H. R. 3212

IN THE SENATE OF THE UNITED STATES

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AN ACT

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 AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the
"Sean and David Goldman International Child Abduction
Prevention and Return Act of 2013”.

(b) TABLE OF CONTENTS.—The table of contents for
this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings; sense of Congress; purposes.
Sec. 3. Definitions.

TITLE I—DEPARTMENT OF STATE ACTIONS

Sec. 101. Annual report.
Sec. 102. Standards and assistance.
Sec. 103. Memorandum of understanding.
Sec. 104. Notification of congressional representatives.

TITLE II—PRESIDENTIAL ACTIONS

Sec. 201. Presidential actions in response to unresolved cases.
Sec. 202. Presidential actions in response to patterns of noncooperation in
cases of international child abductions.
Sec. 203. Consultations with foreign governments.
Sec. 204. Report to Congress.
Sec. 205. Presidential actions.
Sec. 206. Presidential waiver.
Sec. 207. Publication in Federal Register.
Sec. 208. Termination of Presidential actions.

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

(a) FINDINGS.—Congress finds the following:

(1) Sean Goldman, a United States citizen and
resident of New Jersey, was abducted from the
United States in 2004 and separated from his fa-
ther, David Goldman, who spent nearly six years
battling for the return of his son from Brazil before
Sean was finally returned to Mr. Goldman’s custody on December 24, 2009.

(2) The Department of State’s Office of Children’s Issues, which serves as the Central Authority of the United States for the purposes of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, has received thousands of requests since 2007 for assistance in the return to the United States of children who have been abducted by a parent or other legal guardian to another country. For a variety of reasons reflecting the significant obstacles to the recovery of abducted children, as well as the legal and factual complexity involving such cases, not all cases are reported to the Central Authority of the United States.

(3) More than one thousand outgoing international child abductions are reported to the Central Authority of the United States every year.

(4) Only about half of the children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Abduction Convention are returned to the United States.

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

(6) Compliance by the United States and Convention countries depends on 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 Abduction Convention, and the ability and willingness of their law enforcement to insure the swift enforcement of orders rendered pursuant to the Hague Abduction Convention.

(7) According to data compiled by the Central Authority of the United States, approximately 40 percent of abduction cases and access cases involve children taken from the United States to countries with which the United States does not have Hague Abduction Convention obligations or other agreements relating to the resolution of abduction cases and access cases.

(8) According to the Department of State’s April 2010 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.”

(9) 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, personal relationships, and parenting.

(10) Left-behind parents may encounter substantial psychological and emotional problems, and few have the extraordinary financial resources necessary to pursue individual civil or criminal remedies in both the United States and a foreign country, even where available, or to engage in repeated foreign travel to attempt to procure the return of their children by evoking diplomatic and humanitarian remedies.

(11) Left-behind parents who are military parents may be unable to leave their military duties to pursue multinational litigation or take leave to attend multiple court proceedings, and foreign authori-
ties may not schedule proceedings to accommodate such duties.

(b) Sense of Congress.—It is the sense of Congress that the United States should set a strong example for Convention countries in the timely location and return of abducted children in the United States whose habitual residence is not the United States.

(c) Purposes.—The purposes of this Act are to—

(1) protect children whose habitual residence is the United States from the harmful effects of abduction and to assist left-behind parents to have access to their abducted child in a safe and predictable manner, wherever the child is located, while an abduction case is pending;

(2) provide left-behind parents, including military parents, their advocates, and judges the information they need to enhance the resolution of abduction cases and access cases through established legal procedures, risk assessment tools, and the practical means for overcoming obstacles to recovering an abducted child;

(3) establish measured, effective, and predictable actions to be undertaken by the President on behalf of abducted children whose habitual residence is the United States at the time of the abduction;
(4) promote an international consensus that it is in the interest of children to have any issues related to their care and custody determined in the country of their habitual residence;

(5) provide the necessary training for officials of the United States Armed Forces and the Department of Defense to establish policies and provide services to military parents that address the unique circumstances of abductions and violations of rights of access that may occur with regard to military dependent children; and

(6) encourage the effective implementation of international mechanisms, particularly those established pursuant to the Hague Abduction Convention, to achieve reciprocity in the resolution of abductions and to protect children from the harmful effects of an abduction.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABDUCTED CHILD.—The term “abducted child” means a child who is the victim of an abduction.

(2) ABDUCTION.—The term “abduction” means—
(A) the alleged wrongful removal of a child
from the child’s country of habitual residence;

(B) the alleged wrongful retention of a
child outside the child’s country of habitual res-

(C) the alleged wrongful removal or reten-
tion of a military dependent child from the ex-

(3) ABDUCTION CASE.—The term “abduction
case” means a case involving an application filed
with the Central Authority of the United States by
a left-behind parent for the resolution of an abduc-
tion.

(4) ACCESS CASE.—The term “access case”
means a case involving an application filed with the
Central Authority of the United States by a left-be-
hind parent for the establishment of rights of access.

(5) ANNUAL REPORT.—The term “Annual Re-
port” means the Annual Report on International
Child Abduction required under section 101.

(6) APPLICATION.—The term “application”
means—

(A) in the case of a Convention country,
the application required pursuant to article 8 of
the Hague Abduction Convention;
(B) in the case of an MOU country, the formal document required pursuant to the provisions of the applicable MOU to request the return of an abducted child or to request rights of access, as applicable; and

(C) in the case of a nonparty country, the formal request by the Central Authority of the United States to the Central Authority of such country requesting the return of an abducted child or for rights of access to an abducted child.

(7) APPROPRIATE CONGRESSIONAL COMMITTEES.—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.

(8) CENTRAL AUTHORITY.—The term “Central Authority” means—

(A) in the case of a Convention country, the meaning given such term in article 6 of the Hague Abduction Convention;

(B) in the case of an MOU country, the official entity designated by the government of the MOU country within the applicable MOU
pursuant to section 103(b)(1) to discharge the
duties imposed on the entity in such MOU; and

(C) in the case of a nonparty country, the
foreign ministry of such country.

(9) CHILD.—The term “child” means an indi-
vidual who has not attained the age of 16.

(10) CONVENTION COUNTRY.—The term “Con-
vention country” means a country other than the
United States that has ratified, acceded, or suc-
ceded to the Hague Abduction Convention and with
respect to which the United States has entered into
a reciprocal agreement pursuant to the Hague Ab-
duction Convention.

(11) HAGUE ABDUCTION CONVENTION.—The
term “Hague Abduction Convention” means the
Convention on the Civil Aspects of International
Child Abduction, done at The Hague on October 25,
1980.

(12) LEFT-BEHIND PARENT.—The term “left-
behind parent” means an individual or entity, either
individually or jointly, who alleges that an abduction
has occurred that is in breach of rights of custody—

(A) attributed to such individual or entity,
as applicable; and
(B) exercised at the time of the abduction or that would have been exercised but for the abduction.

(13) LEGAL RESIDENCE.—The term “legal residence” means the congressional district and State in which an individual either is residing, or if an individual is residing temporarily outside the United States, the congressional district and State to which the individual intends to return.

(14) MILITARY DEPENDENT CHILD.—The term “military dependent child” means a child whose habitual residence is the United States according to United States law even though the child is residing outside the United States with a military parent.

(15) MILITARY PARENT.—The term “military parent” means an individual who has rights of custody over a child and who is serving outside the United States as a member of the United States Armed Forces.

(16) MOU.—The term “MOU” means a memorandum of understanding between the United States and a country that is not a Convention country to resolve abduction cases and access cases.
(17) MOU COUNTRY.—The term “MOU country” means a country with respect to which the United States has entered into an MOU.

(18) NONPARTY COUNTRY.—The term “nonparty country” means a country that is neither a Convention country nor an MOU country.

(19) PATTERN OF NONCOOPERATION.—

(A) IN GENERAL.—The term “pattern of noncooperation” means the persistent failure—

(i) of a Convention country to implement and abide by the provisions of the Hague Abduction Convention; and

(ii) of an MOU country to implement and abide by the provisions of the applicable MOU.

(B) CRITERIA.—Such persistent failure may be evidenced by one or more of the following criteria:

(i) The existence of 10 or more unresolved abduction cases.

(ii) The failure of the Central Authority of the country to fulfill its responsibilities pursuant to the Hague Abduction Convention or the MOU, as applicable.
(iii) The failure of the judicial or administrative branch, as applicable, of the national government of the country to implement and comply with the provisions of the Hague Abduction Convention or the MOU, as applicable.

(iv) The failure of law enforcement to locate abducted children or to enforce return orders or determinations of rights of access rendered by the judicial or administrative authorities of the national government of the country in abduction cases or access cases.

(20) RIGHTS OF ACCESS.—The term “rights of access” means the rights of contact between a child and a left-behind parent provided as a provisional measure while an abduction case is pending, by operation of law or by reason of judicial or administrative determination or by agreement having legal effect, under the law of the country in which the child is located.

(21) RIGHTS OF CUSTODY.—The term “rights of custody” means rights of care and custody of an abducted child, including the right to determine the place of residence of an abducted child—
(A) attributed to an individual or entity, either individually or jointly, and
(B) arising by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect, under the law of the country in which the child was an habitual resident immediately before the abduction.

(22) UNRESOLVED ABDUCTION CASE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “unresolved abduction case” means an abduction case that remains unresolved for a period that exceeds 180 days after the date on which the completed application for return of the child is submitted for determination to the judicial or administrative authority, as applicable, in the country in which the child is located.

(B) RESOLUTION OF CASE.—An abduction case shall be considered to be resolved if—

(i) the child is returned to the country of habitual residence, pursuant to the Hague Abduction Convention or MOU, if applicable;
(ii) the judicial or administrative
branch, as applicable, of the national gov-
ernment of the country in which the child
is located has implemented and is com-
plying with the provisions of the Hague
Abduction Convention or the MOU, as ap-
plicable, and a final determination is made
by such judicial or administrative branch
that the child will not be returned to the
country of habitual residence; or

(iii) the child attains the age of 16.

TITLE I—DEPARTMENT OF
STATE ACTIONS

SEC. 101. ANNUAL REPORT.

(a) IN GENERAL.—Not later than March 31 of each
year, the Secretary of State shall submit to the appro-
priate congressional committees an Annual Report on
International Child Abduction.

(b) CONTENTS.—Each Annual Report shall include
the following:

(1) A list of all countries with respect to which
there were one or more abduction cases during the
preceding year that identifies whether each such
country is a Convention country, an MOU country,
or a nonparty country.
(2) For each country with respect to which there were 5 or more abduction cases during the preceding year:

   (A) The number of abduction cases and the number of access cases, respectively, reported during the preceding year.

   (B) The number of abduction cases and the number of access cases, respectively, that are pending as of March 1 of the year in which such Annual Report is submitted.

   (C)(i) For Convention and MOU countries, the number of abduction cases and the number of access cases, respectively, that were pending at any point for more than 180 days after the date on which the Central Authority of the United States transmitted the complete application for each such case to the Central Authority of such country, and were not submitted by the Central Authority to the judicial or administrative authority, as applicable, of such country within the 180-day period.

   (ii) The reason for the delay in submission of each case identified in clause (i) by the Central Authority of such country to the judicial or administrative authority.
(D) The number of unresolved abduction cases, and the length of time each case has been pending.

(E) The number of unresolved abduction cases in which a completed application has been filed and law enforcement has failed to locate the abducted child or to enforce a return order rendered by the judicial or administrative authorities of such country.

(F) The median time required for resolution of abduction cases during the preceding year, to be measured from the date on which the application with respect to the abduction case is transmitted by the Central Authority of the United States to the Central Authority of such country to the date on which the abduction case is resolved.

(G) The total number and the percentage of the total number of abduction cases and access cases, respectively, resolved during the preceding year.

(H) Detailed information about each unresolved abduction case described in subparagraph (E) and on actions taken by the Department of State to resolve such case, including
the specific actions taken by the United States chief of mission in such country.

(I) Recommendations to improve resolution of abduction cases and access cases.

(3) The number of abducted children from the United States who were returned to the United States from Convention countries, MOU countries, and nonparty countries, respectively.

(4) A list of Convention countries and MOU countries that have failed to comply with any of their obligations under the Hague Abduction Convention or the MOU, as applicable, with respect to the resolution of abduction cases and access cases.

(5) A list of countries demonstrating a pattern of noncooperation, and a summary of the criteria on which the determination of a pattern of noncooperation for each country is based.

(6)(A) Information on efforts by the Secretary of State to encourage other countries to become signatories to the Hague Abduction Convention or to enter into an MOU.

(B) The efforts referred to in subparagraph (A) shall include efforts to address pending abduction cases and access cases in such countries.
(7) A description of the efforts of the Secretary of State to encourage Convention countries and MOU countries to facilitate the work of nongovernmental organizations within their respective countries that assist left-behind parents.

(8) The number of cases which were successfully resolved without abducted children being returned to the United States from Convention countries, MOU countries, and nonparty countries, respectively.

(c) Exception.—The Annual Report shall not include—

(1) the names of left-behind parents or children involved in abduction cases or access cases; or

(2) information that may identify a party involved in an abduction case or access case unless the party stipulates in writing to the Central Authority of the United States that such information may be included in the Annual Report.

(d) Additional Thematic Sections.—Each Annual Report shall also include—

(1) information on the number of unresolved abduction cases affecting left-behind parents who are military parents and a summary of assistance offered to such left-behind parents;
(2) information on the use of airlines in abductions, voluntary airline practices to prevent abductions, and recommendations for best airline practices to prevent abductions;

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

(4) information on actions taken by the Central Authority of the United States to train United States Armed Forces legal assistance personnel, military chaplains, and military family support center personnel about abductions, the risk of loss of access to children, and the legal frameworks available to resolve such cases.

(e) R EPEAL OF THE HAGUE CONVENTION COMPLIANCE REPORT.—Section 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (42 U.S.C. 11611) is repealed.

SEC. 102. STANDARDS AND ASSISTANCE.

The Secretary of State shall ensure that United States diplomatic and consular missions abroad—

(1) maintain a consistent reporting standard with respect to abduction cases and access cases involving abducted children in the country in which
such mission is located for purposes of the Annual Report;

(2) designate at least one official in each such mission to assist left-behind parents from the United States who are visiting such country to resolve cases involving an abduction or rights of access; and

(3) monitor developments in cases involving abducted children in the country in which such mission is located.

SEC. 103. MEMORANDUM OF UNDERSTANDING.

(a) In General.—The Secretary of State should seek to enter into an MOU with every country that is not a Convention country and is unlikely to become a Convention country in the foreseeable future, that includes—

(1) identification of the Central Authority;

(2) a protocol to identify, locate, and effectuate the return of an abducted child identified in an abduction case not later than 6 weeks after the application with respect to the abduction case has been submitted to the judicial or administrative authority, as applicable, of the country in which the abducted child is located;

(3) a protocol for the establishment and protection of the rights of access;
(4) identification of the judicial or administrative authority that will promptly adjudicate abduction cases and access cases;

(5) identification of a law enforcement agency and available law enforcement mechanisms and procedures to ensure the immediate enforcement of an order issued by the authority identified pursuant to paragraph (4) to return an abducted child to a left-behind parent, including by—

(A) conducting an investigation to ascertain the location of the abducted child;

(B) providing protection to the abducted child after such child is located; and

(C) retrieving the abducted child and making the appropriate arrangements for such child to be returned to the country of habitual residence;

(6) a protocol to establish periodic visits between a United States embassy or consular official and an abducted child to allow the official to ascertain the child’s location and welfare; and

(7) such other provisions as determined to be appropriate by the Secretary of State.

(b) Rule of Construction.—
(1) IN GENERAL.—Nothing in this Act shall be construed to prohibit the United States from proposing and entering into a memorandum of understanding with a Convention country to further clarify the reciprocal obligations of the United States and the Convention country under the Hague Abduction Convention.

(2) TREATMENT OF OBLIGATIONS OF CONVENTION COUNTRY.—In those instances in which there is a memorandum of understanding as described in paragraph (1), the obligations of the Convention country under such memorandum shall be considered to be obligations of such country under the Hague Abduction Convention for purposes of this Act.

SEC. 104. NOTIFICATION OF CONGRESSIONAL REPRESENTATIVES.

(a) NOTIFICATION.—Except as provided in subsection (b), the Secretary of State shall notify in writing the Member of Congress and Senators representing the legal residence of a left-behind parent when such parent reports an abduction to the Central Authority of the United States.

(b) EXCEPTION.—The notification requirement under subsection (a) shall not apply if the left-behind parent
does not consent to the notification described in such subsection.

(c) Timing.—At the request of any person who is a left-behind parent, including a left-behind parent who previously reported an abduction to the Central Authority of the United States before the date of the enactment of this Act, notification of a Member of Congress, in accordance with subsections (a) and (b), shall be provided as soon as is practicable.

(d) Member of Congress Defined.—In this section, the term “Member of Congress” means a Representative in, or Delegate or Resident Commissioner to, the Congress.

TITLE II—PRESIDENTIAL ACTIONS

SEC. 201. PRESIDENTIAL ACTIONS IN RESPONSE TO UNRESOLVED CASES.

(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 abducted from the United States by establishing legal rights and procedures for their prompt return and by promoting such rights
and procedures through actions that ensure the
enforcement of reciprocal international obliga-
tions; and

(B) recognize the international character
of the Hague Abduction Convention, and the
need for reciprocity pursuant to and the uni-
form international interpretation of the Hague
Abduction Convention, by promoting the timely
resolution of abduction cases through one or
more of the actions described in section 205.

(2) REQUIREMENT OF PRESIDENTIAL AC-
TION.—Whenever the President determines that the
government of a foreign country has failed to resolve
an unresolved abduction case, the President shall op-
pose such failure through one or more of the actions
described in subsection (b).

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2)
and (3), the President, in consultation with the Sec-
retary of State, shall, as expeditiously as practicable
in response to the failure described in subsection (a)
by the government of a foreign country, take one or
more of the actions described in paragraphs (1)
through (13) of section 205(a) (or commensurate ac-
tion as provided in section 205(b)) with respect to such country.

(2) Deadline for actions.—

(A) In general.—Except as provided in subparagraph (B), not later than March 31 of each year, the President shall take one or more of the actions described in paragraphs (1) through (13) of section 205(a) (or commensurate action as provided in section 205(b)) with respect to each foreign country the government of which has failed to resolve an unresolved abduction case that is pending as of such date.

(B) Exception.—In the case of an action under any of paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b))—

(i) the action may only be taken after the requirements of sections 203 and 204 have been satisfied; and

(ii) the March 31 deadline to take the action shall not apply.

(3) Authority for delay of presidential actions.—The President may delay action described in any of the paragraphs (10) through (13) of section 205(a) (or commensurate action as pro-
vided in section 205(b)), as required under para-
graph (2), if the President determines and certifies
to the appropriate congressional committees that an
additional, specified period of time is necessary for
a continuation of negotiations that have been com-
menced with the country to resolve the unresolved
case.

(c) Implementation.—

(1) In general.—In carrying out subsection
(b), the President shall—

(A) take one or more actions that most ap-
propriately respond to the nature and severity
of the failure to resolve the unresolved abduc-
tion cases; and

(B) seek to the fullest extent possible to
target action as narrowly as practicable with re-
spect to the agencies or instrumentalities of the
foreign government that are responsible for
such failures, in ways that respect the separa-
tion of powers and independence of the judici-
ary in foreign countries.

(2) Guidelines for presidential ac-
tions.—In addition to the guidelines under para-
graph (1), the President, in determining whether to
take one or more actions under paragraphs (10)
through (13) of section 205(a) (or commensurate action as provided in section 205(b)), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in the country.

SEC. 202. PRESIDENTIAL ACTIONS IN RESPONSE TO PATTERNS OF NONCOOPERATION IN CASES OF INTERNATIONAL CHILD ABDUCTIONS.

(a) RESPONSE TO A PATTERN OF NONCOOPERATION.—

(1) UNITED STATES POLICY.—It shall be the policy of the United States to—

(A) oppose institutional or other systemic failures of foreign governments to fulfill their obligations pursuant to the Hague Abduction Convention or MOU, as applicable, to resolve abduction cases and access cases; and

(B) promote reciprocity pursuant to and compliance with the Hague Abduction Convention by Convention countries and compliance with the applicable MOU by MOU countries.
(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 abduction cases through one or more of the actions described in subsection (e).

(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 abduction cases and access cases in each foreign country to determine whether the government of such country has engaged in a pattern of noncooperation during the preceding 12 months or since the date of the last review of such country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in a pattern of noncooperation as a Country With a Pattern of Noncooperation.

(B) **Basis of Review.**—Each review conducted under subparagraph (A) shall be based
upon information contained in the latest Annual
Report and on any other evidence available.

(2) Determinations of Responsible Parties.—For the government of each country des-
ignated as a Country With a Pattern of Noncooperation under paragraph (1)(A), the President shall
seek to determine the agencies or instrumentalities of such government that are responsible for the pat-
tern of noncooperation by such government in order to appropriately target 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 ap-
propriate congressional committees—

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

(B) the identification, if any, of responsible agencies or instrumentalities determined under
paragraph (2).

e) Presidential Actions With Respect to a
Country With a Pattern of Noncooperation.—
(1) IN GENERAL.—Subject to paragraphs (2) and (3) with respect to each Country With a Pattern of Noncooperation designated under subsection (b)(1)(A), the President shall, after the requirements of sections 203 and 204 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 the country under such subsection, take one or more of the actions under paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b)).

(2) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—If, on or before the date that the President is required to take action under paragraph (1), the President determines and certifies to the appropriate congressional committees 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 a country described in such paragraph to bring about a cessation of the pattern of noncooperation by such country, or

(B) for a review of corrective action taken by such country after designation of such coun-
try as a Country With a Pattern of Non-cooperation under subsection (b)(1)(A) or 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.—

(A) IN GENERAL.—The President shall not be required to take action under paragraph (1) with respect to a Country With a Pattern of Noncooperation if—

(i) the President has taken action pursuant to paragraph (1) with respect to such country in a preceding year, 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), and the President submits to the appropriate congressional committees the information described in section 204 regarding the actions in effect with respect to such country; or

(ii) subject to subparagraph (B), the President determines that such country is
subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses and that such sanctions also satisfy the requirements of this subsection.

(B) ADDITIONAL REQUIREMENTS.—If the President makes a determination under sub-
paragraph (A)(ii)—

(i) the report under section 204 and, as applicable, the publication in the Fed-
eral Register under section 208, shall specify the specific sanction or sanctions that the President has determined satisfy the requirements of this subsection; and

(ii) such sanctions shall remain in ef-
fect subject to section 209.

(d) RULE OF CONSTRUCTION.—A determination under this section that a foreign country has engaged in a pattern of noncooperation shall not be construed to re-
quire 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) or 2304).
SEC. 203. CONSULTATIONS WITH FOREIGN GOVERNMENTS.

As soon as practicable after the President makes a determination under section 201 in response to failures to resolve unresolved abduction cases and the President decides to take action under paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b)) with respect to that country, or not later than 90 days after the President designates a country as a country with a pattern of noncooperation pursuant to section 202(b)(1)(a), the President shall—

(1) request consultation with the government of such country regarding the failures giving rise to designation of that country as a Country With a Pattern of Noncooperation regarding the pattern of noncooperation or to action under section 201; and

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

SEC. 204. REPORT TO CONGRESS.

(a) IN GENERAL.—Subject to subsection (b), not later than 90 days after the President makes a determination under section 201 in response to failures to resolve unresolved abduction cases and the President decides to take action under paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b)) with respect to that country, or not later than 90 days after the President designates a country as a
Country With a Pattern of Noncooperation pursuant to section 202(b)(1)(A), 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 section 205(a) (or commensurate action as provided in section 205(b)) to be taken with respect to such country.

2. **Description of Violations.**—A description of the failure to resolve an unresolved case or the pattern of noncooperation, as applicable, 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 action or actions.

4. **Evaluation.**
   
   (A) **Description.**—An evaluation, in consultation with the Secretary of State, the parties described in section 203(b), and other parties the President determines appropriate, of the anticipated impact of the Presidential action upon—

   (i) pending abduction cases in such country;
(ii) the government of such country;

(iii) the population of such country;

(iv) the United States economy;

(v) other interested parties; and

(vi) if such country is a Convention
country or an MOU country, the reciprocal
fulfillment of obligations pursuant to such
Convention or applicable MOU, as applicable.

(B) FORM.—The evaluation under sub-
paragraph (A) shall be transmitted in unclassi-
ified form, but may contain a classified annex if
necessary.

(5) STATEMENT OF POLICY OPTIONS.—A state-
ment that noneconomic policy options designed to
resolve the unresolved case or bring about the ces-
sation of the pattern of noncooperation have reason-
ably been exhausted, including the consultations re-
quired in section 203.

(b) DELAY IN TRANSMITTAL OF REPORT.—If, on or
before the date that the President is required to submit
a report under subsection (a) to the appropriate congres-
sional committees, the President determines and certifies
to such committees that a single, additional period of time
not to exceed 90 days is necessary pursuant to section
202(c)(2), the President shall not be required to submit
the report to such committees until the expiration of such
period of time.

SEC. 205. PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Ex-
cept as provided in subsection (c), the Presidential actions
referred to in this subsection are the following:

(1) A private demarche.

(2) An official public demarche.

(3) A public condemnation.

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

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

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

(7) The denial of one or more working, official,
or state visits.

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

(9) A formal request to the foreign country con-
cerned to extradite an individual who is engaged in
abduction and who has been formally accused of,
charged with, or convicted of an extraditable offense.


(13) 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 unresolved case or pattern of noncooperation, as applicable, under—

(A) the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act);
(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.

(b) COMMENSURATE ACTION.—Except as provided in subsection (c), the President may substitute any other action authorized by law for any action described in 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 resolve the unresolved case or to obtain the cessation of such pattern of noncooperation, as applicable. 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 explanation for taking such action.

(c) EXCEPTIONS.—

(1) HUMANITARIAN EXCEPTION.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other life-saving humanitarian assistance.
(2) Defense and national security exception.—The President shall not be required to apply or maintain any action under section 205—

(A) in the case of procurement of defense articles or defense services—

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

(ii) if the President determines in writing and transmits to the appropriate congressional committees a report that the government 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 services, that such defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing and transmits to the appropriate congressional committees a report that such defense articles or services are essen-
tial to the national security of the United States under defense co-production agreements; or

(B) 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 208.

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 (13) of section 205(a) (or commensurate action as provided in section 205(b)) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the government of such country has satisfactorily resolved any abduction case giving rise to the application of any of such actions and—

(A) if such country is a Convention country, such country has taken measures to ensure future compliance with the provisions of the Hague Abduction Convention;

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

(C) if such country was a nonparty country at the time the abductions or denials of rights of access resulting in the abduction cases or access cases occurred, such country has become a Convention country or an 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 des-
designated as a Country With a Pattern of Noncooperation under section 202(b)(1)(A), together with, when applicable and to the extent practicable, the identities of agencies or instrumentalities determined to be responsible for such pattern of noncooperation.

(2) **Presidential Actions.**—A description of any action under paragraphs (10) through (13) of section 205(a) (or commensurate action as provided in section 205(b)) and the effective date of such action.

(3) **Delays in Transmittal of Presidential Action Reports.**—Any delay in transmittal of a report required under section 204.

(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 President determines that the publication of such information—

(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 two dates:

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

(2) The date on which the President transmits to Congress a certification containing a determination of the President that the government of such country has resolved any unresolved abduction case or has taken substantial and verifiable steps to correct the pattern of noncooperation at issue, as applicable, that gave rise to such action.

Passed the House of Representatives December 11, 2013.

Attest: KAREN L. HAAS,

clerk.