

115TH CONGRESS
1ST SESSION

H. R. 3512

To make certain countries ineligible to be designated as a beneficiary developing country for purposes of receiving preferences under the Generalized System of Preferences, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To make certain countries ineligible to be designated as a beneficiary developing country for purposes of receiving preferences under the Generalized System of Preferences, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bindu Philips and
5 Devon Davenport International Child Abduction Return
6 Act of 2017”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) In 2016, 629 American children were taken
2 from the United States by one parent without the
3 consent of the other, often in direct violation of valid
4 United States court orders, United States criminal
5 law, and the Hague Convention on the Civil Aspects
6 of International Child Abduction.

7 (2) Abducted children in a foreign country are
8 often blocked from any contact with the American
9 parent, losing half of their family and heritage.

10 (3) Such children are also at grave risk of seri-
11 ous emotional and psychological problems. Many
12 such children experience anxiety, eating problems,
13 nightmares, mood swings, aggressive behavior, re-
14 sentment, and fear. Every day the abduction con-
15 tinues only compounds these harms.

16 (4) The Department of State had at least 944
17 open cases of child abduction in 2016, only 152, or
18 16 percent, of which were resolved with return of the
19 abducted child to the United States.

20 (5) Tragically, abductions resolved with a re-
21 turn of the child to the United States hit a three-
22 year low in 2016.

23 (6) In contrast, the number of abduction cases
24 closed by the Department without the child being re-
25 turned reached a high mark of 189 in 2016.

1 (7) Such low return rates encourage parents to
2 abduct their children rather than to abide by the
3 laws of the United States.

4 (8) The United States is a party to the 1980
5 Hague Convention on the Civil Aspects of Inter-
6 national Child Abduction (“Hague Abduction Con-
7 vention”), which provides a framework for the
8 prompt resolutions of international abductions be-
9 tween the United States and the 76 other countries
10 with which the United States has reciprocal obliga-
11 tions.

12 (9) The Hague Abduction Convention does not
13 have an enforcement mechanism and countries regu-
14 larly ignore their legal duty—without con-
15 sequences—to return abducted children whose habit-
16 ual residence is the United States.

17 (10) In the 2017 Annual Report on Inter-
18 national Parental Child Abduction published by the
19 Department of State, nine countries were identified
20 as demonstrating a “pattern of non-compliance” for
21 failure to comply with legal obligations under the
22 Hague Abduction Convention to resolve ongoing ab-
23 ductions, including Argentina, the Bahamas, Brazil,
24 the Dominican Republic, Ecuador, Guatemala, Pan-
25 ama, Peru, and Romania.

1 (11) The report also identified four countries
2 without an established reciprocal relationship with
3 the United States under the Hague Abduction Con-
4 vention as demonstrating a “pattern of non-compli-
5 ance” for failure to work with the United States to
6 resolve abduction cases, including India, Jordan,
7 Nicaragua, and Tunisia.

8 (12) Eleven of the thirteen countries so identi-
9 fied for non-compliance, other than the Bahamas
10 and Romania, are currently receiving trade benefits
11 under the Generalized System of Preferences estab-
12 lished by the Trade Act of 1974.

13 (13) In India, where more than 100 children
14 are being held against the wishes of their American
15 parent, only 10 came home in 2016, and 66 percent
16 of United States requests for the return of abducted
17 children from India have remained unresolved for
18 more than 12 months.

19 (14) After eight years of heroic legal efforts in
20 the United States and India to bring home her twin
21 sons, who were abducted to India in 2008, Bindu
22 Philips saw her case closed by the State Department
23 in 2016 without their return.

24 (15) Brazil has been continuously cited for
25 demonstrating a pattern of non-compliance since

1 2005, and has neither issued nor enforced a court
2 order to return a single one of the long term cases
3 there since the return of Sean Goldman to his Amer-
4 ican father in 2009, after international pressure and
5 the stalling of Brazil's renewed participation in the
6 Generalized System of Preferences.

7 (16) Thirteen cases of abducted American chil-
8 dren in Brazil have been pending from 2.5 years to
9 10 years.

10 (17) Dr. Christopher Brann has been reduced
11 to seeing his young son Nico for only a few weeks
12 of the year, and only in Brazil, since 2013, when
13 Nico's Brazilian-American mother abducted Nico to
14 Brazil in violation of pre-existing court orders in
15 Texas granting shared custody, in violation of the
16 Hague Convention, and despite ten independent as-
17 sessments that he is an excellent father.

18 (18) Devon Davenport has won each of the 24
19 appeals in his case in Brazil for the return of his
20 daughter, Nadia Lynn, since 2009, but Brazil still
21 has not returned his daughter to him.

1 **SEC. 3. ADDITIONAL LIMITATION ON BENEFICIARY DEVEL-**
2 **OPING COUNTRY DESIGNATION.**

3 Section 504(b)(2) of the Trade Act of 1974 (19
4 U.S.C. 2462) is amended by inserting after subparagraph
5 (H) the following:

6 “(I) Such country has engaged in a pat-
7 tern of noncompliance in cases of child abduc-
8 tion, as determined by the Secretary of State
9 for purposes of the notification requirement
10 under section 101(f) of the Sean and David
11 Goldman International Child Abduction Preven-
12 tion and Return Act.”.

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