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SENATE FINANCE COMMITTEE
INTERNATIONAL TRADE SUBCOMMITTEE

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Mr. Chairman, thank you for the invitation to address the International Trade Subcommittee on S.J. Res. 47, a measure introduced to disapprove President Clinton's waiver of Jackson-Vanik for Vietnam. This is my first day back on the job in Washington after a long, exhilarating trip to China. With the summit finally behind us, I am pleased to have the opportunity to switch gears today and put forward what I believe is the Administration's strong case for renewal of Vietnam's Jackson-Vanik waiver.

My testimony today, Mr. Chairman, will focus primarily on the immediate issue at hand: whether or not Vietnam qualifies for the renewal of a Jackson-Vanik waiver under the terms established by the 1974 Trade Act. The Jackson-Vanik Amendment requires that certain economic benefits be denied countries that 1) deny their citizens the right or opportunity to emigrate; 2) impose more than a nominal tax on emigration, visas, or other documents required for emigration; or 3) impose more than a nominal tax or other charge on any citizen as a consequence of the desire to emigrate. The Amendment, does, however, authorize the President to waive the above requirement if such a waiver would serve to substantially promote the freedom of emigration in a given country.

Earlier this year, President Clinton made a determination that Vietnam fits within the parameters for a waiver. Noting a significant increase in efforts by the Government of Vietnam (GVN) to accelerate emigration processing as requested by the United States, and stating his conviction that extension of a waiver would further encourage this positive trend, President Clinton granted a Jackson-Vanik waiver to Vietnam on March 10, 1998. He did so in the knowledge that the annual Jackson-Vanik renewal process would provide the Administration and the Congress with an opportunity to review the impact of this decision three months down the road. On June 3, 1998, citing additional steps taken by the GVN to open up emigration following the March determination, the President renewed Vietnam's waiver for the upcoming year.

I would like now to review the specific steps taken by the GVN which persuaded the President to extend and then renew a Jackson-Vanik waiver for Vietnam.

In April 1996, the United States and Vietnam agreed in principle to a new resettlement program for so-called Vietnamese "boat people." The initiative, referred to as the Resettlement Opportunity for Vietnamese Returnees (ROVR), was designed to offer a final chance at resettlement

in the United States to eligible Vietnamese who were then still in camps of first-asylum in Hong Kong and Southeast Asia or who had recently returned to Vietnam. In January 1997, the U.S. Government (USG) and the Government of Vietnam signed an agreement on the mechanics of the ROVR program, establishing a target of roughly 1,500 interviews per month beginning in April 1997.

The program, as we all know, got off to a dismal start; due to cumbersome clearance procedures, by October, 1997 the GVN had cleared only 728 of the 16,385 names we submitted earlier that year. After assuming his post in May 1997, Ambassador Pete Peterson made repeated interventions with the GVN, urging accelerated implementation of the ROVR agreement during meetings at every level from the top leadership down. In response to Vietnamese insistence that the applicant log-jam was due to logistical problems, Ambassador Peterson strongly encouraged the Government to streamline its clearance procedures, making it understood that consideration of a Jackson-Vanik waiver was contingent upon rapid implementation of the ROVR agreement. Secretary Albright conveyed the same message to the Vietnamese when she traveled to Vietnam later that summer.

In response to our requests, the GVN significantly modified its processing procedures for ROVR in October 1997. First, Vietnam dropped its requirement that ROVR applicants obtain a passport and an exit permit prior to interview by INS. Removal of this bureaucratic obstacle greatly enhanced our ability to move cases quickly and efficiently through the application process. Second, jurisdiction for the program was taken out of the hands of provincial and local officials and placed with the Ministry of the Interior. Provincial and local officials had been widely accused of foot-dragging and corruption, and so central Government control over the project further pushed the ROVR process forward.

As a result of these two changes, Vietnam's performance in processing ROVR applicants improved rapidly and dramatically. In the five months after these changes were implemented, the GVN cleared over 13,000 applicants for INS interviews. The Vietnamese authorities, moreover, were cooperative in processing passports and exit visas for those individuals approved by INS.

The GVN has continued to make progress on resettlement issues since President Clinton's original waiver determination in March. At the end of April, Vietnam brought its procedures for processing former reeducation camp detainees under the Orderly Departure Program (ODP) into

line with the new streamlined procedures for ROVR, eliminating the requirement that passports and exit visas be obtained prior to INS interviews. On June 3, the GVN went even further, announcing that all Montagnard ODP cases would henceforth be processed in accordance with the accelerated procedures. The first 359 people to be processed under these new procedures were interviewed during the May 12-20 INS trip to Ho Chi Minh City. Over 480,000 Vietnamese have emigrated to the United States via the ODP program since 1979; now, thanks to these procedural changes, we anticipate completing interviews for most of the 6,900 remaining applicants - including 900 Montagnards - by the close of 1998.

Mr. Chairman, I would like now to address what I understand to be the main criticisms of Vietnam's performance on ROVR and ODP implementation.

- 1) **A large number of ROVR applicants have been denied interview clearance.** In January, 1998 the GVN announced that 3003 people could not be cleared for interviews. The majority of these individuals, the GVN told us, had moved or were otherwise unlocatable. We have reviewed our ODP case files and other sources of information and confirmed these problems were real. We have then worked to track down these individuals and establish new contact information. As we provide new information to the GVN, the number of individuals in the non-cleared category continuously declines. Only 994 people remain on this list as of June 29. We are confident that as we continue to bring new information about these individuals' whereabouts to light, the majority will be cleared and granted interviews by INS.

Other reasons given by the GVN for non-clearance include: 1) refusal to meet with Ministry of Interior officials; 2) loss of interest; 3) criminal charges. After all cleared ROVR applicants have been processed, we will undertake to verify the claims of the Vietnamese authorities regarding this group of individuals in order to ensure that all eligible applicants who remain interested have the opportunity to have their cases heard.

- 2) **Resettlement programs are marred by corruption.** We are aware of allegations that emigration applicants have been forced to pay bribes in exchange for required documents, clearances and exit permits. We strongly condemn such practices and have repeatedly raised

concerns about reports of corruption with the Vietnamese authorities. The transfer of the clearance process from provincial and local government to the Ministry of the Interior last October was in large part an effort to address this very issue. We will continue to encourage the GVN to take steps to protect against these abuses. At the same time, our program officers in Vietnam are making efforts to educate ROVR applicants about corruption problems.

- 3) Now that it has the waiver, the Government of Vietnam believes it no longer needs to cooperate. The evidence simply does not bear this out. The GVN has continued to clear a substantial number of eligible ROVR applicants for interview since the March waiver determination, albeit at a slower rate than that of the previous five months. Vietnam cleared 13,204 of the over 18,000 potential ROVR candidates for interview between October 1, 1997 and March 9, 1998. Since then, the GVN has cleared 1,510 additional individuals, and we have continued to submit new names to the GVN for clearance. Our people on the ground who work closely with the Vietnamese on resettlement programs have indicated that the remaining cases are those which are more difficult to adjudicate and more logistically challenging. More importantly, however, the GVN has taken independent action to keep the positive momentum going, including simplifying ODP clearance procedures and granting unconditional access to the remaining Montagnard applicants.

In short, Mr. Chairman, in the case of Vietnam, the Jackson-Vanik Amendment is working just as its authors intended. The prospect of a waiver prompted Vietnam to simplify processing procedures for ROVR last October. It then served to encourage significant progress in clearing applicants for interview. With the waiver granted in March but a review process around the corner in June, Vietnam understood the need to demonstrate a further positive evolution, hence the additional procedural simplifications made in April and June. Next year Vietnam will again be required to face review; to continue enjoying the benefits that the Jackson-Vanik waiver provides, the GVN will be constrained to continue taking steps to advance the freedom of emigration.

I recognize, however, that the debate over Vietnam's Jackson-Vanik waiver has expanded beyond the narrow parameters of emigration to include other issues, notably Vietnam's progress on POW/MIA accounting, human rights, labor rights and economic liberalization. While each of

these are important bilateral issues in and of themselves, none are spelled out as criteria in the actual Jackson-Vanik Amendment. In making consideration of these issues an integral part of our deliberations, Mr. Chairman, we are thus raising the bar and asking this law to do things it was not designed to do. We have other tools at our disposal to deal with POW/MIA accounting, human rights, labor rights and trade, and I would suggest that the objectives of the Jackson-Vanik Amendment would be best served if we did not conflate this review process with a referendum on our overall relationship with Vietnam.

Nonetheless, let me briefly address each of the main areas of concern.

- **POW/MIA Accounting.** The fullest possible accounting of American POWs/MIAs remains the highest priority in our bilateral relationship with Vietnam. The GVN understands the importance of the POW/MIA issue to the American government and people and has provided excellent cooperation with our accounting efforts over the past several years. This cooperation has led to concrete results. First, 30 joint field activities and Vietnam's unilateral investigation of 115 cases has led to repatriation of 233 and identification of 98 remains since 1993. Second, the fate of 153 of 196 'last known alive' priority cases has been determined, and the remaining 43 cases are under active investigation. Third, 22 Vietnamese witnesses have participated in trilateral investigations with Laos since 1994, leading to recovery and repatriation of remains associated with 8 unaccounted for Americans in January 1996 and 4 more in October, 1996. Vietnam has identified 32 witnesses for participation in future operations in Laos, and is continuing to seek out other knowledgeable witnesses. Fourth, Vietnam has unilaterally provided 300 documents consisting of 500-600 pages, facilitated conduct of over 195 oral histories, and enabled U.S. personnel to examine and document about 28,000 archival items, (including sketches, maps, photos, records, personal artifacts, aircraft wreckage, identification media, etc.) from museums, libraries, tradition houses, and other repositories.

We established diplomatic relations with Vietnam in 1995 based on results achieved to that date, with the expectation that normalization would further enhance cooperation and produce additional results. The President has validated the GVN's continuing efforts on POW/MIA accounting three times since 1995, most recently

on March 4 of this year.

- **Human Rights.** This is an area where Vietnam's record is far from exemplary. As stated in our annual Human Rights report, the GVN continues to deny or curtail many basic freedoms, including freedom of speech, association, and religion. We are actively engaging the GVN on these issues; just a month and a half ago, Assistant Secretary for Democracy, Human Rights and Labor, John Shattuck, led our sixth bilateral human rights dialogue with the GVN here in Washington. During these meetings we raised both general human rights issues as well as specific detention cases of concern to us.

While we clearly have a long way to go in encouraging Vietnam to respect and protect its citizens' human rights, our engagement with the GVN on these issues has fostered increased openness within Vietnam. In the three years since normalization, restrictions on personal liberty have been relaxed, most notably in the area of religious freedom. Earlier this spring, for example, the GVN allowed 8 bishops and 3 priests to travel to the Vatican to attend a meeting of regional Catholic leaders. The GVN also approved on April 2 the Vatican's choice for Archbishop of Ho Chi Minh City. I would also point out in this regard that no Catholic clergy have been arrested for religious activity since 1990. The past few years have also seen an increased tolerance of public criticism of corruption and inefficiency and the release of a handful of prominent jailed dissidents. We will continue to press Vietnam for improvement on human rights at every opportunity and at the highest levels of government.

- **Labor Rights.** The GVN has made some progress on the labor front. Vietnam returned to the International Labor Organization in 1992 and has since ratified 14 ILO conventions -- two as recently as 1997. Vietnam's labor code and associated laws recognize many basic worker rights, including prohibition of compulsory labor and child labor, although information on enforcement of these laws is admittedly incomplete. Officers from our embassy in Hanoi and our consulate general in Ho Chi Minh City regularly visit footwear and textile factories to monitor the work environment and report that conditions are improving significantly. After the initial Jackson-Vanik waiver was granted and OPIC-led fact-finding delegations to Vietnam validated that worker conditions were in accordance with criteria in their authorizing legislation, the USG extended OPIC programs to Vietnam in March of this year.

This is not to suggest that Vietnam's labor policies are problem-free; on the contrary, since labor unions in Vietnam are party-controlled, workers continue to be denied the freedom of association. We have strongly encouraged increased dialogue between U.S. labor organizations and their Vietnamese counterparts so that we can both better understand Vietnam's labor practices and encourage Vietnam's full compliance with international standards.

- **Trade.** Vietnam is still a difficult place to do business. After nearly a decade of economic reform, the pace of change has slowed - in part due to slow decision making in Hanoi. We are using a variety of levers to encourage the Vietnamese authorities to stay the course of reform, including through bilateral trade negotiations and WTO accession discussions. As a result of the good will generated by the March waiver determination, we have made some progress in moving these negotiations and WTO must continue to press for progress in these difficult talks. While the current business environment is murky, at best, Vietnam, the twelfth most populous country in the world with a population of nearly 78 million, is an important potential destination for U.S. exports and investment. To be successful, U.S. enterprises seeking to conduct business in Vietnam need access to U.S. Government trade support and investment promotion programs - programs that would be unavailable if the Jackson-Vanik waiver were withdrawn.

While we still have a large number of problems to work through in our bilateral relationship with Vietnam, Mr. Chairman, engagement with the GVN has led to progress - albeit uneven progress - on all of the above issues. Let me then conclude my testimony this morning where I began, which is by saying that with respect to the specific criteria elaborated in the 1974 Trade Act, Vietnam does qualify for a renewal of its Jackson-Vanik waiver. The GVN has made significant strides in accelerating emigration processing as requested by the United States, and we firmly believe that renewal of the waiver will continue to advance the cause of freedom of emigration in Vietnam.