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A REPORT TO THE CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR VIETNAM

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT CONTINUATION OF THE WAIVER CURRENTLY IN EFFECT FOR VIETNAM WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402 OF THE TRADE ACT OF 1974, PURSUANT TO 19 U.S.C. 2432 (c) AND (d)



JUNE 7, 1999.—Referred to the Committee on Ways and Means and ordered to be printed

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THE WHITE HOUSE,
Washington, June 3, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of the application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO THE CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR VIETNAM

Pursuant to subsection 402(d)(1) of the Trade Act of 1974 (hereinafter "the Act"), as amended, having determined that further extension of the waiver authority granted by subsection 402(c) of the Act for 12 months will substantially promote the objectives of section 402, I have today determined that continuation of the waiver currently applicable to Vietnam will also substantially promote the objectives of section 402 of the Act. My determination is attached and incorporated herein.

Freedom of Emigration Determination

Overall, Vietnam's emigration policy has liberalized considerably in the last decade and a half. Vietnam has a solid record of cooperation with the United States in permitting Vietnamese to emigrate. Over 500,000 Vietnamese have emigrated as refugees or immigrants to the United States under the Orderly Departure Program (ODP), and only a small number of refugee applicants remain to be processed.

The Government of Vietnam (GVN) cooperates with the U.S. Government to clear for interview applicants under ODP and the Resettlement Opportunities for Vietnamese Returnees (ROVR) program. The GVN issues passports and exit permits to Vietnamese approved for admission to the United States and, in the case of ROVR applicants, expedites the departure clearance process. Based on progress made on refugee processing to date, it is our aim to complete processing of nearly all of the current ODP caseload before the end of FY 1999. Moreover, the GVN recently stated its commitment to take all steps necessary to assist us in meeting this goal for all refugee programs, including ROVR and Montagnard cases.

After a slow start, processing of eligible cases under the ROVR program accelerated dramatically in 1998 and is now near completion. As of June 1, 1999, the GVN had cleared for interview 19,975 individuals, or 96 percent of the ROVR applicants. By contrast, at this time last year, the GVN had cleared 78 percent of applicants. Once cleared for interview by the GVN, applicants must gather the documents necessary to support their applications and be scheduled for interview with ODP, which will determine their qualification for subsequent interview by the Immigration and Naturalization Service (INS). The INS has approved 15,833 for admission to the United States, 14,715 of which have departed for the United States. An additional 463 await INS interview. The difference between the number of individuals cleared by the GVN and the number approved by the INS or awaiting interview is the result of determinations made by ODP and INS. ODP has determined 8 percent of ROVR applicants (1,668 people) not to be qualified for an

INS interview according to U.S. ROVR guidelines. INS has determined that 11 percent (1,996 people) are not admissible to the United States as refugees.

In contrast to May 1998, when the GVN had not yet responded on 1,353 ROVR cases representing 2,718 people, the GVN reduced the number of cases on which no action had been taken, as of June 1, 1999, to 79 cases involving 166 individuals. Likewise, progress has also been made on cases in which the GVN initially denied clearance for interview. As of May 11, 1998, 776 cases were listed as having been denied clearance. However, the GVN authorities reported that, in a significant number of cases, they had been unable to provide clearance to applicants because of address problems or because the applicants had declined to attend a clearance interview. ODP has worked to provide the GVN with updated information on such cases in order to permit it to reverse its denial of clearance in as many cases as possible. As a result of this cooperation, the number of cases denied clearance has been reduced to 422 cases, representing 628 individuals.

The greatest problem for ROVR processing at this time is the failure of some cleared applicants to appear at the ODP office in Ho Chi Minh City for their INS interview. This problem may hamper our efforts to wrap up the ROVR program by the end of FY 1999.

ODP has also given particular attention to completion of the Former Re-education Camp Detainees program, known popularly as the "HO" program. Under this program, eligible applicants must have been detained for at least three years in a re-education camp because of their association with the United States or the former South Vietnamese government. As of May 24, 1999, there were only 287 HO cases comprising 1,480 persons who had not been interviewed by INS. Of these, the GVN had not cleared for interview 244 cases involving 1,320 persons; however, it should be noted that the individuals in many of those cases are uncleared because they have not applied to the GVN for exit permission. Officials at the Department of State and our diplomatic posts in Vietnam continue to press the GVN at every level to authorize interviews of the remaining cases for those who wish to depart. The U.S. Government will not consider the HO program to be completed until the last applicant has had the opportunity to be interviewed by ODP or we have an acceptable accounting for each case.

A sub-group of the HO program consists of applicants covered by the "McCain Amendment." These are persons over the age of 21 who are the sons and daughters of former re-education camp detainees who were approved for admission as refugees after April 1, 1995. Under worldwide U.S. refugee processing criteria, only the minor, unmarried children of a principal applicant can be included in a case. Under the McCain Amendment, however, the sons and daughters over the age of 21 can be included in HO cases as long as they are single. This is retroactive to persons interviewed after April 1, 1995, with the proviso that sons and daughters who married after their parent was approved are still eligible for processing if they were single at the time of their parent's refugee interview. The provision was expanded last year to include sons and daughters of widows of detainees who died in a re-education camp or as

a result of that detention, and those persons who were eligible for admission as refugees but who instead were admitted on immigrant visas.

As of May 24, 1999, there were 558 cases which remained eligible for consideration under the McCain Amendment, although many of these do not appear interested in pursuing applications. The GVN cooperates with us fully in implementing the McCain Amendment. We expect to complete processing of all interested cases before the provision expires at the end of the fiscal year.

Regarding GVN cooperation on the emigration of refugee cases involving Montagnards, progress has been made since the Jackson-Vanik waiver for Vietnam was extended in 1998. The GVN cleared 220 individuals (32 cases) for interview, of which 118 (18 cases) have been approved for resettlement in the United States by the INS. In addition, the GVN has provided information regarding their inability to clear for interview 265 individuals (36 cases). The most common reasons include address problems and failure to meet the requirement of three years in re-education. As with all other residual refugee cases, ODP and other USG officials will continue to press the GVN to expedite processing.

GVN progress on freedom of emigration in 1998 and the early part of 1999 has permitted us to near completion of various ODP refugee admissions programs in Vietnam. U.S. Government offical both in Washington and in Vietnam will continue to press the Vietnamese at all levels to take all necessary steps to expeditiously complete processing under these programs and ensure that all interested applicants have the opportunity to interview and, if qualified, depart for the United States.

Completion of ODP ad ROVR programs will not mean the end of U.S. refugee processing in Vietnam. We are designing a new, incountry program to address the rescue needs of individuals who have suffered recent persecution or who have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political option. The U.S. Government is also committed to interview those individuals eligible for the ODP sub-program for former U.S. Government employees who did not receive interviews because of the 1996 suspension of the program by the United States. The GVN has formally agreed to cooperate with us in implementing this program.

The GVN's cooperation in permitting the timely processing of most other current non-refugee immigrant visa cases has also continued to be good. In 1998, 9,742 immigrant visas were issued to Vietnamese under ODP. The Department of State expects that over 25,000 Vietnamese will apply for immigrant visas under the regular immigration program in FY 1999. As of April 30, 1999, 8,303 immigrant visas had been issued to Vietnamese. We expect the number of applications to rise to 30,000 in FY 2000.

We expect that efforts by U.S. officials to impress on the GVN the importance of Vietnam's continued cooperation on immigration together with the extension of the Jackson-Vanik waiver will encourage the Vietnamese to further liberalize their emigration policy

and resolve specific problems that face our refugee and immigration programs.

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