

CONTINUATION OF WAIVER UNDER THE TRADE ACT  
OF 1974 WITH RESPECT TO VIETNAM

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COMMUNICATION

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT A CONTINUATION  
OF A WAIVER CURRENTLY IN EFFECT FOR VIETNAM WILL SUB-  
STANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402, OF  
THE TRADE ACT OF 1974 (PRESIDENTIAL DETERMINATION 2002-  
22), PURSUANT TO 19 U.S.C. 2432



JUNE 4, 2002.—Referred to the Committee on Ways and Means and  
ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE



THE WHITE HOUSE,  
*Washington, June 3, 2002.*

Hon. J. DENNIS HASTERT,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: 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.

I have determined that such a waiver will substantially promote the objectives of section 402 and I have instructed the Secretary of State to provide a copy of that determination to the Speaker of the House of Representatives and the President of the Senate. The report also indicates that I have received the assurances with respect to the emigration practices of Vietnam required by section 402(c)(2)(B) of the Act.

Sincerely,

GEORGE W. BUSH.



[Presidential Determination No. 2002-22]

THE WHITE HOUSE,  
Washington, June 3, 2002.

Memorandum for the Secretary of State.

Subject: Presidential 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 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.

On my behalf, please transmit this determination to the Speaker of the House of Representatives and to the President of the Senate.

You are authorized and directed to publish this determination in the *Federal Register*.

GEORGE W. BUSH.

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 twelve 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.

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 rescue needs of individuals who have suf-

ferred 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 May 3, the Government of Vietnam (GVN) has cleared for interview all but 27 of the nearly 21,000 individuals who applied for consideration under the ROVR program. Applicants cleared for interview by the GVN must gather necessary documents to support their applications and be scheduled for an interview with the Immigration and Naturalization Service (INS). The INS has approved 17,195 for admission to the United States, 16,228 of whom have departed from Vietnam for the United States. An additional 13 individuals await INS 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 May 3, 2002, there were 13 HO cases (comprising 66 persons) that the GVN had not yet cleared for interview.

A sub-group of the HO program consists of the applicants covered by the "McCain Amendment." 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 on their parents' cases. As the result of extensions and modifications to the legislation since its initial passage in October 1996, nearly 10,000 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. The U.S. House of Representatives and Senate recently passed identical legislation extending the provision until September 30, 2003. As of May 3, 227 cases (comprising 859 individuals) remain to be processed for resettlement under this program.

The GVN also continues to cooperate on refugee cases involving Montagnards, a term commonly used to identify members of ethnic minorities who traditionally have lived in highland areas. Of the 88 active cases in this category, 16 cases (consisting of 132 people) remain to be cleared for interview. The United States Government will continue to press the GVN to clear for interview and processing the remaining Montagnard refugee cases.

During the past year, nearly 1,000 Montagnards fled to Cambodia and secured UNHCR protection following large-scale Montagnard protests in the Central Highlands that occurred in February 2001. A tripartite agreement between Vietnam, Cambodia, and the UNHCR to ensure the repatriation of these Montagnards to Vietnam broke down. Then, Vietnam tried to force

the repatriation of many Montagnards and objected to third-country resettlement. Vietnam subsequently accepted arrangements to resettle these Montagnards in the United States. We are beginning to discuss with Vietnam ways to regularize travel of other Montagnards who wish to leave the country.

The United States Government is also committed to completing the processing of those individuals eligible for the ODP sub-program for former United States Government employees who did not receive interviews because of the 1996 suspension of the program by the United States. In November 2000, we completed the review of the files of applicants who had not been processed under this category and determined that 940 applicants were eligible for interview. We sought reconfirmation from the Vietnamese of authorization to proceed with the program. In December 2001 the GVN authorized processing under this program. Interviews commenced on April 15 and should be completed by early June.

The GVN also continues to cooperate in the timely processing of current non-refugee immigrant visa cases. In the first half of fiscal year 2002, our consular sections issued 11,229 immigrant visas and 8,468 non-immigrant visas. The Department of State anticipates that demand in Vietnam for immigrant and non-immigrant visas will grow.

The United States will not consider our refugee programs to be completed until the last applicant has had the opportunity to be interviewed, or we have 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 who registered to be interviewed for resettlement in the United States as refugees.

These efforts, together with the extension of the Jackson-Vanik waiver, will encourage the Vietnamese to further liberalize their emigration policy and to continue to resolve procedural issues that affect our refugee and immigration programs.