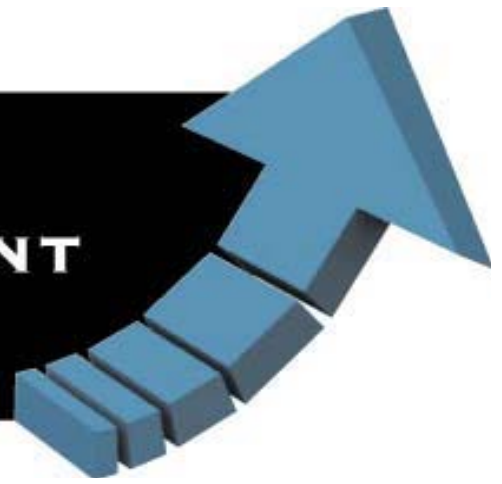




TRADE AGREEMENT PARITY



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TAP has clear job-creating and job-preserving potential in the United States manufacturing sector, including autos.

While some have made claims that TAP will promote continued use of imported components and encourage the use of more imported components, the TAP proposal already has within it features that will prevent these effects and encourage more production of automobiles in the United States. The U.S. Foreign-Trade Zones Board currently has authority to restrict or prohibit any product or activity that it finds is "detrimental to the public interest." Key features of the public interest evaluation criteria are described in the U.S. Foreign-Trade Zones Board Regulations, 15 CFR §400.31(b). The regulations require that the U.S. Foreign-Trade Zones Board deny or restrict authority for proposed or ongoing activity if FTZ procedures would create more imports than would otherwise occur. The regulations also require that the proposed FTZ activity cannot be inconsistent with U.S. trade and tariff law, or policy and that the granting of benefits may not seriously prejudice U.S. tariff and trade negotiations or other initiatives. H.R. 6415 will operate in full accord with these principles while providing the opportunity to create and preserve manufacturing activity and employment in the United States. FTZ procedures also require that overall employment impact is considered along with the overall effect on import levels of relevant products, including import displacement and the impact on related domestic industries. Therefore, FTZ procedures do not permit creation of jobs in one sector at the cost of another.

The automotive industry is a key example of how TAP will work effectively to encourage more automotive production in the United States and preserve the production we already have. The largest manufacturers of cars and truck in the U.S. are General Motors and Ford, with Chrysler another major producer. TAP is designed to encourage them to make more vehicles in the United States than they otherwise would.

The public interest provisions in the Foreign-Trade Zones Program will assure that parts producers in the United States will not be harmed by U.S. manufacturing activity. The U.S. Foreign-Trade Zones Board will evaluate any application for manufacturing activity under TAP to determine that such activity would not adversely affect producers of parts or other production inputs through the reduction of duties. An automotive FTZ application for TAP benefits that relies on an FTA with a country that does not export significant volumes of vehicles to the United States (such as Singapore) presumably would not be favorably viewed by the U.S. Foreign-Trade Zones Board, because it would not equalize the tariff position of U.S. manufacturing with existing or realistic potential foreign competition. If an application under TAP would injure domestic

auto parts producers, such job losses could, and probably would, lead to restrictions on imported parts that would cause such damage.

The purpose of TAP is to equalize the U.S. Customs impact for U.S. production and production in other FTA countries. If an auto producer believes that its U.S. manufacturing operations would be made more competitive by receiving the *same* U.S. tariff treatment as a plant in an FTA country would receive, it is important for the U.S. to be able to provide equal treatment. There would be no reason to approve manufacturing with TAP benefits if there were no risk of production and jobs being shifted in the absence of TAP benefits.

TAP Will Remove Tariff Incentives to Relocate Production outside the United States

TAP is not limited to auto production, but that industry provides a key example of the important benefits of TAP. While auto plants are very capital intensive operations, NAFTA is concerned about manufacturing operations that have moved out of the country due to cost considerations. Because TAP allows companies to stay in the United States and still enjoy the benefits of free trade agreement duty rates, companies can manufacture in the United States more competitively.

Beyond this, many global corporations, including those in the automotive industry, already have production facilities in the U.S., FTA countries and non-FTA foreign countries. The decision where to produce the next model could be significantly driven by such issues as taxation (including Customs issues). Currently, U.S. tariff policy makes it more cost-effective to make a new model in FTA countries for the U.S. market rather than in the U.S. It is not a trivial matter to give U.S. workers and companies the chance to preserve production of new models in the United States if the alternative is to make that new model, or even more units of that new model, in another country.

TAP Corrects Unintended Tariff Distortions by Equalizing U.S. Tariff Treatment from a U.S. Manufacturing Location to a Location in an FTA Country

TAP does not provide a “back door” entrance for non-FTA parts, because the front door is already open. Non-FTA parts can be used in auto production under NAFTA and all other FTAs’ rules of origin. If cars or other products can be made in those countries using non-FTA parts, there is no reason to prohibit their use, regardless of the competitive circumstances, by U.S. factories making competing products.

Free Trade Agreements other than NAFTA do not Require Goods from non-FTA Countries to Pay Applicable MFN Duties in the Country of Importation & Prohibit Duty Drawback, if the Finished Goods are Subsequently Exported to a FTA Member Country

Most free trade agreements (other than NAFTA) include no such requirement, meaning that drawback and other duty reduction strategies are available for goods manufactured and then exported to the United States. Under NAFTA, Canada and Mexico have unilaterally reduced their MFN rates on key manufacturing components, often to zero. For all FTAs, a wide variety of non-FTA partner goods enter duty free into FTA partner countries or benefit from drawback or other programs on export to the United States. Those non-FTA partner goods are manufactured into finished goods that qualify under FTA rules of origin and then enter the U.S. market duty free. TAP would let U.S. manufacturers compete on equal terms under U.S. Customs laws with those duty-free imports. The sole and entire premise of TAP is to provide U.S.-based manufacturers the opportunity to compete equally under the same principles when public interest criteria are served.

Imports from FTA Countries Have Grown Dramatically

NAFTZ supports FTAs because they are in the economic interest of the United States. The purpose of foreign-trade zones is to expedite and encourage international commerce, which benefits the U.S. economy. These benefits are found both in the ability of U.S. companies to export to new markets; but FTAs also make U.S. companies more globally competitive by gaining access to production inputs, whether made in the U.S. or not, at globally competitive prices.

FTZs are not less important as FTA imports grow. Products are stored and processed in FTZs because individual zone users determine that there are cost and logistical advantages for them, as well as duty savings. Annual Reports of the U.S. Foreign-Trade Zones Board reflect sustained and continued growth of the U.S. FTZ program along with growth in FTA imports. FTZs cannot help if manufacturing moves abroad.

The FTZ Program is an Effective Tool to Deliver the Intended Benefits of TAP Without Creating Unintended & Harmful Consequences

TAP is designed to benefit U.S. manufacturing. Free trade agreements generally support manufacturers in the U.S. by increasing their export opportunities. The

NAFTZ has been a long-term proponent of free trade agreements for that reason. While a manufacturer outside the United States does not require a U.S. FTZ, that manufacturer also does not add value, capital investment, research and technology development or employment of skilled labor in the United States. TAP does not solve all problems for all manufacturers, but it does take away one reason for building factories outside the United States and positively impacts the bottom line when comparing costs of manufacturing in the U.S. versus outside.

TAP is not designed to benefit FTZs but rather the U.S. manufacturing economy. The FTZ program is a ready and refined tool to deliver the corrective remedy called for while preserving the benefits of FTAs and preventing unintended harm to U.S.- based industry.

The TAP Proposal is Intended to Benefit Manufacturers That Face Competition from Other Countries by Equalizing the U.S. Tariff Treatment between Manufacturing in the U.S. & in Other FTA Countries

Any manufacturer can use an FTZ if it benefits them and the activities are not contrary to the public interest. It is puzzling that some companies feel unable to use FTZs because of compliance problems. These issues are largely resolved through cost-effective management and business process improvement techniques.

The reason that FTZs are needed to implement TAP is that without them, there could be duty reductions that may harm upstream (supplying) industries or that do not create or preserve U.S. employment, including across the board reductions for goods that may not be used in manufacturing.

Economic Benefits from TAP Will Certainly Exceed Loss of Tariff Revenue by CBP

While some contend that increasing non-FTA imports will be the inevitable result of FTZ status for auto manufacturers, such is not the case. The savings are important in the aggregate; but the public interest requirements for approval of proposed manufacturing using TAP benefits will prevent imports from increasing as a result of shifts from domestic to import sourcing. In autos, where the average duty rate for parts is very low, it would be surprising to see a company shifting from domestic to import sourcing just because of tariff benefits. By using an FTZ, with TAP provisions, the auto assembly plant can realize savings while not importing any more dutiable parts than it is already doing. The U.S. economy stands to benefit from capturing the activity associated with manufacturing abroad in FTA countries that already provides for use of non-FTA

imports and domestic suppliers will have a greater opportunity to compete for those supplier opportunities.

There is no credible estimate that duty losses to the government would total \$470 million. This exceeds the amount of duties currently collected from auto FTZs in the most recent fiscal year analyzed. There is credible evidence to suggest that if more manufacturing is captured in the United States, higher skilled and paying jobs are available to U.S. workers and communities benefit from greater capital investment as well as expanded tax bases.

Public Interest Procedure is an Adequate Safeguard for Avoiding Unintended Harm

The U.S. Foreign-Trade Zones Board has ample experience and the ability objectively to assess the likely impact of FTZ procedures on competitors and consumers if zone status is granted. The burden of showing that a proposed activity is not detrimental to the “public interest” is on the applicant. While opponents should be expected to come forward if they have objections, this is not an unfair burden, since the reward will be increased manufacturing activity in the United States. We have no doubt and years of experience to prove that, in particular cases, the U.S. Foreign-Trade Zones Board can strike an appropriate balance between the important role of enhancing U.S. manufacturing as a whole and benefiting the residents and leaders of a particular locality.

TAP Will Not Injure the Auto Parts Industry

TAP is not intended to permit damage to the U.S. auto parts industry or any other sector, and would not have that effect. The U.S. Foreign-Trade Zones Board, under its public interest authority, would ask for public comment on the impact of any application to use FTZ procedures under TAP or otherwise. Any objections would be heard and analyzed to further the overall objective of TAP: to eliminate tariff disadvantages that inhibit increased U.S. manufacturing activities, and to protect against damage to other U.S. manufacturers, including U.S. auto parts producers. If U.S. production and labor would be unduly disadvantaged as a result of new zone activity, it could and should be restricted or denied. These protections are built into the TAP proposal.

TAP Does Not Unilaterally Reduce Tariff Rates or Result in a Unilateral Tariff Concession

TAP would permit the U.S. Foreign-Trade Zones Board to allow tariffs at finished product rates under a free trade agreement, only if the user meets the applicable rules of origin for that agreement, and the proposal is not against the public interest. No trading partner would be able to count on a “tariff concession” because the manufacturing activity is approved on a case-by-case basis, as is the case now with respect to inverted tariff benefits in FTZs. Negotiation of new agreements, balanced by concessions in favor of the United States, would be necessary for increased market access to the United States. TAP does not diminish U.S. bargaining leverage at all with respect to our trading partners. TAP only allows U.S. manufacturers to compete on a level playing field with producers in FTA countries that already provide duty free access to the U.S. market of non-FTA parts as long as the rules of origin are met.

It should be clearly understood that precisely the same kind of access to the U.S. market is currently provided to those same third countries, whose parts can access the United States market through factories in FTA countries, where parts can be incorporated into finished products and sent free of duty into the United States market.

TAP Does Not “Reward” Companies with Low U.S. Content

Companies with low U.S. content are not “rewarded” because they must meet the applicable rule of origin and show that products from that country are or are likely to enter the United States market at preferential tariff rates. To meet the rule of origin, the applicant would have to have as much regional content as the rule of origin requires. Under all free trade agreements, regional needs to equal or exceed a certain percentage (under NAFTA, 62.5 percent). No U.S. factory could take advantage of TAP unless its production meets the rule of origin required for imports from that FTA country. Low U.S. content is not an advantage or a disadvantage; moreover, non-FTA content is permitted (in NAFTA up to 37.5 percent) for production in Canada or Mexico that is destined for the U.S. market. TAP would only allow the same parts content levels for U.S. production destined for the U.S. market. TAP would encourage more production in the United States and thereby incentivize some manufacturers currently producing in the United States to increase domestic sourcing in order to meet the rules of origin of applicable agreements and to benefit under TAP or to maintain production volumes in the U.S. rather than shift them to other countries. The U.S. Foreign-Trade Zones Board would perform this kind of review and analysis as part of its review of public interest arguments presented in order to justify TAP benefits.

Customs Revenue Loss Will Be Less Than \$200 Million According to NAFTAZs Analysis - Higher Figures Are Based on Uncertain or Incorrect Assumptions

TAP would permit U.S. manufacturers currently in FTZs to save on Customs duties. NAFTAZ has estimated that this revenue loss would be about \$189 million annually. The ITC has estimated a larger figure; but NAFTAZ has not been permitted access to the calculations, which are much higher than warranted based on our analysis. It is difficult to challenge data we are not allowed to see; but we stand by the analysis prepared by consulting economists Gary Hufbauer and Dean DeRosa in their study. While there is one suggestion that revenue losses would be much higher than \$189 million, this is based on assumptions entirely out of line with CBO analytical principles. For example, it is assumed without support that all domestically produced auto parts would be replaced by imports from non-FTA sources and that all U.S. auto producers would immediately enter FTZs and terminate domestic parts suppliers. These assumptions are not credible.

TAP is Consistent with U.S. WTO Obligations & Does Not Violate the Terms of Any Free Trade Agreement Currently in Force or Under Consideration

TAP is fully consistent with U.S. obligations under WTO agreements and under all existing free trade agreements to which the United States is a party.

TAP Would Not Affect Liability of Subject Imports to Antidumping & Countervailing Duties

Some have stated that TAP would allow zone users to avoid otherwise applicable antidumping and countervailing duties. This is not true. While in principle FTA imports can and do avoid U.S. antidumping duties because of substantial transformation in intermediate FTA countries, this benefit does not apply to U.S. foreign-trade zones under current law and would not apply under TAP. The U.S. Foreign-Trade Zones Board Regulations at 15 CFR §400.33(b) require that all goods subject to AD/CVD be admitted to FTZs in a special status that preserves the obligation to pay applicable AD/CVD upon removal from the zone and entry in the U.S. commerce. Any suggestion that TAP would create a loophole for trade remedy cases is false.

Some Have Asserted That the Impact of TAP is to Merely Shift Jobs from Outside of FTZs to Inside of FTZs - This is a Fundamental Misunderstanding of the Economic Analysis & Impact of TAP

The employment gains reported in the TAP proposal study entitled, *"The Economic Impact of Trade Agreement Parity for Manufacturing Firms Operating in U.S. Foreign-Trade Zones"* by Dean DeRosa and Gary Hufbauer are estimates of the increased number of full-time equivalent jobs in FTZ subzones. The study is conservative and assumes a fully employed US economy. Therefore, no net gain in US employment is assumed to result from adopting the TAP proposal, and the wage gains to the US economy (reported in Table 6 of the study) solely represent the earnings premium that the new FTZ workers are expected to enjoy in moving to export-oriented jobs offered by the multinational firms operating in the FTZ subzones -- conservatively estimated at 7 percent of the average wages and salaries of workers in the same US industries.

Notably, however, if the US economy slips into a period of slow growth or recession and rising unemployment during 2008, then the study's projected increase in FTZ jobs would represent a net short-term gain in US employment, and its assessment of the wage gains benefitting the US economy would be significantly underestimated.