



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



In the matter of:

SSN: -----

Applicant for Security Clearance

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ISCR Case No. 07-06070

Appearances

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

April 7, 2008

Decision

WESLEY, Roger C., Administrative Judge:

History of Case

On October 30, 2007, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on October 22, 2007, and requested a hearing. The case was assigned to me on January 2, 2008, and was scheduled for hearing on January 30, 2008. A hearing was held on January 30, 2008, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of three exhibits; Applicant relied on one witness (himself) and two

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

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

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

SUMMARY OF PLEADINGS

Under Guideline B, Applicant is alleged (a) to have parents and a brother who are citizens and residents of Taiwan, (b) to have a father-in-law and mother-in-law who are citizens and residents of Taiwan, and (c) to have traveled to Taiwan from approximately June 1998 to July 1998, from December 1999 to January 2000, from December 2000 to January 2001, from June 2002 to July 2002, from December 2004 to January 2005, and from December 2005 to January 2006.

For his answer to the SOR, Applicant admitted all of the allegations in the SOR with explanations. He claimed to have no divided loyalties or foreign financial interests. He claimed to have proudly used his U.S. passport to travel to Taiwan to visit his parents and parents-in-law who are growing old. And he claimed that Taiwan has not been known to target U.S. citizens to obtain protected information and/or has not been associated with a risk of terrorism.

Findings of Fact

Applicant is a 50-year-old senior engineering specialist for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

Applicant's background

Applicant was born in Taiwan and immigrated to the U.S. in 1982 (R.T., at 34-35). He studied engineering at a prestigious U.S. university and received both M.S. and PhD degrees from the same university. Applicant was naturalized as a U.S. citizen in July 2000 and received his U.S. passport in October of the same year (see exs. 1 and 3; R.T., at 36). He is uncertain whether he relinquished his Taiwan citizenship and passport but is positive that it expired two or three years ago and cannot be used anymore (R.T., at 37, 60). Applicant believes it is possible that the Taiwan government still considers him a dual citizen, but he is not sure.

Before immigrating to the U.S., Applicant served as an infantry officer in the Taiwan Army between 1980 and 1982 (R.T., at 37-38). He received his discharge and has no further reserve responsibilities, so long as he does not return to Taiwan to live (R.T., at 38-40). He has no contacts with individuals he knew in the military, and his last contacts with the Taiwan military occurred before he immigrated to the U.S. (R.T., at 40). Applicant has never been employed by national or local governments or intelligence agencies of Taiwan or the PRC (R.T., at 40-41).

Shortly after immigrating to the U.S. (*i.e.*, in August 2003), Applicant married his current wife (see ex. 1). Like Applicant, his wife became a naturalized U.S. citizen in July 2000 (see ex. 1; R.T., at 43-44). He and his wife have one daughter (age 18) who was born in the U.S. and currently attends college at a local university (see ex. 1; R.T., at 44). Applicant's parents (ages 78 and 84, respectively) are citizens and residents of Taiwan (see ex. 1; R.T., at 44-45). Before their retirement, his father and mother worked for more than 40 years for a Taiwan bank (R.T., at 45-46). The bank was government-owned before its privatization a number of years ago (R.T., at 46). Neither of Applicant's parents have any official relationships or contacts with the Taiwan government (R.T., at 46-47). Applicant's father has no prior military service (R.T., at 46). His parents each have bank pensions (R.T., at 51-53). They have no government pensions, but receive health benefits from the Taiwan government (R.T., at 51).

Besides his parents, Applicant has a younger brother who is a citizen and resident of Taiwan. His brother spent two years in the Taiwan military and may have some reserve responsibilities (R.T., at 50-51). Military service is mandatory in Taiwan. His brother is a sales manager for a Taiwanese appliance company. His wife is a marketing deputy manager for a cosmetics company (see ex. A). They reside in one of the units of a duplex owned by Applicant's parents (R.T., at 49). Applicant has no knowledge of any military or government contacts by either his brother or his wife. He has no known relatives (immediate or extended family) residing in the PRC (R.T., at 51).

Applicant's mother-in-law and father-in-law were both born in the PRC and currently are citizens and residents of Taiwan (R.T., at 52-53). The father-in-law operates a school maintenance department; while the mother-in-law is a housewife (R.T., at 53-54). The father-in-law does receive a pension from a local city school district (R.T., at 53). Both in-laws were born in the PRC and moved to Taiwan in 1949. They each have relatives who reside in the PRC, but have no known contact with these relatives (most of whom have passed away). His wife's only surviving grandparent has since returned to his roots (the PRC) to live (R.T., at 56).

Through his in-laws, Applicant has several brother-in-laws and sister-in-laws who are citizens and residents of Taiwan as well (R.T., at 52-53). His first brother-in-law is a manager of a city library; while this brother-in-law's wife is a lecturer in a local Taiwan nursing school. Another brother-in-law lectures in a local college, and his wife is an administrator of a Taiwan university (see ex. A).

Applicant has no friends or associates who are employed by any foreign government. He has no assets or financial interests in Taiwan or other foreign country (R.T., at 58). By contrast, all of his assets are in the U.S.

Before becoming a naturalized U.S. citizen, Applicant made a number of trips to Taiwan to visit his parents and other family members: specifically, from June to July 1998 and December 1999 to January 2000. Since becoming a U.S. citizen, he has made trips with his wife and daughter to Taiwan: specifically, from December 2000 to January 2001, June 2002 to July 2002, December 2004 to June 2002, December 2004 to January 2005, December 2005 to January 2006, and more recently, December 2007 to January 2008 (see exs. 1 and A; R.T., at 59). While it is not clear from the record which passports he used after he became a U.S. citizen, he could not have used his Taiwan passport to enter and exit Taiwan after its expiration in 2006, or thereabouts.

Applicant maintains regular monthly telephone contacts with his parents (R.T., at 47). However, he has much less telephone contact with other members of his family. He talks with his brother maybe once every six months (R.T., at 52), and he converses with his mother-in-law and father-in-law only when he visits Taiwan (R.T., at 54). Although, his wife talks to her parents every two to three weeks. Applicant has no reason to believe that any of his own family or his wife's family who reside in Taiwan are at any risk to pressure or influence from either the Taiwan or PRC governments (R.T., at 60).

Supervisors and co-professionals who have known and worked with Applicant for a number of years praise his engineering and research contributions and commend him for his integrity and trustworthiness (see ex. B). His managing director ranks him as one of his top employees and a professional who has consistently demonstrated an exemplary work ethic and personal integrity, and earned the respect of his peers and subordinates (see ex. B). Applicant's supervisor credits Applicant with exceptional integrity and trust and characterizes him as one of his department's most valuable research sources (ex. B).

Taiwan's country status

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

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

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

Today's Taiwan political system is a multi-party democracy under a Constitutional umbrella comprising five branches: executive, legislative, judicial, control and examination. Taiwan's reported human rights record and demonstrated respect for the rule of contract in its commercial relations is quite good.

Taiwan's PRC relations

The PRC does not recognize Taiwan's independence, and insists that there is only "one China" (see *Background Note: Taiwan, supra*, at 6). Despite differences over the PRC's one China policy, Taiwan and the PRC have enjoyed increased contacts over the past decade. With Taiwan's continued relaxation of its PRC policy regarding unofficial contacts, cross-strait interactions have grown significantly. Efforts by the PRC, however, to resume cross-strait dialogue without any preconditions have been hampered by the PRC's insistence that the two sides first reach consensus that there is only "one China" before restarting talks (see *id.*). Cheng has recognized the PRC's "one China"

insistence but to date has declined to condone the concept. With both sides unwilling to compromise this obstacle, they have cautiously felt each other out with smaller intermediary steps like cross-strait cargo and passenger charter flights, sale of Taiwan agricultural products in the PRC, and PRC tourists visiting Taiwan (*see id.*).

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

Compounding security concerns over the PRC's robust intelligence gathering operations in Taiwan is the PRC regime's poor human rights record. The State Department reports an increased number of high profile cases in the PRC involving the monitoring, harassment, detention, arrest, and imprisonment of journalists, writers, activists, and defense lawyers seeking to exercise their law-protected rights (*see China, Country Reports on Human Rights Practices-2006*, U.S. Department of State (March 2007)). The State Department cites a comprehensive, credible accounting of all those killed, missing, or detained, reported incidents of deaths in custody, disappearance, torture, and other cruel, inhuman, or degrading treatment or punishment (*see id.*, at 2-3). While the PRC officially denies holding any political prisoners, Western non-government organizations estimate that approximately 500 persons remained in prison in 2006 for the repealed crime of counterrevolution, and thousands of others were either serving sentences or were being detained for counter-revolutionary offenses (*id.*, at 8). State Department advisories caution American citizens visiting or residing in China to take the normal safety precautions and remain aware of their individual surroundings (*see Consular Information Sheet*, U.S. Department of State, March 2007).

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

U.S.-Taiwan relations

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

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

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

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

Taiwan's economic collection practices

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

Recent espionage convictions document ongoing collection activities covering theft of sensitive and proprietary information by and for Taiwan companies (see, e.g., 2006

Report to Congress, U.S.-China Economic and Security Review Commission, at 139 (November 2006); *Press Release*, U.S. Department of Justice, U.S. Attorney (WD NY April 2006); *Press Release*, U.S. Department of Justice, U.S. Attorney (ED VA January 2007), and *Statement of Facts (stipulated)*, No.1:05CR 543 (December 2005). Multilateral export control regimes in place are voluntary and not universally adhered to by member nations (*see id.*, at 143).

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

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

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

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

Policies

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

E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the administrative judges in reaching a fair and impartial common sense decision.

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

Foreign Influence

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

Burden of Proof

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

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

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

ANALYSIS

Applicant is a naturalized U.S. citizen who immigrated to the U.S. from Taiwan in 1982 to pursue higher education goals. Security concerns focus on members of Applicant's immediate family (*i.e.*, his parents and brother) and in-laws who are citizens and residents of Taiwan, a country historically friendly to the U.S., albeit, one with a reported history of economic collection activities in the U.S.

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

Because Applicant's father and brother both have prior military service (although aged for the most part), some consideration of DC 7(b), "connection to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information," is warranted as well. Applicant's contacts with his parents, brother/wife, and in-laws residing in Taiwan afford him some potential for accessing Taiwan officials who might be interested in proprietary, sensitive, or even classified information that Applicant is privy to. Still, none of Applicant's family members have any identified affiliations or contacts with Taiwan officials currently known to be associated with intelligence or military organizations interested in collecting proprietary or sensitive information in the U.S.

Further, from what is known from the presented evidence, none of Applicant's immediate family and in-laws residing in Taiwan have any political affiliations with Taiwan's government or military, have any history to date of being subjected to any coercion or influence, or appear to be vulnerable to the same. Applicant's mother and father worked for a Taiwan bank for many years before they retired with private pensions. With the exception of their government-funded health benefits, his parents have no financial interests associated with the Taiwan government. While his brother and spouse are employed by consumer-oriented companies located in Taiwan, they, too, have no little visible connections with the Taiwan government or military/intelligence establishment.

Upon fully considering Applicant's explanations about his immediate family and in-laws, any risk of undue foreign influence on Applicant and/or his parents, brother and in-laws would appear to be insubstantial, and clearly not of the magnitude that could make them subject to a heightened security risk of pressure or compromise under Guideline B.

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

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

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

Taiwan remains a friend of the U.S. and is a country whose democratic institutions are not incompatible with our own traditions and respect for human rights and the rule of law. Unlike the old Adjudicative Guidelines, the new ones do take into account the country's demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter. Taiwan, while reported to target the U.S. and its companies in the past for economic and proprietary information, is still a country with no known recent history of hostage taking or disposition for exerting undue influence against family members to obtain either classified information, or unclassified economic and proprietary data.

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

MC (8(b), "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest," has application, too, to Applicant's situation. Both at home and through those in senior positions with Applicant's employer, Applicant demonstrated loyalty, patriotism, and professional commitments to the U.S. since becoming a naturalized citizen in 2000. Whatever potential conflicts he may have through his dual Taiwan citizenship and contacts with his family members in Taiwan have been more than counterbalanced by his demonstrated U.S. citizenship responsibilities.

Whole person assessment also serves to minimize Applicant's exposure to conflict of interests with his Taiwan family members. Not only has Applicant become a naturalized U.S. citizen and received his advance degrees in the U.S., but he has made every effort to work, save, and pursue his financial interests exclusively in the U.S. Applicant is highly regarded and trusted by his managing director and supervisor and is not aware of any risks of coercion, pressure, or influence that any of his family members might be exposed to.

In Applicant's case, any likelihood of coercion, pressure, or influence being brought to bear on any of his immediate family members and in-laws would appear to be minimal. By all reasonable accounts of the presented record, Applicant has no visible conflicts of interest with Taiwan citizen/residents or property interests in Taiwan that could be at risk to exploitation or compromise by Taiwan military or intelligence officials.

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

