EnviroEconomics Sweden

Take home messages:
How to ensure an equitable and Effective environmental compensation regime in China

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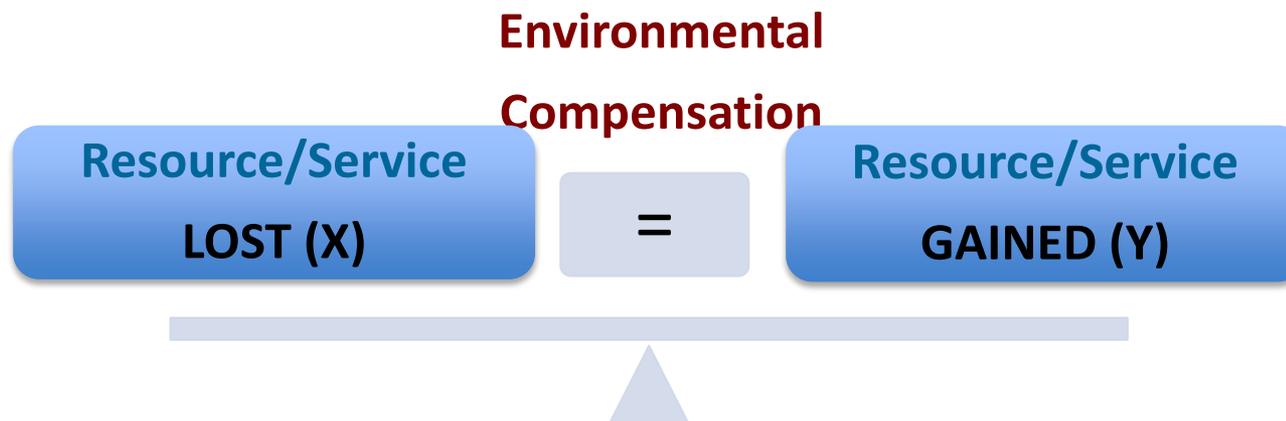scott@eesweden.com
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Road map

1. Suggestions for future EDA development in China

2. Lessons learned from EU/US experience
   – Some EU/US lessons may not apply in China. Requires discussion and information sharing

My EDA suggestions are based on 5 themes:
   ① Outreach and training
   ② Legal clarification and enforcement
   ③ Endorse a compensation scaling method
   ④ Policies to improve implementation
   ⑤ Other suggestions from today's discussion?

Key criteria for EDA development

- EDA development in China should balance several factors:
    - equity for victims
    - legal requirements
    - financial solvency of polluter
    - Link between damage and amount of compensation

Environmental Compensation

| **Resource/Service LOST (X)** | **=** | **Resource/Service GAINED (Y)** |

first, a very important question …

Does China want to implement environmental compensation

(Environmental Damage Assessment)?

Or

Is economic growth a higher priority?

- Making polluters pay for compensation is costly. We should not pretend that it's cheap (!).

- China needs political will to implement and enforce EDA. Does it exist?

① technical training & Outreach

a. China should conduct outreach <u>to raise awareness</u> among the public

– Explain difference: *public interest environmental damage* & *private interest environmental damage*

– Motivate need for compensation for *public interest environmental damage*

✓ Equity for victims

✓ Provides right incentives for polluters

– *Why? (1) contributes to environmental justice and (2) facilitates future implementation of EDA*

Lessons learned? Not so many …

– EU does little outreach despite new Environmental Liability Directive.

– US laws are well-established but could still benefit from more outreach.

① technical training & Outreach

b. China should conduct <u>targeted outreach & technical training</u> to stakeholders involved in EDA

Stakeholder groups	Key training need
Competent authorities & Judges	• Understanding of scaling methods (Equivalency Analysis) and their acceptance internationally • Guidance for interpreting and critically evaluate such methods
Operators & financial service providers	• what will be required of them
Environmental groups & NGOs	• when they can bring EDA cases
Consultants/3rd Party experts	• what methods are acceptable • what skills are needed

① technical training & Outreach

b. China should conduct <u>targeted outreach & technical training</u> to stakeholders involved in EDA

Lessons learned?

- US holds regular workshop on NRDA.

- EU training on REMEDE now available on-line
  - <u>http://ec.europa.eu/environment/legal/liability/eld_training.htm</u>

① **technical training & Outreach**

c. China should provide resources for <u>on-going training </u>for stakeholders

- Continual learning process (!). Will not end after initial training
- Restoration methods are evolving and need to be continuously updated
- Central Government plays key roll in ensuring funding for training
- Focus could be on lessons learned from US & EU & whether they apply in China.

Lessons learned? (see previous slide)

② LEGAL CLARIFICATION & ENFORCEMENT

a. China should ensure <u>consistent legal requirements </u>for EDA across provinces/county/city levels for right incentives.

b. China should provide funding for <u>consistent enforcement</u>

Lessons Learned: Economists emphasize 3 criteria to ensure <u>effective incentives for polluters</u>

1. Credible threat (of compensation requirement)

   • otherwise no change of behavior

2. Clear understanding (of compensation requirement)

   • Clear thresholds of acceptable/unacceptable damage

3. Consistent application (of compensation requirement)

   • Should apply to both ex ante and ex post scenarios

③ Endorse compensation scaling method

a. China's central government should <u>identify and promulgate an accepted compensation scaling method</u> …

… and a thoroughly-tested method is Equivalency Analysis

Pros of Equivalency Analysis

– **Credible**. replicable, objective, transparent analytic framework.

– **Flexible**. Can be consistently applied across damage types and restoration projects

– **Proven**. Used by US, EU, World Bank, UN War Comp. Comm. etc

– **Robust**. Can account for complex understanding of ecological, economic, and legal

Cons of Equivalency Analysis

– Requires lots of data and expertise

– Can be costly (but can be streamlined in many cases)

③ Endorse compensation scaling method

b. Given an accepted compensation scaling method, China should develop <u>a guidance document</u> that applies across different agencies and different administrative levels (central, province, county, prefecture)

  a. Consistent guidance will assist courts in evaluating damage claims

  b. Consistent guidance will also help agencies share information on best practices

Lessons learned?

- EU Guidance – **REMEDE** projects (www.envliability.eu)
- US Guidance - National Oceanic Atmospheric Adm. (NOAA) Guidance under OPA → http://www.darrp.noaa.gov/library/1_d.html

③ Endorse compensation scaling method

c. China's scaling guidance should address key technical issues:

What types of environmental damage require compensation?

- US: "*resources and the services they provide*"
- EU: "protected habitat/species" "*water*" and "*land (if health impacts)*"

When is damage considered significant enough to require compensation?

- Toolkit can give some guidance on this issue

When are the costs of compensation deemed too high?

- EU's "disproportionate costs" under WFD provide some lessons here.

When might habitat banking be acceptable?

- An increasingly popular and cost-effective way of delivering "credits"

④ Policies to improve implementation

a. China should consider setting up <u>a reporting requirement,</u> where each damage case is reported to authorities and included in a <u>database of projects. This will help:</u>

- Track types of damages that are most common (and therefore help to *prevent* such damage from occurring in first place)

- Develop future revisions to EDA policies (what works & what does not)

- Identify effective compensation projects (e.g., species re-introduction or species rehabilitation? removing threats to species? etc)

- Identify effective ecological restoration methods (e.g., planting with seeds? Plants? Transplanting? Etc)

Neither the EU nor the US have a useful database. Represents opportunity for China to learn and improve EDA implementation (!)

④ **Policies to improve implementation**

b. China should learn from EU's recent experience of introducing ELD (2007-2013). Updated 28 March 2014

http://ec.europa.eu/environment/legal/liability/index.htm

⑤ **Other suggestions?**

- Other recommendations from today's workshop discussion?
  - …
  - …

Thanks !

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