

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2702

To suspend the application of Generalized System of Preferences for Brazil until such time as Brazil complies with its obligations toward the United States under the Convention on the Civil Aspects of International Child Abduction.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

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

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## A BILL

To suspend the application of Generalized System of Preferences for Brazil 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 “Suspend Brazil GSP  
5 Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

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

1           (1) According to the Department of State, there  
2           are at least 50 cases involving at least 64 children  
3           who were habitual residents of the United States  
4           and who were removed to Brazil by one parent,  
5           wrongfully denying custody to the parent in the  
6           United States, and who have not been returned to  
7           the United States as required under the Convention  
8           on the Civil Aspects of International Child Abduc-  
9           tion, done at the Hague on October 25, 1980 (TIAS  
10          11670; in this section referred to as the “Hague  
11          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

1 to order Sean’s return to the United States “forth-  
2 with”, customarily defined under international law  
3 as within six weeks after an application for return  
4 has been filed.

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

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

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

22 (8) On June 1, 2009, a federal court judge in  
23 Brazil ordered that Sean be turned over to the  
24 United States consulate in Rio de Janeiro and re-  
25 turned to his father on June 3, 2009. The court fur-

1 ther ordered that, following a 30-day adaptation pe-  
2 riod in the United States, Mr. Goldman be given full  
3 custody over Sean.

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

14 (10) Brazil is a primary beneficiary under the  
15 Generalized System of Preferences program. In  
16 2008, Brazil received duty-free status under the  
17 GSP for United States imports totaling \$2.75 bil-  
18 lion.

19 (11) A country that refuses to abide by its  
20 international obligations pursuant to the Hague  
21 Convention and recognize the international rights of  
22 parents and their children from the United States  
23 should not be able to export goods to the United  
24 States duty-free under the Generalized System of  
25 Preferences program.

1 (b) DECLARATION OF PURPOSE.—The purpose of  
2 this Act is to—

3 (1) attain the immediate return of Sean Gold-  
4 man and all children to the United States who are  
5 being held wrongfully in Brazil in contravention of  
6 the Hague Convention; and

7 (2) impress upon the judiciary, central author-  
8 ity, and law enforcement of Brazil the importance of  
9 abiding by their respective obligations pursuant to  
10 the Hague Convention.

11 **SEC. 3. SUSPENSION OF APPLICATION OF GENERALIZED**  
12 **SYSTEM OF PREFERENCES FOR BRAZIL.**

13 (a) NOTIFICATION OF SUSPENSION OF DUTY-FREE  
14 TREATMENT.—Not later than 7 days after the date of the  
15 enactment of this Act, the President shall notify the mem-  
16 ber countries of the World Trade Organization that the  
17 United States is suspending the application of Generalized  
18 System of Preferences for Brazil in accordance with the  
19 requirements of this section.

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

21 (1) IN GENERAL.—Not later than 30 days after  
22 the date of the enactment of this Act, the President  
23 shall suspend the application of Generalized System  
24 of Preferences for Brazil.

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

6           (c) REINSTATEMENT OF DUTY-FREE TREATMENT.—  
7           The President may reinstate the application of General-  
8           ized System of Preferences for Brazil if the President cer-  
9           tifies to the appropriate congressional committees that the  
10          following requirements have been satisfied:

11           (1) The central authority of Brazil is complying  
12          with its obligations under the Convention on the  
13          Civil Aspects of International Child Abduction, done  
14          at the Hague on October 25, 1980 (TIAS 11670; in  
15          this section referred to as the “Hague Convention”)  
16          with respect to international child abduction cases  
17          involving children from the United States.

18           (2) The judicial system of Brazil is complying  
19          with its obligations under the Hague Convention  
20          with respect to international child abduction cases  
21          involving children from the United States.

22           (3) The law enforcement system of Brazil is  
23          complying with its obligations under the Hague Con-  
24          vention with respect to international child abduc-

1        tions cases involving children from the United  
2        States.

3        **SEC. 4. DEFINITIONS.**

4        In this section:

5            (1) APPROPRIATE CONGRESSIONAL COMMIT-  
6        TEES.—The term “appropriate congressional com-  
7        mittees” means—

8            (A) the Committee on Foreign Affairs and  
9            the Committee on Ways and Means of the  
10        House of Representatives; and

11            (B) the Committee on Foreign Relations  
12        and the Committee on Finance of the Senate.

13            (2) GENERALIZED SYSTEM OF PREF-  
14        ERENCES.—The term “Generalized System of Pref-  
15        erences” means duty-free treatment provided to eli-  
16        gible articles from beneficiary developing countries  
17        under title V of the Trade Act of 1974 (19 U.S.C.  
18        2461 et seq.).

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