

COUNTRY REPORT: TAIWAN
The Development of Organisational Reform and
Environmental Law in Taiwan

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Foreword

The Basic Environment Act ('the act') has been in force in Taiwan for over a decade, since 2002. Although its outcomes have yet to be reviewed, the creation of this act affirmed that the government values environmental protection and sustainable development. Article III of the Act stipulates that "Economic, technological and social development shall equally emphasize environmental protection based on long-term national interests. However, in the event that economic, technological or social development has a seriously negative impact on the environment or endangers the environment, the protection of the environment shall prevail." However, there remains a gap between the establishment and implementation of environmental priority targets. Starting from organizational adjustment, the Taiwanese government is moving in the direction of sustainability.

History and Current Status of Environmental Organization in Taiwan

It is predicted that between the end of 2014 and middle 2015, the Environmental Protection Administration will be elevated to the Ministry of Environment and Natural Resources. This will involve integrating the management of all related environmental resources, such as water, land, forests and air.¹

The elevation of the Ministry of Environment and Natural Resources is not simply a reform of an environmental organization, but rather is part of a transformation of the entire country.

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¹Jiunn-Rong Yeh, *The Status-quo and the Expectation of Government Reform*, 29 *Yan Kao Shuang Yue Kan* 6, (2005).

The government organizational reform represents a major undertaking. After 23 years of planning, the organizational reform regulations were finally enacted in 2010. The purpose of re-engineering the government organizations was to respond to structural inefficiencies. Throughout the planning period, the government established organizations as a way to solve problems when facing new issues.² The entire organizational structure expanded which has resulted in time consuming parallel section coordination and inefficiencies in decision-making. In addition, there are too many sections under each ministry which has made inner communication difficult. In short, due to the organizations' excessive expansion, many sections have incurred problems either in the vertical or horizontal division of labor. Organizational reform can divide the scope of authority under each ministry, integrate overlapping or similar units and remodel the operational structure of the organization, so that the budget can be distributed effectively, with resources increasing administrative efficiency.

Establishing the new Ministry of Environment and Natural Resources is one of the most difficult tasks for the government to accomplish. This integration includes the Environmental Protection Administration (Environmental Professionals Training Institute, Environmental Analysis Laboratory), the Construction and Planning Office of the Ministry of the Interior (National Parks Division, Sewage Systems Office), the Ministry of Economic Affairs (Mines Department, Bureau of Mines, Central Geological Survey), the Ministry of Transportation and Communication (Central Weather Bureau), the Council of Agriculture (Forestry Bureau, Soil and Water Conservation Bureau, Taiwan Forestry Research Institute, Endemic Species Research Institute), and the Veterans Affairs Council (Forest Conservation and Management Administration).³

After the administrative adjustment, the number of total integrated personnel will be approximately 2681. Including personnel from the fourth-level agencies and the Taiwan Water Corporation, the total will be over 14,500 employees. Among them, approximately 5700 will be working at the Taiwan Water Corporation. This represents a significant increase from the original 551 employees (including contracted personnel nearly 1000). The official budget was raised from 6.5 billion to 50 billion NT\$; including the underlying funding and the special budget, the total budget is 150 billion NT\$.⁴

² Wen-Sheng Hsiao, The Organization Reform for the Executive Yuan (Cabinet) —Historical Retrospect and Comments, 37 *National Chung Cheng University Law Journal* 51 (2012).

³ Legislative Gazette, Volume 101, Commission records No. 38, at 269-358.

⁴ *Id.*

The underlying fund for the Environmental Protection Administration is used for air pollution prevention, rubbish reduction, resource recycling, soil remediation, groundwater/water pollution prevention, promotion of environmental education, establishing a system of pollutant fees, etc. *Based on the regulations of the Air Pollution Control Act, Waste Disposal Act, Soil Pollution and Groundwater Remediation Act, Water Pollution Control Act, and Environmental Education Act*, funds were set up such as the Air Pollution Control Fund, Recycling Management Fund, Soil and Groundwater Pollution Remediation Fund Management Board, Water Pollution Control Fund and Environmental Education Fund. The newly integrated funds include the Forestry Development and Afforestation Fund, Water Resources Operation Fund and National Park Fund.

Consideration and Dispute of Organizational Reinvention

In the process of organizational restructuring, i.e. from Environmental Protection Administration to the Ministry of Environment and Natural Resources, challenges and criticisms have been faced in various phases. In the early stages, deciding which organizational sections should be included was discussed extensively; the issue of energy resources was among the key points.

Critics believe that the issue of energy resources should be handled by the Ministry of Environment and Natural Resources. Their arguments are based on the perspectives of other countries, such as the Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit, BMU, Germany, in charge of the nuclear energy management of Sicherheit kerntechnischer Einrichtungen, Strahlenschutz, nukleare Ver- und Entsorgung, RS, as well as the Klimaschutz, Umwelt und Energie, Erneuerbare Energien, Internationale Zusammenarbeit, KI. Other countries, such as the United States and countries of the European Commission all have sections responsible for issues of energy resources.⁵ As it relates to complicated matters, it is necessary to be authorized by higher levels which only deal with these issues.⁶

However, these governments do not place energy resources under the management of the

⁵ Comparison of national environmental governance institutions. <http://www.eqpf.org/MOENR/5-1.php> (last visit date 2014/07/18).

⁶ Shin-yi PENG, Recommend report on orientation of Energy Agency after organizational reform, at 20-21.

Ministry of Environment and Natural Resources mainly because the countries have dedicated organizations in charge of these issues, as they possess domestic energy sources. In Taiwan 98% of energy resources are imported from abroad. Taiwan deals more with issues of trade, economy and industry. Thus, if the issues of energy resources can be managed by the Ministry of Economic and Energy Affairs, the desired results can be achieved.⁷

Beyond the issues of energy resources, the authority over forestry management is also a topic of discussion. Should it be under the management of the Ministry of Environment and Natural Resources? Originally, the Forestry Bureau, Taiwan Forestry Research Institute and the Endemic Species Research Institute Conservation Education Center were under the control of the Council of Agriculture, Executive Yuan.

In the early period, forestry was mainly devoted to developing forests; however, in recent years, due to the emphasis on environmental protection, the government has focused on conservation. Hence, the purpose of the Ministry of Environment and Natural Resources is to integrate resources of water, land and forests; logically, forestry should be under the management of the Ministry of Environment and Natural Resources. The problem is that if all forestry units are managed by the Ministry of Environment and Natural Resources, related operations might be neglected. Due to the focus of the Ministry of Environment and Natural Resources being conservation, as well as the division of labor within the organization, forestry development should be under the original agricultural section.⁸

After several discussions, it was decided that forestry includes forest products, and growers should be managed by the Agricultural Bureau in the future. According to the original plan, national forestry and conservation should be authorized by the Bureau of Forestry and Conservation.⁹ Furthermore, the Forestry Agency will be established under the Agricultural Bureau for managing the public/private forestry and aboriginal preservation lands. The key

⁷ Facing the challenges of climate change and sustainable development to maintain Taiwan.

<http://archive.rdec.gov.tw/ct.asp?xItem=4529888&ctNode=11577&mp=14> (last visit date 2014/07/18).

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<http://www.newtaiwanet.com.tw/page1.aspx?no=100080925142807811&step=1&newsno=100130106154639608> (last visit date 2014/07/18).

⁹ Governmental reform: state-owned forest conservation goes to the MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES and Forest industry goes to the Ministry of Agriculture Forest. <http://e-info.org.tw/node/83164> (last visit date 2014/07/18).

responsibility is to consult on the economics of silviculture and forest products. It is hoped that production and conservation can be simultaneously managed, with an eye to developing forest resources and achieving economic efficiency.

The Integration of Environmental Laws and the Critical Point of Green Transformation

In addition to the organizational re-engineering and integration, it is likely that the Ministry of Environment and Natural Resources will face conflicts and negotiations among various operational cultures, such as differing viewpoints in regard to water, land and forests. Determining how to achieve an agreeable green transformation which reflects contemporary views will require cooperation from all related sections. Enacting and integrating environmental law is a significant challenge in this respect. In the process of realizing a transformation between old and new authorities, the old rules need to be amended, adjusted and integrated in order to meet the requirements of organizational culture, climate change and sustainable development. It is a great challenge to create the infrastructure for environmental management effectively and improve policy strategies in the new era.

In order to respond to the issues of climate change in recent years, while affirming the ideals of development for contemporary and future generations in Taiwan, national environmental protection, economic development and social justice policy must be balanced and promoted. To achieve these goals, the Draft of the Basic Sustainable Development Act was set into action in Taiwan. By creating this act, the facets of environment, economy, society, the responsibility and duty of government and citizens, as well as the promotion of sustainable development carried out by central and local governments, are all emphasized.¹⁰ The current scope of guidance and strategy of sustainable development described in the Act contains some overlap with *the Basic Sustainable Development Act*. In order to improve coordination, the economic development, social justice and health care maintenance mentioned in the Sustainable Development sections of the Act will be amended. It is still unclear as to whether this arrangement will lead to effective implementation.

¹⁰ EPA conduct public hearing on "the draft of Basic Sustainable Development Law" and "the draft of the Basic Environment Law amendments ", to serve the national interest in the effective implementation of sustainable development.

http://ivy5.epa.gov.tw/enews/fact_Newsdetail.asp?inputtime=0990629151456 (last visit date 2014/07/18).

The aforementioned Basic Environment Act should be swiftly revised to cater to the new requirements. For instance, the planned merger of *the Resource Recycling Act* and *Waste Disposal Act* has been long postponed. *The Tap-water Act* and *Drinking-water Regulations*, authorized by the Water Resources Agency and Environmental Protection Administration, must be amended. Water quality and water resource conservation are regulated by each section (for tap-water and drinking-water, respectively). After the Water Resources Agency is merged into the Ministry of Environment and Natural Resources, the guidance of tap-water and drinking-water will be undertaken by this ministry. The norms of similar laws will certainly be adjusted.

It can be predicted that, for adapting to the organizational restructuring and different operational cultures, the newly established Ministry of Environment and Natural Resources should amend the out-of-date environmental laws (articles focusing on restrictions but lacking practical applications) as well as enact new laws which meet the current needs (environmental laws that strike a balance between specific yet flexible control measures and market orientation). A good policy of environmental resource management must be able to resolve conflicts between protecting the environment and developing the economy, manifest the tangible and intangible benefits of ecosystem services, promptly and effectively solve environmental issues, establish an account of “green assets” and ensure the sustainable development of Taiwan.¹¹ These are the reasons why the Ministry of Environment and Natural Resources is expected to shed the old ideas and patterns and move forward to realize the profound meaning and values of green transformation.

Conclusion

In the past, the environmental protection regulations in Taiwan focused on public nuisance control. However, the treatment and prevention of public nuisances are not the only things environmental management deals with. In Taiwan, the economy is the top priority of national development. This results in a subordinate position and insignificance of the environmental protection departments as environmental protection has been seen as a minor issue.¹² The

¹¹ Create our common future- From Environmental Protection Administration to MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES. <http://www.eqpf.org/MOENR/1-1.php> (last visit date 2014/07/18).

¹² Create a win-win between economic and environmental interdepartmental integration. http://issue.cw.com.tw/event/ad/cw/Aplus/meeting_00.htm (last visit date 2014/07/18).

establishment of the Ministry of Environment and Natural Resources reminds people of the importance of environmental protection and fulfills commitments for sustainable development. It is hoped that the organizational restructuring will improve government operational efficiency and the integration and task allocation of environmental protection laws will help to achieve environmental sustainability in Taiwan.