



Foreign Trade Zones: New Rules, New Opportunities

International Trade Association of Greater Chicago

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Ground rules

- > Feel free to interrupt with questions
- > I cannot give legal advice
 - > I'll let you know if a question requires "legal advice"

Baseline

- > This discussion is targeted at potential zone users
 - > Some major concerns for people running zones that might not be concerns for importers/manufacturers

Background

- > Substantial change in regulations proposed December 30, 2010
- > Intended to update operations to “expedite and encourage foreign commerce, and other purposes”
- > Comments from public numbered over 100

Major changes

- > "Production"
- > Uniform treatment
- > Penalties/prior disclosures

“Production”

- > Replaces “manufacturing”/“processing” split
- > Any activity resulting in a change in classification is “production”
 - > Unclear what level of change will be required

“Production” for exports

- > Advanced approval would not be required except when inputs are
 - > Subject to AD/CVD order
 - > Subject to 337 (intellectual property) order or
 - > Subject to quota
- > Potential for fast approvals where required

“Production” for U.S. consumption

- > Advanced approval would not be required except when inputs are
 - > Subject to AD/CVD order
 - > Subject to 337 (intellectual property) order
 - > Subject to quota
 - > Subject to inverted tariff
 - > Seeking waste/scrap benefit

AD/CVD controversy

- > General focus on enforcing trade laws playing out in FTZ comments
- > One side wants to be able to use AD/CVD inputs for export without restriction
- > Other side wants “public interest” and other evaluation of AD/CVD inputs

“Tariff inversion” controversy

- > Where imported goods have higher duty rate than produced goods
- > U.S.-destined production only
- > One of the main reasons companies use FTZs
- > Exception that swallows the rule

“Uniform treatment”

- > For participants, main points are
 - > Neutral criteria to evaluate proposals
 - > Grantees to post “standard contractual provisions”
 - > Third parties would be barred from services to participants and some grantee functions

Standard terms controversy

- > Objection is to having them posted on web
- > Counterproposal would be to have them available upon request
- > Looks like public standard terms are on the way

Third parties controversy

- > All parties seem to agree that there have been issues with overbearing third party companies and discrimination
- > Current regulation would bar all third party “conflicts of interest” in providing services
- > Counter is to ensure freedom of suppliers

Penalties/prior disclosures

- > Unauthorized production activity
- > Untimely annual reports
- > In both cases violations are of FTZ regulations and not Customs regulations
 - > Errors likely will become "double" violations
- > New ability to disclose errors

Penalties/P.D. controversy

- > Concern that new penalty regime may discourage FTZ use
- > Questions about the effect and timing of prior disclosures

For more detailed analysis

- > Department of Commerce dedicated page
- > <http://ia.ita.doc.gov/ftzpage/letters/regs.html>

Questions?

- > Feel free to contact me with questions, or if you need a copy of the presentation
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