

**Questions for the Record Submitted to  
Assistant Secretary Michele Thoren Bond by  
Senator Dianne Feinstein  
Senate Committee on the Judiciary  
November 18, 2015**

**Question:**

**Can you tell me what the State Department thinks of an expedited process for relative adoptions and the timeline for the development of recommendations for how these adoptions should be handled?**

**Answer:**

The Department of State encourages countries to coordinate on and simplify the process, time commitment, and cost of relative adoptions.

The Department of State is examining ways to make the relative adoption process less costly and more efficient. We discussed the issue of relative adoptions at the Hague Special Commission in June 2015 with other receiving countries. We also raised this topic during the September 2015 Adoption Service Provider Symposium we hosted with U.S. Citizenship and Immigration Services and the Council on Accreditation.

We are working with our counterparts in the U.S. government, foreign governments, and the adoption community to address issues such as the definition of a relative and ways that both the United States and a country of origin could develop a more accessible and responsive process. We aim to provide updated guidance on our website, [adoption.state.gov](http://adoption.state.gov).

**Questions for the Record Submitted to  
Assistant Secretary Michele Thoren Bond by  
Senator Ted Cruz and Dianne Feinstein (#1)  
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**Question #1:**

**Is the Department of State aware of the President's existing authority under 8 U.S.C. § 1182(f)?**

**Answer:**

Yes. The Department is aware that under 8 U.S.C. § 1182(f), the President may issue a proclamation suspending the entry of any alien or class of aliens, as immigrants or nonimmigrants, whose entry would be detrimental to the interests of the United States.

**Question #2:**

**If the answer to Question 1 is yes, has the Department of State reviewed this authority in connection with adoptions from the DRC?**

**Answer:**

Yes. The Department notes that this legal authority lies with the President, and therefore coordination with the White House and interagency would be necessary before a proclamation could be promulgated.

**Question #3:**

**If the answer to Question 2 is no, please explain why the Department of State has not done so.**

**Answer:**

N/A

**Question #4:**

**If the answer to Question 2 is yes, has the Department of State rejected this option?**

**Answer:**

No. The Department is reviewing the full range of possible options in connection with adoptions from the DRC.

**Question #5:**

**If the answer to Question 4 is yes, please explain, in detail, why the Department of State has rejected this option.**

**Answer:**

N/A

**Question #6:**

**Even if the Department of State has rejected this option with respect to the general population of the DRC, is it still considering this option for DRC officials and diplomats and/or visa-dependent groups within the DRC?**

**Answer:**

Yes. The Department is reviewing the full range of possible options in connection with adoptions from the DRC. This legal authority lies with the President, and therefore coordination with the White House and interagency would be necessary before a proclamation could be promulgated. At a minimum, a proclamation would have to include specific exceptions, such as to allow for travel that is not contrary to U.S. interests, and to allow the U.S. government to comply with any relevant international obligations, including to and from the United Nations. The Department continues to review the impact of potential visa restrictions on U.S. government interests and their utility in achieving positive results in resolving the adoptions impasse. However, we currently believe reciprocal visa restrictions on the part of the DRC government would be immediate, inevitable, and detrimental to U.S. interests, including the adoptive parents.

**Question #7:**

**If the answer to Question 6 is no, please explain, in detail, why the Department of State has rejected this option.**

**Answer:**

N/A

**Question #8:**

**Has the Department of State considered withdrawing current (or not renewing) all foreign aid to the DRC in order to motivate the release of the children who have been adopted by American parents but are being detained by the DRC government?**

**Answer:**

No.

**Question #9:**

**If the answer to Question 8 is no, please explain why the Department of State has not done so.**

**Answer:**

Suspending foreign assistance to the DRC indiscriminately would undermine significant U.S. interests. Restricting all foreign assistance – which primarily supports emergency humanitarian assistance, health services, and education – would bring more harm to vulnerable populations in the DRC without positive results for adoption cases.

**Question #10:**

**If the answer to Question 8 is yes, has the Department of State rejected this option?**

**Answer:**

N/A

**Question #11:**

**If the answer to Question 10 is yes, please explain, in detail, why the Department of State has rejected this option.**

**Answer:**

N/A

**Question #12:**

**If the answer to Question 10 is no, please provide details regarding the Department of State's plans to withdraw all foreign aid from (or not renew all foreign aid for) the DRC.**

**Answer:**

N/A

**Question #13:**

**Has the Department of State considered withdrawing current (or not renewing) targeted (i.e., non-urgent) foreign aid to the DRC in order to motivate the release of the children who have been adopted by American parents but are being detained by the DRC government?**

**Answer:**

Yes.

**Question #14:**

**If the answer to Question 13 is no, please explain why the Department of State has not done so.**

**Answer:**

N/A

**Question #15:**

**If the answer to Question 13 is yes, has the Department of State rejected this option?**

**Answer:**

Yes.

**Question #16:**

**If the answer to Question 15 is yes, please explain, in detail, why the Department of State has rejected this option.**

**Answer:**

We have discussed options to restrict assistance to the DRC. Most of our foreign assistance consists of humanitarian assistance administered through the UN and non-governmental organizations. In our view, restricting assistance which supports emergency, life-saving humanitarian assistance, health, democracy, and education is a measure that likely would bring more harm to vulnerable populations in the DRC without positive results for adoption cases.

**Question #17:**

**If the answer to Question 15 is no, please provide details regarding the Department of State's plans to withdraw targeted foreign aid from (or not renewing targeted foreign aid for) the DRC.**

**Answer:**

N/A

**Question #18:**

**Is the DRC detaining these children in order to prevent President Obama and the Department of State from being critical of the DRC for not committing to its previously promised national elections in 2016?**

**Answer:**

The Congolese government has given us no indication the exit permit suspension is tied to political motivations. Its stated reasons for the suspension include concerns with: the welfare of adopted children once they leave the DRC; child trafficking; harvesting and selling of child organs; unregulated transfers of adopted children to new families (re-homing); and adoptions by same-sex couples. Many Congolese officials also have stated that the suspension is a direct result of concerns they have with corruption in their own adoption process, and that they are seeking to implement legislative reforms on adoption.

**Question #19:**

**Has the Department of State considered withdrawing election assistance funding from the DRC in order to motivate the release of the children that have been adopted by American parents but are being detained by the DRC government?**

**Answer:**

Yes.

**Question #20:**

**If the answer to Question 19 is no, please explain why the Department of State has not done so.**

**Answer:**

N/A

**Question #21:**

**If the answer to Question 19 is yes, has the Department of State rejected this option?**

**Answer:**

Yes.

**Question #22:**

**If the answer to Question 21 is yes, please explain, in detail, why the Department of State has rejected this option.**

**Answer:**

Withdrawing election assistance would send a signal to the DRC government that we do not object to its current trajectory toward the possible indefinite postponement of elections. Our election assistance is vital to educating the Congolese people and enabling them to exercise their right to vote once elections are set.

**Question #23:**

**If the answer to Question 21 is no, please provide details regarding the Department of State's plans to withdraw election assistance funding from the DRC.**

**Answer:**

N/A

**Question #24:**

**What (if any) indications do we have that the children who have been adopted by American parents but are being detained by the DRC government have access to any of this foreign aid-funded relief?**

**Answer:**

We do not have information about the type of resources our foreign assistance supports to which these legally adopted children might have access. It is plausible that the children may have access to resources funded through U.S. foreign assistance programming that promote health,

education, or other humanitarian goals. We are not aware of any foreign assistance resources specifically directed to these children.

**Question #25:**

**Has the Department of State made any specific requests of DRC government officials that these children who have been adopted by American parents but are being detained by the DRC government be allowed to have special access to foreign aid-funded relief?**

**Answer:**

No. Most of our foreign assistance programming is administered directly through non-governmental implementers, and the DRC government does not usually determine program beneficiaries.

**Question #26:**

**Has the Department of State made any specific requests of DRC government officials that these children who have been adopted by American parents but are being detained by the DRC government are afforded special protection by DRC government officials, pending their release from the DRC?**

**Answer:**

Yes. We have repeatedly expressed our concerns regarding the humanitarian implications and the negative impact the suspension has on the welfare of these children. We believe that, in response to our concerns, the Congolese government has issued exit permits for a limited number of children who suffer from immediately life-threatening medical conditions. These steps are not enough to resolve the issue, but we recognize that some DRC officials do have an interest in maintaining the welfare of these children.

**Question #27:**

**If you know, are there any indications that any of the children who have been adopted by American parents but are being detained by the DRC government require emergency medical assistance that would justify**

**immediate removal from the DRC (and relocation to a U.S. or European hospital)?**

**Answer:**

We have sought immediate exit permission from the Congolese government for adopted children facing medically urgent situations on multiple occasions, and the Congolese government proactively has requested information from us about medically fragile children on several occasions. Since the beginning of the suspension, Congolese immigration authorities have authorized a small number of medically fragile children adopted by U.S. citizens to leave the DRC.

**Question #28:**

**Has the Department of State issued any warnings to DRC officials that any harm that comes to these children, either through active injury or passive neglect, will be considered to be harm to American citizens?**

**Answer:**

No. The Embassy continues to monitor the situation in the DRC to provide as much information and support as possible for the safety of the adopted children of U.S. citizens.

**Question #29:**

**Has the Department of State discussed the option of private citizenship legislation with DRC officials? If the answer is yes, please provide an indication of the DRC officials' response.**

**Answer:**

Embassy Kinshasa recently met with Directorate of General Migration, Director Beya, and legal experts in the DRC to gain clarity on whether the Congolese government's legal position would change if the adopted children became U.S. citizens. The experts explained that even if an adopted child acquires a foreign citizenship, the Congolese government still requires the child to have an exit permit to depart the DRC. The Department is reviewing the full range of possible options in connection with adoptions

from the DRC. If Congress believes private citizenship legislation would be advantageous to U.S. citizens and U.S. interests, the Department of State and U.S. Citizenship and Immigration Services stand ready to review any such legislation and to provide technical input as requested.

**Question #30:**

**What steps (if any) does the Department of State have in place to ensure the safe and rapid departure of these children in the wake of the passage of such legislation and immediate cooperation from the DRC government?**

**Answer:**

Over the course of the exit permit suspension, Embassy Kinshasa has worked closely with the families to ensure visa adjudication for adoption cases in the DRC is completed as expeditiously as possible, so that cases with finalized adoptions are ready to depart the DRC in the event the children are granted permission to leave. The Department is prepared to provide additional staffing support to Embassy Kinshasa to promote a smooth process in the event the suspension is lifted or Congolese legislation is passed that would authorize the departure of children with finalized adoptions.

**Question #31:**

**What steps (if any) does the Department of State have in place in the event the DRC government refuses to cooperate in the wake of the passage of such legislation?**

**Answer:**

As stated above, DRC government experts told Embassy Kinshasa that even if an adopted child acquires a foreign citizenship, the Congolese government still requires the child to have an exit permit to depart the DRC. This means that passage of private citizenship legislation alone would not allow the adopted children to legally depart the DRC.

Senior Department leadership has traveled to Kinshasa and met with DRC officials multiple times in the last year to push for the release of the

adopted children. We are coordinating with other countries and groups to amplify our message. We are closely monitoring developments and engaging officials in the Cabinet and Parliament as the new adoption law proceeds, and advocating for transitional provisions so that the new law is not retroactive. We continue to look at opportunities for high-level engagement between U.S. officials and President Kabila and other executive interlocutors, as well as opportunities to engage influential private citizens and members of the Congolese business community in the DRC, to highlight the humanitarian aspect of this impasse.

We are committed to seeking a just resolution for families and children whose adoptions have been finalized in accordance with current Congolese law. We will continue these efforts and remain open to new ideas that are responsive to the frequently changing discourse of this situation. The Department hopes to continue to work closely with Congress to achieve this goal.

**Question #32:**

**Can any of the funding in either the EDCS Fund or the Repatriation Loans Program Account be repurposed to provide temporary financial support for these relocated families? If the answer is no, please provide a detailed explanation as to why?**

**Answer:**

No. While the EDCS account is used for a range of activities specified under 22 U.S.C. § 2671, there is no authority to apply EDCS funds in support of living expenses of private U.S. citizens abroad. Further, 22 U.S.C. § 2671(b)(2)(B) provides for repatriation loans solely for the purpose of assisting destitute U.S. citizens to return to the United States.

**Question #33:**

**Are there any other accounts under the control of Consular Affairs that can be repurposed to provide temporary financial support for these relocated families? If the answer is no, please provide a detailed explanation as to why?**

**Answer:**

No. The Department's consular operations are funded through the consular fee revenue that the Department is authorized to retain. Those resources must be spent in accordance with the statutory authority applicable to the specific fee – none of those authorities would authorize the Department to use retained fees for the purposes of providing temporary financial support for the U.S. families that have relocated to the DRC.

**Question #34:**

**Are there any other accounts under the control of any other component of the Department of State that can be repurposed to provide temporary financial support for these relocated families? If the answer is no, please provide a detailed explanation as to why?**

**Answer:**

No. Consistent with 31 U.S.C. § 1301(a), the Department may only use public funds for the purposes for which they were appropriated. We are unaware of any additional authority that would authorize the use of Department appropriations for the purpose of providing temporary financial support for the U.S. families that have relocated to the DRC.