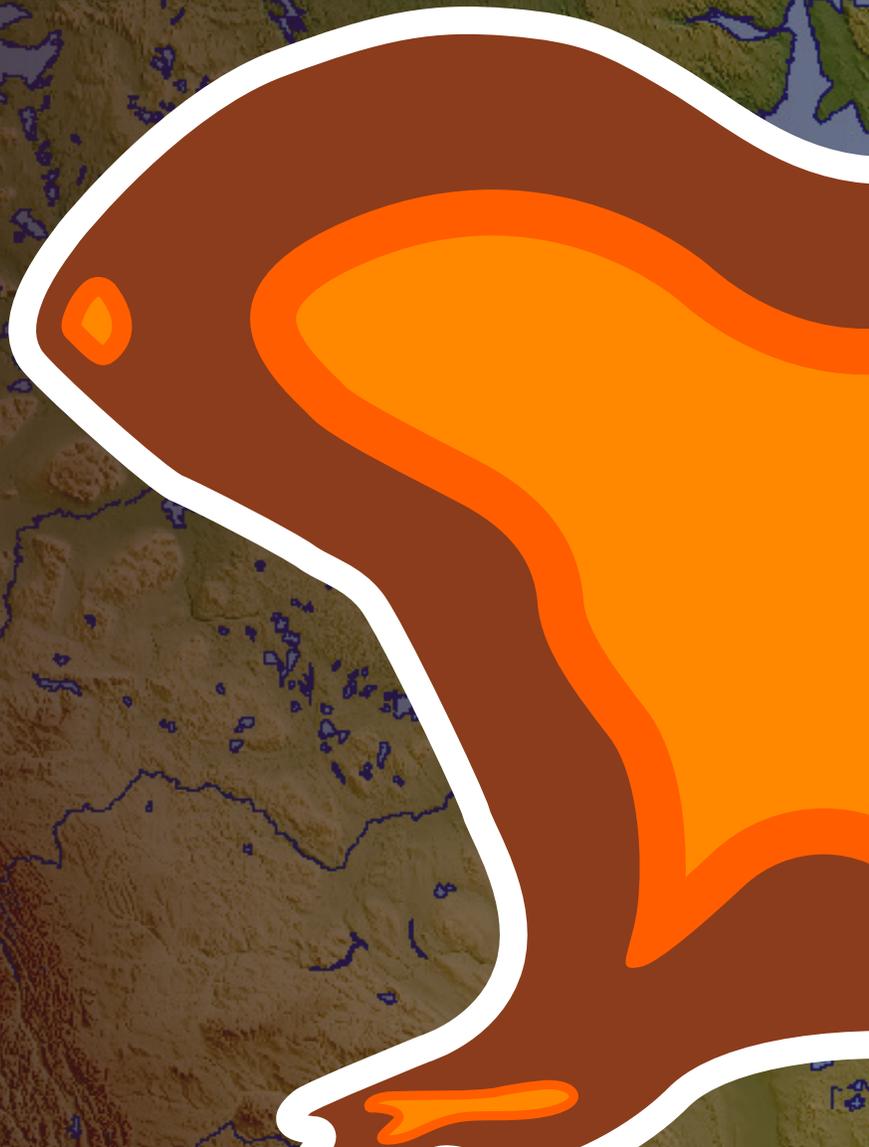




CANADIAN COUNCIL FOR
INDIGENOUS
BUSINESS

Indigenous Foreign Trade Zones



Key Takeaways:

- Indigenous peoples have engaged in trade since time immemorial. Numerous treaties and UNDRIP Article 36 affirm the rights of Indigenous peoples to engage in international trade, particularly as a means of economic self-determination.
- FTZs established by Indigenous nations support the generation of own-source revenues, expanded business opportunities and employment opportunities, facilitate inter-tribal trade, and are an expression of economic self-determination in trade matters.
- Enabling Indigenous communities in Canada to establish FTZs on their territories and facilitating Indigenous businesses use of Native American FTZs, such as those developed by the Iowa Tribe of Kansas and Nebraska and the Citizen Potawatomi Nation, would help mitigate the impacts of tariffs and support the re-establishment and expansion of historical trade routes.

Background:

Foreign trade zones (FTZs) are one specific example of a Special Economic Zone. Similarly, FTZs are also areas designated by a government as eligible for tariff and tax exemptions. Often, goods and materials that are brought into an FTZ for re-exporting into foreign or domestic markets will not be subject to taxation or duties. Other benefits of an FTZ include duty elimination, duty deferrals, and inverted tariffs. Reduced inventory costs for businesses operating inside an FTZ can increase their international competitiveness.

In Canada, FTZs are not location-based. This is in contrast to FTZs in other jurisdictions. There are ten designated FTZ points in Canada, which act as “strategic locations of international trade,” operating as a single point of access for information on government trade programs and policies.¹ Canada’s FTZ regime comprises a series of programs administered by the Canadian Border Services Agency, including a Duty Deferral Program, the Export Distribution Centre Program, and the Exporters of Processing Services Program.²

¹ Government of Canada, “Foreign Trade Zone,” <https://www.canada.ca/en/department-finance/programs/international-trade-finance-policy/foreign-trade-zone.html#a1>.

² Ibid.

Q1 Policy Brief - Indigenous Foreign Trade Zones

To access these programs, applicants can be anywhere in the country and simply need to submit an application through CBSA or CRA. However, to establish an FTZ point, a proponent must initiate a request to establish an FTZ Point

- An economic priority for the region (as identified by local/provincial governments)
- Private sector leadership and commitment
- Dedicated governance body (through legislation/incorporation)
- Having secured local and provincial government support to participate in the task force

through their local Regional Development Agency. This triggers a process involving relevant departments and agencies across governments whereby the request is assessed against a broad set of considerations, including:

- Favourable business environment
- Available land
- High quality infrastructure
- Active participation in and connection to global supply chains
- Access to a skilled labor force
- Access to a multimodal transportation system

By contrast, in the United States of America, FTZs are location-based. For a location adjacent to (within 60 miles/90 minutes' driving time) a U.S. Customs and Border Protection (CBP) Point of Entry (POE), there are two primary approaches for pursuing FTZ designation for a tribal site:

1. Propose the authorization of a new FTZ grantee to sponsor the tribal site. Under this option, if the POE for which the tribe claims "adjacency" is already served by one or more existing FTZs (grantees), the tribe would face the uncertainty of whether it would be able to meet the legal standard for approval of a new FTZ (to demonstrate that the existing FTZs are not adequately serving the "convenience of commerce").

2. Obtain the sponsorship of a pre-existing FTZ grantee. Under this option, the tribe would not face the uncertainty of whether the tribe would be able to meet the legal standard for approval of a new FTZ. The Citizen Potawatomi Nation chose to work with an existing FTZ grantee for the application for FTZ designation at the tribe's industrial park. The FTZ Board began processing the application in August 2014 and approved the application in April 2015.

Q1 Policy Brief - Indigenous Foreign Trade Zones

For a location beyond 60 miles/90 minutes' driving time from a POE, the only approach would be to pursue sponsorship as a "subzone" from a pre-existing grantee in the same state.

The USA is the only country that has FTZs utilized by Indigenous communities. If a tribe decides to create a tribal corporation, the corporation is eligible to establish a Foreign Trade Zone.³ Since the creation of the FTZ

program in 1934, at least seven tribes have sought FTZ approval for tribal locations. These include the Citizen Potawatomi Nation (Oklahoma); Cabazon Band of Mission Indians, Torres Martinez Desert Cahuilla Indians, and Twenty-Nine Palms Band of Mission Indians (California); Puyallup Tribe of Indians (Washington); Oneida Nation (Wisconsin); Lummi Nation (Washington); and Iowa Tribe of Kansas and Nebraska.

Example 1: Citizen Potawatomi Nation - Iron Horse Industrial Park

- In 2014, The Citizen Potawatomi Nation requested the addition of a tribal industrial park to a pre-existing FTZ. This request was approved, and the outcome was the Iron Horse Industrial Park, located on traditional Indigenous trust land in Oklahoma, USA. This 700-acre general-use industrial park is close to several highways and railroads, which provides connections to international ports and, in turn, access to foreign markets. According to the Citizen Potawatomi Nation, Iron Horse Industrial Park's close proximity to railways enables and lowers the cost of trade because it is less expensive to transport materials by rail. Additionally, as the Iron Horse Industrial Park is an FTZ, duty deferral or elimination is offered on certain goods. For example, taxes are only applied when materials leave the FTZ to be sold in the USA. Other benefits include inverted tariffs, quality control, increased flexibility, and reduced merchandise processing fees. Iron Horse Industrial Park is an active example of an Indigenous community utilizing an FTZ to their advantage, enhancing their competitiveness as a hub for trade and export and stimulating Indigenous economic development.

Example 2: Iowa Tribe of Kansas and Nebraska - RE7 Foreign Trade Zone

- In June 2024, the Iowa Tribe of Kansas and Nebraska (ITKN) activated a FTZ in Forest City, Missouri. Located on the tribe's ancestral lands on the eastern banks of the Missouri River, RE7, a warehouse and logistics hub in the FTZ, is able to utilize its proximity to a river, airport and major highways to quickly access most of the United States – currently being able to provide 2-day shipping to 80% of the country. The facility has an automated warehouse, barge services, and cold storage. By 2025, RE7 should be able to handle transfer, distribution, and fulfillment services. Along the way, the facility will provide workforce development opportunities, as well. The FTZ is also expected to contribute substantially to the generation of own-source revenues for the Nation. By providing a trade hub for other Indigenous producers, ITKN can also support increased market access for Indigenous businesses.

³ U.S. Department of the Interior. Native American Foreign Trade Zones. <https://www.bia.gov/sites/default/files/dup/assets/as-ia/ieed/ieed/pdf/Primer%20on%20Native%20American%20FTZ%20508%20Compliant%202.6.18.pdf>, pg. 2.

Recommendations:

1. Establish mechanisms to recognize Indigenous foreign trade zones, as defined and regulated by Indigenous peoples.

Enabling the recognition of Indigenous FTZs is a step towards economic reconciliation and is aligned with Indigenous self determination and sovereignty. Establishing Indigenous FTZs would allow for increased engagement of Indigenous businesses and increase their global competitiveness. Indigenous corporations can take utilize an FTZs lower duties to import parts or materials to assemble into a final product or re-sell those materials to other countries and avoid duties. In certain circumstances where there is no duty on the final product, duties can be avoided completely by importing materials and manufacturing the materials into that given product. By leasing or renting different portions of their FTZ to other companies, Indigenous corporations can also gain revenue or equity in a company as compensation, thereby generating own-source revenues. By incentivizing private investment and the development of manufacturing capabilities, FTZs have the potential to improve economic situations for Indigenous communities by reducing costs, encouraging the growth of new and existing businesses, increasing employment opportunities, supporting engagement in supply chains, the development of ancillary industries, and enabling them to avoid retaliatory tariffs.

2. Facilitate connections between Indigenous businesses and economic development corporations in Canada with their counterparts utilizing FTZs in the United States.

Supporting Indigenous peoples in Canada to engage with their counterparts in the United States, particularly those with FTZs, is consistent with facilitating Indigenous trade. Connections with Indigenous clients or partners world-wide (65%) and lower tariffs (45%) are cited by Indigenous exporters as some of the top trade supports and policies that would increase their ability to engage in trade.⁴ As such, working to facilitate the use of FTZs could be a mechanism to support the development of Indigenous-to-Indigenous trading relationships and cross-border Indigenous supply chains. The establishment of these mutually beneficial relationships would reinvigorate Indigenous trade connections, ensure that economic benefits are retained by Indigenous communities, and provide a competitive advantage for Indigenous businesses by enabling them to pay lower duties.

⁴ Canadian Council for Indigenous Business (2024). Atāmitowin: Identifying and overcoming challenges facing Indigenous exporters. https://www.ccab.com/wp-content/uploads/2024/09/ccab_report_english_digital_FINAL.pdf, pg. 41-42.