DEPARTMENT OF STATE

WRITTEN STATEMENT

OF

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DEPARTMENT OF STATE

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HEARING

ON

REPATRIATION OF CONVICTED CRIMINAL ALIENS

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Chairman Chaffetz, Ranking Member Cummings, distinguished Members of the Committee, thank you for this opportunity to testify on the topic of repatriating aliens who are subject to final orders of removal. My testimony will cover the Department of State's most recent efforts, our overall strategy, and a country-by-country breakdown of some of our engagement on this important issue.

We in the Department of State have no higher priority than the protection of U.S. citizens abroad. The Department takes very seriously our obligation to assist U.S. Immigration and Customs Enforcement (ICE) to effect the removal of aliens, especially those who pose a threat to public safety and security within the United States. My team in the Bureau of Consular Affairs and other colleagues at State work closely and cooperatively with ICE, in Washington and through our diplomatic missions overseas, to ensure that foreign governments comply with their responsibility to document and accept the return of their nationals swiftly.

My staff and I regularly meet with officials from recalcitrant countries in Washington and in foreign capitals. Today, a delegation of senior State and Department of Homeland Security (DHS) officials is, once again, raising this issue with the Cuban government in Havana. In March 2015, I mandated that my staff raise the issue of removals during every formal interaction with officials from countries that are recalcitrant in accepting their nationals ordered removed from the United States. The Deputy Secretary of State tasked all Chiefs of Mission to engage with host-government officials on repatriations, stressing that the swift documentation and removal of all aliens who are subject to final orders of removal, particularly those who pose a risk to national security or public safety, is a top priority for the U.S. government.

I personally have raised the issue on numerous occasions, including at the U.S.-India Consular Dialogue in November 2015; in separate meetings with the foreign ministers of Guinea and Liberia in March 2016; and in bilateral discussions with China in April 2016. State's Deputy Assistant Secretary for Visa Services, Edward Ramotowski, and ICE Enforcement and Removal Operations Assistant Director Marlen Piñeiro, have met to discuss coordination on many occasions. Together they have met several times with the governments of Iraq and Cabo Verde to push for progress on repatriations.

At a meeting in February 2016, ICE Director Sarah Saldaña and I agreed that Consular Affairs and ICE would work on specific plans of action for each recalcitrant country based on the current Memorandum of Understanding between our organizations. The Department works closely with DHS to engage with all countries for which removals are of concern, especially those deemed to be recalcitrant or uncooperative. My team coordinates with ICE, the regional bureaus within State, and our missions abroad to engage on specific areas of concern related to removals.

This effort is not limited to the Bureau of Consular Affairs. Regional bureau assistant secretaries also have engaged on repatriations, as has the Secretary of State, most recently during the Strategic and Economic Dialogue with China in June 2016. State's regional bureaus have met with a number of foreign ambassadors to the United States on this issue, and in no uncertain terms identified clear and achievable goals which they must meet in order to avoid immediate

escalation of pressure, to include visa sanctions as appropriate. In these meetings, the Department and DHS have been clear that we must see swift and tangible progress on this issue.

The majority of the world's nations understand their legal and moral obligations to accept the return of their citizens who are not eligible to remain in the United States or any other country, including those who have been convicted of crimes and served sentences. Mexico, Guatemala, South Africa, and Nigeria, for example, cooperate well with the United States on repatriations. Unfortunately, at any given time a number of countries, totaling 23 on ICE's current list, fail to issue travel documents for and accept the return of their citizens in a consistent and timely manner. These countries vary considerably with regard to capacity, political circumstances, and history. Each has different reasons for delays in repatriations, including limited law enforcement capacity, inadequate records, inefficient bureaucracy, and in a few cases, intentional policy. Some countries, though willing to cooperate in principle, are beset with internal problems so severe that repatriations become a low priority.

The measures we apply to persuade recalcitrant countries to cooperate are equally varied and part of our comprehensive diplomatic engagement with each. Although visa sanctions are an option, they are not the only, and in many cases are not the most effective, option. Some recalcitrant countries, such as China and Cuba, control the foreign travel of their citizens and may be unmoved by our imposition of visa sanctions. Sanctioned countries also could retaliate in ways detrimental to wider U.S. economic or security concerns, such as trade, tourism, or law enforcement cooperation. Taking into consideration each country's specific situation and other important U.S. interests, we work with ICE to determine the course of action best suited to securing compliance from each government.

In April 2011, Consular Affairs and ICE agreed, in a Memorandum of Understanding Concerning Repatriation, on provisions to address recalcitrant countries. These include options such as diplomatic intervention overseas and high-level engagement in Washington, practical measures designed to address resource and capacity limitations, and halting the issuance of visas.

With most recalcitrant countries, we have been able to achieve significant improvements in compliance through diplomatic engagement in Washington and overseas. For example, because of our successful engagement with Bangladesh, Pakistan, and Laos in recent years, these countries are no longer considered recalcitrant by ICE. We also have made progress with countries on the current list, such as Guinea, Iraq, Cabo Verde, Somalia, and Zimbabwe.

In the case of Guinea, we expect a government delegation to come to the United States this month to interview detainees and negotiate a Memorandum of Understanding on repatriations between our countries.

Following a meeting in May 2016 between high-level State and DHS officials and the Iraqi Ambassador to the United States, Iraq agreed to interview detainees and issue travel documents.

Cabo Verde is issuing travel documents while we work on a formal agreement on repatriations with its government, and Somalia recently agreed to issue a number of travel documents. We will continue to build on this progress.

Of course, we do not limit our efforts to the 23 countries currently deemed recalcitrant by ICE. Our engagement with the approximately 60 other countries maintained on a separate ICE list of non-cooperative nations seeks to address shortcomings before a country is found to be recalcitrant. There are times where even countries generally considered compliant need specific reminders or engagement concerning repatriations. This may be to clarify a new process or procedure, to facilitate a particularly difficult case, or to highlight the importance of this issue following a change in government.

The range of coordinated action by the Department of State and ICE with recalcitrant countries is effective in securing the repatriation of many deportable aliens every year. State works closely with ICE and other DHS colleagues to identify the most effective path forward for each country. The brief summaries below outline our efforts to ensure compliance from the countries at the top of the current ICE list of recalcitrant countries.

Cuba:

Cuba is the most recalcitrant country on repatriation of its nationals, as determined by ICE, and also represents one of the U.S. government's most complex bilateral relationships. We continue to engage the Cuban government on this issue. State issued a demarche in advance of the round of U.S.-Cuba Migration Talks now underway, where we will emphasize the importance of this issue, as we have at previous Migration Talks. Cuba has stated repeatedly that it will only consider accepting its nationals with final orders of removal in the context of significant changes to U.S. policy regarding Cuban migration. Disagreements on migration-related issues have long been a source of friction between the United States and Cuba, and while "wet-foot, dry-foot" remains U.S. policy regarding Cuban migration, we are confident that as the process of normalization advances, we will have more and more opportunities to advance important U.S. interests such as repatriations. At this time, we believe the most effective strategy with Cuba is to continue to work through the normalization process. We have consistently reminded the Cuban government this issue needs to be resolved before we can consider relations between our countries to be completely normalized. Cuba has been uncooperative on a variety of immigration issues for more than 50 years. At this time, we do not believe visa sanctions would be an effective near-term strategy, since the Cuban government, for political reasons, controls the travel of its citizens and therefore is unlikely to view sanctions as a detriment. Additionally, we cannot ignore the possibility that elimination of a legal travel route could trigger a dangerous mass migration.

China:

The relationship with China is exceptionally diverse and complex. According to the Department of Commerce, in 2015, Chinese visitors ranked first in the world in tourism spending in the United States, contributing more than $29 billion to our economy. Chinese visitors contribute $74 million per day on average to the U.S. economy through travel and tourism across all 50 states, accounting for more than half of U.S. services exports to China.

Last year, more than 2,000 U.S. families adopted a child from China, the single biggest foreign country of adopted U.S. children, accounting for half of our annual total of international adoptions.

The diplomatic picture with China is complex and involves important interests affecting the lives of U.S. citizens, and we continue to work with China to improve its cooperation on repatriations; the level of cooperation has varied over time. China's government often links the issue of repatriations to other political issues of importance to it, such as the return of fugitives accused of criminal acts in China. President Obama and President Xi discussed removals in September 2015, and Secretary Kerry has raised the issue with the Chinese government several times, most recently at the Strategic and Economic Dialogue in Beijing in June 2016. I also emphasize the importance of this issue with my Chinese counterpart at our annual bilateral consular dialogues.

We continue to work closely with DHS on engagement and an effective strategy that ends with China's compliance on repatriations.

Somalia:

Somalia, which faces extraordinary challenges in governance, has improved its cooperation on repatriations. In August 2015, ICE informally notified State that Somalia was uncooperative. Since then, we have met with the Somali Director of Immigration and Naturalization to discuss and agree upon improved procedures to obtain Somali travel documents and repatriate Somali citizens. We also have engaged with other levels of the Somali government to ensure officials understand the importance of this issue and potential consequences if they do not cooperate. As a result of a coordinated U.S. approach, Somalia has issued travel documents in the majority of outstanding cases with final orders of removal, and continues to cooperate.

India:

As with China, the range of U.S. foreign policy interests and concerns in our relationship with India is diverse and complex. Indians comprise the second-largest population of foreign students in the United States, with more than 130,000 Indian nationals studying at institutions across the country. These and thousands of other Indian visitors bring billions of dollars into the U.S. economy, supporting thousands of jobs and establishing lasting people-to-people ties between our two countries. India's growing economy has made it our 11th largest trading partner, and its vibrant democracy supports the development and security of other emerging countries in South Asia.

While there has been some progress on removals since the November 2015 U.S.-India Consular Dialogue, during which State and DHS jointly highlighted the urgency of resolving this issue, it has not been enough. Following this and subsequent discussions, and many other interventions on this issue at different levels with the Government of India and with its diplomatic mission in the United States, India has improved its timeliness in issuing travel documents to its citizens under final orders of removal.

Fifty-four Indian citizens returned home on an ICE charter flight in April 2016, and the Government of India is scheduling a July 2016 charter as well. We are encouraged that India is on a positive trajectory, and intend to remain engaged on this issue with India through newly established quarterly meetings to address difficult cases and ensure processes are smooth and efficient. State and DHS will continue to work closely with the Indian government to maintain

and build on this progress. We will continue to raise this issue with Indian officials at appropriate levels, including at the upcoming U.S.-India Homeland Security Dialogue, which is scheduled to take place in Washington in late July 2016.

I will travel to New Delhi in August for our annual consular bilateral dialogue. As in past years, I will raise this issue with the Indians, and press for immediate action on the part of the Indian government to issue travel documents and accept the return of its citizens under final orders of removal.

Mr. Chairman, Ranking Member Cummings, and distinguished Members of the Committee, I want to assure you that the Department of State works cooperatively and creatively with ICE, using the full range of available tools, to see that every country accepts the lawful return of its citizens and residents. Where such engagement over time has not produced results, State is prepared to step up the pressure through all channels, including visa sanctions in appropriate circumstances and pursuant to notification by DHS.

We appreciate the support of Congress as we continuously work to safeguard our citizens overseas and keep all of us safe at home.