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Title 3—

Presidential Determination No. 96-28 of May 29, 1996

The President

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 Fiscal Year 1996 Omnibus Appropriations Act, Public Law 104-134, I hereby determine, based on all information available to the United States Government that the Government of the Socialist Republic of Vietnam, is cooperating in full faith with the United States in the following areas:

- (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 reserving my position that the condition enacted in section 609 is unconstitutional.

Finally, in making this determination, I wish to emphasize 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, May 29, 1996.

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