

DATE: December 21, 2007

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In re: )  
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 SSN: ----- )  
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 Applicant for Security Clearance )  
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ISCR Case No. 07-02121

**DECISION OF ADMINISTRATIVE JUDGE  
ROGER C. WESLEY**

**APPEARANCES**

**FOR GOVERNMENT**

Julie R. Edmunds, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant (a U.S. citizen by birth) has a wife with dual citizenship with Taiwan and the U.S. Members of her immediate family (*i.e.*, her father and three siblings) are citizens of Taiwan and reside there. His much larger commitments to the U.S. enable him to mitigate any potential risk to undue foreign influence concerns under Guideline B. Taiwan, while a country reported to gather economic and proprietary intelligence against the U.S. and its companies, retains strong mutual strategic interests with the U.S. Taiwan is a country with a history of democratic traditions and respect for human rights and the rule of law. Clearance is granted.

**STATEMENT OF THE CASE**

On May 25, 2007, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on July 5, 2007, and requested a hearing. The case was assigned to me on September 20, 2007, and was scheduled for hearing on October 30, 2007. A hearing was convened on October 30, 2007, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of two exhibits; Applicant relied on two witnesses (including himself) and four exhibits. The transcript (R.T.) was received on November 7, 2007.

Besides its two exhibits, the Government requested administrative notice of nine documents: *Background Note: Taiwan*, U.S. Department of State (April 2007); *Taiwan: recent Developments and U.S. Policy Choices*, Congressional Research Service, Library of Congress (October 2006); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage 2000*, National Counterintelligence Center; *Press Release*, U.S. Department of Justice, U.S. Attorney (WD NY April 2006); *Press Release*, U.S. Department of Justice, U.S. Attorney (ED VA January 2007); Statement of Facts [stipulated], *United States v. Keyser*, Crim. Case No.1:05CR543, (ED VA December 2005); *Intelligence Threat Handbook* [Unclassified/For Official Use Only], Interagency OPSEC Support Staff (IOSS) (June 2004); *Background Note: China*, U.S. Department of State (January 2007); *2006 Report to Congress*, U.S.-China Economic and Security Review Commission (November 2006); *Focus on Economic Espionage*, FBI, Investigative Programs, Counterintelligence Division.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 2007); ISCR Case No. 02-24875 (App. Bd. October 2006). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Taiwan. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evi. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Taiwan's current state.

## **PROCEDURAL ISSUES**

At the outset of the hearing, Department Counsel moved to amend the SOR to substitute brother for brother-in-law in sub-paragraph 1.e and delete the allegation of Applicant's travel to Taiwan in February 2007 in sub-paragraph 1.f of the SOR. There being no objections, and good cause being demonstrated, Department Counsel's motion was granted. With the requested substitutions approved, Applicant admitted allegations 1.e and 1.f in their entirety.

## SUMMARY OF PLEADINGS

Under Guideline B, Applicant is alleged (a) to have a wife who is a dual citizen of Taiwan and the U.S.; (b) a father-in-law who is a citizen and resident of Taiwan, and who was employed by a Taipei city government from approximately 1957 to 1986; (c) a brother-in-law who has been employed as an associate professor at a Taiwan medical center), his wife and their two sons who are citizens and residents of Taiwan; (d) a sister-in-law (who has been employed by a Taiwan environmental protection administration since May 1982), her husband and their children who are citizens and residents of Taiwan; and (e) a second brother-in-law who is a citizen and resident of Taiwan. Additionally, Applicant is alleged to have traveled to Taiwan in August 2001, April 2002, February 2005, and February 2007. His wife is alleged to have visited Taiwan in August 2005.

For his answer to the SOR, Applicant admitted most of the allegations in the SOR with explanations. He denied his wife's brother-in-law is a citizen and resident of Taiwan; he claimed he is her brother, not her brother-in-law. He also denied traveling to Taiwan in August 2005; he claimed his wife (not he) traveled to Taiwan at that time. He claimed three of his wife's relatives (*i.e.*, his father-in-law, brother-in-law and sister-in-law have applied for immigration to the U.S.

## FINDINGS OF FACT

\_\_\_\_\_ Applicant is a 47-year old systems engineer for a defense contractor who seeks to retain his security clearance. The allegations covered in the SOR and admitted to by Applicant are incorporated herein by reference and adopted as relevant and material findings. Additional findings follow.

### **Applicant's background**

Applicant (a U.S. citizen by birth) has worked on defense projects that required a security clearance for most of the past 20 years he has been employed in the defense industry (R.T., at 70-71). He is quite familiar with the practices of other countries trying to collect industrial and sensitive information and is regarded as a mentor at his company on foreign economic collection issues (R.T., at 74, 78-79).

Applicant met his spouse (W) in early 2001 through a mutual friend who had immigrated to the U.S. about 10 years before (R.T., at 40-42). He exchanged correspondence with W in 2000 before she met Applicant personally during a family visit to the U.S. in 2001 (R.T., at 42, 81). Applicant reciprocated and traveled to Taiwan in August 2001 to see W. After a brief courtship, Applicant and W were married in Taiwan in April 2002 (R.T., at 43). W, in turn, immigrated to the U.S. in September 2002 to live with Applicant (R.T., at 43). Once in the U.S., she applied for U.S. citizenship. She became a naturalized U.S. citizen in July 2006 and obtained a U.S. passport the following month (R.T., at 66-67). Before immigrating to the U.S., W was a licensed nurse in Taiwan. Once she arrived in the U.S. with Applicant, she applied for and obtained a registered nursing license. She has been unsuccessful, though, in obtaining nursing employment in the U.S. (R.T., at 44).

Since immigrating to the U.S., W has made several return trips to Taiwan. She made trips to Taiwan in 2002 (accompanied by Applicant) and 2003 to care for her ailing father (R.T., at 44-45, 81). Since she did not yet have a U.S. passport, she used her Taiwan passport for both trips. In February 2005, Applicant and W traveled together to Taiwan to see her father and siblings. She returned to Taiwan six months later (in August 2005) for a surgical procedure and remained in Taiwan for a brief period to recuperate under the care of her family (R.T., at 45). She returned to Taiwan one more time in February 2007 to see her family. On this trip, she used her U.S. passport (R.T., at 66-67). While she retains her Taiwan passport, which is not scheduled to expire for another 10 years (R.T., at 67-68), she has no intention of using it in future travels to Taiwan.

W's father survived her mother and is a citizen and resident of Taiwan. Her father has lived and worked all of his natural life in Taiwan. Before retiring in 1986 (at the age of 76), he was employed as a health inspector for a Taipei city government department of health (R.T., at 46-47). He currently receives monthly retirement benefits from the Taiwan government (R.T., at 47). Applicant and W have since returned to Taiwan on several occasions to care for W's father during periods of illness. She has regular telephone contact with her father (R.T., at 49), but neither Applicant or herself provide any financial support to him (R.T., at 47). W's father has come to visit Applicant and W2 on several occasions (*i.e.*, in 2002, 2003 and 2004).

W's brothers and sister have spent time in the U.S. One brother studied at a prestigious American university in the 90s and currently is on the medical faculty of the prestigious Taiwan National Defense Medical Center (R.T., at 49-51). His wife is employed in the economics department of the Taiwan government (R.T., at 53-54). This brother accompanied W's father on his last visit in 2004, and applicant maintains regular telephone contact with him (R.T., at 51-52).

Besides her aforementioned brother, W has a sister (age 50) who is both a citizen and resident of Taiwan. She is employed as an administrative assistant for a Taiwan environment agency (R.T., at 57-58). Her husband works for a private Taiwan company.

W has another brother (older than the first) who is also a citizen and resident of Taiwan. As a polio survivor, he requires a wheel chair to ambulate and works only on small tasks. He receives government disability benefits and will need to remain in Taiwan to retain his benefit eligibility (R.T., at 60-61). His wife sells chewing gum (R.T., at 60). Applicant talks regularly (every week or two) to her sister and first brother, but has little contact with her oldest brother. Applicant himself occasionally speaks to W's family members (usually just to exchange greetings), but never about any substantive topics that involve his work (R.T., at 81-82). He recalls one instance in which he reviewed a draft of his brother-in-law's academic paper intended for publication in a medical journal (R.T., at 82-83). His face to face interactions with his in-laws have been limited to those few occasions he met with them while traveling with W to Taiwan and during the several visits of W's family members to the U.S.

W, with Applicant's support, has filed immigration applications on behalf of her father, sister, and younger brother in March 2007 (*see* exs. A through C; R.T., at 47-48, 51, and 56). She expects the immigration process to be completed in less than a year for her father, but not for a number of years in the cases of her brother and sister (R.T., at 56-57). She is considered very knowledgeable, patriotic towards the U.S. (her newly adopted home), and a solid contributor to American society as a nurse by those with Applicant's employer who have to come know her (*see*

ex. D). Neither Applicant nor W know of any reason why W's family members could be at risk of coercion or pressure from any members of the Taiwan intelligence or military organizations (R.T., at 65).

Applicant is highly regarded by his colleagues at work. Both his human resources specialist and his site manager credits him with outstanding performance, reliability and trustworthiness (ex. D). His strong ethics have made him one of his company's most trusted and valuable employees. He is considered technically gifted, a dedicated team player, and a solid performer who is always conscious of security requirements. Applicant's facility clearance officer (FSO) credits him with demonstrating a strong sense of duty and responsibility toward proprietary, sensitive, and classified information. His FSO reports that he has never committed a security violation. In recognition of his demonstrated loyalty, reliability, and trustworthiness, Applicant is scheduled by his company to be deployed to Iraq in early 2007 (*see ex. D*).

### **Taiwan's country status**

Taiwan has a rich history that dates back 12 to 15 thousand years. Dutch and Spanish colonists claimed the island in the 16<sup>th</sup> and 17<sup>th</sup> centuries (*see Background Note: Taiwan*, U.S. Department of State (April 2007)). Migration from the Chinese mainland over time supplanted the aborigines peoples of Taiwan. Japan exerted considerable influence over Taiwan following China's ceding of Taiwan to Japan in 1895 (*see Background Note: Taiwan, supra*, at 3).

Following the end of World War II in 1945, Taiwan reverted to Chinese rule. Civil war erupted soon after the reversion between Chiang Kai-Shek's KMT government and the increasingly influential Chinese Communist Party guided by Mao Zedong. When the civil war ended in 1949, 2 million refugees (predominantly nationalists) fled to Taiwan, where Chiang Kai-Shek established a separate provisional KMT capital in Taipei (*see Background Note: Taiwan, supra*, at 3). Mao's victorious Communist party, in turn, established the People's Republic of China (PRC).

For the past one-half century, Taiwan has demonstrated steady economic development and today is a major international trading power. Its accession to the WTO in 2002 represented a significant achievement and strengthened its standing in the expanding global economy.

Taiwan has exhibited steady political development as well since its establishment as an island government. Changes reflect a continuing liberalizing process that culminated in the tightly contested election of Chen Shui-bian in 2000 (*see Background Note: Taiwan, supra*, at 3). Chen's DPP party won major parliamentary victories in 2000 and again in 2004, enabling Chen to become the first opposition party candidate to win the presidency. Chen was re-elected in 2004 on a platform that included a "defensive referendum" (*Background Note: Taiwan, supra*, at 6). Such referenda have been historically perceived to be closely linked to the question of Taiwan's independence.

Today's Taiwan political system can appropriately be described as a multi-party democracy under a Constitutional umbrella comprising five branches: executive, legislative, judicial, control and examination. By all accounts, Taiwan has a good human rights record and demonstrated respect for the rule of contract in its commercial relations.

### **Taiwan's PRC relations**

The PRC does not recognize Taiwan's independence, and insists that there is only "one China" (*see Background Note: Taiwan, supra*, at 6). Despite differences over the PRC's one China policy, Taiwan and the PRC have enjoyed increased contacts over the past decade. With Taiwan's continued relaxation of its PRC policy regarding unofficial contacts, cross-strait interactions have grown significantly. Efforts by the PRC, however, to resume cross-strait dialogue without any preconditions have been hampered by the PRC's insistence that the two sides first reach consensus that there is only "one China" before restarting talks (*see id.*). Cheng has recognized the PRC's "one China" insistence but to date has declined to condone the concept. With both sides unwilling to compromise this obstacle, they have cautiously felt each other out with smaller intermediary steps like cross-strait cargo and passenger charter flights, sale of Taiwan agricultural products in the PRC, and PRC tourists visiting Taiwan (*see id.*).

The PRC operates a large and sophisticated intelligence bureau, entitled the MSS (*see Intelligence Threat Handbook [Unclassified/For Official Use Only], Interagency OPSEC Support Staff (IOSS)*, at 71 (June 2004)). The MSS maintains active intelligence gathering operations in Taiwan (*see id.*, at 72). These operations use clandestine agents to collect intelligence on Western consortia investing in the PRC who are suspected of involvement in attempts to democratize the PRC, as well as other pro-democracy groups thought to be engaging in anti-communist activities (*see Intelligence Threat Handbook, supra*, at 72)

### **U.S.-Taiwan relations**

In a joint communique with the PRC in January 1979, the U.S. announced its recognition of the government of the PRC as the sole government of China and that there is but one China, of which Taiwan is a part (*see Background Note; China*, U.S. Department of State, at 8 (January 2007)). The Joint Communique stated that within this context the people of the U.S. will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

To implement the Joint communique, Congress passed the Taiwan Relations Act (TRA) in April 1979. President Carter, in turn, signed the legislation into law on April 10, 1979. Besides providing the legal basis for maintaining the U.S. unofficial relationship with Taiwan, the TRA reinforced the U.S. commitment to providing defense assistance to Taiwan. The TRA expressly provides for the continued sale of appropriate defensive military equipment to Taiwan and declares that peace and stability in the area are in U.S. interests (*see Background Note: Taiwan, supra*, at 9). And even though the U.S. terminated its Mutual Defense Treaty with Taiwan following its de-recognition of the latter, it has continued its sale of appropriate defensive military equipment to Taiwan (*see id.*).

While ambiguously written, the U.S. commitment to Taiwan's security against cross-Strait aggression by the PRC's military forces is implicit in the TRA's coverage of U.S. responsibilities towards Taiwan. This implicit construction is oft-used to support proponents of a "two China" policy. To be sure, initial actions of the Bush Administration in 2001 provided cause to conclude the new President had abandoned longstanding U.S. policy of "strategic ambiguity" in favor of a policy that placed a clearer emphasis on Taiwan's interests at the expense of the PRC (*see Taiwan: Recent Developments and U.S. Policy Choices*, CRS Report to Congress, at 13 (October 2006)). More recent developments, though, reflect the smoothing of U.S.-PRC relations as a part of the broader war on terrorism.

Currently, the U.S. does not support Taiwan independence and opposes unilateral steps by either side to alter the status quo (*see Background Note; China, supra*, at 20). For so long as Taiwan's national security remains under threat (both veiled and unveiled) from the PRC, Taiwan can be expected to pursue the development of its military amidst expectations of military assistance from the U.S. Stressing self-reliance, Taiwan maintains a large military establishment (accounting for 15.3 per cent of its central budget). Its principal mission is to defend itself against the PRC, which has not renounced the use of force against Taiwan (*see Background Note: Taiwan, supra*, at 8). With its unchanged public policy of maintaining "strategic ambiguity" in its official relations with Taiwan, the U.S. can be expected to continue its support of Taiwan's island security with the sale of defensive military equipment.

### **Taiwan's economic collection practices**

Based on past reports to Congress, Taiwan is considered one of the most active collectors of U.S. economic and proprietary information. In its 2000 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, the preparers list Taiwan as well as the PRC among the most active collectors (*see 2000 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage*, National Counterintelligence Center (NACIC), at 16). Specific incidents are cited in the NACIC Report that identify offenders of proprietary information thefts and attempts to acquire export-restricted products (*see id.*, 7-10).

Recent espionage convictions document ongoing collection activities covering theft of sensitive and proprietary information by and for Taiwan companies (*see, e.g., 2006 Report to Congress*, U.S.-China Economic and Security Review Commission, at 139 (November 2006); *Press Release*, U.S. Department of Justice, U.S. Attorney (WD NY April 2006); *Press Release*, U.S. Department of Justice, U.S. Attorney (ED VA January 2007), and *Statement of Facts (stipulated)*, No. 1:05CR 543 (December 2005). Multilateral export control regimes in place are voluntary and not universally adhered to by member nations (*see id.*, at 143).

### **Stress points between Taiwan, the PRC and the U.S.**

In its November 2006 Report to Congress, the Security Review Commission describes the PRC as a country intent on acquiring and exploiting the knowledge developed by multiples of collection agents: legally, if possible, and otherwise illegally by espionage (*see 2006 Report to Congress, supra*, at 138). The PRC's concerted efforts to acquire sensitive technology poses a considerable challenge to U.S. counterintelligence measures. Recent indictments of Chinese citizens for espionage have served to highlight the PRC's spying activities in the U.S. (*see id.*). Violating its own 2004 U.S.-China agreement, the PRC oft-fails to schedule timely end-use inspection visits of dual-use items licensed for export to the PRC. Better export controls can be effective only if they are multilateral in scope (*see id.*). Multilateral export controls and arms embargoes, however, do provide additional insurance against altering the cross-strait military balance that has been long maintained (*see id.*, at 144).

Without effective dual use export controls in place, the PRC can be expected to acquire dual use technologies with military potential from the U.S. and Taiwan through the U.S. and other source countries. Reported intelligence, though, is lacking on any Taiwan use of its collection resources in

the U.S. to supply the PRC with needed military technology (alone or through technology with known dual use capabilities).

Other stress points between the PRC and Taiwan are reflected in periodic PRC military exercises in the Taiwan Straits (*see Background Note: China, supra, at 19*). More frequent U.S.-PRC high-level exchanges have the potential to reduce cross-strait military tensions (*id.*, 19).

## **POLICIES**

The revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by judges in the decision making process covering DOHA cases. These Guidelines require the judge to consider all of the Conditions that could raise a security concern and may be disqualifying (Disqualifying Conditions), if any, and all of the Mitigating Conditions, if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

### **Foreign Influence**

*The Concern:* “Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under the this Guideline can and should considered the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.”

### **Burden of Proof**

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires Administrative Judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) It must prove any controverted fact[s] alleged in the Statement of Reasons and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

### CONCLUSIONS

Applicant is a U.S. citizen by birth who married a woman (W) in 2002, who historically was a citizen and resident of Taiwan. She immigrated to the U.S. shortly thereafter to be with Applicant. She became a U.S. citizen in 2006 and has since petitioned for U.S. immigration approvals on behalf of her father, brother and sister (all of whom are citizens and residents of Taiwan). Security issues of concern to the Government focus on members of Applicant's in-laws (*i.e.*, his wife's father, sister and two brothers) who are citizens and residents of Taiwan, a country historically friendly to the U.S., albeit, one with a reported history of economic collection activities in the U.S.

Department Counsel urges security concerns over risks that W's father and siblings (all citizens and residents of Taiwan) might be subject to undue foreign influence by Taiwanese authorities to access classified information in Applicant's possession or control. Because Applicant's in laws reside in Taiwan, they present potential heightened security risks covered by disqualifying condition (DC) 7(a) (*contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion*) of the Adjudication Guidelines for foreign influence. The citizenship/residence status of these non-immediate family members in Taiwan pose some potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control.

Because of W's living arrangements with Applicant and her dual status as a citizen of Taiwan and the U.S, some consideration of DC 7(b) (*connection to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information*) and DC 7(d) (*sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk or foreign inducement, manipulation, pressure, or coercion*) are warranted as well. W's contacts with her father and siblings, most of whom have been associated with Taiwan government service at the local or national level, afford her some potential for accessing Taiwan officials who might be interested in proprietary, sensitive, or even classified information that Applicant is privy to. Still, none of W's family members have any identified affiliations or contacts with Taiwan officials known to be associated with intelligence or military organizations interested in collecting proprietary or sensitive information in the U.S.

Further, from what is known from the presented evidence, none of W's immediate family residing in Taiwan have any political affiliations with Taiwan's government, have any history to date of being subjected to any coercion or influence, or appear to be vulnerable to the same. W's father occupied a relatively low non-political position with the Taipei city government before his retirement in 1986, and does have a government pension. One of her two brothers has medical training and serves on the faculty of Taiwan's National Defense Medical Center; while her only sister has long been employed by a Taiwan environmental protection agency. None of these recited positions, however, involve intelligence or military operations and, as such, are not likely to make any of these relatives foreseeable subjects of interest to Taiwan foreign data collection officials. Moreover, all but one of Applicant's identified extended family members have an application pending for approved immigration to the U.S. Taking the explanations of W about her immediate family at face value, any risk of undue foreign influence on Applicant and/or his in-laws would appear to be insubstantial and clearly not of the magnitude that could make them subject to a heightened security risk of pressure or compromise under Guideline B.

Taiwan, although a country reported to have targeted U.S. economic and proprietary interests in the past, enjoys a special relationship with the U.S. through the TRA, and is a democratic government with a history of respect for human rights and the rule of law. While Taiwan has been an active collector of economic intelligence in the U.S., it has not been known to use acquired information to harm U.S. strategic interests. Taiwan remains a member in good standing with the WTO and a constructive trading partner with the U.S., who at times has itself been targeted by agents of the PRC for intelligence collection on Western groups thought to be promoting democracy and engaging in anti-communist activities directed at the PRC.

The Adjudicative Guidelines governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Taiwan.

The special relationship that has existed between the U.S. and Taiwan over the past half-century has been one marked by mutually reconcilable political and economic interests. Reports of Taiwan intelligence gathering against U.S. companies are counterbalanced by Taiwan's history of friendship and partnership in a defense pact formalized in 1979. The mutually supportive bonds that have linked Taiwan's special relationship with the U.S. have not been weakened by either the TRA, or the geopolitical forces that have shaped the U.S.'s evolving relationship with the PRC. Whatever potential heightened security risks arise as the result of Applicant's having in-laws with citizenship and residency in Taiwan are by every reasonable measure mitigated.

Taiwan remains a friend of the U.S. and is a country whose democratic institutions are not incompatible with our own traditions and respect for human rights and the rule of law. Unlike the old Adjudicative Guidelines the new ones do take account of the covered country's demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter. Taiwan, while reported to target the U.S.

and its companies in the past for economic and proprietary information, is still a country with no known recent history of hostage taking or disposition for exerting undue influence against family members to obtain either classified information, or unclassified economic and proprietary data.

As for security concerns associated with the presence of Applicant's extended family members in Taiwan (a country whose interests have recently been and continue to be friendly to those of the U.S.), any potential heightened risk of a hostage situation or undue foreign influence brought in the hopes of eliciting either classified information or economic or proprietary data out of Applicant through his wife's family members residing in Taiwan is an acceptable one. Applicant, accordingly, may take advantage of one important mitigating condition: MC 8(a) (*the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign a foreign individual, group, organization, or government and the interests of the U.S.*).

MC(8(b) (*there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest*) has application, too, to Applicant's situation. Both at home and through those in senior positions with Applicant's employer, W has demonstrated loyalty, patriotism, and professional commitments to the U.S. since becoming Applicant's spouse in 2002, and a naturalized citizen in 2006. Whatever potential conflicts she may have through her dual Taiwan citizenship and contacts with her family members in Taiwan have been more than counterbalanced by her demonstrated U.S. citizenship responsibilities.

From a whole person perspective, Applicant has consistently demonstrated his steadfast commitment to respecting and protecting proprietary, sensitive, and classified information. He is a citizen by birth who has held a security clearance for the better part of 20 years without a security violation. He is considered an exemplary contributor to his employer and can be expected to prioritize his loyalties to his country and commitments to protecting proprietary, sensitive and classified information to which he has access over any potential conflicting interests with members of his wife's family members still residing in Taiwan.

Whole person assessment also serves to minimize W's exposure to conflict of interests with her Taiwan family members. Not only does W reside exclusively with him in the U.S., but she and Applicant have made concerted efforts to gain immigration approvals for her father and two of her siblings. Neither Applicant nor W are aware of any risks of coercion or pressure that any of W's family members might be exposed to, and the likelihood of any pressure or coercion being brought to bear on any of W's family members would appear to be minimal at this time. Put another way, Applicant has no visible conflicts of interest with Taiwan citizen/residents or property interests in Taiwan that could be at risk to exploitation or compromise by Taiwan military or intelligence officials.

Overall, any potential security concerns attributable to Applicant's family members in Taiwan are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships in Taiwan. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in E2.2.2 of the Adjudicative Process of Enclosure 2 of the Directive.

**FORMAL FINDINGS**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE):                   FOR APPLICANT

Sub-paras. 1.a through 1.f.:                           FOR APPLICANT

**DECISION**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Roger C. Wesley  
Administrative Judge