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FORUM NON CONVENIENS AND THE INTERNATIONAL PLAINTIFF

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I. INTRODUCTION

In today's globalized economy, U.S. courts face a complex array of problems associated with international litigation.[1] One of these problems arises when foreign plaintiffs, injured abroad by actions of U.S. corporations, seek to bring their suits in the United States. The United States attracts foreign plaintiffs because of the variety of procedural advantages offered.[2] The availability of a civil jury, broad discovery, contingent fee arrangements, and an absence of "loser-pay-all" cost shifting rules are but a few examples.[3] Despite these procedural advantages, the forum non conveniens doctrine is used as a bar to foreign plaintiffs seeking redress in the United States.

Forum non conveniens has been used as a tool by U.S. corporations to evade responsibility for their conduct abroad.[4] It allows corporate defendants to have suits brought against them by foreign plaintiffs dismissed, even

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1. *See* Winton D. Woods, *Suits by Foreign Plaintiffs: Keeping the Doors of American Courts Open*, 8 ARIZ. J. INT'L & COMP. L. 75 (1991). Many recent casebooks have addressed a variety of these topics. *See* ANDREAS F. LOWENFELD, INTERNATIONAL LITIGATION AND ARBITRATION (1993); HENRY J. STEINER, ET AL., TRANSNATIONAL LEGAL PROBLEMS (4th ed. 1994).

2. Linda J. Silberman, *Developments in Jurisdiction and Forum Non Conveniens in International Litigation: Thoughts on Reform and a Proposal for a Uniform Standard*, 28 TEX. INT'L L.J. 501, 502 (1993).

3. *Id.*

4. *See* Molly M. White, *Home Field Advantage: The Exploitation of Federal Forum Non Conveniens by United States Corporations and Its Effect on International Environmental Litigation*, 26 LOY. L.A. L. REV. 491 (1993).

where there is subject matter and personal jurisdiction.[5] The doctrine enables the court, which has jurisdiction over the case and the defendant, to dismiss a case because it is not a "suitable" or "appropriate" forum.[6] Foreign plaintiffs are then usually left with limited or no recourse.[7]

This comment examines the existing doctrine of forum non conveniens. Its history in both federal and state doctrines, and the development to its present form is discussed first. Policy issues and factors used when determining applicability of forum non conveniens will be analyzed in light of their effectiveness. Finally, this comment predicts where the doctrine is headed, and the potential future problems.

II. HISTORY

A. *Federal Forum Non Conveniens Doctrine*

A forum non conveniens inquiry arises when the court has jurisdiction over the parties and the controversy, but the defendant moves to dismiss the case because the forum is not suitable.[8] The doctrine's origin is unclear. It appears to have been used in the mid-nineteenth century in Scotland, and by state courts in the United States around the end of the century.[9] It gained approval in the U.S. federal courts in 1947 with the Supreme Court case *Gulf Oil Corp. v. Gilbert.*[10]

The *Gulf* court recognized that the doctrine of forum non conveniens leaves much to the discretion of the trial court.[11] It did establish a balancing test, to consider both the private interests of the litigant[12] and the public interests of the court and community.[13] In regard to the private interests of the plaintiff, the *Gulf* court recognized a presumption in favor of the litigant.[14] Unless the balance of the public interests are strongly in favor of

5. Jacqueline Duval-Major, *One Way Ticket Home: The Federal Doctrine of Forum Non Conveniens and the International Plaintiff*, 77 CORNELL L. REV. 650, 650 (1992).

6. LOWENFELD, *supra* note 1, at 263 n.2 (translating forum non conveniens as "inconvenient forum," but a more accurate translation of "conveniens" is "suitable" or "appropriate").

7. Duval-Major, *supra* note 5, at 651; *see also* David W. Robertson, *Forum Non Conveniens in America and England: "A Rather Fantastic Fiction,"* 103 L.Q. REV. 398, 417-20 (1987) (discussing a survey of dismissed cases of which none of the reported cases proceeded to a courtroom victory in a foreign forum).

8. LOWENFELD, *supra* note 6, at 263 n.2.

9. *Id.* at 263.

10. 330 U.S. 501, 504 (1947). *See also* Duval-Major, *supra* note 5, at 652.

11. *Gulf*, 330 U.S. at 508.

12. *Id.*

13. *Id.* at 508-09.

14. *Id.*

the defendant, the plaintiff's choice of forum should rarely be disturbed.[15]

The *Gulf* court articulated various factors to be balanced. Some of the important private interest considerations include the availability of compulsory process for the unwilling witness, the cost of obtaining attendance of the willing witness, and the relative ease of access to sources of proof.[16] Further, the court considered other practical problems that make trial of a case easy, expeditious, and inexpensive.[17] The public factors asserted by the court included the administrative difficulties due to overburdened courts and the interest of the country where the cause of action occurred in having localized controversies decided at home.[18]

While the *Gulf* case was comprised of parties that were U.S. citizens, *Piper Aircraft Co. v. Reyno*[19] involved a plaintiff who represented the estates of several citizens of Scotland killed in a plane crash there.[20] The *Piper* court ruled on three main points. First, a motion to dismiss on the ground of forum non conveniens may not be defeated by merely showing that the substantive law that would be applied in the alternative forum is less favorable to the plaintiffs than that of the chosen forum.[21] Second, that dismissal on forum non conveniens grounds is within the trial court's discretion.[22] These rulings may only be reversed when there has been a clear abuse of discretion.[23] Finally, while the plaintiff's choice of forum should rarely be disturbed,[24] the plaintiff's choice deserves less deference when the plaintiff or real parties in interest are foreign.[25] In light of these determinations, the U.S. Supreme Court held that the case should be

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15. *Id.*

16. *Id.* Other non-exclusive factors the *Gulf* Court listed were the possibility of viewing the premises, if it would be appropriate for the action, and questions as to the enforceability of the judgment. *Id.*

17. *Id.*

18. *Id.* The *Gulf* Court, in naming public interest factors, also noted jury duty as a burden that should not be imposed on a community with no relation to the litigation. *Id.* The court also addressed the appropriateness of having the trial of a diversity case in a forum that is at home with the state law that must govern the case. *Id.* at 509.

19. 454 U.S. 235 (1981).

20. *Id.* at 239. The plaintiff began a wrongful-death suit in California state court against the defendants, who were the company that manufactured the plane in Pennsylvania and the company that manufactured the plane's propellers in Ohio. *Id.* at 239-40. On the defendant's motion, the case was removed to a Federal District Court in California, then transferred to the U.S. District Court for the Middle District of Pennsylvania. *Id.* at 240. Both defendants then moved to dismiss on the grounds of forum non conveniens. *Id.* at 241. The district court granted the motion, but on appeal the U.S. Court of Appeals for the Third Circuit reversed and remanded the case for trial. *Id.* at 239-44.

21. *Id.* at 247.

22. *Id.* at 257.

23. *Id.*

24. *Gulf*, 330 U.S. at 508.

25. *Piper*, 454 U.S. at 256.

dismissed on forum non conveniens grounds.[26]

The *In re Union Carbide Corp. Gas Plant Disaster*[27] (UCC) court weighed the factors suggested by the Supreme Court in *Piper* in dismissing the largest tort action in U.S. history.[28] In December 1984, a leak of lethal gas occurred at a chemical plant in Bhopal, India. It caused the most devastating industrial disaster in history — killing over 2000 people and injuring over 200,000.[29] UCC's motion to dismiss on grounds of forum non conveniens was granted by the Southern District of New York so that the claims may be tried in India, subject to certain conditions.[30]

The district court imposed on UCC three conditions to dismissal.[31] The first condition required that UCC consent to jurisdiction of the courts of India and continue to waive defenses based on the statute of limitations.[32] The second was that UCC agree to satisfy any judgment rendered by an Indian court against it, and lastly, that they be subject to discovery under the Federal Rules of Civil Procedure of the United States.[33] On appeal, the Second Circuit used the *Piper* standard and held that dismissal was within the sound discretion of the trial court.[34] In reviewing the conditions imposed by the trial court, the court upheld the first condition, but reversed the last two conditions.[35]

B. *State Forum Non Conveniens Doctrine*

The *Piper* decision does not bind state courts, because it is an interpretation of the federal forum non conveniens law.[36] Thus, state courts

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26. *Id.* at 238.

27. 634 F. Supp. 842 (S.D.N.Y. 1986), *aff'd* and *modified*, 809 F.2d 195 (2d Cir. 1987), *cert. denied*, 484 U.S. 871 (1987).

28. White, *supra* note 4, at 513.

29. *Union Carbide*, 809 F.2d at 197.

30. *Id.* Union Carbide Corporation was a defendant in some 145 actions instituted in federal courts of the United States. *Id.*

31. *Id.* at 198.

32. *Id.*

33. *Id.*

34. *Id.* at 202-03. The court also found that

> *[l]ittle* or *no* deference can be paid to the plaintiffs' choice of a U.S. forum when all but a few of the 200,000 plaintiffs are Indian citizens located in India who, according to UOI, have revoked the authorizations of American counsel to represent them here and have substituted the UOI, which now prefers Indian courts.

Id. at 202 (emphasis added).

35. *Id.* at 203-05.

36. *See* Silberman, *supra* note 2, at 518 (arguing that since Piper involves foreign plaintiffs and the interests of foreign states, it can be treated as a matter of federal common law and, therefore, does not necessarily control litigation in state courts).

vary widely in their approaches to forum non conveniens.[37] A significant case in this regard is *Dow Chemical Co. v. Castro Alfaro*.[38] In *Alfaro*, the Texas Supreme Court, in a 5-4 decision, held that forum non conveniens would not be a bar to wrongful death and personal injury actions arising in a foreign state or country.[39]

The *Alfaro* case involved eighty-two Costa Rican employees of Standard Fruit Company, who brought suit against Dow Chemical Company and Shell Oil Company.[40] The plaintiffs claimed that they suffered personal injuries, including sterility, as a result of using the chemical dibromochloropropane (DBCP).[41] DBCP was a pesticide manufactured by Dow and Shell, that was prohibited for use in the United States.[42] Shell, whose world headquarters is three blocks from the courthouse, and Dow, who operates this country's largest chemical manufacturing plant sixty miles outside of Houston, "argue[d] that the one part of this equation that should not be American is the legal consequences of their actions."[43] The *Alfaro* court held that the Texas legislature had statutorily abolished the doctrine of forum non conveniens in personal injury and wrongful death actions arising out of an incident in a foreign country.[44]

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37. David W. Robertson & Paula K. Speck, *Access to State Courts in Transnational Personal Injury Cases: Forum Non Conveniens and Antisuit Injunctions*, 68 TEX. L. REV. 937, 950 (1990). Thirty-three states and the District of Columbia have adopted the federal doctrine, or something similar to it. Hawaii, Kentucky, Mississippi, and Oregon have given ambiguous indications of following the federal doctrine. Colorado, South Carolina, Florida, and Vermont have adopted a more limited version that could be broad enough to lead to dismissal of these transnational personal injury cases. Louisiana law does not recognize forum non conveniens dismissals except in certain situations not related to international personal injury cases. Georgia seems to reject the doctrine outright, while still five states have left the existence of the doctrine a completely open question. *Id.* at 948-53.

38. 786 S.W.2d 674 (Tex. 1990), *cert. denied*, 498 U.S. 1024 (1991).

39. *Id.* at 679. While the trial court dismissed on forum non conveniens grounds, the Supreme Court of Texas relied on a Texas statute which allowed a foreign citizen an action for damages, even if the action causing the injury took place in a foreign state or country if "the country has equal treaty rights with the United States on behalf of its citizens." *Id.* at 675.

40. *Id.* at 675.

41. *Id.*

42. *Id.* at 681 (Doggett, J., concurring).

43. *Id.*

44. *Id.* at 679. Shortly after the *Alfaro* decision and because of strong corporate lobbying, the Texas legislature enacted a bill which effectively overruled *Alfaro*. It took effect in 1993 and applied to all actions filed on or after that date. With respect to a foreign plaintiff, the legislature re-established the doctrine of forum non conveniens. An exception is made for personal injury or wrongful death actions resulting from violations of Texas or U.S. law. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 71.051 (a), (g) (West 1993). The pertinent text of the recent Texas legislation reads as follows:

> SECTION 1. Chapter 71, Civil Practice and Remedies Code, is amended by adding Subchapter D which reads:

III. ANALYSIS

Courts today are still using the balancing factors set out in *Gulf* in 1947 and the later modification for foreign plaintiff's in *Piper*, when deciding on a motion to dismiss based on forum non conveniens.[45] While these factors may have been useful almost a half century ago, it is questionable whether they are still practical in today's highly technological society.[46] Many problems arise during the balancing between private interest factors, public interest factors, and the idea that a foreign plaintiff's choice of forum deserves less deference than that of a domestic plaintiff.[47] Finally, public policy suggests that the forum non conveniens analysis should be reworked.

A. *The Private Interest Factors*

The private interest factors set out by the *Gulf* court include the relative ease of access to sources of proof, the availability of compulsory process for attendance of unwilling witnesses, and the cost of obtaining attendance of willing witnesses.[48] This standard appears obsolete in light of current technological developments. It is often quicker and less expensive to transfer a witness or documents than to transfer an entire suit.[49]

The ease of travel and communication, including facsimile transmissions

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SUBCHAPTER D. FORUM NON CONVENIENS
Sec. 71.051 FORUM NON CONVENIENS. (a) With respect to a claimant who is not a legal resident of the United States, if a court of this state, on written motion of a party, finds that in the interest of justice an action to which this section applies would be more properly heard in a forum outside this state, the court may decline to exercise jurisdiction under the doctrine of forum non conveniens and may stay or dismiss the action in whole or in part on any conditions that may be just.

. . .

(g) This section does not apply if the personal injury or death that is the subject of the cause of action resulted from a violation of the laws of this state or of the United States, including but not limited to exposure to a substance referred to in Section 33.013(c)(3) that was transported out of this state or the United States in violation of the laws of this state or the United States.

Id.

45. Delgado v. Shell Oil Co., 890 F. Supp. 1324, 1355-71 (S.D. Tex. 1995); *see, e.g., Alfaro*, 786 S.W.2d at 683 (Doggett, J., concurring).

46. *Alfaro*, 786 S.W.2d at 684 (Doggett, J., concurring); *see also* Duval-Major, *supra* note 5, at 677.

47. *Piper*, 454 U.S. at 255-56.

48. *Gulf*, 330 U.S. at 508.

49. *See* Calavo Growers v. Belgium, 632 F.2d 963, 969 (2d Cir. 1980) (Newman, J., concurring) (reasoning that jet travel and satellite communications have significantly altered the meaning of "non conveniens"), *cert. denied*, 449 U.S. 1084 (1981); *see also* Fitzgerald v. Texaco, Inc., 521 F.2d 448, 456 (2d Cir. 1975) (Oakes, J., dissenting) (questioning whether the entire doctrine of forum non conveniens should be re-examined in view of the current transportation revolution that has occurred since *Gulf*), *cert. denied*, 423 U.S. 1052 (1976).

and use of videotape for depositions and evidence, have contributed to the reduction in significance of some of the private inconvenience factors.[50] Facsimiles aid in the speedy international transmission of important documents. Additionally, a party may videotape the depositions of witnesses in their home country, thereby reducing the problem of obtaining attendance of witnesses. Therefore, the private factors are no longer a major consideration in the forum non conveniens formula.[51]

B. *The Public Interest Factors*

The public interest factors consist of administrative difficulties because of overburdened courts and the interest of the foreign country, where the cause of action occurred in having localized controversies decided at home.[52] Defendants frequently argue that the courts are so overburdened that if cases involving foreign plaintiffs are allowed, U.S. plaintiffs will be forced to wait while these foreign causes of action are tried.[53] There is no evidence that this backlog of the courts has occurred in any of the ten states that have not recognized the doctrine of forum non conveniens.[54]

The largest national study ever done involving the pace of litigation in urban trial courts suggests that there is no empirical basis for the belief that forum non conveniens causes a backlog of litigation in the courts.[55] The study revealed the median filing-to-deposition time for tort cases in Boston to be 953 days.[56] In New Orleans, where forum non conveniens is not recognized, the median time was found to be only 405 days for tort cases.[57] Furthermore, the U.S. Supreme Court has indicated that docket congestion is an entirely inappropriate consideration in almost every other context.[58]

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50. *Alfaro*, 786 S.W.2d at 708 (Hecht, J., dissenting).

51. *Id.* at 684 (Doggett, J., concurring). Justice Doggett concluded that "the private factors are no longer a predominant consideration — fairness and convenience to the parties have been thrust out of the forum non conveniens equation. As the 'doctrine' is now applied, the term 'forum non conveniens' has clearly become a misnomer." *Id.*

52. *Gulf*, 330 U.S. at 508-09.

53. *Cf. Alfaro*, 786 S.W.2d at 690 (Gonzalez, J., dissenting) (arguing that allowing litigation that has little or no connection to Texas will add to already crowded dockets, "forcing our residents to wait in the corridors of our courthouse while foreign causes of action are litigated").

54. *Id.* at 686 (Doggett, J., concurring).

55. *Id.* at 686 n.9.

56. *Id.*

57. *Id.*

58. *Alfaro*, 786 S.W.2d at 686 (Doggett, J., concurring) (quoting Robertson, *supra* note 7, at 408); *see* Thermtron Products, Inc. v. Hermansdorfer, 423 U.S. 336, 344-45 (1976) (an "otherwise properly removed action may no more be remanded because the district court considers itself too busy to try it than an action properly filed in the federal court in the first instance may be dismissed or referred to state courts for such reasons"); *see also* United States v. Reliable Transfer Co., 421 U.S. 397, 408 (1975) (holding that "[c]ongestion in the state

Therefore, docket clearing is not an appropriate factor to weigh in consideration of dismissal.

The public interest in having localized controversies in foreign countries decided in the home state or country is sometimes referred to as judicial comity.[59] The judicial analysis entails deciding whether there is sufficient local interest in the foreign forum to justify having the case decided there.[60] Comity considerations focus on deference to the foreign state.[61] This deference is not achieved when the United States allows its multinationals to operate abroad with a lower standard than would ever be allowed here.[62]

Another inequity is the lack of consideration of how many of these cases, once dismissed from the U.S. judicial system, are actually adjudicated. The *Piper* court held that the possibility of a change in substantive law should ordinarily not be given conclusive or heavy weight in the forum non conveniens inquiry.[63] It should be given substantial weight because according to Professor Robertson of the University of Texas School of Law, either the plaintiffs will simply give up after the forum non conveniens dismissal by the American court,[64] or if the suit is brought in the foreign forum, relatively few plaintiffs will actually achieve satisfaction of their claims.[65] Professor Robertson conducted a study involving an informal mail survey of 180 multinational cases dismissed from U.S. courts on forum non conveniens grounds.[66] Of the eighty-five responses returned, eighteen cases were not taken any further in the foreign forum, twenty-two of them were settled for less than half of their estimated value, and in twelve, the U.S. attorney lost track of the outcome.[67] Most importantly, though, none of the reported cases ended with a courtroom victory.[68] International corporations work hard to get these cases dismissed. They spend so much time and money arguing why the United States is an "inconvenient" forum because

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courts cannot justify a legal rule that produces unjust results in litigation simply to encourage speedy out-of-court accommodations").

59. *See Alfaro*, 786 S.W.2d at 687 (Doggett, J., concurring) and 694 (Gonzalez, J., dissenting).

60. *Id.* at 687 (Doggett, J., concurring).

61. *Id.* at 694 (Gonzalez, J., dissenting).

62. *See id.* at 681 (Doggett, J., concurring) (before and after DBCP's ban by the E.P.A. in the United States, Shell and Dow shipped several hundred thousand gallons of the pesticide to the Standard Fruit Company in Costa Rica).

63. *Piper*, 454 U.S. at 247.

64. Robertson, *supra* note 7, at 418 (noting that plaintiffs may have waited some time before the American system got around to telling them that its courts were closed, and at that point it is obvious that, rather than embarking on a long journey through one or more foreign legal systems, a plaintiff may simply surrender).

65. *Id.*

66. *Id.* at 418-21.

67. *Id.* at 419.

68. *Id.*

they know that if the case is dismissed, the litigation is finished, for the most part.[69]

C. *The Deference Afforded the Foreign Plaintiff*

In *Piper*, the Court reasoned that the trial court's distinction between resident or citizen plaintiffs and foreign plaintiffs was completely justified.[70] It also found that while there is a strong presumption in favor of the plaintiff's choice of forum, this presumption applies with less force when the plaintiff is a foreigner.[71] This part of the *Piper* standard should be rejected.[72]

There is no justification for treating these two sets of plaintiffs differently.[73] A minority of courts have returned to the stricter *Gilbert* standard, which refuses to weigh the foreign plaintiff's choice of forum unequally with that of the domestic plaintiff.[74] Therefore, less deference to the foreign plaintiff should be replaced with the stricter *Gilbert* standard.

D. *Public Policy Considerations*

There are numerous public policy decisions to be taken into account when considering the dismissal of cases brought by foreign plaintiffs against American multinational corporations. By dismissing such cases, the United States is implicitly condoning corporate negligence and harmful conduct.[75] Many multinational corporations market goods that have been banned in the

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69. *See* Duval-Major, *supra* note 5, at 672.

70. *Piper*, 454 U.S. at 255.

71. *Id.*

72. *See* Duval-Major, *supra* note 5, at 681 (stating that there is no apparent rationale for this standard).

73. *See id*; *see also Piper*, 454 U.S. at 255-56. The *Piper* Court argued that when the home forum is chosen, there is an assumption that it is reasonable. *Id.* It then argued that if the plaintiff is foreign, the assumption is less reasonable. *Id.* Because the central question in a forum non conveniens inquiry is whether the trial is convenient, the foreign plaintiff's choice deserves less deference. *Id.* This explanation still provides no justification for treating the foreign plaintiff with less deference.

74. Kathleen Carter-Stein, *In Search of Justice: Foreign Victims of Silicone Breast Implants and the Doctrine of Forum Non Conveniens*, 18 SUFFOLK TRANSNAT'L L.J. 167, 173 (1995); *see* Carlenstolpe v. Mereck & Co., 638 F. Supp. 901, 903-04 (S.D.N.Y. 1986) (allowing a Swedish plaintiff to sue a New Jersey producer of hepatitis vaccine for injuries), *mandamus denied, appeal dismissed*, 819 F.2d 33 (2d Cir. 1987); *see also* Chan Tse Ming v. Cordis Corp., 704 F. Supp. 217, 220 (S.D. Fla. 1989) (holding Florida has an interest in litigation where the manufacture and testing of a pacemaker injured a Hong Kong plaintiff); Hodson v. A.H. Robins Co., 715 F.2d 142, 144 (4th Cir. 1983) (refusing to dismiss British plaintiffs' suit against U.S. manufacturer of Dalkon Shield for injuries); Miller v. United Technologies Corp., 515 A.2d 390, 392 (Conn. Super. Ct. 1986) (evidencing a return to the factors in *Gilbert*).

75. Duval-Major, *supra* note 5, at 673.

United States to foreign countries, especially developing countries.[76] As a result, the misconduct of these corporations can have untold effects around the world.[77]

There is controversy over whether the United States should take a paternalistic stance and apply the U.S. strict standards abroad. Those opposed to taking this role argue that foreign countries can adequately protect their citizens' interests.[78] Proponents for holding these multinational firms liable counter this argument by focusing on the realities of the situation.[79] As mentioned earlier, many developing countries do not have as sophisticated a tort legal system as the United States. Several countries severely limit liability and most lack contingent fee arrangements. These are a few of the reasons why foreign plaintiffs might have a better chance of recovering damages in the United States.

An example of this limited liability in foreign countries is the *Alfaro* case. The maximum amount the workers would have been able to receive in Costa Rica was $1080.[80] Further, many developing countries are very hesitant to impose liability on multinationals who have strong political influence in their countries, supply jobs for a large number of their people, and on whom they are dependent for a great percentage of their economies. In light of these policies, courts should think very seriously before releasing U.S.-based multinational corporations from liability.

It does not appear that U.S. courts will be straying too far from the present doctrine of affording foreign plaintiffs less deference. This stricter policy may be good for those cases that really do not belong here, or are used only to harass defendants. However, it is unfortunate for those foreign plaintiffs who have been injured by the actions of a U.S. corporation, with little or no recourse in their home countries.

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76. *See Hazardous Exports from a Human Rights Perspective*, 14 SW. U. L. REV. 81, 82 (1983). For example, American companies exported approximately 2.4 million pieces of cancer-producing TRIS-treated children's sleepwear to Asia, Africa, and South America. *Id.* A similar pattern occurred when a ban was proposed for baby pacifiers that had been linked to choking deaths in infants. *Id.*

77. *Alfaro*, 786 S.W.2d at 688 (Doggett, J., concurring).

78. Duval-Major, *supra* note 5, at 674 (citing DeMateos v. Texaco, Inc., 562 F.2d 895, 902 (3d Cir. 1977)).

79. Duval-Major, *supra* note 5, at 674-75 (arguing that international corporations search for the countries with the least regulation and environmental standards, which afford them less liability and enable them to maximize profits). It is also interesting to note that the largest U.S.-based MNC's earn an average of 40% of their net profits outside the United States. *Id.* at 675.

80. *Alfaro*, 786 S.W.2d at 683 n.6 (Doggett, J., concurring). A senior Costa Rican labor judge stated that the maximum possible recovery in Costa Rica would be approximately $1,080. Even assuming this recovery was possible, no lawyer, in Costa Rica or elsewhere, could afford to take such a case against two huge corporations vigorously defending their case. *Id.*

IV. CONCLUSION

The tacit concept behind the doctrine of forum non conveniens allows corporations to avoid legal responsibility because they operate multinationally. It is ignorant to think that the citizens of the United States live in a glass bubble, and that the damages caused abroad by multinational corporations will not reach our clean soil. In a world of growing global markets, where scientists are viewing all the world's ecosystems as interconnected, there is room for rethinking this doctrine of forum non conveniens.