



**China's Environmental Public Interest Litigation:
Present and Future**

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Abstract

- **Environmental protection, a global issue**
- **China: national strategy—ecological civilization and green development.**
- **Since 2015: Environmental Tribunal, Environmental public interest litigation(EPIL) –access to justice and judicial response to environmental protection**
- **Reflection and Challenges: standing, environmental damage assessment, ecological restoration, difference and integration between public interests and private interests, the limit of judicial power in EPIL**
- **A growing process**

Outline

1. The evolution of environmental public interest litigation

2. Lessons and experience

3. Latest progress and challenges

1. The evolution of environmental public interest litigation



Article 55 of Civil Procedure Law of the People's Republic of China revised in 2012 stipulated that: “ **Where environment is polluted, the legitimate rights and interests of consumers are infringed upon,** or other acts impairing the public interests are committed, the **organs stipulated by law and relevant organizations** may bring actions to the people's court.”

1. The evolution of environmental public interest litigation

- **The establishment of the legal framework for environmental public interest litigation**
- **Open legislation -- “enumeration and generalization” for the scope of Public interest litigation and “generalization and guidance” for the standings of the litigant**
- **A system that combines basic laws and separate laws**

1. The evolution of environmental public interest litigation



- **First civil environmental public interest procedure in China –**
- **The authority of “the two lakes and a reservoir” filed a litigation against Guizhou Tianfeng Chemicals Co., Ltd. for environmental damage compensation in 2007.**
- **The case is tried by Guizhui Qingzhen Local People’s Court**

1. The evolution of environmental public interest litigation



Article 58 of the new Environmental Protection Law:

“For activities that cause environmental pollution, ecological damage and public interest harm, social organizations that meet the following conditions may file litigation to the people's courts:

- (1) Have their registration at the civil affair departments of people's governments at or above municipal level with sub-districts in accordance with the law;**
- (2) Specialize in environmental protection public interest activities for five consecutive years or more, and have no law violation records.”**

1. The evolution of environmental public interest litigation

Article 64. Those who cause damages due to environmental pollution and ecological destruction shall bear tort liability in accordance with provisions of Tort Liability Law of the People's Republic of China.

1. The evolution of environmental public interest litigation

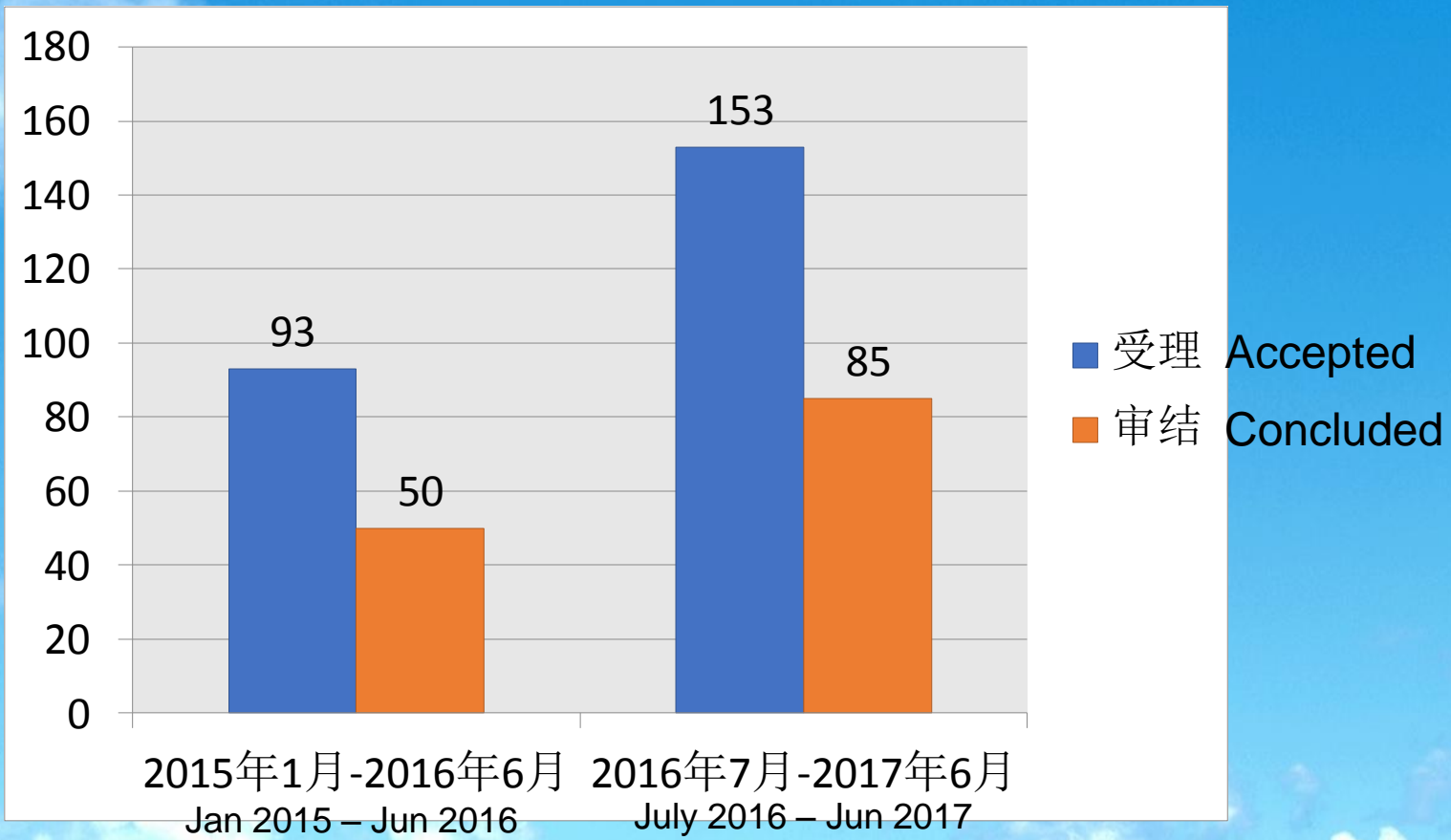


- June 2014, the Supreme People's Court created the environmental tribunal
- January 2015, the Supreme People's Court enacted "Judicial Interpretation on Applicable laws of the Trial of Civil Environmental Public interest Litigation" with specific provisions on environmental civil public interest litigation

1. The evolution of environmental public interest litigation

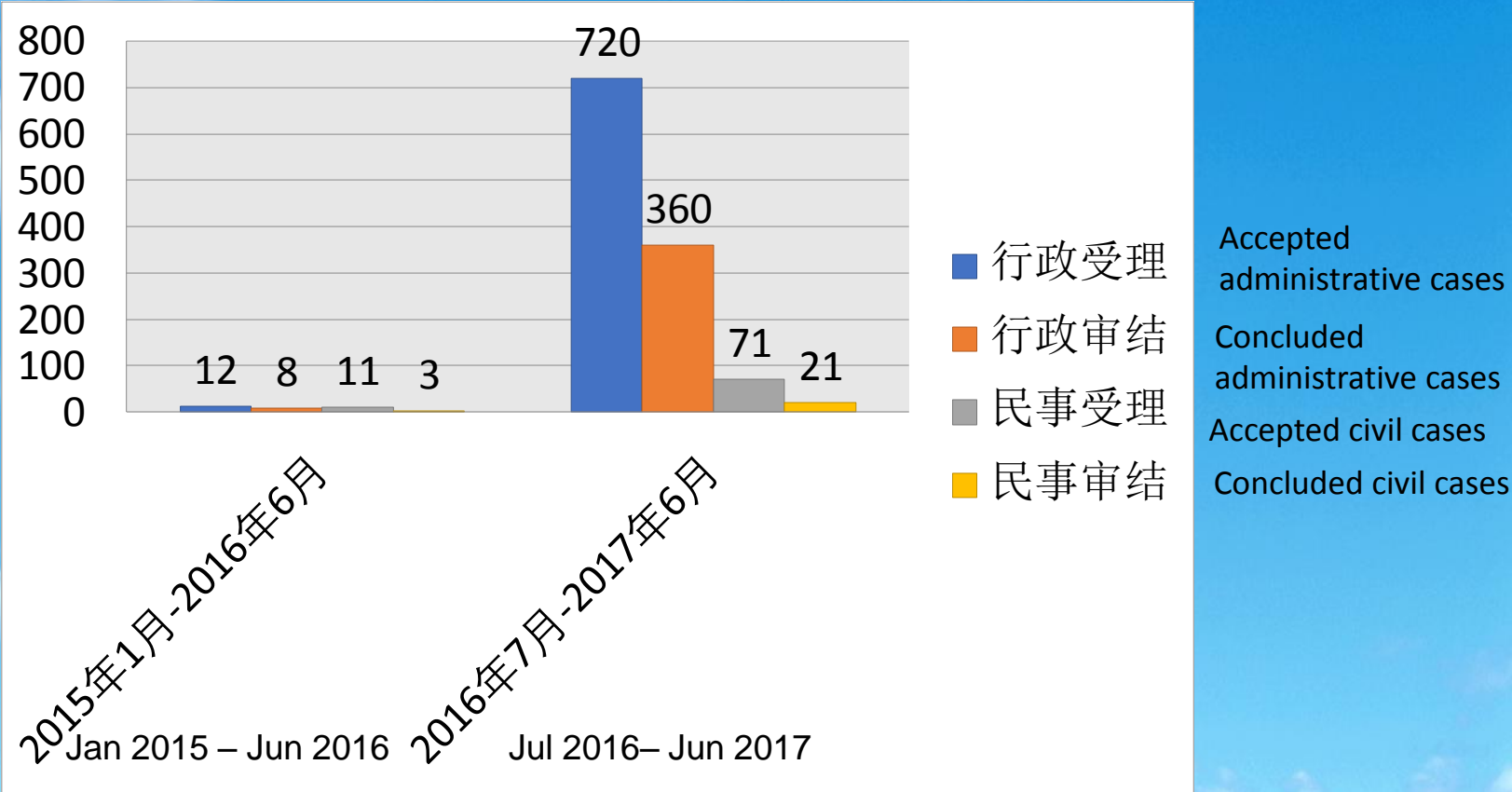
- **July 2015, China's top legislature --- the NPC (National People's Congress) Standing Committee issued "Decision on Authorizing the Supreme People's Procuratorate to pilot public interest litigation in certain areas".**
- **Marks the start of a two-year pilot program on environmental public interest litigation cases filed by prosecutors in 13 provinces in China**

1. The evolution of environmental public interest litigation



**Civil environmental public interest civil lawsuits
filed by NGOs**

1. The evolution of environmental public interest litigation



Civil and administrative environmental public interest lawsuits filed by prosecutors

1. The evolution of environmental public interest litigation

27 June 2017, Decisions to revise the Civil Procedural Law and the Administrative Procedure Law of the Peoples Republic of China passed at the 28th session of the 12th NPC Standing committee, effective as of 1 July 2017

2. Lessons and Experience



In the case of water pollution of Taizhou, Jiangsu, the court ordered the polluting companies to pay a record penalty of rmb 1.6 billion (€26m), the highest in all environmental public interest civil cases to date.

2. Lessons and Experience



A public interest litigation case against pollution in China's Tengger Desert was settled by mediation, with 8 polluters agreeing to pay ¥596 million (€72m) for soil recovery and soil pollution control and provide an environmental damage fund worth ¥6million (€762,000) .

2. Lessons and Experience



Case1: the All-China Environmental Federation (ACEF) filed a lawsuit against Dezhou Jinghua for causing air pollution, selected as one of the ten typical public interest civil litigations in 2017

2. Lessons and Experience

Rulings: the defendant was ordered to relocate the factory, upgrade the pollution emission equipment , pay over ¥20 million in damages and apologize in public.



2. Lessons and Experience

Significance of the case

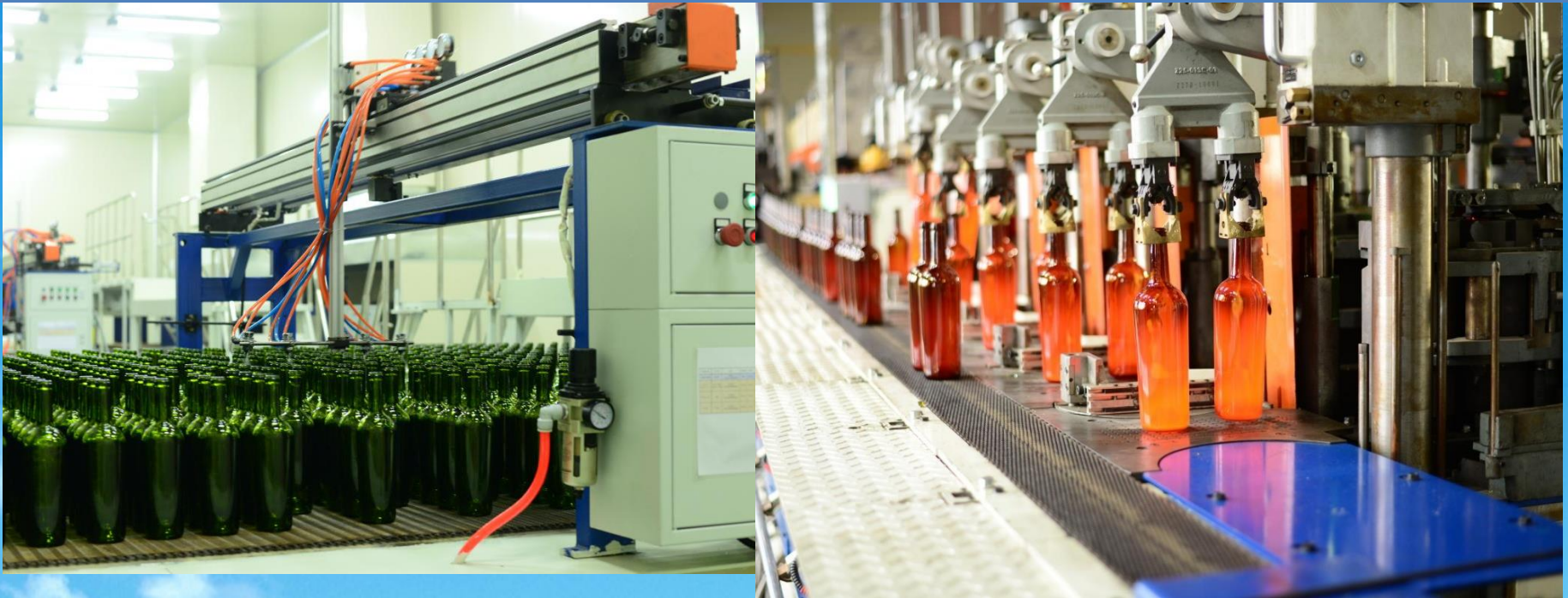
- Suspension and relocation was ordered during the trial, preventing further damage and promoted greener transformation.
- Balance achieved in environmental protection and development – encourages enterprises to seek profits while fulfilling environmental obligations.
- Given that there is no global standard for damage calculation, the court decided the amount of ecological damage should be four times the virtual treatment cost, setting up a precedent for following cases.

2. Lessons and Experience



Case 2: A glass manufacturer in Qinhuangdao City, Hebei Province, was repeatedly caught discharging excess waste and administrative penalty had been imposed. In March 2016, China Biodiversity Conservation and Green Development Foundation took the manufacturer to court, requesting “cessation of damage, abatement of nuisances, recovery of pollution-caused losses and public apologies.

2. Lessons and Experience



The court ordered injunction immediately given the proof of excess emission had been submitted by the litigant. It requested the polluter to stop emission and upgrade the equipment and techniques. The polluter then invested ¥50 million in equipment renovation. The plaintiff and the court examined the updated equipment, deciding it met the standard and allowing production to be resumed.



2. Lessons and Experience

- **How to interpret the claim of “cessation of damage, abatement of nuisances” ?**
- **Whether the paid equipment-upgrading-expenses and the administrative fines should be factored in when the court is deciding the amount of damage compensation?**
- **Environmental damage assessment**
- **How to manage and make use of the damage fund?**
- **Whether the polluters should pay damages for polluting the air?**

3. Challenges

- **Relations between environmental rights and civil laws-integrated or separated?**
- **How to further enhance the preventive function of public interest litigation?**
- **How to clarify the limit of the judicial power in public interest litigation?**
- **Should the administrative litigation dominate the environmental public interest litigation?**



THANKS