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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

To suspend the application of duty-free treatment for eligible articles from Brazil under title V of the Trade Act of 1974 until such time as Brazil complies with its obligations toward the United States under the Convention on the Civil Aspects of International Child Abduction.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To suspend the application of duty-free treatment for eligible articles from Brazil under title V of the Trade Act of 1974 until such time as Brazil complies with its obligations toward the United States under the Convention on the Civil Aspects of International Child Abduction.

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 “Suspension of General-
5 ized System of Preferences to Brazil”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) According to the Department of State, there
4 are 51 cases involving 65 children who were habitual
5 residents of the United States and who were re-
6 moved to Brazil by a parent and have not been re-
7 turned to the United States as required under the
8 Convention on the Civil Aspects of International
9 Child Abduction, done at the Hague on October 25,
10 1980 (TIAS 11670; in this section referred to as the
11 “Hague Convention”).

12 (2) David Goldman, a United States citizen and
13 resident of New Jersey, has been trying unsuccess-
14 fully since June 2004 to secure the return of his son
15 Sean to the United States where Sean maintained
16 his habitual residence until his mother, Bruna
17 Bianchi Ribeiro Goldman, removed Sean to Brazil.

18 (3) On September 3, 2004, Mr. Goldman filed
19 an application for the immediate return of Sean to
20 the United States under the Hague Convention to
21 which both the United States and Brazil are party
22 and which entered into force between Brazil and the
23 United States on December 1, 2003.

24 (4) Pursuant to Article 12 of the Hague Con-
25 vention, the judicial authority of Brazil was required
26 to order Sean’s return to the United States “forth-

1 with”, customarily defined under international law
2 as within six weeks after an application for return
3 has been filed.

4 (5) On October 13, 2005, the Brazilian court
5 refused to return Sean in contravention of Brazil’s
6 obligations under the Hague Convention even though
7 it found that Sean was a habitual resident of the
8 United States and, pursuant to international law,
9 had been wrongfully removed and retained in Brazil.

10 (6) On August 22, 2008, Mrs. Goldman passed
11 away in Brazil leaving Sean without a mother and
12 separated from his biological father in the United
13 States. Instead of returning Sean to the custody of
14 his father David, Mrs. Goldman’s second husband,
15 João Paulo Lins e Silva, petitioned the Brazilian
16 courts for custody rights over Sean.

17 (7) On September 25, 2008, Mr. Goldman filed
18 an amended application under the Hague Conven-
19 tion against Mr. Lins e Silva for the return of cus-
20 tody over Sean.

21 (8) On June 1, 2009, a federal court judge or-
22 dered that Sean be turned over to the United States
23 consulate in Rio de Janeiro and returned to his fa-
24 ther on June 3, 2009. The court further ordered
25 that, following a 30-day adaptation period in the

1 United States, Mr. Goldman be given full custody
2 over Sean.

3 (9) On June 2, 2009, one Brazilian Supreme
4 Court justice suspended the order of the first level
5 of the Federal Court on the basis of a motion filed
6 by the Progressive Party, a small Brazilian political
7 party, that objects to the application of the Hague
8 Convention in Brazil. This suspension must now be
9 heard by the full Supreme Court, could further delay
10 the Goldman case for months, and could prevent the
11 return of any other abducted children to the United
12 States.

13 (10) The Goldman case is symptomatic of the
14 obstacles that parents in the United States encoun-
15 ter in attempting to have their abducted children re-
16 turned from Brazil pursuant to international law.
17 Brazil has returned only two children pursuant to
18 applications submitted under the Hague Convention:
19 one child was returned to a Brazilian mother living
20 in the United States, and the other child was volun-
21 tarily returned pursuant to an agreement between
22 the parents. All other applications have been denied
23 or still are pending.

24 (11) Brazil is a primary beneficiary under the
25 Generalized System of Preferences (GSP) program

1 (title V of the Trade Act of 1974 (19 U.S.C. 2561
2 et seq.)). In 2008, Brazil received duty-free status
3 under the GSP for United States imports totaling
4 \$2.75 billion.

5 (12) A country that refuses to abide by its
6 international obligations pursuant to the Hague
7 Convention and recognize the international rights of
8 parents and their children from the United States
9 should not be able to export goods to the United
10 States duty-free under the Generalized System of
11 Preferences.

12 (b) DECLARATION OF PURPOSE.—The purpose of
13 this Act is to—

14 (1) attain the immediate return of Sean Gold-
15 man and all children to the United States who are
16 being held wrongfully in Brazil in contravention of
17 the Hague Convention; and

18 (2) impress upon the judiciary, central author-
19 ity, and law enforcement of Brazil the importance of
20 abiding by their respective obligations pursuant to
21 the Hague Convention.

1 **SEC. 3. SUSPENSION OF APPLICATION OF DUTY-FREE**
2 **TREATMENT UNDER THE GENERALIZED SYS-**
3 **TEM OF PREFERENCES WITH RESPECT TO**
4 **BRAZIL.**

5 (a) NOTIFICATION OF SUSPENSION OF DUTY-FREE
6 TREATMENT.—Not later than 7 days after the date of the
7 enactment of this Act, the President shall notify the mem-
8 ber countries of the World Trade Organization that the
9 United States is suspending the application of duty-free
10 treatment for eligible articles from Brazil under title V
11 of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) in ac-
12 cordance with the requirements of this section.

13 (b) SUSPENSION OF DUTY-FREE TREATMENT.—

14 (1) IN GENERAL.—Not later than 30 days after
15 the date of the enactment of this Act, the President
16 shall suspend the application of duty-free treatment
17 for eligible articles from Brazil under title V of the
18 Trade Act of 1974.

19 (2) WAIVER.—The President may waive the ap-
20 plication of paragraph (1) if the President deter-
21 mines and reports to the appropriate congressional
22 committees that it is important to the national inter-
23 ests of the United States to do so.

24 (c) REINSTATEMENT OF DUTY-FREE TREATMENT.—
25 The President may reinstate the application of duty-free
26 treatment for eligible articles from Brazil under title V

1 of the Trade Act of 1974 if the President certifies to the
2 appropriate congressional committees that the following
3 requirements have been satisfied:

4 (1) The central authority of Brazil is complying
5 with its obligations under the Convention on the
6 Civil Aspects of International Child Abduction, done
7 at the Hague on October 25, 1980 (TIAS 11670; in
8 this section referred to as the “Hague Convention”)
9 with respect to international child abduction cases
10 involving children from the United States.

11 (2) The judicial system of Brazil is complying
12 with its obligations under the Hague Convention
13 with respect to international child abduction cases
14 involving children from the United States.

15 (3) The law enforcement system of Brazil is
16 complying with its obligations under the Hague Con-
17 vention with respect to international child abduc-
18 tions cases involving children from the United
19 States.

20 (d) APPROPRIATE CONGRESSIONAL COMMITTEES
21 DEFINED.—In this section, the term “appropriate con-
22 gressional committees” means—

23 (1) the Committee on Foreign Affairs and the
24 Committee on Ways and Means of the House of
25 Representatives; and

- 1 (2) the Committee on Foreign Relations and
- 2 the Committee on Finance of the Senate.