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DEPT FOR CA A/S MAURA HARTY FROM AMBASSADOR

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SUBJECT: Addressing the Challenges of Inter-country Adoption With Vietnam

1. (SBU) Summary: Your visit is well timed to send the message to the Vietnamese Government that current trends in fraud with regard to the processing of adoption cases in Vietnam must be reversed, and reversed soon, in order to maintain our program. In this message, I outline specific concerns, which include the radical increase in clearly "doctored" case information, confirmation that the GVN focus is on "moving babies," not vetting cases to minimize irregularities, the GVN's unwillingness or inability to regulate fees and increase transparency, and even threats to our ability to investigate suspected fraud. I am particularly concerned that the "competent authorities" in Hanoi are unwilling or unable to cooperate constructively to address these issues. The impending expiration of the 2005 MOU provides us with an opportunity to demand significant changes in adoption processing, including publishing a set of fee guidelines, ending the practice of soft referrals, investigating and taking action against those who violate the laws of Vietnam, allowing U.S. consular investigators to do their jobs, and reducing the number of abandonment cases by forcing local officials to state the true facts of each case in official documents. Hopefully, recent activism on the part of Adoption Services Providers (ASPs) will play a constructive role changing this situation, but I believe we must be prepared to walk away from our current MOU if we don't see significant improvement in the situation. End Summary.

2. (SBU) Your trip to Vietnam comes at a key moment in our relationship regarding adoptions from Vietnam. While we had all hoped that the 2005 MOU, combined with changes in Vietnam's laws and regulations, would result in a more transparent and accountable adoption system, recent field investigations have shown that levels of fraud and corruption are as high as they were before the 2002 moratorium. Vietnamese central authorities have refused to "step up," and are playing little more than an accounting role in the process. Further, they are now threatening to disrupt our investigatory activities, which have uncovered instances of individual and systematic fraud. I believe that now is the time to deliver a forceful message that the United States is deeply concerned by these trends, and that we are prepared to allow the MOU to expire if the situation does not improve dramatically, and soon.

3. (SBU) Since the resumption of adoption in Vietnam, our consular personnel have been conducting verification trips to ensure that adoption cases are being processed in accordance with U.S. and

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Vietnamese law. With the arrival in Hanoi of a third consular officer in August, these trips have expanded significantly, with over 25% of cases being investigated. The results of these trips are deeply disturbing. First, they show that throughout the country the rate of child abandonment has increased exponentially since the MOU was signed. This rapid increase in the number of newborns in orphanages indicates that local adoption facilitators are actively supplying infants to meet the demand created by U.S. adopting parents. Further, it is clear from the documentation of most of these abandonments that adoption facilitators and government officials are actively seeking to obscure the true facts concerning the child.

4. (SBU) Looking behind these abandonments, my consular officers have discovered networks that recruit pregnant women, pay them for their children, arrange for them to stay in safe houses, and then create fraudulent documents to make it appear that the child was abandoned. In addition, I am deeply concerned by cases where children have been released for adoption without the consent of their birth-parents, or where fraudulent paperwork has resulted in Americans unknowingly adopting children with life threatening illnesses.

5. (SBU) Here in Hanoi, it is clear that the Vietnamese government lacks either the ability or the will to address these problems. Since its creation, the Department of International Adoptions (DIA) under the Ministry of Justice, has not taken a single administrative or judicial action against any entity connected with adoptions in Vietnam. Further, when my consular officers alerted DIA to potential illegal activity that had been uncovered by field investigations, DIA responded by requesting an immediate halt to independent consular investigations, and by meeting with prospective adoptive parents (PAPs) and their agencies to help them develop a strategy to rebut evidence that was used to support a Notice of Intent to Deny (NOID). In fact, a DIA official commented that as it would be "inhuman" to deny any child a visa, and that their role was to make sure every case was approved, regardless of the issues raised by the case. This is clearly a recipe for disaster, given the clear abuses uncovered in current cases before us.

6. (SBU) As you know, we will soon need to determine if we wish to extend the current MOU. In making that decision, I think that we need to examine two critical questions. First, are we prepared to accept the current level of corruption and irregular adoption practices in Vietnam, and second, do we have a competent partner on the Vietnamese side who will work with us to address these issues. While we would all like to see adoptions continue, I think we have to acknowledge that at present we cannot answer yes to either question. Clearly our challenge in the coming months is to convince

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the Vietnamese of the need to take concrete action against the worst abusers in the system and to strengthen the power of the central authority. In my view, only the credible threat of shutting down the entire program will create the leverage necessary to spark a

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reexamination by Hanoi of its approach.

7. (SBU) The fact that the MOU is up for renewal gives us that opportunity. I suggest we explicitly state during your visit that the United States will extend the MOU only if there are significant changes in adoption processing. These should include publishing a set of fee guidelines, ending the practice of soft referrals, investigating and taking action against those who violate the laws of Vietnam, allowing U.S. consular investigators to do their jobs, and reducing the number of abandonment cases by forcing local officials to state the true facts of each case in official documents.

8. (SBU) While we see your visit as an opportunity to reiterate to the Vietnamese our concerns about the adoption system, and urge them to action, we predict that DIA will use your visit to push back on two areas. First, DIA will continue to maintain that independent field investigations should be stopped immediately. They will note that when other sections of the Embassy travel to the provinces, they follow Vietnamese regulations and provide prior notice to government officials and often supply a list of names of the individuals they will meet with. This has been a long standing point of friction between the GVN and the USG, but we must obviously remain firm in our position that independent verification is essential to continuing adoptions from Vietnam.

9. (SBU) DIA will also express concerns about our new processing regime, commonly known as "Orphans First." They have repeatedly claimed that changes to our process of evaluating cases do not fit with Vietnamese law, but have never provided specifics regarding the issue. Currently, some ASPs report that they cannot get all of the required documents in advance, while others have been submitting complete I-600 petitions. Our view is that the complete cases show the procedure can work, and DIA should be engaged in making every effort to ensure that all ASPs receive equal treatment, rather than merely criticizing this needed change.

10. (SBU) After delivering our message next week, we need to see how Orphans First, ASP efforts to self-regulate and, hopefully, changes in the attitude of DIA affect the adoption climate. Ideally we will be in a position where we can ethically renew the MOU. However, we must also consider our options if the Vietnamese government remains unable to regulate adoptions in this country. In my view, we might still have options short of a total shut down. One alternative suggested by my staff is to amend the MOU to restrict adoptions to children over 3 years of age, those with documented and verifiable special needs, and relinquishment cases where the birth mother's identity is confirmed by DNA evidence and her intentions verified through a private interview with a consular officer.

11. (SBU) The long term success of adoptions in Vietnam is contingent upon Vietnam becoming a strong member of the Hague Convention. We are reaching out to the National Assembly and the Government of Vietnam to build a constituency outside of DIA for new legislation. This is an education effort, but one that we feel is starting to pay dividends as officials who do not normally work on adoption issues become aware of both the goodwill potential of this

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issue and the damage that the corrupt system is doing to Vietnam's reputation.

12. (SBU). As you know, we in Mission Vietnam have been proactive in working to establish a well-functioning adoptions system. We are proud of our efforts, which have allowed us to track fraud trends. We are also proud that some ASP's now understand the depth of the problems and are willing to discuss, both with us and collectively, ways to move forward to improve the system. In these efforts, our collaboration with you and CA has been outstanding. I look forward to welcoming you to Vietnam and to discussing these issues further during your visit.

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