

VIETNAM JACKSON-VANIK WAIVER



BACKGROUND MATERIALS
July 1998

EXTENSION OF THE JACKSON-VANIK WAIVER FOR VIETNAM

EXTENSION IS IN THE NATIONAL INTEREST OF THE UNITED STATES

Engagement: The Administration's policy since the establishment of diplomatic relations in 1995 has been to normalize incrementally our bilateral political, economic and consular relationship with Vietnam. This policy builds on Vietnam's own policy of political and economic reintegration in the world. U.S. engagement will promote the evolution of a prosperous Vietnam integrated into world markets and regional organizations which, in turn, will contribute to regional stability. In addition, our involvement has resulted in Vietnamese cooperation and engagement on a range of important U.S. policy goals.

Freedom of Emigration: Extension of the waiver for Vietnam will substantially promote freedom of emigration. Since the initial waiver was granted in March 1998, Vietnam has made consistent progress on its commitments under the Resettlement Opportunity for Vietnamese Returnees (ROVR) agreement with the result that, as of June 15, 3,267 ROVR beneficiaries have departed Vietnam. In anticipation of the President's June 3 decision to extend the waiver, the Government of Vietnam (GVN) agreed to apply the more liberal emigration procedures it developed for ROVR to other Orderly Departure Program (ODP) cases.

POW/MIA Accounting: Obtaining the fullest possible accounting of our missing from the Vietnam War remains our highest priority in relations with Vietnam. The excellent cooperation we have received from the GVN and the people of Vietnam has enabled us to move forward in other areas of our bilateral relationship.

Human Rights: The United States remains concerned about Vietnam's human rights practices and continues to press for improved respect for human rights and the rule of law. Our engagement with Vietnam on this issue as well as U.S. support for greater international integration on the part of Vietnam has produced some improvements, specifically increased openness, modest relaxation of restrictions on personal liberty and greater toleration of public criticism about corruption and inefficiency in government. Disengaging from Vietnam is not the answer.

Jobs: U.S. business views Vietnam, the twelfth largest country in the world with a population of nearly 78 million, as an important potential destination for U.S. exports and investment. Increased U.S. exports to and investment in Vietnam, in turn, would translate into increased jobs for U.S. workers.

Economic Reform: The waiver helps the USG influence Vietnam's progress towards an open, market-oriented economy. Despite several years of successful economic reform, Vietnam has failed to address serious structural problems, and U.S. businesses find the Vietnamese market a tough place to operate. We are using a variety of levers, including our bilateral trade agreement negotiations and WTO accession preparations, to press the Vietnamese to make key reforms to their trade and investment regimes that will increase U.S. business access to Vietnam's market and Vietnam's observance of international trade rules. Withdrawal of the waiver could derail these negotiations, denying us the most effective tool we are using to press for more rapid and far-reaching reforms.

Cost of Failing to renew the waiver. Rejection of the waiver for Vietnam could have negative consequences on many issues of importance to the U.S. Our reversal on this important element of economic cooperation could affect Vietnamese attitudes towards cooperation on other areas, including POW/MIA accounting, emigration and human rights. Furthermore, our ability to promote comprehensive economic reform credibility and greater international engagement by Vietnam would be seriously damaged. Finally, if the waiver is not renewed, U.S. government trade promotion and investment support programs, such as those provided by the Export-Import Bank (EX-IM), the Overseas Private Investment Corporation (OPIC) and the U.S. Department of Agriculture (USDA), would no longer be available. That would damage the ability of U.S. companies to compete in this potentially lucrative market with other foreign companies that receive similar assistance from their own governments.

Disengagement is not the answer. During the 1980's, U.S. policy isolated Vietnam diplomatically and economically. In the 1990's, we have established diplomatic relations, exchanged ambassadors, and begun to normalize our economic ties. We have made significant progress toward achieving our policy goals since we began to engage with Vietnam. That progress must continue.

Migration Issues

Jackson-Vanik is Working. The President granted the waiver of the Jackson-Vanik amendment because we believed that doing so would substantially promote the objective of the Jackson-Vanik legislation: to promote greater freedom of emigration. The prospect of a Jackson-Vanik waiver was an important factor in encouraging Vietnam to modify its processing procedures for the Resettlement Opportunity for Vietnamese Returnees (ROVR) last October. These changes greatly facilitated implementation of ROVR. Since Jackson-Vanik was granted at the end of April this year, Vietnam similarly modified its procedures for former reeducation camp detainees, and on June 3 Vietnam informed us that we may interview all Montagnard ODP cases. The President's decision on June 3 to seek renewal of the Jackson-Vanik waiver is likely to have influenced the Vietnamese to facilitate ODP processing.

The Orderly Departure Program (ODP). Overall, Vietnam's emigration policy has liberalized over the last 10-15 years. Vietnam has a solid record of cooperation in permitting Vietnamese to emigrate via the ODP. Over 480,000 Vietnamese have emigrated as refugees or immigrants to the U.S. under ODP and there are only about 6,900 ODP applicants remaining to be processed. We believe that Vietnam's removal of the requirement for the remaining ODP applicants to obtain exit permits prior to their interview will speed the processing of these applicant's including Montagnards and former reeducation camp detainees. With this change, we anticipate that we will complete interviews in several of the ODP sub-programs by the end of 1998.

Resettlement Opportunity for Vietnamese Returnees (ROVR): Vietnam and the U.S. signed an agreement to process applicants for the ROVR initiative in January, 1997. After a slow start, due largely to misunderstanding of the program on the part of local officials, Vietnamese performance has improved dramatically since November. As of June 15, 1998, Vietnam had cleared for interview 15,322 or 82 percent of the 18,786 potential applicants. INS had interviewed 9,892 persons and 3,267 had departed for the U.S. under ROVR. Both sides are working to move people through the pipeline as quickly as possible. Vietnamese authorities have not yet provided clearance for 2,463 persons; however, they have provided an accounting for and cleared for interview all but 1,001 persons that they previously said might not be eligible to emigrate. These remain from 3,003 persons for whom we requested Vietnam to provide an accounting in January, 1998. Most were not cleared due to inaccurate addresses. We expect that a significant number of these will also be cleared for interview once we have given additional information to Vietnam to help it identify the potential beneficiaries.

VIETNAM'S HUMAN RIGHTS RECORD

The United States remains concerned about Vietnam's human rights practices. Vietnam denies or curtails basic freedoms to its citizens, including freedom of speech, association and religion. The government maintains an autocratic one-party state that tolerates no organized opposition. There are a number of people in jail or under house arrest for the peaceful expression of their political or religious views.

The Administration continues to press for human rights. The Administration's support for extending the Jackson-Vanik waiver is coupled with active efforts to promote respect for human rights and the rule of law.

- The United States raises human rights issues directly with Vietnam at every opportunity.
- Treasury Secretary Rubin and Secretary of State Albright both raised human rights at the highest levels with the Vietnamese during their visits to that country in 1997.
- We have just held the sixth session of our regular bilateral human rights dialogue with the Vietnamese government on May 26. We raised both general issues, such as freedom of speech, association and religion, as well as specific detention cases of concern to us.

Engagement with Vietnam has resulted in some improvements. Exposure to the outside world, and the exchange of goods, ideas and people have brought about increased openness and some relaxation of restrictions on personal liberty. There is improved access to information and foreign media, for example. Public criticism of corruption and inefficiency in the government is now permitted to a greater extent than ever before (although calls for pluralistic democracy or the overthrow of the communist Party are not allowed). Since normalization of relations, several jailed dissidents have been released. Over time, citizen-to-citizen contacts through the media, internet, trade and investment, travel and cultural and educational exchanges expose Vietnamese people to international standards and values.

Isolation is not the answer. Disengaging from Vietnam or imposing sanctions would likely strengthen the hand of the hard-line faction and weaken the reformers. We believe that engaging Hanoi and continuing to assist and press Vietnam for greater openness and reform is one of the keys to improving respect for human rights in that country.

POW/MIA Accounting

Obtaining the Fullest Possible Accounting of our Missing from the Vietnam War is our Highest Priority with Vietnam. Vietnam understands that this is our highest priority in bilateral relations, that its cooperation with our accounting effort made possible the establishment of diplomatic relations in 1995, and that our ability to normalize relations in other areas has been predicted on a continued high level of cooperation. As a consequence, Vietnam has maintained a high level of cooperation with the U.S. since normalization. The President has certified Vietnamese cooperation on three occasions, most recently issuing a determination on March 4, 1998 that Vietnam "is fully cooperating in good faith with the United States."

The President has identified four areas for measuring Vietnamese cooperation:

1) Concrete results from efforts by Vietnam to recover and repatriate remains. As of June 1, 1998:

- Conducted 30 Joint Field Activities in Vietnam since 1993.
- 233 remains repatriated and 97 remains identified since 1993.
- Vietnamese teams have provided reports regarding their unilateral investigations of 115 cases.

2) Continued Resolution of last known alive priority case.

- Of 196 persons associated with "last known alive" cases (individuals who survived their loss incidents, but did not return alive and remain unaccounted for) in Vietnam, fate has been determined for all but 43. The fate of five individuals on this list was determined in May, 1998.
- The cases have been resolved or remains identified of 34 individuals, 15 in the last five years.
- USG resolved special remains cases involving 11 individuals, reducing the initial list of 98 individuals to the current 87. The special remains list is a sample of cases for the USG has evidence that the Vietnamese government at one time possessed remains of American servicemen that were unaccounted for as of 1993.

3) Vietnamese Assistance in implementing trilateral investigations with Laos.

- Since the 1994 agreement establishing the mechanism for U.S.-Vietnamese-Lao trilateral investigations, 22 Vietnamese witnesses have participated in operations in Laos.
- In October, 1995, witnesses provided information leading to recovery and repatriation in January, 1996 of remains associated with the cases involving eight unaccounted for Americans.
- In October, 1996, another witness provided information that led to the recovery of remains associated with a case involving four missing Americans.
- Vietnam has identified 32 witnesses for participation in future operations in Laos.

4) Accelerated Vietnamese efforts to provide all POW/MIA related documents

- Since the creation in 1994 of Vietnamese unilateral search teams the Vietnam Office for Seeking Missing Persons (VNOSMP) has provided documents in 12 separate turnovers totaling 300 documents that consist of 500-600 untranslated pages.
- VNOSMP has conducted unilateral research in 19 provinces.
- Over 195 oral history interviews have been conducted, in addition to several hundred completed as part of JFA's.
- About 28,000 archival items reviewed and photographed since January 1993 by joint research teams.

As a result, there has been substantial progress in POW/MIA accounting, none of which would have been possible without extensive Vietnamese cooperation.

Economic Reform and the Vietnamese Business Climate

The Vietnamese business climate is still difficult. After nearly a decade of economic reform, the pace of reform has slowed. Future economic growth depends on increased private sector activity. Although U.S. businesses are not optimistic about the near term prospects for increased activity in Vietnam and serious obstacles to private sector development remain to be addressed, many U.S. businesses remain active in Vietnam and anticipate improved prospects in the medium to long term. They believe the U.S. government has an important role to play in encouraging the GVN to improve its business climate.

Vietnam needs to undertake additional fundamental economic reforms. Recent policy changes aimed at improving Vietnam's exports and foreign investment inflows indicated that the Vietnamese leadership understands that the country's economic performance will suffer unless it remains firmly committed to carrying out economic reform. The USG has joined the international donor community in urging Vietnam to further reform state enterprises, the financial sector, the exchange rate system and to move ahead on trade liberalization.

The U.S. government is using a variety of levers to encourage Vietnam to undertake these reforms and improve its trade and investment regime. Both in Vietnam and here in Washington, U.S. government officials actively engage Vietnamese officials in an ongoing dialogue on economic reform and necessary improvements to their country's business climate. Bilateral trade negotiations and WTO accession preparations provide leverage, holding out the prospect of possible MFN treatment in the future. These processes provide us with opportunities to obtain from the Vietnamese commitments to undertake necessary economic reforms and to make changes to their trade and investment regime that will directly benefit U.S. businesses.

Withdrawal of the waiver would derail multilateral and bilateral trade discussions that would result in increased U.S. access to Vietnam's market and Vietnam's observance of international trade and investment standards. The Jackson-Vanik waiver is one prerequisite for MFN trading status; the other is a completed bilateral trade agreement. Both are necessary if the United States is to support Vietnam's accession to the WTO. Withdrawal of the waiver could derail these negotiations, delaying U.S. businesses' prospects of gaining the changes to Vietnam's economic system they seek.

The waiver has already proved to be an appropriate tool to seek economic reform and to address U.S. businesses' difficulties in Vietnam. Shortly after the waiver was granted, the Vietnamese demonstrated renewed interest in concluding the bilateral trade agreement by presenting a vastly improved offer. Vietnam's first formal discussions on WTO accession were also scheduled around that time.

Failure to renew the waiver is likely to hurt U.S. exports to and investment in Vietnam and benefit foreign competitors. Without a Jackson-Vanik waiver, U.S. businesses would lose access to U.S. governments trade promotion and investment support programs, such as those offered by EXIM, OPIC and USDA. This would restrict their ability to compete on a level playing field with their competitors who have access to similar programs.