H. R. 3240

To ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009

Mr. Smith of New Jersey (for himself, Mr. Poe of Texas, Mr. Mollohan, Mr. Sensenbrenner, Mr. Wolf, Mr. Inglis, Ms. Loretta Sanchez of California, and Mr. Fortenberry) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, Financial Services, the Judiciary, and Oversight and Government Reform, 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 ensure compliance with the 1980 Hague Convention on the Civil Aspects of International Child Abduction by countries with which the United States enjoys reciprocal obligations, to establish procedures for the prompt return of children abducted to other countries, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “International Child Abduction Prevention Act of 2009”.

SEC. 2. FINDINGS; SENSE OF CONGRESS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Department of State’s Office of Children’s Issues, which serves as the Central Authority for the United States for the operation of 1980 Hague Convention on the Civil Aspects of International Child Abduction, is currently handling approximately 1,900 open cases involving more than 2,800 children abducted by a parent or legal guardian from the United States to other countries. For a variety of reasons reflecting the legal and factual complexity of parental abduction cases and the significant obstacles to recovery, only a percentage of all cases are reported to the Department of State.

(2) In fiscal year 2008, the Central Authority for the United States responded to cases involving 776 children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Convention, but during that same time period only 248 children were returned from Hague Convention countries to the United States. Also in 2008, the United States Central Authority reported 344 newly filed Hague Con-
vention applications involving 484 children wrongly removed to or retained in the United States. Two hundred ten children were returned under the Convention to their country of habitual residence.

(3) The number of outgoing international child abductions reported to the Central Authority for the United States increased by about 60 percent in the last three years, and by about 40 percent in 2008 alone.

(4) In evaluating the obstacles to recovering children abducted from a parent in the United States, the first difficulty is presented by countries who are signatories to the Hague Convention, but have not acted in compliance with the responsibilities of the Convention. According to the Central Authority for the United States, Honduras has not acted in compliance with the terms it agreed to as a party to the Hague Convention, and Brazil, Chile, Greece, Mexico, Slovakia, Switzerland, and Venezuela have demonstrated patterns of noncompliance. The failure of these countries to meet their obligations is found in the actions of their designated central authorities, the performance of their judiciaries, as reflected in the legal process and decisions rendered to enforce or effectuate the Hague Conven-
tion, or the ability and willingness of law enforce-
ment to insure the swift enforcement of orders ren-
dered pursuant to the Hague Convention.

(5) The United States and other State Signato-
ries to the Hague Convention have expressed their
desire, through the Convention, “to protect children
internationally from the harmful effects of their
wrongful removal or retention and to establish pro-
cedures to ensure their prompt return to the State
of their habitual residence, as well as to secure pro-
tection for rights of access.”.

(6) In evaluating and assessing the problem of
the abduction of children from the United States,
the Central Authority for the United States in fiscal
year 2008 reported that it had been provided notice
of 306 cases of parental abductions involving 455
children taken from the United States to countries
with which the United States does not enjoy an
agreement related to the treatment of parental ab-
duction cases and that are not signatories to the
Hague Convention, currently including a cumulative
total of 101 children in Japan, 67 children in India,
and 37 children in Russia. The number of reported
cases likely represents an even smaller percentage of
the total number of United States children impacted
as the process for the location and recovery of abducted children differs significantly with each country, and there is currently no formal protocol for intervening in such cases.

(7) According to the Department of State’s April 2008 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, “parental child abduction jeopardizes the child and has substantial long-term consequences for both the child and the left-behind parent.”

(8) Abducted children are at risk of serious emotional and psychological problems and have been found to experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt and fearfulness, and as adults may struggle with identity issues, their own personal relationships, and parenting.

(9) Left behind parents may encounter substantial psychological, emotional, and financial problems, and the majority have no means to generate the enormous financial resources required to pursue individual civil or criminal remedies to attempt to secure the return of their children, even if such remedies were available or effective in foreign courts or
political systems. Left-behind parents also often have
to pursue child custody and other protective orders
through expensive litigation at home.

(b) SENSE OF CONGRESS.—It is the sense of Con-
gress that the United States should set a strong example
for other Hague Convention countries in the timely loca-
tion and return of children wrongly removed from and re-
tained in the United States.

(e) PURPOSES.—The purposes of this Act are to—

(1) protect United States children from the
harmful effects of international child abduction and
to protect the right of children to exercise parental
access with their parents in a safe and predictable
way, wherever located;

(2) provide parents, their advocates, and judges
the information they need to enhance the resolution
of family disputes through established legal proce-
dures, the tools for assessing the risk of wrongful re-
moval and retention of children, and the practical
means for overcoming obstacles to recovering ab-
ducted children;

(3) establish effective mechanisms to provide
assistance to and aggressive advocacy on behalf of
parents whose children have been abducted from the
United States to a foreign country, from a foreign
country to the United States, and on behalf of military parents stationed abroad;

(4) promote an international consensus that the best interests of children are of paramount importance in matters relating to their custody, and that it is in the best interest of a child to have issues of custody determined in the State of their habitual residence immediately prior to the abduction;

(5) provide the necessary training for military officials and training and assistance to military families to address the unique circumstances of the resolution of child custody disputes which occur abroad, or occur when a parent is serving abroad;

(6) facilitate the creation and effective implementation of international mechanisms, particularly the 1980 Hague Convention on the Civil Aspects of International Child Abduction, to protect children from the harmful effects of their wrongful removal and retention; and

(7) facilitate the compliance of the United States with reciprocal obligations contained in the Hague Convention regarding children wrongfully removed to or retained in the United States.

SEC. 3. DEFINITIONS.

In this Act:
(1) Ambassador at Large.—The term “Ambassador at Large” means the Ambassador at Large for International Child Abductions appointed under section 101.


(3) Appropriate Congressional Committees.—Except as otherwise provided, the term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) Central Authority for the United States.—The term “Central Authority for the United States” has the meaning given such term in article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.


“report” means the annual report on compliance with the Hague Convention required to be submitted by the Department of State to Congress under section 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (42 U.S.C. 11611).

(7) Hague Convention signatory.—The term “Hague Convention signatory” means a country that has signed or acceded to the Convention and with which the United States has entered into a reciprocal agreement pursuant to the Convention.

(8) MOU.—The term “MOU” means a memorandum of understanding.

(9) MOU country.—The term “MOU country” means a country or entity with which the United States has entered into a memorandum of understanding to resolve cases of international child abduction. Such MOU’s shall include—

(A) identification of a specific protocol designed to establish and effectuate the urgent return of children abducted from the United States not later than six weeks after the date of the application for return of the child having been received by the agency authorized for such purposes;
(B) identification of a specific protocol for the establishment and protection of the rights of both interim and ongoing parental access between children and their parents;

(C) identification of an official entity within the government possessing the authority to facilitate the resolution of child abduction cases in cooperation with the Office on International Child Abductions and left-behind parents in the United States;

(D) identification of the judicial or administrative agency possessing the authority to facilitate the prompt adjudication of a request for the return of an abducted child to the United States;

(E) identification of a law enforcement agency and available mechanisms and procedures to investigate and assist in the location, protection, and retrieval of an abducted child and to ensure the immediate enforcement of orders entered by the court in the habitual residence to return an abducted child to the United States;
(F) establishment of welfare and whereabouts visits between a United States embassy and a wrongfully removed or retained child; and

(G) additional requisite elements that shall be satisfied and maintained for purposes of section 201(b) as determined by the Secretary of State.

(10) NONSIGNATORY COUNTRY.—The term “nonsignatory country” means a country which is neither a Hague Convention signatory nor a MOU country to which a United States child has been abducted or in which a United States child remains wrongfully retained.

(11) OFFICE.—The term “Office” means the Office on International Child Abductions established pursuant to section 101.

(12) PATTERN OF NONCOOPERATION.—The term “pattern of noncooperation” means a national government’s systemic failure, evidenced by the existence of ten or more parental child abduction cases which, after having been properly prepared and transmitted by the Central Authority for the United States remain unresolved within its borders after 18 months or, where there are fewer than ten unresolved cases, any cases still unresolved after nine
months from the time of receipt and transmittal by the Central Authority for the United States of a request to fulfill its international obligations with respect to the prompt resolution of cases of child abduction.

(13) Rights of Access.—The term “rights of access” means the rights of a parent and child to enjoy reasonable unfettered contact both within and outside the State of the child’s habitual residence.

(14) Unresolved Abduction Case.—The term “unresolved abduction case” means an abduction case which has been properly documented to establish that pursuant to the law of the State of habitual residence of a minor child, an international abduction or wrongful retention of such child whose habitual residence immediately prior to the abduction was the United States, remains unresolved more than two months following the date of the receipt and transmittal by the Central Authority for the United States of the request for return of such child.

(15) Unresolved Access Case.—The term “unresolved access case” means an application for the establishment of rights of parental access on either an interim or permanent basis, or the request for the enforcement of rights of parental access
(contact orders) which have been previously estab-
lished by a court of competent jurisdiction, which re-
main unresolved more than two months following the
date of the receipt and transmittal by the Central
Authority for the United States of a request for as-
stance in the organization of rights of access.

**TITLE I—DEPARTMENT OF STATE ACTIVITIES**

**SEC. 101. OFFICE ON INTERNATIONAL CHILD ABDUCTIONS; AMBASSADOR AT LARGE FOR INTERNATIONAL CHILD ABDUCTIONS.**

(a) Establishment of Office.—There is estab-
lished within the Department of State an Office on Inter-
national Child Abductions that shall be headed by the Am-
bassador at Large for International Child Abductions ap-
pointed under subsection (b).

(b) Appointment.—The Ambassador at Large shall
be appointed by the President, by and with the advice and
consent of the Senate.

(c) Duties.—The Ambassador at Large shall have
the following responsibilities:

(1) In general.—The primary responsibility
of the Ambassador at Large shall be to—
(A) promote measures to prevent the international abduction of children from the United States;

(B) advocate on behalf of children whose habitual residence is the United States and who have been abducted to another country;

(C) assist left-behind parents in the resolution of abduction or refusal of access cases; and

(D) advance mechanisms to prevent and resolve cases of international child abduction abroad.

(2) ADVISORY ROLE.—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters of international child abduction and refusals of rights of access, and shall make recommendations regarding—

(A) the policies of the United States Government toward governments with a pattern of noncooperation with respect to cases of international child abduction;

(B) coordination with other United States agencies regarding criminal prosecutions, Interpol assistance in the issuance of warrants and alerts, pending cases, training for United
States forces, and the negotiation of agreements to protect United States forces stationed abroad;

(C) policies to address international child abduction globally;

(D) the position of the United States Government on cases establishing the future functioning of the Hague Convention in the country at issue; and

(E) the position of the United States Government on a request to accept an accession to the Hague Convention.

(3) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to international child abduction and refusals of rights to access in—

(A) contacts with foreign governments, the World Organization for Cross-border Co-operation in Civil and Commercial Matters, the Hague Conference on Private International Law, and other international organizations of which the United States is a member;
(B) multilateral conferences and meetings relevant to international child abduction; and

(C) advocating accession to the Hague Convention, or, where accession to the Hague Convention is not possible, negotiating MOU’s.

(4) Reporting Responsibilities.—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(5) Case File Management System and Information Protocol.—The Ambassador at Large shall establish a case file management system within the Office to ensure the maintenance of accurate, complete, and timely information, to the extent available, on all cases of international child abduction or refusal of access about which the Office is notified, as well as a protocol for the receipt and updating of such information with actions taken by the Office and responses by the respective country, as well as deadlines required by the Hague Convention or the MOU at issue.

(6) Uniform Case Intake Procedures.—The Ambassador at Large shall establish uniform case intake procedures, which also make note of deadlines for responses pursuant to the Hague Convention or MOU, where applicable.
(7) CIVIL SERVICE EMPLOYEES.—The Ambassador at Large, in cooperation with the Secretary of State, shall ensure that a majority of the personnel of the Office are composed of civil service employees or members of the Service (as such term is described in section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903)) who shall be permitted to remain with the Office for at least four years.

(8) LEGAL ADVICE.—The Ambassador at Large shall make available legal advice to case managers of the Central Authority of the United States on an as-needed basis to address country-specific legal issues and to provide such case managers with information that can be disseminated generally on questions frequently asked by left behind parents.

(9) USER FRIENDLY RESOURCES.—The Ambassador at Large shall establish user-friendly resources, including—

(A) a toll free number that goes directly to the Office; and

(B) a language line for left behind parents who do not speak English.

(10) ASSISTANCE TO JUDGES.—The Ambassador at Large shall—
(A) be responsible for producing and disseminating a training course for United States Federal and State judges likely to receive Hague Convention cases; and

(B) retain not fewer than four specially trained judges available on an as needed basis to advise United States Federal and State judges handling Hague Convention cases.

(d) FUNDING.—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for—

(1) the hiring of staff for the Office;
(2) the conduct of investigations by the Office;
(3) the establishment of a case file management system;
(4) the translation of case documents in cases that may have systemic effect in the country in question;
(5) the development of training materials; and
for
(6) necessary travel to carry out the provisions of this section.

SEC. 102. ANNUAL REPORT.

(a) IN GENERAL.—Not later than March 31 of each year or the first day thereafter on which the appropriate
House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, shall submit to Congress an Annual Report on International Child Abduction by providing detailed information with respect to unresolved cases about which the Central Authority for the United States has been notified. Each Annual Report shall contain the following:

(1) Hague Convention signatory countries.—Information on the following:

(A) A current list of those countries with which the United States has reciprocal obligations under the Hague Convention.

(B) A current list of those countries that have requested the United States to accept their accession to the Hague Convention.

(C) The number of pending cases of alleged abduction of or refusal of access to children from the United States in each the countries referred to in subparagraphs (A) and (B), broken-out by type with date of original application and country of detention.

(D) The proportion of cases of abduction of or refusal of access to children from the United States resolved in each country since the advent of reciprocal Hague Convention obliga-
tions and the length of time each such case was pending.

(E) For each pending unresolved case, including the current reporting year and previous years—

(i) the date of the alleged abduction or wrongful retention;

(ii) the date any administrative or judicial application pursuant to the Hague Convention was brought, if applicable;

(iii) detailed information about each such case, including in the case of judicial application having been filed, the court handling the matter and the procedural history, the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been wrongfully removed or retained, and the date of submission of documents required by the application process; and

(iv) detailed information and an assessment of the lack of resolution about each such case together with a determination of any systemic issues related to the Hague Convention signatory country as
well as recommendation to enhance the
protocol for the improvement of the resolu-
tion of future cases.

(F) A description of the efforts of the Sec-
retary of State to encourage Hague Convention
signatory countries to facilitate the work within
such respective countries of nongovernmental
organizations that assist parents seeking the re-
turn of children under the Hague Convention.

(G) Whether a state of reciprocity no
longer exists between the United States and a
Hague Convention signatory country such that
United States parents, advocates, and judges
should, in assessing the risk of wrongful re-
moval or retention, require strong protective
and preventative measures.

(H) All reporting requirements contained
in the Hague Convention compliance report.

(2) MOU COUNTRIES.—Information on the fol-
lowing:

(A) A list of those countries that are MOU
countries.

(B) A description of the basic elements of
the memorandum of understanding entered into
with each country specified in subparagraph (A).

(C) Whether each such country is moving toward accession to the Hague Convention.

(D) The number of unresolved cases of wrongful removal or retentions of or refusal of access to children from the United States in each such country.

(E) The proportion of cases of abduction of or refusal of access to children from the United States resolved in each such country since the applicable MOU went into force.

(F) For each unresolved abduction or access case—

   (i) the date of the alleged abduction or wrongful retention;

   (ii) the date of any administrative or judicial process that was brought seeking the return of a minor child to the United States, or brought seeking rights of access to such child, and in the case of judicial process, the court in which the matter has been brought and the procedural history;
(iii) whether the protocols established pursuant to the applicable MOU have been followed;

(iv) detailed information about each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been wrongfully removed or retained and actions by the Central Authority for the United States;

(v) detailed information on and an assessment of the lack of resolution as well as a determination of any systemic issues related to the MOU country with specific attention regarding any failure of any of the requisite elements of the MOU; and

(vi) recommendations to amend the applicable MOU to improve the resolution of cases and ameliorate any systemic issues.

(3) NONSIGNATORY COUNTRIES.—Information on the following:

(A) A list of those countries that are neither Hague Convention signatory countries nor MOU countries.
(B) Information on efforts by the Department of State to encourage each such nonsignatory country to become a Hague Convention signatory country or MOU country.

(C) For each unresolved abduction or access case—

(i) the date of the alleged abduction or wrongful retention;

(ii) the date of any administrative or judicial process that was brought seeking the return of a minor child to the United States, or brought seeking rights of access to such child, and in the case of judicial process, the court in which the matter has been brought and the procedural history;

(iii) detailed information about each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been wrongfully removed or retained and any other action taken by the Central Authority for the United States;

(iv) detailed information on and an assessment of the reasons for the lack of a resolution in each such case as well as a
review of the systemic issues in the host
country which may contribute to or en-
(hance the wrongful removal or retention of
children; and

(v) recommendations for specific ac-
tions which may be taken by the United
States Government to improve the resolu-
tion of cases and ameliorate any systemic
issues.

(b) EXCEPTION.—Each Annual Report required
under this section may not include names of parties or
of minor children. Other potentially party-identifying in-
formation shall also be excluded in cases in which the par-ent remaining in the United States or on a United States
military installation has submitted a request in writing to
the Central Authority for the United States that such in-
formation not be publicized. Information that is subject
to attorney-client privilege may be provided with an ex-
cuted waiver.

(c) ADDITIONAL THEMATIC SECTIONS.—Each An-
nual Report under this section shall also include—

(1) information on the number of unresolved
cases affecting parents who are members of the
Armed Forces and a summary of assistance offered
to such left behind parents;
(2) information on the use of airlines in international child abduction, including which airlines are most commonly used in abduction, voluntary airline practices to prevent international child abduction, and recommendations for best airline practices; and

(3) information on actions taken by the Central Authority for the United States to train domestic and foreign judges in application of the Hague Convention.

(d) STANDARDS AND ASSISTANCE.—The Secretary of State shall ensure that United States diplomatic and consular missions abroad maintain a consistent reporting standard with respect to cases of international child abductions from the United States to the country in which each such mission is located, provide appropriate assistance to parents from the United States who are visiting such country to obtain the return, rights of access to, or visitation rights with an abducted child, and remain informed of developments in cases of children abducted from the United States to the country in which such mission is located.

(e) TERMINATION.—Upon publication of the first Annual Report required under this section, the requirement for the Secretary of State to submit the Hague Convention
compliance report, in addition to the Annual Report, shall terminate.

TITLE II—PRESIDENTIAL ACTIONS

SEC. 201. PRESIDENTIAL ACTIONS IN RESPONSE TO PATTERNS OF NONCOOPERATION IN CASES OF INTERNATIONAL CHILD ABDUCTIONS.

(a) Response to International Child Abductions.—

(1) United States Policy.—It shall be the policy of the United States to—

(A) promote the best interest of children in matters relating to their custody or rights of access by protecting them internationally from the harmful effects of their wrongful removal or retention;

(B) oppose practices or policies of the governments of foreign countries that fail to ensure children’s prompt return to the United States in cases of international child abduction or the wrongful retention of a child, where the United States is the child’s habitual residence immediately prior to such abduction, through the actions described in subsection (b); and
(C) oppose practices or policies of the governments of foreign countries that fail to ensure children’s continued contact with their parents by providing for rights of access.

(2) Requirement of Presidential Action.—Whenever the President determines that the government of a foreign country has engaged in a pattern of noncooperation, the President shall promote the resolution of the unresolved cases through one or more of the actions described in section 204(a).

(b) Designations of Countries With Patterns of Noncooperation in Cases of International Child Abduction.—

(1) Annual review.—

(A) In general.—Not later than March 31 of each year, the President shall review the status of unresolved cases in each foreign country to determine whether the government of each such country has engaged in a pattern of noncooperation during the preceding 12 months or since the date of the last review of each such country under this paragraph, whichever is longer. The President shall designate each country the government of which the President
has determined has engaged in a pattern of
none cooperation as a Country With a Pattern of
Noncooperation.

(B) BASIS OF REVIEW.—Each review con-
ducted under subparagraph (A) shall be based
upon information regarding government re-
sponses to unresolved cases of international
child abduction with respect to each such coun-
try, including the number of cases and the
length of time such cases have been pending, as
described in the latest Annual Report and on
any other evidence available with respect to
each such country.

(C) IMPLEMENTATION.—Any review under
subparagraph (A) of a country may take place
singly or jointly with the review of one or more
countries.

(2) DETERMINATIONS OF RESPONSIBLE PAR-
ties.—For the government of each country des-
ignated as a Country With a Pattern of Noneopera-
tion under paragraph (1)(A), the President shall
seek to determine the agency or instrumentality
thereof that is responsible for the pattern of non-
cooperation by such government in order to appro-
appropriately target Presidential actions under this section in response.

(3) Congressional notification.—Whenever the President designates a country as a Country With a Pattern of Noncooperation under paragraph (1)(A), the President shall, as soon as practicable after such designation is made, transmit to the appropriate congressional committees information relating to—

(A) the designation of the country, signed by the President; and

(B) one or more of the Presidential actions described in paragraphs (10) through (16) of section 204(a) carried out against such country.

c) Presidential actions with respect to a country with a pattern of noncooperation.—

(1) In general.—Subject to paragraphs (2), (3), and (4) with respect to each Country With a Pattern of Noncooperation designated under subsection (b)(1)(A), the President shall, after the requirements of sections 202 and 203 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (2)) after the date of such designation of a country under such subsection,
carry out one or more of the following actions under subparagraph (A) or (B):

(A) **Presidential Actions.**—One or more of the Presidential actions described in paragraphs (10) through (16) of section 204(a).

(B) **Commensurate Actions.**—Commensurate action in substitution to any action referred to in subparagraph (A).

(2) **Authority for Delay of Presidential Actions.**—If, on or before the date that the President is required to take action under paragraph (1) with respect to a Country With a Pattern of Non-cooperation, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of such country to bring about a cessation of the pattern of noncooperation by such country, or

(B)(i) for a review of corrective action taken by such country after designation of such country as a Country With a Pattern of Non-cooperation, or
(ii) in anticipation that corrective action will be taken by such country during such 90-day period,
the President shall not be required to take such action until the expiration of such period of time.

(3) EXCEPTION FOR ONGOING PRESIDENTIAL ACTION.—The President shall not be required to take action under this paragraph (1) with respect to a Country With a Pattern of Noncooperation if with respect to such country the following apply:

(A) The President has taken action pursuant to such paragraph in a preceding year.

(B) Such action is in effect at the time such country is designated as a Country with a Pattern of Noncooperation under subsection (b)(1)(A).

(C) The President reports to Congress the information described in paragraphs (1), (2), (3), and (4) of section 203(a) regarding the actions in effect with respect to such country.

(D) At the time the President designates a country as a Country With a Pattern of Noncooperation, if such country is already subject to multiple, broad-based sanctions imposed in
significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of such sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to paragraphs (1), (2), (3), and (4) of section 203(a), the President shall specify the specific sanction or sanctions that the President determines satisfy the requirements of this subsection. Such specified sanctions shall remain in effect subject to section 208.

(d) RULE OF CONSTRUCTION.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in a pattern of noncooperation shall not be construed to require the termination of assistance or other activities with respect to such country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(n) and 2304).

SEC. 202. CONSULTATIONS.

(a) NOTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in accordance with existing law and regulation, the Secretary of State shall notify in writing the member of the House of Representatives rep-
representing the district of a left behind parent when such parent reports an international child abduction to the Department of State. The Secretary shall maintain a computerized data tracking system to track and monitor such reported international child abduction cases.

(2) EXCEPTION.—Paragraph (1) shall not apply if the left behind parent does not consent to the notification described in such paragraph.

(b) DUTY TO CONSULT WITH FOREIGN GOVERNMENTS.—The President shall—

(1) request consultation with the government of a country to which a child is alleged to have been wrongfully removed or retained, regarding the pattern of noncooperation giving rise to action under section 204; and

(2) if agreed to, enter into such consultations, privately or publicly.

(c) DUTY TO CONSULT WITH LEFT BEHIND PARENTS IN THE UNITED STATES.—The President shall consult with left behind parents of children in the foreign countries, or appropriate representatives or representative groups of such parents, concerning the potential impact of United States policies to promote the resolution of unresolved cases in countries described in subsection (a).
(d) Duty To Consult With Other United States Interested Parties.—The President shall, as appropriate, consult with other United States interested parties regarding the potential impact of intended action in countries described in subsection (a) on economic or other interests of the United States.

SEC. 203. REPORT TO CONGRESS.

At such time as the President decides to take action under section 204 in response to a country that the President has designated as a Country With a Pattern of Non-cooperation and the President decides to take action under paragraphs (10) through (16) of section 204, the President shall transmit to the appropriate congressional committees a report on the following:

(1) Identification of Presidential Actions.—An identification of the action or actions described in paragraphs (10) through (16) of section 204 (or commensurate action in substitution there-to) to be taken with respect to such country.

(2) Description of Violations.—A description of the unresolved cases of child abduction giving rise to the action or actions to be taken by the President.
(3) **Purpose of Presidential Actions.**—A description of the purpose of the Presidential action or actions.

(4) **Evaluation.**—

(A) **Description.**—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the parties described in subsections (c) and (d) of section 202, and other parties the President determines appropriate, of—

(i) the impact upon such unresolved cases in such country;
(ii) the impact upon the government of such country;
(iii) the impact upon the population of such country; and
(iv) the impact upon the United States economy and other interested parties.

(B) **Authority to Withhold Disclosure.**—The President may withhold part or all of such evaluation from the public, if classified, but shall provide the entire evaluation to Congress.
STATEMENT OF POLICY OPTIONS.—A statement that noneconomic policy options designed to bring about a resolution of the pattern of noncooperation in such country have reasonably been exhausted, including the consultations required in accordance with section 202.

SEC. 204. PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (c), the President may take the following actions with respect to a country that the President has designated as a Country With a Pattern of Noncooperation under section 201:

(1) A private demarche.

(2) An official public demarche.

(3) A statement of nonreciprocity under the Hague Convention.

(4) A public condemnation.

(5) A public condemnation within one or more multilateral fora.

(6) The delay or cancellation of one or more scientific exchanges.

(7) The delay or cancellation of one or more cultural exchanges.

(8) The denial of one or more working, official, or state visits.
(9) The delay or cancellation of one or more working, official, or state visits.

(10) The restriction of the number of visas issued to nationals of such country pursuant to subparagraphs (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).


(12) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participation in the extension of credit with respect to such government or the agency or instrumentality of such government determined by the President to be responsible for such pattern of non-cooperation.

(14) In accordance with section 701 of the International Financial Institutions Act of 1977 (22 U.S.C. 262d), directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefitting the such government or the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation.


(16) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to such government or to the agency or instrumentality of such government determined by the President to be responsible for such pattern of noncooperation, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or
(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services.

(17) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to such government or to the agency or instrumentality of such government or determined by the President to be responsible for such pattern of non-cooperation.

(18) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from such government or from the agency or instrumentality of such government determined by the President to be responsible for such pattern of non-cooperation.

(b) COMMENSURATE ACTION.—Except as provided in subsection (c), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (16) of subsection (a) if such action is commensurate in effect to the action substituted and if such action would further the purposes of this Act as specified in section 2(c). The President shall seek to take all appropriate and feasible actions authorized by law to
obtain the cessation of such pattern of noncooperation. If
commensurate action is taken under this subsection, the
President shall transmit to the appropriate congressional
committees a report on such action, together with an ex-
planation for taking such action.

(c) EXCEPTIONS.—Any action taken pursuant to sub-
section (a) or (b) may not prohibit or restrict the provision
to such country of medicine, medical equipment, or sup-
plies, food, or other humanitarian assistance.

SEC. 205. EFFECTS ON EXISTING CONTRACTS.

The President shall not be required to apply or main-
tain any action under this section 204—

(1) in the case of procurement of defense arti-
cles or defense services—

(A) under existing contracts or sub-
contracts, including the exercise of options for
production quantities, to satisfy requirements
essential to the national security of the United
States;

(B) if the President determines in writing
and transmits to Congress a report that the
government of a foreign country or the agency
or instrumentality of such government to which
such action would otherwise be applied is a sole
source supplier of such defense articles or serv-
ices, that such defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and transmits to Congress a report that such defense articles or services are essential to the national security of the United States under defense co-production agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes in the Federal Register notice of such action in accordance with section 207.

SEC. 206. PRESIDENTIAL WAIVER.

(a) In general.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (10) through (16) of section 204(a) (or commensurate action in substitution thereto) with respect to a country that the President has designated as a Country With a Pattern of Noncooperation under section 201, if the President determines and so reports to the appropriate congressional committees that—

(1) the government of such has satisfactorily resolved the unresolved cases giving rise to the application of any of such actions and—
(A) if such country is a Hague Convention signatory country, such country has taken measures to ensure future compliance with the provisions of the Hague Convention;

(B) if such country is an MOU country, such country has taken measures to ensure future compliance with the provisions of the MOU at issue; or

(C) if such country is a Nonsignatory country at the time the abductions or retentions resulting in the unresolved cases occurred, such country has become a Hague Convention signatory country or a MOU country;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of such waiver or the intention to exercise such waiver, together with a detailed justification thereof.
SEC. 207. PUBLICATION IN FEDERAL REGISTER.

(a) In General.—Subject to subsection (b), the President shall ensure publication in the Federal Register of the following:

(1) Determinations of Governments, agencies, instrumentalities of countries with patterns of noncooperation.—Any designation of a country that the President has designated as a Country With a Pattern of Noncooperation under section 201, together with, when applicable and to the extent practicable, the identities of agencies, instrumentalities, or officials determined to be responsible for such pattern of noncooperation.

(2) Presidential actions.—A description of any action under paragraphs (10) through (16) of section 204(a) (or commensurate action in substitution therefor) and the effective date of such action.

(3) Delays in transmittal of presidential action reports.—Any delay in transmittal of a report required under in section 203.

(4) Waivers.—Any waiver issued under section 206.

(b) Limited Disclosure of Information.—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and
determinations described in section 654(c) of the Foreign
Assistance Act of 1961 (22 U.S.C. 2414(c)), if the Presi-
dent determines that the publication of such informa-
tion—

(1) would be harmful to the national security of
the United States; or

(2) would not further the purposes of this Act.

SEC. 208. TERMINATION OF PRESIDENTIAL ACTIONS.

Any action taken under this Act or any amendment
made by this Act with respect to a foreign country shall
terminate on the earlier of the following dates:

(1) Not later than two years after the effective
date of such action unless expressly reauthorized by
law.

(2) Upon the determination by the President, in
consultation with the Office, and certification to
Congress that the government of such country has
taken substantial and verifiable steps to correct the
pattern of noncooperation at issue that gave rise to
such action.

SEC. 209. PRECLUSION OF JUDICIAL REVIEW.

No court shall have jurisdiction to review any Presi-
dential determination or agency action under this Act or
any amendment made by this Act.
SEC. 210. UNITED STATES ASSISTANCE.

(a) IMPLEMENTATION OF PROHIBITION ON ECONOMIC ASSISTANCE.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended—

(1) in matter preceding paragraph (1), by inserting “and in consultation with the Ambassador at Large for International Child Abduction” after “Freedom”;

(2) in paragraph (3)(B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) whether the government—

“(A) has engaged in a pattern of non-cooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009; or

“(B) has failed to undertake serious and sustained efforts to locate children allegedly abducted to the country when such efforts could have been reasonably undertaken.”.

(b) IMPLEMENTATION OF PROHIBITION ON MILITARY ASSISTANCE.—Section 502B(a)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(4)) is amended—
(1) in subparagraph (A), by striking “or” at
the end;

(2) in subparagraph (B), by striking the period
at the end and inserting “; or”; and

(3) by adding at the end the following new sub-
paragraphs:

“(C) has engaged in a pattern of non-
cooperation regarding unresolved cases of al-
leged international child abduction or denial of
rights of access, as such terms are defined in
the International Child Abduction Protection
Act of 2009; or

“(D) has failed to undertake serious and
sustained efforts to locate children allegedly ab-
ducted to the country when such efforts could
have been reasonably undertaken.”.

(c) EXPANDED CONSULTATION.—Section 502B(b) of
the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b))
is amended, in the first sentence, by inserting “and with
the assistance of the Ambassador at Large for Inter-
national Child Abduction,” after “the Ambassador at
Large for International Religious Freedom,”.
SEC. 211. MULTILATERAL ASSISTANCE.

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection:

“(h) In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether such government—

“(1) has engaged in a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009; or

“(2) has failed to undertake serious and sustained efforts to locate children allegedly abducted to such country when such efforts could have been reasonably undertaken.”.

SEC. 212. AMENDMENT TO GENERALIZED SYSTEM OF PREFERENCES ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.

Section 502(b)(2) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)) is amended—

(1) by inserting after subparagraph (H) the following new subparagraph:
“(I) Such country is a country with a pattern of noncooperation regarding unresolved cases of alleged international child abduction or denial of rights of access, as such terms are defined in the International Child Abduction Prevention Act of 2009.”; and

(2) in the flush left matter after subparagraph (I)—

(A) by striking “and (H)” and inserting “(H)”; and

(B) by inserting after “D))” the following:

“and (I)”.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AMENDMENT OF RESTRICTION FOR THE ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14.

Section 236(a)(2)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 is amended—

(1) in clause (ii), by striking “or” at the end;

(2) in clause (iii), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following new clause:
“(iv) in cases in which the child is living outside the United States, such person is a United States citizen, has joint custody over the child, and is executing the application for issuance of a passport outside the United States.”.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2013 to carry out this Act and the amendments made by this Act.