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Folder Title:

Jackson-Vanik (Vietnam) [4]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Secretary of State Madeleine Albright to President William J. Clinton re: Vietnam's Eligibility for U.S. Export-Import Bank Programs (2 pages)	02/23/1998	P1/b(1)
002. memo	Strobe Talbott to President William J. Clinton re: Granting a Waiver of the Jackson-Vanik Amendment for Vietnam (3 pages)	02/03/1998	P1/b(1)
003. memo	Stanley Roth to Secretary of State Madeleine Albright re: Removal of Prohibition on Import-Export Bank Programs in Vietnam (3 pages)	01/12/1998	P1/b(1)

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Clinton Presidential Records
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Jackson-Vanik (Vietnam) [4]

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Allen, Charles A.

file

From: Allen, Charles A.
Sent: Thursday, May 21, 1998 4:33 PM
To: Gagnon, James M.
Cc: @LEGAL - Legal Advisor; @DEMOCRACY - Dem/Human Affairs; @LEGISLAT - Legislative Affairs; @ASIA - Asian Affairs
Subject: FW: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]
Importance: High

Jim, Legal clears this package. I agree with Scott Busby's changes. I have made minor changes to the determination and the transmittal to Congress.

-----Original Message-----

From: Busby, Scott W.
Sent: Wednesday, May 20, 1998 3:25 PM
To: Gagnon, James M.; @ASIA - Asian Affairs; @LEGAL - Legal Advisor
Cc: @EXECSEC - Executive Secretary
Subject: FW: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]
Importance: High

Jim -- We clear with revisions/comments noted below.

-----Original Message-----

From: Gagnon, James M.
Sent: Wednesday, May 20, 1998 1:10 PM
To: @DEMOCRACY - Dem/Human Affairs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; Baker, James E.; Allen, Charles A.; Schwartz, Eric P.; Busby, Scott W.
Cc: @ASIA - Asian Affairs; @EXECSEC - Executive Secretary
Subject: FW: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]
Importance: High

TO ALL: I NEED YOU TO REVIEW PACKAGE 3511 ASAP. THE TITLE OF THE KENNEY DAVIES TRANSMITTAL PACKAGE IS INCORRECT. THE SUBSTANCE OF THE PACKAGE IS NOT. THIS IS AN URGENT MATTER WE NEED TO REVIEW THE SUBSTANCE OF THE PACKAGE ASAP. I WILL WORK ON CHANGING THE TITLE OF STATE'S TRANSMITTAL MEMORANDUM. AGAIN PLEASE REVIEW THIS PACKAGE ASAP; IT IS DUE TODAY MAY 20. JGagnon

-----Original Message-----

From: Gagnon, James M.
Sent: Monday, May 18, 1998 4:24 PM
To: @LEGISLAT - Legislative Affairs; @DEMOCRACY - Dem/Human Affairs; @LEGAL - Legal Advisor; @INTECON - Economic Affairs; Rudman, Mara E.; Lee, Malcolm R.; Baker, James E.; Allen, Charles A.; Farrar, Jay C.; Schwartz, Eric P.; Busby, Scott W.
Cc: @ASIA - Asian Affairs; @EXECSEC - Executive Secretary
Subject: FW: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]
Importance: High

TO ALL: Pursuant to the matter of the flawed Kenney-Davies memorandum on a Jackson-Vanik waiver for Vietnam, I am checking with State to get a version that has the correct title; i.e., this is not about extending MFN for Vietnam. Vietnam doesn't have MFN. JGagnon

-----Original Message-----

From: Gagnon, James M.
Sent: Monday, May 18, 1998 1:17 PM
To: @LEGISLAT - Legislative Affairs; @LEGAL - Legal Advisor; @DEMOCRACY - Dem/Human Affairs; @INTECON - Economic Affairs; Rudman, Mara E.; Lee, Malcolm R.; Baker, James E.; Allen, Charles A.; Farrar, Jay C.; Schwartz, Eric P.; Busby, Scott W.
Cc: @ASIA - Asian Affairs
Subject: FW: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]
Importance: High

TO ALL: The Kenney-Davies memorandum is poorly written and is misleading. Vietnam DOES NOT HAVE MFN; WILL NOT HAVE MFN until a bilateral trade agreement is negotiated and approved by Congress. The memo to POTUS and SRB correctly reflects this point. JGagnon

-----Original Message-----

From: Albert, Ronda A.
Sent: Monday, May 18, 1998 12:49 PM
To: @LEGAL - Legal Advisor; @DEMOCRACY - Dem/Human Affairs; @INTECON - Economic Affairs; @LEGISLAT - Legislative Affairs
Cc: @ASIA - Asian Affairs
Subject: Your concurrence is needed by Noon tomorrow. [UNCLASSIFIED]

Jamie/Eric/Malcolm/Mara:

Your concurrence is needed on the attached report to congress and PD for J-V waiver for continuation of MFN status for Vietnam **by noon Tuesday, May 19.** Thanks



3511 jmg-srb
Continuation of J...



3511 SRB-Pres
Jackson-Vanik PD...



3511 Congress Msg
Jackson-Vani...



3511 REPORT TO
THE CONGRESS CO...



3511 PD continuation
of waiver...

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: ~~Presidential~~ Determination Under Subsection
402(d)(1) of the Trade Act of 1974, as Amended --
Continuation of Waiver Authority

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter "the Act"), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Vietnam will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this dDetermination in the Federal Register.

May 18, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: SANDRA J. KRISTOFF

FROM: JAMES M. GAGNON

SUBJECT: Extension of Jackson-Vanik Waiver

Under Section 402 of the Trade Act of 1974 as amended, the President has until June 3 to transmit to Congress a determination required to extend the waiver of the Jackson-Vanik Amendment for Vietnam. The President granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends (Tab D) that the President sign the determination and the "Report to Congress Concerning Extension of Waiver Authority." If this determination is not made, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government export promotion and investment support programs, such as the Export-Import Bank (EX-IM) credits. The waiver also is required to continue direct non-humanitarian assistance to Vietnam. Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

To extend the waiver, the President must determine that his action will substantially promote freedom of emigration from Vietnam. The President based his March 11 decision on the progress Vietnam had made on emigration policies during the last fifteen years, including significant recent improvements in its implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR) program. Since that decision, the Government of Vietnam continues to cooperate with us in addressing our concerns about the ROVR program. ~~Since then, there has not been sufficient time for further significant changes in Vietnam's overall emigration policies. However, the Government of Vietnam's (GVN) implementation of its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has improved greatly.~~

Vietnam also is cooperating on the processing of non-refugee immigrant visa cases; in 1997, 15,700 immigrant visas were issued to Vietnamese under the Orderly Departure Program (ODP). However, there are some problems in the remain on the program for remaining re-education camp detainees. While the number of persons still to be processed in this program is relatively small (631 cases/3400 people); nearly 900 of these people are Montagnards. In addition, there are about 60 outstanding immigrant visa cases involving Montagnards of interest to us that INS has not been able to interview. Ambassador Peterson and the Department of State have are stepped up their efforts with to press the Vietnamese on these cases.

Concurrences by: James Baker, Eric Schwartz, Malcolm Lee,
Mara Rudman

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I	Memorandum to the President
Tab A	Message to Congress
Tab B	Report to Congress
Tab C	Presidential Determination
Tab D	Incoming Correspondence

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
GENE SPERLING
LARRY STEIN

SUBJECT: Jackson-Vanik Waiver Extension for Vietnam

Purpose

To extend the Jackson-Vanik waiver for Vietnam.

Background

Under Section 402 of the Trade Act of 1974 as amended, you have until June 3 to transmit to Congress a determination, extending the waiver of the Jackson-Vanik Amendment for Vietnam. You granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends (Tab D) that you sign the determination and the "Report to Congress Concerning Extension of Waiver Authority." Without this determination the waiver will expire on July 3 together with Vietnam's eligibility for U.S. Government export promotion and investment support programs, including those associated with the Export-Import Bank (EX-IM), the Overseas Private Investment Corporation (OPIC), and the Maritime Administration (MARAD). The waiver also is required to continue direct non-humanitarian assistance to Vietnam. Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

To extend the waiver, you must determine this action will substantially promote freedom of emigration from Vietnam. Your March 11 decision was based on the progress Vietnam had made in liberalizing its emigration policies over the last fifteen years, in particular, the significant recent improvements made by the Government of Vietnam in its implementation of the

cc: Vice President
Chief of Staff

Resettlement Opportunity for Vietnamese Returnees (ROVR) program. Since your decision in March, the Government of Vietnam continues to be cooperative in addressing our concerns about this as well as other emigration programs. Since then, there has not been sufficient time for further significant changes to Vietnam's overall emigration policies. However, the Government of Vietnam's (GVN) implementation of its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has improved greatly since October 1997, when it eliminated the requirement for applicants to obtain exit permits before being interviewed by the Immigration and Naturalization Service (INS).

To date, the GVN has located and authorized for interview over 14,500 of the 18,500 persons potentially eligible for ROVR. Vietnam also is providing us with information on the 776 cases it has not cleared for interview (about 7% of the ROVR total). The GVN does not have current addresses for about 40% of these cases, while another 18% have chosen to resettle elsewhere or to stay in Vietnam. The Department of State is working on resolving these cases as well as 2,700 cases about which the GVN has not yet provided information. It expects the GVN will agree to clear most of these individuals for INS interviews. At the current rate of processing, we anticipate INS will complete the ROVR interviews by November 1998. As of April 27, 2,133 Vietnamese had emigrated to the United States under the ROVR program. (Does the President need this much detail?)

The Department of State reports Vietnam also is cooperating in the processing of non-refugee immigrant visa cases. In 1997, 15,700 immigrant visas were issued to Vietnamese under the Orderly Departure Program (ODP). Problems remain, however, in our efforts to complete processing of the remaining re-education camp detainees. While the number is relatively small (631 cases/3400 people), nearly 900 of these people are Montagnards. In addition, there are approximately 60 outstanding immigrant visa cases involving Montagnards that are of interest to us. INS has not interviewed these individuals, because the GVN has not given them exit visas. Ambassador Peterson and the Department of State have are stepping up efforts to press the Vietnamese authorities on these cases.

RECOMMENDATION

That you sign the Message to the Congress at Tab A.

That you sign the Presidential Determination at Tab B.

Attachments

Tab A	Transmittal Message to Congress
Tab B	Presidential Determination
Tab C	Report to Congress
Tab D	Incoming Correspondence

TO THE CONGRESS OF THE UNITED STATES:

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 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 twelve-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.

THE WHITE HOUSE,

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 over the last 10-15 years. Under the Orderly Departure Program (ODP), over 480,000 Vietnamese have entered the United States.

There has been too little time since the Jackson-Vanik waiver for Vietnam was granted on March 9 for there to have been far-reaching changes in Vietnam's migration policies. Nonetheless, in general, Vietnam has continued to make progress.

The Government of Vietnam's (GVN) performance on its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has continued to improve since October 1997 when it eliminated the requirement for applicants to obtain exit permits prior to interview by the Immigration and Naturalization Service (INS). To date it has located, contacted, screened and authorized for interview 78% (over 14,500 persons) of the approximately 18,500 persons potentially eligible for ROVR. As of April 27, 2133 persons who qualified for ROVR benefits had departed for the United States, demonstrating that the GVN is honoring its commitment to permit these individuals to leave Vietnam. ~~issue passports to those whom the INS has determined are eligible for emigrate under ROVR.~~ Vietnam has also provided to us an accounting of those cases it has not cleared for interview -- roughly 7% of the total. Of the 776 cases, the FGVN did not have a current address for 40%, while another 18% of cases were reported to have moved resettled elsewhere or decided to remain in Vietnam. We expect that a significant number of these cases will be cleared for interview once we have provided the GVN with additional information. There remain some 2,700 individuals

about whom the GVN has not provided us any information; however, we expect that most of these individuals will be cleared for interview. [Why?] -At the present rate of processing, we expect that the INS will have completed most of the ROVR interviews by November 1998.

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 1997, 15,700 immigrant visas were issued to Vietnamese under ODP. The State Department expects to issue more than 18,000 immigrant visas in 1998.

~~Despite such the progress cited above, we continue to be concerned are concerned about the GVN's failure to issue exit permits for some individuals in the non-ROVR ODP caseload. GVN progress on closing out the remaining ODP refugee program for re-education camp detainees appears to have stalled. While the number of remaining cases in this program is small (631 cases/3400 people), nearly 900 of those people are Montagnards. In addition, there are about 60 current immigrant visa cases involving Montagnards of interest to us that have not been interviewed due to a lack of exit permits.~~

We have stepped up our efforts to press the Vietnamese to resolve these outstanding cases as part of our ongoing dialogue on emigration issues. Ambassador Peterson and State Department officials in Washington have met with their Vietnamese counterparts to impress upon them the need for immediate improvement in these areas. The issue of discriminatory treatment of ethnic minorities such as the Montagnards, including the denial of access to U.S. departure programs, was placed on the agenda of the most recent round of the ongoing U.S.-Vietnam bilateral human rights dialogue held May 26. Given the substantial progress we have achieved with the GVN in the ROVR program, we are hopeful that the GVN will continue to cooperate with us in resolving these issues. [Paragraph to be updated prior to the President's determination.]

~~We expect that this increased effort together with the extension of the Jackson-Vanik waiver will encourage the Vietnamese to resolve these specific problems and further liberalize their emigration policy.~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

3511 Redo

June 1, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: SANDRA J. KRISTOFF

FROM: JAMES M. GAGNON

SUBJECT: Extension of Jackson-Vanik Waiver

Under Section 402 of the Trade Act of 1974 as amended, the President has until June 3 to transmit to Congress a determination required to extend the waiver of the Jackson-Vanik Amendment for Vietnam. The President granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends this action. If this determination is not made, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government export promotion and investment support programs. The waiver also is required to continue direct non-humanitarian assistance, and is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

Your memorandum to the President explains that he must determine that this action will promote substantially freedom of emigration. The President based his March 11 decision on the progress Vietnam had made on emigration policies during the last fifteen years. This cooperation continues. The memorandum also notes that Vietnam is cooperating on the processing of non-refugee immigrant visa cases but that some problems remain. Ambassador Peterson and the Department of State have stepped up their efforts with the Vietnamese on these cases.

Concurrences by: Charles Allen, Scott Busby, Malcolm Lee,
Gina Ambracrombie-Winstanley

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I	Memorandum to the President
Tab A	Message to Congress
Tab B	Presidential Determination
Tab C	Report to Congress
Tab D	Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

June 2, 1998

ACTION

98 JUN 2 2:40

MEMORANDUM FOR THE PRESIDENT

THROUGH:

THE EXECUTIVE CLERK *Daniel Kalbarg*

FROM:

SAMUEL BERGER *SB*GENE SPERLING *GS*LARRY STEIN *LS*

SUBJECT: Jackson-Vanik Waiver Extension for Vietnam

Purpose

To extend the Jackson-Vanik waiver for Vietnam.

Background

Under Section 402 of the Trade Act of 1974 as amended, you have until June 3 to transmit to Congress a determination, extending the waiver of the Jackson-Vanik Amendment for Vietnam. You granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends (Tab D) that you sign the determination (Tab C) and the "Report to Congress Concerning Extension of Waiver Authority" (Tab B). Without this determination the waiver will expire on July 3 together with Vietnam's eligibility for U.S. Government export promotion and investment support programs, including those associated with the Export-Import Bank (EX-IM), the Overseas Private Investment Corporation (OPIC), and the Maritime Administration (MARAD). The waiver also is required to provide direct non-humanitarian assistance to Vietnam, such as environmental assistance and rule of law training to promote investment transparency. Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

To extend the waiver, you must determine this action will substantially promote freedom of emigration from Vietnam. Your March 11 decision was based on the progress Vietnam had made in liberalizing its emigration policies over the last fifteen years, in particular, the significant recent improvements made

cc: Vice President
Chief of Staff

by the Government of Vietnam in its implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR) program. Since your decision in March, the Government of Vietnam continues to be cooperative in addressing our concerns about this as well as other emigration programs.

To date, the GVN has located and authorized for interview over 14,500 of the 18,500 persons potentially eligible for ROVR. Vietnam has been providing us with an accounting for those persons it had not previously cleared for Immigration and Naturalization Service (INS) interview. Of the 3,003 persons not cleared for interview in February 1998, 1,900 are now cleared; additional information or clearance is still pending for the remaining 1,103. Of this number, the GVN did not have current addresses for about 40%; another 18% were reported to have resettled elsewhere or to have decided to remain in Vietnam. We expect a significant number of these persons will be cleared for interview once we provide the GVN with more information.

There remain about 2,596 individuals for whom the GVN has not provided us any information. However, we anticipate most of these individuals will be cleared for interview. At the present rate of processing, we expect the INS will complete most of the ROVR interviews by November 1998. As of April 27, 2,133 Vietnamese had emigrated to the United States under the ROVR program.

The Department of State reports Vietnam also is cooperating in the processing of non-refugee immigrant visa cases. In 1997, 15,700 immigrant visas were issued to Vietnamese under the Orderly Departure Program (ODP). Problems remain, however, in our efforts to complete processing of the remaining re-education camp detainees. The number is relatively small (631 cases/3400 people); nearly 900 of these people are Montagnards. In addition, there are approximately 60 outstanding immigrant visa cases involving Montagnards that are of interest to us. INS has not interviewed these individuals, because the GVN has not given them exit visas. Ambassador Peterson and the Department of State have stepped up efforts to press the Vietnamese authorities on these cases.

RECOMMENDATION

That you sign the Message to the Congress at Tab A.

That you sign the Presidential Determination at Tab B.

Attachments

Tab A	Transmittal Message to Congress
Tab B	Presidential Determination
Tab C	Report to Congress
Tab D	Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

June 3, 1998

Presidential Determination
No. 98-27

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Subsection 402(d)(1) of the
Trade Act of 1974, as Amended -- Continuation of
Waiver Authority

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter the "Act"), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Vietnam will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the Federal Register.

William J. Clinton

NATIONAL SECURITY COUNCIL
DISTRIBUTION RECEIPT

LOG 9803511
DATE 03 JUN 98

SUBJECT: PD 98-27 RE CONTINUATION OF WAIVER AUTHORITY FOR VIETNAM
DOCUMENT CLASSIFICATION: UNCLASSIFIED

EXTERNAL DISTRIBUTION:	DATE	TIME	SIGNATURE
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MS. KRISTIE A. KENNEY ROOM 7224, MAIN STATE 2201 C STREET, N.W. WASHINGTON, D.C. 20520 DEPARTMENT OF STATE	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>2</u>
MS. RYAN CONROY ROOM 5945, NEW STATE 2201 C STREET, NW WASHINGTON, DC 20523 AGENCY FOR INTL DEVELOPMENT	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>2</u>
MR. PHILIP DUSAULT INTL SECURITY AFFAIRS ROOM 10002 NEOB OFFICE OF MANAGEMENT & BUDGET	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>2</u>
MR. TIM SAUNDERS ROOM 5 OEOB WH EXECUTIVE CLERK	_____	_____	_____ PRINT LAST NAME: _____ COPY: <u>2</u>

DATE, TIME, SIGN THE RECEIPT AND RETURN TO: NSC RECORDS MGNT, ROOM 379 OEOB
PAGE 01 OF 01 PAGES

TO THE CONGRESS OF THE UNITED STATES:

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 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.

William J. Clinton

THE WHITE HOUSE,

June 3, 1998.

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 over the last 10-15 years. Under the Orderly Departure Program (ODP), over 480,000 Vietnamese have entered the United States.

There has been too little time since the Jackson-Vanik waiver for Vietnam was granted on March 9 for there to have been far-reaching changes in Vietnam's migration policies. Nonetheless, in general, Vietnam has continued to make progress.

The Government of Vietnam's (GVN) performance on its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has continued to improve since October 1997 when it eliminated the requirement for applicants to obtain exit permits prior to interview by the Immigration and Naturalization Service (INS). To date it has located, contacted, screened and authorized for interview 78% (over 14,500 persons) of the approximately 18,500 persons potentially eligible for ROVR. As of April 27, 2,133 persons who qualified for ROVR benefits had departed for the United States, demonstrating that the GVN is honoring its commitment to permit these individuals to leave Vietnam.

Vietnam also has been providing us with an accounting for those persons it had not previously cleared for interview. Of the 3,003 persons not cleared for INS interviews in February 1998, 1,900 are now cleared; additional information or clearance is still pending for the remaining 1,103. Of this number, the GVN did not have current addresses for about 40%; another 18% were reported to have resettled elsewhere or to have decided to remain in Vietnam. We expect a significant number of these

persons will be cleared for interview once we provide the GVN with more information. There remain about 2,596 individuals about whom the GVN has not provided us any information; however, we anticipate most of these individuals will be cleared for interview as well. At the present rate of processing, we expect the INS will complete most of the ROVR interviews by November 1998.

The GVN's cooperation in permitting the timely processing of most other current non-refugee immigrant visa cases also has continued to be good. In 1997, 15,700 immigrant visas were issued to Vietnamese under ODP. The State Department expects to issue more than 18,000 immigrant visas in 1998.

Despite such progress, we continue to be concerned about the GVN's failure to issue exit permits for some individuals in the non-ROVR ODP caseload. GVN progress on closing out the remaining ODP refugee program for re-education camp detainees appears to have stalled. While the number of remaining cases in this program is small (631 cases/3400 people), nearly 900 of those people are Montagnards. In addition, there are about 60 current immigrant visa cases involving Montagnards of interest to us that have not been interviewed due to a lack of exit permits.

We have stepped up our efforts to press the Vietnamese to resolve these outstanding cases as part of our ongoing dialogue on emigration issues. Ambassador Peterson and State Department officials in Washington have met with their Vietnamese counterparts to impress upon them the need for immediate improvement in these areas. The issue of discriminatory treatment of ethnic minorities such as the Montagnards, including the denial of access to U.S. departure programs, was placed on the agenda of the most recent round of the ongoing U.S.-Vietnam bilateral human rights dialogue held May 26. Given the substantial progress we have achieved with the GVN in the ROVR program, we are hopeful that the GVN will continue to cooperate with us in resolving these issues.



United States Department of State

Washington, D.C. 20520

May 22, 1998

MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: Determination to Extend Jackson-Vanik
Waiver Authority for Vietnam

According to the sec. 402 of the Trade Act of 1974, as amended, the President has until June 3 to transmit a determination to Congress necessary for the extension of Vietnam's Jackson-Vanik waiver. Without this determination, the waiver will expire on July 3 along with Vietnam's eligibility for U.S. Government credit and investment guarantee programs and most-favored-nation (MFN) tariff treatment. Vietnam does not currently receive MFN treatment. A Jackson-Vanik waiver is a prerequisite for MFN, which also requires Congressional approval of a bilateral trade agreement which is currently under negotiation.

The only legal requirement that must be met is that the President determine that a waiver extension will substantially promote freedom of emigration from Vietnam. When he granted a Jackson-Vanik waiver to Vietnam on March 11, the President based his decision on Vietnam's track record of progress on emigration over the past fifteen years and its accelerated efforts in recent months. There has been too little time since the waiver was granted to Vietnam for there to have been far-reaching changes in Vietnam's migration policies. Nonetheless, in general Vietnam has continued to make progress on emigration. Therefore, the waiver certification is justified. A detailed justification for continuing the waiver is attached.

Kristie A. Kenney
Executive Secretary

Attachments:

- Tab A - President's Transmittal Message to Congress
- Tab B - President's Report to Congress Concerning Extension of Waiver Authority
- Tab C - Presidential Determination -- Memorandum from the President to the Secretary

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

3511

MEMORANDUM FOR KRISTIE A. KENNEY
Executive Secretary
Department of State

SUBJECT: Kenney/Davies Memorandum Covering Department of
State Recommendation to Extend the Jackson-Vanik
Waiver for Vietnam

The Department of State's May 13 Kenney-Davies memorandum recommending extension of the waiver of the Jackson-Vanik Amendment for Vietnam is incorrect. The current subject line of the memorandum reads as follows.

"Determination to Extend Jackson-Vanik Waiver Authority
Allowing Continuation of Most-Favored-Nation Trade Status
for Vietnam"

Vietnam does not have Most-Favored-Nation status because we have not concluded a bilateral trade agreement with Vietnam that has been approved by Congress.

The correct title for the Department of State's May 13 Kenney-Davies memorandum should read as follows.

"Determination to Extend Jackson-Vanik Waiver Authority for
Vietnam"

We must move the Jackson-Vanik waiver package today, May 22. Please send us a corrected copy of the May 13 Kenney-Davies memorandum immediately.

Glyn T. Davies
Executive Secretary

Attachment

Tab A Copy of Incorrect May 13 Kenney-Davies Memorandum

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

3511

May 18, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: SANDRA J. KRISTOFF ³

FROM: JAMES M. GAGNON

SUBJECT: Extension of Jackson-Vanik Waiver

This action.
Under Section 402 of the Trade Act of 1974 as amended, the President has until June 3 to transmit to Congress a determination required to extend the waiver of the Jackson-Vanik Amendment for Vietnam. The President granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends ~~(Tab D) that the President sign the determination (Tab C) and the "Report to Congress Concerning Extension of Waiver Authority" (Tab B).~~ If this determination is not made, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government export promotion and investment support programs, ~~such as Export-Import Bank (EX-IM) credits.~~ The waiver also is required to continue direct non-humanitarian assistance, ~~to Vietnam.~~ Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway. *and*

TP Your memorandum ~~to~~ *explains that he*
~~To extend the waiver, the President must determine that his~~ *this*
~~action will substantially promote freedom of emigration from~~
~~Vietnam.~~ The President based his March 11 decision on the progress Vietnam had made on emigration policies during the last fifteen years, ~~including significant recent improvements in its implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR) program.~~ Since that decision, the Government ~~of Vietnam continues to cooperate with us in addressing our~~ *This*
~~concerns about the ROVR program.~~ *on continues.*

The memorandum also notes that
Vietnam also is cooperating on the processing of non-refugee immigrant visa cases; in 1997, 15,700 immigrant visas were issued to Vietnamese under the Orderly Departure Program (ODP). *but* However, there are some problems in the program for remaining, re-education camp detainees. The number of persons still to be

processed in this program is relatively small (631 cases/3400 people), nearly 900 of these people are Montagnards. In addition, there are about 60 outstanding immigrant visa cases involving Montagnards of interest to us that INS has not been able to interview. Ambassador Peterson and the Department of State have stepped up their efforts with the Vietnamese on these cases.

Concurrences by: ^{CA} Charles Allen, ^{SB} Scott Busby, ^{ML} Malcolm Lee,
^{GAW} Gina Ambracrombie-Winstanley

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I Memorandum to the President
 Tab A Message to Congress
 Tab B Report to Congress
 Tab C Presidential Determination
 Tab D Incoming Correspondence

Transmitted

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
GENE SPERLING
LARRY STEIN

SUBJECT: Jackson-Vanik Waiver Extension for Vietnam

Purpose

To extend the Jackson-Vanik waiver for Vietnam.

Background

Under Section 402 of the Trade Act of 1974 as amended, you have until June 3 to transmit to Congress a determination² extending the waiver of the Jackson-Vanik Amendment for Vietnam. You granted an initial waiver to Vietnam on March 11, 1998. The Department of State recommends ~~(Tab B) that you sign the~~ determination (Tab C) and the "Report to Congress Concerning Extension of Waiver Authority" (Tab B). Without this determination² the waiver will expire on July 3 together with Vietnam's eligibility for U.S. Government export promotion and investment support programs, including those associated with the Export-Import Bank (EX-IM), the Overseas Private Investment Corporation (OPIC), and the Maritime Administration (MARAD). The waiver also is required to continue direct non-humanitarian assistance to Vietnam. Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

To extend the waiver, you must determine this action will substantially promote freedom of emigration ~~from Vietnam~~. Your March 11 decision was based on the progress Vietnam had made in liberalizing its emigration policies over the last fifteen years, in particular, the significant recent improvements made ~~by the Government of Vietnam~~ in its implementation of the

cc: Vice President
Chief of Staff

Resettlement Opportunity for Vietnamese Returnees (ROVR) program. Since your decision in March, ~~the Government of Vietnam continues to be~~ cooperation in addressing our concerns about this as well as other emigration programs ~~continued~~.

To date, ~~the GVN~~ ^{and Vietnam} has located and authorized for interview over 14,500 of the 18,500 persons potentially eligible for ROVR. ~~They are~~ Vietnam also is providing us with information on ~~the~~ 776 cases ~~it has not cleared for interview~~. The Department of State ~~also~~ is working on resolving ~~these~~ 2,700 cases about which ~~the GVN~~ ^{Vietnam} has not yet provided information. ~~It expects the GVN will agree to clear most of these individuals for INS interviews.~~ At the current rate of processing, we anticipate INS will complete the ROVR interviews by November 1998. As of April 27, 2,133 Vietnamese had emigrated to the United States under the ROVR program.

The Department of State reports Vietnam also is cooperating in the processing of non-refugee immigrant visa cases. In 1997, 15,700 immigrant visas were issued ~~to Vietnamese~~ under the Orderly Departure Program (ODP). Problems remain, however, in our efforts to complete processing of the remaining re-education camp detainees. The number is relatively small (631 cases/3400 people); nearly 900 of these people are Montagnards. In addition, there are approximately 60 outstanding immigrant visa cases involving Montagnards that are of interest to us. INS has not interviewed these individuals, because the ~~GVN~~ ^{Vietnam} has not given them exit visas. Ambassador Peterson and the Department of State have stepped up efforts to press the Vietnamese authorities on these cases.

The Department of State recommends that you sign the
Recommendation to the President to continue the ROVR program.
RECOMMENDATION

That you sign the Message to the Congress at Tab A.

That you sign the Presidential Determination at Tab B.

Attachments

- Tab A Transmittal Message to Congress
- Tab B Presidential Determination
- Tab C Report to Congress
- ~~Tab D Incoming Correspondence~~

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 over the last 10-15 years. Under the Orderly Departure Program (ODP), over 180,000 Vietnamese have entered the United States.

There has been too little time since the Jackson-Vanik waiver for Vietnam was granted on March 9 for there to have been far-reaching changes in Vietnam's migration policies. Nonetheless, in general, Vietnam has continued to make progress.

The Government of Vietnam's (GVN) performance on its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has continued to improve since October 1997 when it eliminated the requirement for applicants to obtain exit permits prior to interview by the Immigration and Naturalization Service (INS). To date it has located, contacted, screened and authorized for interview 78% (over 14,500 persons) of the approximately 18,500 persons potentially eligible for ROVR. As of April 27, 2133 persons who qualified for ROVR benefits had departed for the United States, demonstrating that the GVN is honoring its commitment to permit these individuals to leave Vietnam. Vietnam has also provided to us an accounting of those cases it has not cleared for interview -- roughly 1% of the total. Of the 776 cases, the GVN did not have a current address for 40%, while another 18% of cases were reported to have moved or decided to remain in Vietnam. We expect that a significant number of these cases will be cleared for interview once we have provided the GVN with additional information. There remain some 2,700 individuals about whom the GVN has not provided us any information; however, we expect that most of these individuals will be cleared for

review

interview. At the present rate of processing, we expect that the INS will complete most of the ROVR interviews by November 1998.

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 1997, 15,700 immigrant visas were issued to Vietnamese under ODP. The State Department expects to issue more than 18,000 immigrant visas in 1998.

Despite such progress, we continue to be concerned about the GVN's failure to issue exit permits for some individuals in the non-ROVR ODP caseload. GVN progress on closing out the remaining ODP refugee program for reeducation camp detainees appears to have stalled. While the number of remaining cases in this program is small (631 cases/3400 people), nearly 900 of those people are Montagnards. In addition, there are about 60 current immigrant visa cases involving Montagnards of interest to us that have not been interviewed due to a lack of exit permits.

We have stepped up our efforts to press the Vietnamese to resolve these outstanding cases as part of our ongoing dialogue on emigration issues. Ambassador Peterson and State Department officials in Washington have met with their Vietnamese counterparts to impress upon them the need for immediate improvement in these areas. The issue of discriminatory treatment of ethnic minorities such as the Montagnards, including the denial of access to U.S. departure programs, was placed on the agenda of the most recent round of the ongoing U.S.-Vietnam bilateral human rights dialogue held May 26. Given the substantial progress we have achieved with the GVN in the ROVR program, we are hopeful that the GVN will continue to cooperate with us in resolving these issues.

WH

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Subsection 402(d)(1) of the
Trade Act of 1974, as Amended -- Continuation of
Waiver Authority

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter "the Act"), I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Vietnam will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the Federal Register.

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
GENE SPERLING
LARRY STEIN

SUBJECT: Jackson-Vanik Waiver Extension for Vietnam

Purpose

To extend the Jackson-Vanik waiver for Vietnam.

Background

Under Section 402 of the Trade Act of 1974 as amended, you have until June 3 to transmit to Congress a determination extending the waiver of the Jackson-Vanik Amendment for Vietnam. The Department of State recommends this. Without this determination, the waiver will expire on July 3 together with Vietnam's eligibility for U.S. Government export promotion and investment support programs, including those associated with the Export-Import Bank (EX-IM), the Overseas Private Investment Corporation (OPIC), and the Maritime Administration (MARAD). The waiver also is required to continue direct non-humanitarian assistance to Vietnam. Finally, a Jackson-Vanik waiver is one of the required criteria for most-favored-nation tariff (MFN) treatment - the other being the concluding of a bilateral trade agreement approved by Congress. Negotiation of the trade agreement is still underway.

To extend the waiver, you must determine this action will substantially promote freedom of emigration. Your March 11 decision was based on the progress Vietnam had made in liberalizing its emigration policies over the last fifteen years, in particular, the significant recent improvements made in its implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR) program. Since your decision in March, cooperation in addressing our concerns about this and other emigration programs continues.

cc: Vice President
Chief of Staff

To date, Vietnam has located and authorized for interview over 14,500 of the 18,500 persons potentially eligible for ROVR. They are providing us with information on 776 cases not cleared for interview, and the Department of State is working on resolving another 2,700 cases about which Vietnam has not yet provided information. At the current rate of processing, we anticipate INS will complete the ROVR interviews by November 1998. As of April 27, 2,133 Vietnamese had emigrated to the United States under the ROVR program.

The Department of State reports Vietnam also is cooperating in the processing of non-refugee immigrant visa cases. In 1997, 15,700 immigrant visas were issued under the Orderly Departure Program (ODP). Problems remain, however, in our efforts to complete processing of the remaining re-education camp detainees. The number is relatively small (631 cases/3400 people); nearly 900 of these people are Montagnards. In addition, there are approximately 60 outstanding immigrant visa cases involving Montagnards that are of interest to us. INS has not interviewed these individuals because Vietnam has not given them exit visas. Ambassador Peterson and the Department of State have stepped up efforts to press the Vietnamese authorities on these cases.

RECOMMENDATION

That you sign the Message to the Congress at Tab A.

That you sign the Presidential Determination at Tab B.

Attachments

Tab A	Transmittal Message to Congress
Tab B	Presidential Determination
Tab C	Report to Congress

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 over the last 10-15 years. Under the Orderly Departure Program (ODP), over 480,000 Vietnamese have entered the United States.

There has been too little time since the Jackson-Vanik waiver for Vietnam was granted on March 9 for there to have been far-reaching changes in Vietnam's migration policies. Nonetheless, in general, Vietnam has continued to make progress. }

The Government of Vietnam's (GVN) performance on its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program has continued to improve since October 1997 when it eliminated the requirement for applicants to obtain exit permits prior to interview by the Immigration and Naturalization Service (INS). To date it has located, contacted, screened and authorized for interview 78 percent (over 14,500 persons) of the approximately 18,500 persons potentially eligible for ROVR. As of April 27, 2133 persons who qualified for ROVR benefits had departed for the United States, demonstrating that the GVN is honoring its commitment to permit these individuals to leave Vietnam. Vietnam has also provided to us an accounting of those cases it has not cleared for interview -- roughly 7 percent of the total. Of the 776 cases, the GVN did not have a current address for 40 percent, while another 18 percent of cases were reported to have moved or decided to remain in Vietnam. We expect that a significant number of these cases will be cleared for interview once we have provided the GVN with additional information. There remain some 2,700 individuals about whom the GVN has not provided us any information; however, we expect that most of these individuals

will be cleared for interview. At the present rate of processing, we expect that the INS will complete most of the ROVR interviews by November 1998.

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 1997, 15,700 immigrant visas were issued to Vietnamese under ODP. The State Department expects to issue more than 18,000 immigrant visas in 1998.

Despite such progress, we continue to be concerned about the GVN's failure to issue exit permits for some individuals in the non-ROVR ODP caseload. GVN progress on closing out the remaining ODP refugee program for re-education camp detainees appears to have stalled. While the number of remaining cases in this program is small (631 cases/3400 people), nearly 900 of those people are Montagnards. In addition, there are about 60 current immigrant visa cases involving Montagnards of interest to us that have not been interviewed due to a lack of exit permits.

We have stepped up our efforts to press the Vietnamese to resolve these outstanding cases as part of our ongoing dialogue on emigration issues. Ambassador Peterson and State Department officials in Washington have met with their Vietnamese counterparts to impress upon them the need for immediate improvement in these areas. The issue of discriminatory treatment of ethnic minorities such as the Montagnards, including the denial of access to U.S. departure programs, was placed on the agenda of the most recent round of the ongoing U.S.-Vietnam bilateral human rights dialogue held May 26. Given the substantial progress we have achieved with the GVN in the ROVR program, we are hopeful that the GVN will continue to cooperate with us in resolving these issues.

*I believe that GVN
will
provide that*

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9803511
RECEIVED: 14 MAY 98 15

TO: ALBRIGHT, M

FROM: PRESIDENT

DOC DATE: 03 JUN 98
SOURCE REF: 98-27

KEYWORDS: VIETNAM
IMMIGRATION
CONGRESSIONAL

MFN
LEGAL ISSUES
PD

PERSONS:

SUBJECT: PD 98-27 RE CONTINUATION OF WAIVER AUTHORITY FOR VIETNAM

ACTION: PRESIDENT SGD PD 98-27

DUE DATE: 20 MAY 98 STATUS: C

STAFF OFFICER: GAGNON

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

ABERCROMBIE-WINSTANL
ALLEN
BUSBY
FICKLIN
GAGNON
KRISTOFF
LEE
NSC CHRON

COMMENTS: _____

DISPATCHED BY  DATE 6/3 BY HAND W/ATTCH

OPENED BY: NSDRS

CLOSED BY: NSTSM

DOC 7 OF 7

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9803511

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 GAGNON	Z 98051415 PREPARE MEMO FOR BERGER
002 EXECSEC	Z 98052312 ADD-ON / APPROPRIATE ACTION
003 BERGER	Z 98052920 FWD TO PRESIDENT FOR SIGNATURE
003 GAGNON	Z 98052920 FOR FURTHER ACTION
004 BERGER	Z 98060121 FWD TO PRESIDENT FOR SIGNATURE
004 SPERLING, G	Z 98060316 FOR SIGNATURE
004 STEIN, J	X 98060316 FOR SIGNATURE
005 PRESIDENT	Z 98060311 FOR SIGNATURE
006	X 98060317 PRESIDENT SGD PER WH EXEC CLERK
007	X 98060317 PRESIDENT SGD PD 98-27

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

001 980513	OMB	
005 980602		VICE PRESIDENT
005 980602		WH CHIEF OF STAFF
006 980603	CONGRESS	
007 980603	ALBRIGHT, M	KENNEY, K
007 980603		CONROY, R
007 980603		DUSAULT, P
007 980603		SAUNDERS, T

UNCLASSIFIED

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9803511
RECEIVED: 14 MAY 98 15

TO: DAVIES

FROM: KENNEY, K

DOC DATE: 13 MAY 98
SOURCE REF: 9808367

KEYWORDS: VIETNAM
IMMIGRATION
CONGRESSIONAL

MFN
LEGAL ISSUES
PD

PERSONS:

SUBJECT: PRES RPT TO CONGRESS & DRAFT PD ON JACKSON - VANIK WAIVER AUTHORITY
ALLOWING CONTINUATION OF MFN TRADE STATUS FOR VIETNAM

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 20 MAY 98 STATUS: S

STAFF OFFICER: GAGNON

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
GAGNON

FOR CONCURRENCE
BAKER
BUSBY
KYLE
OMB
RUDMAN

FOR INFO
CLARKE
KRISTOFF
LEE
SCHWARTZ

COMMENTS: _____

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CLOSED BY:

DOC 1 OF 1

UNCLASSIFIED

National Security Council
The White House

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PROOFED BY: _____ LOG # 3511
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BYPASSED WW DESK: _____ DOCLOG TS A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Cosgriff			
Rice	<u>1</u>	<u>9/2</u>	
Davies			
Kerrick			
Steinberg	<u>2</u>	<u>[Signature]</u>	
Berger			
Situation Room			
West Wing Desk	<u>3</u>	<u>TMA 6.2</u>	<u>D Sperling</u>
Records Mgt.	<u>4</u>	<u>TMA 6.2</u>	<u>D SPR PGR</u>
	<u>5</u>	<u>9/3</u>	<u>D</u>

A = Action I = Information D = Dispatch R = Retain N = No Further Action

38 JUN 1 9:16

COMMENTS:

Exec Sec Office has diskette Ys

National Security Council
The White House

5/24/98
@ 1:25P

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URGENT NOT PROOFED: _____ SYSTEM PBS NSC INT ARS
BYPASSED WW DESK: _____ DOCLOG TS A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Cosgriff	<u>1</u>	<u>Kx 5/23</u>	<u>[Signature]</u>
Rice	<u>2</u>		
Davies			
Kerrick	<u>2</u>		
Steinberg	<u>2</u>		<u>dim</u>
Berger			
Situation Room			
West Wing Desk	<u>3</u>	<u>TS 6/1</u>	<u>D GAG</u>
Records Mgt.			
<u>Caughon</u>	<u>4</u>		

A = Action I = Information D = Dispatch R = Retain N = No Further Action

COMMENTS:

Gen G. pls call Gen Steinberg to discuss

38 MAY 22 5:23

Exec Sec Office has diskette Ys

June 3, to transmi"

Expires July 2 J-V waivers

Congress has 60

calendar days

after the date the authority

would expire

{ waiver with continuous unless
disapproved by Congress

disapproval shall take

form of a joint resolution

If vetoed, Congress has until

later of 15 legislative days

or 60 calendar days.

National Security Council
The White House

PROOFED BY: _____

LOG # 3511

URGENT NOT PROOFED: _____

SYSTEM (PRS) NSC INT A

BYPASSED WW DESK: _____

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	SEQUENCE TO	INITIAL/DATE	DISPOSITI
Cosgriff			
Rice	1		
Davies			
Kerrick			
Steinberg			
Berger			
Situation Room			
West Wing Desk	2		
Records Mgt.			

A = Action I = Information D = Dispatch R = Retain N = No Further

CC:

COMMENTS:

Exec: Sec Office has diskette

3 \ express \ 3511 state.doc

MEMORANDUM
OF CALL

Previous editions usable

TO:

Samie

☐

YOU WERE CALLED BY—

☐

YOU WERE VISITED BY—

Sandy ICRISSA'S

OF (Organization)

Office

☐

PLEASE PHONE ►

☐

FTS

☐

AUTOVON

☐

WILL CALL AGAIN

☐

IS WAITING TO SEE YOU

☐

RETURNED YOUR CALL

☐

WISHES AN APPOINTMENT

MESSAGE

*called about this
action.*

RECEIVED BY

DATE

3/25

TIME

10:10

50363-111 NSN 7540-00-634-4018

U.S. G.P.O.:1994-300-891/00003

OPTIONAL FORM 363 (Rev. 1-94)

Prescribed by GSA

TO: BERGER

FROM: CAPLAN, P

DOC DATE: 24 MAR 98
SOURCE REF:

KEYWORDS: VIETNAM
IMMIGRATION
WH REFERRAL

MFN
EO

PERSONS:

SUBJECT: EO ON VIETNAM JACKSON - VANIK WAIVER

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 26 MAR 98 STATUS: S

STAFF OFFICER: GAGNON

URGENT

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
GAGNON

FOR CONCURRENCE
BAKER
BUSBY
KYLE

FOR INFO
BRAINARD, L
CLARKE
EXECSEC
KRISTOFF
LEE
SCHWARTZ

URGENT

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSDRS

CLOSED BY:

DOC 1 OF 1

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/24/98 ACTION / CONCURRENCE / COMMENT DUE BY: 3/26/98
 Subject: EXEC. ORDER -- VIETNAM JACKSON - VANIK WAIVER

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	REED	☐	☐
MATHEWS	☐	☐	RUFF	☐	☐
RAINES	☐	☐	SMITH	☐	☐
BEGALA	☒	☐	SOSNIK	☐	☐
BERGER	☒	☐	SPERLING	☐	☐
BLUMENTHAL	☐	☐	STEIN	☒	☐
ECHAVESTE	☐	☐	STERN	☐	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	<u>CLERKS</u>	☒	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

COMMENTS TO STAFF SEC.

RESPONSE:



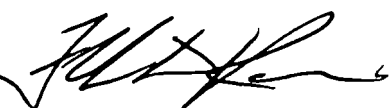
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

98 MAR 24 PM 12:13

March 20, 1998

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM: Franklin D. Raines 
Director

SUBJECT: Proposed Executive Order Entitled "Waiver under the Trade Act of 1974 with Respect to Vietnam"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of State. The proposed order would waive the Jackson-Vanik Amendment of the Trade Act of 1974 with respect to Vietnam to permit increased trade with Vietnam.

BACKGROUND: The Jackson-Vanik Amendment (section 402 and 409 of the Trade Act of 1974, as amended) ("Amendment") provides that the Trade Act's economic benefits cannot be extended to countries that: (1) deny their citizens the right or opportunity to emigrate; (2) impose more than a nominal tax on emigration documents required to emigrate; or (3) impose more than a nominal charge on any citizen who desires to emigrate. Under that standard, Vietnam should be denied the Trade Act's benefits. However, the amendment also provides that the President may waive the Amendment, if he reports to Congress: (1) that such a waiver will promote the Amendment's freedom of emigration objectives; and (2) that he has received assurances that the country's emigration practices will lead substantially to the achievement of the Amendment's objectives.

Regarding Vietnam, the government there has liberalized in emigration policies considerably since the 1980's. The Vietnamese authorities have established a solid record in cooperating with the United States on the Orderly Departure Program, under which 450,000 Vietnamese have emigrated legally to the United States. The Government of Vietnam has also provided assurances that it will continue to liberalize its emigration policies. The Department of State and the National Security Council believe that granting a waiver of the Amendment to Vietnam builds on the Administration's strategy of promoting stability in the region through Vietnam's integration into the world markets and international organizations such as ASEAN and APEC.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachments

Executive Order

WAIVER UNDER THE TRADE ACT OF 1974 WITH
RESPECT TO VIETNAM

By the authority vested in me as President by the Constitution and the laws of the United States, including subsection 402(c)(2) of the Trade Act of 1974, as amended ("Act") (19 U.S.C. 2432(c)(2)), which continues to apply to Vietnam pursuant to subsection 402(d) of the Act, and having made the report to the Congress required by subsection 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of the Act with respect to Vietnam.

THE WHITE HOUSE,

Highsmith, Newell L.

From: Highsmith, Newell L.
Sent: Wednesday, March 11, 1998 1:52 PM
To: Gagnon, James M.; Crowley, Philip J.
Cc: @LEGAL - Legal Advisor; @PRESS - Public Affairs; @ASIA - Asian Affairs; @LEGISLAT - Legislative Affairs; @DEMOCRACY - Dem/Human Affairs
Subject: RE: Jackson-Vanik Waiver -- When Effective [UNCLASSIFIED]

Who did you talk to in State/L? I just called Keith Loken (L/EB), who had worked this issue with Mary Comfort (L/EAP) and Paul Clayman (L/PM). Keith said they agreed with me that the report to Congress and the Executive Order are required for the waiver to take effect. They thought that the EO had already been issued, so they were taking the position that the report to Congress would be the final step. I let them know that the EO is still in process. So I think the answer is that the J-V waiver will be effective when the EO is issued.

FYI: In one of the recent J-V waivers involving Turkmenistan and Tajikistan (1992), there was a three-week gap between issuance of the PD and issuance of the EO. Only the EO says "I hereby waive." The PD says "I have determined that a waiver **by Executive Order**" will promote the statutory objectives.

-----Original Message-----

From: Gagnon, James M.
Sent: Wednesday, March 11, 1998 12:46 PM
To: Crowley, Philip J.
Cc: @LEGAL - Legal Advisor; @PRESS - Public Affairs; @ASIA - Asian Affairs; @LEGISLAT - Legislative Affairs; @DEMOCRACY - Dem/Human Affairs
Subject: Jackson-Vanik Waiver -- When Effective [UNCLASSIFIED]
Importance: High

PJ:

State's legal office informs me that the Jackson-Vanik waiver becomes effective at such time as Congress receives the President's notification of his granting of the waiver. JGagnon

THE WHITE HOUSE

WASHINGTON

March 09, 1998

Presidential Determination
No. 98-17

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination on
Section 402(c)(2)(A) of the Trade Act
of 1974 -- Vietnam

Pursuant to section 402(c)(2)(A) of the Trade Act of 1974
(Public Law 93-618, January 3, 1975; 88 Stat. 1978, 19 U.S.C.
2432(c)(2)(A)) as amended (the "Act"), I determine that a waiver
by Executive order of the application of subsections (a) and (b)
of section 402 of the Act with respect to Vietnam will substan-
tially promote the objectives of section 402.

You are authorized and directed to publish this determination
in the Federal Register.

William J. Clinton

THE WHITE HOUSE

WASHINGTON

March 9, 1998

Presidential Determination
No. 98-18

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination Under
Subsection 2(b)(2)(D) of the Export-Import
Bank Act of 1945, as Amended -- Vietnam

Pursuant to subsection 2(b)(2)(D) of the Export-Import Bank Act of 1945, as amended, I determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to Vietnam.

You are authorized and directed to report this determination to the Congress and publish it in the Federal Register.

William P. Clinton

HIGH PERFORMANCE COMPUTERS IN RUSSIA
March 10, 1998

Q: As reported in the Washington Times today, is the latest Russian response the end of the line for this request?

A: No, the latest Russian response to our request is not the end of the line. We continue to have a number of discussions at various levels with the Russians to find a mutually satisfactory solution regarding the high performance computers at Arazamas-16 and Chelyabinsk-70.

The request is one step of many in an ongoing process. We intend to revisit this issue with the Russians, and we will urge them to reconsider. Because this matter is also the subject of an ongoing investigation by the Department of Commerce and the U.S. Customs Service under the direction of the U.S. Attorney's Office, I am unable to provide any more specific information.

Q: Will the issue be discussed at the Gore-Chernomyrdin meeting?

A: Meetings at this level normally cover broad policy issues. Export controls may be one of the topics.

VIETNAM — JACKSON-VANIK WAIVER
March 10, 1998

Q: Why has the President decided to proceed with a Jackson Vanik waiver at this time?

A: The Jackson-Vanik Amendment authorizes the President to waive the provisions of this legislation if he determines the granting of a waiver will promote the amendment's freedom of emigration objectives and if he receives assurances the country's emigration practices will lead to the achievement of these objectives.

The President was able to move forward with a Jackson-Vanik waiver for Vietnam at this time, because Vietnam has made progress in liberalizing its emigration policies. Under the Orderly Departure Program (ODP) more than 450,000 Vietnamese have emigrated legally to the United States. More recently, the Vietnamese authorities have revised regulations which we expect will accelerate significantly implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR) program.

Although the Jackson-Vanik Amendment does not include human rights criteria, efforts to encourage improvements in Vietnam's human rights practices are a key factor in the bilateral relationship. We use every opportunity to raise our human rights concerns with Vietnamese government officials at the highest level. We also address these issues in our formal human rights dialogue.

Q: Does this waiver automatically extend to Vietnam Most-Favored-Nation (MFN) status?

A: No it does not. A Jackson-Vanik waiver together with a completed bilateral trade agreement are prerequisites for MFN.

We currently are negotiating a bilateral trade agreement with Vietnam. However, MFN can be extended to Vietnam only after Congress has approved the bilateral trade agreement.

Q: Why is the Administration granting Vietnam a Jackson-Vanik waiver if it has not accounted for all the POW/MIAs in Vietnam?

A: Achieving the fullest possible accounting for Americans missing from the Vietnam War is the Administration's highest priority in our bilateral relations with Vietnam. We have received excellent cooperation in this effort from the Government of Vietnam and the Vietnamese people. We expect Vietnam's cooperation on POW/MIA accounting will continue at a high level as we work to advance a broad range of bilateral ties.

Q: What Congressional action is required on Jackson-Vanik?

A: The Jackson-Vanik Amendment authorizes the President to waive the provisions of this legislation if he determines that the waiver will promote the Amendment's freedom of emigration objectives and if he has received assurances that Vietnam's emigration practices will lead to achievement of these objectives.

In June 1998, there will be an annual review of the emigration practices of all countries which have been granted Jackson-Vanik waivers. At that time, we and the Congress will review Vietnam's performance on emigration issues.

If the President determines that it is appropriate to extend the Jackson-Vanik waiver for Vietnam for the next 12 months he can do so by transmitting the required determination and report to Congress. The waiver becomes effective unless Congress enacts a joint resolution of disapproval.

Congress has sixty days, beginning on the date the waiver authority is scheduled to expire (July 2), to adopt a joint resolution of disapproval.

Q: What other waivers related to Jackson-Vanik has the Administration acted upon?

A: In addition to the Jackson-Vanik waiver, the President has granted Vietnam a waiver to a provision of the Export-Import Bank Act which prohibits EX-IM from operating in Marxist-Leninist states, including Vietnam. This act gives the President the authority to waive the prohibition if it is in the national interest to do so.

The Secretary of State has granted Vietnam national interest waivers two provision of the Foreign Assistance Act (FAA) — 620 (F) and 620 (G) -- that prevent the United States Government from furnishing any assistance to Vietnam under the FAA. These waivers will permit USAID and OPIC to initiate bilateral assistance and investment support programs in Vietnam.

Section 620 (F) of the FAA prohibits aid to communist countries, including Vietnam.

Section 620 (G) of the FAA prohibits furnishing of U.S. government assistance under the Act to a government that provides assistance to governments of countries designated on the Department of State's "Terrorism List".

The Department of State has determined that Section 620 (G) applied to Vietnam because Vietnamese Government-controlled organizations have provided small amounts of assistance to Cuba in the form of gifts of rice and clothing. Such donations, although modest, technically qualify as "assistance" as defined in Section 620 (G).

Both these provisions, like the Marxist-Leninist prohibition of the Export-Import Bank Act, may be waived if it is the national interest to do so. However, unlike the Marxist-Leninist waiver, which must be granted by the President, the authority to grant waivers to section 620 (F) and 620 (G). has been delegated to the Secretary of State.

~~CONFIDENTIAL~~ Attachment

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20504

Redo 2

February 11, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER
GENE SPERLING
DANIEL K. TARULLO

THROUGH: SANDRA J. KRISTOFF *SJK*

FROM: JAMES M. GAGNON *JMG*

SUBJECT: Granting a Waiver of Jackson-Vanik Amendment to
Vietnam; Removal of Prohibition on Export-Import
Bank Programs in Vietnam

The Department of State has recommended, with the approval of the NSC Deputies Committee, that the President grant a waiver of the Jackson-Vanik Amendment to Vietnam. Based on our review of Vietnamese emigration policies, we believe Vietnam now meets the requirements for such a waiver and that United States interests, including the emigration objectives of Title IV of the Act, would be best served by issuing the Presidential determination attached at Tab I-A.

The U.S. Export-Import Bank (EX-IM) is prohibited by law from supporting U.S. exports to Marxist-Leninist states including the Socialist Republic of Vietnam. The Department of State has recommended, with the approval of the NSC Deputies Committee, that the President determine it is in the national interest to allow EX-IM programs for exports to Vietnam. A Presidential determination to this effect (Tab I-C), combined with a waiver of the Jackson-Vanik Amendment, will enable EX-IM to extend its loan, guarantee and insurance programs to Vietnam.

Concurrences by: James Baker, Eric Schwartz, Mara Rudman,
Malcolm Lee *S/L for all*

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

That you authorize Glyn T. Davies to sign the memorandum to Robert Damus at Tab II.

Approve *C* Disapprove

Attachments

Tab I Memorandum to the President
 Tab A Presidential Determination Jackson-Vanik
 Tab B Message to the Congress
 Tab C Presidential Determination Export-Import Bank
Tab II Memorandum to Robert Damus
 Tab A Proposed Executive Order
Tab III Incoming Correspondence

THE WHITE HOUSE
WASHINGTON

March 4, 1998

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER *SB*
GENE SPERLING *GS*
DANIEL K. TARULLO *DKT*
LARRY STEIN *LS*

President sgd per WH
Executive Clerk TMYA 3.9.98

SUBJECT: Granting a Waiver of the Jackson-Vanik Amendment to Vietnam; Removal of Prohibition on Export-Import Bank Programs in Vietnam

Purpose

To execute the Determination at Tab A granting a waiver of the Jackson-Vanik Amendment to Vietnam; and to sign the Message to Congress at Tab B conveying this Determination.

To execute the Determination at Tab C that it is in the national interest to allow Export-Import (EX-IM) Bank programs to support U.S. exports to Vietnam.

Background

The Jackson-Vanik Amendment (section 402 and 409 of the Trade Act of 1974, as amended) provides that certain U.S. economic benefits cannot be extended to countries that: (1) deny their citizens the right or opportunity to emigrate; (2) impose more than a nominal tax on emigration, visas or other documents required to emigrate; or (3) impose more than a nominal charge on any citizen who desires to emigrate. Vietnam should be denied the benefits under that standard, but the statute provides you with waiver authority if you report to Congress that: (1) such a waiver will substantially promote the Amendment's freedom of emigration objectives; and (2) you have received assurances that Vietnam's emigration practices will henceforth lead substantially to the achievement of these objectives.

cc: Vice President
Chief of Staff

Vietnam has liberalized its emigration policies considerably since the 1980's. The Vietnamese authorities have established a solid record in cooperating with us on the Orderly Departure Program (ODP), under which 450,000 Vietnamese have emigrated legally to the United States. While corruption, administrative burdens, and politically motivated harassment have hampered the processing of some legal emigrants, Vietnam has demonstrated a willingness to respond to our complaints.

A recent example of progress toward freer emigration has been the significant improvement we have seen in Vietnam's implementation of the Resettlement Opportunity for Vietnamese Returnees (ROVR), a program designed to provide a last opportunity for settlement in the United States to those Vietnamese who returned to Vietnam from refugee camps in Southeast Asia. The Vietnamese authorities have contacted and approved for interview by the U.S. Immigration and Naturalization Service (INS) thousands of persons we believe are eligible for the ROVR program. Vietnam also has implemented changes in its emigration regulations to allow us to expedite INS interviews of ROVR applicants. We expect these changes should allow us to complete our ROVR processing in Vietnam by the end of September 1998.

In the meantime, we will be looking to Vietnam to account for 3,000 persons we believe are eligible for ROVR but whom the Vietnamese have concluded do not qualify for the program. We also will be pressing the Vietnamese to issue expeditiously passports to ROVR applicants approved to resettle in the United States by INS. The annual review for all countries receiving Jackson-Vanik waivers will be held in June 1998. At that time, we will examine closely Vietnam's emigration policies and practices, including its responses on the 3,000 cases on which we have eligibility questions.

The U.S. EX-IM Bank is prohibited by law from supporting U.S. exports to Marxist-Leninist states, including the Socialist Republic of Vietnam (section 2(b)(2) of the Export-Import Bank Act of 1945). However, the Act gives you the authority to determine that it is in the national interest to allow EX-IM Bank programs to support exports to Vietnam. This determination combined with the waiver of the Jackson-Vanik Amendment will enable the EX-IM Bank to extend its loan, guarantee and insurance programs to Vietnam.

Granting a waiver of the Jackson-Vanik Amendment to Vietnam and allowing the Vietnamese to participate in EX-IM Bank programs builds on our strategy of promoting stability in the region through Vietnam's integration into world markets and international organizations such as ASEAN and APEC. The

availability of EX-IM Bank facilities for exports to Vietnam also provides significant benefits for American firms competing in the Vietnamese market.

The granting of MFN cannot occur until we have concluded a comprehensive trade agreement with Vietnam and will require the approval of both the House and Senate. Discussions with the Vietnamese are underway but progress has been slow, and it is difficult to predict when these negotiations might be completed. However, we believe the granting of these waivers will provide Vietnam with the incentive to renew its efforts to implement the economic reforms needed to conclude a bilateral trade agreement.

The initiation of Overseas Private Investment Corporation (OPIC) programs will require a signed bilateral accord; currently we have an initialed accord which will require some changes. (Madeleine is expected to use her delegated authority to waive two other prohibitions in the Foreign Assistance Act, but it is arguable that OPIC activities are not blocked by these prohibitions in any event.) In addition, OPIC will be circulating shortly a report which states that Vietnam meets the worker rights criteria of OPIC participation by virtue of the steps it is taking to implement internationally recognized worker rights.

In Congress, although we have obtained support from a wide spectrum of Members, we can expect strong and vocal opposition from some Members in both houses. It is unlikely that either the House and Senate would take action to block this waiver package, but we should anticipate a legislative battle when we get to the granting of MFN.

Although not a statutory prerequisite for the waivers proposed in this memorandum, it should be noted that Vietnam's cooperation in helping us to achieve the fullest possible accounting for our prisoners of war and missing in action has been excellent.

RECOMMENDATION

That you sign the Presidential Determinations at Tabs A and C.

That you sign the Message to the Congress at Tab B.

Attachments

Tab A	Presidential Determination for Jackson-Vanik
Tab B	Message to the Congress
Tab C	Presidential Determination for Export Import Bank

THE WHITE HOUSE

WASHINGTON

March 09, 1998

Presidential Determination
No. 98-17

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination on
Section 402(c)(2)(A) of the Trade Act
of 1974 -- Vietnam

Pursuant to section 402(c)(2)(A) of the Trade Act of 1974
(Public Law 93-618, January 3, 1975; 88 Stat. 1978, 19 U.S.C.
2432(c)(2)(A)) as amended (the "Act"), I determine that a waiver
by Executive order of the application of subsections (a) and (b)
of section 402 of the Act with respect to Vietnam will substan-
tially promote the objectives of section 402.

You are authorized and directed to publish this determination
in the Federal Register.

William J. Clinton

TO THE CONGRESS OF THE UNITED STATES:

Pursuant to section 402(c)(2) of the Trade Act of 1974, as amended ("the Act"), I have determined that a waiver of the application of subsections 402(a) and (b) with respect to Vietnam will substantially promote the objectives of section 402. A copy of that determination is attached. I also have received assurances with respect to the emigration practices of Vietnam required by section 402(c)(2)(B) of the Act. This message constitutes the report to Congress required by section 402(c)(2).

Pursuant to subsection 402(c)(2) of the Act, I shall issue an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to Vietnam.

THE WHITE HOUSE,

THE WHITE HOUSE

WASHINGTON

March 9, 1998

Presidential Determination
No. 98-18

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination Under
Subsection 2(b)(2)(D) of the Export-Import
Bank Act of 1945, as Amended -- Vietnam

Pursuant to subsection 2(b)(2)(D) of the Export-Import Bank Act of 1945, as amended, I determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to Vietnam.

You are authorized and directed to report this determination to the Congress and publish it in the Federal Register.

William J. Clinton

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

March 4, 1998

ACTION

MEMORANDUM FOR ROBERT G. DAMUS

FROM: GLYN T. DAVIES *GDm*

SUBJECT: Proposed Executive Order on Jackson-Vanik
Amendment to Vietnam

We are providing the enclosed draft Executive Order, "Waiver Under the Trade Act of 1974 with Respect to Vietnam," for your coordination. The Order has been cleared with the Department of State. We request that OMB complete its processing as soon as possible.

Attachment

Tab A Proposed Executive Order

EXECUTIVE ORDER

- - - - -

WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO VIETNAM

By virtue of the authority vested in me as President of the United States of America by subsection 402(c)(2) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), as amended, which continues to apply to Vietnam pursuant to subsection 402(d), and having made the report to the Congress required by subsection 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of said Act with respect to Vietnam.

THE WHITE HOUSE,

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Secretary of State Madeleine Albright to President William J. Clinton re: Vietnam's Eligibility for U.S. Export-Import Bank Programs (2 pages)	02/23/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor (Mary Derosa)
OA/Box Number: 3507

FOLDER TITLE:

Jackson-Vanik (Vietnam) [4]

2014-1060-F
kh1415

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

_____, 19__

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination under Subsection 2(b)(2) (D) of
the Export-Import Bank Act of 1945, as
Amended -- Vietnam

Pursuant to subsection 2(b)(2) (D) of the Export-Import Bank Act of 1945, as amended, I determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease, to Vietnam.

On my behalf, please transmit this determination to the Speaker of the House and to the President of the Senate.

This Determination shall be published in the Federal Register.

The White House,

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	Strobe Talbott to President William J. Clinton re: Granting a Waiver of the Jackson-Vanik Amendment for Vietnam (3 pages)	02/03/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor (Mary Derosa)
OA/Box Number: 3507

FOLDER TITLE:

Jackson-Vanik (Vietnam) [4]

2014-1060-F
kh1415

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination under Section 402(c)(2)(A) of
the Trade Act of 1974 -- Vietnam

Pursuant to section 402(c)(2)(A) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978) as amended (the "Act"), I determine that a waiver by Executive Order of the application of subsections (a) and (b) of section 402 of the Act with respect to Vietnam will substantially promote the objectives of section 402.

On my behalf, please transmit this Determination to the Speaker of the House and to the President of the Senate.

This Determination shall be published in the Federal Register.

The White House,

To the Congress of the United States:

I hereby transmit the document referred to in subsection 402 (c) (2) of the Trade Act of 1974, as amended, with respect to a waiver of the application of subsections 402(a) and (b) of that Act to Vietnam.

I report in that document my Determination that such a waiver will substantially promote the objectives of section 402. I have instructed the Secretary of State to provide a copy of that Determination to the Speaker of the House and the President of the Senate. The report also indicates that I have received the assurances with respect to the emigration practices of Vietnam required by section 402(c) (2) (B) of the Act.

The White House,

Report to the Congress Concerning a Waiver of Subsections
402 (a) and (b) of the Trade Act of 1974 -- Vietnam

To the Congress of the United States:

Pursuant to subsection 402(c)(2) of the Trade Act of 1974, (hereinafter the "Act"), I shall issue today an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to Vietnam.

I wish to report to the Congress that I have determined that the requirements of subsections 402(c)(2)(A) and (B) of the Act have been satisfied.

The White House,

EXECUTIVE ORDER

WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO
VIETNAM

By virtue of the authority vested in me as President of the United States of America by subsection 402(c)(2) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), as amended, which continues to apply to Vietnam pursuant to subsection 402(d), and having made the report to the Congress required by subsection 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of said Act with respect to Vietnam.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. memo	Stanley Roth to Secretary of State Madeleine Albright re: Removal of Prohibition on Import-Export Bank Programs in Vietnam (3 pages)	01/12/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Legal Advisor (Mary Derosa)
OA/Box Number: 3507

FOLDER TITLE:

Jackson-Vanik (Vietnam) [4]

2014-1060-F
kh1415

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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