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The State of Ohio's latest ban on foreign outsourcing of government-funded information technology projects, the recent move by the Federal Government to raise fees for skilled workers' visa, capped by Mr Obama's outburst to end the tax-break for firms creating jobs and profits overseas, have raised the hackles of [trading](#) partners while mollifying the domestic constituency.

Added to these protectionist moves is the legislation before the US Congress called the Foreign Manufacturers Legal Accountability Act (FMLLA).

DUBIOUS BILL

In a neatly presented monograph (Free [Trade](#) Bulletin no. 42, "Consumer Safety" Bill Could Boomerang against US Manufacturers <http://www.cato.org/pub>) the Director of Centre for Trade Policy Studies at the Cato (NYSE:CATO) Institute, Mr Daniel Griswold, and a trade policy analyst, Ms Sallie James, have highlighted the dubious intent of the proposed legislation and pointed out how this 'consumer safety' Bill could boomerang on US manufacturers.

This is a fitting riposte by the researchers to the contention of the sponsors of the legislation that their primary goal is to protect American consumers from unsafe foreign products.

The nub of the Bill introduced earlier this year in the House and the Senate is that FMLLA would require any foreign producer selling goods in the [US market](#) to designate a legal agent, who could be served papers in a product liability suit. The agent would be required to register in a state with a substantial connection to the import, distribution and sale of the product and by so registering an agent, the foreign producer would agree to accept the jurisdiction of the State and the federal courts of the State where the agent is located.

The researchers contend that initiating legal action against a foreign-based entity is a common and established procedure, with efforts to move against foreign manufacturers being currently subject to the Hague Convention on the Service Abroad of Judicial and Extraterritorial Documents in Civil and Commercial matters.

This is a multilateral treaty governing the channels of transmission of judicial documents across borders, to which most of US' trading partners are a party.

Requiring foreign firms to designate a legal representative in the US would not guarantee collection of damages from the producer, they said. Besides, the fact that a foreign producer may not have a legal representative in the US does not change the fact that Customs officials, the Food and Drug Administration and the Consumer Product Safety Commission and agencies retain broad powers to bar the entry of tainted or defective products.

THE AMERICAN REALITY

In that case the proposed legislation is just a non-tariff barrier. The researchers have bluntly stated that today most manufactured products are composed of components made in a host of countries — a sort of outsourcing in manufacturing.

As the future of American manufacturing is contingent on the ability of American firms to supply the design, engineering and higher-end components for increasingly complex global supply chains, this "new reality" for American manufacturing has implications too. Thus, the US companies must not only export to expand revenue but also import raw

materials, capital machinery and intermediate components to control cost and remain profitable and competitive.

The Cato scholars aptly admonish the Administration that "any effort by it to discourage imports generally, through a general tariff hike, an intentionally depreciated dollar or new non-tariff regulatory barriers, will impose real costs on American producers as well as consumers".