



National Association of Foreign-Trade Zones

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September 22, 2004

Mr. Kelly Parkhill
Director for Industry Support and Analysis
Import Administration, Room 3713
Department of Commerce
14th Street and Constitution Ave, NW
Washington, DC 20230

Dear Mr. Parkhill:

The National Association of Foreign-Trade Zones is an affiliation of public and private entities that advocate the advancement of the U.S. Foreign-Trade Zones Program. Our membership consists of over seven hundred and fifty representatives of port authorities, economic development organizations, zone operators and users and other foreign-trade zone participants. Our member's interests are representative of the interests of all 798 foreign-trade zones and their adjunct subzones located throughout all fifty states and Puerto Rico. This membership and the economic activity with which it is associated makes the association well positioned to offer recommendations on the interaction between foreign-trade zones program and the proposed steel import licensing system presented by the Department of Commerce in the Federal Register, August 25, 2004.

The Association's comments address the notice's second question. The Association recommends:

- The licensing system should be based on general imports.
- Foreign steel that is otherwise subject to the licensing system brought into a foreign-trade zone should be included in the system.
- Steel brought into a zone subject to a license should be licensed ONLY once.
- This license should be required at the time the steel is admitted into a zone (NOT at the time of its transfer to custom territory).
- The so-called "214" customs form should be employed to document licensing compliance.

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We have enclosed a letter the Association sent to Mr. Roland L. MacDonald, August 19, 2002, when the current licensing system was proposed. Our current thinking on this subject of licensing is directly consistent with the recommendations we proposed in that letter. Please call on the Association's Executive Director, Willard M. Berry, should these recommendations require more attention.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Phyllis Saathoff".

Phyllis Saathoff
President

c: Dennis Puccinelli, Executive Secretary
Foreign-Trade Zones Board



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August 19, 2002

Roland L. MacDonald
Director of Policy and Analysis, Import Administration
Department of Commerce, Room 3713
14th & Constitution Avenue NW
Washington, DC 20230

Dear Mr. MacDonald:

The National Association of Foreign-Trade Zones is an affiliation of public and private entities that advocate the advancement of the U.S. Foreign-Trade Zones Program. Our membership consists of over seven hundred representatives of port authorities, economic development organizations, zone operators and users and other foreign-trade zone participants. Our member's interests are representative of the interests of all 685 foreign-trade zones and their adjunct subzones located throughout all fifty and Puerto Rico. This membership and the economic activity with which it is associated makes the association well positioned to offer recommendations on the interaction between the foreign-trade zones program and the proposed steel import licensing system presented by the Department of Commerce in the Federal Register, July 18, 2002.

The Association's recommendations proceed from two observations:

First, foreign-trade zone activities must be included in the prospective steel import licensing system. Foreign-trade zone activity is defined to be a part of U.S. economic territory. Foreign-trade zones are legally defined outside U.S. customs territory. The distinction these definitions create should not be allowed to obscure the economic value of foreign-trade zones, otherwise mischaracterize zone use, obscure measures that diminish U.S. economic activity, or undermine U.S. public policy economic or otherwise.

Second, the amount of imported steel involved with foreign-trade zones is relatively small in comparison to total U.S. steel imports, i.e. about 1% by volume and value of all U.S. steel imports. This small percentage is consistent when measured on the basis of the International Trade Commission's four-product categories. This level was consistent throughout the 201's evaluation period, 1996-2000 and during 2001, along with the first six months of 2002.

The Association's recommendations include:

- a. Foreign steel subject to the import licensing-registration system brought into a foreign-trade zone should be licensed or registered. It should be licensed once. It should not be licensed twice at the time the steel is admitted to a zone and at the time the same previously licensed steel is transferred from zone status to U.S. Customs territory.
 1. A double-licensing procedure creates a risk that foreign steel brought into and transferred from a zone is counted twice, exaggerating reported levels of foreign steel supplies in the U.S. market. If this risk is realized, double counting will diminish the license-registration system's ability to provide accurate information to detect actual shifts or surges in foreign steel shipments. That is to say, double licensing could result in double counting that overstates (or mischaracterizes) the volume of imported steel causing the system to be discredited and/or ineffective.
 2. A double license requirement for foreign-trade zone use will create a nuisance tax-cost encouragement to shift economic activity from U.S. zones to Canada and Mexico. Steel storage operations conducted in U.S. zones and in Canadian or Mexican storage sites share common characteristics. Foreign steel stored in Mexico or Canada sold in (or to be sold to) the U.S. market will be subject to licensing once. This Canadian or Mexican stored foreign steel is in every real sense a part of U.S. steel inventories (it could also be a part of a shift in sources of supply and/or a surge in supply). Nevertheless, this steel will not be counted while it remains in Canadian or Mexican storage. This uncounted status stands in contrast to foreign steel stored in a zone subject to license, at the time of admission. Consistent with the advance warning purpose for the licensing system, everything no matter how small or big the measure, should be done to effectuate a licensing system that maintains a level operational (cost) playing field for steel storage operations in U.S. zones versus storage operations in Canada or Mexico.
- b. The foreign-trade zone import license requirement should be imposed at the time the foreign steel is admitted into a zone. The requirement should not be imposed at the time the steel is transferred from zone status to U.S. Customs territory. Requiring a license at the time of admission rather than at entry is a requirement most consistent with the purpose for imposing the licensing system:
 1. Requiring a license only at the time the covered steel is transferred from zone status to U.S. Customs territory will diminish the effectiveness of the import licensing system. All "201" steel is to be registered by an import license. Some – not all – 201 steel is subject to 201 tariff relief and/or

tariff rate quotas. This "201 relief" steel is required to be placed in a zone in so-called "PF or privileged" status. This status freezes the steel's classification status for customs entry procedures when the steel is transferred from zone status to customs territory. Steel not subject to 201 tariff relief but covered by 201 license requirements may be admitted to a zone in so-called "NPF-non-privileged" status; This status means that the steel transferred from a zone to customs territory will be classified in the state in which it exists at the time of transfer, i.e. steel admitted to a zone, made into a widget, is classified as a widget at time of entry.

Steel imports not widgets are subject to the proposed license requirement. Consequently, an import license system that is triggered when "steel" moves from a zone to U.S. Customs territory runs the risk of not licensing (registering-counting) the steel in the widgets produced in a zone. A steel import license system triggered when steel is admitted to a zone will catch all 201 steel no matter whether the steel is admitted in "PF" or in "NPF" status.

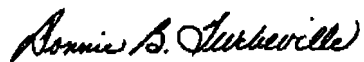
2. "Timing" is the second reason for triggering the license requirement upon admission to a zone, not at the time of transfer from a zone to U.S. customs territory. Steel stored in a zone is, and should be included in any measure of U.S. steel inventory. A license timed or triggered by "entry" not admission will not account for zone stored foreign steel. Consequently, any zone related measure that includes only steel "entered" from zones will underestimate the volume of foreign steel inventories in the U.S. market.
- c. The notice acknowledges "... a Custom entry number ..." will not be available for steel shipments for license requests for steel admitted to a zone. An alternative for an "entry" number could be a number from a Customs Form 214 that will identify a zone and the imported shipment. It should be noted that a Customs Form 214 is a document signed by an importer and/or zone operator and carries the same level of enforceability as any other signed customs procedure documentation.

We note that the US Customs Service issued an Administrative Message (02-0910) on 7/19/2002 presenting a proposed methodology for enforcing compliance with the proposed licensing system. This proposed customs methodology provides that foreign steel subject to licensing may enter a bonded warehouse or be covered by a TIB without a license; the license would be optional for both the warehouse and TIB entries. We believe this optional treatment is inconsistent with the purpose of the licensing system.

The licensing system is intended to capture data on trade flows, surges, and/or diversions. To be sure that this system captures all of this data in a useful form and time frame, we are recommending that the zone license requirement be imposed once, at time of admission. Zone stored steel is a part of US steel inventories. Foreign steel stored in a bonded warehouse or covered by a TIB is a part of this inventory too.

We insist that foreign steel in a bonded facility, covered by a TIB or in a zone be treated identically. This identical treatment should be, the steel is licensed and counted when it is admitted to a zone and entered for a bonded warehouse or a TIB. This identical treatment is consistent with the licensing system's political purpose and consistent with any fair application of the concept of commercial equity.

Sincerely,



Donnie B. Turbeville
President