



DEPARTMENT OF STATE

Washington, D.C. 20520

FACT SHEET

Legal Departure from Vietnam

UNHCR-SRV Seven Point Agreement

Concluded in May 1979, the Seven Point Agreement represents a Vietnamese Government understanding with the UN High Commissioner for Refugees (UNHCR) to permit the departure of Vietnamese citizens who wish to leave to join relatives abroad or to work. Although such legal immigrants are not technically "refugees," the UNHCR has undertaken to facilitate these departures by coordinating resettlement in recipient countries. The Vietnamese and the recipient countries are to prepare lists of those whom they will permit to leave, or accept for resettlement period. Those appearing on both lists will be "qualified" for exit from Vietnam. Those not on both lists are to be the subject of further discussions.

U.S. Response to UNHCR-SRV Agreement

Because of the monumental wave of refugees fleeing Indochina, the United States Government must allocate all refugee parole numbers to these people in countries of first asylum. Thus, we are now able to accept directly from Vietnam only those people who qualify under regular immigration procedures. The program, which is being coordinated by the American Embassy in Bangkok, is designed to reunite American citizens/permanent residents with qualified relatives who still are living in Vietnam.

Family reunification has been the subject of bilateral discussions between the United States and Vietnam for a number of years but, despite Vietnamese promises to be generous in their consideration of these cases, only a few individuals ever were permitted to leave. Following the UNHCR-SRV Seven Point Agreement, the United States declared its willingness to cooperate with the UNHCR and SRV, and to provide directly to them lists of individuals who would qualify for U.S. immigrant visa processing based on petitions filed by their American citizen/permanent resident relatives. The first of these lists was provided to the UNHCR in May, with subsequent lists following as

additional petitions have been received and catalogued at our Embassy in Bangkok. We expect that the numbers of people from our lists approved to leave by the Vietnamese Government will be expanding in the near future. To expedite the processing of these cases, we have set up a special Vietnamese Processing Unit in our Embassy in Bangkok.

U.S. Consular Officials in Vietnam

Responding to a UNHCR suggestion which had Vietnamese concurrence in principle, the United States agreed that the sending of U.S. consular officials to Vietnam under the aegis of the UNHCR would facilitate our ability to issue immigrant visas to relatives of U.S. citizens and resident aliens. Such a program is useful because, according to U.S. law, potential immigrants are required to present adequate documentation to demonstrate their relationship to U.S. citizens/permanent residents, pass a medical examination, and be personally interviewed by a U.S. consular officer. To continue all of these functions in Bangkok, as we have been doing, means additional expenses to the petitioners, who must support their family members in Thailand during the review period. The processing in Bangkok also complicates our arrangements with the Government of Thailand to move the potential immigrants within two weeks when medical or documentary difficulties arise. Thus, processing the cases in Vietnam would mean that any and all eligible immigrant applicants who are able to depart Vietnam after processing there could proceed directly to the United States. This would accelerate their arrival in the U.S. We are awaiting the conclusion of discussions between the UNHCR and the Vietnamese Government which would finalize the procedures by which American consular officials will operate in Vietnam under the aegis of the UNHCR. In the meantime, we have increased the staff of our Vietnamese Processing Unit in Bangkok, in anticipation of their visits to Vietnam and to meet current and projected increased Vietnamese approvals for departure.

Direct Flights from Vietnam to the United States

On several occasions it has been proposed that the United States consider direct flights of individuals from Vietnam to the U.S. For the moment, this is not a practical solution to the movement of these family members. As indicated above, the process of issuing visas to prospective immigrants is being handled in Bangkok so that any initial movement from Vietnam must be funneled through the city. In addition, the numbers which have been leaving Vietnam are not sufficiently large to warrant use of direct charter flights; commercial reservations have been adequate. Once the United States is able to process sufficient number of cases at any one time to warrant use of direct charter flights, the United States remains willing to use this method to move immigrants directly to the United States. Such a procedure would of course require the approval of the Vietnamese Government.

GENERAL INFORMATION FOR APPLICANTS FOR IMMIGRANT VISAS

The following information is for persons desiring to immigrate to the United States. Please read it carefully and follow the instructions that relate to your specific situation.

I. GENERAL CATEGORIES OF IMMIGRANTS

Persons desiring to immigrate to the United States are, by U.S. immigration laws, divided into two general categories: (a) those who may enter the United States as permanent residents, without any restriction based on number of persons, and (b) those who are restricted by an annual number of persons who may enter as permanent residents.

A. Immigrants not numerically limited

1. Certain Relatives of United States Citizens:

The spouse and minor unmarried children of a United States citizen, and the parent of a United States citizen who is over the age of twenty-one.

2. Special Categories:

- a. Immigrants who lived in the United States previously as lawful permanent residents and are returning to live in the United States after a temporary residence abroad.
- b. Certain practicing ministers of religious denominations whose services are needed by a religious denomination in the United States. (*Their spouses and children are included.*)
- c. Specifically qualified and recommended employees, and former employees, of the United States Government. (*Their spouses and children are included.*)

B. Immigrants with numerical limitations—by category

1. All other immigrants not included in section A above are limited to 20,000 each year from each independent country (or the Panama Canal Zone) and 600 from a dependent territory. The total number each year for all such immigrants may not exceed 170,000 from the Eastern Hemisphere and 120,000 from the Western Hemisphere.

2. Aliens who wish to immigrate to the United States but are restricted by annual numbers are divided into certain groups called "preferences." They are aliens who are:

- a. unmarried sons and daughters of U.S. citizens—*first preference*;
- b. spouses and unmarried sons and daughters of aliens who have been lawfully admitted into the United States as permanent residents—*second preference*;
- c. members of certain professions, and persons of exceptional ability in the sciences and arts, whose services are required by an employer in the United States—*third preference*;
- d. married sons and daughters of U.S. citizens—*fourth preference*;
- e. brothers and sisters of United States citizens, if the U.S. citizens are 21 years of age or over—*fifth preference*;
- f. skilled and unskilled workers designated by the Labor Department as in short supply in the United States—*sixth preference*;
- g. refugees: this preference is administered solely by the Immigration and Naturalization Service of the Department of Justice—*seventh preference*;
- h. all other immigrants—*nonpreference*.

II. STEPS TO BE TAKEN IN APPLYING FOR IMMIGRANT VISAS

1. Applicants for immigrant visas who believe they are entitled to immigrant status based on relationship to a United States citizen or lawful resident alien (see I.A.1 and I.B.2.a, b, d and e above) should request that relative to file a petition (Form I-130) with the nearest office of the Immigration and Naturalization Service in the United States. *Such applicants should not complete the attached questionnaire.* (Optional Form 222, Preliminary Questionnaire to Determine Immigrant Status.)

The consular office will advise the beneficiary of the petition (the applicant for a visa) when it is received from the

Immigration and Naturalization Service. In some cases, if the American citizen or permanent resident sponsor is abroad he may file the petition with a consular officer at an American Embassy or Consulate.

2. All other intending immigrants should complete and return the attached questionnaire (Optional Form 222) to the consular section of the nearest United States Embassy or Consulate. Based on the information supplied, the consular section will advise applicants of the next steps to take in their visa applications.

III. LABOR CERTIFICATION NEED FOR CERTAIN IMMIGRANTS

Unless an intending immigrant is an immediate relative of a U.S. citizen (see I.A.1 above) or entitled to first, second, fourth, or fifth preference status (see I.B. above) or is a refugee, he must obtain a certification from the Department of Labor that there are no able, willing, and qualified workers available for his proposed employment in the United States.

Exemption from the labor certification requirement is authorized for individuals proving that they do not intend to work; a spouse or child accompanying or following an alien spouse or parent who either has, or does not require, a labor certification; a fiancée of a United States citizen or permanent resident and whose support is guaranteed by the

latter; certain investors; and members of the Armed Forces of the United States of America.

Details on the procedures for obtaining labor certification are available from the Department of State's Optional Form 172, *Labor Certification*, which is available from the consular office.

Persons who obtain such labor certification qualify for nonpreference status but may also be entitled to third or sixth preference status (I.B.2.c and f above). Further information on seeking third and sixth preference is also available from Optional Form 172. As appropriate, these informational forms will be supplied by the consular section in reply to the submission of the attached Optional Form 222.

IV. PERSONS INELIGIBLE TO RECEIVE VISAS

The immigration laws of the United States, in order to protect the health, welfare and security of the United States, prohibit the issuance of a visa to certain applicants. The following are examples of applicants who must be refused visas: those who have a dangerous contagious disease, such as tuberculosis, or have a mental illness; are narcotics addicts or traffickers; have committed a criminal act or certain offenses against public morals; are illiterate; are likely to become a public charge in the United States; or are or have been members of or supporters of the Communist Party or any affiliated organization.

If any of the foregoing restrictions might apply, then a statement regarding the facts should be submitted to the

consular office with the attached Optional Form 222. The consular officer will then advise the applicant if there is relief for such applicants which might permit the issuance of a visa.

NOTE: Applicants are required to swear or affirm to the truth and accuracy of a visa application at the time of formal application and to submit certain documentary evidence to establish eligibility for the visa. These statements and the evidence will be carefully examined. It should be understood that willful misrepresentation of a material fact in connection with a visa application may result in a permanent bar to entry into the United States, or to deportation if admitted into the United States.

V. OTHER IMPORTANT INFORMATION

A. Documents Required in Support of a Visa Application

All applicants must submit certain personal documents as well as evidence that they will not become a public charge in the United States. The consular officer will inform visa applicants of the documents needed as their applications are processed.

B. Medical Examinations

A medical examination is required by a doctor designated by the consular officer. Costs for such examinations must be borne by the applicant.

C. Visa Fees

Each formal immigrant visa application costs U.S. \$5.00 and the immigrant visa issued is U.S. \$20.00. These fees must be paid by, or on behalf of, each intending immigrant, regardless of age, and are not refundable. Local currency equivalents are acceptable. Fees should not be sent to the consular office unless specifically requested.

D. Miscellaneous

An immigrant visa is valid for 4 months from date of issuance. Since no advance assurances can be given that a

visa will be issued, applicants are advised *not* to make any final travel arrangements, *not* to dispose of their property, and *not* to give up their jobs until visas have been issued to them.

Persons born in countries other than the United States may, under United States law, have a claim to United States nationality if:

- a. Either parent was born or naturalized in the United States.
- b. Either parent was a United States citizen at the time of the birth of the applicant.

A person born in the United States, with few exceptions, has a claim to United States citizenship. Any applicant believing that he may have a claim to United States citizenship should *not* apply for a visa until his citizenship has been determined. He should inform the consular office so that steps can be taken to determine if the applicant is entitled to a U.S. passport rather than an immigrant visa.

Applicants for immigrant visas who have questions not answered in this information sheet may communicate with the nearest consular office.

Enclosure:

Preliminary Questionnaire, Optional Form 222 (Formerly FS-497)



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Legal Emigration from Vietnam

In May, 1979, the United Nations High Commissioner for Refugees (UNHCR) reached agreement with the Government of the Socialist Republic of Vietnam (SRV) on the legal departure of persons from Vietnam. It was agreed that the UNHCR would facilitate the implementation of the January 12, 1979, announcement by the Vietnamese Government that it would permit the orderly departure of persons who wish to leave Vietnam for countries of new residence. The selection of people will be made on the basis of lists given to the UNHCR by Vietnam and the receiving countries; persons whose names appear on both lists will qualify for exit.

Because of the monumental wave of refugees fleeing Indochina, the United States Government must allocate all refugee parole numbers to these people. Thus, we are now able to accept directly from Vietnam only those people who qualify under regular immigration procedures.

At the present time the American Embassy in Bangkok is coordinating the program to admit to the U.S. these legal emigrants from Vietnam, and all approved immigration petitions should be forwarded to the Embassy. The United States Government can include on the list of Vietnamese residents eligible for resettlement here only those who are American citizens or who have approved visa petitions for whom visas would be immediately available (i.e. where there is no priority cutoff date due to the oversubscription of that visa preference category).

In May, our Embassy in Bangkok prepared the first list for the UNHCR. It contained approximately 3500 cases, covering some 5000 people. Additional lists for the UNHCR will be prepared as new approved petitions are received by the Embassy. The SRV indicates its list is made up of those who have applied for exit permission.

We urge all persons interested in family reunification with Indochinese relatives to keep in mind that under normal circumstances, United States law permits only certain types of relatives to immigrate to the U.S. A petition for immigration must be filed by the relative residing in the

U.S. as the first step. If you are a United States citizen, you may file a petition for the immigration of your:

1. Spouse (common-law or unconsummated proxy marriages are not recognized)
2. Sons and daughters and their spouses and minor children
3. Parents or step-parents (if the step-parent became that before you were 18)
4. Brothers and sisters (including also their spouses and minor children)
5. Fiance or fiancée (can include common-law or proxy marriage)

If you are a lawfully admitted permanent resident of the United States, you may file a petition for the immigration of your:

1. Spouse
2. Unmarried sons and daughters of any age

If you are in the United States on refugee or parole status, you may not file a petition for your relatives. You may, however, apply for adjustment of status to that of a permanent resident when you have been in the U.S. for two years, and we recommend that you apply as soon as you are eligible. You should also apply for United States citizenship as soon as you are eligible (in most cases five years after your arrival in the U.S.).

Petitions for the immigration of relatives may be filed with the Immigration and Naturalization Service (INS) office nearest you. At this time we are recommending that all petitions for people who are currently in Vietnam be forwarded by the INS to the American Embassy in Bangkok upon INS' approval of the petition. (Should you know that your relatives have departed for the People's Republic of

China, you should request the approved petition be forwarded to our Embassy in Beijing (Peking). In filing an I-130 petition on behalf of people residing in Vietnam, you must be certain to include an accurate and current address for the beneficiaries. If you do not, there will be no way for UNHCR to provide the necessary assistance in their legal exit.

Many individuals not included among the list above of relatives eligible for immigration petitions may be eligible for consideration in the categories open to certain members of the professions, persons of exceptional ability in the sciences and arts, or skilled and unskilled workers in short supply who receive certification from the Department of Labor. Further inquiries regarding these categories should be referred to the INS.

If you are able to file the required I-130 immigration petition on behalf of your relatives in Vietnam and have it forwarded by INS to Bangkok, you should also file an affidavit of support (a notarized statement of your willingness to support your relatives, and your ability to do so) and send it, along with supporting evidence such as a statement from your employer concerning your employment and salary, to the Embassy in Bangkok. If you entered the U.S. as a refugee with a sponsor, you may wish to ask advice on this matter from your sponsor.

If you filed petitions in behalf of relatives in Vietnam prior to April 30, 1975, you must renew the validity of the petitions. All documents sent to Saigon prior to this date are irretrievable. In order to reinstate such a petition, you should contact the field office of the INS or the U.S. Consulate where you originally filed the petition. If the petition was filed at the Embassy in Saigon, you should contact the nearest INS office. When contacting the INS or the American Consulate, include a copy of the I-171 notification of approval form you received at the time of petition approval or any other papers you may have regarding the approval of such a petition. Request the office to review its files and send updated information to the Embassy in Bangkok (or Beijing if the beneficiary is known to be in the People's Republic of China now).

Once INS has informed you that your petitions are being forwarded to Bangkok, you may wish to inform your relatives with approved petitions to apply to the Vietnamese authorities for exit permission under the terms of the UNHCR-SRV agreement of May 30, 1979.

When our Embassy in Bangkok receives names of the persons who have been permitted to leave and are about to exit (i.e. when the names appear on a manifest of a UNHCR charter plane or of the regular weekly Air France flight), the Embassy notifies the petitioner in the U.S. directly via cable.

There are no U.S. Government funds available to pay for the travel to the U.S. of immigrants from Vietnam nor to pay for their expenses in Bangkok during processing. Petitioners therefore should be prepared to provide all transit and transportation costs for the people they wish to have join them. Transit costs while in Bangkok are about \$300 per adult; this covers food and lodging, medical and visa expenses, and incidental expenditures. Transportation from Ho Chi Minh Ville costs \$106 per adult. The cost from Bangkok to California is \$325 when the travellers are granted the refugee fare arranged by the Inter-Governmental Committee on European Migration (ICEM). All transit and transportation costs for this program are being administered by ICEM, and the petitioner is expected to make arrangements directly with its office at the following address:

ICEM
Lincoln Building (Suite 2127)
60 East 42nd Street
New York, N.Y. 10017

If the petitioner is unable to bear all of the travel expenses, she/he may apply for a travel loan from ICEM. All transit costs for processing in Bangkok, however, must be borne by the petitioners and deposited with ICEM prior to the immigrants' departure from Vietnam. Payment to ICEM does not guarantee that relatives will immediately leave Vietnam.

Refugees in the PRC

To the best of our knowledge there are currently about 160,000 people who have fled Vietnam into the People's Republic of China, most of them ethnic Chinese and most of them former residents of North Vietnam.

Former residents of Vietnam currently in the PRC who desire to come to the United States to live may be admitted only by qualifying for U.S. immigrant visas as described above. They do not qualify under the current refugee parole programs, as these apply only to "land refugees" granted temporary asylum in Thailand, and to "boat refugees" who left Vietnam by small boats and were subsequently granted temporary asylum in other countries. All approved petitions on behalf of people known to be in the PRC should be sent to the American Embassy in Beijing.

Documents

INS requires that all supporting documents must be submitted in the original. If the applicant desires to have original documents returned to him, and if copies are by law permitted to be made, he may submit photostatic or typewritten copies. Photostatic copies unaccompanied by the original may be accepted if the copy bears a certification by a notary public, or by an immigration or consular officer acknowledging that the copy was compared with the original and found to be identical. A foreign document must be accompanied by a translation, certified by the translator as to the accuracy of the translation and as to his competency to translate. (Copies of a certificate of naturalization or citizenship should not be made as it is illegal).