



February 14, 2013

PM-602-0080

Policy Memorandum

SUBJECT: Taiwan Pre-Adoption Immigration Review – Filing Form I-600, *Petition to Classify Orphan as an Immediate Relative*, on Behalf of a Child Being Adopted in Taiwan

Purpose

This policy memorandum (PM) implements the Pre-Adoption Immigration Review (PAIR) in Taiwan of Form I-600, *Petition to Classify Orphan as an Immediate Relative* (“Form I-600”), filed on behalf of children from, and physically located in, Taiwan. Effective April 1, 2013, Taiwan will require that the U.S. government complete a review of the prospective adopted child’s immigration eligibility before its courts will finalize an adoption or grant legal custody to U.S. citizen parents. PAIR allows a Form I-600 to be filed before prospective adoptive parents complete the adoption or obtain legal custody of a child for purposes of emigration and adoption. U.S. Citizenship and Immigration Services (USCIS) will review the child’s immigration eligibility and issue a preliminary determination of immigration eligibility before prospective adoptive parents complete the adoption or obtain legal custody of a child in Taiwan. After the adoption or custody proceeding has been finalized, the U.S. Department of State (“State”) or USCIS will issue a final decision on the Form I-600 petition.

This PM does not supersede any regulation or law and does not, nor is it intended to, change any state- or country-specific adoption laws or requirements. This PM revises Chapter 21.5(d) of the Adjudicator’s Field Manual (AFM), AFM Update AD13-02.

Scope

Unless specifically exempted herein, this PM applies to and binds all USCIS employees adjudicating Form I-600 petitions filed on behalf of a child residing in Taiwan.

Authority

- Immigration and Nationality Act (INA) section 201(b)
- 8 CFR 103.2
- 8 CFR 204.3

Background

The Taiwan Child Welfare Bureau has issued an administrative order requiring that, effective April 1, 2013, Taiwan's licensed adoption service providers (ASPs) shall include evidence that USCIS has conducted a Pre-Adoption Immigration Review when filing an adoption case involving U.S. citizen prospective adoptive parents with a Taiwan court.

To enable prospective adoptive parents to comply with Taiwan's new procedure, USCIS will now accept Form I-600 filings before a final adoption decree or legal custody order in Taiwan transfers rights to the prospective adoptive parents. Once the prospective adoptive parents have filed the Form I-600 petition with all available supporting documentation, USCIS officers will be able to complete a preliminary determination of the child's immigration eligibility. USCIS or State will not be able to issue a final approval of the Form I-600 until the adoption or custody proceeding is completed.

Currently, adoptive parents generally file a Form I-600 after traveling to and completing the adoption of a child (beneficiary) in Taiwan. As a result, any serious problems with a case may only become apparent after the adoptive parents have a permanent legal relationship with the child. Irregularities uncovered after the adoption or grant of legal custody is finalized can delay or prevent the immigration of a child to the United States, which can leave adoptive parents and children in untenable situations. Implementation of the PAIR process to meet the new requirements of Taiwan will significantly reduce or eliminate such problems, since a preliminary determination on U.S. immigration eligibility will precede the issuance of adoption decrees or legal custody orders.

Policy

Effective immediately, USCIS will accept Form I-600 petitions on behalf of children from, and physically located in, Taiwan. Petitioners intending to adopt children from, and physically located in, Taiwan are encouraged to file the Form I-600 petition and supporting documents with USCIS before traveling to, and adopting or obtaining legal custody of, a child in Taiwan. This new process will allow prospective adoptive parents to make an informed decision regarding the eligibility of a child to immigrate before an adoption takes place or a legal custody order is issued.

Process

Petitioners adopting children from, and physically located in, Taiwan are encouraged to file the Form I-600 petition and supporting documents with the USCIS National Benefits Center (NBC) in Lees Summit, MO, before traveling to, and adopting a child in, Taiwan. (See www.USCIS.gov for filing instructions for the NBC.) The USCIS Bangkok Field Office and American Institute in Taiwan (AIT) will continue to accept Form I-600 petitions, but such

petitions will be forwarded to the NBC for PAIR review. Concurrent filings of Form I-600 petitions at a USCIS office abroad will also be forwarded to the NBC under this policy.¹

To initiate the PAIR process, prospective adoptive parents should submit a completed Form I-600 together with all available documentation currently required when filing a Form I-600 petition, except the adoption decree or grant of legal custody. In addition, the following PAIR-specific documentation must be submitted when the child's country of origin is Taiwan:

- 1) Evidence of availability for intercountry adoption generated by the Taiwan island-wide database;
- 2) Signed adoption agreement between birth parents and prospective adoptive parents for use in Taiwan District Family courts; and
- 3) Power of attorney appointing the Taiwan ASP to represent the prospective adoptive parents.

Requirements governing the submission of documents remain the same (as found at www.USCIS.gov). All documents originally produced in a foreign language must be accompanied by a certified English translation, notarized by a U.S. notary public. Documents issued in the United States that will eventually be submitted to Taiwan courts must be translated into Mandarin and certified by the Taipei Economic and Cultural Representative Office (TECRO), through the appropriate TECRO district office.

USCIS will review all Form I-600 petitions for completeness and may issue a Request for Evidence (RFE). USCIS will not request the adoption decree at this stage, understanding that it is not yet available. After a case is filed with USCIS, USCIS will provide AIT with the information necessary to complete the Form I-604, *Determination on Child for Adoption*. Once completed, and prior to the Taiwan court's issuance of the adoption decree or legal custody order, AIT will submit the results to USCIS for review. If the Form I-600 supporting documentation and the Form I-604 investigation support a determination that the child meets the orphan definition and otherwise appears eligible to immigrate to the United States, USCIS will provide the prospective adoptive parents with a letter of its preliminary eligibility determination ("USCIS PAIR letter"). USCIS will then forward the case file to AIT. AIT will also issue a letter to the prospective adoptive parents to be filed with the appropriate Taiwan court. The USCIS PAIR letter is not admissible in a Taiwan Court without TECRO authentication, but the Taiwan authorities have indicated that the letter issued by AIT will be admissible. The appropriate Taiwan court will make its own determination as to the child's adoptability.

After the adoption or grant of legal custody has been finalized in Taiwan, the adoptive parents will submit the adoption decree or legal custody order and other required documentation to AIT

¹ In most cases petitioners will have a valid approval of a Form I-600A, *Application for Advance Processing of Orphan Petition*. Petitioners residing in the United States who do not have an approved Form I-600A application may file concurrently using the Form I-600 petition and include all documentation required for a Form I-600A filing. Petitioners residing abroad may also file concurrently with the USCIS office abroad with jurisdiction over the petitioner's place of residence abroad.

for final petition approval and immigrant visa processing. If AIT finds that the case is not clearly approvable, it will return the case to USCIS for further action. If, after submission of the final adoption decree or legal custody order, USCIS needs additional information or determines that the petitioner has not established that the child meets the definition of an orphan, USCIS will notify the prospective adoptive parents and give them an opportunity to respond.

A public announcement regarding this initiative will be published soon after the release of this PM.

Transition Plan

In order to avoid a significant disruption in the processing of adoption cases in Taiwan through both the U.S. and Taiwan adoption processes, USCIS will begin accepting Form I-600 petitions under the PAIR process immediately so that on April 1, 2013, cases may be filed with Taiwan courts without delay.

Implementation

The AFM is revised as follows:

☞ 1. In Chapter 21.5, the introductory paragraph to section (d) is revised to read:

(d) Adjudication of Form I-600. Except as provided in sections (d)(8) and (9), proper adjudication of the **Form I-600** will include a thorough review of each answer on the petition, inspection of all evidence submitted with the petition, and reference to the pertinent law, regulations, precedent decisions, and current policy. All processing steps in the Form I-600 SOP must be followed.

☞ 2. In Chapter 21.5, a new section (d)(9) is added to read:

(9) Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries from, and physically located in, Taiwan. USCIS will accept Form I-600 petitions filed on behalf of a beneficiary child from, and physically located in, Taiwan who is not yet the subject of a final legal custody order or final adoption by U.S. citizen prospective adoptive parents residing in the United States, overseas, or who have traveled overseas to complete an adoption. (Note: These special instructions do not apply to a beneficiary child from Taiwan who is physically located outside of Taiwan.) Petitioners adopting Taiwan children from, and physically located in, Taiwan are encouraged to file the Form I-600 petition and supporting documents with the USCIS National Benefits Center (NBC) in Lees Summit, MO, through the appropriate USCIS lockbox before traveling to, and adopting a child in, Taiwan. (See www.USCIS.gov for filing instructions for the NBC.) The USCIS Bangkok Field Office and American Institute in Taiwan (AIT) will continue to accept Form I-600 petitions, but such petitions will be forwarded to the USCIS NBC for a preliminary determination. Concurrent filings of Form I-600A applications with Form I-600

petitions with a USCIS office abroad will also be forwarded to the NBC under this policy.

Petitioners should file with USCIS a completed Form I-600 together with all available documentation regarding the child’s immigration eligibility that is currently required when filing a Form I-600 petition, except the adoption decree or grant of legal custody. In addition, petitioners adopting from Taiwan should submit:

- 1) Evidence of availability for intercountry adoption generated by the Taiwan island-wide database;
- 2) Signed adoption agreement between birth parents and prospective adoptive parents for use in Taiwan District Family courts; and
- 3) Power of attorney appointing the Taiwan ASP to represent the prospective adoptive parents.

A USCIS adjudications officer will review the petition and supporting evidence and request that AIT conduct the necessary Form I-604 investigation to determine whether the child appears to qualify as an orphan and is otherwise likely eligible to immigrate to the United States on the basis of the filed Form I-600 petition. If USCIS makes a favorable preliminary determination that the Form I-600 beneficiary appears to meet the definition of an orphan at INA 101(b)(1)(F), and otherwise appears eligible to immigrate, it will issue a PAIR letter. This preliminary eligibility determination is not a final adjudication of the Form I-600 petition, and is not binding on USCIS. USCIS will then forward the file to AIT.

After the adoption or grant of legal custody is completed the adoptive parents will submit the adoption decree or legal custody order and required identity documents for the child to AIT, which will then issue the final approval of the Form I-600, if approvable. If AIT determines that the Form I-600 petition is not clearly approvable at that time, it will return the unadjudicated Form I-600 petition to USCIS for further review and action. If USCIS needs additional information or determines that the child does not meet the definition of an orphan, USCIS will notify the prospective adoptive parents and give them an opportunity to respond.

☞ 3. The AFM Transmittal Memorandum button is revised by adding a new entry, in numerical order, to read:

AD13-02 2/14/2013	Chapter 21.5(d)	Provides guidance on adjudication of Form I-600 petitions filed on behalf of beneficiaries from, and physically located in, Taiwan.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions regarding this PM should be addressed through appropriate channels to the Refugee, Asylum, and International Operations Directorate or Field Operations Directorate.