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SENSITIVE

DEPARTMENT FOR CA/OCS, CA/OCS/C1, CA/OCS/FRI, CA/FPP, DEPARTMENT
ALSO FOR CA/VO/F/P, EAP/BCLTV, AND L/EAP
HO CHI MINH CITY FOR CONS AND DHS OIC

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TAGS: ROC1 CVIS CASC PREL KFPRD VM
SUBJECT: Vietnam Adoptions - DIA's Initial Response to Ambassador's
Letter

REF: HANOI 1893

1. (SBU) Summary: On November 2, ConOff meet with DIA officials Dr.
Vu Duc Long and Mr. Dang Minh Dao. ConOff gave Long a copy of the
letter that the Ambassador had delivered to the Minister of Justice.
Long noted that a formal reply will be delivered later, but he
reiterated his position that verification trips must be announced
and jointly conducted with DIA. Long stated that DIA would
investigate the cases of child buying found by Post in Phu Tho,
provided that Post officially requests an investigation. Long also
requested that the USG share with DIA any negative information on
ASPs discovered in the Hague accreditation process. End Summary

2. (SBU) On November 2, ConOff meet with DIA officials Dr. Vu Duc
Long and Mr. Dang Minh Dao. ConOff began the meeting by delivering
two letters to Dr. Long from the Embassy seeking clarification
regarding apparent irregularities in five adoption cases. ConOff
then provided DIA with a copy of the letter the Ambassador had
delivered to the Minister of Justice on November 1 (text in para 13
below). Long noted that the Minister would reply to the letter
during the next week. Long then offered his comments on the issues
raised in the letter.

3. (SBU) With regard to field verifications, Long stated that DIA
had no objections to such activity provided that in was done in
"co-operation with DIA." He defined co-operation as allowing DIA to
provide advance notice to local officials, holding joint meetings,
and producing a joint report on the findings of the trip. Long
noted that DIA was receiving complaints from local government
officials and the Ministry of Public Security regarding Post's field
verifications. He noted that several provinces have told him that
they will not continue co-operating with U.S. ASPs if the
verification trips continue. ConOff reiterated that unannounced,
unaccompanied field verifications were a critical part of the visa
process. Long replied that unless the United States agrees to
co-operate on filed verifications, "it might become necessary for Vietnam to suspend adoptions to the US in order to review the program."

4. (SBU) With regard to recent cases from Phu Tho province involving evidence of baby buying and children released for adoption without the consent of their birth mothers (ref tel), Long stated that DIA was ready to work with the US to investigate this issue. Long asked ConOff to share all of the information the USG had with regard to these cases. ConOff replied that, once DIA opened an investigation, the USG would be happy to share information with the Vietnamese police officials assigned to investigate the case. Long replied that DIA would request an investigation upon receipt of a letter from the Embassy requesting one. He noted that the Ambassador's letter was insufficient for DIA to begin an inquiry. ConOff agreed to send a second letter regarding this issue.

5. (SBU) ConOff then asked Long to clarify the status of a future new law on adoption, as the officials at the National Assembly had stated that this legislation was not on the 2008 legislative program. Long stated that the law had been pulled from the program at the request of the National Assembly but that DIA was continuing its drafting work in the hopes that it would be added again. (Note: While ConOff was meeting with Long, the Ambassador was meeting with the Chairman of the Law Committee of the National Assembly, Nguyen Van Thuen. Thuen stated that he was unaware of any plans for a new adoptions law, and that such a law had never been on the 2008 legislative program, nor on the four year legislative program. However, Thuen noted that such a law could be useful and that it was possible to add it to the plans if the MOJ requested it. End Note.)

6. (SBU) During the October 25 meeting, Long had asked ConOff if Post could supply DIA with copies of NOIDs. After consulting with the Department and USCIS, ConOff informed Long that this would not be possible due to U.S. privacy laws. However, it might be possible to share some of the information from the NOIDs, provided that it would be used to help enforce Vietnam's laws on adoption. ConOff noted that there was some concern in Washington that DIA would simply use this information to assist ASPs in preparing rebuttals to NOIDs. To help ease these concerns, ConOff asked Long if he could share any cases from the past two years where DIA had taken administrative or judicial action against any official or ASP for violations of Vietnamese law or regulations. Long stated that he was not aware of any such cases, but he would check his files, and if there had been a case, he would share it with the Embassy.

7. (SBU) Long then reminded ConOff that adoptions are regulated by the provinces and that DIA lacked the authority to interfere in the affairs of the provinces. Thus, even if DIA was aware of irregularities, the most it could do would be to notify the provincial authorities and ask them to investigate. If the province chose to ignore DIA's request, there would be nothing further that
DIA can do.

8. (SBU) Long went on to explain that DIA needed a copy of the NOD to complete their "required procedures." Long explained that, upon receipt of a NOD, DIA would contact the local officials and ask them to hold a meeting with everyone named in the documents relating to the adoption. They would all be asked to reconfirm the information in the official documents so that this information could be shared with the ASP.

9. (SBU) Long then told ConOff that, when Vietnam began to implement the MOU, he had requested any negative information that the USG had on ASPs. Since the Embassy did not provide any information, the DIA "had to approve" every application it received. Long stated it was unfair of the USG to complain that all ASPs who applied received licenses, since we had been unwilling to tell DIA which ASPs to deny. Long added that he was still interested in receiving information on "bad agencies" and that he consider revoking the license of any agency, if the USG asked him to do so.

10. (SBU) As the meeting ended, Dao once again pulled ConOff aside to discuss an "additional issue." Dao stated that the Embassy should not focus on Phu Tho, as there were problems in other provinces. Dao specifically listed Vung Tao and Tuyen Quang. When asked why DIA had not taken any action in these provinces, Dao said they would be happy to go there with the Embassy and conduct a joint investigation if we requested it.

12: (SBU) Comment: While it is important for Post to give the Minister of Justice a chance to personally respond to our letter, Dr. Long's comments reinforce our serious concerns about the DIA's willingness and ability to act as a competent central authority to safeguard the rights of children and birth parents in Vietnam. Long made it clear that DIA would act only at the request of the Embassy and that even then DIA would be at the mercy of provincial officials. However, when ever the Embassy has asked Dr. Long to clarify apparent violations of Vietnamese law, his answer has been to permit any action taken by an ASP or local authorities. His choice to collaborate directly with the ASP in responding to our letter further underscores that DIA can not be seen as a reliable partner. Further, his repeated threats to cut off adoptions if the U.S. does not agree to joint investigations, is an indicator that he believes the U.S. will always chose to compromise rather than walk
away from adoptions in Vietnam. End Comment.

13. (SBU) Text of Ambassador’s November 1 letter to the Minister of Justice:

In 2005, the U.S. and Vietnam signed a Memorandum of Understanding that allowed for the resumption of Inter-Country Adoption, in accordance with Vietnamese legal requirements. At that time, we both had hoped that this agreement would be a major step towards a program that meets international standards for the protection of children. Both of our countries know how important it is to protect the most vulnerable members of our society, the children and the less fortunate, from those who seek to exploit their vulnerability for personal gain.

I am writing to you today because serious problems have arisen, and I have serious concerns about the integrity of this program. These problems relate to weak central oversight authority, an apparent unwillingness by Vietnamese officials to enforce Vietnamese law and recent moves to limit my Mission’s ability to verify important information, which we must do to comply with U.S. law. I wish to draw your attention to three specific areas in hopes that we can make progress, including during the important upcoming visit of Assistant Secretary Maura Harty.

Taking the last issue first, I am deeply concerned by the request of officials of the Department of International Adoptions (DIA) that U.S. consular officers refrain from making independent visits to speak with child finders and birth parents of presumed orphans. I know your government shares our commitment to safeguard the interests and rights of each adopted child, his or her birth parents, and the adoptive parents. These verification trips are a critical part of the visa process and the protection we afford to all parties involved in an adoption. Were there to be a disruption in these visits, despite clear signs of irregularities in the current process, the U.S. could not continue issuing visas to children adopted in Vietnam.

It is also increasingly apparent that organized activities are spreading in Vietnam through which women are offered payments in return for placing their children in orphanages for adoption; official documents are regularly falsified to “simplify” paperwork provided to the U.S. Government, and payments are changing hands at all levels in a non-transparent manner. In addition, it appears that Vietnamese regulations mandating a preference for domestic adoption over intercountry adoption are ignored. We will be glad to engage your officials in detailed discussions of these, and other, concerns. I am sure you share my concern at any breach of Vietnamese law, and trust that you will investigate and, if appropriate, take actions against those involved.

Finally, we are also deeply troubled to hear that Vietnam does
not plan to publish a comprehensive schedule of fees, a basic requirement in our bilateral agreement. As you know, in order to increase transparency and reduce corruption, the MOU calls for a schedule listing all fees and donations at all levels that need to be paid by adopting parents and adoption service providers. I hope that you will reconsider this decision and publish a fee schedule expeditiously.

As I mentioned above, Ambassador Maura Harty will be visiting Hanoi on November 30. I know that she shares my concerns about these issues and will be very interested in your response. These are critical issues and we look forward to working with you to resolve them in a manner that allows intercountry adoption from Vietnam to continue in a way that ensures full protection for Vietnamese children and families.

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