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## Recent Developments in the South China Sea: Taiwan's Policy, Response, Challenges and Opportunities

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*“Just as German soil constituted the military front line of the Cold War, the waters of the South China Sea may constitute the military front line of the coming decades.”*

*“The 21st century's defining battleground is going to be on water” and “the South China Sea is the Future of Conflict.”*

– Robert D. Kaplan<sup>1</sup>

*“Governance of the South China Sea presents challenges. The countries of the region as well as those with interests in these regions must work together to manage and protect these shared ocean spaces for the benefit of present and future generations.”*

– Jon M. Van Dyke<sup>2</sup>

### Introduction

In the light of recent developments in the South China Sea, there is an urgent need for the governments and policy makers of the countries that border this important body of water and other countries that are considered “outsiders” in the South China Sea dispute to take note seriously of the warning and recommendation made by Kaplan and Van Dyke, respectively, in 2011. If not managed well, the possibility for the territorial and maritime disputes in the South China Sea to be erupted into serious armed conflicts cannot be ruled out. If this actually happens, the U.S. national interest will be affected regardless of whether being dragged into the confrontation or not. At the same time, however, as every challenge provides an opportunity, this can also be hopeful in the South China Sea.

To help reduce tensions and manage potential conflicts in the South China Sea, there is a pressing need for the parties concerned to adopt a regional code of conduct (COC) and develop joint projects for the exploration and exploitation of the living and non-living resources as well as the protection of the marine environment in this semi-enclosed sea. If conflict management mechanisms cannot be established soon, perhaps, for the purpose of preventing the rising tensions from escalating into military confrontations, a peaceful proposal for the South China Sea, similar to the one proposed by Taiwan's President Ma Ying-jeou for the East China Sea in August 2012 could be considered or proposed by any of the parties to the South China Sea disputes.

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<sup>1</sup> Robert D. Kaplan, “The South China Sea is the Future of Conflict,” *Foreign Policy*, SEPT/OCT 2011, available at [http://www.foreignpolicy.com/articles/2011/08/15/the\\_south\\_china\\_sea\\_is\\_the\\_future\\_of\\_conflict](http://www.foreignpolicy.com/articles/2011/08/15/the_south_china_sea_is_the_future_of_conflict) (accessed May 24, 2013).

<sup>2</sup> Jon M. Van Dyke, “Regional Maritime Cooperation in the South China Sea,” paper presented at the International Conference on Major Law and Policy Issues in the South China Sea: European and American Perspectives, organized by the Institute of European and American Studies and Center for Asia-Pacific Studies, Academia Sinica, Taipei, Taiwan, October 7 and 8, 2011. This paper was revised by Professor Sherry Broder and included in MAJOR LAW AND POLICY ISSUES IN THE SOUTH CHINA SEA: EUROPEAN AND AMERICAN PERSPECTIVES (Yann-huei Song & Keyuan Zou, eds., forthcoming 2013), Ch. 2.

The Republic of China (hereafter referred to as Taiwan), an oft-overlooked player in the South China Sea disputes, is indeed one of the claimants and stakeholders in this important East Asian semi-enclosed sea. Taiwan has an abiding interest and a legitimate right to participate in the regional security dialogue mechanisms that deal with the South China Sea issues.<sup>3</sup>

Unfortunately, due to its unique political status and the rigid adherence to the “One China” principle by some of the countries concerned in the region, for too long, Taiwan has been barred from participating in the track-one diplomacy that discusses the issues involving with sovereignty and maritime dispute in the South China Sea.

Recent developments across the Taiwan Strait and in the South China Sea, however, have created both challenges and opportunities for President Ma and his administration. If handled wisely, with the support from a number of key players that are either bordering the South China Sea or outside the region, Taiwan’s chance to participate in the future South China Sea-related regional security dialogue mechanisms could be increased to a greater extent.

At present, although the chance for Taiwan’s being invited to participate in the regional security dialogue or negotiation process at the track-one level remains slim, the possibility of making flexible arrangements to allow Taiwan participate in the proposed or agreed maritime cooperative activities in accordance with the Declaration on the Conduct for the Parties in the South China Sea (hereafter referred to as the 2002 DOC),<sup>4</sup> signed between the government of the People’s Republic of China (hereafter referred to as Mainland China) and the governments of ASEAN member countries in November 2002, and the Declaration’s implementation guidelines (hereafter referred to as the 2011 DOC Guidelines),<sup>5</sup> agreed to between the two sides in July 2011, is actually increasing.<sup>6</sup> This is so because of the rapid improvement of the cross-Strait relations since May 2008 and the increasing support from the countries, in particular, the United States, for Taiwan’s involvement in the multilateral diplomatic, collaborative process that deals with the South China Sea issues.

The purpose of this paper is to discuss recent developments in the South China Sea from the perspective of Taiwan. It is organized into 6 parts. After this introduction, part 2 provides a background explanation of the development of Taiwan’s South China Sea policy since 1993 when the policy guidelines were approved by the Executive *Yuan* (the Cabinet). Part 3 reviews

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<sup>3</sup> Professor Ian Townsend-Gault of the University of British Columbia wrote in 2011 about Taiwan’s power to rule in the South China Sea area. He said, “. . . *de facto*, there is a government in Taipei making laws and policies relevant to the South China Sea and exercising supervision of certain activities there, and it must therefore be accounted as one of the ‘authorities’ active in that marine area.” See Ian Townsend-Gault, “The South China Sea Workshop Process and the Need for Taiwan’s Continuing Involvement in Regional Ocean Initiatives,” in MAJOR LAW AND POLICY ISSUES IN THE SOUTH CHINA SEA: EUROPEAN AND AMERICAN PERSPECTIVES (Yann-huei Song & Keyuan Zou, eds., forthcoming 2013), Ch. 14.

<sup>4</sup> The 2002 Declaration on the Conduct of the Parties is available at <http://www.aseansec.org/13163.htm> (accessed May 26, 2013).

<sup>5</sup> The 2011 Guidelines for the Implementation of the DOC is available at <http://www.southchinasea.com/documents/law/306-guidelines-for-the-implementation-of-the-doc.html> (accessed May 26, 2013)

<sup>6</sup> See Yann-huei Song, “Taiwan’s Participation in the SCS Regional Dialogue Mechanisms: What Actions Should Be Taken by the Ma Administration? Prospect Foundation, Newsletter 2011, No 15, available at [http://www.pf.org.tw/FCKM/inter/research\\_eng/report\\_open.jsp?file\\_id=1358](http://www.pf.org.tw/FCKM/inter/research_eng/report_open.jsp?file_id=1358) (accessed May 24, 2013)

recent responses and actions taken by the government of Taiwan in support of its territorial and maritime claims in the South China Sea. Part 4 compares Taiwan's and Mainland China's claims and behaviors in the South China Sea. Part 5 identifies a number of policy challenges facing President Ma and his administration, and then raises a couple of questions that are related to Taiwan's behaviors in the South China Sea. Part 6 ends the paper with a number of policy recommendations made by the writer for President Ma and his administration to consider.

### **Development of Taiwan's South China Sea Policy**

Before December 2005, the government of Taiwan handled the South China Sea issue mainly in accordance with the policy guidelines it adopted in April 1993, which provided that Taiwan's South China Sea policy goals are: (1) safeguarding the sovereignty over the South China Sea; (2) strengthening the development and management of the South China Sea; (3) actively promoting cooperation among the littoral states of the South China Sea; (4) resolving the South China Sea disputes by peaceful means; and (5) protecting ecological environment of the South China Sea.<sup>7</sup> The policy guidelines designated different government agencies to implement the following tasks: (1) to survey and register the land of the islands in the South China Sea; (2) to protect fisheries and navigation in the area; (3) to ensure security to development operations; (4) to establish satellite communications facilities and navigation aids; (5) to construct airport and dock facilities; (6) to improve medical facilities; (7) to establish environmental data bank; (8) to adopt environmental protection measures; (9) to collect useful information on resources; (10) to draw up development programs; and (11) to study political and legal issues relating to the South China Sea.<sup>8</sup>

One year after the approval of the guidelines by the Executive *Yuan* (the Cabinet), patrolling vessels of Taiwan's Marine Police were dispatched to the Spratly Islands to carry out the mission of fishery protection, anti-smuggling, and combating piracy. In April 1995, in the midst of Mischief Reef conflict, patrolling vessels were sent again but aborted due to protests from the Philippines and Vietnam, as well as policy consideration involving U.S. concern and the call for maintaining peace and stability in the South China Sea. In January 1998, Law on the Territorial Sea and the Contiguous Zone of the Republic of China and Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China were promulgated. In February 1999, the 1st part of the baselines of Taiwan's territorial sea was announced, in which a combined normal and straight baseline methods were used. It was made clear in the proclamation that the Spratly Islands within the U-shaped line are Taiwan's territory. In January 2000, personnel of Taiwan's Coast Guard Administration were sent to Taiping Dao (Itu Aba) of the Spratly Islands and Pratas Islands to replace the stationed Marine Corps personnel from the ROC Navy.

In response to the signing of the DOC between ASEAN member countries and Mainland China in November 2002, Taiwan's Ministry of Foreign Affairs issued a statement, reiterating its territorial sovereignty over Dongsha (the Pratas Islands), Xisha (the Parcel Islands), Zhongsha

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<sup>7</sup> For the guidelines, see Kuan-Ming Sun, "Policy of the Republic of China towards the South China Sea," *Marine Policy*, 19 (5): 408, Appendix I (1995). See also Yann-huei Song, *MANAGING POTENTIAL CONFLICTS IN THE SOUTH CHINA SEA: TAIWAN'S PERSPECTIVE*, East Asia Institute, National University of Singapore (World Scientific Publishing Co. and Singapore University Press, 1999).

<sup>8</sup> Appendix I, Kuan-Ming Sun, *ibid.*

(the Macclesfield Bank) and Nansha (the Spratly Islands) in the South China Sea, over which it claims all lawful rights according to international law. Taiwan expressed its protest and discontent to ASEAN and Mainland China for ignoring its lawful rights and for signing the DOC without the participation of its government in the discussion. In August 2003, Taiwan's Minister of Interior visited Taiping Island and Zhong Zou Reef. This was followed by a move to build a bird-watching pavilion on Zhong Zou Reef in July 2004, which is located in between Taiwan's Taiping Island and Dunqian Shazhou (Sandy Cay) occupied by Vietnam in the Spratly archipelago.

In March 2005, a Tripartite Agreement for Joint Marine Scientific Research in Certain Areas in the South China Sea was signed by Mainland China's, Vietnam's, and the Philippine national oil companies, but Taiwan was excluded from joining the agreement. Taiwan lodged a protest against the joint project. In May 2005, the responsibility for dealing with the South China Sea issues was transferred from the Ministry of Interior to the National Security Council. In August 2005, a Joint Meeting for Dealing with the Situation in Taiwan's Neighboring Waters was set up within the National Security Council. Three months later, in December 2005, the 1993 Policy Guidelines for the South China Sea were suspended under the Chen Shui Bian administration.<sup>9</sup> But at the same time, President Chen decided to build a runway on Taiping Island, but that was forced to bring to a halt because of issue concerning legitimacy of using the Executive *Yuan's* prepared special budget.

In 2007, Taiwan restored the construction works for the runway on Taiping Island. Taiwan also announced the establishment of the Dongsha (the Pratas) Atoll National Park, which is the 7th National Park of Taiwan. In March 2007, Kaohsiung City Government of Taiwan promulgated the establishment of a sea turtle protection zone on Taiping Island in accordance with Taiwan's Fisheries Law. In November 2007, the runway was completed and a military C-130 cargo aircraft conducted a test-fly to the island. In February 2008, President Chen Shui-Bin boarded the military cargo aircraft to visit Taiping Island and announced Taiwan's "Spratly Initiative".<sup>10</sup>

Three policy goals under Chen's "Spratly Initiative" are: (1) To find a way for Taiwan to participate in the South China Sea security dialogue process and cooperative activities; (2) To prevent others from competing for the marine resources that Taiwan claims, including energy resources such as oil, gas, and gas hydrates, and other resources such as fisheries; and (3) To prevent the maritime environment in the South China Sea from being further damaged. To achieve these stated policy goals, President Chen made the following proposals: (1) Taiwan is willing to accept the principles and spirit of the 2002 DOC on an equal footing of sovereignty ; (2) A call for resolution of sovereignty disputes through peaceful means and the formulation of a regional code of conduct for the South China Sea, but priority should be given to maritime ecological conservation and sustainable development ; (3) Taiwan would invite international ecologists and representatives of major environmental groups to make regular visits to South China Sea islands held by Taiwan, including the Dongsha (Pratas) Islands, Taiping Island, and Zhong Zhou Reef ; and (4) Sovereignty disputes in the South China Sea should not block the

<sup>9</sup> Tai-Nei-Di No. 0940016293, December 15, 2005.

<sup>10</sup> Cheng-yi Lin, "Taiwan's Spratly Initiative in the South China Sea," *China Brief*, Vol. 8, Issue 4, February 29, 2008, available at [http://www.jamestown.org/programs/chinabrief/single/?tx\\_ttnews%5Btt\\_news%5D=4731&tx\\_ttnews%5BbackPid%5D=168&no\\_cache=1](http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews%5Btt_news%5D=4731&tx_ttnews%5BbackPid%5D=168&no_cache=1) (accessed May 27, 2013)

development of cooperation among the countries in the area, and non-governmental South China Sea research center to be established.<sup>11</sup>

In February 2008, during Taiwan's presidential campaign, Ma Ying-jeou, the KMT's candidate, proposed his ocean policy entitled "Blue Revolution, Invigorating the Country through Oceans," which, *inter alia*, stressed the need to work for sustainable development of Taiwan's surrounding waters, to uphold the country's rights and sovereignty over sea territory, and to collaborate with neighboring countries for the peaceful development and preservation of the South China Sea.<sup>12</sup>

After winning the election in March 2008, President Ma announced his basic principles that govern Taiwan's South China Sea policy, namely: (1) safeguarding sovereignty; (2) putting aside the disputes; (3) peace and reciprocity; and (4) joint development. Accordingly, Taiwan's South China Sea policy guidelines under the Ma administration are: (1) Opening up of the sea by seeking joint development of resources in the South China Sea; (2) Helping maintain peace and stability in the Asia-Pacific region; (3) Calling for more research and survey on the resources in the Pratas Islands and the South China Sea; and (4) Working with international conservation organizations to establish a peace park at Taiping Island for the purpose of enhancing international cooperation and protecting the ecological and human cultural resources of the South China Sea region.<sup>13</sup>

In comparison with the previous administrations, the Ma administration is taking a more active approach in dealing with the South China Sea issues. A number of South China Sea task forces were set up in 2008. The South China Sea decision-making process was upgraded by moving the authority from the Ministry of Interior to the National Security Council, which is responsible for coordinating the governmental agencies to help deal with the South China Sea issues. A Joint Meeting for Maritime Situation was set up within the National Security Council and the South China Sea issues are discussed at the Joint Meeting. Different tasks in relation to the South China Sea are assigned to governmental agencies in accordance with their jurisdiction. In October 2008, it was reported that the Ma administration intended to cooperate with Mainland China to develop oil and gas resources in the East China Sea and South China Sea.<sup>14</sup> The idea was killed in response to the U.S. concern about cross-strait cooperation on the East China Sea and South China Sea issues.

In October 2010, President Ma accepted an interview from the Associated Press, where he stated that "no country can control the [South China Sea] militarily, . . . it's too far away from their territory." In his mind, in the future, "obviously a joint action aiming at joint development is probably the best solution." President Ma also stressed that certainly all the activities on the oceans, particularly in international waters, are regulated by the 1982 United Nations Convention

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<sup>11</sup> *Ibid.*

<sup>12</sup> See Ocean Policy of Ma Ying-jeou and Xiao Wan-chang, "Blue Revolution, Invigorating the Country through Oceans," February 2008, available at <http://www.rdec.gov.tw/public/Attachment/942417365271.pdf> (accessed May 27, 2013) (in Chinese)

<sup>13</sup> *Ibid.*

<sup>14</sup> "Cross-Strait Cooperation to Explore Oil in ECS & SCS," *China Times* (Taipei), October 28, 2008 (in Chinese), p. A9.

on the Law of the Sea.<sup>15</sup> Since October 2010 until now, Taiwan's South China Sea is implemented in accordance with the basic policy principles, namely, safeguarding sovereignty, putting aside the disputes, insisting on peace and reciprocity, and promoting joint development.

### **Taiwan's Response to Recent Developments in the South China Sea**

Over the past few years, a number of actions have been taken by the government of Taiwan to support its sovereignty and maritime claims in the South China Sea. Most of the time, these actions are taken in response to the actions taken by other claimants, in particular Malaysia, the Philippines, and Vietnam. Interestingly to note, Taiwan did not take actions or issue official statements to challenge or criticize the oft-cited assertive activities conducted by Mainland China in the South China Sea.

In February 2009, Taiwan's Ministry of Foreign Affairs, in response to the legislative act taken by the Philippines, declared that the incorporation of Huangyan Island (the Scarborough Shoal) and part of the Spratly Islands into Philippine territory violated Taiwan's sovereignty over the islands. The Ministry called on the Philippine government to abide by the principles and spirit of the UN Charter, the 1982 Law of the Sea Convention, and the 2002 DOC in order to peacefully solve through dialogue any dispute involving the issue of the South China Sea.<sup>16</sup> This was followed by another statement made in May 2009 when the governments of Malaysia and Vietnam jointly, and the government of Vietnam independently, submitted their applications to the UN Commission on the Limits of Continental Shelf for extended continental shelves in the South China Sea. In the statement, the government of Taiwan reiterated its territorial and maritime claims in the South China Sea and asked the governments of Malaysia and Vietnam to abide by the international law and settle the disputes by peaceful means.<sup>17</sup>

In July 2011, in response to an agreement reached between Mainland China and the ASEAN on the implementing guidelines for the DOC, Taiwan's Ministry of Foreign Affairs issued a statement, reiterating its position on the sovereignty and maritime claims in the South China Sea and declaring that "[a]s the government should be included in the dispute dialogue mechanism, it will not recognize any resolution reached without its participation."<sup>18</sup>

On September 7, 2012, the spokesman of Vietnam's Ministry of Foreign Affairs stated that the raising of the national flag of the Republic of China (Taiwan) on Taiping Island and Zhong Zhou Reef by the Secretary-General of Taiwan's National Security Council and various other high-

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<sup>15</sup> See "Official Full Text of AP Interview with President Ma," Want China Times, October 21, 2010, available at <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20101021000212&cid=11> (accessed May 27, 2013)

<sup>16</sup> The full text of the statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/b88276e7-59ff-4c45-8a10-2bda674ddd4?arfid=0b12b1ae-64ff-4e4b-b6bd-e20fbf2c7a13&opno=49be2475-017b-4647-8ac1-9a0ec20d892c> (accessed May 24, 2013)

<sup>17</sup> The full text of the statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/890fb320-603c-49b2-a2cc-7842923e66c8?arfid=0b12b1ae-64ff-4e4b-b6bd-e20fbf2c7a13&opno=49be2475-017b-4647-8ac1-9a0ec20d892c> (accessed May 24, 2013)

<sup>18</sup> The full text of the statement is available at <http://www.boca.gov.tw/content.asp?cuItem=4736& mp=1> (accessed May 24, 2013)

ranking government officials violated Vietnam's sovereignty over the Spratly Islands. Taiwan's Ministry of Foreign Affairs responded by issuing a statement, reiterating its position on the territorial and maritime issues in the South China Sea. In addition, the government of Taiwan stated that it "continues to uphold the fundamental principles of 'safeguarding sovereignty, shelving disputes, pursuing peace and reciprocity, and promoting joint exploration'" and "remains willing to participate in dialogue aimed at resolving disputes and promoting regional peace, stability and development." Taiwan called on relevant neighboring countries to include it in the negotiations on the COC in the South China Sea and to work together to promote regional peace and development.<sup>19</sup>

Also in September 2012, in response to the action taken by the government of the Philippines to rename the South China Sea to "the West Philippine Sea", the government of Taiwan issued a formal protest and reiterated its longstanding position on the territorial and maritime issues in the South China Sea. Taiwan urged the countries concerned to exercise self-restraint and foster dialogue rather than confrontation, so that peaceful resolutions can be reached.<sup>20</sup>

In January 2013, Taiwan protested the entry into force of Vietnam's law of the sea, which makes claims to the Paracel and Spratly Islands in the South China Sea.<sup>21</sup> In April 2013, in response to Vietnam's complaint about Taiwan's plan to expand a pier and to stage live-fire exercise on Taiping Island, Taiwan's Foreign Ministry spokeswoman Anna Kao stated that "the ROC has long governed Taiping Island . . . and has sovereignty over it. Any activities and measures the government carries out on the island are legitimate and other countries should not trigger territorial tensions in the region for any reason."<sup>22</sup>

More recently, on May 25, 2013, Taiwan's Ministry of Foreign Affairs expressed its serious concern and firm opposition over the Philippines' dispatch of naval vessels to Renai (Second Thomas) Shoal in the Spratly Islands. The Ministry reiterated the government's position on territorial and maritime issues in the South China Sea as follows:

1. Whether looked at from the perspective of history, geography, or international law, the Spratly Islands, Xisha (Paracel) Islands, Zhongsha Islands (Macclesfield Bank), and Dongsha (Pratas) Islands, as well as their surrounding waters, are unquestionably the sovereign territory of the Republic of China. The Republic of China reasserts that it enjoys all rights over these four island groups and their surrounding waters. Second Thomas Shoal is located within the Spratly Islands,

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<sup>19</sup> The full text of the statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/48c837aa-2108-428d-92cd-2520343f37ef?arfid=0b12b1ae-64ff-4e4b-b6bd-e20fbf2c7a13&opno=49be2475-017b-4647-8ac1-9a0ec20d892c> (accessed May 24, 2013)

<sup>20</sup> The statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/a8970a98-126f-4d25-999b-b30d8050c1df?arfid=0b12b1ae-64ff-4e4b-b6bd-e20fbf2c7a13&opno=49be2475-017b-4647-8ac1-9a0ec20d892c> (accessed May 24, 2013)

<sup>21</sup> The statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/93762c3d-bbab-4fe9-84bd-d3d58f04b07a?arfid=0b12b1ae-64ff-4e4b-b6bd-e20fbf2c7a13&opno=49be2475-017b-4647-8ac1-9a0ec20d892c> (accessed May 24, 2013)

<sup>22</sup> "Taiwan holds sovereignty over Taiping Island: MOFA," Press Release, April 13, 2013, available at <http://www.taiwanembassy.org/ct.asp?xItem=369822&ctNode=4927&mp=297> (accessed May 24, 2013)

and the government denies all unlawful claims to sovereignty over, or occupation of, these areas by other countries.

2. The government has held to the principles of safeguarding sovereignty, shelving disputes, pursuing peace and reciprocity, and promoting joint exploration and development in dealing with disputes in the South China Sea. The Republic of China again calls on nations neighboring islands in the South China Sea to abide by the principles and spirit of international law, temper their actions, and refrain from implementing unilateral measures that could affect peace and stability in the South China Sea. Dialogue should replace confrontation, and parties should work together to seek a peaceful resolution to disputes concerning the South China Sea.<sup>23</sup>

Over the past two years, a number of policy measures have also been adopted by Taiwan's government agencies, aiming to safeguard its sovereignty and maritime claims in the South China Sea and develop the resources in the area. In May 2011, President Ma announced "Three line of defense" policy.<sup>24</sup> The third line is to combine defense and diplomacy to establish Taiwan's leverage in safeguarding its sovereignty and maritime rights and interests in the South China Sea. Domestically, President Ma made efforts to raise the younger generation's awareness of the importance of territory and maritime zones in the South China Sea. Accordingly a decision was made by the Ma administration to organize several visits by college students to board the ROC Navy's warships to the Pratas and Spratly Islands in July and August 2011.<sup>25</sup> The National Security Council, the Ministry of National Defense, the Ministry of Education, the Ministry of Interior, and the Coast Guard Administration are all involving in these programs, which continue in 2012 and 2013.<sup>26</sup> Between May 21 and May 28, 2013, 18 Taiwanese students and two teachers boarded the ROC Navy's Lafayette frigates *Kunming* to visit Taiping Island when the ship was conducting its surveillance and patrolling mission in the South China Sea.<sup>27</sup>

A decision was also made by the Ma administration in 2011 to establish Taiping Island as a low carbon energy island and to reaffirm Taiwan's sovereignty over the territory. Accordingly, a new solar power system was installed on the island and began operations in December 2011. The 120 kilowatt-peak (kWp) solar power system, built on Taiping Island, will generate an estimated 175,920 kilowatt hours of electricity per year, while saving NT\$735,346 (US\$24,260) in fuel

<sup>23</sup> "The Republic of China (Taiwan) protests the Philippines' dispatch of naval vessels to Renai Shoal," May 25, 2013, available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/fcd4b801-2904-475a-af6b-457b840559f6?arfid=7b3b4d7a-8ee7-43a9-97f8-7f3d313ad781&opno=84ba3639-be42-4966-b873-78a267de8cf1> (accessed May 27, 2013).

<sup>24</sup> "Ma details 'three lines' of national defense," *Taipei Times*, June 2, 2011, available at <http://www.taipeitimes.com/News/taiwan/archives/2011/06/02/2003504765> (accessed May 27, 2013).

<sup>25</sup> "Taiping Island camp shows sovereignty: Ma," *The China Post*, July 19, 2011, available at <http://www.chinapost.com.tw/taiwan/national/national-news/2011/07/19/310238/Taiping-Island.htm> (accessed May 26, 2013).

<sup>26</sup> "Summer camps program to include Spratlys: MND," *Taipei Times*, June 14, 2012, available at <http://www.taipeitimes.com/News/taiwan/archives/2012/06/14/2003535294> (accessed May 27, 2013); "Taiwan students, teachers to camp at Spratlys," Yahoo News (Philippines), February 5, 2013, available at <http://ph.news.yahoo.com/taiwan-students-teachers-camp-spratlys-032023967.html> (accessed May 27, 2013)

<sup>27</sup> Rogge Chen and Jay Chen, "Taiwan's students, scholars visited Taiping Island," *Taiwan News*, May 31, 2013, available at [http://www.taiwannews.com.tw/etn/news\\_content.php?id=2234505](http://www.taiwannews.com.tw/etn/news_content.php?id=2234505) (accessed June 3, 2013)

costs. The solar power system will replace 16.8 percent of the electricity currently produced by diesel generators and it will also eliminate 119 tonnes of carbon emissions per year.<sup>28</sup>

In April and May 2012, several members of the Committee on Foreign Affairs and National Defense, the Legislative Yuan, paid visit to Taiping Island and the Pratas Islands respectively.<sup>29</sup> One of the proposals the legislators made after the visit is to ask President Ma to visit Taiping Island and the Pratas Island for the purpose of re-affirming Taiwan's sovereignty over the islands in the South China Sea. Another proposal is to strengthen defense capability of the Coast Guard Administration's personnel that have replaced Taiwan's Marine Corps to safeguard the islands since 2000.

In August 2012, high ranking officials from the National Security Council and the Ministry of Interior paid a visit to Taiping Island.<sup>30</sup> This was followed by a visit of another group of Taiwan's legislators in September 2012 to observe military drill conducted on the island.<sup>31</sup> In April 2013, the military drill on Taiping Island was conducted again.<sup>32</sup> In December 2012, Taiwan's Bureau of Energy under the Ministry of Economic Affairs announced a plan to explore and exploit oil and gas resources in cooperation with CPC Corp in the area near Taiping Island of the Spratly archipelago.<sup>33</sup> In January 2013, Chunghwa postal service became available on Pratas Islands and Taiping Island and Taiwan's Chunghwa Telecom launched cell-phone service on Taiping Island.<sup>34</sup> It was also reported that Taiwan plans to expand its wharf at Taiping Island to accommodate larger vessels as part of its ongoing military enhancement project in the disputed region.<sup>35</sup> Budgets were allocated in support of the plans for construction of defense facilities and enhancing defense capability on the Pratas Islands and Taiping Islands. In March 2013, a Taiwanese oceanic research team discovered gas hydrate deposits in waters south of the

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<sup>28</sup> Grace Kuo, "CGA launches solar power system on Taiping Island," *Taiwan Today*, December 14, 2011, available at <http://www.taiwantoday.tw/ct.asp?xItem=182349&ctNode=445> (accessed May 27, 2013).

<sup>29</sup> "Lawmakers visit Taiping Island to defend Taiwan's sovereignty," *Focus Taiwan*, April 30, 2012, available at <http://focustaiwan.tw/news/aall/201204300043.aspx> (accessed May 27, 2013); "7 Taiwanese lawmakers visit disputed Pratas islands," *Want China Times*, May 10, 2012, available at <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20120510000078&cid=1101> (accessed May 27, 2013).

<sup>30</sup> Rachel Chan, "ROC officials visit Taiping Island, reaffirm sovereignty," *Taiwan Today*, September 3, 2012, available at <http://taiwantoday.tw/ct.asp?xItem=195606&CtNode=414> (accessed May 27, 2013)

<sup>31</sup> Rachel Chan, "ROC lawmakers visit Taiping Island, observe drill," *Taiwan Today*, September 5, 2013, available at <http://taiwantoday.tw/ct.asp?xItem=195731&ctNode=413> (accessed May 27, 2013)

<sup>32</sup> "Taiwan stages live-fire drill in contested Spratlys," *Bangkok Post*, April 22, 2013, available at <http://www.bangkokpost.com/news/asia/346479/taiwan-stages-live-fire-drill-in-contested-spratlys> (accessed May 27, 2013).

<sup>33</sup> Michael Cole, "Taiwan to start oil exploration in S China Sea," *Taipei Times*, December 28, 2012, available at <http://www.taipeitimes.com/News/front/archives/2012/12/28/2003551168> (accessed May 27, 2013)

<sup>34</sup> "Taiwan launches mobile telecom system in Spratlys," *Want China Times*, February 2, 2013, available at <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20130202000012&cid=1101> (accessed May 27, 2013); "Postal Service Launched in Dongsha and Nansha to Assert Sovereignty," Central News Agency, January 9, 2013, available at [http://www.cna.com.tw/postwrite/Detail/119430.aspx#\\_UaOeeLIVH3g](http://www.cna.com.tw/postwrite/Detail/119430.aspx#_UaOeeLIVH3g) (accessed May 27, 2013), in Chinese.

<sup>35</sup> See Joseph Yeh, "Taiwan to expand Taiping wharf: report," *The China Post*, January 12, 2013, available at <http://www.chinapost.com.tw/taiwan/national/national-news/2013/01/12/367130/Taiwan-to.htm> (accessed May 27, 2013); Joseph Yeh, "MND to consult CGA on Taiping wharf," *The China Post*, April 25, 2013, available at <http://www.chinapost.com.tw/taiwan/national/national-news/2013/04/25/376979/MND-to.htm> (accessed May 27, 2013); and "Taiwan plans to set up naval frigates at Ba Binh Island of Vietnam," *Asitimes*, April 5, 2013, available at <http://asitimes.blogspot.com/2013/04/taiwan-plans-to-set-up-naval-frigates.html> (accessed May 27, 2013)

Pratas Islands during a recent mission to the South China Sea.<sup>36</sup> on May 28 2013, the first trip for students and teachers to board a ROC Navy's warship to visited Taiping Island in the midst of maritime dispute between Taiwan and the Philippines over the shooting of a Taiwanese fisherman to death by the Philippine coast guard personnel in the overlapping EEZs.<sup>37</sup>

### **A Comparison of Taiwan's and Mainland China's Claims and Behaviors in the South China Sea**

Quite often Taiwan's sovereignty and maritime claims in the South China Sea are considered identical to those claimed by Mainland China. As a result, Taiwan is not considered a major player in the South China Sea disputes. Taiwan is mentioned only in the context of Mainland China's claims. Actually, however, differences can be found in these two players' claims and behaviors in the South China Sea. A number of similar claims and positions are discussed first.

Both Taipei and Beijing make claims to the sovereignty over the four major groups of islands in the South China Sea, namely the Pratas Islands, the Paracel Islands, Macclesfield Bank, and the Spratly Islands. Article 2 of the Law of the People's Republic of China on the Territorial Sea and Contiguous Zone provides that the land territory of Mainland China "includes the mainland of the People's Republic of China and its coastal islands; Taiwan and all islands appertaining thereto including the Diaoyu Islands; the Penghu Islands; the Dongsha Islands; the Xisha Islands; the Zhongsha Islands and the Nansha Islands; as well as all the other islands belonging to the People's Republic of China."<sup>38</sup> In May 2009, in response to the Malaysian and Vietnamese submissions of applications for outer limits of their continental shelf beyond 200 nautical miles in the South China Sea to the Commission on the Limits of the Continental Shelf, Mainland China submitted a diplomatic note to the UN, stating, *inter alia*, that "China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof."<sup>39</sup>

Taiwan's Law on the Territorial Sea and the Contiguous Zone, promulgated on January 21, 1998, contains no specific wording with regard to the sovereignty over the four major groups of islands in the South China Sea. However, the statement made by Taiwan's Ministry of Foreign Affairs on May 12, 2009 stressed that "the Diaoyutai Islands, Nansha Islands (Spratly Islands), Shisha Islands (Paracel Islands), Chungsha Islands (Macclesfield Islands), and Tungsha Islands (Pratas Islands) as well as their surrounding waters are the inherent territories and waters of the Republic of China based on the indisputable sovereignty titles justified by historic, geographic

<sup>36</sup> Taiwan discovers gas hydrates in the South China Sea," *Want China Times*, March 14, 2013, available at <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20130314000062&cid=1102> (accessed May 27, 2013)

<sup>37</sup> Rogge Chen and Jay Chen, "Taiwan's students, scholars visited Taiping Island," *Taiwan News*, May 31, 2013, available at [http://www.taiwannews.com.tw/etn/news\\_content.php?id=2234505](http://www.taiwannews.com.tw/etn/news_content.php?id=2234505) (accessed June 4, 2013)

<sup>38</sup> The full text of the law is available at <http://www.asianlii.org/cn/legis/cen/laws/lotprocottsatz739/> (accessed May 27, 2013)

<sup>39</sup> The Chinese diplomatic note, CML/17/2009, dated May 7, 2009, is available at [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/chn\\_2009re\\_mys\\_vnm\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf) (accessed May 27, 2013).

and international legal grounds.”<sup>40</sup> This claim was reiterated in the statement issued by its Ministry of Foreign Affairs on May 25, 2013 in response to the Philippines’ act in the sea area near the Second Thomas Shoal of the Spratly archipelago.

Taipei and Beijing also make a similar claim to sovereignty, sovereign rights, and jurisdiction over some 70% of the waters of the South China Sea and underlying seabed within the so-called “U-shaped Line” or “Nine-dotted Line.” Mainland China’s *notes verbales* of May 2009 to the UN contains a map with the nine-dotted line. In April 2011, in response to the communication from the Philippines, Mainland China asserted that “under the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, as well as the Law of the People’s Republic of China on the Territorial Sea and the Contiguous Zone (1992) and the Law on the Exclusive Economic Zone and the Continental Shelf of the People’s Republic of China (1998), China’s Nansha [Spratly] Islands [are] fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf.”<sup>41</sup>

Taiwan’s 1993 South China Sea Policy Guidelines stated that “the sea areas within the South China Sea historic waters boundary line are sea areas under the jurisdiction of [the Republic of China].”<sup>42</sup> Although the guidelines were suspended in December 2005, the previously cited statement made by Taiwan’s Ministry of Foreign Affairs on May 12, 2009 specified that “Under international law, the Republic of China enjoys all the rights and interests over the [South China Sea] islands, as well as the surrounding waters and sea-bed and subsoil thereof.”<sup>43</sup> In addition, the statement made by the government of Taiwan on May 25, 2013 also claims that it enjoys all rights over the four island groups in the South China Sea and their surrounding waters. In short, Beijing’s and Taipei’s claims to the sovereignty, sovereign rights, and jurisdiction within the “Nine-dotted line” or “U-shaped line” are more or less the same. Legal basis and arguments for their claims are also similar, if not identical, which emphasize on discovery, uses, and history.

Taiwan’s and Mainland China’s basic principles that guide their respective South China Sea policy are also very similar, which include: (1) putting aside the disputes; (2) jointly developing the resources; and (3) settling the dispute by peaceful means. Since 1991, both sides have sent government officials and scholars on their personal capacity to attend the Indonesia-led Informal Workshop on Managing Potential Conflicts in the South China Sea.<sup>44</sup>

Besides the aforementioned similarities, a number of differences are worthwhile to be noted. First, Mainland China is a member of the United Nations and a party to the 1982 Law of the Sea

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<sup>40</sup> The full text of the statement is available at <http://www.mofa.gov.tw/EnOfficial/ArticleDetail/DetailDefault/ad125edc-048e-45de-93bc-11427232687b?arfid=7b3b4d7a-8ee7-43a9-97f8-7f3d313ad781&opno=84ba3639-be42-4966-b873-78a267de8cf1> (accessed May 27, 2013)

<sup>41</sup> The Chinese communication, CML/8/2011, dated April 14, 2011, is available at [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/chn\\_2011\\_re\\_phl\\_e.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2011_re_phl_e.pdf) (accessed May 27, 2013)

<sup>42</sup> The full text of the guidelines is available (in Chinese) available at <http://www.rootlaw.com.tw/LawArticle.aspx?LawID=A040040091060500-0820413> (accessed May 27, 2013)

<sup>43</sup> *Supra* note 17.

<sup>44</sup> Yann-huei Song, “The South China Sea Workshop Process and Taiwan’s Participation,” *Ocean Development and International Law* 41: 253-269 (2010).

Convention and the 1994 Deep Sea-bed Agreement. But Taiwan is not. Accordingly, Taiwan has difficulty to submit the South China Sea disputes with its neighboring countries to the international judicial institutions, such as the International Court of Justice or the International Tribunal for the Law of the Sea, for settlement. It also has difficulty to apply for deep sea mining exploration contracts in the “Area” that is governed by the International Sea-bed Authority. Moreover, since Taiwan is not a party to the Law of the Sea Convention, it cannot submit application for the extended continental shelves in the East and South China Seas to the UN Commission on the Limits of the Continental Shelf for recommendations.

Second, Mainland China signed the DOC with ASEAN member countries in 2002 and reached agreement to adopt the DOC Guidelines in 2011. Taiwan did not. Thus, while Beijing can be accused of violating the said documents because of taking assertive moves in the South China Sea, such as cutting cables of Vietnamese survey vessels operating in the disputed waters near the Paracel Islands or found within the waters encircled by the nine-dashed line, or arresting the Vietnamese or the Philippine fishing vessels in the disputed waters near the Paracel or Spratly Islands, the allegation cannot be made to Taiwan.

Third, law enforcement actions had been taken by Mainland China’s naval or government ships to interfere with the exercise of freedom of navigation by vessels from the countries such as the United States and India in the waters encircled by the nine-dashed line. But no such actions have ever been taken by Taiwan against foreign vessels in the said area. In fact, the Ma administration has made it clear that freedom of navigation in the South China Sea will be respected in accordance with the rules under the international law of the sea.

Fourth, military exercises have continuously been carried out by the PLA Navy in the South China Sea area over the past few years. The most recent one is the rare joint exercise by its navy’s North Sea, East Sea and South Sea fleets in the South China Sea in late May 2013.<sup>45</sup> In contrast, on May 23, 2013, President Ma clarified that the ROC Navy and Coast Guard Administration’s joint patrol in the overlapping waters between Taiwan and the Philippines in the South China Sea aimed to protect the safety of local fishermen, rather than being a military drill.<sup>46</sup>

Five, while Mainland China insists that the South China Sea disputes should be dealt with bilaterally and directly by the countries concerned, and that external powers, in particular, the United States, should not intervene, Taiwan is taking a rather different stand. Taiwan has never said that the South China Sea disputes should be handled by a bilateral approach. In fact, not only Taiwan accepts a multilateral approach, but also welcomes the involvement of the United States in the management of the potential conflicts in the South China Sea. In other words, Taipei and Beijing are taking different positions on the issue of internationalization of the South China Sea issue.

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<sup>45</sup> Choi Chi-yuk, “PLA Navy's three fleets meet in South China Sea for rare show of force,” *South China Morning Post*, May 27, 2013, available at <http://www.scmp.com/news/china/article/1246897/pla-navys-three-fleets-meet-south-china-sea-rare-show-force> (accessed May 27, 2013)

<sup>46</sup> Mo Yan-chih, “Patrols are not military drill, Ma says,” *Taipei Times*, May 24, 2013, available at <http://www.taipeitimes.com/News/front/archives/2013/05/24/2003563027> (accessed May 27, 2013)

Six, Mainland China has participated in the negotiation process that aims to adopt a regional code of conduct for the South China Sea since the late 1990s. But Taiwan has been barred from participating in the process mainly because of China's concern about "one China" issue. Taiwan has also been excluded from participating in the cooperative activities in the areas including marine environmental protection, marine scientific research, safety of navigation and communication at sea, search and rescue operation, and combating transnational crime in the South China Sea that are carried out in accordance with the 2002 DOC and the 2011 DOC Guidelines. In 2012, four cooperative activities were implemented, namely: (1) Workshop on Marine Hazard Prevention and Mitigation in the South China Sea in July 2012 in Kunming, China; (2) Workshop on Marine Ecosystems and Biodiversity in July/August 2012 in Singapore; (3) Symposium on Marine Ecological Environment and Monitoring Techniques in October 2012 in Xiamen, China; and (4) Joint Workshop in Commemoration of the 10th Anniversary of the DOC in November 2012 in Phnom Penh.<sup>47</sup> Taiwan has never been invited to participate in these activities.

Last but not least, it is clear that Mainland China is taking a more assertive approach in support of its sovereignty and maritime claims in the South China Sea, which is clearly different from a rather passive, soft power-oriented approach adopted by Taiwan.

### **Challenges Facing President Ma and several questions concerning Taiwan's Future Behaviors in the South China Sea**

Recent developments in the South China Sea have created a number of policy challenges for President Ma and his administration. It is believed that these challenges, if handled wisely, can be turned into opportunities for Taiwan to participate in the regional security dialogue mechanisms that discuss the South China Sea issues and the relevant cooperative activities. In addition, if President Ma is capable to seize these opportunities timely, it is possible not only help Taiwan join the ASEAN-led Regional Comprehensive Economic Partnership (RCEP), but also improve its political relations with ASEAN as a whole and the association's member countries bilaterally in the years to come.

As far as this writer can see, there are 11 challenges facing President Ma in his second term, which include:

1. How to deal with growing assertiveness of Mainland China in the South China Sea?
2. How to respond effectively to the actions taken by other claimants in the South China Sea, in particular the Philippines and Vietnam?
3. How to counter increasing military spending and arms procurement of the claimants in the South China Sea?
4. How to deal with increasing U.S. concerns and involvement in the South China Sea issues, in particular the continuing implementation and possible adjustment of the American strategy of "rebalancing toward Asia"?
5. How to cope with increasing call for Cross-Strait Cooperation in the South China Sea?
6. How to handle increasing possibility for the adoption of COC in the South China Sea and

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<sup>47</sup> See "ASEAN-China Dialogue Relations," available at <http://www.asean.org/asean/external-relations/china/item/asean-china-dialogue-relations> (accessed May 25, 2013)

to avoid Taiwan's being further excluded from the negotiation process and signing the code once it is adopted?

7. How to answer the increasing domestic call in Taiwan to remilitarize Taiping Island?
8. How to respond to the increasing international call to clarify the meaning and legal status of Taiwan's "U-shaped Line" Claim;
9. How to help promote joint development of living and non-living resources in the South China Sea, conservation and management of marine resources, and preservation and protection of the marine environment in the area?
10. How to enhance functional coordination between Taiwan's government agencies that are responsible for planning and implementation of the South China Sea policy?
11. How to raise public awareness in Taiwan about the importance of the South China Sea to the future development of Taiwan's economy, maritime strategy and national security?

In order to deal with the aforementioned challenges, President Ma and his administration need to answer a number of questions that are related to Taiwan's future behaviors in the South China Sea, which include: Should Taiwan side with Washington or Beijing in dealing with the South China Sea issue? Should Taiwan take a more balanced position in between Beijing and Washington when dealing with the South China Sea dispute? Should President Ma take more proactive actions in the South China Sea? Should Taiwan conduct military exercises in the South China Sea? Should Taiwan cooperate with Mainland China in defending and developing the South China Sea? Should Taiwan return Marine Corps personnel to Taiping Island? Should Taiwan build pier and extend its runway on Taiping Island as soon as possible? Should Taiwan clarify its U-shaped line claim? Should Taiwan draft new South China Sea policy guidelines? Should Taiwan conduct its own unilateral oil and gas exploration and exploitation activities in the Spratly Islands area? Should President Ma pay a special visit to Taiping Island? Should President Ma propose a peace initiative in the South China Sea? Should Taiwan declare its own code of conduct if Mainland China continuously opposes Taiwan's participation in the negotiation process for adoption of a COC in the South China Sea? Should Taiwan establish Taiping Island as an international peace park or declares it as a Marine Protected Area and allow international scientists to visit for the purpose of conducting scientific study or research? Should Taiwan continue to strengthen its defense capability on Taiping Island by deploying missiles? Should Taiwan adopt an oil subsidy policy to encourage more Taiwanese fishing vessels to sail to the waters near the Spratly Islands to fish? Should the government of Taiwan, following the practices of Mainland China, Vietnam, or other concerned countries, organize domestic and international conferences for the main purpose of discussing the South China Sea issues?

In addition, there are more questions concerning Taiwan's South China Sea policy and its participation in the regional security dialogue that discusses the South China Sea disputes, such as : What is the biggest challenge for the Ma administration in the South China Sea, and why? Is there any chance for Taiwan to be invited to participate in the cooperative activities undertaken in accordance with the 2002 DOC during the last three years in President Ma's second term (2012-2016)? Is there any possibility of Taiwan's being invited to participate in the negotiations process for the adoption of COC in the South China Sea during the last three years in President Ma's second term (2012-2016)? Is it possible for Taiwan to sign a fisheries agreement with any of the claimants in the South China Sea, such as the Philippines? Is it possible for Taiwan to co-sponsor a joint project with a member country of ASEAN at the Indonesian-led Informal

Workshop on Managing Potential Conflicts in the South China Sea (1990 – present) such as Vietnam or the Philippines? Is it possible for Taiwan to attend a series of meetings organized by ASEAN member countries, such as ASEAN Regional Forum, ASEAN Defense Ministerial Meeting Plus (ADMM+), the expanded ASEAN Maritime Forum (AMF), and the East Asia Summit during the last three years in President Ma's second term (2012-2016)? Is it possible for Taiwan to join the ASEAN-led Regional Comprehensive Economic Partnership (RCEP)? What actions should be taken by the Ma administration to increase Taiwan's chance for participating in the regional dialogue or negotiation process that discussed the South China Sea issues? Is it likely for the Obama administration to take actions in support of Taiwan's participation in the diplomatic, collaborative process that deals with the South China Sea issues during the last three years in President Ma's second term (2012-2016)? Is it necessary for Taiwan to participate in the cooperative activities that are carried out under the DOC? Is it necessary or possible for Taiwan to join with Mainland China and ASEAN member countries to sign the COC in the South China Sea? Is it likely to include the South China Sea issue to the meeting agenda of the Strait Exchange Foundation (SEF) and the Association for Relations across the Taiwan Straits (ARATS)?

Due to time constraints for the preparation of this paper, there is no way to discuss all of the 11 challenges President Ma and his administration face. It is also not desirable to answer all of the questions raised above. What can be done is to send them to President Ma and his administration for their attention.

### **Concluding Remarks and Policy Recommendations**

Support for Taiwan's participating in the regional diplomatic, collaborative process is increasing for several reasons. First, the cross-Strait relations have improved rapidly over the past four or five years, which make it more likely for Mainland China to consider some flexible arrangements that allow Taiwan to play a more active role in the process of managing potential conflicts in the South China Sea. Although the Ma administration is taking the position that current cross-Strait engagement should be centered on trade and economic exchanges and there will be no talks on cross-Strait cooperation in the South China Sea, there has been an increasing call in both Taiwan and Mainland China for Taiwan's participation and cross-Strait cooperation in dealing with the South China Sea issues.

In July 2012, according a public opinion poll, 48 percent of Taiwanese people believed that Taiwan and Mainland China should cooperate in dealing with the South China Sea issue. It is believed that the support has increased. In May 2013, Taiwan's *Want Daily* conducted a public opinion survey and found that 69% of Taiwanese people support cross-strait cooperation in dealing with the Philippines concerning the incident in which a Taiwanese fisherman was shot dead by the Philippine coast guard personnel in the Exclusive Economic Zones claimed by Taiwan and the Philippine. Although cares need to be taken in reading the result of the said survey, it can still be seen as an indication. For that, President Ma and his administration need to take note of it.

Second, there has also been seen increasing support for Taiwan's involvement in the regional diplomatic, collaborative process from the U.S. Congress. For example, under Section 1281 of

the U.S. Public Law No: 112-239, entitled “National Defense Authorization Act for Fiscal Year 2013,” President Obama is requested to “take steps to address Taiwan’s shortfall in fighter aircraft, whether through the sale of F–16 C/D aircraft or other aircraft of similar capability, as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.” The U.S. Congressional support for Taiwan can also be seen in a bill (H.R. 419: Taiwan Policy Act of 2013) proposed on January 25, 2013 in the House of Representatives and unanimously passed on April 25, 2013 by the House Subcommittee on Asia and the Pacific. The bill, if becomes law, would authorize the sale of F-16C/D aircraft, allow high-ranking Taiwanese officials to visit Washington, authorize the transfer of decommissioned missile frigates to Taiwan and support Taiwanese membership of international organizations.<sup>48</sup>

In addition, a number of bills proposed in the U.S. Congress, including S. Res. 217 (introduced in June 2011), H. Res. 352 (introduced in July 2011), H.R. 6313 (introduced in August 2012), and H.R. 772 (introduced in February 2013) list Taiwan as one of the claimants in the South China Sea territorial disputes and “welcome the diplomatic efforts of Association of Southeast Asian Nations . . . and the United States allies and partners in Japan, the Republic of Korea, Taiwan, the Philippines, and India to amiably and fairly resolve these outstanding disputes.”<sup>49</sup> In the proposed bill H.R. 772 entitled “To promote peaceful and collaborative resolution of the South China Sea dispute,” Sec. 3 requests the U.S. Secretary of State to “submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the Code of Conduct and other peaceful measures for resolution of the territorial disputes in the South China Sea.”

President Ma and his administration must undertake more efforts to seek support from the American executive branch, in particular the Department of State, to support Taiwan’s participation in the cooperative activities agreed to between Mainland China and ASEAN member countries or to be proposed in the near future in accordance with the 2002 DOC and its implementing guidelines, as well as in the negotiation process for the adoption of the COC for the South China Sea, given that Beijing has expressed its willingness to convene a special meeting for COC in August or September 2013.

Although at present, President Ma and his administration are facing a number of challenges to effectively implement Taiwan’s South China Sea policy and achieve the policy goal that seeks Taiwan’s participation in the track-one diplomacy dealing with the South China Sea dispute, there are also opportunities existing. The Ma administration is urged to turn these challenges into opportunities.

To conclude, during the last three years in his second term, this writer suggests that President Ma need to consider taking the following actions:

1. **Paying a special visit to Taiping Island.** (Policy goal: raising the public awareness of the importance of the South China Sea to the future development of Taiwan’s economy,

<sup>48</sup> For information about H.R. 419: Taiwan Policy Act, visit <http://thomas.loc.gov/cgi-bin/thomas>

<sup>49</sup> For information about these bills or resolutions, visit <http://thomas.loc.gov/cgi-bin/query/z?c113:H.R.772;> <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:h.res.00352;> <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:h.r.06313;> <http://thomas.loc.gov/cgi-bin/query/z?c112:S.RES.217;> .

maritime strategy and national security; making it clear to the world, in particular, the countries that border or are concerned about peace and stability in the South China Sea, that Taiwan is indeed one of the claimants and stakeholders, having abiding interests in the South China Sea and has the legitimate right to participate in the regional security dialogue mechanisms that deal with the South China Sea, and Taiwan has the intention to make more contributions to help promote peace and stability in the region);

2. **Sending a clear message to the PRC government.** (Policy goal: seeking support for or, at least, no opposition against Taiwan's participation in the regional diplomatic, collaborative process that discusses the South China Sea disputes);
3. **Making more efforts to seek support from the Obama administration.** (Policy goal: Helping Taiwan participate in the regional security dialogue and negotiation process that deal with the conclusion of a regional COC for the South China Sea; the U.S. government has the capability to influence the policy decision making of the Southeast Asian countries and Mainland China);
4. **Revisiting the 1993 South China Sea policy guidelines.** (Policy goal: revising or drafting new policy guidelines for planning a robust South China Sea policy for Taiwan);
5. **Responding to the international call for clarifying the meaning of the U-shaped line and Taiwan's claim** (Policy goal: handling the challenge caused by the on-going arbitral proceedings between Mainland China and the Philippines);
6. **Playing a more active role in the Indonesian-led South China Sea Workshop** (Policy goal: proposing resources-related joint development projects or marine environment protection-related activities via track-two cooperation in the South China Sea and possible legal development concerning the status of land features situated in the U-shaped line);
7. **Convening domestic and international South China Sea conferences.** (Policy goal: discussing recent developments in the South China Sea, collecting ideas and proposals for the maintenance of peace and stability in the region; and finding ways for Taiwan's participation and contribution in the negotiation process and cooperative activities);
8. **Considering the need to include the South China Sea issue in the cross-Strait talks.** (Policy goal: responding the increasing call for cross-Strait cooperation on the South China Sea issues; starting the preliminary SEF-ARATS dialogue on the issue.);
9. **Assessing the necessity and utility of proposing a peace initiative in the South China Sea (SOCSPI)** (Policy goal: combining Taiwan's main security concerns in one, namely, the East China Sea, the Taiwan Straits, and the South China Sea, which can be called "Taiwan's Three Sea Peace Initiative"; and making efforts to transform the three Seas into a Sea of Peace, Friendship, and Cooperation.)