together account for more than 90% of the productive capacity of the chemical industry in the United States.

This Association is opposed to the provisions contained in H.R. 13103 which embody the concept of "effectively connected" so as to impose United States tax on foreign source income of foreign corporations doing business in this country. It is our belief that sufficient documentation has not been developed as to the necessity of introducing this new and novel concept into the tax laws and that the resulting confusion and burdens would be substantially disproportionate to the abuses which are sought to be remedied. Our specific objections to these provisions are set forth below.

1. The terms "effectively connected" and "participated materially" embodied in H.R. 13103 remain vague and ambiguous despite attempts to clarify them. The numerous issues which will be raised and the extensive litigation which will follow in interpreting their meaning and scope will create undue and unnecessary burdens on taxpayers and the Government alike.

2. Adoption of the present version of H.R. 13103 would create insurmountable accounting and auditing problems for taxpayers and the Internal Revenue Service. For instance, where goods are manufactured by a corporation abroad and sold for consumption abroad through use of a sales office in the United States, the selling profit must be allocated to and taxed in the United States. Since all of the personnel and records of such corporation probably are abroad, except for possibly one salesman, considerable difficulty will be experienced by the Internal Revenue Service in any audit. Even where such audit is conducted, it will be an impossibility to determine the proper income attributable to the United States sale since advertising, selling expenses, etc. incurred at some previous time during the year might have to be allocated to this sale under conditions where no rules have been established.

3. It has been pointed out that H.R. 13103 is designed to tax certain foreign source sales solely because the income therefrom escapes tax completely. However, the net result of the proposal will unnecessarily harm the United States balance of payments since to avoid such tax, a foreign corporation need only move its sales office to a more receptive country, thereby eliminating the present flow of funds into the United States to pay for the sales office and the employees' salaries.

4. While the Association commends the exclusion of subpart F income from being considered "effectively connected" with the conduct of a trade or business in the United States, there is need for further clarification of this relief. For example, if a foreign base company is not subject to subpart F because less than 30% of the gross income of the corporation is subpart F income, does the relief granted under Section 954(b)(3) become nullified through the "effectively connected" provisions of H.R. 13103? It would seem that the intent of the bill is to grant the exclusion under these circumstances, but this should be indicated more clearly.

5. H.R. 13103 brings within its new concept of "effectively connected", rents or royalties derived for use or for the privilege of using intangible property located outside the United States. This is another example where the criteria to be used in determining whether the "effectively connected" concept applies are vague and unclear. Although the House Ways and Means Committee report sets out some general principles, taxpayers will continue to be uncertain as to whether the activities performed in the United States are such as to require these items to be attributed to the United States office. MCA believes that it would be desirable to provide a rent and royalties requirement similar to that which is applicable to foreign income from sales, namely, that rents and royalties will not be considered effectively connected to a United States office where the taxpayer has an office outside of the United States which "participates materially" in the negotiation of the leases and licenses or participates in the servicing of the rights thereunder.

For the above stated reasons, this Association recommends the complete deletion of the "effectively connected" provisions referred to above from H.R. 13103. On the assumption, however, that your Committee may deem it advisable to continue to include these provisions in the bill, it is suggested that the bill be limited to its original purpose of dealing with foreigners by a simple amendment which would exclude from the bill those foreign corporations now subject to United States scrutiny because they are controlled by United States persons. This can be done simply by deleting the present language of Section 864(c)(4)(D)(ii) and substituting the following language:

"(ii) is derived by a foreign corporation more than 50% owned directly or indirectly, by United States persons".