

KEYWORD: Foreign Influence

DIGEST: Applicant is a native of the Republic of China (Taiwan) who became a naturalized United States citizen in October 1984. He has held a secret-level security clearance since March 1997 for his duties as a principal engineer for a defense contractor. Undue foreign influence concerns exist because his close family members are resident citizens of Taiwan and his spouse is a part owner of a condominium in Taiwan. Clearance is denied.

CASENO: 06-21025.h1

DATE: 04/20/2007

DATE: April 20, 2007

In re:	)	
	)	
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SSN: -----	)	ISCR Case No. 06-21025
	)	
Applicant for Security Clearance	)	

**DECISION OF ADMINISTRATIVE JUDGE  
ELIZABETH M. MATCHINSKI**

**APPEARANCES**

**FOR GOVERNMENT**  
Jennifer Goldstein, Esq., Department Counsel

**FOR APPLICANT**  
*Pro Se*

**SYNOPSIS**

Applicant is a native of the Republic of China (Taiwan) who became a naturalized United States citizen in October 1984. He has held a secret-level security clearance since March 1997 for his duties as a principal engineer for a defense contractor. Undue foreign influence concerns exist because his close family members are resident citizens of Taiwan and his spouse is a part owner of a condominium in Taiwan. Clearance is denied.

## STATEMENT OF THE CASE

\_\_\_\_\_The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E2.1.2 (Jan. 2, 1992) as amended, DOHA issued a Statement of Reasons (SOR) on November 30, 2006, detailing the basis for its decision—security concerns raised under Guideline B (foreign influence) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued.

\_\_\_\_\_On December 20, 2006, Applicant responded to the SOR and requested a decision based on the written record without a hearing. The government submitted a File of Relevant Material (FORM) on February 20, 2007, consisting of four items (Items 1-4) and 11 documents for administrative notice that were not marked, but were identified in the FORM as I through XI. Through undated correspondence signed by Department Counsel on February 20, 2007, DOHA forwarded a copy of the FORM to Applicant and instructed him to respond within 30 days of receipt. Applicant filed a timely rebuttal dated March 11, 2007. On review, Department Counsel had no objections to Applicant's submission. The case was assigned to me on March 28, 2007, to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

## RULINGS ON PROCEDURE

In the FORM, the government requested the administrative judge take administrative notice of several facts concerning Taiwan and the People's Republic of China (PRC or China):

- Taiwan was populated in 1949 by refugees fleeing a civil war in China and a government independent from China was established in Taiwan.
- In 1949, the Communists in mainland China established the PRC.
- The PRC does not recognize Taiwanese independence and insists there is only one China.
- Since January 1, 1979, the United States has recognized the government of the PRC as the sole legal government of China ("one China policy") and does not support independence for Taiwan.
- Taiwan is a multiparty democracy that retains close ties to China and it has developed a strong economy.
- Taiwan's national security remains under constant threat from the PRC and this has led to Taiwan's large military establishment.
- The PRC and Taiwan are known to be active collectors of U.S. economic intelligence with both reported in 2000 to be among the most active collectors of U.S. economic and proprietary information.

- Taiwan's collection activities are ongoing, as evidenced by the January 2006 conviction of a U.S. citizen on charges related to the theft of sensitive and proprietary information by and for Taiwan companies, and a U.S. State Department official's September 2004 guilty plea to illegally removing classified material and making false statements to the U.S. government concerning his passing documents to an agent of Taiwan's foreign intelligence agency.
- The PRC has an authoritarian government dominated by the Chinese Communist Party.
- The PRC has a poor record with respect to human rights, suppresses political dissent, and its practices include arbitrary arrest and detention, forced confessions, torture, and mistreatment of prisoners.
- China possesses large and increasing sophisticated military forces (naval and air forces), including strategic nuclear weapons and missiles.
- China aggressively targets sensitive and protected U.S. technologies. Americans of Chinese ancestry are considered prime intelligence targets by the PRC.
- The PRC's Ministry of State Security, the preeminent civilian intelligence collection agency in China, is focused primarily on conducting intelligence activities against and in Taiwan.

The government relied on source documents from the Department of State;<sup>1</sup> the Congressional Research Service;<sup>2</sup> the Centre for Counterintelligence and Security Studies;<sup>3</sup> the National Counterintelligence Center, now known as the Office of the National Counterintelligence Executive;<sup>4</sup> and a Select Committee of the United States House of Representatives.<sup>5</sup> For proof that Taiwan was continuing its collection activities against the U.S., the government relied on an April 2006 press release from the U.S. Attorney for the Western District of New York (VII) and pleadings filed with the United States District Court for the Eastern District of Virginia (V).

Authority to consider the government's request is set forth in ¶ E3.1.10 of Department of Defense Directive 5220.6 (*The Administrative Judge may rule on questions of procedure, discovery, and evidence and shall conduct all proceedings in a fair, timely, and orderly manner.*). The DOHA Appeal Board has ruled that administrative or official notice in administrative proceedings is broader than judicial notice under the Federal Rules of Evidence. In ISCR Case No. 02-24875 (decided Oct.

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<sup>1</sup>See *Background Note: Taiwan*, dated October 2006 (I), *Consular Information Sheet: Taiwan*, dated August 30, 2006 (III); *Background Note: China*, dated April 2006 (VIII), *China: Country Reports on Human Rights Practices-2005*, dated March 8, 2006 (IX).

<sup>2</sup>See *Taiwan: Recent Developments and U.S. Policy Choices*, dated October 9, 2006 (II).

<sup>3</sup>See *Intelligence Threat Handbook*, excerpts, dated June 2004 (IV). The document was prepared for the Interagency OPSEC Support Staff by the Centre for Counterintelligence and Security Studies, a private contractor.

<sup>4</sup>See *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, 2000* (VI) and *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, 2005* (XI).

<sup>5</sup>See *U.S. National Security and Military/Commercial Concerns with the People's Republic of China*, declassified version dated May 25, 1999 (X).

12, 2006), the Appeal Board found no error in a DOHA administrative judge taking administrative notice of a U.S. State Department *Country Reports on Human Rights 2000: Laos*, as the document was an official U.S. government report relevant to the issues in the case before him, and it was provided in advance to the applicant who had an opportunity to rebut its contents or to present alternative information for the judge to notice.

Applicant herein had the opportunity to review the source documents provided and filed no objections. Official publications of U.S. executive branch and legislative branch entities clearly may be considered, although the relevance of the unclassified excerpts from a bipartisan Select Committee of the U.S. House of Representatives and the Annual Report to Congress for 2000 is primarily historical given the dated nature of these documents (VI and X). The *Intelligence Threat Handbook* (IV) is distinguishable as a product of a private contractor at the behest of the Interagency/OPSEC Support Staff. Administrative notice may be taken of non governmental issuances, and will be accepted of this document given the absence of any objection from Applicant. The district court pleading is accepted for what it is, *i.e.*, allegations, not proof of misconduct. The press release is hearsay entitled to little or no weight.

While the source documents may properly be considered, the government has requested notice of proposed facts that may or may not be supported by the documentation. After review of the source documents, I agree to take administrative notice of the facts concerning Taiwan and the PRC<sup>6</sup> therein as requested by Department Counsel with the following caveats:

**In 1949, Taiwan was populated by refugees fleeing a civil war in China.** While the State Department substantiates that two million refugees fled the mainland for Taiwan after the civil war, Taiwan had a sizeable population of ethnic Chinese (more than 18 million of Taiwan's current population of 22.8 million) who are descended from immigrants from the 18<sup>th</sup> and 19<sup>th</sup> centuries. It must be noted that a large portion of Taiwan's population had grown up without the influences of mainland China. As reported by the State Department, Taiwan experienced a "Japanization" of the island during Japan's colonial rule of 1895 to 1945.

**Taiwan is a multiparty democracy that retains close ties to China.** While cross-strait trade has mushroomed in the past ten years, development of semiofficial cross-strait relations has been "halting" per the State Department. The PRC's 2005 Anti-Secession Law and its demand that Taiwan acknowledge there is only one China have proved barriers to cross-strait dialogue.

**Taiwan's collection activities (attempts to acquire U.S. economic and proprietary information) are ongoing, as evidenced by the January 2006 conviction and four-year prison sentence of [name omitted] on charges related to the theft of sensitive and proprietary information by and for Taiwan companies. Another recent case links espionage as directly involving the Taiwanese government. In September 2004 [name omitted], the Principal Deputy Assistant Secretary of State for East Asian and Pacific Affairs, pled guilty to illegally removing classified materials and to providing false statements**

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<sup>6</sup>Even if a fact about the PRC is proper for administrative notice, its relevance is limited where there are no allegations in the SOR involving the PRC.

**to the U.S. Government. [Name omitted] had passed documents to a foreign intelligence agent employed by the National Security Bureau, the Taiwanese foreign intelligence agency.** While the press release (VII) reports a guilty plea and sentence in the first case, it does not support any state involvement or sponsorship on the part of Taiwanese governmental authorities. The affidavit, filed in support of a criminal complaint against the State Department official in the second case (V), does not suffice to prove the misconduct by the Taiwanese government or even the State Department official. The government produced nothing that shows the State Department official pled guilty.<sup>7</sup>

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## **FINDINGS OF FACT**

The SOR alleges foreign influence concerns because of the Taiwanese residency and citizenship of several family members (Applicant's father (¶ 1.a), brother (¶ 1.b), five sisters (¶ 1.c), brother-in-law and sister-in-law (¶ 1.d), Applicant's travels to Taiwan in 1998, 1999, 2000, and 2002 (¶ 1.e), and Applicant's service as a technical advisor to a department of the Taiwanese government from about October 1995 to December 1996 (¶ 1.f).

In his answer to the SOR, Applicant admitted the Taiwanese citizenship and residency of the family members alleged, and that his contacts with these relatives would continue. He provided employment information for his family members, none of whom worked for the Taiwanese government. Applicant acknowledged that during the time he was employed by a communication component manufacturing company in Taiwan from about October 1995 to December 1996, he had contact with foreign engineers for Taiwan's transportation department and he received a small amount of compensation for his "casual services." Applicant indicated that with the exception of October 1995 to early 1997, he had held security clearances since 1980 and had not harmed the U.S. interests. Applicant also acknowledged his foreign travel to Taiwan as alleged, and added that he had taken more recent trips to Taiwan, in 2005 for his father-in-law's funeral and in 2006 for sightseeing and for matters related to his spouse's inheritance.

After a thorough review of the documents before me for consideration, including Applicant's rebuttal to the FORM, and after having taken administrative notice as noted above, I make the following findings of fact:

Applicant is a 59-year-old principal electrical engineer who has been employed by a major U.S. defense contractor since January 1997. Applicant previously held a security clearance from about 1980 to October 1995 for his duties with another defense contracting firm. He has held his current secret-level clearance since March 1997.

### **Applicant's background and foreign ties**

A native of the Republic of China (Taiwan), Applicant was raised with his six siblings (one brother and five sisters, all younger) in Taiwan. Their father owned a local business before he retired.

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<sup>7</sup>In footnote 12 of the FORM, the government cited not only the criminal complaint but a "News Release." There is no news release of record other than the press release from the U.S. Attorney which has nothing to do with the criminal charges filed against the U.S. State Department official.

Applicant served mandatory military service as a second lieutenant in Taiwan's army from July 15, 1969 to August 15, 1970.

In September 1970, Applicant came to the U.S. on a student visa to pursue doctoral studies, expenses paid. He came "with a single luggage and \$200 in his pocket." He met his spouse, a native of the PRC, and they married in the U.S. in January 1972. In June 1975, Applicant was awarded his Ph. D. degree in electrical engineering.

In mid-April 1976, Applicant started working as a senior engineer/principal scientist for a defense contractor in the U.S. A few months later, in July 1976, he and his spouse had their first child, a daughter. A son was born to them in May 1980.

In October 1984, Applicant and his spouse became naturalized U.S. citizens, taking the oath to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or perform noncombatant service or civilian service on behalf of the U.S. if required. After about twenty years with the same defense contractor, Applicant found himself with little work to do. At the urging of a friend, Applicant assumed the position of vice president for a manufacturer of consumer communications/electronics' components in Taiwan in October 1995. He left his family behind in the U.S. In November 1995, Applicant renewed his Taiwanese passport to ease his entry into and exit from Taiwan, and for medical service and income tax benefits available to Taiwanese citizens. The passport was valid until November 2001.

In 1996, the Taiwanese government was planning a high speed rail system. Needing help to understand railway electromagnetic systems requirements and associated testing methods, engineers in Taiwan's railway transportation department turned to Applicant. On no more than ten occasions, he provided technical advice involving electromagnetic capabilities. Applicant was paid about \$1,000 total to compensate him for his services and travel and meal costs.

On behalf of his Taiwanese employer, Applicant traveled to Canada for a week in late November 1996 to investigate investment opportunities in Canada. Applicant went with a group of Taiwanese businessmen and they visited various provincial government agencies and private companies in Canada.

In late December 1996, Applicant voluntarily resigned from his position in Taiwan and rejoined his family in the U.S. Two weeks later, he began working for his current employer as a principal electrical engineer. In March 1997, he was granted his secret-level security clearance.

To celebrate their daughter's graduation from college and their son's graduation from high school, Applicant and his spouse took their children on a package tour to the PRC in June 1998. After five days in the PRC and one day in Hong Kong, they spent five days in Taiwan before returning to the U.S. They visited with family members when in Taiwan. Applicant returned to Taiwan in August 1999 for his mother's funeral, and in September 2000 for his mother-in-law's funeral. He visited with relatives during both trips.

In October 2001, Applicant spent two weeks in the PRC as a tourist. He did not stop in Taiwan en route to or from the PRC. In late April 2002, Applicant went to Thailand on a group tour for five days. He stopped in Taiwan for six days to see his relatives. Later that year, he went to Australia and New Zealand for pleasure. He took short trips to Canada in August 2003 and May

2004 for pleasure, but in 2005 returned to Taiwan for his father-in-law's funeral. On her father's death, Applicant's spouse, her two living siblings, and the family of her deceased brother, each inherited a quarter ownership of a condominium in Taiwan and \$50,000 (NT).<sup>8</sup> Applicant is not listed as an owner of the condominium.

During the summer of 2006, Applicant's son was involved in a National Science Foundation-sponsored research program at a university in Japan. Applicant and his spouse met up with their son in Taiwan and they toured an area of Taiwan together and visited with relatives. Applicant's spouse, required to cash her inheritance check in person, had the \$50,000 (NT) transferred to the U.S. during that trip as well.

As of March 2007, Applicant's father, brother, and five sisters, and his spouse's living siblings (a brother and a sister) are resident citizens of Taiwan. Applicant's father is 80 years old and lives with Applicant's brother and family in an area of Taiwan very supportive of Taiwan's sovereignty. Applicant telephones his father about once weekly to check on his well-being. Applicant has contact with his brother occasionally, as he sometimes answers the telephone when Applicant calls their father. Applicant's brother is 46 years of age and is a part owner of a restaurant in a small town in Taiwan. Applicant's father and brother know of Applicant's employer by name but Applicant does not discuss the specifics of his job with them.

Applicant's five sisters are unaware of his employer. The eldest, who is 54 years of age, is a retired nurse. His 53-year-old sister works as a factory supervisor for an electronics company. Her duties used to bring her to the PRC, but she had a stroke in 2006 so Applicant believes further business travel is not in her future. The third and fourth sisters are 50 and 48 years old, respectively, and do not work outside of their homes. His youngest sister is 45 and a Chinese medicine doctor. Applicant visits with his sisters when he is in Taiwan but otherwise has infrequent contact with them.

The siblings of Applicant's spouse are both university professors. Her brother teaches engineering and her sister Chinese literature. Applicant speaks with them if he happens to answer the telephone when they call his spouse.

Since Applicant came to the U.S. in 1970, he has been visited in the U.S. by his parents, youngest sister, and his sister-in-law once each, and by his parents-in-law twice. None of these relatives have been to the U.S. since 1998. His spouse's brother visited them more frequently as he traveled to the U.S. for conferences and stopped by when convenient.

On March 28, 2005, Applicant executed a security clearance application (SF 86). He indicated he was a dual citizen of Taiwan and the U.S., possessed a valid Taiwanese passport until November 2001, worked for the Taiwanese consumer electronics component manufacturer from October 1995 to December 1996 during which he served as technical adviser to Taiwan's transportation department on high speed rail issues, and traveled to several foreign countries since 1998, including to Taiwan in 1998, 1999, 2000, and 2002. He also disclosed the Taiwanese citizenship and residency of his father and siblings.

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<sup>8</sup>The \$50,000 is in New Taiwan or NT dollars.



Applicant's relatives in Taiwan, and Applicant when he was in Taiwan, have not been exploited, manipulated, or subjected to any coercion or pressure because of his employment in the defense sector. He is appreciative of the opportunities provided him and his immediate family in the U.S. and indicates he would promptly report any efforts to gain influence through his siblings or in-laws. As for his father, he candidly admits he might "hesitate a little," but he would act in the U.S. interest. He considers himself loyal to the U.S., and cites as proof his dedicated performance for a defense contractor, including after he resumed his defense sector work following one year in Taiwan.

### **Taiwan's political and economic state**

Until 1986, Taiwan's political system was effectively controlled by one party, the Kuomintang. Since ending martial law in 1987, Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system. The Democratic Progressive Party (DPP) of Taiwan's current president is made up of largely native Taiwanese who support sovereignty for Taiwan. The U.S. has been committed to maintaining cultural, commercial and other nonofficial relations with Taiwan since January 1979, when it formally recognized the government of the People's Republic of China (PRC) as the sole legal government of China. By formal act of Congress (Taiwan Relations Act of 1979), the U.S. is committed to provide Taiwan with arms of a defensive character in support of Taiwan's security and stability in the region. Despite the U.S.' clear and consistent position that Taiwan and the Mainland are part of China, U.S. commercial ties have expanded with Taiwan and the U.S. is supportive of Taiwan's membership in international organizations, such as the World Trade Organization and the Asian Development Bank, where independent statehood is not required for membership.<sup>9</sup>

The PRC has surpassed the U.S. as Taiwan's most important trading partner, putting pressure on Taiwan's government to ease restrictions on direct travel to and investment in the PRC. The pro-independence political base in Taiwan believes further economic ties to the PRC will erode Taiwan's economy.<sup>10</sup> The PRC's 2005 Anti-Secession Law aimed at reigning in Taiwan independence advocates, and the PRC's demand that Taiwan acknowledge there is only one China, have proved barriers to cross-strait dialogue. Taiwan maintains a large military establishment whose primary mission is the defense of Taiwan against the PRC, which is seen as the predominant threat and has not renounced the use of force against Taiwan. Taiwan's armed forces are equipped with weapons obtained primarily from the U.S., but Taiwan has stressed military self-reliance in recent years that has resulted in the growth of indigenous military production.<sup>11</sup> The U.S. has sought to balance criticisms of the PRC military buildup opposite Taiwan with periodic warnings to the Taiwan government to avoid provocative actions and cautions that U.S. support for Taiwan is not unconditional.<sup>12</sup>

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<sup>9</sup>See the U.S. Department of State's *Background Note: Taiwan*, dated October 2006.

<sup>10</sup>See the Congressional Research Service Report for Congress, *Taiwan: Recent Developments and U.S. Policy Choices*, updated October 9, 2006.

<sup>11</sup>See the State Department's *Background Note: Taiwan*.

<sup>12</sup>See the Congressional Research Service Report for Congress, *Taiwan: Recent Developments and U.S. Policy Choices*, updated October 9, 2006.

Taiwan was reported to be an active collector of U.S. economic intelligence as of 2000.<sup>13</sup> In September 2004, the U.S. government filed charges against a State Department official alleging the active participation by two Taiwanese intelligence officers in acquiring U.S. foreign policy information. No evidence has been presented that Taiwan uses coercive measures to gain access to industrial espionage.

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## POLICIES

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.” *Id.* at 527. The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

The adjudicative guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

## CONCLUSIONS

### **Guideline B—foreign influence**

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 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 to whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism. AG ¶ 6. 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*

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<sup>13</sup>*See* the National Counterintelligence Center’s *Annual Report to Congress on Foreign Economic Collection and Espionage*. In the report’s appendix, Taiwan is listed as one of the seven countries who are the most active collectors of targeted information and technology. The distilled opinions expressed in the report, based on a statistically small sample (the views of “nearly a dozen selected Fortune 500 companies”) and very dated, were afforded less weight than the more recent assessments of the U.S. State Department.

*creates a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion, applies. Applicant's father and siblings are resident citizens of Taiwan. He shares a close bond with his father, and checks on his well-being about weekly. While he does not telephone his siblings with similar regularity, he visits with them when in Taiwan.*

Furthermore, the DOHA Appeal Board has held it reasonable for the administrative judge to consider the significance not only of an applicant's ties, but also of his spouse's ties to a foreign country and the possible effect they may have on Applicant's contacts under Guideline B (*see* ISCR Case No. 01-02452, App. Bd. Nov. 21, 2002). Applicant's wife's siblings reside in Taiwan and she co-owns with them a condominium inherited on the death of their father in August 2005. These siblings are university professors in Taiwan. DC ¶ 7(d) *sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion, and* ¶ 7(e) *a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign operated business, which could subject the individual to heightened risk of foreign influence or exploitation, must also be considered because of the heightened risk presented through his spouse's relatives and her financial interest in Taiwan.*

The government also alleged that Applicant is at risk of undue foreign influence because of his former employment from October 1995 to December 1996 in Taiwan when he had regular contact with foreign nationals, including some Taiwanese government engineers planning a high speed rail system for Taiwan. Absent any evidence of recent contact with his former coworkers or Taiwanese government employees or officials, his former contacts do not raise a current security concern under ¶ 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.*

Moreover, I am not persuaded by Department Counsel's assertion that Applicant is at a heightened risk of undue foreign influence from the PRC where Applicant's only connections to the PRC are a couple of pleasure trips, his spouse's birth in the PRC in 1947, and some business travel by one of his sisters to the PRC that is not likely to continue given she suffered a stroke in 2006. Even if PRC intelligence is targeted at Taiwan, PRC agents are not likely to be allowed to operate with impunity. While Taiwan and the PRC have expanded commercial ties, Taiwan remains under significant military threats from the PRC and the current Taiwanese government has a pro-independence bias. It is noted that there are no allegations in the SOR related to the PRC.

The heightened risk that does exist because of his ties to Taiwan may be mitigated under ¶ 8(a) *the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interest of a foreign individual, group, organization, or government and the interests of the U.S.* Even if his telephone conversations with his father last only a few minutes, Applicant acknowledged that with respect to reporting any attempts at undue foreign influence, he "may hesitate a little, if the coercion or exploitation is through [his] father." While he also maintains that would protect the U.S. interests, he explained it would be because his father would want him to do so. The regard for his father's opinion might make him less vulnerable, although it remains to be seen what Applicant would do if faced with a threat to his father's health and well-being. Applicant does not have a similarly strong

bond with his siblings, but his father lives with his brother, so any improper influence on his brother and even his sisters may well impact his father. His contacts with his siblings may be infrequent, but they are not viewed as casual in nature. MC ¶ 8(c) *contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation* is not implicated.

As for the nature of the country, dated reports of Taiwan targeting U.S. economic and proprietary interests in 2000<sup>14</sup> are counterbalanced by Taiwan's partnership in a defense pact with the U.S. and Taiwan's progress in achieving democratic elections, civil liberties, and stable, viable governmental institutions. As reported by the U.S. State Department, Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system since ending marital law in 1987. Almost all restrictions on the press have ended, restrictions on personal freedoms have been relaxed, and the prohibition against organizing new political parties has been lifted. Taiwan also has a history of favorable relations with the U.S. While the U.S. does not support independence for Taiwan and is committed to a one China policy, under the Taiwan Relations Act, signed into law on April 10, 1979, the U.S. is obligated to help Taiwan defend itself, including making available defensive arms and defensive services to Taiwan. U.S. commercial ties with Taiwan have been maintained and expanded since 1979, and Taiwan is not likely to jeopardize its relationship with the U.S. by overly pressuring its citizens, but even nations with a history of friendly relations do not always have the same interests.

Concerning the positions of the family members in Taiwan, Applicant's siblings are not in positions (current restaurant owner, retired nurse, factory supervisor, housewife, Chinese medicine doctor) where their activities are likely of interest to Taiwanese intelligence, military, or security officials. Applicant's spouse's siblings are university professors. Applicant's burden of showing that their positions do not present a risk of undue foreign influence is not met where there is no information as to the academic institution(s), or of the activities and associations of the family members. Even though ten years have passed since Applicant worked in Taiwan, it cannot be ruled out that he is known to the Taiwanese transportation department for his expertise, albeit in an area that was not protected U.S. technology. Applicant acknowledged that Taiwan's military, with its recent stress on military self-reliance, might be interested in his work for the defense contractor.

As for his spouse's foreign financial interest there is no evidence to doubt his claim that the property is not in his name. Yet, with the record silent as the value of her quarter share in the condominium in Taiwan, I am unable to apply MC ¶ 8(f) *the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual*.

Applicant's bonds to his family members, and through his spouse to her siblings, in Taiwan, cannot be reasonably characterized as minimal, although MC ¶ 8(b) also provides for mitigation where *the individual has such deep and longstanding relationships and loyalties in the U.S. that the person can be expected to resolve any conflict of interest in favor of the U.S. interest*. There is no question that Applicant has developed substantial ties to the U.S. since the 1970s. He met and married his spouse in the U.S. They established a home here where they raised their two children. Applicant acquired U.S. citizenship in 1984. He also has about 30 years of combined service for

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<sup>14</sup>See the National Counterintelligence Center's *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage* for 2000.

defense contractors, with a clearance for more than 25 years. Yet, despite these very significant U.S. ties, he elected to pursue employment in Taiwan in October 1995, leaving his family behind when his son was a teenager. When in Taiwan, he actively exercised dual citizenship by obtaining a Taiwanese passport which would give him travel, tax, and medical advantages. To his credit, Applicant has done nothing to doubt the strength of his commitment to his life in the U.S. since he rejoined his family in the U.S. in January 1997. Yet, his actions in 1995/96 including his service to the Taiwanese government, coming as they did after 20 years of working for a defense contractor, preclude me from concluding that his ties to the U.S. are so deep and longstanding as to fall within MC ¶ 8(b).

Neither his ties to the U.S. nor track record of handling classified information compels continuation of his clearance. The government is required to conduct periodic reinvestigation to assess continued suitability for access, and is not estopped from revisiting a decision to grant clearance. Applicant's secret clearance was apparently renewed on March 11, 1997, about two months after he started working for his current employer. While he reported on his March 2005 SF 86 that he had worked in Taiwan and served as a technical adviser to Taiwan's department of transportation, I cannot speculate as to whether the U.S. government knew of that foreign employment or that Applicant held a valid Taiwanese passport when his clearance was renewed in 1997. Even if Applicant had candidly disclosed his foreign ties, the decision as to whether to continue Applicant's clearance is a risk assessment based on the foreign ties that exist as of March 2007. Applicant's ties to the U.S. and his contributions to the defense effort are not enough to overcome the substantial risks of undue foreign influence that exist.

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**FORMAL FINDINGS**

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant

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**DECISION**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski  
Administrative Judge