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May 24, 2011

Mr. Andrew McGilvray
Foreign-Trade Zones Board
1401 Constitution Avenue, NW
Room 2111
Washington, D.C. 20230

Re: Foreign-Trade Board Proposed Rule
75 Federal Register 82340-82362, December 30, 2010
Docket # ITA-2010-0012, RIN 0625-AA81

Dear Mr. McGilvray:

The Foreign-Trade Zones Board (FTZ Board) published the Proposed Rule (copy attached) in the Federal Register on December 30, 2010. Please accept this letter as comments from Miller & Company P.C.

We express our support for the suggested changes by the National Association of Foreign-Trade Zones (NAFTZ) as submitted on May 4, 2011 with a follow-up letter on May 19, 2011.

We strongly support changes to the current Foreign-Trade Zones Board process that expedites and streamlines the Application process. We believe the Foreign-Trade Zones Board intent to expedite exports is necessary given the President Obama's goal to double exports in five years. Export promotion and growth is an important aspect of this program. The proposed updates to the FTZ program will enhance the competitiveness of small and medium sized businesses in the global economy. We feel the following topics are the most important issues that need to be addressed:

1. **Production/Manufacturing** – Any company that produces or manufactures products in foreign-trade zones would be significantly impacted by the new FTZ Board Proposed Rule. As written, the proposed Regulations require advance approval from the FTZ Board for any sourcing change, any historical or current imposition of anti-dumping and countervailing duty assessment, any change in duty rates, and any change in capacity. The proposed Regulations require a one-time re-filing of the entire scope of FTZ productions/manufacturing authority and quarterly reporting thereafter. We believe this is a very significant change that would create an onerous burden on the entire FTZ community since failure

to obtain the advance approval from the FTZ Board could result in the imposition of fines and penalties on the Operator, User, and potentially the Grantee.

We believe in an entirely different approach to this process by changing the application process so that applications are focused on the production or manufacturing of intermediate/finished products without specific reference to all of the materials/parts utilized. Information would be required at the time of application for antidumping/countervailing duty (AD/CVD) materials/parts, Section 337 materials/parts, and any materials/parts that had been the subject of previous FTZ Board restrictions or prohibitions. This entirely new proposed procedure would eliminate all of the FTZ Board's original proposed requirements concerning changes in AD/CVD, sourcing, capacity, and duty rates. Alternately, if the Foreign-Trade Zones Board is not agreeable to this, we suggest the initial scope of authority update filing is not necessary. We suggest the current sourcing notification procedures in Section 400.28(a)(3) of the Foreign-Trade Zones Board Regulations be expanded to include notification for both parts and components as well as finished products to be manufactured in a zone. This notification would have to be in advance of the use of the new parts, components, or similar finished products but would not require approval so long as the activity was described generally in an original application or expansion application.

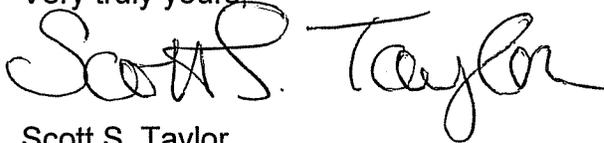
2. **Expedited FTZ Board Approval** – While the Proposed Rule described a wide range of methods of expediting FTZ Board approval, we believe that much more is necessary. A specific section on expedited export manufacturing approval (Section 400.14) was added with the requirement that a Board Order be issued in a very short time frame. The timeframe for approval by the Board of regular applications was reduced by 50%. Simplification procedures were added. Alternately, if a specific Board Order is not possible for exports we continue to believe that there should be some form of documentation for a company operator to maintain in its files even with the proposed expedited procedures. This should include a simple standard request format for companies to follow followed by a standard response by the Executive Secretary that includes general information regarding the zone project including the individual company name. This would provide both individual companies and U.S. Customs with a level of certainty with respect to authority to conduct export activity.
3. **Reduction in Public Comment Period** - In addition to the NAFTAZ comments, one way to reduce processing time is to reduce the public comment period. Before applications were posted online an interested party would have to visit the Foreign-Trade Zones Board office or a local destination to view an application. This required a sixty (60) day public comment period. As more technology is now available, the viewing option is accelerated. Now that applications are online they are instantly available to the public when accepted for filing by the Foreign-Trade Zones Board. We suggest a fifteen (15) day public comment period is sufficient. Any party requiring more time can request an extension. The

majority of applicants do not receive a negative comment. Alternately, a thirty (30) day public comment period would be more realistic for the current business climate.

4. **Penalties** – As written, the proposed penalty section (Section 400.62) provides for a wide range of potential penalties allowing the Board to issue penalties not only to the Grantee, Operator, and User, but a wide range of other parties for the exact same infraction. The NAFTAZ proposed and we support very significant changes limiting the situations for the issuance of a fine or penalty. The FTZ Board did propose a Prior Disclosure provision (Section 400.63) that we have championed for the past twenty (20) years, but it was not as liberal as the Customs Prior Disclosure provision. Suggestions for change were provided by NAFTAZ. We agree with the proposed changes.
5. **Equal Treatment/Public Utility Principles** – Significant portions of the proposed rule were directed towards specific issues involving Zone Administrators and Consultants that are intrinsically involved in a zone project so as to basically control all aspects of the zone project and dictate all terms of zone use to potential zone users (ie. signing Grantee contracts with Operators, requiring potential Operators and/or Users of the zone project to utilize their consulting and/or software services). While there may be concerns in certain instances, the NAFTAZ believed that the significant changes proposed by the FTZ Board could be accomplished in a different way. We support Sections 400.42 and 400.43 as revised by the NAFTAZ in its comments.
6. **Alternative Site Framework (ASF)** - The new ASF program of the FTZ Board provides a considerable amount of flexibility for Grantees to accommodate companies in obtaining FTZ designation quickly and without a great amount of expense. However, the proposed Regulations did not provide the fundamental legal structure of the ASF program. Significant changes were made to the proposed Regulations to input that information. See Sections 400.2 and 400.21 of the NAFTAZ proposed regulations.
7. **Foreign-Trade Zone Board Applications** – The text of the Proposed Rule did not match the current website of the FTZ Board on the details required in Applications. Sections 400.21 – 400.24 have been significantly revised by the NAFTAZ to coordinate the Regulations with the guidelines contained on the FTZ Board website. We support the inclusion of updated data requirements in the regulations that correspond with what is required by the Foreign-Trade Zones Board today. We realize these are subject to modification in the future.
8. **New Positive Improvements** – We agree with the proposed new concepts included in the NAFTAZ submission on May 4, 2011 at Sections 400.1(c) - NAFTAZ/FTA/etc. FTZ receipt qualification; 400.7 – expediting CBP activation in 30 days; 400.8 – export promotion; 400.9 – Federal agency FTZ management

procedures; and 400.51/400.54 - confidential treatment of company-specific data in Annual Reports.

Very truly yours,

A handwritten signature in black ink that reads "Scott S. Taylor". The signature is written in a cursive style with a large, stylized "S" at the beginning.

Scott S. Taylor

VLH/CORR/52004(9900)