

ANNEX

MEMORANDUM OF UNDERSTANDING RELATING TO A TEMPORARY PUBLIC POLICY CONCERNING CERTAIN VIETNAMESE PERSONS IN THAILAND

BETWEEN

The Government of Canada as represented by the Minister of Citizenship and Immigration Canada (CIC), herein referred to as "Canada".

AND

The Vietnamese Canadian Federation, an organization incorporated under the laws of Canada, and located at:

Suite 1 - 885 Somerset St. West
Ottawa, ON
K1R 6R6

herein referred to as "the VCF".

1. PREAMBLE

1.1 Whereas the *Immigration and Refugee Protection Act* (IRPA) stipulates:

25.2 (1) The Minister may, in examining the circumstances concerning a foreign national who is inadmissible or who does not meet the requirements of this Act, grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by public policy considerations.

1.2 Whereas the Minister established on December 17, 2011, the Temporary Public Policy Concerning Certain Vietnamese Persons Residing in Thailand without Status under section 25.2 of the IRPA (contained in Annex A).

1.3 Whereas Canada is committed to maintaining its humanitarian tradition through the development of special immigration measures.

2. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to put in place a mechanism for Canada and the VCF, in the spirit of co-operation and mutual interest, to work together in identifying and referring certain Vietnamese persons residing in Thailand without status for immigration to Canada.

3. CANADA AND THE VCF UNDERSTAND THAT:

3.1 The VCF will develop and maintain a working knowledge of Canada's public policy contained in Annex A.

3.2 The VCF will identify, using Canada's specific criteria outlined in Annex A, and locate certain Vietnamese persons residing in Thailand without status, for the purpose of referring those persons for permanent residence to Canada.

3.3 The VCF will refer a maximum of 33 principal applicants identified by the VCF in 2008, along with eligible family members also identified at that time, and any new eligible family members as defined by the public policy who wish to accompany the principal applicant, for permanent residence to Canada.

3.4 The VCF will be responsible for the following:

- Identifying applicants for processing;

- Liaising with applicants;
- Acting as an intermediary between private sponsors and CIC;
- Liaising with sponsors in Canada to facilitate preparation of the sponsorship undertakings;
- Receiving completed applications (the sponsorship forms from the sponsoring groups in Canada and the application for permanent residence of the applicants);
- Matching individual applicants with specific sponsors in Canada; and
- Submitting completed applications to an office in Canada designated by CIC.

3.5 VCF will submit all applications within 18 months of the date that this Memorandum of Understanding is signed. To the extent possible, VCF will ensure all applications are submitted together.

4. GENERAL PROVISIONS

4.1 Canada will consider referrals from the VCF and make a determination on whether the person meets Canada's criteria as set out in Annex A. As with most other decisions and orders made under the *Immigration and Refugee Protection Act*, applicants referred by the VCF under this public policy who are refused abroad can seek leave for judicial review before the Federal Court of Canada (Trial Division).

4.2 Sponsors and their obligations are defined in the Public Policy contained in Annex A.

4.3 Both Canada and the VCF recognize the importance for the VCF to ensure the following:

- Identification and referral of applicants under the public policy are carried out in a procedurally fair manner;
- Program integrity is promoted through the use of transparent criteria, outlined in the Annex, for the identification and referral processes of candidates selected for consideration under this public policy;
- Safeguards are in place to ensure ethical conduct of representatives of the VCF, and to prevent fraud, corruption and unlawful conduct;
- Periodic updates to CIC are provided on the status of program implementation; and
- No activities are undertaken that are inconsistent with the aims of this MOU

5. PROTECTION OF PERSONAL INFORMATION

5.1 Canada and the VCF recognize that personal information, as defined in the *Privacy Act* (R.S.C., 1985, c. P-21), will be managed in accordance with any applicable legislation, including *the Privacy Act* and provincial privacy legislation.

5.2 The VCF undertakes to maintain, respect and protect fully the confidentiality of the information received under this MOU and not to release it to anyone other than the individual to whom it relates, unless such release is clearly authorized herein or specifically required by law.

5.3 The VCF will notify CIC should any information collected by or provided to the VCF require disclosure to a foreign government.

5.4 In order to prevent the unauthorized access, disclosure, copying, use, or modification of information provided to a party under this memorandum of understanding, the receiving party is to restrict access to such information on a need to know basis, and use recognized security mechanisms such as passwords, encryption or other reasonable safeguards.

5.5 If any personal information is accessed, disclosed, used, copied or modified without authorization, VCF will notify CIC within 10 business days of the incident and will submit a proposed mitigating solution

5.6 The VCF will obtain the applicants' consent to collect and disclose their personal information to the Government of Canada. Applicants will provide this consent by signing the consent form and terms of use document contained in Annex B.

6. AMENDMENTS TO THE MOU

The MOU may be amended by the mutual consent of both Canada and the VCF, through an exchange of letters between the persons occupying the positions of the signatories to this MOU.

7. SUSPENSION OR CANCELLATION OF THE MOU

This MOU may be terminated by either Canada or the VCF through an exchange of letters, with a 30 calendar day written notice of the intention to cancel the MOU, between the representatives identified at clause 9. If either Canada or the VCF intends to cancel the MOU due to a contravention of the terms of the MOU, written notice of this intention will be provided along with an opportunity to respond to the notice.

8. DURATION OF THE MOU

The MOU will remain in effect from the date of signature until the public policy objectives are fulfilled. The public policy is intended to end once the immigration processing for the 33 principal applicants and their eligible family members identified by the VCF in 2008, as well as any new eligible family members, has been completed.

9. REPRESENTATIVES

The following designated officials have overall administrative responsibility for this MOU and its Annexes:

For Canada

Director General
Operational Management and Coordination Branch

For the VCF

Commissioner for External Affairs
Vietnamese Canadian Federation

10. FINANCIAL ARRANGEMENTS

No payment will be made under this MOU. Canada and the VCF are responsible for their own costs associated with activities under this MOU. Furthermore, the VCF will not charge fees to applicants, potential or successful, for work related to any of the provisions of this MOU.

11. ADMINISTRATIVE ARRANGEMENT

This MOU is an administrative arrangement which reflects the understandings of Canada and the VCF; it is not intended to be legally binding.

12. DISPUTE RESOLUTION

Any disagreement with respect to this MOU that cannot be resolved through consultation between Canada and the VCF will be referred for resolution to the persons occupying the positions of the signatories to this MOU.

IN WITNESS WHEREOF, this MOU was signed in duplicate, each copy being equally authentic.

FOR THE GOVERNMENT OF CANADA

J.W.A.V.

Sharon Chomyn
Director General
International Region

2/11/2012
J.W.A.V.

Date

[Signature]

Witness
(Title) *Consultant to Director General*

3/11/2012

Date

[Signature]

Caroline Mels
Director General
Operational Management and Coordination Branch

2/11/12

Date

[Signature]

Witness
(Title) *Administrative Assistant*

2/11/12

Date

FOR the Vietnamese Canadian Federation

Can D. Le

Dr. Can D. Le
Commissioner for External Affairs
Vietnamese Canadian Federation

Dec. 19, 2012

Date

for Tuyet Lam, President
[Signature]

Witness
(Title) *Senior Program Advisor
Citizenship & Immigration
Canada*

19 Dec 2012

Date

ANNEX A

TEMPORARY PUBLIC POLICY CONCERNING CERTAIN VIETNAMESE PERSONS RESIDING IN THAILAND WITHOUT STATUS

The Minister has, pursuant to section 25.2 of the *Immigration and Refugee Protection Act* (IRPA), established that there are sufficient public policy considerations warranting an exemption from the requirement to be a member of an immigration class in order to facilitate the granting of permanent resident status to up to 64 Vietnamese persons residing in Thailand initially identified in 2008 by the Vietnamese Canadian Federation (VCF) as well as their new eligible family members who have been identified since. The Minister has also established that there are sufficient public policy considerations to warrant an exemption to persons who comply with the criteria set out below from the requirement specified in section 39 of the IRPA (inadmissibility for financial reasons if a foreign national is unable or unwilling to support themselves or their dependants). As of <DATE>, applications made under the IRPA by Vietnamese persons residing in Thailand without status who have been named by the VCF, and matched with an approved sponsor shall be assessed, along with their family members, by delegated officers to determine whether permanent residence to Canada could be granted. Up to 33 principal applicants who were identified by the VCF in 2008 may be accepted under this public policy along with any eligible family members who were also identified at that time. New eligible family members (defined below) who wish to accompany the principal applicant and who have been identified since 2008 may also be considered. Non-accompanying family members are not eligible for admission to Canada under this public policy.

Based on public policy considerations, as of <DATE>, delegated officers are advised to consider permanent residence in Canada and the granting of an exemption from financial inadmissibility under s. 39 of IRPA for persons who are Vietnamese residing in Thailand without status and who:

- left Vietnam between 1984 and 1991,
- were named by the VCF in correspondence with CIC in 2008,
- were issued an exit permit by the Government of Thailand,
- have demonstrated an ability to successfully establish themselves in Canada,
- are matched with an approved sponsor in Canada, and
- have submitted a completed immigration application and all the required supporting documentation within 18 months of this public policy coming into effect.

Eligible family members are defined as persons who:

- meet the definition of a family member in subsection 1(3) of the *Immigration and Refugee Protection Regulations*,
- are residing in Thailand with the principal applicant, and
- were identified by the VCF in 2008.

New eligible family members are defined as:

- dependants of the principal applicant born since 2008 who are residing with the principal applicant in Thailand,
- persons (spouses) who were married to, or became common-law partners with, a principal applicant between January 1st, 2008 and December 31st, 2011, are still in such a relationship, and are residing in Thailand with the principal applicant; and
- dependants of the new spouse or common-law partner, who were eligible family members at the time of the marriage or formation of the common-law union, who are still eligible family members at the time of application and are residing in Thailand with the principal applicant.

Applicants admitted under this public policy will be subject to all other admissibility requirements, including screening on medical, criminality and security grounds.

Approved sponsors in Canada are defined as:

- a group of five or more Canadian citizens or permanent residents,
- each of whom is at least 18 years of age, and
- each of whom have co-signed an agreement of undertaking with the VCF to provide income and settlement support to the applicant(s) that is equal to provincial social assistance rates minus any in-kind donations for one year.

The following financial guidelines will be applied to sponsors:

- Sponsors are expected to cover the cost of immigration where the applicants are unable to cover these costs themselves. These costs can include, but are not limited to, application and permanent resident fees, immigration medical exam fees and transportation costs. Where applicable, loans may be issued to applicants to defray their transportation costs and the right of permanent residence fee.
- Sponsors are expected to provide the applicant(s) with both financial and settlement support for a period of up to 12 months including the opportunity to attend official language training and acquire the skills necessary to access employment in Canada.
- Settlement support is understood to include initial reception, the provision of suitable accommodation, basic furniture and household essentials, locating interpreters, and assistance in selecting a family physician and dentist, applying for provincial health-care coverage, enrolling children in school and adults in language training, providing orientation with regard to banking services, transportation, and other day to day activities, and helping in the search for employment.
- Should the applicant(s) become financially self-sufficient during the 12-month sponsorship period, the sponsoring group is not obligated to provide income support under the terms of the undertaking for the remainder of the sponsorship period. However, the sponsoring group must maintain immediate access to adequate funds for the remaining length of the sponsorship in the event that the applicant ceases to be self-sufficient.
- Any sponsored applicants who bring financial resources to Canada should manage their own finances and are expected to contribute to their own settlement costs. A single sponsored applicant may retain up to a maximum of \$1000 for personal use and a couple may retain up to \$2000 plus \$500 for each additional family member, with the balance of their funds being allocated towards the cost of their settlement.
- Sponsoring groups will not accept the payment of funds from the applicant(s) for the submission of a sponsorship, either before or after their arrival in Canada. The applicant(s) have no legal obligation, and cannot be made to enter into a legal or informal obligation, to prepay or repay their sponsoring groups for lodging, care, and settlement assistance and support. However, the applicant's relatives in Canada, if applicable, may contribute funds towards these costs.
- Sponsoring groups are not responsible, unless they have co-signed loans, for any debt that an applicant incurs in Canada.

Applicants wishing to settle in Québec will be subject to the Province of Québec's selection criteria further to subsection 25.2(3) of IRPA, and cannot be granted permanent residence unless Québec determines that they meet the applicable requirements of the province.

Applications under this public policy must be filed by <DATE = 18 months after implementation> to be considered. Applications filed after this date will not be considered and will be returned to the applicant.

This public policy is intended to end once permanent residence applications from up to all 33 principal applicants and their eligible and new eligible family members have been processed by CIC. Where there is evidence of significant reliance on social assistance resulting from sponsors' default during the period of support, the public policy may be brought to an end earlier than that time.

ANNEX B

**CONSENT FORM AND TERMS OF USE FOR VIETNAMESE PERSONS RESIDING IN THAILAND
WITHOUT STATUS**

FOR SERVICES OF THE VIETNAMESE CANADIAN FEDERATION

Protection of personal information

In order to obtain the authorisation of the Government of Canada as a service provider, the Vietnamese Canadian Federation (VCF) will apply and respect the *Privacy Act* of Canada.

Consent

As a user of VCF services, I understand and hereby consent to the following:

For VCF to disclose my personal information and that of my dependants under 18 years of age to Citizenship and Immigration Canada (CIC) and to the Government of Canada generally, for the purpose of preparing my application for permanent residence to Canada.

I understand that my use of the services of the VCF will be for the following purposes:

- To liaise between myself and a coordinating organization in Thailand, if applicable;
- To act as an intermediary between private sponsors in Canada and CIC;
- To match myself with specific private sponsors in Canada;
- To liaise with private sponsors in Canada to facilitate preparation of my sponsorship undertaking;
- To receive completed applications (including the sponsorship undertaking from my private sponsor in Canada and my application for permanent residence); and
- To forward completed applications to a local CIC office in Canada designated by CIC.

I understand that VCF will only use my personal information and that of my underage dependants for the above mentioned purposes, unless I provide a further consent or as prescribed in the *Privacy Act* of Canada.

I have read this document completely. I confirm that I understand that my use of the services of VCF is voluntary.

NAME (printed): _____

ADDRESS: _____

SIGNATURE: _____

DATE: _____

Signed at: _____ (city, country)

The information you provide on this form is collected under the authority of the *Immigration and Refugee Protection Act* and will be used in assessing your application according to the requirements of the Act. It will be retained in a Personal Information Bank identified in Infosource. It may be shared with other organizations in accordance with the consistent use of information under the *Privacy Act*. Under the *Privacy Act* and the *Access to Information Act* individuals have the right to protection of and access to their personal information. Details on these matters are available at www.infosource.gc.ca.