

South American and US Trade, Foreign Trade Zones, and Opportunity Zone Funding

On 9 July 1816, Buenos Aires declared independence from Spain.¹ This was a catalyst for US recognition of independent South American countries across the continent. With new potential for diplomatic relations, in 1817, US Senator Caesar Rodney and two other diplomats were appointed by US President James Monroe to serve diplomatic missions as members of the South American Commission of 1817 – 1818. Commissioner Rodney was appointed the lead commissioner. The commission's objective was to determine whether newly organized and independent South American republics could and should be diplomatically recognized. Amongst other benefits, recognition would allow the flow of trade between countries.

At the end of the commission's investigation and discovery period, the commissioners strongly advocated for Buenos Aires and other South American country recognition.² Five years later, on 27 January 1823, Buenos Aires was officially recognized by the United States, and Commissioner Rodney was appointed the American Minister Plenipotentiary to the Rio de la Plata provinces.³ One year later, after a short and productive foreign service career, in 1824, Senator Rodney died at his post in Buenos Aires. Today, he peacefully rests in Buenos Aires' St John the Baptist Cathedral.⁴ His resting place is a symbol of North and South American cooperation, peace, and respect between the countries.

Diplomatic relations between the two continents, since Ambassador Rodney's recommendation, have been mutually beneficial, and in three short years, the countries will celebrate 200 years of collaboration. This long-standing diplomatic recognition has led to significant trade between the two continents.

Since then, trade agreements have been forged. For Argentina, the agreements resulted in \$13.0 billion worth of import and export activity between the two nations in 2019.⁵ Today, several agreements comprise the international trade framework. Bilateral trade primarily functions under the 2016 *Trade and Investment Framework Agreement* (TIFA). Additional fair-trade subordinate documents include a *Memorandum of Understanding for Supporting Small and Medium Enterprise Development*, and the *Tax Information Exchange Agreement* ensures fair tariffs are applied, and trade is equitably measured. To support new and existing businesses, a *Digital Economy Working Group* was created to enhance and protect future trade mechanisms; a *Commercial Dialogue between the US Department of Commerce and the Argentine Ministry of Production* was formed to allow consistent communications between the nations; and a *Forum on Innovation and Creativity for Economic Development* was formed to create mutually beneficial entrepreneurial ideas flowing between the nations.⁶ Several South American nations have similar agreements.

¹ US Office of the Historian, <https://history.state.gov/countries/argentina>

² Wikipedia, https://en.wikipedia.org/wiki/Caesar_Augustus_Rodney

³ US Office of the Historian, <https://history.state.gov/countries/argentina>

⁴ Wikipedia, https://en.wikipedia.org/wiki/Caesar_Augustus_Rodney

⁵ US Census Bureau, <https://www.census.gov/foreign-trade/balance/c3570.html>

⁶ US State Department, <https://www.state.gov/u-s-relations-with-argentina/>

TIFA was crafted with the objective for removing trade impediments between the nations. It is governed by a *Council on Trade and Investment*. To ensure equity between nations, the *Council* is co-chaired by the Argentinian Ministry of Foreign Affairs and Worship and the Ministry of Production, while the US Representative is from the Office of Trade. The Council meets annually and is not limited to governmental perspectives. It seeks private sector advice.

There are several ways for a South American business to engage in US business transactions. The first example is through exporting. Simply, a South American business can produce a good or service and export it to the United States. The goods are loaded onto a transportation mode, the necessary documentation is transferred, and the goods are delivered. Dependent upon the business' operational strategy, shipping can be done over land via long-haul trucks and/or railroad, by oceanic ships, or by air.

In the United States, a significant amount of international trade goes through Virginia. Hampton Roads, Virginia is a metropolitan statistical area comprised of 1.7 million people, and many workers, within the fifteen metropolitan cities and counties have careers supporting international trade. Much of this is attributable to the area's advanced marine shipping terminals and the bay's deep draft. With a draft of fifty-five feet, and berths of fifty feet, the port can accommodate Ultra-Large Container Vessels (ULCV). To accommodate the ULCVs, the terminals are equipped with high tech apparatus. The 567-acre Norfolk International Terminal is equipped to handle fully laden cargo utilizing fourteen ship-to-shore post-Panamax cranes and has a container holding capacity of more than one million units.

The Norfolk terminals have additional terminals on the western shore of the Elizabeth River in Portsmouth, VA. Both berthing areas are supported by a robust multi-modal ground transportation network and sophisticated operational capabilities. Terminals have direct on dock rail access accommodating second-day double stack service to inland markets. They also have barge capabilities. To increase trucking efficiency and productivity, the Portsmouth terminal utilizes an award-winning trucker reservation system. In anticipation of future needs, the Port of Virginia also has a dredging project underway to further deepen the draft. It will be complete in four years.

In 2019, the Port of Virginia set a record for container cargo volume. It handled 2.93 million twenty-foot containers. In addition, the Port completed its Southeast In-Transit Cold Treatment Pilot program and can now accommodate imported perishables from South America. In conjunction with this initiative, the Port increased its capacity to handle additional refrigerated cargo. The Port's activity supports the employment of 397,000 workers and generates \$92 billion of economic impact within the Commonwealth of Virginia.⁷

Capitalizing on the unique characteristics of the port, the Hampton Roads metropolitan area has been designated a foreign trade zone (FTZ). This is highly beneficial for South American importers. FTZs are secure duty-free sites supervised by the US Bureau of Customs and Border Protection (CBP).

With 86 years of experience, the 1934 FTZ legislation is very well established and streamlined. There are 330 active production operations nationally and 3,300 firms operating within FTZs. Today, the top ten goods transitioning through FTZs are oil, electronics, vehicles, consumer products, vehicle parts, electrical

⁷ Virginia Port Authority, <https://www.portofvirginia.com/>

machinery, pharmaceuticals, machinery/equipment, textiles, and metals. 31% of FTZ activity is machinery/equipment; 27% are electronics; 15% textiles; and 10% food products.

Currently there are 52 businesses operating under the auspice of the Port of Virginia's FTZ. The top three businesses are USUI International Corporation (a manufacturer of vehicle parts), Canon Virginia, Incorporated (a custom manufacturing facility), and Germany's Stihl, Incorporated (a power hand tool manufacturer).

Two of the FTZ benefits are the deferral of duties and lower duty rates. While the zones are located on US soil, the activities within remain duty free until activity within the zone causes a duty related change; moreover, if a product is shipped from one FTZ to another of the 194 FTZs, duty deferral status is retained. Like the TIFA objectives, FTZs were created to facilitate and expedite international trade. These two benefits exemplify this objective.

Within the FTZs, monitoring and enforcement are necessary to preclude misuse of the zones. The CBP performs these importation functions, and while in the zone, imported merchandise is placed under the CBP purview.

FTZs are ideal for production activities. South American businesses have an opportunity to export components to an existing FTZ firm, create an FTZ joint venture, or establish an FTZ operation within the zone. Production is defined as an activity involving the substantial transformation of a foreign article or a change in the condition of the article resulting in a CBP consumption classification change. Merchandise can be assembled, exhibited, cleaned, manipulated, manufactured, mixed, processed, relabeled, repackaged, repaired, salvaged, sampled, stored, tested, displayed and destroyed. While transformations are permitted, retail trade within the FTZ is prohibited.⁸

To apply for FTZ consideration, applicants contact the Port of Virginia's Economic Development Manager and Foreign Trade Zone Administrator. The manager is Laura Smith (757-683-2135 or lsmith@portofvirginia.com). To ensure site compliance, a visit with the Port is arranged.

Prior to submission of an FTZ application, a landowner agreement is necessary. The granting of FTZ access is predicated upon site location or special designation. While there are potential exceptions, generally, the location must be within 60 minutes or 90 miles of the Port of Virginia. Once a site is identified for use, the landowner must consent to the FTZ designation. The agreement will require the landowner to accept all responsibility for maintaining the FTZ designation. If the land is leased, an FTZ agreement between the property owner, business operator, and the Port of Virginia is required.

In addition to the landowner agreement, a Zone Site Operator agreement will be required. The operator assumes and accepts all responsibility for the operation, management, and maintenance of the site.

Once the landowner and operator agreements have been created, the application, agreements, and fees are submitted to the Port of Virginia for permission to operate. Subsequently, the Port submits the application to the FTZ 20 Board. Within 30 days, the FTZ Board will review and accept or decline the

⁸ Foreign Trade Zone FAQs, <https://enforcement.trade.gov/ftzpage/info/ftzstart.html>

application. If accepted, an operator agreement between the FTZ and Port will be authorized. Upon approval, the Port will notify the business entity, and the business can begin the site activation process.

Based upon the agreement date, the operator has one year to file its activation application. Upon activation, the operator gives US officials the right of workplace entry at any time during normal business hours. Once the activation application is completed, it is submitted to the Port of Virginia. Notification is in writing and will need to accompany a copy of the CBP activation letter. Subsequently, it is submitted to the CBP.

Once activation has been authorized, each year, the operator agrees to submit an annual FTZ report.⁹

As stated earlier, the FTZ offers duty deferrals and potential for lower duty rates. In addition, tangible property tax exemptions are issued. Once imported goods leave the FTZ and enter the US for commerce, duties will be due. Such tangible business property such as office furniture, fixtures, other equipment (FF&E), and consumables like food, water, some fuels and supplies are not tax exempt from state and local taxes, but they are not subject to duties, either. Overhead costs, labor, and profits are also exempt from duties.

If machinery is imported to transform products or produce them, FTZ operating machinery duties are deferred until the machinery is put into production.

If a good is transformed and re-exported, no duty is due. In addition, scrap does not generate a duty.

One previously mentioned benefit for operating within an FTZ is the duty rate. When a good is produced within the zone, the duty is based upon either the entry rate of the good or the transformed rate of the finished product.¹⁰ The business makes the choice.

When goods or components are imported into an FTZ, the weekly filing rate will not exceed \$485; consequently, maximizing imports on a weekly basis will minimize filing fees; furthermore, goods can remain in a zone indefinitely.¹¹

Since Argentina is hosting this presentation, I will use it as an export demand example. Currently, Argentina's primary exports to the United States include mineral fuels, aluminum, silver, wine, seafood, and agriculture. Mineral fuel exports are primarily petroleum, seafood exports are crustaceans, and agriculture is primarily comprised of fruit and vegetable juices, fresh fruit, essential oils, and tea.¹² Using an FTZ could protect the firms profits.

For some Argentine firms, establishing a North American headquarters may be the best strategy. In Virginia Beach, Germany's Stihl, Inc. is an example. Many other international companies have chosen Virginia Beach for their North American operations. Brazilian marble countertop wholesaler, ARC Natural

⁹ Virginia Port Authority FTZ establishment process,

https://wp.portofvirginia.com/pdfs/foreign_trade/2013_zoneschedule_virginia_port_authority.pdf

¹⁰ FTZ Manual, <https://www.cbp.gov/sites/default/files/documents/FTZmanual2011.pdf>

¹¹ Foreign Trade Zone #20, <https://www.portofvirginia.com/our-customers/economic-development/foreign-trade-zone-20/>

¹² Office of the US Trade Representative, <https://ustr.gov/countries-regions/americas/argentina>

Stone, USA, Inc., is another example of nearly 50 international operations representing nineteen nations in Virginia Beach.¹³

A newly instituted federal incentive program could indirectly benefit international businesses. It is the Opportunity Zone (OZ) program.¹⁴ It is designed to encourage US investors with capital gains to capitalize operations within lower income communities. Typically, when an investor sells shares, a business, or real property, a profit is generated. These capital gains are subject to taxation. If an investor commits the gain to an OZ Fund, taxation is deferred for five years, and the rate of taxation is reduced by 10%; moreover, if the investment is left in the business for ten years and the investor sells its interest at a profit, the newly acquired capital gain is tax exempt.

According to government statistics, \$75 billion has been invested into these funds.¹⁵ Once investments have been received, business creation opportunities are sought. Some are looking for entrepreneurial and visionary potential. For instance, alternative energy opportunities are popular. Recently, wind energy was introduced off the coast of Virginia Beach. OZs will likely have a manufacturing role in the City.

To connect potential joint ventures with international businesses, the Commonwealth of Virginia has established Opportunity Virginia. Opportunity Virginia's mission is to facilitate opportunity zone partnerships. The point of contact for Opportunity Virginia is Rebecca Richardson (<https://www.opportunityva.org/contact>).¹⁶

In Virginia Beach, there are eight opportunity zones. The Corporate Landing OZ is a business park hosting the landing site for the highest capacity submarine fiber cables in the world.¹⁷ MAREA spans the Atlantic Ocean from Bilbao, Spain, and BRUSA hugs the eastern America continental coasts and starts at Rio de Janeiro. Microsoft and Facebook were the primary funding sources for MAREA. MAREA's capacity has been rated at 200 terra-bytes per second (Tbps) and BRUSA 138. These next-generation cable systems will supply ultrafast broadband connectivity with South America and Europe. Google will land a third broadband system later this year. It is known as Dunant. It will use a new 12 fiber-pair Space Division Multiplexing system to boost the transmission speed to 300 Tbps. These landings have motivated the building of data centers. The Corporate Landing OZ would be an ideal site for a South American technology company.

The Seatack OZ accommodates tourism amenities. Located next to the pristine beaches and a creative art district,¹⁸ the zone hosts a LEED certified and internationally renowned convention center with more than half a million square feet.¹⁹ Across the street, a new state of the art indoor sports center has been

¹³ 2020 City of Virginia Beach Community Profile

¹⁴ Opportunity Zones, <https://www.yesvirginiabeach.com/business-districts/Pages/Opportunity-Zones.aspx>

¹⁵ <https://thediwire.com/white-house-report-reveals-opportunity-zones-attracted-75-billion-in-private-capital/>

¹⁶ Opportunity Virginia, <https://www.opportunityva.org/>

¹⁷ Intercontinental Fiber Landing Site, <https://www.yesvirginiabeach.com/Key-Industries/information-services/Pages/digital-port.aspx>

¹⁸ ViBe Creative District, <https://vibecreativedistrict.org/>

¹⁹ Virginia Beach Convention Center, <https://www.visitvirginiabeach.com/convention-center/>

constructed. The grand opening will be soon. More than 100 hotels support these venues.²⁰ The Seatack OZ would be an ideal site for a South American culture driven company.

The Oceana OZ is adjacent to the largest US Navy Master Jet Airbase.²¹ NAS Oceana hosts a military force of nearly 20,000 military members (including the elite Navy SEAL teams), civilian employees, many defense contractors, and the newest F/A-18 Super Hornet fighter jets. The Oceana OZ would be an ideal site for a South American defense company.

The Hilltop OZ is one of the city's retail districts and is adjacent to a large hospital and medical center. The health care industry is one of the largest in the community. The industry is supported by four hospitals, a biomedical park, and research facilities. The biomedical park was created to advance medical breakthroughs in diabetes, neurosciences, heart disease, and brain injuries.²² Nearby, LifeNet Health and Sanyal Biotechnology are headquartered. LifeNet is a medical research facility and leads the nation in tissue and organ research as well as regenerative medicine.²³ Sanyal leads the nation in liver research and has patented its DIAMOND Mice technology.²⁴ The Hilltop OZ would be an ideal site for a South American biotechnology companies.

The Lynnhaven OZ is adjacent to the West Oceana Corporate Park and is home to a large shopping mall.²⁵ The park hosts the globally recognized Stihl power hand tool manufacturer,²⁶ the long-term presence of Hermes Abrasives,²⁷ and the advanced manufacturing company IMS Gears.²⁸ The Lynnhaven OZ would be an ideal site for a South American advanced manufacturing company.

The Bonney OZ is adjacent to the City's central business district. The district is headquarters for the Armada-Hoffler Properties real estate developer,²⁹ headquarters for the architectural and engineering firm Clark-Nexsen,³⁰ and accommodates the elite retailers: Nordstrom Rack, Diamonds Direct, and REI. In addition, the central business district hosts the tallest building in the state. It is the luxury class Westin Hotel and lies adjacent to the Sandler Center for the Performing Arts. The Bonney OZ would be an ideal site for a South American financial or professional company.

Ideal for manufacturing, the Burton Station OZ has immediate access to the Norfolk International Airport and the Buckingham rail line. The rail bed runs directly through the OZ and to the Port of Virginia's Norfolk terminals. The OZ includes the Airport Industrial Park.³¹ Many manufacturing companies would find synergistic capabilities within the park.

²⁰ Virginia Beach Sports Center, <https://www.visitvirginiabeach.com/virginia-beach-sports-center/>

²¹ NAS Oceana, https://www.cnic.navy.mil/regions/cnrma/installations/nas_oceana.html

²² Biomedical Park, <https://www.yesvirginiabeach.com/Key-Industries/Pages/Biomedical-Life-Sciences.aspx>

²³ LifeNet Health, <https://www.lifenethealth.org/>

²⁴ Sanyal Biotechnology, <https://www.sanyalbio.com/>

²⁵ West Oceana Corporate Park, <https://www.yesvirginiabeach.com/business-districts/Pages/oceana-apz-1.aspx>

²⁶ Stihl, Inc, <https://www.stihlusa.com/products/>

²⁷ Hermes Abrasives, <https://www.hermes-schleifwerkzeuge.com/north-america/en/company/hermes-worldwide/hermes-usa-virginia-beach.html>

²⁸ IMS Gears, <https://www.imsgear.com/en/products>

²⁹ Armada Hoffler Properties, <http://armadahoffler.com/>

³⁰ Clark-Nexsen, <https://www.clarknexsen.com/>

³¹ Airport Industrial Park, <https://www.yesvirginiabeach.com/business-districts/Pages/airport-industrial-park.aspx>

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