

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
May 19, 2009

Statement Of Chairman Patrick Leahy (D-Vt.),
"Leveling The Playing Field And Protecting Americans:
Holding Foreign Manufacturers Accountable"
Senate Judiciary Committee, Subcommittee On Administrative Oversight And The Courts
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I thank Chairman Whitehouse for holding today's hearing on an issue that affects American businesses and consumers alike.

As our world becomes more interconnected, and as foreign-made goods become more prevalent in our markets, this hearing is a timely examination of the legal issues that affect American consumers and businesses harmed by a foreign-made defective product. The witnesses at today's hearing will all discuss the issue of a foreign manufacturer who avails itself of the American marketplace, but is able to escape the American justice system. I recognize that there are different approaches to addressing this issue, and I look forward to receiving the views of today's witnesses.

As a result of Supreme Court precedent interpreting the Fourteenth Amendment's Due Process Clause, there are limitations on state courts that seek to exercise jurisdiction over foreign defendants. As today's witnesses will explain, it has become clear that these limitations on the reach of jurisdiction over foreign defendants can produce unfair and undesirable outcomes tantamount to immunity from liability. Though not all foreign defendants escape judicial process in the United States, some do. Today's hearing will examine possible approaches to close the gap between unfair market outcomes and corporate accountability.

Where American businesses or individuals purchase goods manufactured by a foreign company that turn out to be defective, the law should protect consumers and require accountability for those who seek the economic benefits of the American marketplace. The availability of redress for consumers, as well as the standards for commercial conduct by foreign manufacturers, should be guided by commonsense, workable, and realistic rules. And where necessary, it is up to Congress to modernize these rules to meet the demands and realities of an evolving global marketplace.

Once again, I thank Chairman Whitehouse and I look forward to working with him on this issue.

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