



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 07-07267
SSN: -----	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O'Connell, Esquire, Department Counsel  
For Applicant: *Pro Se*

February 15, 2008

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant submitted her security clearance application (e-QIP) on October 24, 2005. On September 28, 2007, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline B. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on October 3, 2007. She answered the SOR in writing on October 8, 2007, and requested a hearing before an Administrative Judge. DOHA received Applicant's response on October 11, 2007. Department Counsel was prepared to proceed on November 19, 2007, and the case was assigned to me on November 28, 2007. On December 10, 2007, I scheduled a hearing for January 23, 2008.

The hearing was convened as scheduled on January 23, 2008. Two Government exhibits (Ex. 1-2) and 13 Applicant exhibits (Ex. A-M) were admitted without any objections. Applicant also testified, as reflected in a transcript (Tr.) received by DOHA on February 1, 2008. At Applicant's request, the record was held open until February 13, 2008, for her to document the formal renunciation of her Taiwanese citizenship. On February 1, 2008, Applicant timely forwarded the certificate of renunciation, which was admitted as Exhibit N without any objections. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

## **Procedural and Evidentiary Rulings**

### **Request for Administrative Notice**

On November 19, 2007, Department Counsel requested administrative notice be taken of certain facts relating to the Republic of China (Taiwan) and to its relationship to the People's Republic of China (PRC). The request was based on publications from the U.S. State Department, the Congressional Research Service, the Centre for Counterintelligence and Security Studies, the National Counterintelligence Center, the Office of the National Counterintelligence Executive, the U.S. China Economic and Security Review Commission, on two press releases from the U.S. Department of Justice, and on a record of the U.S. District Court for the Eastern District of Virginia. The government's formal request and the attached documents were not admitted into evidence but were included in the record.

On November 30, 2007, I notified the parties of my intention to take administrative notice of specific facts, subject to revision based on the evidence admitted at the hearing and any valid objections. The parties were given until December 14, 2007, to file any objections, and Applicant to also present alternative facts for notice.

On December 14, 2007, the Government requested reconsideration of those facts accepted for administrative notice, to include certain facts pertinent to Taiwan being an active collector of U.S. economic intelligence and to the activities of the PRC's Ministry of State Security. Applicant did not respond to my Order of November 30, 2007, or to the Government's request for reconsideration.

At the hearing on January 23, 2008, I granted the Government's motion to reconsider in part, refusing to take administrative notice of a listing of Taiwan among the most active collectors of U.S. economic and proprietary information because of the questionable validity of the source information relied on by the Government. Applicant indicated she did not object to the request for administrative notice, but questioned the relevance of some of the facts to her case. After consideration of the source documents provided and of the respective positions of the parties, I agreed to take administrative notice of particular facts, which are set out in the Findings of Fact.

## **Request for Clarification of Evidence**

After her hearing on January 23, 2008, Applicant moved to clarify the record to indicate that the date of her last departure from Taiwan on her Taiwanese passport was February 17, 1992, and not February 17, 1997, as was suggested at her hearing. Her representation was accepted without any objections or rebuttal from the Government.

## **Findings of Fact**

DOHA alleged under Guideline B, Foreign Influence, that Applicant's parents (SOR ¶ 1.a), one brother (SOR ¶ 1.b), one sister (SOR ¶ 1.c), and parents-in-law (SOR ¶ 1.d) are resident citizens of Taiwan, and that Applicant traveled to Taiwan in December 1995, July 1998, July 2004, September 2005, and December 2006 (SOR ¶ 1.e). In her response of October 8, 2007, Applicant admitted the Taiwanese citizenship and residency of her family members as alleged as well as her travels to Taiwan, but denied these foreign contacts and interests raised security concerns as none of her family members held any positions in Taiwan's government. She explained that she had visited her parents in Taiwan every three to five years, although she took advantage of a change in employment to travel to Taiwan in September 2005, and she returned in December 2006 after her mother had been diagnosed with malignant lymphoma. After consideration of the evidence of record, I make the following findings of fact.

Applicant is a 51-year-old principal software engineer who has been employed by a U.S. defense contractor since October 2005 (Ex. 1, Ex. G). She held an interim secret-level security clearance that was withdrawn on issuance of the SOR (Tr. 22, 51).

Applicant was born in Taiwan to resident citizens in June 1956. (Ex. A, Tr. 65, 75) Her father, a native of the PRC, went to Taiwan following his high school graduation. Due to the hostilities, he was prevented from returning to the PRC (Tr. 81-82). He settled in Taiwan, where he met and married Applicant's mother, a native of Taiwan. They had three other children after Applicant: sons born in 1958 and 1960 and another daughter born in 1962 (Ex. 1). Applicant's parents had their own business exporting fish to Japan (Ex. A, Tr. 82). With their hard-earned monies, they eventually invested in real estate. They bought a four-story apartment building consisting of four rental units. Now in their 80s, Applicant's parents have lived off the income from the apartments since they retired (Tr. 83-85).

Applicant earned a bachelor of arts degree in Chinese literature from a university in Taiwan in 1980 (Ex. 2; Tr. 51, 75). In 1981, she came to the U.S., knowing no one, to pursue a degree in computer science (Tr. 51, 66, 68, 75). In February 1984, she earned her master of science in mathematics with a minor in computer science. (Ex. 1, Ex. 2, Tr. 77). Four years later, she married a Taiwanese native whom she had met in graduate school (Tr. 79-80). In September 1990, they had their only child, a son (Ex. 1, Tr. 77-78).

In February 1984, Applicant began working with a U.S. computer hardware manufacturer as a systems software engineer where she gained experience in database applications and computer network performance and security (Ex. 1, Ex. 2, Tr. 49). She stayed on through corporate acquisitions/mergers of the company by U.S. competitors in about 1998 and 2003 (Ex. 2).

The younger of Applicant's two brothers came to the U.S. in August 1985 (Ex. 2, Tr. 104). A civil engineer, he settled in the U.S. and obtained his permanent residency (Ex. 1, Tr. 104). He applied for his U.S. citizenship in 2007 (Tr. 104). Applicant's parents, other brother, and her sister, remained in Taiwan. Her siblings in Taiwan pursued medical degrees. After graduating from Taiwan's preeminent medical school (Tr. 92), Applicant's brother served his internship/residency at a public university-owned hospital from July 1986 to June 1991 (Ex. 2, Ex. A, Tr. 91). In July 1991, he became affiliated with a municipal-owned hospital where he is currently chief of pediatric surgery (Ex. 2, Tr. 40, 90). On her graduation from medical school, Applicant's sister served her internship/residency at a veterans' hospital in Taiwan from 1988 to July 1996 (Ex. A). Highly successful in her chosen profession as well, Applicant's sister served as chief of the plastic surgery department at a Taiwanese hospital from July 1996 to July 2004 (Ex. 2, Tr. 97-98). During a business trip to the U.S. in the mid-1990s, Applicant's sister gave birth to a son. She was visiting Applicant at the time (Tr. 101). In 2004, Applicant's sister was quarantined in Taiwan during the SARS epidemic. Unhappy about not being able to see her child, she ceased her affiliation with the municipal hospital in July 2004 and joined a private practice.(Ex. 2, Tr. 41, 99).

On May 13, 1991, Applicant renewed her Taiwanese passport for another six years. She traveled on that passport to see her parents and siblings from January 31, 1992, to February 17, 1992 (Ex. L).

In March 1992, Applicant became a naturalized U.S. citizen, and took an 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. Her spouse acquired his U.S. citizenship in September 1992 (Ex. 1). Neither Applicant nor her spouse took any action then to renounce their Taiwanese citizenship (Ex. 1).

Concerned about the PRC's aggressive attitude toward Taiwan, Applicant applied for U.S. permanent residency for her brother and sister in October 1995 (Ex. B, Ex. C, Tr. 42). Her parents were comfortable in Taiwan and expressed little interest in immigrating to the U.S. (Tr. 38). In preparation for sponsoring her siblings' immigration, Applicant obtained a household census (family register) from Taiwan (Tr. 36). Applicant's brother in the U.S. was not included in the census. Applicant attributes her brother's exclusion to his pursuit of U.S. citizenship (Tr. 40). However, Applicant was included in the registry as "1<sup>st</sup> daughter" despite the fact that she had acquired U.S. citizenship (Ex. A). The available record is silent as to the reason for the disparate treatment.

Applicant went to Taiwan to see her family members for two weeks in December 1995 and for 12 days in July 1998 (Ex. 1). She traveled on her U.S. passport.<sup>1</sup> She stayed with her parents while in Taiwan (Tr. 116-18).

In 2000, Applicant's sister and parents visited Applicant and her family in the U.S. Her sister came on a business trip and brought her parents, who stayed with Applicant for one week (Tr. 88). Her brother who lives in the U.S. came to see them while they were at Applicant's home (Tr. 89). Applicant's parents had previously visited her in the U.S. in about 1995 (Tr. 38).

On their son's graduation from junior high, Applicant and her spouse took him to Taiwan from July 15, 2004, to July 27, 2004, to visit family members. (Ex. 2, Tr. 118). Applicant stayed with her family and her spouse stayed primarily with his family (Tr. 119).

By 2005, Applicant's employer had downsized significantly at her work location, bringing significant changes in her duties. After almost 22 years on the job, Applicant left the commercial sector for a position as a principal software engineer with her current employer, a defense contractor, in October 2005 (Tr. 49-51). Before starting work with her new employer, Applicant took advantage of her time off and she and her brother traveled to Taiwan in September 2005 to see their parents (Ex. 1, Ex. 2, Tr. 48, 52, 119-20).

Applicant started work with her current employer on October 10, 2005 (Ex. G). On October 24, 2005, Applicant completed an electronic questionnaire for investigations processing (e-QIP) in application for a secret-level security clearance. She disclosed her and her spouse's dual citizenship with the U.S. and Taiwan, the younger of her brothers' U.S. permanent residency, the Taiwanese citizenship and residency of her parents, other brother, her sister, and her parents-in-law, and her trips to Taiwan to visit her family members in 1995, 1998, 2005 (Ex. 1). She was granted her interim-secret clearance shortly thereafter (Tr. 22, Tr. 51).

In August 2006, Applicant's sister operated on their mother for suspected malignant lymphoma. (Ex. E) Concerned about her mother's health, Applicant traveled to Taiwan to see her in December 2006 when her workplace was shut down for the holidays. (Ex. 2; Ex. H, Tr. 61).

On August 1, 2007, Applicant responded to DOHA foreign influence and foreign preference interrogatories. She answered "Yes" to question 3.e concerning whether any of her family members had ever been employed by a "business, educational institution, or other organization that is owned or operated by a foreign government, a component

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<sup>1</sup>On her e-QIP, Applicant indicated she possessed a U.S. passport issued in April 2003 (Ex. 1). Applicant testified she has not used her Taiwanese passport since becoming a U.S. citizen (Tr. ), and the absence of travel stamps after 1992 in her Taiwanese passport (Ex. L) bear that out. Applicant's first U.S. passport must have been issued sometime before her trip in December 1995.

of a foreign government, or a local, municipal, or regional government in a foreign country” and disclosed her physician siblings’ professional affiliations in Taiwan (Ex. 2). She also listed her family members’ Taiwanese citizenship and residency, described her contacts with them, and revealed that she has also kept in touch with a high school friend who works in a Taiwanese newspaper’s marketing department (Ex. 2). Uncertain whether 401(k) investments qualified, Applicant responded “Yes” to question 15 concerning any foreign financial interests, and provided financial records, including 1099 U.S. tax forms showing she and her spouse earned \$521.42 in ordinary stock dividends and paid foreign taxes of \$110.57 on their interest in a Taiwanese semiconductor manufacturing firm in 2006. (Ex. 2). Applicant estimated her and her spouse’s net worth in the U.S. (real estate, bank deposits, personal property) at about \$1 million (US). She had 401(k) assets totaling \$284,182.61 as of July 2007 (Ex.2).

Applicant’s spouse is employed as a computer engineer in the U.S. (Tr. 81). Applicant and her spouse do not send any financial support to her parents or parents-in-law (Tr. 122). Applicant generally contacts her parents in Taiwan about once every month to once every two months to check on their health. She called her mother once weekly in late 2006 and again in October 2007 when her mother was having medical issues (Ex. 2, Tr. 86-87). She telephones her siblings in Taiwan about once every three or four months (Ex. 2, Tr. 93, 102), but had more frequent contact (up to twice weekly) when their mother was being operated on (Tr. 102). Applicant’s sister’s son lives with a paternal aunt in the U.S. where he attends public school with his cousin (Tr. 101).

Applicant speaks to her in-laws once in awhile, at occasional Chinese New Years (Tr. 108). Her spouse calls his parents once every three months (Tr. 108). Applicant does not know what her in-laws did for work before they retired (Tr. 105). They did not attend Applicant’s wedding and Applicant met them for the first time when they visited Applicant and her spouse in the U.S. in September 2001 (Tr. 106). During her visit to Taiwan in December 2006, Applicant learned that her father-in-law was ill so she went to the hospital to see him (Tr. 106). Applicant’s spouse has two brothers who live in the U.S. (Tr. 107). They have considered applying for permanent residency for their parents who are in their 70s and would face a language barrier in the U.S. (Tr. 48). Applicant’s spouse has a sister who lives in Taiwan with whom he has no contact (Tr. 110). Applicant met her for the first time at the hospital in Taiwan in 2006 when she went to see her father-in-law (Tr. 110).

Applicant has seen her high school friend in Taiwan twice in the last ten years, most recently in 2005 (Tr. 111-12). As of January 2008, Applicant understands her friend is still employed by a Taiwanese newspaper in its marketing department (Tr. 112). Applicant also has a friend living in Taiwan whom she met in the U.S. at the university. This friend moved back to Taiwan about five years ago (Tr. 113). Applicant did not see her when she went to Taiwan (Tr. 114), but they exchange Christmas greetings by email (Tr. 115-16).

In October 2007, Applicant had email contact with her brother in Taiwan concerning suspected recurrence of their mother’s skin cancer. A subsequent biopsy

revealed abnormal but not malignant cells. Applicant expressed to her brother her confidence in, and appreciation for, her physician siblings' care of their mother (Ex. F, Tr. 56). Applicant last spoke to her parents in December 2007. She discussed their health and her son's college applications (Tr. 87).

On December 12, 2007, the National Visa Center notified Applicant and her brother in Taiwan that her petition for his and his family's (spouse and two children born in Taiwan in February 1994 and March 1998) immigration had been received for review. (Ex. D) Applicant believes her brother and his family will leave Taiwan for the U.S. if the immigrant petition is approved (Tr. 96-97). Applicant's brother contacted her when he received the notice as he needed her financial support and she needed birth information for his family members (Tr. 94).

During a November 2006 interview with a Department of Defense investigator, Applicant indicated she was equally loyal to the U.S. and to Taiwan (Tr. 123-24). Foreign occupation of Taiwan by history and concerns about the threat from the PRC, and gratitude to the U.S. for its opportunities and its diversity, led Applicant to change her position (Tr. 124-27). In August 2007, Applicant inquired at the local Taipei Economic and Cultural Office about the requirements for renouncing her Taiwanese citizenship (Tr. 128). After her sister in Taiwan obtained the necessary documentation (Tr. 128), Applicant applied on December 28, 2007, to renounce her Taiwanese citizenship (Ex. M). She turned in her expired Taiwanese passport (Tr. 71). Her Taiwanese citizenship was revoked and a certificate of renunciation issued in January 2008 (Ex. N). Applicant's parents respected her decision, although Applicant was nervous when she called to tell them of her intention to renounce her Taiwanese citizenship ("I was a little bit sad and that's why I called, I was kind of nervous. My father still has that authority power, but I told them what I feel and how I feel about the United States." Tr. 127).

Applicant's work performance met her employer's requirements in 2006. She exhibited a great attitude, was a team player, and took initiative to investigate enhancements and modifications. She was not involved in any security violation in 2006 or 2007 (Ex. I). When Applicant is ahead of schedule, she helps out her coworkers who are behind in their work (Tr. 130). Applicant hopes to regain her access so that she can contribute to her employer and to society (Tr. 132).

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Following review of official publications of the U.S. government that address the economic, political, and intelligence activities of Taiwan and the PRC, I take administrative notice of the following facts:

The government of Taiwan is a multiparty democracy. The United States recognizes that there is only one China, that the government of the PRC is the sole legal government of China, and that Taiwan is part of China. Under the Taiwan Relations Act of 1979, the U.S. conducts unofficial relations with Taiwan. Although the

U.S. terminated its Mutual Defense Treaty, it has continued to sell appropriate military defensive material to Taiwan. The PRC has surpassed the U.S. as Taiwan's most important trading partner, but 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. The PRC's Ministry of State Security is the preeminent civilian intelligence collection agency in China, and maintains intelligence operations in Taiwan, through a bureau utilizing PRC nationals with Taiwan connections. It is U.S. policy that the resolutions of disputes between Taiwan and China be peaceful. Taiwan is a major international trading power and a member of the World Trade Organization. It enjoys normal trade relations with the U.S., and ready access to U.S. markets. The U.S. State Department reports that Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system since ending martial law. Taiwan is known to be an active collector of U.S. economic intelligence. In the past, organizations in Taiwan employed unlawful methods to obtain U.S. economic and intelligence information. As recently as 2004, a female Taiwanese intelligence officer cultivated a covert relationship with a U.S. State Department official.

### **Policies**

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's overarching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The Administrative Judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The



Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The security concern relating to the guideline for Foreign Influence is set out in AG ¶ 6:

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.

Applicant has several close family members (parents, brother, sister) who are resident citizens of Taiwan (SOR ¶¶ 1.a, 1.b, 1.c). The security concerns underlying AG ¶ 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) are implicated. Moreover, the risk of undue foreign influence through her spouse and his relationship to his parents, who are also resident citizens of Taiwan (SOR ¶ 1.d), requires consideration of disqualifying condition AG ¶ 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).

The Government also urges concerns over Applicant's travel to Taiwan in December 1995, July 1998, July 2004, September 2005, and December 2006 (SOR ¶ 1.e). Applicant's trips to Taiwan were to visit her parents and siblings. Her travel is relevant as it confirms her affection for her family members, but there is no evidence that Applicant engaged in any conduct while in Taiwan that would warrant application of AG ¶ (7)(i) (conduct, especially while traveling outside the U.S., which may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country).

The close personal bond Applicant has with her parents and siblings in Taiwan primarily, but also Taiwan's efforts to acquire U.S. sensitive and/or classified data, preclude me from applying mitigating condition AG ¶ 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 interests of a foreign individual, group, organization, or government and the interests of the U.S.). In September 2005, Applicant took advantage of some time off before starting her present job to visit her parents and siblings in Taiwan. Applicant's concern with her parents' health led her to return to Taiwan in December 2006 after her mother was diagnosed with lymphoma. Fear for her siblings' futures in the event of PRC aggression toward Taiwan led her to apply for U.S. permanent residency for her brother and sister in 1995, and she is continuing to assist her brother with his immigration to the U.S. He emailed her in December 2007 as he needed her financial support and she needed the official spelling of his family members' names and birthdays (Tr. 94). In contrast, Applicant does not have close bonds with her husband's parents. While they visited Applicant's family in the U.S. in 2001, and Applicant went to the hospital to see her father-in-law when she was in Taiwan in 2006, she makes little effort to foster close ties. Applicant has rare telephone contact with them and is even unaware of their occupational pursuits before they retired.

As to whether the positions or activities of her close family members heighten the risk, Applicant's parents had their own export business before they retired. While they likely had to comply with Taiwanese laws concerning the conduct of their trading company, the fish trade was far removed from sensitive economic or military issues of potential concern to the Taiwanese government. Similarly, nothing about Applicant's siblings' medical duties is likely to be of interest to those seeking U.S. defense information. Yet given Applicant's siblings' success in their medical careers, it is difficult to discount the risk of Applicant's siblings being exploited by Taiwan to enlist Applicant's cooperation in furnishing sensitive data. Applicant's brother is a chief of pediatric surgery for a municipal hospital in Taiwan. He had attended the best medical school in Taiwan, and served his internship in a hospital affiliated with a government-run university (Tr. 91). Her sister had been affiliated with a city-owned hospital as chief of plastic surgery, although she has been in private practice since July 2004. While Taiwan is a democracy that generally respects the human rights of its citizens, it has actively

pursued U.S. economic intelligence, although there is no evidence that Applicant's relatives have been targeted.

Applicant's vulnerability to undue foreign influence through her close relationships with foreign family members may be overcome by deep and longstanding relationships and loyalties in the U.S. (see AG ¶ 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). Concerns of possible divided loyalties are understandably raised by Applicant's assertion of equal loyalty to Taiwan and the U.S. as of November 2006. Yet Applicant's actions indicate a primary affiliation to the U.S. where she has resided for the past 26 years. Applicant came to the U.S. in 1981 to pursue an education in computer science. After earning her master's degree in mathematics in February 1984, Applicant could have returned home to her family in Taiwan. Instead, she elected to pursue her career in the U.S. She married in the U.S., raised a son, became a U.S. citizen, obtained a U.S. passport that she used to travel abroad including to Taiwan, bought a home, and amassed considerable retirement assets in her U.S. 401(k) accounts. Any questions of divided loyalty have been answered by her recent renunciation of her Taiwanese citizenship. While prompted primarily by fear of PRC aggression toward Taiwan and what that might mean for Taiwan given its past as an occupied land, Applicant testified credibly to her appreciation for the U.S.:

I said to myself this is the country that I came to, they gave me a great opportunity. If I'm in Taiwan, I probably would be a different person, in fact in the last year of my college, like a lot of traditional parents, they kind of think if a daughter can find a good husband, a stable job, it will be fine, but I feel that's not the kind of life I want. In some ways I was kind of independent. When I came to the States my parents were very sad, they said you never left home before, are you sure you want to do this? And I said yes, so they said, okay, we will support whatever you decide.

I love America, it gets all the nations, regardless of your color, your original nationality, like I met different people that came from different countries, they are pursuing their lives here, and I told my son too sometimes when he sees the world, like the Iraq War or September 11<sup>th</sup>, he got upset. I told him, well, look, America is a great country, its In God We Trust, it's give human beings equal, basic rights and those are very important.

I don't know what's going to happen to Taiwan. By looking at the history, it's changed so many times, and I'm really concerned about the threat of China, that's the main reason, after long consideration, then I had the paperwork done and I submitted the paper. I also called my parents, I said this is my decision, that I'm going to give up my citizenship.

Tr. 126-27. Applicant is also continuing to assist her brother in his pursuit of U.S. permanent residency.

Applicant's demonstrated commitments to the U.S. over the past 26 years and her trustworthiness at work must be evaluated in the context of the geopolitical realities that govern U.S.-Taiwan relations, including the U.S. "One-China" policy, Taiwan's growing economic ties to the PRC, and the PRC's intelligence efforts within Taiwan. While the risk of undue foreign influence cannot be ruled out, she is not likely to act contrary to U.S. interests. MC ¶ 8(b) applies.

### **Whole Person Concept**

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): (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) 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. Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The salient issue in the security clearance determination is not in terms of loyalty or allegiance, but rather what is clearly consistent with the national interest. See Executive Order 10865, Section 7. An applicant may have the best of intentions and yet be in an untenable position of potentially having to choose between a dear family member and the interests of the U.S. By renouncing her Taiwanese citizenship, Applicant has shown that she is willing to put the U.S. interests first and she is not likely to jeopardize the considerable ties she has developed within the U.S. over the past 26 years.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

Subparagraph 1.e:

For Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ELIZABETH M. MATCHINSKI  
Administrative Judge