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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Suspension of Generalized System of Preferences to Brazil”.

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SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) According to the Department of State, there are 51 cases involving 65 children who were habitual residents of the United States and who were removed to Brazil by a parent and have not been returned to the United States as required under the Convention on the Civil Aspects of International Child Abduction, done at the Hague on October 25, 1980 (TIAS 11670; in this section referred to as the “Hague Convention”).

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

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

(4) Pursuant to Article 12 of the Hague Convention, the judicial authority of Brazil was required to order Sean’s return to the United States “forth-
with”, customarily defined under international law
as within six weeks after an application for return
has been filed.

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

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

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

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

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

(10) The Goldman case is symptomatic of the obstacles that parents in the United States encounter in attempting to have their abducted children returned from Brazil pursuant to international law. Brazil has returned only two children pursuant to applications submitted under the Hague Convention: one child was returned to a Brazilian mother living in the United States, and the other child was voluntarily returned pursuant to an agreement between the parents. All other applications have been denied or still are pending.

(11) Brazil is a primary beneficiary under the Generalized System of Preferences (GSP) program
(title V of the Trade Act of 1974 (19 U.S.C. 2561 et seq.)). In 2008, Brazil received duty-free status under the GSP for United States imports totaling $2.75 billion.

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

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

(1) attain the immediate return of Sean Goldman and all children to the United States who are being held wrongfully in Brazil in contravention of the Hague Convention; and

(2) impress upon the judiciary, central authority, and law enforcement of Brazil the importance of abiding by their respective obligations pursuant to the Hague Convention.
SEC. 3. SUSPENSION OF APPLICATION OF DUTY-FREE TREATMENT UNDER THE GENERALIZED SYSTEM OF PREFERENCES WITH RESPECT TO BRAZIL.

(a) Notification of Suspension of Duty-Free Treatment.—Not later than 7 days after the date of the enactment of this Act, the President shall notify the member countries of the World Trade Organization that the United States is suspending the application of duty-free treatment for eligible articles from Brazil under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) in accordance with the requirements of this section.

(b) Suspension of Duty-Free Treatment.—

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

(2) Waiver.—The President may waive the application of paragraph (1) if the President determines and reports to the appropriate congressional committees that it is important to the national interests of the United States to do so.

(c) Reinstatement of Duty-Free Treatment.—The President may reinstate the application of duty-free treatment for eligible articles from Brazil under title V
of the Trade Act of 1974 if the President certifies to the appropriate congressional committees that the following requirements have been satisfied:

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

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

(3) The law enforcement system of Brazil is complying with its obligations under the Hague Convention with respect to international child abductions cases involving children from the United States.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives; and
(2) the Committee on Foreign Relations and the Committee on Finance of the Senate.