

Towards an integrated environmental permit in China

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SUMMARY

The idea of an integrated permit system was introduced into legislation for controlling pollution from the operation of industrial installations already in 1996 at EU level, and in 2020 in China, twenty-four years later. At the EU level, the idea of applying an integrated environmental permit was introduced in 1996 by the Integrated Pollution Prevention Control Directive (IPPCD), later transformed into the Industrial Emissions Directive (IED) in 2010. The IPPCD and later the IED laid down rules on integrated prevention and control of pollution caused by industries to achieve a high level of protection of the environment taken as a whole. In China, on 9 December 2020, the State Council took an important step towards an integrated environmental permit system: it adopted an Administrative Regulation that establishes one permit system that regulates industrial emissions into various environmental media.

Compared to the EU regulatory efforts towards integration that have lasted for over two and a half decades, China's exploration is still at the embryonic stage. In this sense, the establishment of the emissions permit system at the EU level can be used as a helpful reference to understand how the design of the emissions permit system adopted in China may be improved for implementing an integrated approach. This thesis aims to examine *to what extent the new regulatory design of the emissions permit system in China, considering the EU regulatory experiences towards integration and seen from the perspective of the specific Chinese situation, provides possibilities for or barriers to the implementation of integrated pollution prevention and control.*

In order to answer this main question, based on a doctrinal approach, this thesis first reviews the existing legal literature in order to understand how the idea of integrated pollution prevention and control can be achieved using the permit instrument. Based on this, the core elements of a regulatory framework for establishing an integrated environmental permit system are identified, including substantive integration, procedural integration, organizational integration, and the challenge of applying a permit instrument and market-based instruments to pollution

control. These core elements provide a conceptual framework for analyzing regulatory attempts towards an integrated environmental permit system in the EU and China respectively, and, subsequently, for the comparative analysis between these two systems.

With the findings of the regulatory attempts towards an integrated environmental permit system in the EU and China respectively, and then the comparative analysis between the EU and Chinese regulatory approaches, the answer can be given to the question to what extent the emissions permit system in China, considering the EU regulatory experiences towards integration and seen from the perspective of the specific Chinese situation, provides possibilities for or barriers to the implementation of integrated pollution prevention and control.

From the perspective of substantive integration,

- China's emissions permit system presents regulatory possibilities for controlling emissions into the air, water, and land in an integrated manner. Furthermore, the integration of GHG emissions in China's emissions permit also seems possible, but uncertainty remains, since this is not explicitly regulated.
- China's emissions permit system requires the achievement of concrete levels of environmental quality for specific media (established as environmental quality standards) to be considered in setting permit conditions, which present regulatory possibilities for the environmental effectiveness of integration. However, the relevant rules are formulated in a vague manner. Considering the regulatory experiences with the emissions permit system established in the EU (it is not evident that this EU emissions permit system, given the vague rules regarding environmental quality standards, guarantees the environmental effectiveness of integration to be achieved), it is questionable whether or to what extent the vague rules under China's emissions permit system will ensure the environmental effectiveness of integration.
- China's emissions permit system provides for a set of generic binding

requirements that establish a generic approach to environmental trade-offs. These binding generic requirements would legally eliminate the choice of an integrated approach in case-specific situations. The introduction of more opportunities for case-specific decision-making in a proper way could enhance the possibilities for an integrated approach.

- China's emissions permit system also affords some flexibility for the permitting authorities that allows case-specific environmental trade-offs, but giving flexibility to permitting authorities on the basis of vague rules is not a perfect way for case-specific trade-offs, since it may also result in permitting authorities not choosing the best solution for a high level of environmental protection.

From the perspective of procedural and organizational integration,

- China's emissions permit system, establishing a single permit procedure that regulates various emissions by a single authority, provides for a relatively high degree of procedural integration and organizational integration and thus may provide a better prerequisite for substantive integration of permit decisions. Nevertheless, it is noted that the existence of procedural and organizational integration does not necessarily indicate that substantive integration will be achieved.