

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

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A RECOMMENDATION TO CONTINUE IN EFFECT A WAIVER OF APPLICATION OF SUBSECTIONS (a) AND (b) OF SECTION 402 OF THE TRADE ACT OF 1974 WITH RESPECT TO VIETNAM FOR A FURTHER A 12-MONTH PERIOD AND A DETERMINATION THAT CONTINUATION OF THE WAIVER CURRENTLY IN EFFECT FOR VIETNAM WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402 OF THE ACT AND THE REASONS FOR SUCH A DETERMINATION, PURSUANT TO 19 U.S.C. 2432 (c) AND (d)



JUNE 3, 2004.—Referred to the Committee on Ways and Means and ordered to be printed.

U.S. GOVERNMENT PRINTING OFFICE

To the Congress of the United States:

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

GEORGE W. BUSH.

THE WHITE HOUSE, *June 3, 2004.*

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

Pursuant to Subsection 402(d)(1) of the Trade Act of 1974, as amended ("the Act"), I hereby recommend further extension of the waiver authority granted by Subsection 402(c) of the Act for 12 months. I have determined that such extension will substantially promote the objectives of Section 402 of the Act, and 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 is 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 to permit Vietnamese emigration. Over 500,000 Vietnamese 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.

On September 30, 1999, the Department of State closed the ODP office in Bangkok, Thailand and opened the Refugee Resettlement Section (RRS) at the United States Consulate General in Ho Chi Minh City, Vietnam. The RRS continues to process the small number of remaining cases from the ODP and Resettlement Opportunity for Vietnamese Returnees (ROVR) programs. An in-country program to address the 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, is also managed by the RRS.

As of April 22, 2004, the Government of Vietnam (GVN) has cleared for interview all but 22 of the nearly 21,000 individuals who applied for consideration under the ROVR program. They cleared 20 persons last year. Many of those awaiting clearance are family members who were added on to the case after the principal applicants had received interview clearance from the GVN. Applicants cleared for interview by the GVN must gather necessary documents to support their applications and be scheduled for an interview with the Bureau of Citizenship and Immigration Services (BCIS). The BCIS has approved 17,248 for admission to the United States, 16,459 of whom have departed from Vietnam for the United States. An additional 7 individuals await BCIS interview. The GVN cooperates with the United States Government to process applicants under the ROVR program. The GVN issues passports to Vietnamese approved for admission to the United States and expedites the departure clearance process.

Completion of the Former Re-education Camp Detainees program, known popularly as the "HO" program, remains a high priority. To be eligible for this program, 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 April 22, 2004, there were 18 HO cases (comprising 42 persons) awaiting passports.

A sub-group of the HO program consists of the applicants covered by the "McCain Amendment" (P.L. 104-208, as amended). These applicants 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 and for various reasons were not included in their parents' cases. As the result of extensions and modifications to the legislation since its initial passage in October 1996, over 11,800 adult children and their accompanying family members have been able to join their parents in the United States. The number of children eligible for processing in this category changes constantly as new applications are received and others are processed and depart for the United States. As of April 22, 2004, 316 cases (comprising 873 individuals) are ready to be presented to DHS for interview. However, the most recent version of the McCain-Davis Amendment expired on September 30, 2003. Although legislation extending this provision has been introduced in Congress, it has not yet been passed or enacted into law. Until an extension of the McCain Amendment is enacted, the United States Government processing of the 316 pending cases has been suspended.

The GVN is also cooperating on the processing of the few remaining outstanding Montagnard (a term commonly used to identify members of ethnic minorities who traditionally have lived in Central Highland areas) ODP HO cases. Only 4 cases (consisting of 16 people) remain to be cleared for interview. This is a decrease of 5 cases and 69 persons since last year.

In June 2002, the United States Government completed interviews of the 704 cases determined eligible for consideration for refugee status under the ODP sub-program for former United States Government employees (commonly referred to as the U-11 program). These cases had not previously been interviewed because the United States Government suspended the program in 1996. The RRS will process an additional nine cases that had been presumed abandoned by the applicants, but who later contacted the RRS to reactivate their applications. Of the cases approved for refugee resettlement in the United States, only 1 case has yet to depart Vietnam. None are being restrained from leaving by the GVN.

The GVN also continues to cooperate in the timely processing of current immigrant visa cases. In the first half of fiscal year 2004, our consular sections issued 9,033 immigrant visas and 8,358 non-immigrant visas. The Department of State anticipates that demand in Vietnam for immigrant and non-immigrant visas will rise.

The United States will not consider its refugee programs to be completed until the last eligible applicant has had the opportunity to be interviewed, or until there is an acceptable opportunity to be interviewed, or until there is an acceptable accounting for each case. United States Government officials both in Washington and

Vietnam will continue to press the GVN at every level to authorize interviews for all those applicants determined eligible for consideration for resettlement in the United States as refugees.

In addition, the United States Government has initiated talks with the Government of Vietnam to re-open access to the HO, U-11 and V-11 (former employees of U.S. Businesses) categories, in the belief that there remain certain individuals who would qualify for these categories, but who, through no fault of their own, could not access processing during the previous operation of the program. The United States Government closed registration for the ODP program on September 30, 1994. Talks were held in Hanoi on March 29-30, 2004, and agreement in principle to resumption of humanitarian resettlement processing was reached. Additional technical talks are necessary and will take place in the near future to finalize the proposed framework. The attitude of the Vietnamese government has been generally positive and cooperative with respect to the United States Government proposals.

Unrest in the Central Highlands in 2001 and again this year reflects, in part, concerns there about economic inequality, discrimination, land rights and freedom of religion. We are in discussions with the Government of Vietnam concerning ways to ease the tensions and improve the situation in this region. Historically, some Montagnards from this area have faced challenges in accessing our refugee resettlement programs due to difficulty in communications, travel, and restrictions from local officials. When such situations arise we press the GVN to ameliorate these problems.

The programs described above, together with the extension of the Jackson-Vanik waiver, will encourage the Vietnamese to liberalize further their emigration policy and to continue to resolve procedural issues that affect U.S. refugee and immigration programs.

[Presidential Determination No. 2004-34]

THE WHITE HOUSE,
Washington, June 3, 2004.

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 for Vietnam

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 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*.

GEORGE W. BUSH.

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