

Presidential Documents

Presidential Determination No. 97-10 of December 3, 1996

Continued Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA)

Memorandum for the Secretary of State

Consistent with section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1997, as contained in the Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, I hereby determine, based on all relevant information available to the United States Government, that the Government of the Socialist Republic of Vietnam continues to cooperate in full faith with the United States in four areas of accounting for American POW/MIA's:

1. Resolving discrepancy cases, live sightings and field activities;
2. Recovering and repatriating American remains;
3. Accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIA's; and
4. Providing further assistance in implementing trilateral investigations with Laos.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to condition the execution of responsibilities—the authority to recognize, and to maintain diplomatic relations with, a foreign government—that the Constitution commits exclusively to the President. I am, therefore, providing this determination as a matter of comity while preserving my position that the condition enacted in section 609 is unconstitutional.

In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting for our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.



THE WHITE HOUSE,
Washington, December 3, 1996.