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Original OA/ID Number: 3802				
Document ID: 9903865				
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UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9903865
RECEIVED: 19 MAY 99 12

TO: ALBRIGHT, M

FROM: PRESIDENT

CHRON FILE

DOC DATE: 03 JUN 99
SOURCE REF: 99-27

KEYWORDS: VIETNAM
PD

MFN

PERSONS:

SUBJECT: DETERMINATION UNDER SUBSECTION 402 D 1 OF TRADE ACT OF 74 AS AMENDED
CONTINUATION OF WAIVER AUTHORITY FOR VIETNAM

ACTION: PRES SGD PD 99-27

DUE DATE: 25 MAY 99 STATUS: C

STAFF OFFICER: ARVIZU

LOGREF: 9903952

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO

ARVIZU

NSC CHRON

COMMENTS: _____

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OPENED BY: NSDMK

CLOSED BY: NSGP

DOC 4 OF 4

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9903865

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 ARVIZU	Z 99051912 PREPARE MEMO FOR BERGER
002 BERGER	Z 99052819 FWD TO PRESIDENT FOR SIGNATURE
002 ARVIZU	Z 99060115 FOR REDO
002 BERGER	Z 99060211 FWD TO PRESIDENT FOR SIGNATURE
002 SPERLING, G	Z 99060219 FOR SIGNATURE
003 PRESIDENT	Z 99060317 FOR SIGNATURE
004	X 99060411 PRES SGD PD 99-27

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

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004	990603	ALBRIGHT, M	KENNEY, K
004	990603		CONROY, R
004	990603		BENT, R
004	990603		SAUNDERS, T

UNCLASSIFIED

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9903865
RECEIVED: 19 MAY 9

TO: DAVIES

FROM: KENNEY, K

DOC DATE: 18 MAY 99
SOURCE REF: 199909252

KEYWORDS: VIETNAM

MFN

PERSONS:

SUBJECT: DETERMINATION OF JACKSON VANIK WAIVER FOR VIETNAM SECTION 402 OF
TRADE ACT OF 1974

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 25 MAY 99 STATUS: S

STAFF OFFICER: ARVIZU

LOGREF:

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION
ARVIZU

FOR CONCURRENCE
BAKER
BUSBY
HENDRICKS

FOR INFO
HAMMONDS
LIEBERTHAL
MCCARTHY
SCHWARTZ

COMMENTS: _____

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DOC 1 OF 1

UNCLASSIFIED

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

3865

May 28, 1999

ACTION

MEMORANDUM FOR SAMUEL R. BERGER
GENE SPERLING

THROUGH: D. HOLLY HAMMONDS
JACK PRITCHARD

FROM: ALEX ARVIZU

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

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. Without this determination, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government credit and investment guarantee programs and most-favored-nation (MFN) tariff treatment, now referred to under U.S. law as normal trade relations, or NTR. Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as is Congressional approval of a bilateral trade agreement, which remains under negotiation.

The only legal requirement that must be met is for the President to determine that a waiver extension will substantially promote freedom of emigration from Vietnam. Since the President's decision in June 1998 to continue the waiver for an additional twelve-month period, Vietnam has continued to make substantial progress on emigration issues of concern to us. In our view, continuation of the waiver for an additional year will contribute toward substantially promoting freedom of emigration from Vietnam.

Concurrence by: Chuck Allen, Scott Busby, Dan Shapiro

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 ~~B~~ II Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
GENE SPERLING
LARRY STEINSUBJECT: Extension of Jackson-Vanik Waiver Authority for
VietnamPurpose

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. Without this determination, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government credit and investment guarantee programs and most-favored-nation (MFN) tariff treatment, now referred to under U.S. law as normal trade relations, or NTR. Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as is Congressional approval of a bilateral trade agreement, which remains under negotiation.

To extend the waiver, you must determine that this action will substantially promote freedom of emigration from Vietnam. Since your decision in June 1998 to continue the waiver, Vietnam has continued to make substantial progress on emigration issues of concern to us. Although we continue to press the Government of Vietnam to be more forthcoming in some areas, in our view continuation of the Jackson-Vanik waiver for an additional year would contribute toward substantially promoting freedom of emigration from Vietnam.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you sign the message to Congress at Tab A and the Presidential Determination at Tab B, and approve transmitting the report to Congress at Tab C.

Attachments

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

THE WHITE HOUSE
WASHINGTON

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 the application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

THE WHITE HOUSE,

THE WHITE HOUSE

WASHINGTON

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.

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

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

Freedom of Emigration Determination

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

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

After a slow start, processing of eligible cases under the ROVR program accelerated dramatically in 1998 and is now near completion. As of June 1, 1999, the GVN had cleared for interview 19,975 individuals, or 96 percent of the ROVR applicants. By contrast, at this time last year, the GVN had cleared 78 percent of applicants. Once cleared for interview by the GVN, applicants must gather the documents necessary to support their applications and be scheduled for interview with ODP, which will determine their qualification for subsequent

interview by the Immigration and Naturalization Service (INS). The INS has approved 15,833 for admission to the United States, 14,715 of which have departed for the United States. An additional 463 await INS interview. The difference between the number of individuals cleared by the GVN and the number approved by the INS or awaiting interview is the result of determinations made by ODP and INS. ODP has determined 8 percent of ROVR applicants (1,668 people) not to be qualified for an INS interview according to U.S. ROVR guidelines. INS has determined that 11 percent (1,996 people) are not admissible to the United States as refugees.

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

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

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

who wish to depart. The U.S. Government will not consider the HO program to be completed until the last applicant has had the opportunity to be interviewed by ODP or we have an acceptable accounting for each case.

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

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

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

GVN progress on freedom of emigration in 1998 and the early part of 1999 has permitted us to near completion of various ODP refugee admissions programs in Vietnam. U.S. Government officials both in Washington and in Vietnam will continue to press the Vietnamese at all levels to take all necessary steps

to expeditiously complete processing under these programs and ensure that all interested applicants have the opportunity to interview and, if qualified, depart for the United States.

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

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

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

UNCLASSIFIED

United States Department of State

Washington, D.C. 20520

May 18, 1999

MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

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

According to Section 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 (now referred to under U.S. law as normal trade relations or NTR.) Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as well as Congressional approval of a bilateral trade agreement which remains under negotiation.

The only legal requirement that must be met is for the President to determine that a waiver extension will substantially promote freedom of emigration from Vietnam. Since the President's decision in June 1998 to continue the waiver for Vietnam, that country has continued to make substantial progress on emigration. It is, therefore, our belief that continuation of the waiver for another year will again substantially promote freedom of emigration from Vietnam. 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

UNCLASSIFIED

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 twelve months will substantially promote the objectives of section 402, I have today determined that continuation of the waiver currently applicable to Vietnam will also substantially promote the objectives of section 402 of the Act. My determination is attached and incorporated herein.

Freedom of Emigration Determination

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

The Government of Vietnam (GVN) cooperates with the United States Government to clear for interview applicants under ODP and the Resettlement Opportunities for Vietnamese Returnees (ROVR) program. The GVN issues passports and exit permits to Vietnamese approved for admission to the United States, and in the case of ROVR applicants, expedites the departure clearance process. Based on progress made on refugee processing to date, it is our aim to complete processing of nearly all of the current ODP caseload before the end of FY 1999.

After a slow start, processing of eligible cases under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program accelerated dramatically in 1998 and is now near completion. As of May 10, the GVN had cleared for interview 95% of the ROVR-eligible applicants -- 19,830 individuals. By contrast, at this time last year, the GVN had cleared 78% of applicants. Of those cleared, 15,837 have been approved for admission to the United States, and 14,325 have departed for the United States.

Areas for improvement remain. The GVN has not taken action on 84 of the cases submitted by the USG; however, only 45 of these cases representing 92 persons were originally handed to it by

the negotiated submission deadline. But here too, substantial progress has been made. As of May 11, 1998, the GVN had not responded on 1353 cases representing 2,718 people. The GVN also has not cleared for interview 454 cases, representing 675 people or 3% of total applicants. However, GVN authorities report that, in a significant number of cases, they have been unable to clear the applicants for INS interview because of address problems or because the applicants have declined to attend a clearance interview. ODP has worked closely with the GVN to provide updated information on uncleared cases to permit as many as possible to be moved to the cleared rolls: as of May 11, 1998, 776 cases were listed as having been denied clearance. ODP currently is contacting those who remain uncleared to verify their situation.

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

ODP has also given particular attention to completion of the Former Re-education Camp Detainees program, known popularly as the "HO" program. Under this program, eligible applicants must have been detained for at least three years in a re-education camp because of their association with the United States or the former South Vietnamese government. As of May 6, there were only 308 HO cases comprising 1,560 persons who have not been interviewed by INS. Of these, the GVN has not cleared for interview 268 cases involving 1,453 persons; however, it should be noted that the individuals in many of those cases are uncleared because they have not applied to the GVN for exit permission. Officials at the State Department and our diplomatic posts in Vietnam continue to press the GVN at every level to authorize interviews of the remaining cases for those who wish to depart. The United States will not consider the HO program to be completed until the last applicant has had the opportunity to be interviewed by ODP or we have an acceptable accounting for each case.

A sub-group of the HO program consists of applicants covered by the "McCain Amendment." These are persons over the age of 21 who are the sons and daughters of former reeducation camp detainees who were approved for admission as refugees after April 1, 1995. Under worldwide U.S. refugee processing criteria, only the minor, unmarried children of a principal applicant can be included in a case. Under the McCain Amendment, however, the sons and daughters over the age of 21 can be included in HO cases as long as they are single. This is retroactive to

persons interviewed after April 1, 1995, with the proviso that sons and daughters who married after their parent was approved are still eligible for processing if they were single at the time of their parent's refugee interview. The provision was expanded last year to include sons and daughters of widows of detainees who died in a re-education camp or as a result of that detention, and those persons who were eligible for admission as refugees but who instead were admitted on immigrant visas.

As of May 6, there were 730 cases which remained eligible for consideration under the McCain Amendment, although many of these do not appear interested in pursuing applications. The GVN cooperates with us fully in implementing the McCain Amendment. We expect to complete processing of all interested cases before the provision expires at the end of the fiscal year.

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

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

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

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

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.

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9903865
RECEIVED: 19 MAY 99 12

TO: ALBRIGHT, M

CHRON FILE

FROM: PRESIDENT

DOC DATE: 03 JUN 99
SOURCE REF:

KEYWORDS: VIETNAM
PD

MFN

PERSONS:

SUBJECT: DETERMINATION UNDER SUBSECTION 402 D 1 OF TRADE ACT OF 74 AS AMENDED
CONTINUATION OF WAIVER AUTHORITY FOR VIETNAM

ACTION: PRES SGD PD 99-27

DUE DATE: 25 MAY 99 STATUS: C

STAFF OFFICER: ARVIZU

LOGREF: 9903952

FILES: PA

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

ARVIZU

NSC CHRON

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DOC 4 OF 4

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ACTION DATA SUMMARY REPORT

RECORD ID: 9903865

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 ARVIZU	Z 99051912 PREPARE MEMO FOR BERGER
002 BERGER	Z 99052819 FWD TO PRESIDENT FOR SIGNATURE
002 ARVIZU	Z 99060115 FOR REDO
002 BERGER	Z 99060211 FWD TO PRESIDENT FOR SIGNATURE
002 SPERLING, G	Z 99060219 FOR SIGNATURE
003 PRESIDENT	Z 99060317 FOR SIGNATURE
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DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

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004	990603	ALBRIGHT, M	KENNEY, K
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NATIONAL SECURITY COUNCIL

THE WHITE HOUSE

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A = ACTION I = INFORMATION D = DISPATCH R = RETAIN N = NO FURTHER ACTION

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NATIONAL SECURITY COUNCIL

THE WHITE HOUSE

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CC: _____

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NATIONAL SECURITY COUNCIL

THE WHITE HOUSE

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DAVIES	_____	_____	_____
KERRICK	<u>2</u>	_____	_____
STEINBERG	<u>2</u>	_____	_____
BERGER	<u>3</u>	_____	_____
SITUATION ROOM	_____	_____	_____
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A = ACTION I = INFORMATION D = DISPATCH R = RETAIN N = NO FURTHER ACTION

CC:

COMMENTS:

Extension of Jackson-Vanik
 for Vietnam

EXEC SEC OFFICE HAS DISKETTE up

MUST BE SIGNED 6/3

THE WHITE HOUSE

WASHINGTON

June 3, 1999

Presidential Determination
No. 99-27

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 (the "Act"), I determine, pursuant to subsection 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

THE WHITE HOUSE
WASHINGTON

June 3, 1999

ACTION

President sgd per WH
Executive Clerk Enke 6/3

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER *MS 7*
GENE SPERLING *6/3/99*
LARRY STEIN *6/3*

SUBJECT: Extension of Jackson-Vanik Waiver Authority for
Vietnam

Purpose

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. Without this determination, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government credit and investment guarantee programs and most-favored-nation (MFN) tariff treatment, now referred to under U.S. law as normal trade relations, or NTR. Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as is Congressional approval of a bilateral trade agreement, which remains under negotiation.

To extend the waiver, you must determine that this action will substantially promote freedom of emigration from Vietnam. Since your decision in June 1998 to continue the waiver, Vietnam has continued to make substantial progress on emigration issues of concern to us. Although we continue to press the Government of Vietnam to be more forthcoming in some areas, in our view continuation of the Jackson-Vanik waiver for an additional year would contribute toward substantially promoting freedom of emigration from Vietnam.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you sign the message to Congress at Tab A and the Presidential Determination at Tab B, and approve transmitting the report to Congress at Tab C.

Attachments

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

Tab A

THE WHITE HOUSE
WASHINGTON

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 the application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

THE WHITE HOUSE,

Tab B

THE WHITE HOUSE
WASHINGTON

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.

Tab C

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

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

Freedom of Emigration Determination

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

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

After a slow start, processing of eligible cases under the ROVR program accelerated dramatically in 1998 and is now near completion. As of June 1, 1999, the GVN had cleared for interview 19,975 individuals, or 96 percent of the ROVR applicants. By contrast, at this time last year, the GVN had cleared 78 percent of applicants. Once cleared for interview by the GVN, applicants must gather the documents necessary to support their applications and be scheduled for interview with ODP, which will determine their qualification for subsequent

interview by the Immigration and Naturalization Service (INS). The INS has approved 15,833 for admission to the United States, 14,715 of which have departed for the United States. An additional 463 await INS interview. The difference between the number of individuals cleared by the GVN and the number approved by the INS or awaiting interview is the result of determinations made by ODP and INS. ODP has determined 8 percent of ROVR applicants (1,668 people) not to be qualified for an INS interview according to U.S. ROVR guidelines. INS has determined that 11 percent (1,996 people) are not admissible to the United States as refugees.

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

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

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

who wish to depart. The U.S. Government will not consider the HO program to be completed until the last applicant has had the opportunity to be interviewed by ODP or we have an acceptable accounting for each case.

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

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

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

GVN progress on freedom of emigration in 1998 and the early part of 1999 has permitted us to near completion of various ODP refugee admissions programs in Vietnam. U.S. Government officials both in Washington and in Vietnam will continue to press the Vietnamese at all levels to take all necessary steps

to expeditiously complete processing under these programs and ensure that all interested applicants have the opportunity to interview and, if qualified, depart for the United States.

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

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

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

Tab II



United States Department of State

Washington, D.C. 20520

May 18, 1999

UNCLASSIFIED

**MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL**

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

According to Section 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 (now referred to under U.S. law as normal trade relations or NTR.) Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as well as Congressional approval of a bilateral trade agreement which remains under negotiation.

The only legal requirement that must be met is for the President to determine that a waiver extension will substantially promote freedom of emigration from Vietnam. Since the President's decision in June 1998 to continue the waiver for Vietnam, that country has continued to make substantial progress on emigration. It is, therefore, our belief that continuation of the waiver for another year will again substantially promote freedom of emigration from Vietnam. 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

UNCLASSIFIED

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 twelve months will substantially promote the objectives of section 402, I have today determined that continuation of the waiver currently applicable to Vietnam will also substantially promote the objectives of section 402 of the Act. My determination is attached and incorporated herein.

Freedom of Emigration Determination

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

The Government of Vietnam (GVN) cooperates with the United States Government to clear for interview applicants under ODP and the Resettlement Opportunities for Vietnamese Returnees (ROVR) program. The GVN issues passports and exit permits to Vietnamese approved for admission to the United States, and in the case of ROVR applicants, expedites the departure clearance process. Based on progress made on refugee processing to date, it is our aim to complete processing of nearly all of the current ODP caseload before the end of FY 1999.

After a slow start, processing of eligible cases under the Resettlement Opportunity for Vietnamese Returnees (ROVR) program accelerated dramatically in 1998 and is now near completion. As of May 10, the GVN had cleared for interview 95% of the ROVR-eligible applicants -- 19,830 individuals. By contrast, at this time last year, the GVN had cleared 78% of applicants. Of those cleared, 15,837 have been approved for admission to the United States, and 14,325 have departed for the United States.

Areas for improvement remain. The GVN has not taken action on 84 of the cases submitted by the USG; however, only 45 of these cases representing 92 persons were originally handed to it by

the negotiated submission deadline. But here too, substantial progress has been made. As of May 11, 1998, the GVN had not responded on 1353 cases representing 2,718 people. The GVN also has not cleared for interview 454 cases, representing 675 people or 3% of total applicants. However, GVN authorities report that, in a significant number of cases, they have been unable to clear the applicants for INS interview because of address problems or because the applicants have declined to attend a clearance interview. ODP has worked closely with the GVN to provide updated information on uncleared cases to permit as many as possible to be moved to the cleared rolls: as of May 11, 1998, 776 cases were listed as having been denied clearance. ODP currently is contacting those who remain uncleared to verify their situation.

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

ODP has also given particular attention to completion of the Former Re-education Camp Detainees program, known popularly as the "HO" program. Under this program, eligible applicants must have been detained for at least three years in a re-education camp because of their association with the United States or the former South Vietnamese government. As of May 6, there were only 308 HO cases comprising 1,560 persons who have not been interviewed by INS. Of these, the GVN has not cleared for interview 268 cases involving 1,453 persons; however, it should be noted that the individuals in many of those cases are uncleared because they have not applied to the GVN for exit permission. Officials at the State Department and our diplomatic posts in Vietnam continue to press the GVN at every level to authorize interviews of the remaining cases for those who wish to depart. The United States will not consider the HO program to be completed until the last applicant has had the opportunity to be interviewed by ODP or we have an acceptable accounting for each case.

A sub-group of the HO program consists of applicants covered by the "McCain Amendment." These are persons over the age of 21 who are the sons and daughters of former reeducation camp detainees who were approved for admission as refugees after April 1, 1995. Under worldwide U.S. refugee processing criteria, only the minor, unmarried children of a principal applicant can be included in a case. Under the McCain Amendment, however, the sons and daughters over the age of 21 can be included in HO cases as long as they are single. This is retroactive to

persons interviewed after April 1, 1995, with the proviso that sons and daughters who married after their parent was approved are still eligible for processing if they were single at the time of their parent's refugee interview. The provision was expanded last year to include sons and daughters of widows of detainees who died in a re-education camp or as a result of that detention, and those persons who were eligible for admission as refugees but who instead were admitted on immigrant visas.

As of May 6, there were 730 cases which remained eligible for consideration under the McCain Amendment, although many of these do not appear interested in pursuing applications. The GVN cooperates with us fully in implementing the McCain Amendment. We expect to complete processing of all interested cases before the provision expires at the end of the fiscal year.

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

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

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

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

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.



United States Department of State

Washington, D.C. 20520

May 18, 1999

UNCLASSIFIED

**MEMORANDUM FOR GLYN T. DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL**

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

According to Section 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 (now referred to under U.S. law as normal trade relations or NTR.) Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as well as Congressional approval of a bilateral trade agreement which remains under negotiation.

The only legal requirement that must be met is for the President to determine that a waiver extension will substantially promote freedom of emigration from Vietnam. Since the President's decision in June 1998 to continue the waiver for Vietnam, that country has continued to make substantial progress on emigration. It is, therefore, our belief that continuation of the waiver for another year will again substantially promote freedom of emigration from Vietnam. 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

UNCLASSIFIED

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

May 28, 1999

ACTION

MEMORANDUM FOR SAMUEL R. BERGER
GENE SPERLING

THROUGH: D. HOLLY HAMMONDS
JACK PRITCHARD

FROM: ALEX ARVIZU

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

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. Without this determination, the waiver will expire on July 3, ending Vietnam's eligibility for U.S. Government credit and investment guarantee programs and most-favored-nation (MFN) tariff treatment, now referred to under U.S. law as normal trade relations, or NTR. Vietnam currently does not receive NTR. A Jackson-Vanik waiver is a prerequisite for NTR as is Congressional approval of a bilateral trade agreement, which remains under negotiation.

The only legal requirement that must be met is for the President to determine that a waiver extension will substantially promote freedom of emigration from Vietnam. Since the President's decision in June 1998 to continue the waiver for an additional twelve-month period, Vietnam has continued to make substantial progress on emigration issues of concern to us. In our view, continuation of the waiver for an additional year will contribute toward substantially promoting freedom of emigration from Vietnam.

Concurrence by: Chuck Allen, Scott Busby, Dan Shapiro

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 ~~B~~ II Incoming Correspondence

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.

RECOMMENDATION:

That you sign the message to Congress at Tab A and the Presidential Determination at Tab B, and approve transmitting the report to Congress at Tab C.

Attachments

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

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

After a slow start, processing of eligible cases under the ROVR program accelerated dramatically in 1998 and is now near completion. As of May 24, 1999, the GVN had cleared for interview 96 percent of the ROVR-eligible applicants -- 19,946 individuals. By contrast, at this time last year, the GVN had cleared 78 percent of applicants. Of those cleared, 15,833 have been approved for admission to the United States, and 14,532 have departed for the United States.

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.

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then 1999*

*what's the deal w/ the
4,000 cleared but
not approved*

Areas for improvement remain. The GVN has not taken action on 84 of the cases submitted by the USG; however, only 45 of these cases representing 92 persons were originally handed to it by the negotiated submission deadline. But, here too, substantial progress has been made. As of May 11, 1998, the GVN had not responded on 1,353 cases representing 2,718 people. The GVN also had not cleared for interview 422 cases, representing 628 people, or 3 percent of total applicants. However, GVN authorities report that, in a significant number of cases, they have been unable to clear the applicants for Immigration and Naturalization Service (INS) interview because of address problems or because the applicants have declined to attend a clearance interview. ODP has worked closely with the GVN to provide updated information on uncleared cases to permit as many as possible to be moved to the cleared rolls: as of May 11, 1998, 776 cases were listed as having been denied clearance. ODP currently is contacting those who remain uncleared to verify their situation.

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Need
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clearing

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

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

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A sub-group of the HO program consists of applicants covered by the "McCain Amendment." These are persons over the age of 21 who are the sons and daughters of former re-education camp detainees who were approved for admission as refugees after April 1, 1995. Under worldwide U.S. refugee processing criteria, only the

minor, unmarried children of a principal applicant can be included in a case. Under the McCain Amendment, however, the sons and daughters over the age of 21 can be included in HO cases as long as they are single. This is retroactive to persons interviewed after April 1, 1995, with the proviso that sons and daughters who married after their parent was approved are still eligible for processing if they were single at the time of their parent's refugee interview. The provision was expanded last year to include sons and daughters of widows of detainees who died in a re-education camp or as a result of that detention, and those persons who were eligible for admission as refugees but who instead were admitted on immigrant visas.

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

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

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

Completion of ODP and ROVR programs will not mean the end of U.S. refugee processing in Vietnam. We are designing a new, in-country program to address the rescue needs of individuals who have suffered recent persecution or who have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

The U.S. Government is also committed to interview those individuals eligible for the ODP sub-program for former U.S. Government employees who did not receive interviews because of the 1996 suspension of the program by the United States. The GVN has formally agreed to cooperate with us in implementing this program.

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

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

THE WHITE HOUSE
WASHINGTON

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.