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November 17, 2011

The Honorable Lamar Smith
Chair, House Committee on the Judiciary
U.S. House of Representatives

The Honorable John Conyers
Ranking Member, House Committee on the Judiciary
U.S. House of Representatives

RE: The Deport Convicted Foreign Criminals Act of 2011, H.R. 3256

Dear Chairman Smith and Ranking Member Conyers:

The American Immigration Lawyers Association (AILA) offers the following comments concerning the "Deport Convicted Foreign Criminals Act of 2011," H.R. 3256 (Rep. Poe) and urges the Judiciary Committee to withdraw this unnecessary and deeply harmful bill from consideration. If enacted, H.R. 3256 would do serious damage to the U.S. visa processing system, jeopardize U.S. businesses and communities that depend on foreign national students, workers, and their families, and threaten America's economy and security. At a time when America's doors must be open for business, we cannot risk sending the message to the world that we have shut our doors.

As the national association of immigration lawyers, AILA's more than 11,000 members represent clients applying in every visa category. We submit these comments drawing upon that in-depth knowledge and expertise of the visa system's daily operations, its fundamental policy underpinning, and the vital role that foreign nationals play in our economy.

1. The proposed bill's mandatory visa-denial scheme would place at risk America's relations with many of its most important trade, business and diplomatic partners.

H.R. 3256 would mandate the denial of visas to any country that denies or unreasonably delays the repatriation of its nationals. If implemented today, scores of countries would risk having their visas cut-off because they failed to repatriate nationals within a 180-day period. Among those countries are some of our closest allies and key economic partners. The United States' relationships with these countries would undoubtedly be damaged by the categorical denial of visas to their nationals.

Selected list of nineteen (19) countries at risk under H.R. 3256

Brazil	Mexico
Canada	Netherlands
China	Pakistan
Colombia	Poland
France	Russia
Germany	Singapore
India	Spain
Israel	Ukraine
Italy	United Kingdom
South Korea	

H.R. 3256 would jeopardize the ability of thousands of students, skilled workers, and talented entrepreneurs who come to our country each year from the nineteen countries listed above. The bill is a blunt instrument that is ill-suited for the management of visa policy, which carries far-reaching economic, foreign relations, and national security consequences.

2. The proposed bill would turn away from the U.S. much-needed revenue and innovation.

Foreign nationals who come to the U.S. generate tremendous revenue and help create jobs. According to preliminary figures from the Department of State, more than 7.5 million visas were issued in fiscal year 2011, an increase of more than 17 percent over the previous fiscal year. International travel to the United States that year generated \$134 billion in revenue and supported 1.1 million U.S. jobs.

H.R. 3256 places at risk the economic benefits gained by the U.S. from foreign nationals who enter on visas. Under H.R. 3256, once a country “refuses or unreasonably delays” acceptance of a national for more than 90 days, the country is put on a list. After nine months on the list, nationals of the country would automatically be denied student visas (F visas), exchange visitor visas (J visas), and visas for persons of extraordinary ability (O visas). In fiscal year 2010, nationals from the nineteen countries listed above were issued 466,000 visas in the F, J, and O visa categories.

After 15 months, nationals of countries still on the list would be denied visas for highly skilled professionals, athletes, entertainers, and other temporary workers. In fiscal year 2010, nationals from those same nineteen countries received 365,000 visas in the H, L, and P visa categories that would be restricted if H.R. 3256 were enacted.

After two years on the list, a country’s nationals would be denied both nonimmigrant and immigrant visas in every category. In fiscal year 2010, the United States granted visas to a total of 3.9 million non-immigrants and 168,500 immigrants from the nineteen countries listed above. H.R. 3256 could deny entrance to the U.S. for these foreign nationals who intend to spend their tourism and tuition dollars, make their technological

innovations, share their professional expertise, and establish strong families and communities in the United States.

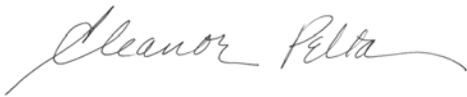
3. H.R. 3256 would damage not only the U.S. economy but also foreign affairs and diplomatic relations.

Among the countries that have failed to timely repatriate some of their nationals are many of the United States' key allies. These countries would quickly have their diplomatic visas cut off, hampering our ability to pursue our foreign policy interests and creating unforeseen foreign policy consequences for our country.

Under current law, 8 U.S.C. § 1253(d), the Secretary of Homeland Security and the Department of State are authorized to stop the issuance of visas to countries that deny or unreasonably delay return of their nationals. However, the sanction under existing law is discretionary, permitting full consideration of U.S. national and foreign policy interests and weighing those against the necessity of imposing visa restrictions. H.R. 3256 would take away this discretion. Instead, if a country did not, for any reason, timely repatriate just one national convicted of a crime, all of its nationals would be barred from an ever increasing number of categories of immigrant and nonimmigrant visas. Only a joint resolution approved by both chambers of Congress would prevent this domino effect. This is a wholly impractical mechanism that would subject the visa system to partisan politics and unacceptable delays.

For the reasons stated above, we recommend that the Committee on the Judiciary decline to move forward with the Deport Convicted Foreign Criminals Act. If you have questions or concerns, contact Gregory Chen, Director of Advocacy, gchen@aila.org, 202/507-7615.

Sincerely,



Eleanor Pelta
President



Crystal Williams
Executive Director

cc: The Honorable Ileana Ros-Lehtinen
Chair, Committee on Foreign Affairs
U.S. House of Representatives

The Honorable Howard Berman
Ranking Member, Committee on Foreign Affairs
U.S. House of Representatives

The Honorable Elton Gallegly
Chair, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives

The Honorable Zoe Lofgren
Ranking Member, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives