

EXPANDING ACTIVITIES WITHIN FOREIGN-TRADE ZONES

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Mr. GEORGE, from the Committee on Finance, submitted the following

R E P O R T

(To accompany H. R. 5332)

The Committee on Finance, to whom was referred the bill (H. R. 5332) to amend section 3 of the act of June 18, 1934, relating to the establishment of foreign-trade zones, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

H. R. 5332 as it passed the House related to the establishment of foreign-trade zones. Your committee has approved this provision and added another section which is intended to encourage the development of new domestic sources of zinc ores.

Since no change was made in the provision relating to the establishment of foreign-trade zones, the report filed by the Committee on Ways and Means is adopted as your committee's views on section 1 of the bill as reported to the Senate.

SECTION 1. ESTABLISHMENT OF FOREIGN-TRADE ZONES

PURPOSE

Under existing law manufacturing and exhibiting within a foreign-trade zone are expressly prohibited. This section would permit manufacturing and exhibiting within a zone and would (with certain exceptions). under proper regulations, enable articles entering a foreign-trade zone from customs territory solely for export, destruction, or storage to be treated as exported for such purposes as draw-back, warehousing, and bonding provisions of the tariff laws, or for exemption from liability for internal-revenue taxes.

GENERAL STATEMENT

A foreign-trade zone is an isolated, fenced off, and policed area within or adjacent to a port of entry where foreign merchandise may be

landed, stored, repacked, sorted, mixed or otherwise manipulated with a minimum of customs control and without customs bond. If such merchandise is brought into customs territory, it is subject to all customs laws and regulations.

Under the act of June 18, 1934, the Foreign-Trade Zones Board, composed of the Secretary of Commerce, Secretary of the Treasury, and Secretary of War, is authorized to grant to public and private corporations the privilege of establishing, operating, and maintaining foreign-trade zones for the purpose of expediting and encouraging foreign commerce. The Foreign-Trade Zones Board also has responsibility for administration of the law governing the operation of such zones.

Grants have now been issued for the establishment and operation of a foreign-trade zone at Staten Island, N. Y.; New Orleans; San Francisco; Los Angeles; and Seattle. An application for a foreign-trade zone at San Antonio is now pending. Interest in the establishment of a foreign-trade zone at inland ports of entry has developed because of the potential stimulus to air commerce.

The Secretary of Commerce advised the Committee on Ways and Means in a letter addressed to the chairman dated March 18, 1949, in part, as follows:

The existence of the present trade zones has done much to stimulate American commerce both import and export. The proposed permission of manufacturing in the zones is expected further to assist American business by enabling it to manufacture certain types of products for export under minimum cost conditions.

With respect to the exhibition of goods within the foreign-trade zones, the present law permits the examination and sampling of merchandise, but does not allow the maintenance of display counters. It is the Department's opinion that such a distinction is unwarranted and that the full exhibiting of goods should be allowed. From a trade-promotion viewpoint, this added activity would be highly desirable and essential. Both foreign and American goods would be on display. Trade zones could be used as modified international trade fairs where foreign merchants and manufacturers would display their goods for sale to importers and domestic retailers, and domestic goods would be exhibited in an effort to attract foreign buyers and encourage their purchase of American goods.

The Department of State, in reporting favorably on similar legislation, stated:

It is believed that expansion of the scope of activity of the free-trade zones, as proposed in this draft legislation, would contribute to expansion of international trade, which this Government has long advocated as general policy through the trade-agreements program and more recently in the establishment of the International Monetary Fund, the conclusion of the general agreement on tariffs and trade, and in the drafting of a charter for an International Trade Organization. Provision of increased facilities for conduct of trade as here proposed would help many countries to achieve more effective use of productive resources and higher living standards.

Safeguards satisfactory to the Treasury Department have been included in this section to insure the collection of the revenues.

Furthermore, the House Special Committee on Postwar Economic Policy and Planning in the Seventy-ninth Congress recommended as follows:

Our foreign trade would be further assisted by the creation of additional foreign-trade zones * * * In each of these zones, the importation of goods for the purpose of display, sampling, or manufacture for reexport should be permitted free of duty. This would avoid extra handling and freight charges, and would eliminate draw-backs on such goods.

EXPLANATION OF SECTION 1

This section amends the existing provisions of section 3 of the act of June 18, 1934 (Public Law 397, 73d Cong., 48 Stat. 998), relating to the establishment of foreign-trade zones, and adds three new provisos to section 3. As so amended, section 3 would remove the prohibition against, and would specifically authorize, manufacture and exhibition within a zone. In a letter from the International Trade Committee of the Illinois Manufacturers Association, support of this section was expressed with respect to permitting manufacturing within a foreign-trade zone. Specific authorization that merchandise brought into a zone may be sold or destroyed would clarify existing law, under which sale or destruction of merchandise in a zone has been permitted. Retail sales, however, would continue to be limited by section 15 (d) of the act of June 18, 1934.

The extent to which manufacture or other activities could be carried on in a zone would also be limited by a new fifth proviso, that no operation involving any foreign or domestic merchandise brought into a zone, which operation would be subject to any provision or provisions of section 1807 (tax on playing cards), chapter 15 (taxes on tobacco, snuff, cigars, and cigarettes), chapter 16 (taxes on oleomargarine, adulterated butter, and process or renovated butter), chapter 17 (tax on filled cheese), chapter 21 (taxes on coconut and other vegetable oils), chapter 23 (taxes on narcotics), chapter 24 (tax on white phosphorous matches), chapter 25 (taxes on firearms), chapter 26 (tax on liquor), or chapter 32 (tax on sugar) of the Internal Revenue Code, if performed in customs territory, shall be permitted in a zone. Except for rectification of distilled spirits and wines, and the manufacture or production of alcoholic products unfit for beverage purposes, however, the fifth proviso would not prohibit operations which are permissible within a foreign-trade zone under existing law.

The first proviso to section 3 of the act of June 18, 1934, now authorizes the appraisement and liquidation of duties on foreign merchandise when it is first admitted to a zone, such duties not to be paid until the merchandise is sent into customs territory. This privilege has not been used by importers, possibly because the proviso also imposes an absolute requirement that the duties be paid within a maximum of 2 years, even if the merchandise is never sent into customs territory. The proposed legislation would modify this proviso in several respects. The importer could secure a finding of the taxes as well as the duties on his merchandise. This finding could be requested either when the foreign merchandise first entered a zone or at any time during its stay in the zone unless and until there was a manipulation or manufacture effecting a change in tariff classification of the merchandise. The proposed legislation would authorize such a finding of taxes and duties only once and a finding, once made, would thereafter govern the dutiable and taxable status of the merchandise whenever it was sent into customs territory, whether or not it had been manipulated or manufactured in the zone in the meantime. The present absolute requirement for payment of duties on merchandise obtaining a privileged status under the proviso would be eliminated. Duties and taxes would be payable in accordance with the finding only if and when the merchandise was sent into customs territory. The amended proviso would not authorize consumption of merchandise in a zone, but

would authorize its exportation or destruction without the payment of the liquidated duties and determined taxes thereon.

Under the amended proviso, if foreign merchandise taken under supervision for the liquidation of duties and determination of taxes thereon is subsequently manipulated or manufactured, such duties and taxes would be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the article later sent into customs territory. Allowance would be made for recoverable and irrecoverable waste; and if recoverable waste were sent into customs territory, it would be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products resulted from the manipulation or manufacture of such merchandise the liquidated duties and terminated taxes would be distributed to the several products in accordance with their relative value at the time of separation, with due allowance for waste as indicated above.

Under the second proviso of section 3 of the act, articles, the growth, product, or manufacture of the United States, and articles previously imported on which duty has been paid or which have been admitted free of duty, subject to regulations of the Secretary of the Treasury respecting identity and the safeguarding of the revenue, may be taken into a zone from customs territory and may subsequently be brought back to customs territory free of duty. This section would expressly extend this proviso to authorize the return of such merchandise to customs territory without regard for quota restrictions, since under existing law it is not clear whether merchandise sent from customs territory to a zone and later brought back into customs territory is subject to quotas. The second proviso would also be made specifically applicable to articles on which all internal-revenue taxes have been paid if subject thereto.

The third proviso of section 3 of the act presently reads as follows:

Provided, That if in the opinion of the Secretary of the Treasury their identity has not been lost such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter the customs territory of the United States as foreign merchandise under the provisions of the tariff laws in force at that time

The insertion of the word "not" in the original act appears to have been a mistake and would therefore be deleted by this section in order to conform the language with the apparent original intent of Congress.

This section would add to section 3 of the act a new fourth proviso that under the rules and regulations of the controlling Federal agencies articles taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage would be considered to be exported for the purpose of certain Federal laws. The proviso specifically covers the draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder. Therefore a transfer of an article from customs territory to a zone for any of the authorized purposes would be considered the equivalent of exportation so far as any provision of the tariff act is concerned. Articles manufactured in customs territory with the use of imported duty-paid materials could be transferred to a zone and draw-back of duties would thereupon become payable without actual exportation. Imported merchandise in customs bonded warehouse, or otherwise under customs bond could be transferred to a zone and

liability under the bonds extinguished to the same extent, and subject to all other requirements and regulations, as if actually exported.

This proviso also applies similarly to internal-revenue taxes. Under rules and regulations of the Federal agency in charge of the administration and enforcement of the internal-revenue laws articles taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage would be considered exported for the purpose of the statutes and bonds exacted for the payment of drawback, refund or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

The benefits of the fourth proviso would be limited specifically to articles taken into a zone for exportation, destruction, or storage, and would not apply to articles taken into a zone for consumption, or with the intent of eventual reentry into customs territory. The benefits would not extend to articles taken into a zone for manipulation or manufacture prior to exportation. The proviso would furnish relief for manufacturers and other business interests whose merchandise is destined eventually for export use but which merchandise, for one reason or another, cannot practicably be exported immediately. In such cases the proviso would authorize refund by way of drawback of duties and taxes while the merchandise remained in a zone awaiting actual exportation, and would also relieve the interested parties from expense and liability of customs and internal-revenue bonds. Imported merchandise which had been stored in a customs bonded warehouse for almost the full statutory time limit of 3 years could, under the provision, be transferred to a zone for further storage pending actual exportation. Another use of the proviso might be the encouragement of the establishment in foreign-trade zones of world markets for various commodities.

Articles receiving the benefits of the proviso could be shipped in bond through customs territory in process of exportation, but could not be returned from the zone to customs territory for domestic consumption except where the Foreign-Trade Zones Board deemed such return to be in the public interest in which event the articles would be subject to a duty equal to the duty and tax from which they had previously been relieved in accordance with the provisions of paragraph 1615 (f) of the Tariff Act of 1930 as amended.

The fourth proviso under discussion would also authorize a transfer of articles from customs territory to a zone for the specified purposes to be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deemed it advisable. Federal agencies dealing with such matters as pure food and drugs, export licensing or control of exportation of munitions would not be required to treat the transfer to articles from customs territory to a zone as the equivalent of exportation for purposes of the laws which they administer, but such agencies would be authorized to treat those transfers to a zone as equivalent to exportation insofar as they deemed it consistent with the provisions and purposes of those laws.

This section would also add a new sixth proviso to clarify the duty and tax status of articles which, after having been produced or manufactured in a zone and exported to a foreign country, are subsequently

imported into customs territory of the United States. The proviso would make such articles dutiable and taxable as if manufactured in a foreign country. There is an exception, however, which would permit the free entry as American goods returned of any articles which had been produced or manufactured in a zone exclusively with the use of privileged domestic merchandise, that is, merchandise upon which the duty and tax, if any, had already been paid and the identity of which had been maintained in accordance with the second proviso to section 3 of the act.

SECTION 2. DEVELOPMENT OF NEW DOMESTIC SOURCES OF ZINC ORES

Section 2 of the bill, effective 30 days after the date of enactment, exempts from duty zinc in blocks, pigs or slabs, when imported after having been recovered abroad from zinc concentrates produced in the United States. In order to obtain the advantage set forth in the proposed legislation, the zinc products named must be entered, or withdrawn from warehouse, for the account of the exporter of the zinc concentrates within 60 days after exportation took place; furthermore, the quantity of the specified zinc products entitled to free entry is limited to not more than 85 percent of the weight of the zinc content of concentrates exported.

It appears that in northeast Washington there are a number of zinc mines, and more than 200 separate properties now known to show substantial occurrences of zinc; but there are no nearby available United States smelters. The nearest smelters within continental limits of this country are from 200 to 400 miles away. In fact these are already fully supplied with concentrates produced in their own nearby area; and thus these smelters are not particularly interested in handling concentrates of the grade produced by the independently owned mines in northeastern Washington. In recent years these mines have found it necessary to ship their concentrates to other United States smelters located more than 2,000 miles away. On the other hand at Trail, British Columbia, which lies within the radius of 25 to 60 miles from most of the zinc mines in northeastern Washington, there is a large metallurgical plant which has the capacity and is ready and able to handle zinc concentrates from these mines.

The sole purpose and effect of this section will be to relieve an inequitable situation which now exists and thus to permit the mines described above to operate more nearly on an equal basis with other mines in the United States. If the Washington mine owners have their concentrates processed into metal at United States smelters, they must pay approximately 1½ cents per pound more transportation for contained zinc than mine owners in the Central States. On the other hand, if the Washington mine owners have their concentrates processed at Canadian smelters they must under the present tariff laws, pay seven-eighths of a cent duty on each pound of zinc metal returned to them. It can thus be readily seen that an extremely inequitable situation now exists and that this situation would be at least partially alleviated by the passage of this section of the bill.

The tariff exemption provided for in this section would not result in a reduction in revenue from customs duties, for the effect of the duty has been to prevent any regular shipments to the Trail smelter

in British Columbia. It is not opposed by the Treasury Department or the Department of State.

As heretofore stated, this section is designed to relieve the inequitable situation herein described. It is not to be considered as a precedent. If as a result of its passage a number of smelting plants spring up in Canada and the original purpose of the provision is greatly expanded, your committee will take steps to immediately correct any abuse arising from such action by recommending the elimination of the exemption.

