

December 6, 2013

To Members of the United States Senate:

The undersigned organizations are writing to express our serious concerns with many aspects of the proposed amendments to the civil remedies provisions of the Anti-Terrorism Act (ATA) contained in S. Amendment 2523 offered to the National Defense Authorization Act for Fiscal Year 2014 (S. 1197).

We strongly support measures to combat acts of international terrorism. Unfortunately, the proposed ATA amendments contained in S. Amendment 2523 go well beyond fighting terrorism. Instead, they risk inadvertently exposing law-abiding companies to frivolous and costly lawsuits and potentially massive civil liability.

If adopted, the proposed amendments to the ATA would vastly expand federal court jurisdiction by allowing foreigners to sue in U.S. courts for injuries suffered anywhere in the world. This grant of a federal statutory cause of action to aliens for extraterritorial torts would come directly on the heels of a Supreme Court decision that effectively barred similar claims under the Alien Tort Statute, a law that has been abused by foreign plaintiffs suing companies that do business around the world. The proposed amendments would open the door to similar abuse under the ATA and operate as an end-run around the Supreme Court's well-reasoned decision in *Kiobel v. Royal Dutch Petroleum*.

The proposed amendments, therefore, could lead to lawsuits by foreign plaintiffs against American companies who hire private security firms to protect their foreign operations alleging that the company aided and abetted "terrorists;" to lawsuits against American companies who allegedly cooperated with local governments to protect their investments in foreign countries; and to lawsuits against American companies forced to pay extortion or ransom demands in an unstable country in order to protect their employees or loved ones. The result would be to limit significantly American companies' foreign investment out of a fear that such an investment could lead to serious civil liability in U.S. courts. This would have a chilling effect on both economic development in countries in need as well as serious implications for U.S. foreign relations with countries around the globe.

Such potentially expansive and radical changes to the ATA should not be made as a floor amendment to an unrelated piece of legislation such as the National Defense Authorization Act nor should they be made without appropriate consideration through the full legislative process and regular order. For these reasons, we strongly urge you to reject the ATA-related portions of S. Amendment 2523 (i.e., Section 1293 of S. Amendment 2523).

Sincerely,

Aerospace Industries Association
American Bankers Association

American Beverage Association
American Chemistry Council
American Insurance Association
American Petroleum Institute
American Society of Association Executives
Automotive Aftermarket Industry Association
Coalition for Employment through Exports
Financial Services Roundtable
Metals Service Center Institute
National Association of Manufacturers
National Electrical Manufacturers Association
National Foreign Trade Council
National Mining Association
Organization for International Investment
Retail Industry Leaders Association
U.S. Travel Association
USA*Engage
U.S. Council for International Business
U.S. Chamber of Commerce
U.S. Chamber Institute for Legal Reform