

## PREFACE

Volume 26 of the *Chinese (Taiwan) Yearbook of International Law and Affairs* contains issues of great importance to the practice of international law and international relations involving the Republic of China (ROC) on Taiwan in 2008. This year is significant to Taiwan because the ROC's presidential election took place on March 22, 2008 and its result represents the second turnover of power in the country's history of democracy. The new administration of Kuomintang (KMT) vows to follow "dignity, autonomy, pragmatism and flexibility" as guiding principles to improve Taiwan's foreign relations, including its participation in international organizations. The new perspectives of the ROC's foreign policy as well as policies towards Mainland China are well reflected in the two speeches of the new President, which we included in the Contemporary Practice and Judicial Decisions section.

Six major articles on international law and cross-strait relations were selected for this volume. In the first article, Professor Stefan P. Fleischauer from the University of Tübingen in Germany analyzes the possibility of applying theories of European integration to cross-strait relations and discusses the respective predictions of applying such theories. In the second article, Professor Tom Hart from the Stockholm School of Economics in Sweden explores historical and political backgrounds that create implications for the long-term chances of success in achieving peace across the Taiwan Strait. The third article, authored by Professor Der-Chin Horng, Deputy Director of the Institute of European and American Studies at the Academia Sinica in Taiwan and a member of this Society's Executive Committee, discusses whether and how the model of the European Union may be applicable for a cross-strait free trade agreement (FTA) and identifies the key challenges to such an FTA.

In the fourth article, Professor Michael Romancov from the Metropolitan University Prague and Professor Magda Leichtová from the University of West Bohemia, Pilsen, both of the Czech Republic, articulate the change in the concept of sovereignty in the post-Cold War era. In particular, they use Kosovo and South Ossetia as case studies and explore the implications of these countries being recognised by superpowers on the status of Taiwan. In the fifth article, Professor Günter Schucher, a senior research fellow at the GIGA Institute of Asian Studies in Hamburg, Germany, provides insight into the mechanism for cross-strait academic exchange and analyzes the political implications of the exchange on the policy-making process. Finally, Mr. Han-yi Shaw, a young, freelance scholar trained at University of Chicago and Columbia University, provides new insights to the old battle on the legal status of the Diaoyutai (Senkaku) Islands. He painstakingly collected and presented valuable historical documents that underpin sovereign claims to the Islands asserted by Japan, the ROC and Mainland China.

In the Essays and Recent Developments section, we selected two essays. Mr. Chun-Yuan Lin, a Ph.D. candidate at National Taiwan University, conducts an empirical study of the interpretations of the Judicial Yuan, the highest judicial organ and one of the five branches of government of the ROC, rendered by its Constitutional Court. This research assesses the idea of transjudicialism by providing and analyzing the Court's approach to precedents of foreign and

international courts. In addition, Mr. Ivan Willis Rasmussen, a Ph.D. candidate at Tufts University's Fletcher School of Law and Diplomacy in Massachusetts, USA, offers an overview of the cross-strait conflict with a focus on various denitions of *status quo* and provides an analysis of the role of nationalism in the conflict.

The Contemporary Practice and Judicial Decisions section, compiled primarily by Professor Chun-i Chen, Vice President of the Society, includes important documents on the ROC's overall practices of international law and foreign relations. I wish to call the reader's attention to government statements regarding the *S.S. Lienhe* Incident in which a Japanese patrol boat caused the sinking of *S.S. Lienhe*, a 50-ton Taiwanese fishing boat, approximately 10 kilometers south of the disputed Diaoyutai (Senkaku) Islands. The ROC government reaffirmed sovereignty over the Diaoyutai Islands and urged Japan to resolve fishing rights issues through negotiations. The ROC government also welcomed the Japanese government's decision to release Taiwanese crew members rescued from the sea, to issue a letter of apology and to promise compensation to the injured crew members.

The year 2008 is also of particular significance to Taiwan's foreign economic relations. The FTA between the ROC, El Salvador and Honduras came into effect this year, marking Taiwan's fourth FTA. In addition, on December 9, 2008, the World Trade Organization (WTO) Committee on Government Procurement adopted the decision that invites Taiwan to accede to the WTO Agreement on Government Procurement, which will provide ample business opportunities abroad for Taiwanese enterprises and at home for foreign enterprises. Taiwan also filed a WTO joint complaint with the United States and Japan against the European Union. This dispute, which arises from the interpretation of the International Technology Agreement, represents the first WTO case initiated by Taiwan to enter the panel stage. Moreover, the following Treaties/Agreements section compiles a list of the treaties, agreements and memoranda of understanding, along with selected texts, that Taiwan concluded in 2008.

Finally, I am indebted to my colleagues on the Editorial Board for their tremendous efforts in editing the *Yearbook*. I owe a special debt of gratitude to Professor Chun-i Chen, Professor Pasha L. Hsieh, Dr. Adam A. Perlin, Dr. Chieh Huang, Ms. Chun-li Ouyang, Judge Chun-Liang Lai, Judge I-Hon Hsiao, Ms. Pei-Lun Tsai, Mr. Ta-Chuan Tseng, Mr. Zhuo-Ning Su and Ms. Cho-Hsin Su. I also gratefully acknowledge the valuable assistance of lawyers at Lee & Li Attorney-at-Law and student editors of National Chengchi University and Singapore Management University. These individuals above carefully reviewed and selected pertinent materials as well as provided perceptive comments. They made possible the publication of this scholarly volume. It is our hope that the *Yearbook* will continue the honorable tradition of providing important information on international law and foreign relations involving the Republic of China on Taiwan. Should readers have comments and suggestions about the *Yearbook*, please do not hesitate to contact us at [yearbook@nccu.edu.tw](mailto:yearbook@nccu.edu.tw).

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