the Implementation of the new Environmental Protection Law**.*

The below article summarises key points from this new report (found [here](#)). It follows on from [last year's review](#) and Wang Canfa's [article in 2015](#) after the amended EPL had been released.

The new Environmental Protection Law (EPL) has been in effect for over two years – what impacts has it had? Compared to the past, local governments have given unprecedented attention to environmental issues and have significantly strengthened environmental regulation enforcement. Meanwhile, there has also been considerable improvement in environmental awareness from the public. However, there is still much room for improvement in terms of government responsibility, corporate compliance and environmental information disclosure, etc.

More action from local government

Since the implementation of the new EPL, authorities at the local level have been taking on more responsibility in protecting the environment. This is evident in several aspects, such as: planning, reporting, spending, inspections and supporting national policies.

By the end of 2016, a total of 23 out of 31 provincial governments had delivered environmental reports to the provincial People's Congress or its Standing Committee. Among them, Chongqing, Shanghai and Guangxi had already made two annual reports. However, such reporting was still lacking from 8 provinces (Xinjiang, Inner Mongolia, Shaanxi, Anhui, Zhejiang, Fujian, Guangdong and Qinghai).

Moreover, 9 out of 31 provinces have released environmental protection plans before 2017. Other provinces are still in the preparation or the public consultation stage. However, even for released environmental protection plans, there are challenges on information access and public inquiry due to naming discrepancies, inconsistent publishing channels and inconsistent data quality.

In terms of inspections, the Central Government Environmental Inspection Team has completed environmental inspections in half the nation's provinces. From the two rounds of inspection in 2016, 1,007 cases were filed with 1,030 officials detained, 8,483 questioned and 9,741 held accountable.

Central and provincial government spending on environmental protection has also risen. The average fiscal investment in energy saving and environmental protection in 2015 and 2016 was 1.16% higher than in 2014. But in terms of its share in total fiscal expenditure, the average for 2015 and 2016 fell by 0.21% compared to 2014.

Supporting policies for the [Ecological Protection 'Red Line' system](#) have improved gradually at both national and local levels. However, with the exception of Hainan, Jilin and Hubei, most local policies are still in the form of plans or regulatory documents.

Law enforcement & supervision of authorities improving but local capacity building still needed

How well is the new EPL being enforced? Overall, a targeted environmental management system is being progressively and effectively implemented while provincial and city-level environmental information disclosure has also improved. However, the comprehensiveness and robustness of the existing system still need to be strengthened. By the end of 2016, provincial and city-level authorities had investigated a total of 647,000 construction projects involving environmental violations and had rectified 618,000 (95.6%) of them.

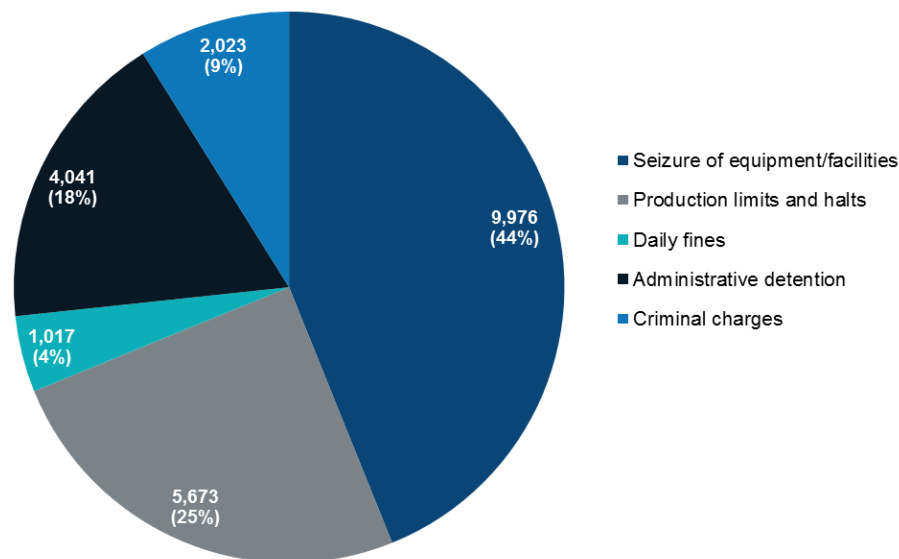
5 key measures introduced in the new EPL

- 1) Daily fines towards offenders
- 2) Seizure of polluting equipment and/or facilities in case of violation
- 3) Order to limit or halt production in case of excessive pollution violation
- 4) For serious violations which don't yet constitute a crime, polluters may face administrative detention
- 5) For suspected environmental crimes, polluters will be transferred to judicial sanctions

Want to know more about these punishments? See [here](#).

Meanwhile, in 2016, there were in total 22,730 cases that adopted the five key measures introduced in the new EPL (see above). Of these cases, the seizure of equipment/facilities accounted for 44%, production limits and halts 25%, daily fines 4%, administrative detentions 18%, and criminal charges 9%.

Breakdown of environmental cases in 2016



Source: China Water Risk based on XXX

In addition, the total number of environmental surveillance and law enforcement agencies in 2016 increased by 24% compared to 2014. However, every year there are still at least 7,200 environmental law enforcement officers (around one in ten) not employed under an official staff establishment.

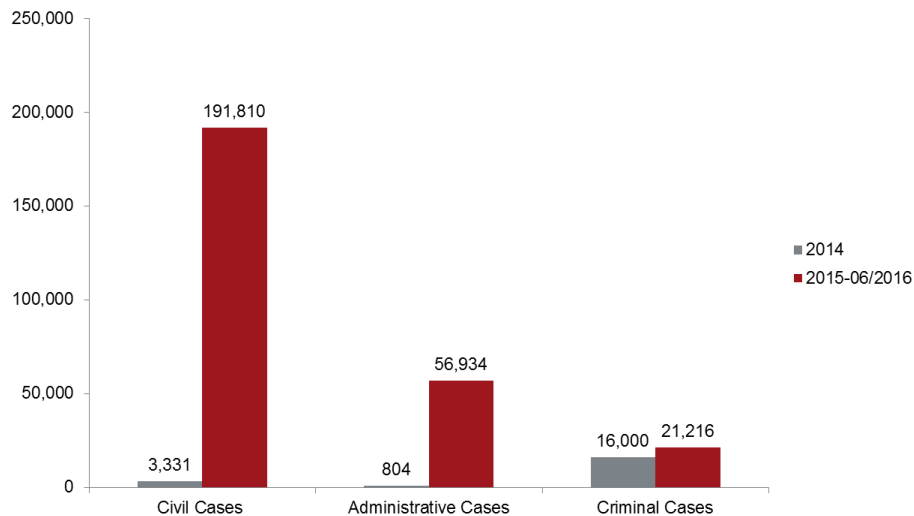
Enforcement on disclosure is also making progress. In 2016, MEP disqualified in total 115 Environmental Impact Assessment (EIA) agencies that did not meet qualification requirements. This will help improve the overall professional services of EIA agencies and the quality of EIA reports.

Also in 2016, the percentage of EIA reports that were fully made public rose to 77% from 71% in 2015. However, the status of government environment information disclosure is still far from the requirements of the new EPL, especially with regards to the list of key polluting companies and the usage of collected pollution discharge fees.

Courts and justice departments giving weight to the new EPL

Furthermore, the judicial system in China is providing a secure backbone to the implementation of the new EPL. By the end of 2016, there were 559 judicial organisations specialising in environmental and natural resources-related cases. From 2014 to 2016, the People's Court heard over 300,000 such cases, 2.5 times the total number during 2002-2011.

Environmental Cases in China (2014-2016)



Source: China Water Risk based on XXX

In 2016 alone, nationwide courts accepted 133,000 civil cases related to environmental and resources issues, more than the total number during the 10-year period of 2002-2011.

Corporate awareness & disclosure are on the rise

Moving away from the government – how has the new EPL impacted businesses? In terms of environmental information disclosure, state-monitored enterprises performed better than provincially and city-level monitored enterprises in both 2015 and 2016. Within state-monitored enterprises, we can see also slight improvement from 2015 to 2016. But for provincially and city-level monitored enterprises, their 2016 performance was worse than that in 2015.

During the two years of the new EPL's implementation, for all monitored enterprises there are two key findings:

- 1) The number of companies with air pollution violations saw the biggest decline and significant reductions in air pollutant emissions have followed
- 2) However, companies associated with wastewater (including both discharge and treatment plants), as well as those with waste gas emissions are still the major polluters with excessive discharge

Growing role for the public and social organisations

In addition to government bodies, judicial organisations and corporates, environmental NGOs, grass-roots community organisations, media and individual citizens also play important roles to ensure the implementation of the new EPL:

- 1) Environmental NGOs have become an important force in promoting environmental information disclosure. One example is the Beijing-based Institute of Public and Environmental Affairs (IPE). Its [BlueMap App](#), launched in 2014, has compelled over 600 companies to explain their environmental violations through social media accounts of local environmental authorities or the company itself
- 2) Environmental public litigation is an important way for environmental NGOs to play the 'watchdog' role. In 2016, 13 environmental NGOs filed in total 53 public litigations, 2 of which were administrative litigations and the rest were civil litigations
- 3) The number of reports made by citizens through the '12369' Hotline in 2016 was 160 times that in 2014, reaching 180,000. Similar reporting made through an official WeChat account also increased about five times from 13,719 in 2015 (the first year that this channel was made open)

What's more, in terms of environmental damage claims, the number of such civil cases has also been increasing: in 2016 it reached 1,707 more than the sum of that in 2014 and 2015.

How can the new EPL be implemented even better?

- Continue to strengthen legislation and improve the legal system related to the implementation of EPL
- Establish environmental information sharing mechanism among different government departments, strengthen the coordination and cooperation of environmental protection measures by different departments, and coordinate cross-region environmental enforcement activities
- Increase the input of environmental surveillance and law enforcement, and strengthen law enforcement cooperation amongst different departments
- Economic departments should adopt policy measures to vigorously eliminate backward production capacity and encourage the development of environmentally-friendly and sustainable industries
- Further strengthen government environmental information disclosure and improve corporate disclosure
- Strengthen capacity building of environmental NGOs and expand channels for such organisations to participate in environmental protection
- Further raise public awareness of environmental laws

All in all, the amended EPL has had a strong impact. Actions from governments of various levels, judicial organisations, corporates and the public are gaining in strength and scope. There is still much room for improvement with the EPL but the trends are positive and China's intent to clamp down on environmental pollution is clear.