

LAW OFFICES OF
CHARLES H. CAMP

December 27, 2007

VIA FACSIMILE (202) 261-8579

Ms. Anne T. Baker
Requester Communications Branch
Office of Information Programs and Services
A/ISS/IPS
U.S. Department of State, SA-2
Washington, D.C. 20522-8100

Re: Amended Freedom of Information Request—Case Number: 200705657

Dear Ms. Baker:

Thank you very much for your letter of December 6, 2007, concerning the Freedom of Information Act request I submitted to the Department of State (“DOS”) on October 17, 2007, on behalf of my client Dr. Roger C.S. Lin.

By this letter, I am pleased to try to accommodate your requests for additional information and clarification.

With regard to your request that we specify a time frame, unless otherwise indicated in the individual requests set forth below, the time frame for all of the requests are for the period December 1, 1941 to the present. However, I note in your letter that that the DOS “ordinarily” transfers permanent records to the National Archives and Records Administration (“NARA”) “when they are “25 or more years old.” If some or all records requested in any particular requests have been transferred to the NARA, please let me know and we will seek the records transferred through the NARA.

Attached hereto as Schedule A is a revised list of documents requested from the Department of State (“DOS”). In order to aid the DOS in understanding and complying with this FOIA request, certain Capitalized words used in Schedule A are defined in Schedule B.

Dr. Lin hereby reconfirms his request for a fee waiver for this FOIA request. The information requested in this FOIA request is in the public interest and is not in the commercial interest of Dr. Lin. As made clear by the documents requested, such documents concern the operations and activities of the DOS. Dr. Lin has attempted to obtain the requested documents from all available sources available to him, both within and without Taiwan. Dr. Lin does not believe

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that the information requested is available in the public domain, and will not use the information for commercial purposes.

Dr. Roger C. S. Lin was born in Taiwan in 1950. He has a Ph. D. in international law from Meijo University, Nagoya, Japan. He is Chairman of the Taiwan Civil Democratic Party, spokesperson for the Taiwan Nation Party, and has been researching the international legal status of Taiwan for many years, in order that the civil rights of the Taiwanese people may be better protected in the world community. Dr. Lin's research covers all aspects of U.S. constitutional law and international law, including the laws of war recognized by the United States. Notably, on October 25, 2004, (former) Secretary of State Powell said: "Taiwan is not independent, it does not enjoy sovereignty as a nation." Again, on August 30, 2007, Mr. Dennis Wilder, National Security Council Senior Director for Asian Affairs, said: "Taiwan, or the Republic of China, is not at this point a state in the international community. The position of the United States government is that the ROC -- Republic of China -- is an issue undecided, and it has been left undecided, as you know, for many, many years." Yet, despite these announcements by important U.S. Executive Branch officials, Dr. Lin is extremely troubled by the fact that the ROC continues to exercise full administrative authority over Taiwan and the Taiwanese people. This administrative authority includes the issuance of identification documents (including passports and ID cards) to native Taiwanese people that identify these people as "ROC citizens." Dr. Lin believes that such a citizenship classification is incorrect under international law and U.S. constitutional law, and hence is desirous of uncovering all relevant U.S. government documentation references pertaining to this subject. The documentation and information requested in this FOIA request will be used in all relevant academic, political, and other related venues where the topics of the civil rights of the Taiwanese people are being discussed—and NOT for commercial purposes.

In the unlikely event that a fee waiver cannot be granted, Dr. Lin reaffirms his assurance that fees up to a limit of US\$2,500.00 will be paid to DOS for this FOIA request.

This amended FOIA request should not be considered or interpreted as a Privacy Act Request.

If you have any questions, please let me know. Thank you very much for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Camp", followed by a large, decorative flourish.

Charles H. Camp

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REVISED SCHEDULE A

DOCUMENT REQUESTS

Document Request No. 1: All documents pertaining to, analyzing or discussing the SFPT, including, without limitation, all documents pertaining to, analyzing or discussing the United States as the “principal occupying Power” of Taiwan under the SFPT.

Document Request No. 2: All drafts of the SFPT.

Document Request No. 3: Any and all documents, including any ratified treaties, that have modified or revoked any provisions of the SFPT.

Document Request No. 4: All documents pertaining to, analyzing or discussing the Allied Powers’ occupation of Taiwan.

Document Request No. 5: All documents pertaining to, analyzing or discussing the United States’ occupation of Taiwan.

Document Request No. 6: All documents pertaining to, analyzing or discussing General Order No. 1.

Document Request No. 7: All documents interpreting and/or defining the phrase “principal occupying Power” as used in the SFPT, including all documents describing why the United States was defined in the SFPT as the “principal occupying Power” of Formosa and Pescadores (*e.g.*, because the United States carried out all military attacks against (Japanese) Taiwan during the period December 1941 to the Fall of 1945, and, thus, was the “conqueror” of Taiwan).

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Document Request No. 8: All documents concerning transfers of ownership and/or sovereignty and/or territorial title or control over Taiwan.

Document Request No. 9: All documents pertaining to the ROC occupying Taiwan on behalf of (*i.e.*, as representative of) the Allied Powers, led by the United States.

Document Request No. 10: Any and all documents, including treaties or other international agreements, under which the ROC and/or the PRC obtained any right, title or interest in, or sovereignty over Taiwan.

Document Request No. 11: All documents concerning whether or not the SFPT terminated the agency relationship between the Allied Powers, led by the United States, as principal, and the ROC, as agent.

Document Request No. 12: All documents discussing whether occupying a territory, land or people gives the occupying power sovereignty over the occupied territory, land and/or people, including any non-privileged documents mentioning the doctrine of “sovereignty held in trust” under the law of occupation, and the occupying power’s fiduciary duty over occupied territory.

Document Request No. 13: All documents pertaining to whether Taiwanese People owe permanent allegiance to the United States, the “principal occupying Power” under the SFPT, until sovereignty over Taiwan is resolved or established.

Document Request No. 14: All documents pertaining to any country exercising *de jure* and/or *de facto* sovereignty over Taiwan since 1890.

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Document Request No. 15: All documents pertaining to the ROC exercising sovereignty or effective territorial control over Taiwan on behalf of the Allied Powers, led by the United States.

Document Request No. 16: All documents pertaining to United States' policy regarding the issuance of United States passports or other travel documents to non-U.S. citizens living or born in foreign territories or lands while occupied by the United States.

Document Request No. 17: All documents concerning or containing the AIT's policy and/or guidelines regarding the acceptance and/or processing of non-citizen national passport applications.

Document Request No. 18: All documents, including communications with the AIT, concerning the issuance or non-issuance of non-citizen national passports or other travel documents by AIT in Taiwan.

Document Request No. 19: All documents, including communications with the AIT, concerning not accepting applications for non-citizen national passports from any Taiwanese People.

Document Request No. 20: All documents concerning the withdrawal and/or end of USMG jurisdiction over Taiwan.

Document Request No. 21: All documents concerning the withdrawal and/or end of the USMG jurisdiction over the territories described in Article 3 of the SFPT (*i.e.*, "Nansei Shoto south of 29 deg. north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo

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Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island).

Document Request No. 22: All documents regarding the United States' recognition of the legitimacy of any civil or other government functioning in Taiwan following any withdrawal or termination of the USMG jurisdiction in Taiwan.

Document Request No. 23: All documents concerning any involuntary mass naturalizations of Taiwanese People as ROC citizens following World War II (*i.e.*, October 1945 and thereafter).

Document Request No. 24: All documents pertaining to whether Taiwanese People are citizens of the ROC.

Document Request No. 25: All documents concerning or containing United States government pronouncements and/or determinations regarding the citizenship status of Taiwanese People since 1940.

Document Request No. 26: All documents concerning the United States Department of State's determination, if any, that MOFA is a competent authority to issue passports to Taiwanese People.

Document Request No. 27: All documents concerning the United States Department of State's determination, if any, that MOFA is a competent authority to issue passports to Taiwanese People born, living, studying, working, or traveling in the United States' fifty states and major insular areas, pursuant to MOFA's arrangements with TECRO and TECO.

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Document Request No. 28: All documents, if any, concerning, containing or describing the United States' position on the right, if any, of the ROC government to govern Taiwan.

Document Request No. 29: All documents, if any, concerning, containing or describing the United States' position on whether the ROC's announcement on October 25, 1945 (so-called Taiwan Retrocession Day) that the sovereignty of Taiwan was transferred to the ROC on that day was an accurate announcement.

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SCHEDULE B

DEFINITIONS

1. The “Allied Powers” means, according to Article 23(a) of the San Francisco Peace Treaty (defined herein), “Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.”

2. “AIT” means the American Institute in Taiwan, an entity formed pursuant to the TRA (as defined herein) and performing functions typically performed by the United States embassies and consulates abroad (such as processing passport and visa applications).

3. “General Order No. 1” means the General Order No. 1 issued by the Supreme Commander for the Allied Powers General Douglas MacArthur on Sept. 2, 1945, and published in J.C.S. 1467/2.

4. “MOFA” means ROC’s Ministry of Foreign Affairs.

5. “Passport Application” means Form DS-11 Application for a U.S. Passport.

6. “PRC” means People’s Republic of China.

7. “ROC” means the Republic of China.

8. “SFPT” or the “San Francisco Peace Treaty” means the Treaty of Peace with Japan, signed in San Francisco on September 8, 1951, by the Allied Powers and Japan, and entered into force on April 28, 1952. *See* 136 U.N.T.S. 46.

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9. "Taiwan" means the islands of Taiwan (formerly called "Formosa") and the Pescadores.

10. "Taiwanese People" means natural persons who meet the following criteria: (1) being born of a mother and/or father who, as of October 25, 1945, was/were considered native to the areas of Formosa and the Pescadores, including their descendants up to the present, and (2) currently having Household Registration in the areas of Formosa and the Pescadores. "Taiwanese People" does not include such persons described in this paragraph 10 who have become U.S. citizens.

11. "TECO" means Taipei Economic and Cultural Office located in Atlanta, Boston, Chicago, Hagatna (Guam), Honolulu, Houston, Kansas City, Los Angeles, Coral Gables, New York, San Francisco, and Seattle.

12. "TECRO" means the Taipei Economic and Cultural Representative Office located in Washington, D.C.

13. "TRA" means the Taiwan Relations Act, 22 U.S.C. §§ 3301-3316 (2007).

14. "USMG" means United States Military Government.

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From: Charles H. Camp, Esquire

No. of pages
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Date: December 27, 2007

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