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Juanita Chen, Senior Foreign-Trade Zone Analyst
Foreign-Trade Zones Board
U.S. Department of Commerce, NW, Rm. 21111
Washington, D.C. 20230

Reference: OMB Control No. 0625-0139

Dear Ms. Chen:

The current production notification questionnaire/form can be modified to become a more valuable source of economic data/information for foreign-trade zone grantees, and on the interaction between zone production activity and U.S international economic policy, e.g. matters related to foreign direct investment. The suggested modifications to the current notification questionnaire are proposed to do so:

Section 1 - Company and FTZ Site(s)

Currently 1a, requires the identity of the "...FTZ user (company for whose benefit the activity would be conducted".) 1a should be modified to require the identity and nationality of the ultimate beneficial ownership of the operations/activity that will benefit from production authorization. The ownership requirements should include:

- For LLCs, the names and nationalities of the members/partners that are listed in the entity's IRS Form 1065. If these participants are LLCs or other legal shields such as trusts, the natural person or corporation that compose or benefit from this shield should be disclosed.
- For privately owned businesses including non public corporations, the business's owners and nationalities should be disclosed .
- For corporations, nonpublic and publicly owned, the disclosure should include the national location of incorporation, the location of the corporation's headquarters, and the names and nationality of any individual(s) or organization(s) that owns or controls 10% or more of the corporation.

A rationale for requiring information on the ultimate beneficial ownership of proposed zone production activity is found in the Foreign-Trade Zone Board's Federal Register Notice of 12-21-2021:

"The FTZ Board needs complete and accurate information on the proposed [production] operation and its economic effects... [in order for it to fulfill its public policy responsibilities]."

Without knowing to whom the benefit of zone status will flow, the board's decisions on production activity are not complete. Upon adoption of this proposed modification the board can/should require the disclosure of the ownership of existing authorized zone production activity in the annual report from grantees for the year 2022. On the occasion of a change in the ownership of a zone authorized production activity that does not require a new authorization, the new ownership disclosure can become required information for grantee annual reports.

Adoption of this proposal will be consistent with a general trend of U.S. economic policy's increasing emphasis on the sources of foreign direct investment. On December 8, 2021, the Department of the Treasury, Financial Crimes Enforcement Network issued a set of proposed regulations that require the disclosure of the beneficial owners of all LLCs and corporations doing business in the United States, foreign and domestic. In 2018, Congress modified the Exon-Florio process in order to better ascertain the identity and purpose of foreign capital in the U.S. economy. It should be noted the proposed change to 1a pertains to all zone production, U.S. and foreign owned. As such the proposal will be consistent with the economic principal of national treatment and avoid debates over discrimination and protectionism. Finally it should be noted. this disclosure requirement is proposed only for production activity and excludes warehouse/distribution activities.

Section 2 - Proposed activity

The response for this section should include the six digit NAICS code number for the operations proposed for zone status. The board's current database on economic activity offers several forms of information on zone status production but not in a standard form as that offered by the NAICS. This information can be useful to grantees. Using standard NAICS codes a grantee can more accurately identify operations that could benefit from zone status within the local economies they serve. If this proposed modification is adopted, existing zone authorized operations can be required to submit their NAICS number and this number can be a part of annual reports.

Section 4 - Table 1 - Finished Products

The required physical description information should include the product's seven digit NAICS product code. The logic for this suggestion is similar to that proposed in Section 2. The NAICS number has a general usefulness for the public and grantees not provided by six digit HTSUS numbers and provides the information at a nonexistent compliance cost. If approved, this requirement can be tied back to existing authorizations and the program's database offering grantees a useful data set for developing their grant of authority's value for their local economy.

A final thought on ownership disclosure, the proposed suggestion has an historical context. In the 1980's, the board and board staff were queried on several occasions about the use and consequences of Japanese companys' activities under zone status. There was no information or

data available to provide a response to these queries. Consequently the program was subject to unchallenged criticism that diminished its potential economic value. Forty years later the interest in foreign direct investment is greater than it was then, the program has a higher profile than it did then, and the prospect for adverse reactions to answers such as, "we don't have any data" can be and/or will be worst than that previously experienced.

Sincerely,

Signed:
Richard F. Ehmann, Jr.