

National Association of Foreign-Trade Zones
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October 26, 2009

Mr. Andrew McGilvray
Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Foreign Trade Zones Board Docket 51-2008 — Comments of the National Association of Foreign Trade Zones

Dear Mr. McGilvray:

The National Association of Foreign Trade Zones (“NAFTZ”) hereby submits these comments in response to comments filed in the record of the above-referenced application for subzone status by the City of Mobile, Alabama on behalf of ThyssenKrupp Steel and Stainless LLC (“ThyssenKrupp”). The NAFTZ is the national voice for the foreign trade zones program. The Association has more than 600 members from all 50 states. We note that ThyssenKrupp is a member of the NAFTZ. The NAFTZ appreciates this opportunity to submit rebuttal comments.

In this submission, the NAFTZ wishes to rebut conclusively the erroneous assertions of comments submitted for the record of this case. Specifically, commenters have asserted that providing relief from inverted tariff relationships, a fundamental policy objective of the foreign trade zones program, would conflict with trade objectives set forth in the Trade Act of 2002, Pub. L. 170-210 (“Trade Act”).

The zone benefits sought by the City of Mobile on behalf of ThyssenKrupp are fully authorized by the Foreign Trade Zones Act and do not conflict in any respect with the Trade Act. At least since the Foreign Trade Zones Act was amended in 1950 to permit “manufacturing” in zones, it is clear that Congress has authorized the Foreign Trade Zones Board to relieve duty inversions.

The Foreign Trade Zones Act expressly authorizes the Board to authorize finished products entering U.S. commerce from a zone as “imported merchandise.” 19 U.S.C. § 81c(a). Nothing in the Trade Act or any other statute of which we are aware has narrowed or repealed this Board authority.

Counsel for the “Flat-Rolled Task Force” implies that Board action allowing the relief from inverted tariffs would effectively eliminate import duties on imported ferroalloys. It would not. First, any exporters or suppliers of these ferroalloys would presumably speak to this issue far more effectively than the “Flat-Rolled Task Force.” Board action would not repeal tariffs on imported ferroalloys: the action of the Board is intended to improve the global competitiveness of ThyssenKrupp and, perhaps in later applications, other steel producers in the United States. If U.S. global competitiveness could be improved by reviewing and changing its authorizations, the Board is able to do so.

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The tariffs on imported ferroalloys in other countries are not before the Board in this application. No commenter puts forward any evidence on these tariff levels, or the volume of ferroalloy exports to those countries. Any country is more interested in negotiating binding reductions in tariff rates, rather than relying on the Foreign Trade Zones Board's case by case decisions to secure its trading rights for its exporters, if indeed any are interested in such negotiations (there is no evidence available that there is such support). More importantly, it is clear that reciprocal tariff reduction is not the only tool, nor the most important tool, toward negotiating tariff liberalization. The "Flat-Rolled Task Force" argument is clearly and demonstrably false.

Moreover, and more critically, this argument would foreclose the most important pro-competitive tool available to help American manufacturing. The relief from "inverted tariffs" allows U.S. manufacturers to compete globally with foreign-based manufacturers, who benefit from inverted tariffs by locating their facilities and their jobs in other countries. This is their right; but the Foreign Trade Zones Board has the discretion to put U.S. manufacturers in the same tariff position as their foreign rivals.

The "Flat-Rolled Task Force" argument poses a direct threat to the Foreign Trade Zones Board's authority. Nucor's comments echoed this threat, ironically challenging Congress' action to authorize the Foreign Trade Zones Board to relieve the effects of inverted tariffs. The Board must strongly refute this effort to eviscerate its most important function, which was specifically authorized by Congress.

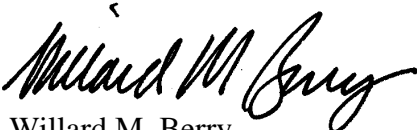
Other comments also raise import issues that require a response. In asserting that there is no record of net economic benefit, the "Flat-Rolled Task Force" ignores the improvement in U.S. international competitiveness at the heart of this issue. ThyssenKrupp, like any global company, makes investments and maximizes them. These companies should be encouraged to maximize the production and employment of their U.S. operations and not let U.S. tariff policy encourage them to make more products and employ more workers in their other global facilities. The public benefit arises in any case from making sure that the U.S. investment has the most economic gain possible for the U.S. The NAFTAZ supports this zone benefit.

Nucor's complaint that zone procedures would be expensive to obtain is unsupported by any relevant evidence. If the company could save millions of dollars on imports of alloying elements, the odds are that these expenses would be very manageable. We urge the Board not to accept such transparently invalid arguments.

In conclusion, the NAFTAZ, as the national voice of the foreign trade zones program, takes strong issue with comments that Congress did not authorize the Foreign Trade Zones Board to relieve inverted tariffs that sap international competitiveness. Congress has set tariff levels, but has also recognized that some relationships between tariffs on raw materials and finished products can be illogical and injurious to U.S. global competitiveness. The Board's consideration of trade policy issues relates to U.S. economic interest. It does not take the place of international agreements to change tariff rates.

Addressing inverted tariffs is the Board's most important function. The NAFTAZ urges the Board to consider the economic benefits of equalizing the tariff position of U.S. manufacturers with foreign producers, as Congress authorized.

Very truly yours,



Willard M. Berry
President