

109TH CONGRESS
2^D SESSION

H. R. 6386

To establish the Congressional-Executive Commission on the Socialist
Republic of Vietnam.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2006

Mr. FORTENBERRY introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Congressional-Executive Commission on the
Socialist Republic of Vietnam.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) The United States and the Socialist Repub-
6 lic of Vietnam share an important and multifaceted
7 bilateral relationship based on a unique and sensitive
8 history.

1 (2) The people of the United States and the
2 people of Vietnam share the desire to foster hope,
3 healing, and mutual prosperity for both countries.

4 (3) Congress recognizes the potential benefits of
5 Vietnam's membership in the World Trade Organi-
6 zation (WTO) and the extension of nondiscrim-
7 inatory treatment (normal trade relations treatment)
8 by the United States to the products of Vietnam on
9 mutually beneficial terms.

10 (4) The potential benefits from enhanced bilat-
11 eral trade should not supplant legitimate matters of
12 principle involving human rights, the rule of law,
13 and religious freedom.

14 (5) Vietnamese-Americans throughout the
15 United States have emphasized the importance of
16 addressing human rights, the rule of law, and reli-
17 gious freedom in conjunction with consideration of
18 legislation to provide for the extension of non-
19 discriminatory treatment (normal trade relations
20 treatment) by the United States to the products of
21 Vietnam.

22 (6) A specific mechanism to address Vietnam's
23 progress on human rights, the rule of law, and reli-
24 gious freedom issues in an in-depth manner, focus-
25 ing on vulnerabilities and areas of particular concern

1 identified by the most recent annual Department of
2 State's Country Reports on Human Rights Practices
3 for Vietnam, the Trafficking in Persons Report, and
4 the annual report of the United States Commission
5 on International Religious Freedom, including
6 progress in Vietnam's Central and Northwest High-
7 lands, would serve as a valuable resource to com-
8 plement existing United States Government efforts
9 to address these issues and inform future efforts, re-
10 inforcing and strengthening the outcome of these ef-
11 forts.

12 (7) The Government of Vietnam has made sig-
13 nificant efforts over the past decade to address the
14 concerns of the United States Government regarding
15 United States POW/MIA cases.

16 (8) The Government of Vietnam has made ef-
17 forts to improve human rights and religious free-
18 doms, including efforts to conclude a bilateral agree-
19 ment with the United States in which the Govern-
20 ment of Vietnam agreed to take steps to improve re-
21 ligious freedom, grant amnesties to prisoners of con-
22 science, establish a new Ordinance on Religion and
23 issue instructions to prohibit forced renunciation of
24 faith, ease restrictions on the training of clergy, sup-
25 port fact-finding visits to Vietnam by United States

1 officials and Office of the United Nations High
2 Commissioner for Refugees (UNHCR) personnel,
3 improve worker rights, and make progress toward
4 eliminating human trafficking.

5 **SEC. 2. ESTABLISHMENT OF CONGRESSIONAL-EXECUTIVE**
6 **COMMISSION ON THE SOCIALIST REPUBLIC**
7 **OF VIETNAM.**

8 There is established a Congressional-Executive Com-
9 mission on the Socialist Republic of Vietnam (in this Act
10 referred to as the “Commission”).

11 **SEC. 3. FUNCTIONS OF THE COMMISSION.**

12 (a) MONITORING COMPLIANCE WITH HUMAN
13 RIGHTS.—The Commission shall monitor the acts of the
14 Socialist Republic of Vietnam, with particular emphasis
15 on the Montagnard peoples and the Central and North-
16 west Highlands, which reflect compliance with or violation
17 of human rights, in particular, those contained in the
18 International Covenant on Civil and Political Rights and
19 in the Universal Declaration of Human Rights, including,
20 but not limited to, effectively affording—

21 (1) the right to engage in free expression with-
22 out fear of any prior restraints;

23 (2) the right to peaceful assembly without re-
24 strictions, in accordance with international law;

1 (3) religious freedom, including the right to
2 worship free of involvement of and interference by
3 the government;

4 (4) the right to liberty of movement, freedom to
5 choose a residence within Vietnam, freedom from co-
6 ercion in family planning, and the right to leave
7 from and return to Vietnam;

8 (5) the right of a criminal defendant—

9 (A) to be tried in his or her presence, and
10 to defend himself or herself in person or
11 through legal assistance of his or her own
12 choosing;

13 (B) to be informed, if he or she does not
14 have legal assistance, of the right set forth in
15 subparagraph (A);

16 (C) to have legal assistance assigned to
17 him or her in any case in which the interests
18 of justice so require and without payment by
19 him or her in any such case if he or she does
20 not have sufficient means to pay for it;

21 (D) to a fair and public hearing by a com-
22 petent, independent, and impartial tribunal es-
23 tablished by the law;

24 (E) to be presumed innocent until proved
25 guilty according to law; and

1 (F) to be tried without undue delay;

2 (6) the right to be free from torture and other
3 forms of cruel or unusual punishment;

4 (7) protection of internationally recognized
5 worker rights;

6 (8) freedom from incarceration as punishment
7 for political opposition to the government;

8 (9) freedom from incarceration as punishment
9 for exercising or advocating human rights (including
10 those described in this section);

11 (10) freedom from arbitrary arrest, detention,
12 or exile; and

13 (11) the right to fair and public hearings by an
14 independent tribunal for the determination of a citi-
15 zen's rights and obligations.

16 (b) VICTIMS LISTS.—The Commission shall compile
17 and maintain lists of persons believed to be imprisoned,
18 detained, or placed under house arrest, tortured, or other-
19 wise persecuted by the Government of the Socialist Repub-
20 lic of Vietnam due to their pursuit of the rights described
21 in subsection (a). In compiling such lists, the Commission
22 shall exercise appropriate discretion, including concerns
23 regarding the safety and security of, and benefit to, the
24 persons who may be included on the lists and their fami-
25 lies.

1 (c) MONITORING DEVELOPMENT OF RULE OF
2 LAW.—The Commission shall monitor the development of
3 the rule of law in the Socialist Republic of Vietnam, with
4 particular emphasis on the Montagnard peoples and the
5 Central and Northwest Highlands, including, but not lim-
6 ited to—

7 (1) progress toward the development of institu-
8 tions of democratic governance;

9 (2) processes by which statutes, regulations,
10 rules, and other legal acts of the Government of
11 Vietnam are developed and become binding within
12 Vietnam;

13 (3) the extent to which statutes, regulations,
14 rules, administrative and judicial decisions, and
15 other legal acts of the Government of Vietnam are
16 published and are made accessible to the public;

17 (4) the extent to which administrative and judi-
18 cial decisions are supported by statements of reasons
19 that are based upon written statutes, regulations,
20 rules, and other legal acts of the Government of
21 Vietnam;

22 (5) the extent to which individuals are treated
23 equally under the laws of Vietnam without regard to
24 citizenship;

1 (6) the extent to which administrative and judi-
2 cial decisions are independent of political pressure or
3 governmental interference and are reviewed by enti-
4 ties of appellate jurisdiction; and

5 (7) the extent to which laws in Vietnam are
6 written and administered in ways that are consistent
7 with international human rights standards, including
8 the requirements of the International Covenant on
9 Civil and Political Rights.

10 (d) BILATERAL COOPERATION.—The Commission
11 shall monitor and encourage the development of programs
12 and activities of the United States Government and pri-
13 vate organizations with a view toward increasing the inter-
14 change of people and ideas between the United States and
15 the Socialist Republic of Vietnam and expanding coopera-
16 tion in areas that include, but are not limited to—

17 (1) increasing enforcement of human rights de-
18 scribed in subsection (a); and

19 (2) developing the rule of law in Vietnam.

20 (e) CONTACTS WITH NONGOVERNMENTAL ORGANI-
21 ZATIONS.—In performing the functions described in sub-
22 sections (a) through (d), the Commission shall, as appro-
23 priate, seek out and maintain contacts with nongovern-
24 mental organizations, including receiving reports and up-

1 dates from such organizations and evaluating such re-
2 ports.

3 (f) ANNUAL REPORTS.—

4 (1) IN GENERAL.—The Commission shall issue
5 a report to the President and the Congress not later
6 than 12 months after the date of the enactment of
7 this Act, and not later than the end of each 12-
8 month period thereafter, setting forth the findings of
9 the Commission during the preceding 12-month pe-
10 riod, in carrying out subsections (a) through (c).
11 The Commission's report may contain recommenda-
12 tions for legislative or executive action.

13 (2) COORDINATION.—The report required to be
14 issued under paragraph (1) shall be developed in co-
15 ordination with the findings of the most recent an-
16 nual Department of State's Country Reports on
17 Human Rights Practices for Vietnam, the Traf-
18 ficking in Persons Report, and the annual report of
19 the United States Commission on International Reli-
20 gious Freedom.

21 (g) SPECIFIC INFORMATION IN ANNUAL REPORTS.—

22 The Commission's report under subsection (f) shall in-
23 clude specific information as to the nature and implemen-
24 tation of laws or policies concerning the rights set forth
25 in paragraphs (1) through (11) of subsection (a), and as

1 to restrictions applied to or discrimination against persons
2 exercising any of the rights set forth in such paragraphs.

3 (h) CONGRESSIONAL HEARINGS ON ANNUAL RE-
4 PORTS.—(1) The Committee on International Relations of
5 the House of Representatives shall, not later than 30 days
6 after the receipt by the Congress of the report referred
7 to in subsection (f), hold hearings on the contents of the
8 report, including any recommendations contained therein,
9 for the purpose of receiving testimony from Members of
10 Congress, and such appropriate representatives of Federal
11 departments and agencies, and interested persons and
12 groups, as the committee deems advisable, with a view to
13 reporting to the House of Representatives any appropriate
14 legislation in furtherance of such recommendations. If any
15 such legislation is considered by the Committee on Inter-
16 national Relations within 45 days after receipt by the Con-
17 gress of the report referred to in subsection (f), it shall
18 be reported by the committee not later than 60 days after
19 receipt by the Congress of such report.

20 (2) The provisions of paragraph (1) are enacted by
21 the Congress—

22 (A) as an exercise of the rulemaking power of
23 the House of Representatives, and as such are
24 deemed a part of the rules of the House, and they

1 supersede other rules only to the extent that they
2 are inconsistent therewith; and

3 (B) with full recognition of the constitutional
4 right of the House to change the rules (so far as re-
5 lating to the procedure of the House) at any time,
6 in the same manner and to the same extent as in
7 the case of any other rule of the House.

8 (i) SUPPLEMENTAL REPORTS.—The Commission
9 may submit to the President and the Congress reports
10 that supplement the reports described in subsection (f),
11 as appropriate, in carrying out subsections (a) through
12 (c).

13 **SEC. 4. MEMBERSHIP OF THE COMMISSION.**

14 (a) SELECTION AND APPOINTMENT OF MEMBERS.—
15 The Commission shall be composed of 7 members as fol-
16 lows:

17 (1) Two Members of the House of Representa-
18 tives appointed by the Speaker of the House of Rep-
19 resentatives. One member shall be selected from the
20 majority party and one member shall be selected,
21 after consultation with the minority leader of the
22 House, from the minority party.

23 (2) Two Members of the Senate appointed by
24 the President of the Senate. One member shall be
25 selected, after consultation with the majority leader

1 of the Senate, from the majority party, and one
2 member shall be selected, after consultation with the
3 minority leader of the Senate, from the minority
4 party.

5 (3) One representative of the Department of
6 State, appointed by the President of the United
7 States from among officers and employees of that
8 Department.

9 (4) One representative of the Department of
10 Commerce, appointed by the President of the United
11 States from among officers and employees of that
12 Department.

13 (5) One representative of the Department of
14 Labor, appointed by the President of the United
15 States from among officers and employees of that
16 Department.

17 (b) CHAIRMAN AND COCHAIRMAN.—

18 (1) DESIGNATION OF CHAIRMAN.—At the be-
19 ginning of each odd-numbered Congress, the Presi-
20 dent of the Senate, on the recommendation of the
21 majority leader of the Senate, shall designate one of
22 the members of the Commission from the Senate as
23 Chairman of the Commission. At the beginning of
24 each even-numbered Congress, the Speaker of the
25 House of Representatives shall designate one of the

1 members of the Commission from the House as
2 Chairman of the Commission.

3 (2) DESIGNATION OF COCHAIRMAN.—At the be-
4 ginning of each odd-numbered Congress, the Speak-
5 er of the House of Representatives shall designate
6 one of the members of the Commission from the
7 House as Cochairman of the Commission. At the be-
8 ginning of each even-numbered Congress, the Presi-
9 dent of the Senate, on the recommendation of the
10 majority leader of the Senate, shall designate one of
11 the members of the Commission from the Senate as
12 Cochairman of the Commission.

13 **SEC. 5. VOTES OF THE COMMISSION.**

14 Decisions of the Commission, including adoption of
15 reports and recommendations to the executive branch or
16 to the Congress, shall be made by a majority vote of the
17 members of the Commission present and voting. Two-
18 thirds of the members of the Commission shall constitute
19 a quorum for purposes of conducting business.

20 **SEC. 6. EXPENDITURE OF APPROPRIATIONS.**

21 For each fiscal year for which an appropriation is
22 made to the Commission, the Commission shall issue a
23 report to the Congress on its expenditures under that ap-
24 propriation.

1 **SEC. 7. TESTIMONY OF WITNESSES, PRODUCTION OF EVI-**
2 **DENCE; ISSUANCE OF SUBPOENAS; ADMINIS-**
3 **TRATION OF OATHS.**

4 In carrying out this Act, the Commission may re-
5 quire, by subpoena or otherwise, the attendance and testi-
6 mony of such witnesses and the production of such books,
7 records, correspondence, memoranda, papers, documents,
8 and electronically recorded data as it considers necessary.
9 Subpoenas may be issued only pursuant to a two-thirds
10 vote of members of the Commission present and voting.
11 Subpoenas may be issued over the signature of the Chair-
12 man of the Commission or any member designated by the
13 Chairman, and may be served by any person designated
14 by the Chairman or such member. The Chairman of the
15 Commission, or any member designated by the Chairman,
16 may administer oaths to any witness.

17 **SEC. 8. APPROPRIATIONS FOR THE COMMISSION.**

18 (a) **AUTHORIZATION; DISBURSEMENTS.—**

19 (1) **AUTHORIZATION.—**There are authorized to
20 be appropriated to the Commission for fiscal year
21 2008, and each fiscal year thereafter, such sums as
22 may be necessary to enable it to carry out its func-
23 tions. Appropriations to the Commission are author-
24 ized to remain available until expended.

1 (2) DISBURSEMENTS.—Appropriations to the
2 Commission shall be disbursed on vouchers ap-
3 proved—

4 (A) jointly by the Chairman and the Co-
5 chairman; or

6 (B) by a majority of the members of the
7 personnel and administration committee estab-
8 lished pursuant to section 9.

9 (b) FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—
10 Foreign travel for official purposes by members and staff
11 of the Commission may be authorized by either the Chair-
12 man or the Cochairman.

13 **SEC. 9. STAFF OF THE COMMISSION.**

14 (a) PERSONNEL AND ADMINISTRATION COM-
15 MITTEE.—The Commission shall have a personnel and ad-
16 ministration committee composed of the Chairman, the
17 Cochairman, the member of the Commission from the mi-
18 nority party of the House of Representatives, and the
19 member of the Commission from the minority party of the
20 Senate.

21 (b) COMMITTEE FUNCTIONS.—All decisions per-
22 taining to the appointment, separation, and fixing of pay
23 of personnel of the Commission shall be by a majority vote
24 of the personnel and administration committee, except
25 that—

1 (1) the Chairman shall be entitled to appoint
2 and fix the pay of the staff director; and

3 (2) the Chairman and Cochairman shall each
4 have the authority to appoint, with the approval of
5 the personnel and administration committee, at least
6 two professional staff members who shall be respon-
7 sible to the Chairman or the Cochairman (as the
8 case may be) who appointed them. Subject to sub-
9 section (d), the personnel and administration com-
10 mittee may appoint and fix the pay of such other
11 personnel as it considers desirable.

12 (c) STAFF APPOINTMENTS.—All staff appointments
13 shall be made without regard to the provisions of title 5,
14 United States Code, governing appointments in the com-
15 petitive service, and without regard to the provisions of
16 chapter 51 and subchapter III of chapter 53 of such title
17 relating to classification and General Schedule pay rates.

18 (d) QUALIFICATIONS OF PROFESSIONAL STAFF.—
19 The personnel and administration committee shall ensure
20 that the professional staff of the Commission consists of
21 persons with expertise in areas including human rights,
22 internationally recognized worker rights, international eco-
23 nomics, law (including international law), rule of law and
24 other foreign assistance programming, Vietnamese poli-

1 ties, economy and culture, and, if possible, a working
2 knowledge of the Vietnamese language.

3 **SEC. 10. PRINTING AND BINDING COSTS.**

4 For purposes of costs relating to printing and bind-
5 ing, including the costs of personnel detailed from the
6 Government Printing Office, the Commission shall be
7 deemed to be a committee of the Congress.

8 **SEC. 11. TERMINATION.**

9 Section 14(a)(2)(B) of the Federal Advisory Com-
10 mittee Act (5 U.S.C. App.; relating to the termination of
11 advisory committees) shall not apply to the Commission.

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