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### Taiwan's Oceans Policymaking: Its Development and Assessment

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# Taiwan's Oceans Policymaking: Its Development and Assessment

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*Taiwan has been sluggish in its development of national oceans policymaking. This article examines such development in recent years from three dimensions, namely, oceans policy instruments, ocean legislation, and the establishment of an ocean specialized agency. The article then provides a historical recount of the landmark activities of marine affairs in the past six decades so as to put such development in a historical context. Five distinctive phases of marine policy or marine affairs development of Taiwan and the core values and driving forces associated with each phase are identified. The article finally makes an assessment of Taiwan's oceans policymaking practices in terms of their success and failure, which could constitute as some lessons from which other nations may learn.*

**Keywords** marine affairs, marine policy, oceans policy, policy integration, Taiwan

## Introduction

Does the Republic of China (ROC or Taiwan) government possess “oceans policy”? The answer is YES and NO.

It is YES because the National Council for the Advancement of Marine Affairs (海洋事務推動委員會 NCAMA or the Council) of the Executive Yuan (行政院 or the Cabinet), a Cabinet-level inter-ministerial oceans policy coordination and decision-making body chaired by the premier created on January 7, 2004 after the former President Chen Shui-Bian had accepted a proposal made by the present author in his capacity of Member of the “Presidential Advisory Council for Science and Technology” (總統府科技諮詢委員會) in September 2003 that a Cabinet-level inter-ministerial oceans policy coordination and decision-making body be created before the establishment of a specialized Oceans Ministry, formally adopted on October 13, 2004 the “National Oceans Policy Guidelines” (國家海洋政策綱領 or the Guidelines) in its second meeting. These Guidelines constitute a policy instrument on the part of the executive branch of the ROC government. Being an instrument formally approved by the Executive Yuan, it carries administratively binding

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force on all the ministries and agencies of the Executive Yuan and administrative organs of every level of government.

It is NO because it is doubtful whether all the ministries and agencies of the Executive Yuan have continuously and faithfully implemented such Guidelines, and because of the existence of such Guidelines comprehensive, cohesive, and concerted oceans policy actions have been generated accordingly.

This yes-and-no situation appears not only in the dimension of oceans policy instruments, but also in the dimensions of ocean legislation and the establishment of an ocean specialized agency.

This article will first examine the development of Taiwan's oceans policymaking in recent years in these three dimensions. The article will then provide a historical recount of the landmark activities of marine affairs in the past six decades so as to put such development in a historical context. Five distinctive phases of marine policy or marine affairs development of Taiwan and the core values and driving forces associated with each different phase are identified. The article finally makes an assessment of Taiwan's oceans policymaking practices in terms of their success and failure, which could be offered as lessons that might be learned by other nations.

To be noted, in this article, "marine policy" and "oceans policy" may be used interchangeably for reason of style since, to this author, the term "marine policy" or "oceans policy" refers to an "academic discipline" and/or a "policy domain" addressing issues of "marine affairs."

### **Taiwan's Oceans Policymaking Development in Recent Years**

Taiwan did not have a truly comprehensive oceans policymaking mechanism until 2004 when the NCAMA of the Executive Yuan was established. Taiwan has had policy decision-making by each individual ocean-related ministries or agencies for different sectors over which these government agencies have respective administrative jurisdiction, however, such policy decision-making would not be characterized as national oceans policymaking. The advocacy for a comprehensive, holistic, and concerted national oceans policy did appear quite early in past decades, as shown in the remaining of this article. This section examines the oceans policymaking development of Taiwan in recent years from three different dimensions, namely, oceans policy instruments, ocean legislation, and the establishment of an ocean specialized agency, respectively.

#### ***Oceans Policy Instruments***

Looking retrospectively on the development of Taiwan's oceans policy, one will find that the very first comprehensive exploration of national oceans policy was the "Conference on National Oceans Policy," a response to the "1998 International Year of the Ocean" designated by the United Nations with its General Assembly Resolution A/RES/49/131. This particular Conference was organized by the present author and held at the National Sun Yat-sen University on July 17, 1998 as a project commissioned by the Research, Development and Evaluation Commission (RDEC) of the Executive Yuan under the instruction of the Cabinet. The then premier of the Kuomintang (KMT) government, Vincent C. Siew (the incumbent vice president of the Republic) attended the Conference with a number of Cabinet members. The conclusions reached in various panels of this Conference were compiled to be an oceans policy white paper, which was later issued as *Oceans White Paper* (海洋白皮書 or *Hai-Yang Pai-P'i-Shu*) (RDEC 2001) by the Democratic Progressive Party

(DPP) government in early 2001 after the shifting of ruling party in the 2000 presidential election.

To draft the Guidelines was a decision made at the first meeting of NCAMA on March 31, 2004. Deliberation on the Guidelines was based on the texts of the seventh and final chapter, "A Proposal for the National Oceans Policy Guidelines," of a scholarly book entitled *Marine Policy: A Theoretical and Practical Study* (海洋政策：理論與實務研究) (Hu 1997). The deliberation for drafting the Guidelines was conducted in six different dimensions mirroring the six panels of the Council (namely, ocean strategies, ocean security, ocean resources, ocean industries, ocean cultures, and ocean science and research) by members of the Council on each panel along with government officials of participating agencies designated to each panel. This undertaking led to the completion of drafting the Guidelines.

The Guidelines are presented in five parts: preamble, vision, declared policies, goals and strategies, and the related action plan and implementation timeframe. (The full text of the Guidelines in English and Chinese version can be found on the official website of The Center for Marine Policy Studies (CMPS), National Sun Yat-sen University.) When the Guidelines were adopted in the second Council meeting, the same meeting also adopted a "Scheme for the Division of Labor [among various agencies]" which was a compilation of work plans, made by the secretariat agency of the Council, the Coast Guard Administration of the Executive Yuan (行政院海岸巡防署), comprising all the existing and future measures taken or to be taken by various ministries and agencies for the implementation of the Guidelines. This Scheme was later transformed into a "Program of Planning for Marine Affairs Policy Development" (海洋事務政策發展規劃方案 or Hai-Yang Shih-Wu Chêng-Ts'ê Fa-Chan Kuei-Hua Fong-An) that was adopted by the Council on April 25, 2005 in its third meeting. This Program listed 105 items of work plans with an estimated budget reaching 35.1 billion New Taiwan Dollars for a time frame of 7 years to the budget year of 2011 (NCAMA 2005).

In addition to the Guidelines and *Oceans White Paper* of 2001 and its later revision, the *Oceans Policy White Paper* (海洋政策白皮書 or Hai-Yang Chêng-Ts'ê Pai-P'i-Shu) (NCAMA 2006), other policy instruments having relevance to national oceans policy developed in recent years are quite limited in both number and depth. For example, several government agencies have published their own ocean-related policy instruments. The Coast Guard Administration of the Executive Yuan, a ministerial level agency responsible solely for the law enforcement in the maritime zones in which the ROC enjoys sovereignty, sovereign rights, and jurisdiction as well as in the high seas in which the ROC has treaty obligations, along with a narrow coastal zone along shorelines, including all the ports, published its own *Coast Guard White Paper* (海巡白皮書 or Hai-Hsün Pai-P'i-Shu) in July 2007, following in 2008 and 2009, and changed the title to *Coast Guard Annual Report* (海巡報告書 or Hai-Hsün Pao-Kao-Shu) in 2010 and 2011. The Ministry of Education issued its *Marine Education Policy White Paper* (海洋教育政策白皮書 or Hai-Yang Chiao-Yü Chêng-Ts'ê Pai-P'i-Shu) in August 2007. In 2006, it was the very first time that the National Security Council (國家安全會議) issued its *2006 National Security Report* (國家安全報告 or Kuo-Chia An-Ch'üan Pao-Kao) in which ocean elements were incorporated and presented in various chapters and sections. A revised version of the *2006 National Security Report* was later issued in March 2008.

Other than the aforementioned policy instruments, the Executive Yuan, in response to the South China Sea issues, especially facing the situation in which various insular features of the Spratly Islands had been occupied by other bordering littoral States, approved the "Terms of Reference for the Establishment of South Sea Task Force" (南海小組設置要點) on August 5, 1992 and this inter-agency body was formally established under the Ministry

of the Interior. The 1st Meeting of the South Sea Task Force approved with modification the “South Sea Policy Guidelines” (南海政策綱領) and the “South Sea Policy Guidelines Implementation Framework and Schedule for Division of Labor” (南海政策綱領實施綱要分工表), both of these two documents were approved by the Executive Yuan on April 13, 1993.

The South Sea Policy Guidelines contained three parts, namely, Preamble, Goals, and Implementation Framework. There were five declared policy goals:

- unyieldingly uphold the sovereignty of the South Sea;
- strengthen the development management in the South Sea;
- positively promote cooperation in the South Sea;
- peacefully address South Sea disputes; and
- protect the ecology of the South Sea.

The Implementation Framework encompassed nine dimensions, namely, domestic affairs, international cooperation, safety and security maintenance, transportation, sanitation, environmental protection, cross-strait (meaning the relationship and relevant affairs between the ROC, or Taiwan, and the People’s Republic of China, PRC or mainland China, and these two Chinese governments actually holding the same position with respect to their claims over the South China Sea; see Hu (2010) for a brief discussion of this matter), academic research, and resources exploitation. Looking retrospectively, not too many of the items shown by such Guidelines in its Implementation Framework and Schedule for Division of Labor have been fully implemented. The Ministry of the Interior even ordered that this policy instrument “cease to apply” on December 15, 2005 since the authority over the management of South China issues was transferred to the National Security Council of the Presidential Office. There has been no substitutive policy instrument developed since that determination.

### *Ocean Legislation*

Governmental efforts in the sphere of ocean legislation can be traced to June 22, 1989. It was the date that the Executive Yuan, in response to the adoption of the 1982 United Nations Convention on the Law of the Sea and the threat from neighboring States’ maritime claims, approved a “Work Plan for the Study and Ascertain-ing of ROC Basepoints, Baselines, Exclusive Economic Zone and Territorial Sea Laws” (研訂我國領海基點基線、經濟海域暨領海法工作計畫) and a proposal from the Ministry of the Interior to establish an *Ad Hoc* Committee (專案小組) and a Task Force (工作小組) for this Work Plan. The Task Force was formed in July 1989 with members composed of working level government officials from various related agencies and scholars from the academic community while the *Ad Hoc* Committee was composed of deputy ministers of related ministries, administrations, and councils. The drafting work of two pieces of maritime zone laws was assigned to four scholars (Chang, Yuan-She 張元旭 1996); among them the present author was responsible for the drafting of the ROC Territorial Sea and Contiguous Zone Act.

The end products of this Task Force included draft bills for the “Law on the Territorial Sea and the Contiguous Zone of the Republic of China” and the “Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China,” respectively, as well as a draft schedule of ROC Basepoints and Baselines. These two maritime zone draft bills were finally reviewed and approved by the Legislative Yuan (the Parliament of the ROC) after a lapse of time nearly a decade and promulgated by the president on January 21, 1998 for their implementation, coming into force on January 23, 1998.

On February 10, 1999, the Executive Yuan officially announced the “First Set of ROC Territorial Sea Baselines, and the Outer Limits of Territorial Sea and Contiguous Zone” (中華民國第一批領海基線、領海及鄰接區外界線) in accordance with the authorization of Article 5 of the ROC Territorial Sea and Contiguous Zone Act following a Cabinet decision on this announcement made in the Executive Yuan Meeting (行政院院會 or the Cabinet Meeting) on December 31, 1998. The location of basepoints were recently amended and issued by the Executive Yuan on November 18, 2009.

The two maritime zone laws together are supposed to constitute the legal basis for further “downstream” functional legislation (下游功能性立法) (a concept developed by Hu 1997, 23–78). Following the enactment of these two maritime zone laws, there is the enactment of “Marine Pollution Control Act” (海洋污染防治法) of November 1, 2000 and its associated four Regulations, administered by the Environmental Protection Administration (EPA) of the Executive Yuan. However, this particular Act does not take the two maritime zone laws as its legal basis. Under the two maritime zone laws, there are two Regulations administered by the Ministry of the Interior, namely, “Regulations of Permission on Delineation of Course for Laying, Maintaining, or Modifying Submarine Cables or Pipelines on the Continental Shelf of the Republic of China” (在中華民國大陸礁層鋪設維護變更海底電纜或管道之路線劃定許可辦法) issued on January 26, 2000 with its associated “Application Form for Permission of Course for Laying, Maintaining, or Modifying Submarine Cables or Pipelines on the Continental Shelf of the Republic of China” (在中華民國大陸礁層鋪設維護變更海底電纜或管道之路線劃定許可申請書) issued on May 1, 2000, and the “Regulations of Permission on the Construction, Use, Modification, and Dismantle of Artificial Islands, Installations, and Structures in the Exclusive Economic Zone and on the Continental Shelf of the Republic of China” (在中華民國專屬經濟海域或大陸礁層建造使用改變拆除人工島嶼設施或結構許可辦法) issued on October 4, 2000, one Regulations administered by various related competent ministries and agencies “Regulations on the Management of Foreign Vessels Undertaking Innocent Passage through ROC Territorial Sea” (外國船舶無害通過中華民國領海管理辦法) issued on January 30, 2002, and another Regulations administered by the National Science Council of the Executive Yuan “Regulations Governing Permission to Undertake the Marine Scientific Research in the Exclusive Economic Zone and on the Continental Shelf of the Republic of China” (在中華民國專屬經濟海域或大陸礁層從事海洋科學研究許可辦法) issued on August 16, 2000.

Since the enactment of the two maritime zone Acts in January 1998, other than the aforementioned Marine Pollution Control Act and four related Regulations under the authorization of the two maritime zone Acts, as well as a “Draft Bill on the Underwater Cultural Properties Preservation Act of the Republic of China” (Hu 2006; Hu 2008a; Hu 2008b), which is now going through an internal legal review in the Executive Yuan, there has been no further legislative effort ensuing from the two maritime zone Acts. This situation has led to a poorly developed “ocean legislation regime” developed under and around the two maritime zone Acts. After their enactment more than twelve years ago, the two maritime zone Acts themselves have not been revised based on domestic implementation experience and international ethos (Hu 2003).

### *The Establishment of an Ocean Specialized Agency*

During the ruling of the Democratic Progressive Party (DPP) (2000–2008), “Nation-building through the Oceans” (海洋立國 or Hai-Yang Li-Kuo) was one of the three policy pillars of the ruling party (the other two policy pillars being the “Nation-building through

Human Rights” 人權立國 or Jên-Ch'üan Li-Kuo and the “Nation-building through Science and Technology” 科技立國 or K'ê-Chi Li-Kuo), with an intention to establish a Ministry of Marine Affairs (海洋事務部 or Hai-Yang Shih-Wu Pu) under the re-organizational plan or the re-engineering project of the Executive Yuan (Hu 2002). The purpose of chanting the slogan “Nation-building through the Oceans” might well be or have been viewed by the then opposition party KMT as a politically motivated one—to bring to light the self-identity of an “Ocean Taiwan” in contrast to the “Mainland China.” However, by the end of eight years' DPP rule, it could not have the amendments made to the Organic Act of the Executive Yuan due to its minority in the Legislative Yuan and the proposal for the establishment of a Ministry of Marine Affairs was thus failed.

During his campaign for the presidency, Ma Ying-jeou (馬英九) took “Blue Revolution” (藍色革命), a phrase in the vision statement issued in 2002 by the Korean Ministry of Maritime Affairs and Fisheries (MOMAF), as his slogan for oceans policy: “Blue Revolution, Revitalizing the Nation through the Oceans” (藍色革命、海洋興國). Ma also proposed “To establish a Ministry of the Oceans in a view to unifying administrative jurisdiction” (統一事權、設立海洋部). However, Ma's campaign proposal was tweaked by the RDEC with an excuse of “too much difficulty.” The RDEC modified the re-organizational plan with an intention to establish instead a Commission/Council of the Oceans (海洋委員會 or Hai-Yang Wei-Yüen-Hui) with only policy coordination and integration authority. This administrative deviation from Ma's campaign promises invited a lot of criticisms from the general public, different sectors of ocean industries, opposition party, and the academic community (Hu 2009). This modification was reflected in the Amendments Bill for the Executive Yuan's Organic Act that was approved by the Legislative Yuan on January 12, 2010. Hence, the Commission of the Oceans may well be established in 2012. However, how much authority of policy coordination and integration this Commission can exercise without possessing substantive ocean functional powers is doubtful when other government agencies still control their own law-specified functions on certain marine affairs, along with the necessary manpower and budget to execute their functions.

Before an ocean specialized agency is established, the existence of the NCAMA has become more important due to its inter-ministerial coordination function. However, immediately after Ma Ying-jeou was sworn in as the president on May 20, 2008, this Council was downgraded and downsized to “Task Force for Maritime Affairs, Executive Yuan” (行政院海洋事務推動小組 or Hsing-Chêng-Yüen Hai-Yang Shih-Wu T'ui-Tung Hsiao-Tsu, or the Task Force in short). The Chairperson of such body was downgraded from the premier to the deputy premier, the figure of nongovernmental members (scholars or experts from the society) cut down from 9 to 13 to 5 to 7, the internal panels also cut down from 6 to 4, the interval between meetings prolonged from every 3 months to every 6 months. The Coast Guard Administration was deprived of its original secretariat duty to the original Council and replaced by the RDEC. In addition, one big difference between the original Council from the present Task Force is that the conveners of each panel are no longer served by one minister member along with one scholar member; rather, the current conveners of each panel are assumed by the deputy heads of certain government agencies. With such change, the vision, conduct or the performance of the Task Force can hardly exceed the existing scope of each individual government agencies.

After the change of its name, the Task Force has tried to maintain the frequency of its meetings at every six months, however, the publicized meeting minutes of the Task Force show that the turnout has been poor and sometimes even lower than the specified quorum and the agenda items are neither broad in their scope nor ambitious in their initiative. An official website established under a decision made in the 1st meeting of the Task Force has

not been kept updated, for example, the Task Force up to mid-2011 has had six meetings and its website only shows minutes of the 1st, the 2nd, and the 6th meeting. Such facts indicate that the Task Force has failed to substantively construct or influence the development of national oceans policy.

### **Historical Recount of the Landmark Activities of Marine Affairs in Taiwan**

A compilation of landmark activities in the development of marine affairs in Taiwan in last six decades was made previously (Hu 2007 or CMPS website). Putting the recent development of marine affairs as described in the previous section in such a historical context can allow us to have a better holistic perspective of the development of oceans policymaking in this country since 1949.

Evidence shows that the pursuit of developing a comprehensive national oceans policy existing in the minds of some far-sighted national sea power advocators or intellectuals can be traced all the way back to the mid-1960s and such pursuit even became one of the underlying goals of the establishment of an academic institution—the Institute and Department of Oceanography at the College of Chinese Culture (now called the Chinese Culture University) (Hu 2007).

The early development of marine policy in Taiwan was not launched by a piece of legislation nor in a comprehensive approach such as the Marine Resources and Engineering Development Act of 1966 did in the United States. Although calls for a comprehensive national marine policy did appear intermittently in past decades, the development of marine policy in Taiwan has been more affected by some leading figures within or outside of the government and it has been formulated in various sectors in a fragmented way until recently.

Examining this compilation, the present author finds that “general pattern” of the development of marine affairs differs in different phases that can be represented by different presidents. The time frame presented in this compilation can thus be divided into five distinctive phases and can be characterized by chronological sequence as “sea power phase,” “economic power phase,” “democratic power phase,” and “visionary power phase,” respectively, leaving the phase represented by the incumbent President Ma without characterization.

#### ***Phase I: The “Sea Power Phase”***

In the first “sea power phase” or when President Chiang Kai-Shek (蔣中正) was in power, the leading figures who had influence on the formulation of marine policy, or to be more precise, on the decision-making related to marine affairs, mostly had military or naval backgrounds. Including the president himself, they had a strong sense of military strategies and/or concept of national sea power. For example, the first suggestion of the opening-up of another entrance for the Kaohsiung Harbor was made as early as 1949 by the then Vice President Chen Cheng (陳誠) who was an army general. His suggestion was remembered by a then junior naval officer, Lee Lien-Chi (李連墀), who later became Kaohsiung Harbor Bureau Chief on October 1, 1962 when he was a naval rear admiral. During his Bureau Chief tenure of 19 years and 4 months, Lee completed two major construction projects, namely, the second entrance of Kaohsiung Harbor (or commonly referred to as the second harbor) and the container ports project. Lee also initiated the undersea Cross Harbor Tunnel project. These projects laid the foundation for the Kaohsiung Harbor to become the third largest container port in the world during the 1990s.

When the first Institute and undergraduate Department of Oceanography were established in the College of Chinese Culture (a private and financially poor higher education institution at the time) in the year of the 100th Anniversary of the birthday of the Founder of the Republic, Dr. Sun Yat-sen (孫中山), they were not only supported by the Founder of the College, Chang Chi-Yun (張其昀) who was a geographer, historian, and educator and once served as Minister of Education, but also by an international merchant marine tycoon, C.Y. Tung (董浩雲), the Founder of Chinese Maritime Transport (中國航運股份有限公司 CMT which was founded in Shanghai in 1946 and moved to Taiwan in 1949 and, at its peak during the 1970s to early 1980s, C.Y. Tung's fleet reaching 110 vessels with a total tonnage of 11 million tons), who was keenly aware of the importance that the shipping business could do to the *national defense* and economic development (emphasis added) (Tung 1966, 4). The person, who initiated the establishment of such an Institute and Department, Kuan Shih-Chieh (關世傑), was a naval rear admiral. Kuan impressed Chang with his study on national sea power at the "Institute of National Defense" (國防研究院 an educational institution operating from April 15, 1959 until September 30, 1972 established under the President's Office with the president himself serving as the president of the Institute and the director a political appointee on ministerial level and its students being high ranking government officials, including ambassadors, or star general/admiral level military officers whose enrollment had to be approved by the president) when Kuan was a student ranking military officer and Chang was the director of the Institute in 1964. Chang invited Kuan to initiate the Oceanography Institute and Department at the College of Chinese Culture so as to "promote nationals' awareness or emphasis on sea power and ocean development . . . which, in turn, will assist on the ocean construction of the nation" (以提高國人重視海權與海 . . . 洋發展 . . . 而有助於國家海洋的建設) (Kuan 1966, 8).

This may not be a coincidence that generals and/or admirals tend to look at national development from a military strategy or sea power perspective and thus attach their emphasis on ocean development for the interest of national security. A similar mentality was also reflected in the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. §§ 1101–1108, as amended 1966) when the U.S. Congress declared its policy as stipulated in Sec. 2(a) of this Act, and in the Stratton Commission's Report entitled *Our Nation and The Sea: A Plan for National Action* submitted to the president and the Congress (United States Government Printing Office 1969). From hindsight, the end results are not only good for the nation but also deserve our admiration.

Furthermore, before 1971 or before the ROC withdrew from the United Nations, Taiwan had a better international connection in the sense that it could obtain financial assistance from the World Bank system to develop its ocean-going fisheries, and it could participate in international ocean exploration activities at its will, which put Taiwan in line with the international development in marine science and technology and which, in turn, prompted the government to put emphasis on marine science and technology education and research.

### ***Phase II: The "Economic Power Phase"***

When Chiang Ching-Kuo (蔣經國) assumed the premiership in 1972, or in the second "economic power phase," Taiwan began to lose its international status after it withdrew from the United Nations, encountering oil crises and many other difficulties in the international community, such as the de-recognition of the Republic of China on the part of the United States in 1979. It was also during his tenure as the premier and the president that Taiwan's economic development reached a "miracle" phase. During his time, Taiwan had most of its economic infrastructure completed, including completing the construction of the second

largest dry dock in the world so as to possess the capability to build the third largest super oil tanker in the world, expanding the national flag merchant marine fleet to a historical high record. A number of ocean-related academic programs were also established in various universities and colleges. While the economy was booming, Taiwan's ocean strength also increased.

### ***Phase III: "The Democratic Power Phase"***

After Lee Teng-Hui (李登輝) succeeded the presidency left over by Chiang Ching-Kuo in 1988, or in the third "democratic power phase," Taiwan's ocean development moved into another phase. During his tenure, Lee, as the first native-Taiwanese president ever in the history of the Republic, put his personal emphasis on the "democratization of Taiwan" and, thus, tangible ocean strength began to decline while more emphasis was put on the "institutionalization" of ocean development. With the introduction of contemporary thought on marine policy, both in the sense of an academic discipline and a policy domain, into Taiwan by the present author after he returned to Taiwan from the United States in 1988, the development of marine policy in Taiwan began to obtain a holistic perspective and the way to approach marine policy issues has become more comprehensive and systematic than it was before. The social awareness of the term and concept of "marine/ocean policy" was also elevated to a degree that by the year 2000 all major presidential candidates issued their own "White Paper on Ocean Policy" during their presidential campaign. During this phase, most achievement on marine policy or marine affairs development was on the work of "institutionalization," including the drafting and enactment of the two maritime zone laws, drafting of the Coastal Act and the *Oceans White Paper*, establishment of the Coast Guard Administration, and efforts on the pursuit of becoming members in intergovernmental regional fisheries management organizations (RFMOs). It was during this phase that the national flag merchant marine fleet size declined from 10.26 million DWT in 1993 to 8.5 million DWT in 2000, with the number of vessels dropping from 276 to 261 in the same period of time indicating the loss of vessels being large ones (*United Daily News* 2000). It was also during this phase that most ocean-related academic programs in the universities and/or colleges either shut down completely or changed their names and shifted their emphasis away from an ocean orientation.

### ***Phase IV: "The Visionary Power Phase"***

In the year of 2000, or moving into the forth "visionary power phase," the change of ruling party occurred for the first time in the last five decades in the history of Taiwan. The change of government opened up a "window of opportunity" for the development of marine policy. With the emphasis on oceans advocated by the new ruling party and President Chen Shui-Bian (陳水扁) himself, the government even once proposed to have a Ministry of Marine Affairs in its draft proposal for the government reform. By the end of President Chen's two-term tenure, however, we have not seen the realization of this "dream." While Chen said on many occasions that "We now must renew our commitment to reach out and embrace the ocean, for it is certainly not where our foot-steps end; rather, it is the infinite extension of our horizon and the springboard for our future development" (我們必須重新面向海洋、擁抱海洋。海洋絕對不是我們足跡的終點，而是視野無限的延伸，以及迎向未來發展的憑藉) (Chen 2005) and while the 2006 *Oceans Policy White Paper* as well as the 2006 *National Security Report* were published, we have

also heard sharp criticism of the government's shipping policy from the president of the Evergreen Group, Chang Yung-Fa (張榮發), who used to support President Chen, that "Taiwan is an Ocean State, but with no oceans policy and without a tax-free preferential shipping policy. If there are no further incentives, Taiwan's national flag fleet will disappear sooner or later which will seriously damage our foreign trade and national security" (*Economic Daily News* 2003).

### *Phase V: "The ? Power Phase"*

The date of May 20, 2008 marked the beginning of a new phase. On this date, Ma Ying-jeou was sworn in as the president with his oceans policy campaign platform and promises, including the slogan of "Blue Revolution, Revitalizing the Nation through the Oceans" and a policy goal of establishing a Ministry of the Oceans so as to reorganize all the ocean-related government functions into one single ministry. The change of ruling party and the government provided a new "window of opportunity" for the development of oceans policy for Taiwan. As indicated earlier in this article, Ma's administration soon failed to deliver on his promises in the sphere of marine affairs and others. The weakening of the NCAMA and the failure to establish a fully fledged Ministry of the Oceans will have significant implications for oceans policymaking in this country.

### **The Shift of Core Values and Driving Forces in the Formulation of Marine Policy in Taiwan**

What we can read from the history of marine policy and marine affairs development in Taiwan is that the formulation of marine policy over a particular period of time reflects the "core values" and "driving forces" of the time in the minds of some leading figures. In other words, the development of marine policy and marine affairs in Taiwan has not been shaped by the Parliament through any significant legislation like the Marine Resources and Engineering Development Act of 1966 did in the United States or by social awareness for ocean development. Rather, it was shaped by the "core values" and associated "driving forces" in the minds of those who had influence on the decision-making of the government.

During Chiang Kai-Shek's period of time, or the "sea power phase," Taiwan was striving for its own survival and stability. The core value was simple: to build up Taiwan as a military stronghold and wait for the opportunity to recover mainland China. Accordingly, the driving forces were to strengthen the sea power of the Nation, including the construction of sea ports, expansion of fishing capacity, upgrading marine science and technology, and others.

When Chiang Ching-Kuo came into power, or during the "economic power phase," the policy emphasis of the government gradually moved away from realization of the unlikely dream of recovering mainland China and began focusing its efforts to build Taiwan economically or to make Taiwan economically viable in the world community. The core value was also simple: do it before it is too late or "if we don't do it today, we will be regretful tomorrow" (今天不做, 明天會後悔). The driving forces were thus to compete with other developing nations in the world and take the lead if we could. During this period of time, Taiwan's ship building capacity and the size of its national flag merchant marine fleet along with its ocean-going fishing capacity and fishing fleet size continued to grow. In addition, more and more young students were coming out of ocean-related undergraduate and/or graduate programs.

When Lee Teng-Hui assumed the presidency, or in the “democratic power phase,” the first half of his tenure followed Chiang’s legacy, however, in the second half of his tenure more emphasis was put on the “democratization” of Taiwan. The core value was to create a more democratic Nation so as to win the support of the other democratic allies and defy the “final unification with China” on the ground of Taiwan’s own identity and sovereignty. The driving forces were to amend the Constitution and institutionalize the legal framework and the administrative system of the government. The two basic Maritime Zone Laws were initiated and enacted along with the drafting of the *Oceans White Paper*. The organic act for the establishment of the Coast Guard Administration was approved by the Parliament under the strong political will of President Lee without considering the sharp criticism and strong skepticism raised by the present author on constitutional grounds, since this new ministerial level maritime law enforcement agency would be formed by conglomerating the then existing coastal defense military units (海岸巡防司令部) with the Water Policy Bureau (水上警察局), violating Article 140 of the Constitution, which clearly states that “No military man in active service may concurrently hold a civil office.”

When the DDP came into power in 2000, or moving into the “visionary power phase,” more emphasis was put on the task of “deepening the democratization” and other political agendas. While “Nation-building through the Oceans” was one of the political slogans chanted by the ruling party and seemed to be the core value of the government, and the “vision” was highlighted all the time, the driving forces for the development of marine policy seemed to dissipate from the minds of top political leadership. Most achievements in marine affairs mainly came from the resolutions made by the NCAMA if it was convened by the premier. The meeting frequency of this Council dropped year after year after its establishment in 2004. Whether this Council could fully function was entirely at the mercy of the premier. Since this Council was not organized by any legislation, and its decision-making power was practiced through the authority of premierships, whether this Council could weather the political agendas that top political leadership had in mind was questionable.

The campaign of Ma Ying-jeou, a Harvard-trained S.J.D. and an author of books relating to the Law of the Sea and territorial disputes issues (Ma 1981, 1986), for presidency rekindled the hope that if Ma was elected, Taiwan would march on the road to becoming a real Ocean State due to his unequivocal campaign platform for oceans policy and his personal academic training and understanding of the Law of the Sea. It is too early to characterize this phase of development, however, public enthusiasm of supporting ocean development evaporated very soon when several negative signs were observed: (1) immediately after Ma’s swearing-in ceremony, the Fisheries Agency of the Council of Agriculture announced that it would amend its regulations so as to allow ninety plus vessels illegally targeting at deep-sea coral to obtain harvesting permits; (2) the NCAMA was downgraded and downsized to a Task Force on the ground that Article 6 paragraph 1(3) of the Basic Code Governing Central Administrative Agencies Organizations (中央行政機關組織基準法) stipulated that “Council, Commission: Second-level agency or independent agency;” thus the original name of the Council could not be used any longer; and (3) Ma’s campaign promise of establishing a Ministry of the Oceans was downplayed and altered by its own administration with the excuse of “too much difficulty” and President Ma accepted such change after hearing a briefing from the Chairperson of the RDEC without even questioning why difficulties existed, and finally turned it to a Commission of the Oceans instead. President Ma’s non-insistence on his campaign promises cast doubt on the part of the general public and the academic community about whether Ma himself really holds much conviction regarding oceans and national sea power. Hence, it is difficult at this moment to say what the core value and driving forces for this phase really are.

## **An Assessment of Taiwan's Oceans Policymaking Practices: Their Success and Failure**

The historical recount of the development of marine affairs in Taiwan suggests that the path of marine affairs development has been heavily influenced by certain individual figures that might be within or outside of the government. Oceans policymaking in Taiwan is fragmented among various ocean-related ministries and agencies and is subject to the will and determination of certain decision-makers and political leaders.

A few good examples can vividly vindicate such an observation. The convening of the Conference on National Oceans Policy in 1998 was pushed by a Legislative Yuan Member, Mr. Chen, Kuei-Miao (陳癸淼), a legislator elected from an archipelagic county, Penghu (or the Pescadores), with his oral interrogation in the Legislative Yuan toward the then premier. The establishment of the NCAMA of the Executive Yuan was proposed by the present author and accepted by the then President Chen who had his own political goal and policy focus on "Nation-building through the Oceans." The output of the National Oceans Policy Guidelines was generated under a friendly political atmosphere in which the Ministers of the Coast Guard Administration (Wang, Chun 王郡 and Dr. Syu, Huei-You 許惠祐) were very supportive and cooperative toward the operation of such Council. Dr. Syu, who holds a doctoral degree in law, starting his career as a Judge on the bench of courts and later served as the chief of the National Security Bureau until the early days of President Ma's administration, even once disputed against another Cabinet member in charge of the RDEC in the Council meeting in front of all the Council members in support of the establishment of a Ministry of Ocean Affairs, at that time the ruling party DPP was yielding to KMT pressure in the Legislative Yuan by giving up the Ministry of Marine Affairs and in exchange for a Commission instead. With his personal conviction in national sea power and as an advocate of an Ocean State, Dr. Syu was the one who advocated and initiated the incorporation of ocean elements in the *2006 National Security Report* when he left his position as the Minister of the Coast Guard to serve as the Deputy Chief of the National Security Bureau (國家安全局). After KMT returned to power in 2008 holding a three quarter majority in the Legislative Yuan, it is difficult for the general public to understand why President Ma's campaign promises, especially the establishment of a Ministry of the Oceans, could not become a reality since even the opposition party (DPP) has long envisaged and supported the establishment of such a Ministry.

The high time of Taiwan in terms of oceans policymaking was in 2004 when the NCAMA of the Executive Yuan was fully engaged in the development of the National Oceans Policy Guidelines. The experience of this effort enlightened all the ministries and agencies involved about the importance and necessity of having a comprehensive national oceans policy for the Nation. However, by the final years of DPP rule, this mood began to evaporate and business returned to "normal," or a sectoral approach with bureaucratic turf battles and party interests outweighing the integrative spirit required for oceans policymaking.

After seeing the flow and ebb of integrated oceans policymaking endeavor in the last and present administration of Taiwan, the present author would like to suggest that a stable and continuous development of national marine policy, especially towards an integrated oceans policymaking, in a nation depends on a steadfast legislative foundation and a viable and specialized administrative agency on marine affairs. If Taiwan is going to become a true Ocean State, it will certainly require a legislative foundation which is supported not only by the Parliament but also by the society as a whole, along with a specialized agency, preferably a Ministry of the Oceans, with all the capacity and authority to carry out its mandate and missions so as to lead the Nation to the Oceans.

## References

- Basic Code Governing Central Administrative Agencies Organizations (中央行政機關組織基準法). 2010, February 3. English full text of this Code found at <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=A0010036> (accessed July 28, 2010).
- Chang, Yuan-She (張元旭). 1996. The Process of ROC's Maritime Zone Laws and Regulations Drafting and the Preparation of Implementation (我國海域法規研訂過程與執行準備) (in Chinese). In *Treatise for the Ocean Law Seminar (海洋法規研習會講義)*, compiled by the Office for Marine Policy Studies (OMPS, the predecessor of The Center for Marine Policy Studies, CMPS), National Sun Yat-sen University, 7-1 to 7-10. Seminar, December 19-21, 1996 in Kaohsiung and organized by the OMPS. Later reprinted in *Ocean Policy and Law Assays Collection (海洋政策與法規論叢)*, Land Administration Assays Series (地政叢書) No. 36, 189-199. Taipei: Ministry of the Interior, June 1997.
- Chen, Shui-Bian. 2005, August 10. Preface. In *Oceans and Seas of Taiwan (台灣海洋)*, ed. Huei-You Syu (許惠祐). Taipei: Coast Guard Administration of the Executive Yuan (in Chinese).
- Economic Daily News (經濟日報). 2003, November 6. Evergreen fleet will move abroad if government continuously ignores shipping industry (政府再漠視海運 長榮船隊 將外移). 3. <http://udndata.com> (accessed May 3, 2007).
- Environmental Protection Administration of the Executive Yuan, Marine Pollution Control Act (海洋污染防治法). 2000, November 1 and its associated four Regulations. English text: <http://law.epa.gov.tw/en/laws/water/marine.html> (accessed July 25, 2010).
- Hu, Nien-Tsu. 1997. *Marine policy: A theoretical and practical study (海洋政策：理論與實務研究)* (2nd ed.). Taipei: Wu-Nan Books Publishing Co.
- Hu, Nien-Tsu A. 2002. The establishment of Ministry of Marine Affairs: Its rationale and design (海洋事務部之設立：理念與設計). *National Policy Quarterly (國家政策季刊)*, 1: 53-90 (in Chinese).
- Hu, Nien-Tsu A. 2003. The flaws of and amendments to the two Maritime Zone Acts: From a marine policy perspective (由海洋政策觀點論我國兩部海域法之缺失與修正). *Chinese Yearbook of International Law and Affairs (中國國際法與國際事務年報)*. 17:124-164 (in Chinese).
- Hu, Nien-Tsu A. 2006. UNESCO Convention on the Protection of the Underwater Cultural Heritage and the relevant domestic legislation of Taiwan (聯合國教科文組織保護水下文化遺產公約與我國國內相關立法). *Chinese (Taiwan) Review of International and Transnational Law (中華國際法與超國界法評論)* 2 (2): 355-392 (in Chinese with English abstract).
- Hu, Nien-Tsu A. 2007. Marine policy in Taiwan: Its evolution and prospect. A draft paper presented at the 2007 International Symposium on Marine Affairs and the Law of the Sea, May 10-11, 2007, Taipei.
- Hu, Nien-Tsu A. 2008a. The Cultural Properties Preservation Act and the orientation as well as the content of a proposed specific legislation on the underwater cultural heritage preservation, protection and management (文化資產保存法及我國水下文化資產保存、保護與管理專法之立法方向與內容). *Journal of Cultural Property Conversion (文化資產保存學刊)* 4:3-12 (in Chinese with English abstract).
- Hu, Nien-Tsu A. 2008b. The 2001 UNESCO Underwater Cultural Heritage Convention and Taiwan's domestic legal regime. *Ocean Development and International Law* 39 (4): 372-394.
- Hu, Nien-Tsu A. 2009. A comprehensive view toward establishing a Ministry of the Oceans (對海洋設部之總體觀). *Journal of Ocean and Underwater Technology (海洋及水下科技季刊)* 19 (1): 18-28 (in Chinese).
- Hu, Nien-Tsu A. 2010. South China Sea: Trouble waters or a sea of opportunity? *Ocean Development and International Law* 41 (3): 203-213.
- Kuan, Shih-Chieh. 1966. On the establishment of Chinese oceanographic research (中國海洋學術研究創建). *The Institute of Oceanography Journal (海洋彙刊)* 1: 7-11 (in Chinese).

- Ma, Ying-jeou. 1981. *Trouble Over Oily Waters: Legal Problems of Seabed Boundaries and Foreign Investments in the East China Sea* (or 怒海油爭：東海海床劃界及外人投資之法律問題) S.J.D. diss., Harvard Law School.
- Ma, Ying-jeou. 1986. *The Delimitation Issues of Diao-Yu-Tai Islets and the East China Sea: From the Perspective of New Law of the Sea or 從新海洋法論釣魚台列嶼與東海劃界問題* (in Chinese, published in Taipei).
- Marine Resources and Engineering Development Act of 1966. 33 U.S.C. §§ 1101–1108, June 17, 1966, as amended 1966.
- National Oceans Policy Guidelines (國家海洋政策綱領). 2004, October 13. Texts of Chinese and English version, see official website of The Center for Marine Policy Studies, National Sun Yat-sen University at <http://marinepolicy.nsysu.edu.tw>.
- The Coast Guard Administration of the Executive Yuan. 2007, 2008, 2009. *Coast Guard White Paper* (海巡白皮書 *Hai-Hsün Pai-P'i-Shu*) (in Chinese), July 2007, 260 p., May 2008, 244 p., April 2009, 253 p.
- The Coast Guard Administration of the Executive Yuan. 2010, 2011. *Coast Guard Annual Report* (海巡報告書 *Hai-Hsün Pao-Kao-Shu*) (in Chinese), May 2010, 195 p., May 2011, 175 p.
- The Ministry of Education. 2007. *Marine Education Policy White Paper* (海洋教育政策白皮書 *Hai-Yang Chiao-Yü Chêng-Ts'ê Pai-P'i-Shu*), in Chinese, August 2007, 47 p. (English title appearing on the cover of this book is "A White Paper on the Marine Education Policy.")
- The Ministry of the Interior. 2000. Regulations of Permission on Delineation of Course for Laying, Maintaining, or Modifying Submarine Cables or Pipelines on the Continental Shelf of the Republic of China (在中華民國大陸礁層鋪設維護變更海底電纜或管道之路線劃定許可辦法) issued January 26, 2000 and its associated Application Form for Permission of Course for Laying, Maintaining, or Modifying Submarine Cables or Pipelines on the Continental Shelf of the Republic of China (在中華民國大陸礁層鋪設維護變更海底電纜或管道之路線劃定許可申請書) issued May 1, 2000 (English text). <http://www.land.moi.gov.tw/law/enhtml/index.asp?pagenum=2> (accessed July 25, 2010).
- The Ministry of the Interior. 1993, May. *South Sea Policy Guidelines Implementation Framework and Schedule for Division of Labor* (南海政策綱領實施綱要分工表) (in Chinese), on file with the author.
- The National Council for the Advancement of Marine Affairs (NCAMA) of the Executive Yuan. 2005. *Program of Planning for Marine Affairs Policy Development: Approved Version* (海洋事務政策發展規劃方案核定本 or *Hai-Yang Shih-Wu Chêng-Ts'ê Fa-Chan Kuei-Hua Fong-An Ho-Ding-Ben*), April 25, 2005, 55 p., on file with the author.
- The National Council for the Advancement of Marine Affairs (NCAMA) of the Executive Yuan ed., published by the Research, Development and Evaluation Commission (RDEC) of the Executive Yuan. 2006. *Oceans Policy White Paper* (海洋政策白皮書 *Hai-Yang Chêng-Ts'ê Pai-P'i-Shu*), in Chinese, April 2006, 245 p. (English title appearing on the cover of this book is "Ocean Policy White Paper 2006.")
- The National Security Council. 2006, May 20. *2006 National Security Report* (國家安全報告 *Kuo-Chia An-Ch'üan Pao-Kao*) (in Chinese), 155 p.
- The Research, Development and Evaluation Commission (RDEC) of the Executive Yuan. 2001, March. *Oceans White Paper* (海洋白皮書 *Hai-Yang Pai-P'i-Shu*) (in Chinese), 116 p.
- Tung, C. Y. 1966. My expectation on the Institute of Oceanography (有望於海洋研究所者). *The Institute of Oceanography Journal* (海洋彙刊) 1:3–5.
- UN General Assembly Resolution A/RES/49/131, adopted December 19, 1994 at the 92nd plenary meeting. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/763/99/PDF/N9576399.pdf?OpenElement> (accessed July 27, 2010).
- United Daily News (聯合報). 2000, May 5. National flag vessels built domestically: Ministry of Transportations intends to subsidize 3% interest rate (國輪國造 交通部擬補貼 3%利息), 21. <http://udndata.com> (accessed May 3, 2007).
- United States Government Printing Office. 1969, January. *Our Nation and The Sea: A Plan for National Action*, 305 p.