



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 15-00076

**Appearances**

For Government: Ray T. Blank, Esq., Department Counsel  
For Applicant: *Pro se*

12/30/2015

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings and exhibits, I conclude that Applicant mitigated security concerns regarding foreign influence concerns. Eligibility for access to classified information is granted.

**History of the Case**

On June 14, 2015, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why DOD adjudicators could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AGs) implemented by the DOD on September 1, 2006.

Applicant responded to the SOR on July 9, 2015, and elected to have his case decided on the basis of the written record. Applicant received the Government's File of Relevant Material (FORM) on September 28, 2015, and responded to the FORM with supplemental submissions within the time permitted. Applicant's submissions were admitted as Item 7. The case was assigned to me on October 13, 2015.

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly: (a) has a spouse who maintains regular contact with the Taiwan Consulate; (b) maintains regular and ongoing contact with several Taiwanese citizens who are employed with and have ties to the government of Taiwan; (c) has a mother-in-law and father-in-law who are citizens and residents of Taiwan; and (d) has a father-in-law who is a retired member of the Taiwanese military.

In his response to the SOR, Applicant admitted all of the allegations with explanations. He acknowledged his wife's having Taiwanese friends within the local Taiwan community wherever they have lived, including friends who work in the Taiwan consulate (i.e., the Taipei Economic and Cultural Office, or TECO). He claimed, too that his regular contacts with Taiwanese citizens who are employed by the Taiwan government are intrinsic to his job, which involves analyzing, writing, and teaching about cultural issues. He maintained that his contacts are not "so regular and ongoing." He claimed that his in-laws have never attempted to exploit their relationship with Applicant, or expressed any interest in his work, and have little interest in Taiwan politics. Besides discounting the security significance of his having a Taiwanese wife, he cited the value of his Taiwan connections in a career focused on Asian-Pacific studies. And he claimed he would never act against the interests of the United States or profess views that were not based on his own independent analysis.

Department Counsel requested administrative notice of adjudicative facts covered by 13 documents: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage 2008*, National Counterintelligence Center (July 2009); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage 2000*, National Counterintelligence Center (2001); Statement of Facts [stipulated], *United States v. Keyser*, Crim. Case No.1:05CR543, (E.D. VA December 2005); *Former State Department Official sentenced for Mishandling Classified Information* (E.D. VA January 2007); *Father and Son Arrested for Allegedly Violating US Laws to Prevent Proliferation of Weapons of Mass Destruction*, U.S. Department of Justice Press Release (March 2015); *Taiwan Exporter is Sentenced to Three and a Half Years for Conspiring to Export Missile Components from the U.S. to Iran*, U.S. Department of Commerce (August 2010); *Connecticut Company Settles Charges Concerning Unlicensed Pump Exports to China, Taiwan, Israel, and Saudi Arabia*, U.S. Department of Commerce ((July 2003); *Summary of Major U.S. Export Enforcement, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases (January 2008 to October, 2014)*, *Military Laser Aiming Devices and Fighter Pilot Cueing Systems to Taiwan*, U.S. Department of Justice (2014); *Exporter Fined in Connection with Attempted Taiwan Export*, U.S. Department of Commerce (September 1999); *Taiwan Exporter Arrested and Charged with Exporting Missile components from the United States to Iran*, U.S. Department of

Commerce (February 2010); and *Taiwan Exporter is Sentenced to Three and a Half Years for Conspiring to Export Missile Components from the United States to Iran*, U.S. Department of Commerce (August 2010).

Additional documents covered by the Government's Administrative Notice are as follows: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage 2005*, National Counterintelligence Executive-2005 (August 2006); *Coatings for Rocket Nozzles and Other Goods to Taiwan and China*, U.S. Department of Commerce (December 2012); *North Wales Man Sentenced for Illegally Exporting Goods*, U.S. Department of Commerce (January 2013); *Taiwanese National Pleads Guilty to Attempting to Illegally Export Aerospace-Grade Carbon Fiber*, U.S. Department of Commerce (December 2012); and *Manhattan U.S. Attorney Announces Arrest of Queens Resident for the Export of Military-Use Items to Taiwan and Attempting to Export them to China*, U.S. Department of Commerce (December 2012).

In addition to the above-described documents covered by the Administrative Notice, I took official notice of *Background Note: Taiwan*, U.S. Department of State (April 2007) (XIV). Like the other State Department documents covered in the Administrative Notice, this document is an official State Department publication.

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. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Taiwan's current state.

### **Findings of Fact**

Applicant is a 55-year-old senior policy analyst 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.

#### **Personal background**

Applicant married his spouse in March 1990 and has two children from this marriage. He attended a well-recognized university between September 1978 and January 1987, where he earned a bachelor's degree in April 1985 and a master's degree in 1987. (Item 1) He earned a doctorate degree from a highly respected university in December 1991. (Item 4) Applicant received additional post-graduate

training at a respected university between 1987 and 1991, but did not receive a degree or diploma. (Item 4) He claimed no military service.

Applicant has been employed by his current employer as a part-time senior policy analyst since October 2013. (Item 1) Contemporaneously (since November 2007), Applicant has worked on a part-time basis as a senior fellow for a policy center. (Item 1) And between July 2007 and November 2007, he served as a professor for a Government-affiliated academic policy center. (Item 1)

Applicant's listed foreign contacts include participation in academic conferences as a faculty representative in Taiwan (April 1999, November 2007, June 2002, and October-November 2002). He participated in a conference in Taiwan as a visiting scholar in November-December 2003, in a conference in Australia in May 2004 as a faculty member, and in conferences hosted by Taiwan and Japan with other countries of the region represented. (Item 6) between 2007 and 2009.

Aside from his in-laws, Applicant has not made any lasting contacts with any foreign government officials. (Item 6) Although, he does maintain regular and ongoing contact with two Taiwanese citizens who he met professionally and who have ties to the government of Taiwan. (Items 1-2, 5-7) And he maintains contact with his mother-in-law and father-in-law every two to three years in personal visits to Taiwan. (Item 6) Applicant considers his contacts with his in-laws to be casual and infrequent and foresees little likelihood of potential conflicts of interest that could be used to pressure, coerce, or influence Applicant. (Items 1, 6, and 8)

Between 2008 and 2012, Applicant attended multiple conferences and events in Taiwan that were hosted by the Taiwan government and various academic groups. (Item 4) On these trips, he met Taiwan government and academic officials, but never established close, personal relationships with these officials. (Items 4 and 5)

### **Family relationships**

Applicant's wife was born and raised in Taiwan and became a naturalized U.S. citizen. (Items 2 and 6) Her parents are citizens and residents of Taiwan. (Item 4) She maintains regular contact with friends employed by the Taiwan consulate (sometimes referred to as the Taipei Economic and Cultural office or TECO). (Item 3) Applicant and his wife see them at activities they sponsor (e.g., ROC National Day and Chinese New Year celebrations) Applicant assured that no TECO staff member has ever directly, or through his wife, tried to pressure, coerce, or manipulate him. (Item 2)

Applicant's father-in-law was born and raised in Taiwan and is currently a citizen and resident of Taiwan. (Item 6) He is a retired member of the Taiwan military, where he served in maintenance assignments. (Item 6) Applicant first met his father-in-law in March 1987. Except on Applicant's occasional visits to Taiwan, they do not have any contact. (Item 6)

Applicant's mother-in-law was born and raised in Taiwan and is currently a citizen and resident of Taiwan. She is employed as a part-time computer solderer. (Item 5) Except for his occasional visits to Taiwan, and her occasional visits to their home in the United States, they do not maintain any contact. (Item 6)

### **Country Status of Taiwan**

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, *supra*. 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. (*Id.*)

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, two 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 World Trade Organization (WTO) in 2002 represented a significant achievement and strengthened its standing in the expanding global economy. Taiwan has demonstrated 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*. 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." (*Id.*, at 6) Such referenda have been historically perceived to be closely linked to the question of Taiwan's independence.

Legislative elections in 2008 produced a decisive majority for the KMT party. (*Background Note: Taiwan*, *supra*, at 4) In the presidential election that was held one month later, Ma Ying-jen prevailed, securing a united government under KMT control for the first time. (*Id.*) The January 2012 presidential and legislative elections were held concurrently for the first time (as the result of a constitutional amendment) and resulted in the reelection of Ma Ying-jen and renewed KMT legislative control by the victorious KMT party. (*Id.*)

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" (*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. Over the past several years, Taiwan has relaxed restrictions on unofficial contacts with the PRC. With Taiwan's continued relaxation of its PRC policy regarding unofficial contacts, cross-strait interactions have grown significantly.

With increasing contacts between Taiwan and the PRC, cross-Strait trade has grown rapidly over the past 10 years. (*Background Note: Taiwan, supra*) China is Taiwan's largest trading partner, and Taiwan is China's seventh largest. (*Id.*) In June 2010, following prolonged negotiations, the two sides signed an Economic Cooperation Framework Agreement (ECFA), which was designed to liberalize cross-Strait trade in products and services, with the long-term goal of eventually creating and essentially free-trade regime. (*Id.*, at 5) The development of semi-official cross-Strait relations between Taiwan and the PRC hopefully will contribute to tension reductions and to an environment conducive to an eventually peaceful resolution of outstanding differences between the two sides. (*Id.*)

The PRC operates a large and sophisticated intelligence bureau, entitled the MSS. See *Background Note: Taiwan, supra*. The MSS maintains active intelligence gathering operations in Taiwan. (*Id.*) 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. (*Id.*)

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. (*Background Note: Taiwan, supra*, at 7. 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*. And even though the United States 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. (*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 *Background Note: Taiwan, supra*.

Currently, the United States does not support Taiwan independence and opposes unilateral steps by either side to alter the status quo. (*Background Note: Taiwan, supra*). 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 United States. Stressing self-reliance, Taiwan maintains a large military establishment (accounting for 2.7 per cent of its gross domestic product). See *Background Note: Taiwan, supra*, at 6.

Taiwan's principal mission is to defend itself against the PRC, which has not renounced the use of force against Taiwan. (*Id.*, at 8) With its unchanged public policy of maintaining "strategic ambiguity" in its official relations with Taiwan, the United States 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 2008 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 *Administrative Notice, supra*, citing *Annual Report to Congress on Foreign Collection and Industrial Espionage-2008, supra*, at 12.

Specific incidents are cited in the Administrative Notice that identify offenders who have trafficked in illegal exports, or attempted illegal exports of U.S. restricted, dual-use technology to Taiwan. Reported specific cases involve the illegal exporting of classified materials, dual use technology, aerospace-grade carbon fiber, infrared laser aiming devices, thermal weapons, sights, and joint helmet mounted cueing systems for fighter pilots, missile components, microwave amplifiers, surveillance and stealth technology and unmanned aerial vehicles; and ablative materials that are used as protective coating for rocket nozzles. See *Administrative Notice, supra*, and cases cited therein.

## **Stress points between Taiwan, the PRC and the United States**

In its Annual Reports to Congress in 2000, 2005, and 2008, the Security Review Commission described the PRC as a country intent on acquiring and exploiting the knowledge developed by multiple collection agents: legally, if possible, and otherwise illegally by espionage. See *id.* Recent indictments of Chinese citizens for espionage have served to highlight the PRC's spying activities in the U.S. (*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. Multilateral export controls and arms embargoes, however, do provide additional insurance against altering the cross-strait military balance that has been long maintained. (*Id.*, at 7)

Without effective dual use export controls in place, the PRC can be expected to acquire dual use technologies with military potential from the United States and Taiwan through Taiwan and other source countries. Reported intelligence, though, is lacking on any Taiwan use of its collection resources in the United States 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: Taiwan, supra*, at 6. More frequent U.S.-PRC high-level exchanges have the potential to reduce cross-strait military tensions. (*id.*, at 7)

## **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns."

The AGs must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c).

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the revised AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.



When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guideline is pertinent in this case:

### **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 this Guideline can and should consider 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. See AG ¶ 6.

### **Burden of Proof**

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's 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 commonsense 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. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial 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 by substantial evidence any controverted facts alleged in the SOR, 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 materiality showing, 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, the judge must consider and weigh the 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 evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Applicant is a U.S. citizen by birth who is married to a naturalized U.S. citizen who is a dual citizen of Taiwan. Security issues of concern to the Government focus on the parents of Applicant’s wife who are citizens and residents of Taiwan and contacts of Applicant that he acquired during his visits to Taiwan to participate in academic-related conferences and events in Taiwan, a country historically friendly to the United States, albeit, one with a reported history of economic collection activities in the United States.

The Government urges security concerns over risks that Applicant’s in-laws and professional acquaintances contacts 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 Appellant’s in-laws and professional acquaintances 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 AGs for foreign influence. The citizenship/residence status of these in-laws and acquaintances 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 one of Applicant’s in-laws (i.e., his father-in-law) has prior military service, 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 his in-laws are both casual and infrequent (every two to three years on personal visits) Of limited frequency, too, are Applicant’s contacts with Taiwan scholars and officials who interface with him at conferences hosted by the government of Taiwan and other groups in Taiwan and other countries of the region. His contacts with these Taiwan scholars and officials are not only infrequent, but routine in nature.

Further, from what is known from the presented evidence, none of Applicant’s in-laws residing in Taiwan have any known political affiliations with Taiwan’s government, or military of a current nature. Nor do they have any history to date of

being subjected to any coercion or influence, or appear to be vulnerable to the same. While his acquaintances presumably have connections with Taiwan officials, Applicant's contacts with these acquaintances are too casual and infrequent to assign any meaningful security risk. Upon fully considering Applicant's explanations about his wife, his in-laws, and his foreign contacts residing in Taiwan, any risk of undue foreign influence on Applicant, or his in-laws and contacts in Taiwan would appear to be insubstantial, and clearly not of the magnitude that could make Applicant subject to a heightened security risk of pressure, coercion, or influence 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 United States 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 United States, 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 United States, 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 AGs 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, country background and associated risks are available for referencing in the supplied materials about Taiwan.

The special relationship that has existed between the United States 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 United States 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 United States and is a country whose democratic institutions are not incompatible with our own traditions and respect for human rights and the rule of law. The AGs in force do take account of the geopolitical aims and policies of the particular foreign regime, particularly as they involve U.S. strategic interests in the relevant region. Taiwan, while reported to target the United States 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.

While it is true that even countries friendly to the United States can attempt to access classified information, technology, and proprietary information (ISCR Case No. 98-0592, at 3 (App. Bd. May 4, 1999.)), Applicant's proven loyalty, knowledge, and dedication to U.S. core values and security interests throughout his years of public service equip him with the experience and skills necessary to withstand any attempts by the Taiwan government and military to pressure, coerce, or influence any of Applicant's family or contacts to obtain classified or protected information from him.

As for security concerns associated with the presence of in-laws in Taiwan (a country whose interests have recently been and continue to be friendly to those of the United States), 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 in-laws and contacts residing in Taiwan is a manageable 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 in his work as a practicing scholar and policy analyst, Applicant has demonstrated loyalty, patriotism, and professional commitments to the United States throughout his professional career.

Whatever potential conflicts Applicant may have through his casual and infrequent contacts with his in-laws and acquaintances in Taiwan have been more than counterbalanced by his demonstrated dedication to U.S. strategic security interests. Moreover, with his specialty in the social sciences, and not in the fields of technology and engineering, the value of any classified or proprietary information he might possess or acquire could be expected to be of much less practical interest to Taiwan government and military officials.

Whole-person assessment also serves to minimize Applicant's exposure to conflicts of interests with his Taiwan in-laws and contacts. Not only has Applicant become a respected scholar and policy analyst for the U.S. firms he advises, but he has made every effort to work and pursue his professional goals exclusively for the benefit of United States security interests. Applicant is not aware of any risks of coercion, pressure, or influence that any of his in-laws and contacts residing in Taiwan might be exposed to. Under these circumstances, any likelihood of pressure, coercion, or influence being brought to bear on him or any of his in-laws or contacts in Taiwan 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 government or military officials.

Overall, any potential security concerns attributable to Applicant's having in-laws and contacts residing in Taiwan are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of pressure, coercion, and undue influence attributable to his familial and collegial relationships in Taiwan. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

### **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:

FOR APPLICANT

Subparas. 1.a-1.d:

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. Clearance is granted.

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Roger C. Wesley  
Administrative Judge

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