

July 21, 2010

The Honorable Henry Waxman
Chairman
Committee on Energy & Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Joe Barton
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Barton,

We are writing to express our strong opposition to H.R. 4678, the Foreign Manufacturers Legal Accountability Act. The proposed legislation would harm the U.S. economy and impose unprecedented and burdensome requirements on legitimate companies based in the United States and abroad. It could also have the perverse effect of destroying U.S. manufacturing jobs by discouraging investment in U.S. manufacturing facilities at a critical time for our economic recovery.

We agree with the sponsors of H.R. 4678 that foreign manufacturers, like domestic producers, should be legally accountable for injuries caused by products they sell in the United States. Unfortunately, as currently drafted, this bill would harm U.S. companies and do little to protect consumers from unscrupulous companies that make defective or harmful products. At a minimum, U.S. manufacturers with foreign subsidiaries and foreign manufacturers with U.S. subsidiaries should be exempted from coverage because they already are fully accountable for the safety of their products under applicable regulatory and tort law and maintain sizeable assets in the United States. The manager's amendment fails to provide any true relief or exemption because of its requirement that companies waive their basic legal rights to a fair defense against even frivolous claims.

H.R. 4678 is counterproductive to U.S. manufacturing interests because it indiscriminately risks severing critical supplier relationships benefiting U.S. manufacturers and supporting hundreds of thousands of U.S. jobs. It invites other countries to reciprocate by imposing mirror legislation against U.S. exporting companies and imperils President Obama's announced goal of doubling U.S. exports within the next five years.

The legislation also violates a broad array of international agreements - which themselves provide avenues for service of process. The proposed legislation would circumvent the procedures set forth under the Hague Service Convention of 1965, violate Articles III and XI of the General Agreement on Tariffs and Trade (GATT), and abrogate U.S. commitments to key trading partners under the WTO Agreements. The Hague Service Convention has the force of law in the United States. The framework provided by it is effective, with statistical data showing that two-thirds of all requests are executed within two months.

The legislation is unfair, unnecessary and counterproductive. It violates U.S. international obligations, and it broadly punishes responsible American companies and U.S. subsidiaries of foreign parents that are not the source of the problem. International conventions exist to ensure service, and many foreign companies already have U.S.

subsidiaries subject to suit in U.S. courts. The legislation would also interrupt important supplier relationships and subject U.S. companies to the jurisdiction of foreign courts, including countries with less developed judicial systems, should other nations adopt similar requirements, thereby adding additional barriers for U.S. exporters.

For these reasons, we urge you to oppose H.R. 4678.

Sincerely,

National Association of Manufacturers
Association of International Automobile Manufacturers
Organization for International Investment