

June 27, 2011

Mr. Andrew McGilvray
Executive Secretary
Foreign-Trade Zones Board
Herbert Clark Hoover Building
14th Street and Constitution Avenue, NW
Washington, DC 20230

Re: Foreign-Trade Zones Board Proposed Rule
Docket # ITA-2010-0012, RIN 0625-AA81
Reply Comments

Dear Mr. McGilvray,

On behalf of PointTrade Services, Inc. (“PTSI”), please find the following comments in response to comments submitted on May 26, 2011 regarding the Foreign-Trade Zones Board Proposed Rule published December 30, 2010. Our comments primarily address comments that were posted from DLA Piper for Globe Specialty Metals, Inc. (“Globe”), but also address comments posted from Steel Manufacturers Association, and United Steelworkers (“USW”), regarding antidumping duty (AD) or countervailing duty (CVD) orders.

First, existing regulations (15 CFR 400.28) limit grants of authority issued by the Board for the establishment of zones or subzones, including those already issued, to certain conditions or limitations, including prior approval for manufacturing authority or manufacturing beyond the scope of an approved authority. Existing regulations (15 CFR 400.33(b)) also impose restrictions specifically related to items subject to AD/CVD orders.

The existing regulations require that upon entry for consumption, items subject to AD/CVD orders will be subject to duties under the AD/CVD orders or to suspension of liquidation. If imported materials subject to AD/CVD orders are sold for distribution into the U.S. commerce, the zone user is required to pay the additional duties in compliance with the AD/CVD orders. The application of privileged foreign (PF) status is the required process used to ensure the duties and additional duties required under the AD/CVD orders related to the component are paid. PF status merchandise requires the same duty payments for merchandise removed from an FTZ for U.S. consumption as if it were never admitted into an FTZ. The existing regulations already impose requirements to prevent circumvention of AD/CVD orders for merchandise imported and used in production of merchandise for U.S. consumption through a foreign-trade zone.

The proposed regulations have retained the requirements for zone status merchandise subject to AD/CVD, but have added requirements that we believe are not necessary. Based on Globe's comments, "As Globe understands section 400.14(a)(4)(ii) of the proposed regulations (which covers production operations previously approved by the Board), approval of production activity involving an article subject to AD/CVD duties is only required when the article would be subject to duties under an order that was not in effect at the time of the prior approval of the production operation."

§400.14 Production – activity requiring approval or reporting; restrictions.

(a) *Activity requiring advance approval. Approval in advance by the Board (or notification to the Board under the circumstances described in §400.37) is required for all production activity in zones or subzones which involves:*

(2) *A foreign article that would be subject (if it were to enter U.S. customs territory) to an antidumping duty (AD) or countervailing duty (CVD) order or which would be otherwise subject to suspension of liquidation under AD/CVD procedures, to an order of the International Trade Commission pursuant to 19 U.S.C. 1337 (Section 337), or to a quantitative import control (quota);*

(4) *For a production operation that had been the subject of prior Board consideration and approval (including delegated authority), a foreign article:*

(ii) *Which is subject (were it to enter U.S. customs territory) to an AD/CVD duty or suspension of liquidation under AD/CVD orders that were not in effect at the time of the Board's prior consideration of the foreign article's use in the production operation; or;*

Globe suggested in its comments that the Board should consider even further controls regarding previously authorized grants of authority. We respectfully recommend caution in any consideration given to comments that would interrupt or impede the zone operations of established and active zone operators and users. The required application of PF status to all foreign status merchandise subject to AD/CVD satisfies trade policy and prevents circumvention of the AD/CVD orders.

We believe that Globe's comments overall oppose the FTZ program and that Globe's proposed revisions contradict opportunities and create obstacles for domestic labor and value-added services for export markets.

Globe and other commenters have not identified any cases of violations against AD/CVD orders related to zone operations. We are not aware of any cases of violations against AD/CVD orders over the past twenty years. With the existing regulatory provisions to prevent circumvention of violations against AD/CVD orders, **why** limit capital investment, domestic labor and overhead for the production of merchandise, particularly for the production of

merchandise for export markets? If Globe's revisions are put in place, it may contradict the President's National Export Initiative¹, which was intended to enhance and coordinate Federal efforts to facilitate the creation of jobs in the United States through the promotion of exports, and to ensure the effective use of Federal resources in support of these goals.

There is no reason for substantive revisions and additional restrictions on the use of merchandise that may be subject to AD/CVD orders in production of merchandise destined for export markets. Use of American labor, parts and overhead for export only markets is in the public interest through the retention and creation of jobs.

We are concerned that the complexity of the proposed regulations and implementation of additional regulations based on comments to further limit the use of AD/CVD merchandise will cause U.S. based manufacturing firms to abandon U.S. zone activity and further reduce U.S. production activity. President Obama, on January 18, 2011, issued Executive Order No. 13563 encouraging regulations to be drafted considering a cost-benefit analysis, reducing the burden on small businesses, considering flexible approaches for new regulations, and encouraging collaboration between government and industry. The focus of this Executive Order was to direct Federal Agencies to achieve their goals with the least burden on the affected parties.

We believe the comments and proposed revisions submitted by the NAFTAZ on May 4, 2011 would effectively achieve President Obama's Executive Orders as well as the Board's goals.

Very truly yours,



Tommy L. Berry
President & CEO

¹ Executive Order 13534 of March 11, 2010