



The new development of the ocean governance mechanism in Taiwan and its reference for China



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ABSTRACT

The 21st Century has witnessed the increased efforts by states around the world on the planning for and management of the 'Blue National Soil'. Taiwan has achieved a series of major breakthroughs in the area of ocean governance. With the enactment of the Coastal Zone Management Act and the 'Four Ocean Affairs-related Organisation Acts' by the legislature, Taiwan not only establishes a substantive administration framework for the coastal zone management but also foresees its very first specialised marine administrative authority. This article seeks to introduce the text, the legislative history, the current implementation and the future development of these acts. Through detailed comparison with the China's coastal legislation and ocean administration reform, it identifies preferable points in Taiwan's experience so as to provide reference for China in upgrading its ocean governance system.

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1. Introduction

The 21st Century is hailed as, 'the century of the oceans'. A number of coastal states, especially developed ones, have adopted comprehensive ocean governance mechanisms, with an aim of taking an advantageous position in the increasingly heated international competition for interests concerning the oceans. This denotes a greater worldwide commitment to ocean governance.

In such context, Taiwan, an island of which the economy and life of its peoples are very much connected to the sea, has been investing into improvement of its ocean governance regime. When the Democratic Progressive Party (DPP) came to power in 2000, the notion of Taiwan as an oceanic country became a national policy. Lu Hsiu-lien, the then Vice-President in the DPP government, regarded Taiwan as an 'Island of the world' (Lu, 2004), and stressed importance of a holistic approach in ocean governance, where a comprehensive legislative framework shall be set up, covering political administration, economy and industries, science and technology, environment and ecology, and cultural development (Taiwan Times, 2008). Ocean continued to be an emphasised topic during the later Chinese Nationalist Party (KMT) governance. The

former President, Ma Ying-jeou, advocated the 'Revolution on the Blue, Prosperity with the Sea' policy, and initiated substantive moves to a comprehensive ocean governance agency, which turned out to be no easy task. Despite the continued input and the piecemeal advancement of the imitative, substantial achievements did not come along until 2015, the last year of Ma's eight-year tenure: first, the promulgation of the Coastal Zone Management Act, and then, the passing of the 'Four Ocean Affairs-related Organisation Acts'. The former, entering into force on 4th February 2015, makes up for a missing piece of the ocean governance legislation by setting key dates and goals for the integrated management of coastal zones. The latter—the Organisation Act of the Ocean Affairs Council; the Organisation Act of Ocean Conservation Administration, Ocean Affairs Council; the Organisation Act of Coast Guard Administration, the Ocean Affairs Council; and the Organisation Act of National Academy for Ocean Research— signify the preliminary consensus on the much-debated issue of organisational framework of the comprehensive ocean governance administration. Although the four acts will not be effective until further decision of the Executive Yuan, the passing of them forecasts a significant shift in the structure and mandates of the Taiwan ocean governance agencies.

China is no stranger to the area of international marine affairs—it is a founding member of the International Tribunal of the Law of the Seas (the ITLOS), as well as a member to various maritime organisations and a participant to multiple maritime research initiatives. Still, confined to a land-based approach, it is relatively

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lagging behind in developing maritime 'soft power' (Zhong-Sheng, 2014). To make up for this lacuna, China has been specifically dedicating to theoretical researches in cutting-edge fields, with particular focus on maritime safety and maritime economic development. Meanwhile, it has reinforced its efforts international exchanges and cooperation, seeking a more prominent role in international organisations including the ITLOS, the UN Commission on the Limits of the Continental Shelf (CLCS), and the Arctic Council. In 2012, the Chinese government proposed a national strategy to become a great maritime power, as addressed by Hu Jintao, the then President, in his report to the 18th National People's Congress (NPC) of the Communist Party of China (CPC). Xi Jinping, successor to Hu, has assumed authority and continued the strategy, laying more emphasis on furthering China's political, security and economic interests within the UNCLOS framework (Takeda, 2014). Since then, the international community has witnessed China's moves to reform its ocean governance structure and enhance ocean governance efficiency, including the consolidation of several law enforcement bodies into the State Oceanic Administration (SOA), the restructuring of China Coast Guard (CCG), and the initiation of preparatory works for a holistic statute on ocean governance (Chang and Wang, 2015). Despite this progress, China has some distance to go, before achieving good ocean governance (Chang, 2012a).

This article intends to provide a detailed overview of the new developments achieved by Taiwan. Firstly, it considers the legislative aspect; on the content of the newly promulgated Coastal Zone Management Act, with a special focus on the features of the legal framework. Secondly, focus will be on the historical development of the Four Ocean Affairs-related Organisation Acts and comments on the Taiwanese Government's intention to integrate various ocean governance competence authorities. Where appropriate, Taiwan's progress is compared against those of foreign countries, especially of the United States (US) and the European Union (EU), in order to examine the common grounds and the 'Taiwanese characteristics' in relation to western governance traditions. In terms of China, the current international situation demands that, to become a great maritime power, China should focus not only on streamlining its domestic ocean governance mechanism, reducing redundancy and enhancing efficacy, but also on achieving international standards, through the appropriate adoption of internationally established concepts or practices (Jiang and Fang, 2009). Therefore, based on an analysis of Taiwan's experience, this paper identifies the key notes that could be used by China as references. Particularly, it concludes that legislative development is the first step, as it provides foundation for a holistic approach to ocean governance, including organised marine resources exploitation and justified defence of maritime rights and interests; while in terms of administrative reform, success hinges on the combination of top-down and bottom-up efforts, as well as consideration of practicality. Comparative study, either from a normative or empirical perspective, would be beneficial, as it would permit the use of experiences from other jurisdictions for reference (Gong, 2015). Taiwan is of similar natural conditions, cultural origin, legal tradition and governance needs to those of Mainland China, which makes it a prime subject for research concerning ocean governance reform. Therefore, this paper also highlights the need to strengthen cross-strait exchange and cooperation, for mutual progress.

2. Legislative development—the coastal zone management act

The proposal for specialised legislation for coastal zone management was raised more than two decades ago, when the Ministry of Interior initiated preparatory work in 1991, under the instruction

of the Executive Yuan. Submitted 4 bills for deliberation by the Legislative Yuan, the law-making body in Taiwan. All of these bills passed preliminary deliberation but none progressed further along the legislative process, before the closure of each session (Yiu, 2014). While legislation development stalled, administrative progress continued. The Executive Yuan commissioned several studies or research programmes on the issue of integrated coastal zone management planning (Construction and Planning Agency, 2006; National Taiwan Ocean University, 2011), based on which, tentative regulation schemes were issued (Construction and Planning Agency, 2013). A fifth bill, namely the Coastal Zone Act, was formulated in 2014. Approved by the Executive Yuan, it was forwarded to the Legislative Yuan for deliberation, and eventually enacted in January 2015, after rounds of public hearings and caucus consultations and with the name changed to 'Coastal Zone Management Act' (CZMA). The Bill became effective on promulgation, on 4th February 2015.

2.1. General framework

The 46-Article Coastal Zone Management Act sets a fundamental framework for coastal zone management. It recognises, *ab initio*, the importance of integrated management for the preservation and sustainable development of coastal zones. Designating the competent authorities for such management, it gives guidance on the formulation of coastal plans, which are the functioning constituents of the integrated management scheme. In the operational aspect, it lays the ground rules for coastal utilisation permission for specific zones and use of public natural sand beaches. It is also a *lex specialis* to the Criminal Code, with its Penal Provisions setting fines and imprisonment for violation of the Act.

Article 2 divides the coastal zone into shore land area and offshore area, delineated by the average high tide line (See Fig. 1). As required by Article 5, the central competent agency—the Ministry of Interior published a map the coastal zone in August 2015 (Construction and Planning Agency, 2015), officially setting the geographic scope of application of the Coastal Zone Management Act.

According to the Coastal Zone Management Act, an essential part of Taiwan's integrated coastal zone management is a two-tier coastal zone planning system. There is one 'integrated coastal zone management plan' as the mega plan that underscores coastal zone management of the entire island, and multiple coastal conservation plans and coastal protection plans for localised management needs. The integrated coastal zone management plan shall, on the basis of an overview of the natural and cultural resources and social and economic conditions of the coastal zone of the entire island, provide for policies and measures to address coastal issues. On the policy aspect, the integrated coastal zone management plan shall identify policies and strategies for addressing sustainable issues, including climate change, coastal conservation, coastal resources protection and exploitation, with balanced development of various areas and the special needs of indigenous peoples and underdeveloped areas in consideration. On the operational aspect, it shall designate the location, responsible agencies and the timeframe for conservation zones and protection zones, as well as specific zones that require special attention in coastal management. Subordinate to the integrated coastal zone management plan, coastal conservation plans and coastal protection plans are sources of specific measures for individual coastal conservation or protection zones (See Fig. 2). Based on the level of importance or seriousness, a coastal conservation/protection plan falls into one of two grades (See Table 1). The Act does not stipulate a unified standard for first or second grade but leaves it to the judgment of the competent authorities. Coastal conservation/protection plans share

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