



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

SSN: -----

Applicant for Security Clearance

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ISCR Case No. 07-07272

Appearances

For Government: James F. Duffy, Esquire, Department Counsel
For Applicant: *Pro Se*

April 2, 2008

Decision

WESLEY, Roger C., Administrative Judge:

History of Case

On November 9, 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 November 29, 2007, and requested a hearing. The case was assigned to me on January 2, 2008, and was scheduled for hearing on January 29, 2008. A hearing was held on January 29, 2008, 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 three witnesses (including herself) and

eight exhibits. The transcript (R.T.) was received on February 6, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility to access classified information is granted.

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); *Annual Report to Congress on foreign Economic Collection and Industrial Espionage 2005*, National Counterintelligence Executive -2005 (August 2006); *Country Reports on Human Rights Practices - 2006, China* (March 2007); *Consular Information Sheet on China*, U.S. Department of State (March 2007).

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 Rulings and Evidentiary Issues

At the outset of the hearing, Applicant confirmed her waiver of the 15-day written notice requirement in the Additional Procedural Guidance of the Directive. The 15-day written notice requirement was, accordingly, waived.

SUMMARY OF PLEADINGS

Under Guideline B, Applicant is alleged (a) to have parents who are citizens and residents of Taiwan, (b) to have expressed in July 2007 that she has the responsibility to take care of her parents, (c) to have a paternal grandfather, and many aunts, uncles, cousins, and friends who are citizens and residents of Taiwan, (d) to have a friend who is a citizen of Taiwan who resides in the U.S., (e) to have a father who served as a major in a AS division of the Taiwan AF from approximately 1985 to April 1991, (f) to have a

paternal grandfather who served in the Taiwan military from approximately 1943 until 1968, (g) to have various uncles and cousins who have served in the Taiwan military, (h) to have two uncles who currently work for the Taiwan government, (i) to have traveled to Taiwan in approximately December 1999, June 2001, May 2004, and December 2006 to visit her parents and relatives, and also in August 2004 to attend her grandmother's funeral, (j), to have stated in July 2007 that she is vulnerable to pressure, coercion, or duress based on her family members' non-U.S. citizenship, and (k) to have received approximately \$15,000.00 from her father between November 2006 and January 2007.

For her answer to the SOR, Applicant admitted most of the allegations in the SOR with explanations. She denied any current financial support for her parents, but acknowledged her responsibility to support her parents should they require it. She claimed to have only brief contact with her relatives other than her parents. She admitted to having a good friend in the U.S. from the PRC (not Taiwan as alleged), and claimed her father took early retirement from the Taiwan AF and has worked as a commercial airlines pilot for the past 15 years. She claimed a mandatory draft in Taiwan for all males to serve in the military and identified the government departments that employ her two uncles in Taiwan. She acknowledged visits to Taiwan to see her parents, and to attend her grandmother's funeral. She admitted to saying "yes" to a question posed to her about being vulnerable to pressure out of love for her parents but claimed a misunderstanding of the implications of her answer. And she acknowledged receiving money from her father for a down-payment on a home purchase in the U.S.

Findings of Fact

Applicant is a 24-year-old electrical engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

Applicant's background

Applicant immigrated (along with her sister) to the U.S. from Taiwan in 1998 at the age of 15 (R.T., at 54-55). She and her sister have since forged strong bonds together, and attended college together (see ex. A; R.T, at 55-56).

For the first several months of her residence in the U.S. Applicant lived with her aunt (R.T., at 67). She went on to complete her high school curriculum in the U.S., and subsequently her undergraduate college studies in electrical engineering in December 2005 in a prestigious U.S. university (see exs. 1 and C; R.T., at 54). She applied for U.S. citizenship and became a naturalized U.S. citizen in July 2004 (see ex 1). Applicant is currently pursuing graduate studies at the same university in her field of emphasis (electrical engineering) and expects to receive her M.S degree in EE in Spring 2008 (R.T., at 54-55).

Applicant's parents are citizens and residents of Taiwan. Her mother is a homemaker who has never worked for the Taiwan Government that Applicant can

personally recall. Her father graduated from the Taiwan Air Force (AF) Academy and joined the AF as a military pilot. He served in the Taiwan AF between 1976 and 1991 (see ex. A; R.T., at 56-57, 74), and retired with the rank of major (R.T., at 75). Upon his retirement, he received a lump sum settlement of \$65,000.00 (R.T., at 76). Following his retirement he became a commercial airline pilot, and continues to work in that capacity (see ex. B). Applicant's father has no connections with the Taiwan Government, but did accompany his parents on one occasion to visit their parents in the PRC (see ex. A; R.T., at 57, 77-78).

Applicant has a paternal grandfather, and three other grandparents as well as several aunts, uncles, and cousins. All but two of the grandparents are citizens and residents of Taiwan (R.T., at 79-81). The two remaining surviving grandparents reside in the PRC (R.T., at 79-81). Her paternal grandfather, all of her uncles, and several of her cousins have served in the Taiwan military, which is mandatory in Taiwan (R.T., at 92-93). Two of her uncles currently work for the Taiwan Government. One works for the Taiwan post office; while the other works for a budget planning group (R.T., at 59-60, 95). To the best of Applicant's knowledge, her parents' contact with their relatives residing in the PRC is not very frequent (R.T., at 82-84).

Besides her relatives who reside in the U.S. and Taiwan, Applicant has a good friend who resides in the U.S., while remaining a citizen of the PRC (R.T., at 61-62, 96-99). This friend has since applied for a green card to work in the U.S., and awaits notification of the results.

Upon becoming a U.S. citizen, Applicant relinquished her Taiwan passport (R.T., at 67). Although she never officially renounced her Taiwan citizenship, she does not believe she has any obligations to Taiwan (R.T., at 69). While she retains her loyalties to her parents, her primary loyalties lie with the U.S. (R.T., at 70, 89), she does not foresee any need to take care of them financially. Applicant has never served in the Taiwan military and has never been employed by the Taiwan Government (R.T., at 70-71).

Before becoming a naturalized U.S. citizen, Applicant made a number of trips to Taiwan to visit her parents and other family members: specifically, in December 1999, June 2001, May 2004, and December 2006. She made an additional trip to Taiwan after in August 2004 to attend her grandmother's funeral. While it is not clear from the record which passports she used after she became a U.S. citizen, she assures that she turned her Taiwan passport over to her facility clearance officer (FSO), who reportedly destroyed it (R.T., at 103-04). Applicant maintains regular monthly telephone contacts with her parents (R.T., at 57, 86), but has few telephone contacts with her other relatives residing in Taiwan (R.T., at 90-92).

Applicant has a financial advisor to help her save on buying a home in the geographical area of her employment (R.T., at 63). She fully supports herself and has invested most of her savings in investment accounts (see exs. E, F and G). She maintains all of her financial interests in the U.S., and none in Taiwan (R.T., at 63, 102). To be sure, she has received financial support from her father to help underwrite the

down payment (estimated to be \$15,000.00 between November 2006 and January 2007) on her planned purchase of a home. She has invested this money and does not want to liquidate her shares in this investment out of concern of taking an investment loss (R.T., at 63). She expects to be able to save enough over the next two years to be able to purchase a home, and expresses her desire to complete her graduate studies, and continue working for her current employer (R.T., at 113-14).

Applicant has no reason to believe any of her immediate family members residing in Taiwan are at any risk to coercion, pressure or influence (R.T., at 105). She has received security training and briefing and has held an interim security clearance since January 2006 (see ex. H). She pledges to continue to abide by security procedures and would report any foreign contacts or attempts to influence her to her FSO (R.T., at 61, 106). And one potentially troublesome statement attributable to her (*i.e.*, her July 2007 statement that she is vulnerable to pressure, coercion, or duress based on her family members that are not citizens of the U.S.) has been thoroughly explained by Applicant as the result of misinterpreting the question, and exercising an abundance of caution in recognition of her continued love for her family, and is reconciled with her extensive security training and briefing (R.T., at 58, 89).

Supervisors, co-workers and friends who have known Applicant for a number of years attest to her honesty and trustworthiness (see ex. A; R.T. at 123, 127-28). Both her section manager and her mentor credit her with outstanding performance, reliability and trustworthiness (see ex. A).

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 16th and 17th 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 has 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).

Compounding security concerns over the PRC's robust intelligence gathering operations in Taiwan is the PRC regime's poor human rights record. The State Department reports an increased number of high profile cases in the PRC involving the monitoring, harassment, detention, arrest, and imprisonment of journalists, writers, activists, and defense lawyers seeking to exercise their law-protected rights (see *China, Country Reports on Human Rights Practices-2006*, U.S. Department of State (March 2007)). The State Department cites a comprehensive, credible accounting of all those

killed, missing, or detained, reported incidents of deaths in custody, disappearance, torture, and other cruel, inhuman, or degrading treatment or punishment (*see id.*, at 2-3). While the PRC officially denies holding any political prisoners, Western non-government organizations estimate that approximately 500 persons remained in prison in 2006 for the repealed crime of counterrevolution, and thousands of others were either serving sentences or were being detained for counter-revolutionary offenses (*id.*, at 8). State Department advisories caution American citizens visiting or residing in China to take the normal safety precautions and remain aware of their individual surroundings (*see Consular Information Sheet*, U.S. Department of State, March 2007).

In the current political environment, it is still too early to predict the direction of cross-strait negotiations between Taiwan and the PRC. Because of the PRC's long insistence on Taiwan's acceptance of the 'one China' principle as a requisite to any jump-starting of negotiations over practical agreements in trade, cultural exchanges, and other areas of mutual interest, future relations between the two sides remain cloudy at best.

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 based on cited surveys (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.*, at 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 security clearance. Rather, consideration must take account of cognizable risks that an applicant may 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.

ANALYSIS

Applicant is a naturalized U.S. citizen who immigrated to the U.S. from Taiwan in 1998 to further her education pursuits. Security issues of concern to the Government focus on members of Applicant's immediate family (*i.e.*, her parents, paternal grandfather) and extended family members 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 Applicant's parents, paternal grandfather, and other family members residing in Taiwan, might be subject to undue foreign influence by Taiwanese government authorities to access classified information in Applicant's possession or control. Because Applicant's immediate and extended family members 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 immediate and 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 Applicant's father, paternal grandfather, uncles and cousins residents all have prior military service (although aged for the most part), 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," is warranted as well. Applicant's contacts with her parents and other family members residing in Taiwan 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 Applicant's family members have any identified affiliations or contacts with Taiwan officials currently 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 Applicant'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. Applicant's father is a graduate of Taiwan's prestigious AF Academy, and served for many years in Taiwan's AF, but has had no connection with the Taiwan government or military since his retirement in 1991. Also, two of her uncles hold low level positions with Taiwan government agencies. 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. Upon fully considering Applicant's explanations about her immediate family and extended family members, any risk of undue foreign influence on Applicant and/or her parents, paternal grandparents, and extended family members 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 a reported 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 family members 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 immediate and 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 her 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.

Whole person assessment also serves to minimize Applicant's exposure to conflict of interests with her Taiwan family members. Not only has Applicant become a naturalized U.S. citizen and received her education (both high school and college) in the U.S., but she has made every efforts to work, save, and pursue her financial interests exclusively in the U.S. (albeit with some prior financial help from her father). Applicant is highly regarded and trusted by her supervisor and co-workers and is not aware of any risks of coercion, pressure, or influence that any of her family members might be exposed to. Under these recounted circumstances, any likelihood of any coercion, pressure, or influence being brought to bear on any of her 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 her 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.k.: FOR APPLICANT

CONCLUSIONS

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