# TABLE OF CONTENTS

## PREFACE

Ying-jeou Ma

## ARTICLES

Fiammetta Borgia & Paolo Vargiu, When Investment Law Takes over: Towards a New Legal Regime to Regulate Asia Pacific’s Submarine Cables Boom

Hsu-hua Chou, Bargaining for Mijiu Tax Reduction in the Shadow of WTO Law: Challenges for Taiwan and Lessons from Cases against Japan and Korea

Paul J. Davidson, The Cross-Straits Economic Cooperation Framework Agreement: Legal Issues

Eric Franckx, CITES as an Alternative for Effective Fisheries Management in the Asia-Pacific Region


Natalie Klein, From Eco-Terrorism to Eco-Tourism: Assessing Effective Regulatory Tools and Regimes in Marine Management

Josef Mrázek, The Use of Force and Expanded Conceptions of Self-Defence

Vasilka Sancin, Innovative Arbitration Agreements to Resolve Border Disputes and the Role of Regional International Organizations: Can the Example of Slovenia-Croatia Arbitration Agreement Be Followed in the Asia Pacific?

## IN MEMORIAM

John K.T. Chao, Professor Hungdah Chiu, S.J.D. (1936-2011)

## PROCEEDINGS OF THE 2011 INTERNATIONAL LAW ASSOCIATION ASIA-PACIFIC REGIONAL CONFERENCE

CONTemporary Practice and Judicial Decisions of the Republic of China (Taiwan) Relating to International Law, 2011
Explanatory Note

I. INTERNATIONAL LAW IN GENERAL

Foreign Policy Report, 7th Congress of the Legislative Yuan, 8th Session (September 29, 2011) 225
President Ma Ying-jeou’s National Day Address 240

II. SUBJECTS OF INTERNATIONAL LAW

The Government of the Republic of China (Taiwan) Recognizes the Independence of the Republic of South Sudan 246
The Government of the Republic of China (Taiwan) Recognizes Libya’s National Transitional Council 246

III. INTERNATIONAL ORGANIZATIONS

General
Republic of China and Intergovernmental Organizations 247
Republic of China and International Non-Intergovernmental Organizations 249
Taiwan’s Quest for Meaningful Participation in the International Civil Aviation Organization 249
The Ministry of Foreign Affairs of the Republic of China (Taiwan) Expresses Deep Gratitude for the European Parliament’s Staunch Support for the Signing of an EU-Taiwan Economic Cooperation Agreement and Taiwan’s Meaningful Participation as an Observer in Relevant International Organisations and Activities, such as UNFCCC, WHO and ICAO 253

United Nations
The ROC Government Continues to Vie for Meaningful Participation in the United Nations and Seek Support from the Public and the International Community 255

World Health Organization
President Ma Holds Press Conference to Explain Government’s Position on WHO Name Issue 256
Department of Health’s Declaration of Participation in the World Health Assembly (WHA) 257
Department of Health’s Statement in the 64th World Health Assembly
Health Minister Chiu Urges WHO to Adopt “WHA Model”

IV. INDIVIDUALS

Nationality
Supreme Administrative Court Judgment (May 12, 2011)
100-Pan-Zi-702
Civil Servants Election and Recall Act, Naturalized Citizen, Political Rights

Human Rights
President Ma’s Observations on 22nd Anniversary of June 4th Incident
Enactment of the Enforcement Act of Convention on the Elimination of All Forms of Discrimination against Women
Amendment to the Criminal Compensation Act
Taipei High Administrative Court Judgment (July 21, 2011)
100-Su-Zi-458
Continuance Residence, Freedom of Movement, Income Tax, International Covenant on Civil and Political Rights

Treatment of Aliens
Ministry of the Interior (February 24, 2011) Ref. No.: Tai-Nei-Zih No. 1000035369
Land Act, Foreign Nationals, Reciprocity
Ministry of Justice (June 8, 2011) Ref. No.: Fa-Jian-Zih No. 1000803459
Foreign Legal Affairs Attorney, Lawyer Ethics Rules, Litigious Agent
Supreme Administrative Court Judgment (August 18, 2011)
100-Pan-Zi-1459
Inheritance, State-Owned Property, Treaty of Peace between the ROC and Japan
Supreme Administrative Court Judgment (November 17, 2011)
100-Pan-Zi-1958
Entry Permit, State Sovereignty

V. TERRITORY AND TERRITORIAL JURISDICTION
Ministry of Foreign Affairs of the Republic of China (Taiwan)
Reiterates that the Nansha Islands, the Shisha Islands, the Chungsha Islands and the Tungsha Islands, as well as Their Surrounding Waters, Sea Beds and Subsoil, Are All
an Inherent Part of the Territory of the Republic of China (Taiwan)

Taiwan High Court Judgment (December 22, 2011) 99-Shang-Su-Zi-673
International Criminal Jurisdiction, ROC Territory

VI. STATE RESPONSIBILITY

VII. THE LAW OF THE SEA, ENVIRONMENT, HEALTH, AND AVIATION

The Republic of China (Taiwan) to Respect UN Resolution on No-Fly Zone over Libya

VIII. THE LAW OF TREATIES

IX. DIPLOMATIC, CONSULAR, AND SIMILAR RELATIONS

X. PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES

XI. ARMS CONTROL, USE OF FORCE, AND INTERNATIONAL CRIMINAL LAW

XII. INTERNATIONAL ECONOMIC RELATIONS

Amendment to the Value-Added and Non-Value-Added Business Tax Act

Taiwan Abolishes Tariff Quotas on Cars from WTO Countries

Public Construction Commission, Executive Yuan (March 9, 2011) Ref. No.: Kung-Cheng-Chi-Zih No. 10000087130
Agreement on Government Procurement, Procurement Preference to Domestic Products

Taiwan Eases Rules for Chinese Patent Application

Taipei High Administrative Court Judgment (April 14, 2011) 99-Su-Zi-2008
European Union, Import Tariff, Ministerial Declaration on Trade in Information Technology Product, United States

Taipei High Administrative Court Judgment (May 12, 2011) 99-Su-Zi-2559
Australia, Avoidance of Double Taxation, Profit-Seeking Enterprise Income Tax

Intellectual Property Court Judgment (May 24, 2011) 99-Min-Zhuan-Su-Zi-159
Agreement on Trade Related Aspects of Intellectual Property Rights, Jus Soli, Patented Manufacturing Process
Taipei High Administrative Court Judgment (September 1, 2011) 99-Su-Zi-2302
Avoidance of Double Taxation, Income Tax, Singapore

Intellectual Property Court Judgment (December 13, 2011) 100-Min-Zhu-Su-Zi-22
Japan, Principle of National Treatment, Principle of the Independence of Protection; Originality of Work

Amendment to the Patent Act (Extract)

Ministry of Finance (December 28, 2011) Ref. No.: Tai-Tsai-Shui-Zih No. 10000361990
International Telecommunications Income, Tax-Withholding Exemption

XIII. PRIVATE INTERNATIONAL LAW

General
Taiwan High Court Judgment (March 8, 2011) 99-Jia-Shang-Zi-37
Validity of Divorce Agreement, United States

Supreme Court Judgment (April 21, 2011) 100-Tai-Kang-Zi-310
*Forum Non Conveniens*, International Jurisdiction

Intellectual Property Court Judgment (May 24, 2011) 99-Min-Zhuan-Su-Zi-166
International Jurisdiction, Applicable Law for Transnational Torts, Most Significant Relationship Rule

Intellectual Property Court Judgment (December 26, 2011) 100-Min-Zhuan-Kang-Zi-10
Choice of Court Agreement, Disposition Principle, International Jurisdiction

Taiwan High Court (Taichung Branch) Judgment (December 28, 2011) 100-Kang-Zi-549
*Forum Non Conveniens*, International Jurisdiction, Locality of the Assets, Mutatis Mutandis Application

Cross-Strait Civil Matters
Taiwan High Court Judgment (April 26, 2011) 100-Jia-Shang-Geng-Yi-Zi-1
Divorce, Mainland Area, Mediation, Public Order and Morality, Separation Agreement

Secretary General of the Judicial Yuan (May 30, 2011) Ref. No: Mi-Tai-Ting-Shao-Jia-Er-Zih No. 1000009853
Hong Kong, Macau, Governing Law, Parent-Child Relation

Ministry of Justice (October 19, 2011) Ref. No.: Fa-Lu-Chueh-Zih No. 1000027316
Successor, Validity of Marriages in China
Ministry of Justice (October 21, 2011) Ref. No.: Fa-Lu-Chueh-Zih No. 1000027406
Validity of a Marriage Celebrated in Hong Kong

Foreign Judgments and Awards

Supreme Court Judgment (January 13, 2011) 100-Tai-Shang-Zi-42
Foreign Judgment, Non-Economic Damages, Legal Service of Process, Public Order and Morality

Supreme Court Judgment (April 14, 2011) 100-Tai-Shang-Zi-552
Foreign Judgment, Public Order and Morality, Punitive Damages

Taiwan High Court (Taichung Branch) Judgment (May 26, 2011) 99-Shang-Yi-Zi-1626
Foreign Arbitral Award, Fraud Litigation, Res Judicata

Taiwan High Court Judgment (June 7, 2011) 99-Zhong-Shang-Zi-426
Mutual Recognition of Judgment, Public Order and Morality

Taiwan High Court Judgment (June 30, 2011) 100-Fei-Kang-Zi-72
Mutual Recognition, New York Convention, Public Order and Morality

XIV. OTHERS

President Ma Pens Tribute in Memory of Dr. Hungdah Chiu
Amendment to the National Intelligence Act

Cross-Strait Relations

MAC’s Explanation on the Cross-Strait Economic Cooperation Committee
Taiwan Opens 42 More Categories to Mainland China Investment
New Progress in Taiwan-Hong Kong Relations: Taiwan’s Hong Kong Office to be Renamed and Its Functions and Status Upgraded
New Progress in Taiwan-Macao Relations Taiwan’s Macao Office to be Renamed and Its Functions and Status Upgraded
Fourteen Taiwan Nationals Deported to the Mainland by the Philippines Return to Taiwan to Face Justice, Tangibly Realizing Cross-Strait Joint Crime Fighting and Protecting the Rights of the People
President Ma Holds Press Conference to Discuss “1992 Consensus”
Cross-Strait Nuclear Power Safety Cooperation Agreement
President Ma Holds Press Conference on “Cross-Strait Peace Agreement”

Explanation on the Government’s Promotion of the Cross-Strait Investment Protection Agreement

TREATIES/AGREEMENTS AND OFFICIAL, SEMI-OFFICIAL OR UNOFFICIAL AGREEMENTS CONCLUDED BY THE REPUBLIC OF CHINA (TAIWAN) WITH OTHER COUNTRIES IN 2011

Compiled by Chun-i Chen, Pasha L. Hsieh, and Pei-Lun Tsai

Chronological List

Selected Texts

Australia
Investment Promotion Accord between Taipei Economic and Cultural Office in Australia and Australian Commerce and Industry Office, Taipei

Japan
Arrangement between the Association of East Asian Relations and the Interchange Association for the Mutual Cooperation on the Liberalization, Promotion and Protection of Investment (Annexes Omitted)

Marshall Islands

Slovakia
Agreement between the Ministry of Finance of the Republic of China (Taiwan) and the Ministry of Finance of the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

United States
Arrangement between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan (AIT) For the Exchange of Technical Information and Cooperation in Nuclear Regulatory and Safety Matters (Annexes Omitted)

TABLE OF CASES
INDEX
GUIDELINES FOR SUBMISSIONS TO THE CHINESE (TAIWAN) YEARBOOK OF INTERNATIONAL LAW AND AFFAIRS