

Immigration
Testimony
State Dpt.
Vietnamese

Total Pages: _____

LRM ID: IMS257

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Monday, March 9, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference *Schroeder for Jukes*

OMB CONTACT: Ingrid M. Schroeder

PHONE: (202)395-3883 **FAX:** (202)395-3109

SUBJECT: **STATE** Testimony on Processing Montagnards (certain Vietnamese) for Admission to the U.S. as Refugees

DEADLINE: 3:30pm Monday, March 9, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached testimony is for a S. Foreign Relations subcommittee hearing on March 10th. If we do not receive your comments by the above deadline we will assume that you have no objection to the testimony.

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LRM ID: IMS257 SUBJECT: STATE Testimony on Processing Montagnards (certain Vietnamese) for Admission to the U.S. as Refugees

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

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TESTIMONY OF
STANLEY O. ROTH
ASSISTANT SECRETARY OF STATE FOR
EAST ASIAN AND PACIFIC AFFAIRS
SENATE FOREIGN RELATIONS COMMITTEE

MARCH 10, 1998

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Mr. Chairman, I am pleased to have the opportunity to join Assistant Secretary Taft in speaking today on the situation of the Montagnard people in Vietnam. I would like to summarize the state of our overall relationship with Vietnam in order to put the situation of the Montagnards in context.

We have important national interests at play in Vietnam and share with Vietnam a mutual interest in promoting Vietnam's economic prosperity and integration into the regional and international structures that enhance regional stability and free trade. Cooperation from the Vietnamese government on our efforts to obtain an accounting of the missing from the Vietnam War remains excellent and has permitted the normalization of relations in other areas. Among these are the regularization of emigration, dialogue on human rights, and cooperation on counter-narcotics. Economic normalization, in particular, encompasses a range of measures to promote trade and investment in order to take advantage of the opportunities for American businesses in this dynamic and emerging market.

Obtaining the fullest possible accounting for POW/MIAs remains our highest priority in relations with Vietnam. Normalization in other areas has not lessened the centrality of POW/MIA accounting to the relationship and every high level USG official to visit Vietnam has stressed this point. The President's determinations that Vietnam has cooperated on this issue have reaffirmed to the American people the importance we attach to this effort. As a result, we have enjoyed broad public support for normalization.

The four critical areas of accounting included in these determinations have been:

- 1) Resolving discrepancy cases, live-sightings and field activities;
- 2) Recovering and repatriating American remains;
- 3) Accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and
- 4) Providing further assistance in implementing trilateral investigations with Laos.

The presence of Ambassador Peterson, a former POW, in Hanoi is not only a symbol of the importance of the POW/MIA issue to Americans, but his energy and commitment to the effort ensure that we will continue to get results. Sustaining progress on POW/MIA accounting will remain a priority objective in the future.

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As with POW/MIA accounting, our contacts with Vietnam on migration issues predate normalization. Notwithstanding the obstacles which certain minority groups such as the Montagnards have encountered in emigrating from Vietnam, Vietnam's record in permitting free emigration has improved considerably since 1975. The Orderly Departure Program (ODP) has been a solid success. Over 480,000 Vietnamese have emigrated to the U.S. through ODP. Many of these persons are of special interest to the U.S., such as persons formerly imprisoned in reeducation camps. Vietnam and the U.S. share the goal of wrapping up refugee programs and transforming emigration from Vietnam into the kind of normal immigrant visa relationship we have with other countries. While I have left discussion of the Montagnards' difficulties to Assistant Secretary Taft, I would like to state unequivocally that we will continue to press the Vietnamese government to provide fair treatment to all who are eligible for emigration to the U.S.

The question of free emigration is related closely, as you know, to the waiver of the Jackson-Vanik Amendment. Jackson-Vanik prohibits the extension of certain U.S. economic benefits to countries that, among other things, deny their citizens the right or opportunity to emigrate. The statute authorizes the President to waive the Jackson-Vanik requirements if doing so will lead to freer emigration from that country. We believe granting a waiver will substantially promote freedom of emigration from Vietnam.

I have noted above the relative success of the ODP program in bringing Vietnamese emigrants to the U.S., albeit with the caveat that certain groups have experienced difficulties in emigrating, due to their involvement in the Vietnam War or other experiences. We have also seen dramatic improvement in Vietnam's performance in implementing the ROVR (Resettlement Opportunity for Vietnamese Returnees) program since last November. Despite considerable reluctance to operate a resettlement program for Vietnamese who returned to Vietnam from first asylum camps in Southeast Asia, the Vietnamese government signed an agreement in January, 1997 to permit us to interview Vietnamese returnees one last time for possible resettlement in the U.S. This program was created to ensure that no one of interest to the U.S. is overlooked for resettlement.

After a slow start to the program, Vietnam has given us since November the go-ahead to interview some 8,200 of the roughly 17,000 persons we believe could be eligible for ROVR. It has presented for consideration an additional

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5,000 names not on our ROVR list. Moreover, it has taken steps to facilitate processing and eliminated the requirement for applicants to obtain an exit permit prior to interview by the INS. Much of the credit for Vietnam's improved performance on ROVR should go to Ambassador Peterson, who has worked tirelessly to make ROVR work.

A waiver of Jackson-Vanik is the next step in economic normalization, a goal of both our countries. Growth in trade and investment has been substantial, but short of the potential of Vietnam's emerging economy. Over 400 American firms have established a presence in Vietnam since 1994. U.S. exports to Vietnam totaled \$600 million in 1996, doubling the 1995 figure, and U.S. imports from Vietnam were over \$300 million. However, a waiver of Jackson-Vanik does not signal that we are ready to grant MFN status to Vietnam. That will require completion of a bilateral trade agreement, which is now under negotiation, and approval of the agreement by both houses of Congress.

The Jackson-Vanik waiver would remove a key impediment to Vietnamese participation in export promotion and trade and investment support programs, including the Export-Import Bank, Overseas Private Investment Corporation (OPIC), USDA PL-480 and GSM export credit programs and Maritime Administration Title XI programs. Without these programs, U.S. companies are often at a disadvantage in competing with foreign firms in the Vietnamese market. American businesses are anxious to have these programs up and running so that they can seize the business opportunities in Vietnam.

The Jackson-Vanik waiver is also a prerequisite, along with associated waivers of the Foreign Assistance Act, for most U.S. assistance to Vietnam. Humanitarian assistance, totaling about \$3 million per year, has been provided for prosthetics and rehabilitation services to war victims and to displaced children and orphans. A broader U.S. assistance program, among other things, will help the U.S. influence Vietnam's progress toward an open economy. Despite major accomplishments in reform, much remains to be accomplished in stimulating the private sector and integrating Vietnam into the world economy. U.S. assistance would focus on the transfer of knowledge to serve as a catalyst for further structural and institutional change.

We are convinced that the national interest is served by proceeding with the waiver of Jackson-Vanik and that by doing so the objectives of the Jackson-Vanik Amendment, i.e., freer emigration from Vietnam, will be furthered. Vietnam's record on emigration is not perfect. The

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difficulties confronting the Montagnards in obtaining exit permits and emigrating to the U.S. need to be overcome. Vietnam's continued implementation of ROVR and ONP, including the granting of exit permits to Montagnards, will be subject to review when the Jackson-Vanik waiver comes up for renewal in June.

We have taken a number of other steps over the past year to normalize economic relations. Among them are Secretary Rubin's signing of the bilateral public debt agreement in April and an interim copyright agreement, which has been signed and should soon enter into force. Vietnam has already begun payments to repay the former governments of South Vietnam's debt of \$146 million. We are negotiating bilateral trade and civil aviation agreements and are considering an interim arrangement that will lead eventually to a science and technology agreement.

Diplomatic relations have progressed significantly as well. Last May 9, we exchanged Ambassadors, when Pete Peterson arrived in Hanoi and Le Van Bang returned to Washington as Ambassador. In October, we opened a Consulate General in Ho Chi Minh City, which is already making significant contributions to the deepening of the bilateral relationship. When it begins to issue visas, following the construction of a consulate building, it will be one of the biggest visa-issuing posts in Asia. It is already providing services to the 3,000 Americans resident in Ho Chi Minh city and the 75,000 American tourists that visit each year. Also in October, Vietnam opened a consulate general in San Francisco.

Human rights is an important component of our relationship with Vietnam. Vietnam remains a one-party dictatorship in which criticism of the regime and political organization outside the Communist Party-sanctioned structure are not permitted. Although there has been a modicum of improvement in the area of personal freedoms, including reduced government interference in daily life, Vietnam's overall human rights record has been poor. There have been credible reports that local Vietnamese officials have denied ethnic minorities, including the Montagnards, access to education, employment and other services.

We have initiated a formal human rights dialogue and have held five sessions so far, most recently last March, in which we have conveyed our concerns about human rights in general and specific human rights cases. Secretary Albright raised these issues prominently with Vietnamese leaders during her visit last June to Vietnam. I believe that the

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status of ethnic minorities in Vietnam is a subject we could legitimately raise in the context of our human rights dialogue. We have made it clear that Vietnam's improvement in respecting human rights will be a factor affecting the pace of our normalization of relations.

We share with Vietnam an interest in combating the trafficking of narcotics through Vietnam. We have provided counter-narcotics training to the Vietnamese customs service and demand reduction training. We are currently negotiating a letter of agreement to formalize cooperation in counter-narcotics efforts.

Vietnam has historical interests in the region, particularly in relation to its neighbors in Cambodia, Laos, China and in the South China Sea. Dialogue among the U.S., Vietnam and its neighbors can contribute to the peaceful resolution of conflicting interests. Vietnam's membership in ASEAN and APEC, its participation in the ASEAN Regional Forum, and growing ties to regional and world markets exemplify the new constructive role that it is beginning to play. It is a role that we should encourage. By developing bilateral ties as we are doing, we can encourage Vietnam to increase its stake in the region and the world.

file → Immigration
Naturalization/Hmong
Total Pages: _____

LRM ID: IMS100

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, June 24, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: JUSTICE Testimony on HR371 Hmong Veterans' Naturalization Act of 1997

DEADLINE: 10am Wednesday, June 25, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached testimony is for a H. Judiciary hearing on June 26th.

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Testimony of

Don Crocetti

Associate Commissioner for Examinations

Immigration and Naturalization Service

before the

House Judiciary Committee

Subcommittee on Immigration and Claims

on H.R. 371

**9:30 a.m., Thursday June 26, 1997
2226 Rayburn House Office Building**

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss H.R. 371, the Hmong Veterans Naturalization Act of 1997. The legislation is intended to expedite the naturalization of aliens who served for the United States with special guerrilla units in Laos during the Vietnam Conflict by waiving the English language requirement of section 312(a) of the Act, and designated the Hmong guerrillas as having served honorably in an active-duty status in the military, air, or naval forces of the United States during the period from February 28, 1961, to September 18, 1978, in accordance with section 329 of the Act.

Hmong guerrillas provided service to the United States Armed Forces during the Vietnam Conflict. Due to this service to the United States, these individuals were persecuted in their native country at the conclusion of the Vietnam Conflict and, as a result, were granted refugee status to come to the United States. The requirements for eligibility to naturalize, particularly the requirements as to understanding the English language, are a significant barrier for the Hmong. The Hmong are a distinct ethnic group who lived in isolated mountain regions of Vietnam and Laos. While the Hmong have their own language, their language had no written form until recently. This makes the English language requirement for naturalization particularly prohibitive for the Hmong.

The INS takes no position as to whether the Congress should amend the Immigration and Nationality Act to provide special exceptions for the Hmong for the purpose of naturalization. However, H.R. 371 as currently written does set a precedent in that it would establish waiver categories that are currently not afforded to any other ethnic group attempting to naturalize, and is problematic in its implementation. Allow me to briefly review what H.R. 371 does and does not afford the Hmong.

Section 2 of the bill waives the English proficiency requirement of the INA at section 312 (a)(1). We note, however, that no mention is made of the requirement found at section 312(a)(2).

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regarding an understanding of United States civics. We believe that due to their lack of a written language, it will be extremely difficult for many native-born Hmong to learn and to demonstrate to the Service the principles of United States civics.

In addition, the group that is qualified for the special treatment in section 2, paragraph (1) refers to persons who "served with a special guerrilla unit operating from a base in Laos." This statement is insufficiently defined. The bill is cited as the Hmong Veterans' Naturalization Act but the qualified individuals are not identified by their status as Hmong who served with United States armed forces in Vietnam. According to the proposed definition, a person of any ethnicity would qualify for the English language waiver if they served with a guerrilla unit, even if they do not fit into the special category of individuals who are prevented from learning English by the unique circumstance of their native language having no written form. The definition also includes only those guerrillas who were based in Laos. It would seem unfortunate if there were ethnic Hmong guerrillas who were excluded from the special provision by the coincidence of their unit having been based in Vietnam.

Qualification of all spouses and widows in section 2, paragraph (1) is over inclusive. Some Hmong guerrillas may have married since their entry to the United States. There is no reason to believe that these spouses/widow would require the English language waiver simply based on their marriage.

Section 3 of H.R. 371 establishes documentation requirements for proof of service with a special guerrilla unit. The language of the section, however, is vague and presents considerable hurdles for the Service to overcome in accepting the documentation at face value. In essence, a naturalization applicant under this provision of law would simply have to present documents claiming to have served in a special guerrilla unit. Short of actual military records, the only confirmation for the Service would be if the applicant was admitted to the United States as a refugee from southeast Asia and would have been old enough to perform military service during the Vietnam Conflict. In the experience of the Service in implementing programs which rely

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upon affidavits (such as the Immigration Reform and Control Act of 1986) fraud can be prevalent.

Lastly, the Service notes concern that H.R. 371 establishes a waiver for both residency and English for a particular ethnic group. To date, the Congress has elected not to amend the Act with waiver provisions aimed at any particular ethnic group attempting to go through the naturalization process. For example, section 312 offers waivers from English and civics requirements only for persons with debilitating mental or physical conditions and from English for persons with specific age and years of residency combinations. The inclusion of the language in H.R. 371 could set a precedent for other ethnic groups attempting to gain waiver categories and that do not share the unique situation of the Hmong might try to obtain as well.

Thank you for the opportunity to comment on this bill. I will take any questions you may have at this time.

108TH CONGRESS
1ST SESSION

H. R. 371

To expedite the naturalization of aliens who served with special guerrilla units in Laos.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. VENTO introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To expedite the naturalization of aliens who served with special guerrilla units in Laos.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Hmong Veterans' Nat-
5 uralization Act of 1997".

1 SEC. 2. WAIVER OF ENGLISH LANGUAGE REQUIREMENT
2 FOR CERTAIN ALIENS WHO SERVED WITH
3 SPECIAL GUERRILLA UNITS IN LAOS.

4 The requirement of paragraph (1) of section 312(a)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1423(a)) shall not apply to the naturalization of any per-
7 son who—

8 (1) served with a special guerrilla unit operat-
9 ing from a base in Laos in support of the United
10 States at any time during the period beginning Feb-
11 ruary 28, 1961, and ending September 18, 1978, or

12 (2) is the spouse or widow of a person described
13 in paragraph (1).

14 SEC. 3. NATURALIZATION THROUGH SERVICE IN A SPECIAL
15 GUERRILLA UNIT IN LAOS.

16 (a) IN GENERAL.—The first sentence of subsection
17 (a) and subsection (b) (other than paragraph (3)) of sec-
18 tion 329 of the Immigration and Nationality Act (8 U.S.C.
19 1440) shall apply to an alien who served with a special
20 guerrilla unit operating from a base in Laos in support
21 of the United States at any time during the period begin-
22 ning February 28, 1961, and ending September 18, 1978,
23 in the same manner as they apply to an alien who has
24 served honorably in an active-duty status in the military
25 forces of the United States during the period of the Viet-
26 nam hostilities.

1 (b) PROOF.—The Immigration and Naturalization
2 Service shall verify an alien's service with a guerrilla unit
3 described in subsection (a) through—

4 (1) review of refugee processing documentation
5 for the alien,

6 (2) the affidavit of the alien's superior officer,

7 (3) original documents,

8 (4) two affidavits from persons who were also
9 serving with such a special guerrilla unit and who
10 personally knew of the alien's service, or

11 (5) other appropriate proof.

12 The Service shall liberally construe the provisions of this
13 subsection to take into account the difficulties inherent in
14 proving service in such a guerrilla unit.

○

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

Route Slip

FAX TO: ELANA KAGAN	Take necessary action	
MICHAEL DEICH	Approval or signature	
	Comment	
	Prepare reply	
	Discuss with me	
	For your information	
	See remarks below	
From: Steve Mertens		
Date: January 20, 1998		

Remarks:

FYI: Attached is a "clean" copy of the immigration restructuring language in the budget narrative page proofs.

Attachment

c: Julie Fernandez

Revised Narrative
January 20, 1998

Organization and Structure: The final report issued by the Commission on Immigration Reform called for major changes in how the Federal Government sets and implements immigration policy. In particular, it urged a separation of the enforcement and benefit functions that INS now performs.

The Administration has studied these and other reform proposals and is developing a plan to enhance immigration law enforcement while improving the delivery of immigration services and benefits. It recognizes that enforcement and benefits are interrelated and, thus, neither should be addressed without the other in mind. The plan, however, will make Federal immigration activities more efficient and effective by separating enforcement and benefit/service operations -- both in headquarters and in the field -- thereby strengthening accountability and lines of authority. In addition, the plan will enhance coordination among Federal agencies involved in immigration and established greater accountability within each agency. Together, these reforms within individual agencies and across the Government will support and sustain the Administration's progress over the last five years in enforcing our immigration laws and fulfilling the Nation's commitment to its immigration heritage.

Hmong Issue

December 10, 1997

Background: The U.S. recruited Hmong nationals to fight on our behalf in the Vietnam War. The Hmong were paid by the CIA but, according to their leaders, worked under the direction of the U.S. military. Most were resettled here after the war, largely in Wisconsin, Minnesota, and California. The Hmong culture is so different from our own (it has no written language) that they have had great difficulty assimilating here, including getting jobs and moving toward citizenship. Many receive SSI and Medicaid benefits because they are elderly or disabled. But under the terms of the welfare law, they are not entitled to food stamps unless they have veteran status. Lawyers in the relevant agencies believe that the Hmong do not currently have veteran status. There is some possibility that they could obtain such status by applying directly to the Department of Defense, but it is not clear what action DOD would take on such an application.

Talking Points

- We are pleased that the SSI and Medicaid benefit restorations in the Balanced Budget Act resulted in the restoration of these benefits for the Hmong. However, we recognize that legal immigrants, including the Hmong, are no longer eligible for food stamps, unless they have veteran status.
- It is true that Congress included a "Sense of the Congress" provision as part of the Balanced Budget Act stating that the Hmong should be treated as veterans for the purpose of the welfare reform law.
- However, some of our agency lawyers have concluded that this "Sense of the Congress" does not have the force of law that would confer veteran status on the Hmong. So far, the legal arguments we have heard appear to confirm this interpretation. We understand that your community is working to present additional legal arguments, and we look forward to reviewing them.
- In the meantime, we want to work with you to explore other options, including the possibility that the Hmong could apply for veteran status directly to the Department of Defense.



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Office of the General Counsel
Legislation Division
Washington, DC 20201

June 16, 1998

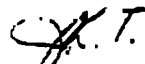
NOTE TO: INGRID SCHROEDER (OMB)

Re: OMB request for views on H.R. 371 - Hmong Veterans' Naturalization Act of 1997 (LRM ID: IMS359)

HHS suggests that section 2(1)(B) of the bill be struck and replaced with the following language:

"(B) served honorably in the Special Guerilla Unit in Laos in support of the United States Government at any time during the period beginning February 28, 1961, and ending December 31, 1975, as verified by the Immigration and Naturalization Service on the basis of information contained in the refugee family dossiers that were compiled by the Joint Voluntary Agency under the direction of the Department of State and were used by the Immigration and Naturalization Service in Thailand to determine refugee eligibility for resettlement in the United States; or".

The verification process described above is recognized as a bona fide source of information and should be used. Also, the refugee family dossiers compiled by the Joint Voluntary Agency under the direction of the Department of State should be explicitly recognized in a separate paragraph under Section 4 as appropriate proof of documentation of qualifying service.


Julie K. Taylor] Hmong
Vet.



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

LEGISLATIVE REFERENCE DIVISION

ECONOMICS, SCIENCE, AND GENERAL GOVERNMENT BRANCH

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Devine

FROM: INGRID SCHROEDER
phone: (202) 395-3883
FAX: (202) 395-3109

DATE: 6/17/98

NUMBER OF PAGES (including this cover sheet): 2

COMMENTS:

Attached are the HHS cmts on HR 371 - Hmong
naturalization Act circulated under LRM #IMS359.

Please advise by Noon - Thursday, June 18th if
you have any objection to HHS informally conveying
this cmt to the H'll.

Please call (202) 395-3454 to report any difficulties with transmission of this fax.