

Environmental Law

By

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1. Introduction

The overall situation of the environment in the People's Republic of China (PRC) is a serious concern according to the State Environmental Protection Administration (SEPA) itself. In five of China's seven major river systems, over 70% of the water is "unsuitable for human contact". Only 20% of solid waste is properly treated. And, in almost two-thirds of 300 tested cities, air quality fails World Health Organization standards. The World Bank estimates that the costs of direct pollution damage correspond to 8–12% of China's annual gross domestic product (GDP). Public environmental spending has increased swiftly as the government manifests a more concerned attitude, in part due to pressure from domestic public opinion and international stakeholders' initiatives.¹

Against such a background, a constant legislative and regulatory movement should not come as a surprise. The PRC has adopted a comprehensive set of laws aiming at the protection of the environment and its main fields, some of which have been progressively improved over the 1980s and 1990s, so as to constitute a corpus of legislation not unlike those of the United States or the European Union.

As a general rule, it is thus in all respects advisable to conduct thorough environmental due diligence prior to undertaking any corporate or real estate acquisition or before entering into any joint-venture agreement with an existing business entity.²

1.1. International treaties

The PRC is a party to major international environment protection treaties such as the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the New York Framework Convention on Climate Change and the Kyoto Protocol, the Rio de Janeiro Convention on Biological Diversity and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal.

1.2. Constitution

The Chinese Constitution provides that "the State protects and improves the human environment and the ecological environment and prevents and controls pollution and other public hazards".³ With respect to nature, the State ensures the rational use of natural resources and protects rare animals and plants. The Constitution further prohibits the appropriation of natural resources or damage thereto by any organization or individual by whatever means.⁴

1.3. Major environmental protection laws

Chinese environmental legislation is substantially organized along the lines of the law of December 26, 1989 on environmental protection⁵ (the “Environment Protection Law”),⁶ which sets forth general rules that are reiterated and specified in the major laws dealing with the main aspects of the environment or in relation to specific environmental protection devices. Those major laws include:

- the law of May 15, 1996 on the prevention and control of water pollution (Water Pollution Law);⁷
- the law of October 30, 1995, amended on December 29, 2004, on the prevention of environmental pollution caused by solid waste (Law on Pollution by Waste);⁸
- the law of April 29, 2000 on the prevention and control of air pollution (Air Pollution Law);⁹
- the law of June 29, 2002 on cleaner production promotion (the Cleaner Production Promotion Law);¹⁰
- the law of October 28, 2002 on environmental impact assessment (the Environmental Impact Assessment Law).¹¹

Also worth noting are:

- the Regulations of October 9, 1994 on Nature Reserves ;
- the Measures of July 28, 1994 on the Certification Management of Products Bearing Environmental Labels ;
- the Regulations of May 23, 2001 on Administration of Agricultural Genetically Modified Organism Safety (the “GMO Regulations”).

Several of the legal sources governing foreign investments, such as the Provisions on Guiding Foreign Investment Direction,¹² and the Catalogue for the Guidance of Foreign Investment Industries,¹³ echo concerns for environmental protection.

While China has been emphasizing the “rule of law” since the economic reform led by Deng Xiao Ping in the 1970s, Chinese legislation is generally considered as vague and loosely drafted. It thus provides flexibility of interpretation to meet the policy goals of the Communist Party. Environmental legislation does not differ from other areas of the law in this respect, and a wide margin of appreciation is invested in the competent administrative and judicial authorities, which often leads to poor and inconsistent results.¹⁴

1.4. General principles of environmental policy

Chinese law does not decree general principles of prevention or precaution as do some other countries’ laws or certain international treaties.¹⁵ Nevertheless, the main principles do have some clear influences on Chinese legislation.

The prevention principle is implicitly acknowledged by the Constitution when it provides that “the State protects and improves the living environment and the ecological environment” and even more directly when it mandates the public authorities to “prevent and control pollution and other public hazards”.¹⁶ In addition, it unquestionably underlies environmental protection legislation. The word “prevention” appears in the titles of the Water Pollution Law, the Air Pollution Law and the Law on Pollution by Waste. Further, the first article of each one of these statutes indicates that their subject matter indeed includes the prevention of environmental pollution.

The precautionary principle has started to make some progress in Chinese environmental legislation. The requirement of precautionary measures is imposed in the event of several occurrences stipulated in the Regulations and Administration of the GMO Regulations. In practice, the adoption of precautionary measures is one of the conditions for obtaining a licence to produce genetically modified seeds, breeding livestock and poultry or aquatic fry and seeds.¹⁷ Such measures are also required for marketing licences¹⁸ and for authorizations to import into the PRC¹⁹ or to export from the PRC.²⁰

1.5. Integration of the requirements of environmental protection in other policies

The integration of the requirements of environmental protection in other policies has also made a *de facto* appearance in environmental protection legislation since the 1980s. The main above-mentioned laws indeed provide that “the plans for environmental protection formulated by the State must be incorporated into the national economic and social development plans”.²¹

More specifically, the requirements of environmental protection must be taken into account when considering foreign direct investment projects in the PRC. The Provisions on Guiding Foreign Investment Direction approved and promulgated by the State Council on February 21, 2002 expressly accomplish this with respect to all types of foreign investment projects, such as Chinese/foreign Equity Joint Ventures (EJVs), Contractual Joint Ventures (CVJs) as well as Wholly Foreign Owned Enterprises (WFOEs).²²

Foreign investment projects are classified into four categories according to their variable desirability for the country. As a result of such categorization, investment projects may be encouraged, permitted, restricted or prohibited.²³ Projects that involve new technology and equipment and are able to save energy and raw materials, to comprehensively use resources and renewable resources and to prevent environmental pollution are to be encouraged.²⁴ The Catalogue for the Guidance of Foreign Investment Industries encourages foreign investment in a number of particular activities with positive effects on environmental protection.²⁵

Investments that are unfavourable to energy saving or to the biological environment are restricted²⁶ while those that cause environmental pollution, destroy natural resources or impair human health are prohibited.²⁷

Under the revised Catalogue for the Guidance of Foreign Investment Industries issued jointly on October 31, 2007 by the National Development and Reform Commission and the Ministry of Commerce, that became effective on December 1, 2007 foreign investments in clean energy production, renewable energy research and development, environmental protection, development and production of green foods are encouraged and those in high energy-consuming and pollution-generating are restricted or prohibited.

1.6. Implementing regulations and application

Environmental legislation generally refers to the “competent department of environmental protection administration under the State Council” for regulatory and implementation purposes. As a matter of fact, a significant part of the regulatory and implementation authority lies in SEPA, a simple administrative department, as opposed to a full ministry, that was created in 1982 as the National Environmental Protection Agency (“NEPA”) before being renamed SEPA in 1998.²⁸ SEPA has authority to appoint the heads of the local Environment Protection Bureaus. It is generally considered that the SEPA has insufficient resources.²⁹

While the PRC is a unitary State, environmental protection legislation generally authorizes the people’s governments of provinces, autonomous regions and municipalities to adopt “more stringent” measures. For instance, they are expressly empowered to adopt their own standards for environmental quality of water,³⁰ of air³¹ and, more generally, of the environment³² for “items” with respect to which there are no national standards for environmental quality. Even more significantly, they may adopt their own standards for the discharge of pollutants into water resources,³³ into the air³⁴ and into the environment in general,³⁵ not only with respect to those items for which there are no national standards for the discharge of pollutants, but also to make them “more stringent than the national standards”. In all such cases, local authorities must report to the SEPA.³⁶

As to the implementation of environmental laws and regulations, local authorities are involved in much the same manner as in many other countries. Environmental protection legislation thus generally provides that administrative departments in charge of environmental protection “at various levels” exercise “unified supervision and management” of the relevant polluting activities.³⁷ Central authorities perform such tasks at the national level while the second-level and lower authorities intervene within their respective jurisdictions.³⁸

2. Water pollution

The Water Pollution Law was adopted on May 11, 1984 and amended on May 15, 1996. In addition to the prevention and control of water pollution, its stated purposes include the protection and improvement of the environment in general, the safeguarding of human health, the effective use of water resources, as well as “facilitating the development of socialist modernization”.³⁹ Although such purposes do encompass the efficient use of water resources, one should note that there also exists a separate Water Law of August 29, 2002 (which itself replaces a prior law of 1988), the specific purpose of which is the “fractional development and utilization of water resources and protection of such resources, the prevention and control of water disasters and the pursuit of comprehensive benefits from water resources in order to meet the needs of national economy and social development”.⁴⁰

The Water Pollution Law covers interior water bodies in general, i.e. rivers, lakes, canals, irrigation channels, reservoirs, other surface water bodies and groundwater.⁴¹ However, it does not apply to marine pollution, which is the subject matter of a separate law.⁴²

2.1. River basins and protected areas

The Water Pollution Law provides that major river basins are to be designated. The prevention and control of water pollution must be “planned in a unified way on the basis of river basins or regions”. National authorities are to draw up such plans in consultation with other competent authorities, including at local level. Where a river basin covers several provinces or counties, their authorities are also consulted.⁴³ A specific authority is designated to monitor water quality and to report to the State Council.⁴⁴

Local authorities may further “delineate protection zones” covering water bodies “at scenic or historic sites, important fishery water bodies and other water bodies of special economic or cultural value”.⁴⁵

2.2. Protection plans and measures

Planning is an important instrument in organizing water protection. National and local authorities must adopt “integrated plans for maintaining proper rivers flows, proper water levels of lakes and reservoirs and proper groundwater tables, in order to sustain the natural purification capacity of water bodies”.⁴⁶

Likewise, prevention and control of water pollution must be planned in a unified way at river basin level. On the basis of such river basin plans, local authorities must adopt prevention and reduction plans on their own and incorporate them into their respective general mid-term, long-term and annual plans for economic and social development.⁴⁷

Yet another series of plans has a more direct impact on business: the Water Pollution Law further provides that there shall be “rational plans for the placement of industry”.⁴⁸

Appropriate measures must be taken to ensure that water quality complies with applicable standards in view of the various water bodies’ designated uses. This requirement appears to be limited to water bodies at scenic or historic sites, important fishery water bodies and other water bodies of “special economic or cultural value”.⁴⁹

2.3. Measures concerning business activities

Legal obligations imposed on enterprises and institutions for the sake of water protection are significant.

Facilities that discharge pollutants directly or indirectly into a water body must register with the local authorities in charge of environmental protection. They must inform such authorities of the categories, quantities and concentration of pollutants discharged under their normal operating conditions as well as of all relevant technical information. Such authorities must also be informed of any substantial change in these facilities' operations having an impact on the categories, quantities and concentrations of water pollutants discharged. Furthermore, enterprises and institutions must maintain their treatment facilities in normal working condition and they must obtain approval before dismantling them or suspending their operations.⁵⁰

While the Water Pollution Law provides for an environmental impact assessment of new construction projects, extensions or reconstruction projects involving discharge of pollutants into water bodies, its provisions in this respect are to a large extent obsolete in view of the more recent Environmental Impact Assessment Law discussed below. The Water Pollution Law provides that such projects must include facilities for the prevention and control of water pollution. In addition, discharge of pollutants within water conservation projects must be approved by competent authorities.⁵¹

Except where appropriate protection measures are taken, no business can be created if it might cause "severe" water pollution. Especially targeted are new small-size enterprises engaging in the production of chemical paper pulp, printing and dyeing, dyestuffs, hide processing, electroplating, oil refining or agricultural chemicals.⁵²

Facilities that cause water pollution must be modified and/or renovated so as to adopt "comprehensive prevention and control measures" that reduce the frequency of water use and so reduce the quantity of wastewater and pollutants discharged.⁵³ They are required to adopt "clean production techniques" that are efficient in the use of raw materials and that discharge small quantities of pollutants. They should "strengthen their management" to reduce the water pollutants generated.⁵⁴

Finally, the authorities must implement a system intended to eliminate "backward" production techniques and equipment which cause "severe" water pollution. Those techniques and equipment are to be listed. Adoption of such techniques is to be prohibited in time. The manufacturing, sale, importation and use of such equipment will also ultimately be prohibited and all activities pertaining thereto will have to be stopped.⁵⁵

2.4. Discharge standards and fees

The Water Pollution Law provides for the adoption of national water environment quality standards. In their absence, local authorities may adopt local water quality standards⁵⁶ in accordance with the uses and functions of water bodies and river basins and with local economic and technological conditions.⁵⁷

National pollutant discharge standards are also to be established in accordance with the relevant national water environment quality standards. Where no such national pollutant discharge standards have been adopted, local authorities may adopt their own rules; even where there exists such a national standard, local authorities may adopt “more stringent” local pollutant discharge requirements. Facilities that “discharge pollutants into any water body” must comply with national as well as local pollutant discharge standards.⁵⁸

In cases where applicable water pollutant discharge standards have been respected but water environment quality standards are nevertheless not attained, local authorities “may establish systems for controlling the total quantities of major pollutant discharges” in accordance with applicable State Council regulations.⁵⁹

The Water Pollution Law provides for discharge fees to be paid by enterprises and institutions discharging pollutants into water bodies. Additional fees are due by facilities that discharge pollutants in excess of national or local pollutant standards. Payment of fees for excessive discharges does not free operators from their responsibility and they must implement a programme to eliminate and control their pollution and report it to the competent authorities.⁶⁰ The rates of such fees vary depending on the type of pollution.⁶¹

2.5. Urban wastewater treatment

Urban wastewater must be “disposed of in a centralized manner” using municipal drainage systems and urban sewage treatment facilities.⁶²

Pollutant dischargers are required to pay a fee for sewage treatment and such fees must be used for the construction and operation of urban sewage treatment facilities.⁶³

2.6. Domestic and drinking water

Special protection zones may be instituted for surface sources of domestic and drinking water.

The highest level of protection is provided to “first class protected zones” comprising water bodies and land in the vicinity of intakes. Discharge of waste is prohibited in such zones, as are tourism, bathing and other activities that might cause pollution. New construction projects as well as projects for the extension of existing construction are also prohibited within such zones unless they are of no consequence for water supply or the protection of water sources. Authorities may order the dismantling or improvement of existing facilities if they discharge wastewater into these protected zones.

Surface water bodies and land not comprised within “first class” protection zones may still be designated as protected zones.

As to domestic and drinking groundwater zones, the law merely requires that their protection be “strengthened”.⁶⁴

Measures may be ordered or taken in cases of emergencies, such as “severe” pollution of domestic and drinking water sources. In such cases, concerned installations may be ordered to reduce or stop the discharge of pollutants.⁶⁵

2.7. Surface water

Sewage discharges may not be set up in certain areas. Such areas obviously include the above-mentioned “first class” protected zones for domestic and drinking water sources, as well as water bodies at scenic or historic sites, important fishery water bodies and other water bodies of special economic or cultural value. When such discharges are nevertheless set up in the vicinity of protected zones, they must be protected against pollution.⁶⁶

Discharge of certain substances is prohibited in all types of water bodies. Such substances include oil, acid or alkaline solutions, deadly toxic liquid waste,⁶⁷ heavy metals and materials containing the same,⁶⁸ industrial waste residues, urban refuse or other waste.⁶⁹

2.8. Ground water protection

Discharge of wastewater including pollutants or pathogens and dumping of other waste is prohibited into groundwater, wells, etc.⁷⁰ Ditches, pits or pounds cannot be used without safeguards against seepage.⁷¹

Construction of underground engineering facilities, mining, prospecting and underground facilities must involve measures to prevent groundwater pollution.⁷²

2.9. Protection against damaging agricultural practices

Industrial wastewater and urban sewage may only be discharged into agricultural irrigation channels if “the water quality at the nearest irrigation intake downstream conforms to the agricultural irrigation water quality standards”.⁷³

Pesticides are subject to regulation; expired and ineffective pesticides are prohibited.⁷⁴

In addition, public authorities in charge of agriculture must take measures to “instruct” operators to use chemical fertilizers and pesticides in a scientific and rational manner and to limit their excessive use.⁷⁵

3. Air Pollution

The Air Pollution Law replaced that initially adopted on September 5, 1987 as revised on August 29, 1995. In addition to the prevention and control of air pollution, it serves other purposes such as the protection and improvement of the living and ecological environment in order to safeguard human health and promote a sustainable level of economic and social development.⁷⁶

3.1. General ambient air protection

The Air Pollution Law provides for the adoption of economic and technological policies and measures beneficial for the prevention and control of air pollution. Public authorities must encourage and support scientific and technological research, advanced pollution prevention technologies and the development and implementation of clean sources, such as solar, wind and hydraulic energies.⁷⁷ In addition, a monitoring system, a monitoring network and a uniform monitoring methodology must be set up.⁷⁸

National ambient air quality standards are to be adopted. In their absence, local authorities may adopt such standards.⁷⁹

National air pollutant emission standards are to be established for the various polluting substances with a view to achieving the national ambient air quality standards. However, local public authorities may adopt local air pollutant emission standards both in the absence of national standards for a given item and so as to set “more stringent” standards for covered items. These emission standards are mandatory for the concerned facilities irrespective of whether they are national or local.⁸⁰

While the concentration of air pollutants should not exceed the limits set by national and local emission standards, in the event that it were to do so, the administration would apply a “specific approach” based on the “total amount control” of major air pollutant emissions for the concerned area. Enterprises and institutions are to be inspected so as to determine their total emissions, to issue corresponding permits and to monitor compliance therewith.⁸¹

3.2. Business activities

Legal obligations imposed on businesses for the purpose of air protection are also significant.

Facilities that release pollutants into the air must register with local environmental protection authorities. They render detailed accounts to authorities of the categories, quantities and concentrations of pollutants released during the normal course of their operations as well as concerning their pollution prevention and control equipment. In addition, they must maintain their equipment for treating air polluting substances in good working order and obtain authorization before dismantling or shutting it down.⁸²

New construction, extension and reconstruction projects that may entail the release of polluting substances into the air are subject to prior environmental impact assessments. The Air Pollution Law in this respect is significantly reinforced by the Law of October 28, 2002 on Environmental Impact Assessment. Concerned projects must involve pollution prevention and control.⁸³

The construction of industrial production facilities causing environmental pollution is prohibited in protected areas such as scenic or historical sites and natural reserves. In those areas, all other facilities must comply with applicable emission standards, including existing facilities after a transitional period.⁸⁴

Air polluting facilities must adopt production processes that are highly efficient in terms of energy consumption and emission of pollutants. The authorities must implement a system aiming at the elimination of "production techniques and equipment causing severe pollution to the environment". Such techniques and equipment are listed and the adoption of such techniques is prohibited after a transition period. The manufacture, sale, importation and use of listed equipment will also ultimately be prohibited.⁸⁵

3.3. Key cities

Key cities for air pollution prevention and control are to be designated in consideration of urban planning, of environmental protection targets and of the state of urban air quality. Such "key cities" include the municipalities directly under the central government, capital cities of provinces, open coastal cities and "key tourist cities".

Key cities that have not yet achieved the national air ambient quality standards must do so within a given period of time. To this end, local authorities must implement appropriate planning and measures that may, subject to review by central authorities, be more stringent than the applicable national standards.⁸⁶

3.4. Motor vehicles and vessels

Motor vehicles and vessels must comply with regulatory emissions standards.⁸⁷ The authorities encourage the manufacture and use of those using clean energy sources.⁸⁸ Maintenance and repair services are required to meet applicable emission standards⁸⁹ and annual inspections must be carried out.⁹⁰

3.5. Coal combustion

China encourages the washing of coal to reduce its sulphur and ash contents. Coal washing facilities are to be built⁹¹ and economic and technological policies and measures beneficial to the clean utilization of coal are to be implemented.⁹²

Urban planning must take account of the need to develop urban heating systems.⁹³ Newly constructed or expanded thermal power plants and other facilities releasing sulphur dioxide beyond applicable standards must install appropriate equipment.

3.6. Waste-gas, dust and malodorous substances

The Air Pollution Law includes several provisions prohibiting or limiting releases of waste-gas and dust, especially when they contain toxic substances,⁹⁴ flammable gases that must be recycled,⁹⁵ sulphides,⁹⁶ gas and aerosol containing radioactive substances,⁹⁷ malodorous gas⁹⁸ and ozone-depleting substances and their substitutes.⁹⁹

In addition, public authorities must implement management systems targeting the “greening of cities” and they must improve construction management so as to limit the emission of dust.¹⁰⁰

3.7. Acid rain

As early as 1992, and without going as far as to implement a tradable emission permits system like in the United States, China has instituted a pollution fee on sulphur dioxide from industrial coal consumption. That fee is computed on the basis of the total emissions of sulphur dioxide or on that of the consumption of coal. Subject to a given national cap, local authorities may set the level of that fee.¹⁰¹

4. Pollution caused by waste

The Law on Pollution by Waste aims not only at preventing pollution, but also at ensuring public health and promoting “the sustainable development of economic society”.¹⁰²

4.1. General rules on waste

The Law on Pollution by Waste defines waste as solid, semi-solid and gaseous substances “that can be put in containers and that have lost their original usage value or are abandoned despite their remaining usage value during production, activities, daily life or other activities”.¹⁰³ This definition is closer to the European Union law concept, which does not require a pollution potential to characterize waste, than to that of the United States Resource Conservation and Recovery Act (RCRA) that applies only to dangerous waste.

Chinese law adopts the traditional principles of waste management. Production of waste should be discouraged, the valuable elements of waste should be exploited and only the residue should be eliminated and such elimination should be carried out in a proper manner.¹⁰⁴ In general, the polluter should be “responsible for preventing environmental pollution” caused by waste. As for waste associated with products, their manufacturers, importers, distributors and consumers are made “responsible”, without further precision. In any event, these liabilities remain to be specified by law.¹⁰⁵

Public authorities implement environmental protection planning in compliance with those principles as well as economic and technological policies and measures beneficial for the prevention of environmental pollution.¹⁰⁶ They encourage and support scientific research and technological developments for the prevention of pollution caused by waste, advanced prevention technologies and the propagation of scientific knowledge for the prevention of environmental pollution by waste.¹⁰⁷

Pollution prevention is further pursued through a monitoring system, unified monitoring standards and a monitoring network.¹⁰⁸

Waste producers – legal persons as well as individuals – are required to take measures to prevent or reduce the pollution they create.¹⁰⁹ Waste operators that collect, store, transport, utilize or dispose thereof must take measures against its spreading, loss and leakage.¹¹⁰ The management of treatment and disposal facilities must be reinforced.¹¹¹ Such facilities must not be built in protected areas.¹¹² The transfer of waste to other provinces, autonomous regions or municipalities is subject to prior approval,¹¹³ as is the importation of waste for the purpose of recycling. The importation of waste for elimination is prohibited.¹¹⁴

4.2. Industrial waste

The Law on Pollution by Waste defines industrial waste as “solid waste produced during industrial activities”,¹¹⁵ a rather open-ended definition. It provides for planning to prevent environmental pollution by industrial waste¹¹⁶ as well as assessments of pollution caused by waste, the development of policies to encourage preventive technologies and the diffusion of advanced production technologies.¹¹⁷

Production technologies and equipment that are deemed “backward” and responsible for “severe” production-related waste are to be listed in a “catalogue” and ultimately suppressed.¹¹⁸

Facilities producing industrial waste must implement a prevention management system.¹¹⁹ Enterprises and institutions must “rationally choose and utilize raw materials, energy and other resources, apply advanced production technologies and equipment and reduce the amount and hazardousness of industrial solid waste”.¹²⁰ They are required to report to competent authorities the quantities of their wastes, their intended uses, and storage and disposal methods. Producers must at their expense build facilities and sites for waste storage or disposal or take neutralization measures in compliance with applicable standards.¹²¹

4.3. Domestic waste

Residential waste¹²² as well as assimilated waste¹²³ must be removed promptly, disposed of at designated places,¹²⁴ and reused or neutralized in a reasonable manner.¹²⁵ Waste separation for collection and treatment or disposal is to be progressively implemented.

It should be noted that public authorities are supposed to promote the development of “clean” energy sources and agricultural products so as to limit domestic and assimilated waste and to implement exhaustive recycling planning. They are responsible for providing treatment and disposal facilities¹²⁶ in compliance with applicable standards, which cannot be closed or dismantled without prior authorization and implementation of appropriate prevention measures.¹²⁷

Construction waste is deemed to constitute domestic waste. Construction companies must adopt waste prevention measures, and promptly remove and dispose of waste material.¹²⁸

4.4. Hazardous waste

Under the Law on Pollution by Waste, hazardous wastes are those appearing on a national list of dangerous wastes or that are defined as such by regulation.¹²⁹ For each category of hazardous waste, the regulations must prescribe specific standards, methods and identification marks to be used on packaging and to be posted at concerned facilities and sites.¹³⁰

Collection and storage of hazardous waste must be organized to segregate them according to their properties. In no event may hazardous wastes be mixed with other wastes.¹³¹

Producers of hazardous waste must give notice to public authorities of such waste production and they must ensure that it is disposed of in compliance with applicable regulations under such authorities’ supervision, failing which, such authorities may take other appropriate measures at the producer’s expense.¹³²

Local public authorities must organize the construction of centralized disposal facilities for hazardous waste.¹³³ All operations pertaining to collection and storage of hazardous wastes and facilities used for such purposes are subject to prior authorization.¹³⁴ Burying of hazardous waste in violation of applicable regulations gives rise to payment of waste discharge fees, the proceeds of which are to be used for the prevention and control of pollution by waste.¹³⁵

Transportation of hazardous waste is subject to prior authorization¹³⁶ and pollution prevention measures must be taken.¹³⁷

The operators of all facilities involving hazardous wastes, their production, collection, transportation, storage or treatment, must adopt emergency plans as well as accident prevention measures. They must register with the local authorities that then oversee their hazardous waste-related operations.¹³⁸ In the case of “severe” pollution due to accidents or other occurrences involving hazardous waste, operators must immediately take steps for the elimination or control of the pollution, and they must inform neighbouring businesses and individuals as well as the competent public authorities.¹³⁹

4.5. Packaging waste

The Law on Pollution by Waste deals with packaging waste at two stages: design and after-use waste treatment.

Products’ packaging must be designed and manufactured in compliance with applicable rules aiming at packaging waste reduction and efficient treatment.¹⁴⁰ As noted above, the Law provides that, in the case of waste caused by products, it is their manufacturers, importers, distributors and consumers that should be “responsible for preventing environmental pollution”.¹⁴¹

In addition, manufacturers, importers and distributors of certain types of used packaging may have to provide for its collection and recycling in compliance with applicable regulations.¹⁴²

5. Prevention of major accidents

While there is no specific and exhaustive legal system for the prevention of major accidents as such in China, certain provisions of the above-discussed laws may incidentally serve that purpose and, furthermore, they are capable of supporting the development of such a system.

The Environmental Protection Law provides for measures to be taken by operators of facilities that “as a result of an accident or any other exigency, have caused or threaten to cause a pollution accident”. Such facilities must promptly take measures to prevent and limit pollution hazards, they must make the situation known to operators of other facilities and to inhabitants likely to be endangered by such hazards, and they must report the matter to the competent authorities. The authorities are then supposed to investigate the accident and make appropriate decisions that the operator is bound to accept.¹⁴³

These rules are to be considered in view of the more general duty imposed on facilities that cause environmental pollution and other public hazards to incorporate the requirements of environmental protection into their plans. They must further “establish a responsibility system for environmental protection” and adopt “effective prevention and control measures”¹⁴⁴ with respect to pollution and risks for the environment caused in the course of their production, construction or other activities.¹⁴⁵

In addition, competent authorities have the power to carry out on-site inspections of all polluting facilities, and thus of those that may possibly cause major accidents.

As to hazardous waste treatment facilities, they are specifically required to establish prevention measures and emergency plans, which they must notify to the competent authorities for approval.¹⁴⁶

6. Instruments applicable to all areas of the environment

6.1. Public participation

Public information sometimes appears in Chinese legislation as an environmental protection instrument. For instance, the Cleaner Production Promotion Law provides for publication of lists of businesses in the media, both as a deterrent to damaging behaviour and as an incentive to environmental friendly actions. "In order to provide the public with a basis for policing enterprise implementation of cleaner production", a list of businesses releasing pollutants in excess of applicable standards or total volume controls must be published.¹⁴⁷ Conversely, businesses that comply with applicable national or local pollutant emission standards and elect to enter into voluntary agreements with the competent authorities for further resource conservation and pollution control are publicized in the local media in praise of their conservation and control achievements.¹⁴⁸

Access to justice is considered by Chinese law as a rather unusual type of individual right in environmental matters. Environmental legislation provides as a general rule that "all facilities and individuals ... shall have the right to report on all ... charges against facilities or individuals that damage the environment".¹⁴⁹ As a corollary, the same legal persons and individuals are bound to a duty of protecting the environment.¹⁵⁰

6.2. Environmental impact assessment

Environmental impact assessments are required in certain cases by the Water Pollution Law, by the Environmental Protection Law and by the Air Pollution Law. In addition, a statute specifically dedicated to that essential legal device has been adopted.

The Law of October 28, 2002 on Environmental Impact Assessment (the "Environmental Impact Assessment Law") sets down the rules applicable in all areas. Its purposes include sustainable development as well as the promotion of synchronized economic, social and environmental development.¹⁵¹ To this end, assessments must be objective, transparent and fair and they must take into consideration all possible environmental and ecological impacts so as to supply a scientific basis for the policy-making process.¹⁵² This is to be initially facilitated by a basic information-sharing system while a comprehensive database and an assessment index system are developed.¹⁵³

It should be noted that, like in the United States and more recently in the European Union, both planning and construction projects are subject to environmental impact assessment.

Regarding planning, environmental impact assessment is required with respect to public authorities' plans relating to land use and construction, as well as to the development of "regions, valleys and sea areas". Reports or explanations pertaining to environmental impact, analysis, forecasts and assessments are to be submitted to the competent authorities for approval.¹⁵⁴

However, the assessment process is more lightly regulated with respect to so-called “specialized planning”. Specialized planning is that which relates to industry, agriculture, livestock, forestry, energy, hydraulic power, transportation, urban development, tourism and natural resources development.¹⁵⁵ For all such specialized planning, a full environmental impact report must be provided including analyses, forecasts of possible environmental impacts, policies and measures to prevent or reduce any adverse environmental impacts and, in conclusion, an overall assessment of such impacts.¹⁵⁶ Unless applicable regulations provide for confidentiality, in the event of a possible environmental impact on a public interest, the planning authority must hold hearings or collect opinions from other public authorities, experts and the public, it must consider such opinions and state the reasons for accepting or rejecting them.¹⁵⁷ An examination panel includes representatives of other public authorities as well as experts selected at random¹⁵⁸ and its conclusions constitute “an important basis” for examination and approval of a draft plan and for decision-making.¹⁵⁹

Regarding construction projects, there are three levels of investigation corresponding to as many different levels of likely environmental impacts. In cases of “possible significant environmental impacts”, “comprehensive assessments” must be carried out and reported in writing. Where the expected environmental impact is “slight”, an environmental impact statement limited to the specific impacts must be filed with the competent authority. Lastly, if the environmental impact is expected to be “minimal”, a simple environmental impact form is to be registered.¹⁶⁰

A full environmental impact report must include an overview of the construction project, a description of the current environmental situation of the site, an analysis of possible impacts, a description of environmental protection measures to be taken with technical and economic analyses, a cost-benefit analysis of the environmental impact, recommendations for monitoring and, in conclusion, an overall assessment.¹⁶¹ However, where an environmental impact assessment has been conducted for a public planning authority within the jurisdiction where the construction project is carried out, the assessment process may be simplified.¹⁶² The assessment is conducted by the entity responsible for the construction project¹⁶³ with the assistance of certified organizations.¹⁶⁴ Unless applicable regulations provide for confidentiality, public hearings must be held so as to gather opinions from competent authorities and experts as well as from the public, and reasons for acceptance or rejection of such opinions must be given.¹⁶⁵

The environmental impact assessment documents must be submitted to examination and approval authorities, which must issue their approval or rejection decisions within 60 days based on environmental impact reports, within 30 days for declarations of specific impact assessments and within 15 days where a mere registration form was filed.¹⁶⁶ A follow-up should be provided and a new filing is required in the case of a significant change in the nature, location or technology to be implemented or if the construction works start more than five years after the date of approval.¹⁶⁷ Likewise, a follow-up assessment must be carried out in the event of an occurrence that is not in accordance with the initial assessment documents.¹⁶⁸ In all cases, competent authorities conduct a follow-up inspection upon commencement of construction or operation of the project.¹⁶⁹

6.3. Pollution prevention and control

Chapter IV of the Environmental Protection Law pertaining to prevention and control of environmental pollution and other public hazards¹⁷⁰ applies to the widest range of pollutions such as waste-gas, wastewater, waste residues, dust, malodorous gases, radioactive substances, noise, vibration and electromagnetic radiations. Its provisions cover, in an equally non-limitative manner, activities of production, construction or “other activities”.¹⁷¹

Facilities discharging pollutants must report and register with the competent authorities.¹⁷² Pollution prevention and control equipment must be designed, built and commissioned together with the principal part of the project and comply with applicable standards.¹⁷³ The issue of a construction or operation permit is subject to prior inspection of the facilities and especially of those aiming at pollution prevention and control. Those specific facilities cannot be dismantled or their operations stopped without prior authorization.¹⁷⁴ Obviously, the results of the environmental impact assessment that was conducted should be taken into account and, indeed, it is the same examination and approval authority that must authorize the construction and operation of such facilities.¹⁷⁵

Other requirements applicable to such facilities are based on the implementation of an environmental protection management system and of effective prevention and control measures.¹⁷⁶ New facilities, as well as existing facilities, must use equipment and technologies with a “high rate of utilization of resources and a low rate of discharge of pollutants” as well as “use economical and rational technology for the comprehensive utilization of waste materials and the treatment of pollutants”.¹⁷⁷

Monitoring of concerned facilities is also required. It takes the form of on-site inspections of facilities that release pollutants. Their operators must supply relevant information to inspecting authorities and “truthfully report the situation”. Inspection authorities are required to keep business secrets confidential.¹⁷⁸

6.4. Cleaner production promotion

The Cleaner Production Promotion Law sets forth the bases for many legal and regulatory devices to be implemented for the purpose of more efficient resource use and pollution control¹⁷⁹ through the “continuous” application of measures¹⁸⁰ that must be taken by businesses involved in manufacturing as well as service activities in China.¹⁸¹ While the burden is on business entities and individuals to “organize and implement systems for cleaner production”, the Law turns to many types and levels of public authorities to implement the cleaner production promotion policy through national economic and social development plans and programmes. The Law refers to a wide range of policy tools, such as the encouragement of research and development, dissemination of information and technologies, tax incentives, and industrial zoning.¹⁸² Some examples of the actions to be taken by public authorities include the establishment of information and consulting systems, the publication of technology, process, equipment and product catalogues and manuals and the organization of educational programs.¹⁸³

In public procurement, priority must be given to “products conducive to energy and water conservation, water re-use, environmental protection and resource conservation”.¹⁸⁴ As already noted, a list of heavily polluting businesses may be published in local media.¹⁸⁵

Technological choices made by businesses must favour cleaner production and technological upgrades during construction renovation and expansion of projects.¹⁸⁶ Likewise, the designs of products and of their packaging must give priority to less environmentally damaging options.¹⁸⁷ Farmers must use fertilizers and pesticides with the same concern,¹⁸⁸ as must mining exploration and exploitation enterprises.¹⁸⁹

The Cleaner Production Promotion Law also sets forth the bases for environmental management and auditing development in China. Cleaner production audits must be conducted as needed by all manufacturers and service providers. Those businesses that exceed national or local pollutants emissions standards or total volume targets must in all cases perform such audits. Businesses using toxic and hazardous materials or discharging toxic or hazardous substances are not only required to conduct such audits periodically, but also to report their results to public authorities competent in environmental protection and those responsible for economy and trade.¹⁹⁰ Cleaner production audits thus differ quite significantly from general environmental audits, such as they are widely known in international business practice and such as they are incorporated in the Environmental Management and Audit System implemented in the European Union, which are generally conducted on a voluntary basis.¹⁹¹

7. Economic instruments

7.1. Moral suasion

Environmental education and other forms of enticements to behave in a positive manner can be found throughout Chinese environmental protection legislation. For instance, legal persons and individuals with remarkable achievements in the protection and improvement of the environment may receive awards.¹⁹²

7.2. Taxation

Discharge fees are stipulated in a general manner in the Environmental Protection Law,¹⁹³ as well as, more specifically, in the Water Pollution Law¹⁹⁴ and the Air Pollution Law.¹⁹⁵

The Polluter Pays Principle also appears in the Law on Pollution by Waste.¹⁹⁶

This taxation system relies on a general duty of all businesses and institutions that release pollutants into the environment to register with the competent authorities and to inform them of their pollutant emissions.¹⁹⁷ The proceeds of such taxation must be devoted only to pollution prevention and control. Such fees do not free the polluter from its duty to eliminate or limit the pollution.

The fees' rates are stipulated in schedules and vary according to the type of pollutant.¹⁹⁸

7.3. Labelling

Environmental labelling was implemented by SEPA as early as 1994. The system relies on a certification process with respect to compliance of concerned products to applicable environmental protection standards and requirements. Upon approval, a certificate is issued and the label can be affixed on the product.¹⁹⁹ The system is voluntary and open to all businesses active on the Chinese mainland, including CJVs, EJVs and WFOEs.²⁰⁰

Any interested party may suggest to the China Certification Committee of Products Bearing Environmental Labels the implementation of the system for a given type of product. The Committee's secretariat must investigate such requests and submit a feasibility report to the Committee that, in turn, decides whether to adopt the corresponding product category.²⁰¹ Manufacturers may then apply for certification of their products; in so doing, they must provide samples in quantities sufficient to verify their conformity.²⁰²

Successful manufacturers enter into contracts for the use of the environmental label and pay initial fees as well as annual fees for the three-year renewable term of the certificates.²⁰³ They may then affix the labels on their products, their packaging and operating instructions as well as use it in their advertising.²⁰⁴

An inspection commission makes on-site visits to check the manufacturing process and takes samples that are sealed and forwarded to a designated testing laboratory.²⁰⁵

Follow-up testing is conducted on samples that may be obtained from consumers, distributors or manufacturers.²⁰⁶

7.4. Audits

As mentioned above, cleaner production audits resort to the general technique of environmental auditing but differ from international practice in so far as they are mandatory in given circumstances.

The Cleaner Production Promotion Law also institutes a system of voluntary environmental management certification. Under this system, businesses may submit applications to certification organizations to qualify under their system standards “as having contributed to cleaner production”. However, the Law refers to implementation regulations that do not appear to have been adopted yet.²⁰⁷

7.5. Liabilities

Liabilities for wrongdoing are attributed throughout Chinese environmental protection legislation.²⁰⁸ The scope of such liabilities is rather wide since they concern all businesses and institutions as well as all types of facilities.

As in the United States and in the European Union, preventative measures must be taken by operators of facilities “that are likely to cause severe pollution accidents”.²⁰⁹ In cases of accidents or other occurrences causing environmental damage or threatening to do so, emergency steps must be taken to prevent and control the pollution hazards, to inform facility operators and those inhabitants likely to be endangered to notify the competent authorities, which must investigate the incident and adopt the appropriate measures.²¹⁰

A facility that has caused environmental damage has the obligation to “eliminate it”.²¹¹ If such environmental damage is “severe”, it must control and eliminate the pollution within a certain period of time.²¹²

Finally, victims, whether legal persons or individuals, that sustain “direct losses” related to environmental pollution, must be compensated by the responsible parties upon the parties’ request. Competent authorities may set the amount of damages. Also, the parties may bring lawsuits before the people’s courts.²¹³ In certain cases at least, there is a three-year statute of limitation starting from the time when the victim becomes aware of, or should have become aware of, the pollution-induced losses.²¹⁴

However, the facilities operator may be exonerated in the case of “irresistible natural disasters that cannot be averted even after the prompt adoption of reasonable measures”.²¹⁵ The Law on Pollution by Waste does not provide for such an exemption specifically, but refers to “exonerating circumstances stipulated by law”, thus apparently referring to general rules of law.²¹⁶ The Water Pollution Law further exempts operators for damages due to acts of third parties or those of the victim.²¹⁷ While other environmental protection laws do not contain such a principle, it is likely that the courts would apply it to analogous cases brought before them.

Notes

- ¹ A Great Wall of Waste, *The Economist*, August 19, 2004.
- ² Bryce Dailly, Understanding Environmental Due Diligence in China, in *2004 Business Guide to Shanghai and the Yangtze River Delta*, China Briefing ed., 2004.
- ³ Article 26 of the Chinese Constitution of December 4, 1982.
- ⁴ Article 9 of the Constitution.
- ⁵ The Law was adopted by the 11th Session of the Standing Committee of the 7th NPC. It entered into effect on the date of its promulgation.
- ⁶ For a short commentary, see Jacques Deprimoz, En Chine, l'environnement entre dans le droit positif, *Revue Juridique de l'Environnement*, 4/1999, p. 557.
- ⁷ The Law was adopted at the Fifth Session of the Standing Committee of the Sixth NPC and promulgated on May 11, 1984, and it entered into effect as of November 1, 1984.
- ⁸ The Law was adopted by the 16th Session of the Standing Committee of the Eighth NPC on May 15, 1996 and it was promulgated; it was amended by the 15th Session of the Standing Committee of the Eighth NPC on August 29, 1995 and again by the April 29, 2000 by the Standing Committee of the NPC.
- ⁹ The Law was adopted by the 22nd Session of the Standing Committee of the Sixth NPC on September 5, 1987 and it was promulgated; it was amended by the 15th Session of the Standing Committee of the Eighth NPC on August 29, 1995 and again on April 29, 2000 by the Standing Committee of the NPC.
- ¹⁰ The Law was adopted at the 28th Session of the Standing Committee of the Ninth NPC on June 29, 2002, it was promulgated and entered into effect as of January 1, 2003.
- ¹¹ The Law was adopted at the 30th Session of the Standing Committee of the Ninth NPC on October 28, 2002, and entered into effect as of September 1, 2003.
- ¹² The text was approved and promulgated by the State Council on February 21, 2002
- ¹³ The Catalogue and its Attachment were amended on November 30, 2004 with effect on January 1, 2005 by Order of the State Development and Reform Commission and the MOFCOM. The Catalogue as promulgated by the former State Development Planning Commission, the former State Economy and Trade Commission and the former Ministry of Foreign Trade and Economic Cooperation (now MOFCOM) on March 11, 2002 and was annulled at the same time.
- ¹⁴ See, e.g.: Eric W. Orts, Environmental law with Chinese characteristics, 11 *William & Mary Bill of Rights Journal* 545; Meixian Li, China's compliance with WTO requirements will improve the efficiency and effective implementation of environmental laws in China, 18 *Temple International & Comparative Law Journal* 155.
- ¹⁵ For instance by article 174 (2) of the Treaty Establishing the European Community.
- ¹⁶ Article 26 of the Constitution.
- ¹⁷ Article 19 of the GMO Regulations.
- ¹⁸ Article 26 of the GMO Regulations.
- ¹⁹ Article 31 of the GMO Regulations.
- ²⁰ Articles 32 and 33 of the GMO Regulations.
- ²¹ Article 4 of the Environmental Protection Law and article 2 of the Air Pollution Law; article 3 of the Water Pollution Law provides that the public authorities at various levels "shall incorporate the protection of the water environment into their plans...". However, that notion does not appear in the Law on Pollution by Waste.
- ²² Article 2 of the Provisions on Guiding Foreign Investments Directions of February 21, 2002.
- ²³ Article 4 of the Provisions on Guiding Foreign Investments Directions of February 21, 2002.
- ²⁴ Article 5 of the Provisions on Guiding Foreign Investments Directions of February 21, 2002.
- ²⁵ Construction and operation of ecological environment protection projects preventing and treating desertification and soil erosion such as planting trees and grasses; development and production of inorganic, organic and biologic films for environment protection; production of chemical fibres with environmental protection features such as direct viscose and asepis spinning; production of new building materials (lightweight high-intensity and multi-function materials for wall, high-level environment protecting, decorating and finishing materials, high-quality, water-proof and airproof materials, and effective thermal insulation materials); technology for hydrophilic ecological systems for protecting environment and equipment manufacturing; manufacturing of special equipment for cities' sanitation and environment work, manufacture of new technical equipment for safe production and environment protection detecting instrument; construction and management of treatment plants for sewage, garbage, dangerous wastes (incineration and landfill), and facilities for pollution treatment; environmental protection consulting agencies; technology for environment pollution treatment and monitoring.
- ²⁶ Article 6 of the Provisions on Guiding Foreign Investments Directions of February 21, 2002.
- ²⁷ Article 7 of the Provisions on Guiding Foreign Investments Directions of February 21, 2002.
- ²⁸ Yvan Razafindratandra and Xiao Lin Fu-Bourgne, Le droit chinois de l'environnement, *Gazette du Palais*, July 2-4, p. 41.
- ²⁹ SEPA has approximately 300 permanent staff in its central office in Beijing and the Shanghai Environment Protection Bureau has the same number of agents to monitor some 20,000 facilities under its jurisdiction.

- ³⁰ Article 6 of the Water Pollution Law.
- ³¹ Article 6 of the Air Pollution Law.
- ³² Article 9 of the Environmental Protection Law.
- ³³ Article 7 of the Water Pollution Law.
- ³⁴ Article 9 of the Air Pollution Law.
- ³⁵ Article 10 of the Environmental Protection Law.
- ³⁶ The purpose of such information however seems to be devoid of all idea of a review since it is stated that it is done "for the record" in all three above-mentioned statutes.
- ³⁷ Article 4 of the Water Pollution Law; article 4 of the Air Pollution Law.
- ³⁸ Article 7 of the Environmental Protection Law and article 10 of the Law on Pollution by Waste.
- ³⁹ Article 1 of the Water Pollution Law.
- ⁴⁰ Article 1 of the Water Pollution Law.
- ⁴¹ Article 2 of the Water Pollution Law.
- ⁴² Marine Environmental Protection Law of December 25, 1999 (replacing a prior law of 1983).
- ⁴³ Article 10 of the Water Pollution Law.
- ⁴⁴ Article 18 of the Water Pollution Law.
- ⁴⁵ Article 12 of the Water Pollution Law.
- ⁴⁶ Article 9 of the Water Pollution Law.
- ⁴⁷ Article 32 of the Water Pollution Law.
- ⁴⁸ Article 11 of the Water Pollution Law.
- ⁴⁹ Article 12 of the Water Pollution Law.
- ⁵⁰ Article 14 of the Water Pollution Law.
- ⁵¹ Article 13 of the Water Pollution Law.
- ⁵² Article 23 of the Water Pollution Law.
- ⁵³ Article 11 of the Water Pollution Law.
- ⁵⁴ Article 22 (1) of the Water Pollution Law.
- ⁵⁵ Article 22 (4) et seq. of the Water Pollution Law.
- ⁵⁶ Article 6 of the Water Pollution Law.
- ⁵⁷ Article 17 of the Water Pollution Law.
- ⁵⁸ Article 7 of the Water Pollution Law.
- ⁵⁹ Article 16 of the Water Pollution Law.
- ⁶⁰ Article 15 of the Water Pollution Law.
- ⁶¹ Circular Concerning the Promulgation of Items and Standards Concerning the Collection of Administrative Fees in Environmental Protection Field of April 20, 2002.
- ⁶² Article 19 of the Water Pollution Law.
- ⁶³ Article 19 of the Water Pollution Law.
- ⁶⁴ Article 20 of the Water Pollution Law.
- ⁶⁵ Article 21 of the Water Pollution Law.
- ⁶⁶ Article 27 of the Water Pollution Law.
- ⁶⁷ Article 29 of the Water Pollution Law.
- ⁶⁸ Article 31 of the Water Pollution Law.
- ⁶⁹ See, in general, articles 27 to 40 of the Water Pollution Law.
- ⁷⁰ Article 31 of the Water Pollution Law.
- ⁷¹ Article 32 of the Water Pollution Law.
- ⁷² Article 44 of the Water Pollution Law.
- ⁷³ Article 37 of the Water Pollution Law.
- ⁷⁴ Article 38 of the Water Pollution Law.
- ⁷⁵ Article 39 of the Water Pollution Law.
- ⁷⁶ Article 1 of the Air Pollution Law.
- ⁷⁷ Articles 8 and 9 of the Air Pollution Law.
- ⁷⁸ Article 22 of the Air Pollution Law.
- ⁷⁹ Article 6 of the Air Pollution Law.
- ⁸⁰ Article 7 of the Air Pollution Law.

- ⁸¹ Article 15 of the Air Pollution Law.
- ⁸² Article 12 of the Air Pollution Law.
- ⁸³ Article 11 of the Air Pollution Law.
- ⁸⁴ Article 16 of the Air Pollution Law.
- ⁸⁵ Article 19 of the Air Pollution Law.
- ⁸⁶ Article 17 of the Air Pollution Law.
- ⁸⁷ Article 32 of the Air Pollution Law.
- ⁸⁸ Article 34 of the Air Pollution Law.
- ⁸⁹ Article 33 of the Air Pollution Law.
- ⁹⁰ Article 35 of the Air Pollution Law.
- ⁹¹ Article 24 of the Air Pollution Law.
- ⁹² Article 26 of the Air Pollution Law.
- ⁹³ Article 28 of the Air Pollution Law.
- ⁹⁴ Article 36 of the Air Pollution Law.
- ⁹⁵ Article 37 of the Air Pollution Law.
- ⁹⁶ Article 38 of the Air Pollution Law.
- ⁹⁷ Article 39 of the Air Pollution Law.
- ⁹⁸ Article 40 of the Air Pollution Law.
- ⁹⁹ Article 45 of the Air Pollution Law.
- ¹⁰⁰ Article 43 of the Air Pollution Law.
- ¹⁰¹ Circular of September 14, 1992 on the Trial Levying of Pollution Fee on Sulphur Dioxide From Industrial Conception.
- ¹⁰² Article 1 of the Law of December 29, 2004 on the Prevention of Environmental Pollution Caused by Solid Waste (the "Law on Pollution by Waste").
- ¹⁰³ Article 88 of the Law on Pollution by Waste.
- ¹⁰⁴ Article 3 of the Law on Pollution by Waste.
- ¹⁰⁵ Article 5 of the Law on Pollution by Waste.
- ¹⁰⁶ Article 4 of the Law on Pollution by Waste.
- ¹⁰⁷ Article 6 of the Law on Pollution by Waste.
- ¹⁰⁸ Article 12 of the Law on Pollution by Waste.
- ¹⁰⁹ Article 16 of the Law on Pollution by Waste.
- ¹¹⁰ Article 17 of the Law on Pollution by Waste.
- ¹¹¹ Article 21 of the Law on Pollution by Waste.
- ¹¹² Article 22 of the Law on Pollution by Waste.
- ¹¹³ Article 23 of the Law on Pollution by Waste.
- ¹¹⁴ Articles 24 and 25 of the Law on Pollution by Waste.
- ¹¹⁵ Article 88 (2) of the Law on Pollution by Waste.
- ¹¹⁶ Article 29 of the Law on Pollution by Waste.
- ¹¹⁷ Article 27 of the Law on Pollution by Waste.
- ¹¹⁸ Article 28 of the Law on Pollution by Waste.
- ¹¹⁹ Article 30 of the Law on Pollution by Waste.
- ¹²⁰ Article 31 of the Law on Pollution by Waste.
- ¹²¹ Articles 32–33 of the Law on Pollution by Waste.
- ¹²² Defined as that "produced in urban daily life (article 74 (4) of the Law on Pollution by Waste).
- ¹²³ That is to say waste which is so specified by regulatory standards (article 74 (4) of the Law on Pollution by Waste).
- ¹²⁴ Article 40 of the Law on Pollution by Waste.
- ¹²⁵ Article 42 of the Law on Pollution by Waste.
- ¹²⁶ Article 43 of the Law on Pollution by Waste.
- ¹²⁷ Article 44 of the Law on Pollution by Waste.
- ¹²⁸ Article 46 of the Law on Pollution by Waste.
- ¹²⁹ Article 88 (4) of the Law on Pollution by Waste.
- ¹³⁰ Articles 51 and 52 of the Law on Pollution by Waste.
- ¹³¹ Article 58 of the Law on Pollution by Waste.
- ¹³² Article 55 of the Law on Pollution by Waste.

- ¹³³ Article 54 of the Law on Pollution by Waste.
- ¹³⁴ Article 57 of the Law on Pollution by Waste.
- ¹³⁵ Article 56 of the Law on Pollution by Waste.
- ¹³⁶ Article 59 of the Law on Pollution by Waste.
- ¹³⁷ Article 60 of the Law on Pollution by Waste.
- ¹³⁸ Article 62 of the Law on Pollution by Waste.
- ¹³⁹ Article 63 of the Law on Pollution by Waste.
- ¹⁴⁰ Article 18 of the Law on Pollution by Waste.
- ¹⁴¹ Article 5 of the Law on Pollution by Waste.
- ¹⁴² Which appears to require that they do so on their own and not by entrusting such tasks to collective systems such as those in place in other parts of the world (article 18 of the Law on Pollution by Waste).
- ¹⁴³ Article 31 of the Environmental Protection Law.
- ¹⁴⁴ Article 24 of the Law on Pollution by Waste.
- ¹⁴⁵ Article 24 of the Law on Pollution by Waste.
- ¹⁴⁶ Article 25 of the Law on Pollution by Waste.
- ¹⁴⁷ Articles 17 and 31 of the Cleaner Production Promotion Law.
- ¹⁴⁸ Article 29 of the Cleaner Production Promotion Law.
- ¹⁴⁹ Article 6 of the Environmental Protection Law and article 9 of the Law on Pollution by Waste. In not very different terms, article 5 of the Water Pollution Law provides for a “right to supervise any act that pollutes or damages the environment and to denounce the polluters”. As to the Air Pollution Law, its article 5 sets forth a right to “denounce and to accuse any facility and individual causing air environmental pollution”.
- ¹⁵⁰ See the same provisions of the four above-mentioned laws.
- ¹⁵¹ Article 1 of the Environmental Impact Assessment Law.
- ¹⁵² Article 4 of the Environmental Impact Assessment Law.
- ¹⁵³ Article 6 of the Environmental Impact Assessment Law.
- ¹⁵⁴ Article 7 of the Environmental Impact Assessment Law.
- ¹⁵⁵ Article 8 of the Environmental Impact Assessment Law.
- ¹⁵⁶ Article 10 of the Environmental Impact Assessment Law.
- ¹⁵⁷ Article 11 of the Environmental Impact Assessment Law.
- ¹⁵⁸ Article 13 of the Environmental Impact Assessment Law.
- ¹⁵⁹ Article 14 of the Environmental Impact Assessment Law.
- ¹⁶⁰ Article 16 of the Environmental Impact Assessment Law.
- ¹⁶¹ Article 17 of the Environmental Impact Assessment Law.
- ¹⁶² Article 18 of the Environmental Impact Assessment Law.
- ¹⁶³ Article 16 of the Environmental Impact Assessment Law.
- ¹⁶⁴ Article 19 of the Environmental Impact Assessment Law.
- ¹⁶⁵ Article 21 of the Environmental Impact Assessment Law.
- ¹⁶⁶ Article 22 of the Environmental Impact Assessment Law.
- ¹⁶⁷ Article 24 of the Environmental Impact Assessment Law.
- ¹⁶⁸ Article 27 of the Environmental Impact Assessment Law.
- ¹⁶⁹ Article 28 of the Environmental Impact Assessment Law.
- ¹⁷⁰ Articles 24–34 of the Environmental Protection Law.
- ¹⁷¹ Article 24 of the Environmental Protection Law.
- ¹⁷² Article 27 of the Environmental Protection Law.
- ¹⁷³ Article 26 of the Environmental Protection Law.
- ¹⁷⁴ Article 26 of the Environmental Protection Law.
- ¹⁷⁵ Article 26 of the Environmental Protection Law.
- ¹⁷⁶ Article 24 of the Environmental Protection Law.
- ¹⁷⁷ Article 25 of the Environmental Protection Law.
- ¹⁷⁸ Article 14 of the Environmental Protection Law.
- ¹⁷⁹ Article 1 of the Cleaner Production Promotion Law.
- ¹⁸⁰ Article 2 of the Cleaner Production Promotion Law.
- ¹⁸¹ Article 3 of the Cleaner Production Promotion Law.
- ¹⁸² Articles 4–9 of the Cleaner Production Promotion Law.

- ¹⁸³ Articles 9-11 of the Cleaner Production Promotion Law.
- ¹⁸⁴ Article 16 of the Cleaner Production Promotion Law.
- ¹⁸⁵ Article 17 of the Cleaner Production Promotion Law.
- ¹⁸⁶ Articles 18 and 19 of the Cleaner Production Promotion Law.
- ¹⁸⁷ Article 20 of the Cleaner Production Promotion Law.
- ¹⁸⁸ Article 22 of the Cleaner Production Promotion Law.
- ¹⁸⁹ Article 25 of the Cleaner Production Promotion Law.
- ¹⁹⁰ Article 28 of the Cleaner Production Promotion Law. However, implementation rules expressly provided for in that provision do not appear to have been adopted yet.
- ¹⁹¹ As will be seen below, however, there also exists some kind of voluntary environmental management certification system, see section X.6.4 below.
- ¹⁹² Pollution Law, article 32 of the Cleaner Production Promotion Law. By contrast, the Water Pollution Law does not consider such "awards".
- ¹⁹³ Article 28 of the Environmental Protection Law.
- ¹⁹⁴ Article 14 of the Water Pollution Law.
- ¹⁹⁵ Article 14 of the Air Pollution Law.
- ¹⁹⁶ Article 5 of the Law on Pollution by Waste.
- ¹⁹⁷ Article 27 of the Environmental Protection Law; article 14 of the Water Pollution Law.
- ¹⁹⁸ Circular Concerning the Promulgation of Items and Standards Concerning the Collection of Administrative Fees in the Environmental Protection Field of April 20, 1992.
- ¹⁹⁹ Article 2 of the Measures on the Certification Management of Products Bearing Environmental Labels of July 28, 1994 (the "Environmental Labelling Measures").
- ²⁰⁰ Article 4 of the Environmental Labelling Measures.
- ²⁰¹ Articles 6-8 of the Environmental Labelling Measures.
- ²⁰² Articles 9 and 10 of the Environmental Labelling Measures.
- ²⁰³ Articles 17-19 of the Environmental Labelling Measures.
- ²⁰⁴ Article 20 of the Environmental Labelling Measures.
- ²⁰⁵ Articles 13 and 14 of the Environmental Labelling Measures.
- ²⁰⁶ Article 24 of the Environmental Labelling Measures.
- ²⁰⁷ Article 30 of the Cleaner Production Promotion Law.
- ²⁰⁸ See article 29 of the Environmental Protection Law; article 24 of the Water Pollution Law; article 63 of the Law on Pollution by Waste and article 62 of the Air Pollution Law.
- ²⁰⁹ Article 31 of the Environmental Protection Law.
- ²¹⁰ Article 31 of the Environmental Protection Law; article 28 of the Water Pollution Law; article 63 of the Law on Pollution by Waste. See also article 20 of the Air Pollution Law.
- ²¹¹ Article 41 of the Environmental Protection Law.
- ²¹² Article 29 of the Environmental Protection Law; article 24 of the Water Pollution Law.
- ²¹³ Article 41 of the Environmental Protection Law; article 55 of the Water Pollution Law; article 84 of the Law on Pollution by Waste; article 62 of the Air Pollution Law.
- ²¹⁴ Article 42 of the Environmental Protection Law; however, none of the specific laws on water pollution, air pollution or pollution caused by waste specifically provide for such a statute of limitation.
- ²¹⁵ Article 41 of the Environmental Protection Law; article 56 of the Water Pollution Law; article 63 of the Air Pollution Law.
- ²¹⁶ Article 86 of the Law on Pollution by Waste.
- ²¹⁷ Article 55 of the Water Pollution Law.