

Presidential Documents

Title 3—

Presidential Determination No. 2002–11 of March 20, 2002

The President

Cooperation by Vietnam in Accounting for United States Prisoners of War and Missing in Action

Memorandum for the Secretary of State

As provided in section 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002, Public Law 107–77, and laws referenced therein, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

- 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 prisoners of war and missing in action (POW/MIAs); and
- 4) providing further assistance in implementing trilateral investigations with Laos.

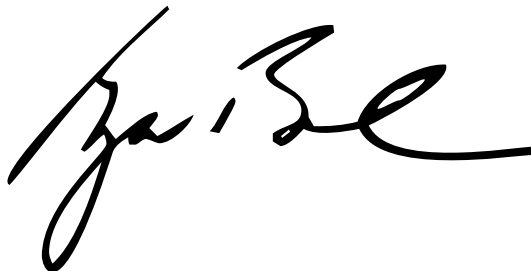
I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information and fulfilling their responsibilities as set forth in subsection (B) of section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, which is incorporated by reference in section 610.

The Department of Justice has advised that section 610 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 610 is unconstitutional.

In making this determination, I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result. As we look to further strengthen cooperation, Vietnam's unilateral provision of POW/MIA-related documents and records should be improved, focused initially on archival data pertaining to Americans captured, missing, or killed in areas of Laos and Cambodia under wartime Vietnamese control. Vietnam should also focus greater attention on locating and providing information on discrepancy cases, with priority on those last known alive in captivity or in immediate proximity to capture, and to locating and repatriating the remains of those who died while in Vietnamese control that have not yet been returned.

Finally, 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 achieving the fullest possible accounting of our prisoners of war and missing in action remains one of the most important priorities in our relations with Vietnam.

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

A handwritten signature in black ink, appearing to read "G. W. Bush", with a long horizontal flourish extending to the right.

THE WHITE HOUSE,
Washington, March 20, 2002.

[FR Doc. 02-7791

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