

# FOIA MARKER

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| Original OA/ID Number:<br>2037 |            |               |             |                |
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| Document ID: 9803511           |            |               |             |                |
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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 (Signature) DATE 6/3 BY HAND W/ATTCH

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DOC 7 OF 7

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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

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|-----|--------|-------------|-------------------|
| 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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DOC 1 OF 1

UNCLASSIFIED

**National Security Council  
The White House**

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| Davies         | _____       | _____              | _____                         |
| Kerrick        | _____       | _____              | _____                         |
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| Berger         | _____       | _____              | _____                         |
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CC:

COMMENTS: Jim G. plo call Jim Steinberg  
to discuss:

98 MAY 22 AM 5:07  
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**National Security Council  
The White House**

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*2 NIFAR  
Rice*

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The White House

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

COMMENTS:

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National Security Council  
The White House

5/26/98  
@ 1:25 PM

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COMMENTS:

gen 6. plo call gen Steinber  
to discuss

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June 3, to transmit

Expires July 2 J-V waivers

Congress has 60

calendar days

after the date the authority

would expire

{ waiver auth continues 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

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COMMENTS:

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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                                                |
|------------------------------------------------------------------------------------------------------------------------|-------|-------|----------------------------------------------------------|
| MS. MADELEINE ALBRIGHT<br>7TH FLOOR<br>2201 C STREET, NW<br>WASHINGTON, DC<br>DEPARTMENT OF STATE                      | _____ | _____ | _____<br>PRINT LAST NAME: _____<br>COPY: <u>ORIG + 1</u> |
| MS. KRISTIE A. KENNEY<br>ROOM 7224, MAIN STATE<br>2201 C STREET, N.W.<br>WASHINGTON, D.C. 20520<br>DEPARTMENT OF STATE | _____ | _____ | _____<br>PRINT LAST NAME: _____<br>COPY: <u>2</u>        |
| MS. RYAN CONROY<br>ROOM 5945, NEW STATE<br>2201 C STREET, NW<br>WASHINGTON, DC 20523<br>AGENCY FOR INTL DEVELOPMENT    | _____ | _____ | _____<br>PRINT LAST NAME: _____<br>COPY: <u>2</u>        |
| MR. PHILIP DUSAULT<br>INTL SECURITY AFFAIRS<br>ROOM 10002 NEOB<br>OFFICE OF MANAGEMENT & BUDGET                        | _____ | _____ | _____<br>PRINT LAST NAME: _____<br>COPY: <u>2</u>        |
| MR. TIM SAUNDERS<br>ROOM -5<br>OEOB<br>WH EXECUTIVE CLERK                                                              | _____ | _____ | _____<br>PRINT LAST NAME: _____<br>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.

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.

## THE WHITE HOUSE

WASHINGTON

June 2, 1998

ACTION

98 JUN 2 PM 3:40

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         |

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     |



## United States Department of State

Washington, D.C. 20520

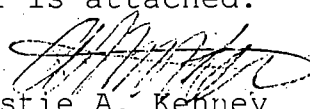
May 22, 1998

**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 <sup>3</sup>

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 ~~this~~ *this* action will ~~substantially promote freedom of emigration from~~ *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.~~ *This* *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: <sup>CA</sup> Charles Allen, <sup>SB</sup> Scott Busby, <sup>ML</sup> Malcolm Lee,  
<sup>GAW</sup> 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

*Transmittal*



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<sup>2</sup> 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 <sup>this</sup> ~~(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 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~~ <sup>and</sup> ~~cooperation~~ <sup>Vietnam</sup> in addressing our concerns about this as well as other emigration programs ~~continues.~~ <sup>another</sup> ~~and~~

To date, ~~the GVN~~ <sup>Vietnam</sup> has located and authorized for interview over 14,500 of the 18,500 persons potentially eligible for ROVR. ~~They are~~ <sup>and</sup> ~~Vietnam also is~~ <sup>another</sup> providing us with information on the 776 cases ~~it has not cleared for interview.~~ <sup>and</sup> The Department of State ~~also~~ is working on resolving ~~these~~ <sup>another</sup> 2,700 cases about which ~~the GVN~~ <sup>Vietnam</sup> 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~~ <sup>Vietnam</sup> 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~~ <sup>Vietnam</sup> 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~~

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

*percent*

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.

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  
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Freedom of Emigration Determination

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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.

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*I believe that GVN  
will  
provide that part*