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Melissa A Brown 01/23/2008 04:27:10 PM From DB/Inbox: Melissa A Brown

Cable
Text:UNCLASSIFIED
TELEGRAM

January 23, 2008

To: SECSTATE WASHDC - IMMEDIATE

Action: VO

From: AMEMBASSY HANOI (HANOI 79 - IMMEDIATE)

TAGS: CACS, CMGT, CVIS, VM

Captions: SENSITIVE

Subject: VIETNAM ADOPTIONS - A GROWING PIPELINE CRISIS

Ref: None

1. This is an action message. See paragraph 2 and 6
2. (SBU) Summary: On September 1, the current Memorandum of Agreement between the US and Vietnam on adoption will expire. Under current Vietnamese law, if there is no other agreement in place on September 1, only a handful of pipeline cases would be allowed to be processed to completion. In the meantime, Mission Vietnam is increasingly concerned about cases in our large and growing pipeline. While it is possible that a new MOA will be in place by then, given Hanoi's likely inability to legislate and implement needed safeguards in the next eight months this would almost certainly have to be limited to special needs categories. As a result, Mission Vietnam believes that we need to act quickly to notify the GVN of our intention to: (1) not renew the existing MOA, (2) Open negotiations on a new MOA; and, (3) obtain a clear decision from the GVN regarding the handling of pipeline cases after September 1 in the absence of an MOA. We seek the Department's clearance to send the diplomatic note in paragraph 6 to the Ministry of Justice on January 30. End Summary
3. (SBU) In preparation for the expiration of the current MOA, Mission Vietnam conducted a survey of processing times and the number of pipeline cases. The results showed that the minimum time for a case to move thru the system from the filling of the I-600A to the issuance of an immigrant visa is now approximately 6.5 months. The average time is just under one year. This means that it is virtually impossible for a case filed today to be completed before the September 1 expiration of the MOA. In addition, DIA has told us that the growing number of cases, make it likely that the waiting time for a Vietnamese referral will increase significantly during 2008.
4. (SBU) Currently, Mission Vietnam has over 2100 approved I-600a cases in the pipeline. Further, we are receiving 5-10 new cases a day, many transferred from China. At these rates, even if the number of cases processed per month grew by 20%, the pipeline would contain 3080 cases on September 1. We believe that over 95% would be suspended, even if the case was only a day or two away from the giving and receiving ceremony.

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5. (SBU) Given the fact that Vietnamese law prohibits the processing of adoption cases in the absence of an MOA with the receiving nation, Mission Vietnam believes that we need to act expeditiously to protect American families from being caught in the pipeline. The first step in this process would be to notify the GVN of our intentions to negotiate a new MOA and to seek a clear ruling from the Ministry of Justice regarding which pipeline cases can be processed in the event that there is no MOA in place on September 1.

At the same time, post hopes that USCIS will temporarily suspend processing of new I-600A cases for Vietnam until it is clear what type of cases can be processed. The justification for such a suspension is the protection of American citizens, since we know that cases filed now cannot be completed by September 1. If the situation becomes clearer, USCIS could resume the acceptance of I-600As for cases that meet the GVNs requirements.

6. (SBU) Post requests the Department's clearance for the following Diplomatic Note to be sent on January 30:

The Embassy of the United States of America presents its compliments to the Ministry of Justice of the Socialist Republic of Vietnam and has the honor to raise the following matter.

As Ambassador Maura Harty noted during her November 30 discussions, the United States cannot continue the existing Memorandum of Agreement with the Socialist Republic of Vietnam, as several basic tenants of that agreement have not been honored. We specifically note that the Government of Vietnam has not published a schedule of fees as required by the MOA. [REDACTED]

[REDACTED]

Accordingly, the United States is notifying the Government of the Socialist Republic of Vietnam that we will not renew the current Memorandum of Agreement on Adoption, which will expire on September 1, 2008.

However, the United States would like to begin negotiations with the Socialist Republic of Vietnam for a new Memorandum of Agreement that could allow adoptions between our two countries to continue in certain limited categories.

Additionally, we are aware of over 2100 families currently in the process of adopting a child from Vietnam. While we hope that a new agreement will allow these families to complete the adoption process, the Embassy requests the Ministry's legal opinion as to the

ability of these families to continue their adoption process in the event that there no MOA exists between our two countries on September 1, 2008.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Justice of the Socialist Republic of Vietnam the assurances of its highest consideration.

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DEPT FOR CA/VO, CA/OCS/CI AND EAP/MLS
BANGKOK FOR USCIS

E.O. 12958: N/A
TAGS: CVIS CACS CMGT VM
SUBJECT: Vietnam Adoptions - A growing pipeline crisis

End Cable Text

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EAP_PD_A2
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