Tax Systems and Barriers to Great Lakes Maritime Commerce

Final Report

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October 2006

Great Lakes Maritime Research Institute

A University of Wisconsin-Superior and University of Minnesota Duluth Consortium

Research funded in part by the Great Lakes Maritime Research Institute

Acknowledgements

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Andy McDonald, Senior Planner, Metropolitan Interstate Committee (MIC), Metropolitan Planning Organization (MPO) for the Duluth-Superior
Mark Ross, United States Department of Treasury, Bureau of the Public Debt, Office of Public Debt Accounting, Trust Fund Management Branch.
University of New Orleans, NPWI, and SCOOP
Rodriguez, O'Donnell, Ross & Fuerst
Great Lakes & Ohio River Division, Army Corps of Engineers Dredging Districts

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Executive Summary

This project inventories the tax impact on the Great Lakes marine transportation system imposed by federal regulations. This project also identifies the unique tax burdens placed on the commercial maritime regulatory process in the Great Lakes, and presents an analysis of the Great Lakes maritime tax structure focusing on its most significant tax, the Harbor Maintenance Tax (HMT). Finally this project discusses possible changes to the current tax structure to improve the efficiency of port maintenance tax collection and expenditure, and to improve intermodal transportation fuel efficiency. This study was funded by a grant from the Great Lakes Maritime Research Institute.

The primary public policy intent of this study is to advance understanding of the tax structure of commercial maritime on the Great Lakes. The primary purpose of this study for the research team at the Labovitz School of Business and Economics is to accomplish the contract's goals and objectives, and to suggest methods for increasing efficiency in the relationship between tax policy and commercial maritime operations.

The inventory database includes individual assessments currently levied on the commercial maritime industry by federal agencies (119 assessments) derived from data published by the United State General Accounting Office.

Each data record is made up of variables which include: assessment name; description of the assessment; agency that levies the assessment; type of service provided; tax, or duty associated with assessment; type of vessel the assessment is levied on; commerce type of vessel the assessment is levied on; flag type of vessel the assessment is levied on; payor of the assessment; entity that collects the assessment; type of fund that receives the collections; entity that uses the collections; formula and frequency of assessment; collection amounts for FY 1989 through FY 1991, FY 1996 through FY 1998, and estimated collections for FY 1999; collection limitations; and laws and regulations. Most variables have footnotes. The database is presented in Appendix A to this report (without notes) and the full data is available in digital format from the Great Lakes Maritime Research Institute.

Detailed views of these data presented in this report include tables for 1) Federal Commercial Maritime Assessments Other than Great Lakes and Federal Commercial Maritime Assessments Great Lakes Only; 2) Top Collections Assessments; 3) Tables of Assessments by Stakeholder; 4) Kinds of Assessments Levied on Great Lakes Commerce; and 5) Harbor Maintenance Tax Tables.

Tables also present U.S. Army Corps of Engineers' (USACE) port maintenance activity data by district within the Great Lakes & Ohio River Division. District data is also presented in detail by port, including ports in the districts of Buffalo, Chicago, Detroit, Huntington, Louisville, Nashville, and Pittsburgh.

As has been discussed in Stewart's 2003 Twin Ports Intermodal Freight Terminal Study[1] and Fruin and Fortowsky's 2004 Modal Shifts from the Mississippi River and Duluth/Superior to Land Transportation Study [2], beneficiaries of USACE dredging activity do not necessarily correspond with payors of the HMT. For instance, the HMT

paid by the now terminated Incan Superior railcar ferry (estimated at $200,000 in 1991) delivered no benefit to this vessel requiring a loaded draft of about 17 feet in a navigation channel of 27 feet [3]. The report includes an overview of beneficiaries of the HMT, with detailed Great Lakes port by port totals for 2000 to 2004 amounts spent for port maintenance supported by the collections of the HMT.

Following the presentation of the tax inventory, the U.S. Harbor Maintenance Tax is reviewed under the inquiry: "The U.S. Harbor Maintenance Tax, a Bad Idea Whose Time has Passed?"

The history of the Harbor Maintenance Tax is shown including legal challenges to the HMT's validity and problems with the harbor maintenance tax today. Implications of this history are discussed including the HMT's application to imports but not exports and how the HMT discourages the most fuel efficient means of transportation. Also presented are arguments showing the HMT unfairly taxes high value cargo when compared to low value cargo, that the HMT has prevented some types of waterborne transport from flourishing in the Great Lakes, and that as currently enacted the HMT is difficult to properly enforce. These findings suggest that the HMT is a barrier to international trade and may result in a shift in container-borne cargo to Canadian ports.

The report presents data from the U.S. Treasury Department of Public Debt which shows revenues and transfers of the Harbor Maintenance Trust Fund through 2005 and part of 2006. Tables for these data show that the HMTF generates substantially more revenue than the U.S. currently expends for harbor maintenance. Comparisons with the USACE activity by port suggest that income from the HMT is not fairly allocated to the commercial ports which generate HMT revenues; for instance, that the HMT does not allocate its tax burden to either ports which require the largest dredging expenditures, or vessels which require the deepest drafts, and that the income from the HMT is used for work at some ports but not others. The report also notes that HMT revenue is a small portion of total transportation tax revenue and a small portion of transportation spending.

Strategies and attempts to "fix" the HMT's flaws are also discussed, including the 1992 attempt to reduce the HMT; the trust fund excess/HMT rate reduction bill; the Harbor Services Fund; the Support for Harbor Investment Program Act of 1999; the container port exemption bill of 2002; the $100,000,000 import value port limit bill of 2003; the ferry borne trailer cargo exemption bill of 2004; the Short Sea Shipping Tax Exemption Act of 2005; and the Great Lakes Short Sea Shipping Enhancement Act of 2006.

Three proposals are presented in the HMT review: 1)Abolish the HMT and Fund Harbor Maintenance Using General Government Revenue; or 2) Abolish the HMT and Fund Harbor Maintenance Using an Increase in the Diesel Fuel Excise Tax; or 3) Institute a Short Sea Shipping Tax Credit. Each proposal shares the possible outcome of increased shipping activity on the Great Lakes. A conference call among port and shipping stakeholders confirmed the likelihood of some increase in shipping activity following the incentive provided by removing the tax.

The input-output modeling tool IMPLAN® provides a general estimate of the economic impact of possible increase in shipping activity. For purposes of estimation, the impact of an assumption of $1 million in increased shipping output for the economy of the State of Minnesota is reported in 2005 dollars. Value Added, Employment and Output measures are modeled here with three effects, sometimes referred to as "rounds of spending": the direct effect (the initial new spending), the indirect effect (additional inter-industry spending), and an induced effect (additional household expenditure from the direct and indirect impact). The modeling shows that for every million dollars in increased maritime shipping activity, the economy of Minnesota could see an additional total Value Added impact of $581,519, an additional $500,000 in Output, and almost eight new jobs added to the economy.

The report concludes by noting: Analysis of the federal assessment structure for current Great Lakes maritime commerce shows an array of 119 various fees, duties, taxes and other assessments. Among these the Harbor Maintenance Tax deserves special and immediate attention for reform as a failed taxation system that arose out of the "user fee fever" of the 1980s.

A substantial portion of the HMT's tax base was found to be unconstitutional by the U.S. Supreme Court, leaving an unbalanced, unfair and excessive tax in effect. The Harbor Maintenance Trust Fund continues to grow well beyond the amounts expended for harbor maintenance. At least nine attempts have been made to reform this failed system in the past ten years, none of which were successful. It's time for Congress to abolish this failed method of taxation and replace the revenue stream with funds from either the Treasury's general fund or funds generated by an increase in the diesel fuel excise tax.

Chapter 1: Introduction

1.1 Research issue.

This project inventories the tax impact on the Great Lakes marine transportation system imposed by federal regulations. This project also identifies the unique tax burdens placed on the commercial maritime regulatory process in the Great Lakes, and presents an analysis of the Great Lakes maritime tax structure focusing on its most significant tax, the Harbor Maintenance Tax (HMT). Finally this project discusses possible changes to the current tax structure to improve the efficiency of port maintenance tax collection and expenditure; as well as to improve intermodal transportation fuel efficiency.

This study was funded by a grant from the Great Lakes Maritime Research Institute.

The contract for this study has the following project description:

> *This topic addresses the tax impact on the Great Lakes (GL) marine transportation system (MTS) imposed by federal tax codes and regulations.*
>
> *This project will attempt to identify the unique tax burdens placed on the commercial maritime regulatory process in the Great Lakes.*
>
> *This project proposes to recommend methods for decreasing the tax impact on Great Lakes shipping from both a tax burden and a compliance standpoint and to offer a viable option for government to help ease the tax complexities that shipping companies face.*

The primary public policy intent of this study is to advance understanding of the tax structure of commercial maritime transportation on the Great Lakes.

The primary purpose of this study for the research team at the Labovitz School of Business and Economics is to accomplish the contract's goals and objectives, and to further the discussion of the possibilities for increasing efficiency in the relationship between tax policy and commercial maritime operations.

1.2 Background.

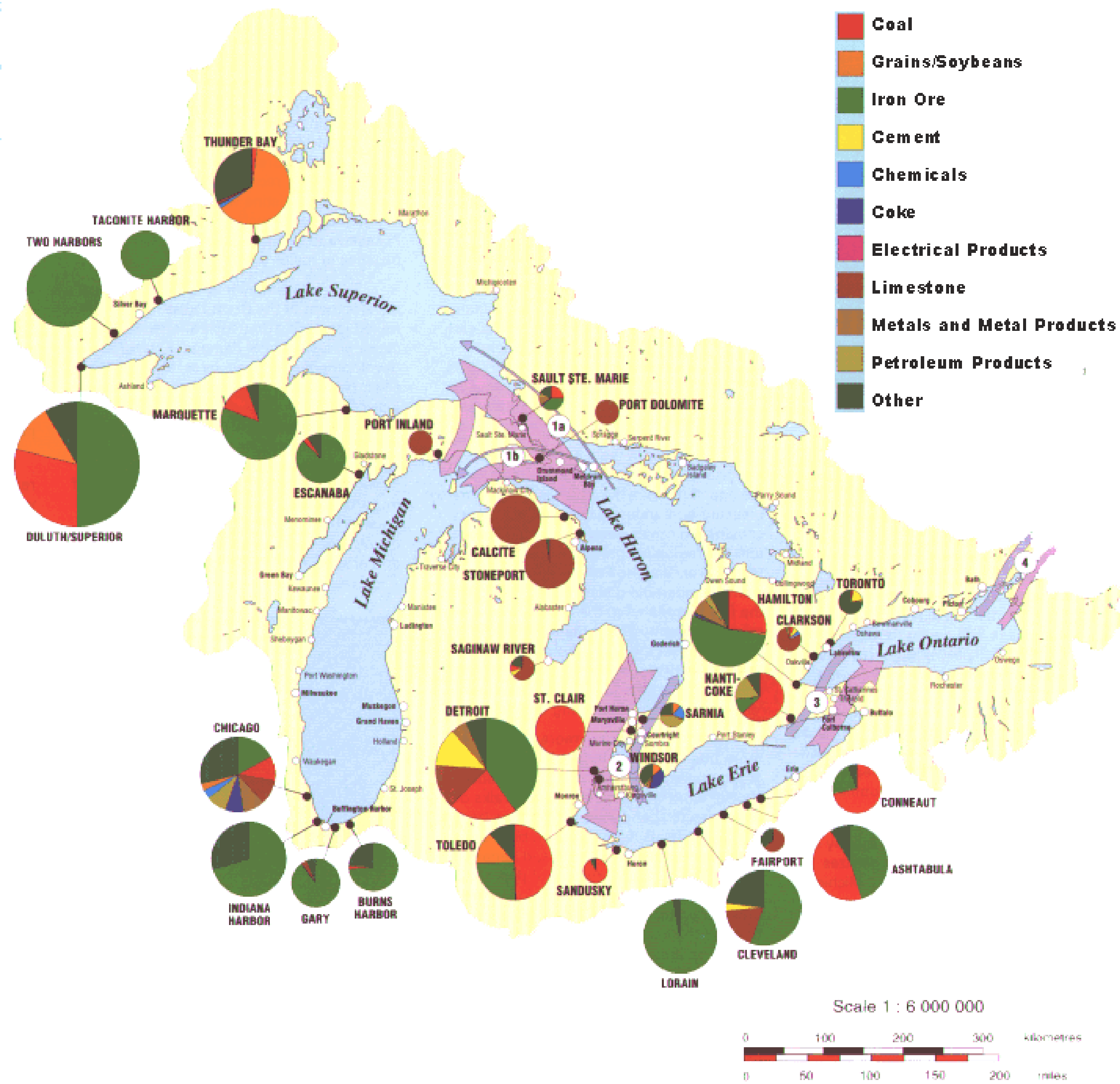

Figure 1: Overview of Ports on the Great Lakes: Waterborne Commerce, Cargo Volume by Port in Tonnes, 1990. *Source:* Great Lakes: An Environmental Atlas and Resource Book, EPA.

The Center for Naval Analysis notes that responsibility for managing U.S. ports and its waterways system is spread among various federal agencies and stakeholders. Management is fragmented and there is no mechanism for coordination [4]. The Center further indicates that unless all entities work together in unison, it will not be possible to ensure that all ships and cargoes can move efficiently into and out of U.S. ports, global prices will rise, and U. S. global competitiveness will drop.

Support for such a reformed tax system can be found with Great Lakes United, an organization devoted to sustainable development on the Great Lakes. In their presentation, “A Transportation Infrastructure to Sustain Our Economy” at the Moving Towards a Sustainable Great Lakes Conference held in 2003, the organization notes,

> “One way to sustainabl[y] develop the commercial navigation industry that should be given serious consideration is through tax reform. While this is a discussion unto itself, tax reform holds the potential to increasingly support the most fuel-efficient means of moving bulk goods as water levels change because of, largely, fossil fuel consumption itself. In other words, with tax reform, the role of commercial navigation could become more and more important…” [5].

The Great Lakes Commission’s Strategic Plan notes that in order to promote “[s]trong and growing commercial navigation on the Great Lakes and St. Lawrence Seaway” one important objective is to “promote the efficient and cost-effective movement of goods and people at the domestic and U.S./Canadian levels by eliminating infrastructure and policy barriers” [6]. One of these policy barriers is the myriad of taxes imposed on Great Lakes shipping.

Unfortunately, the importance of minimizing policy barriers on Great Lakes shipping has not been universally accepted. The Bush Administration’s fiscal year 2006 Budget contained a provision which would have imposed tolls on the U.S. portion of the St. Lawrence Seaway. As Minnesota Congressman Mark Kennedy noted,

> We believe this new fee will negatively impact agricultural exports from our states. Affordable commercial navigation is important to midwest farmers. Millions of tons of agricultural products such as wheat, corn, soybeans, oats, barley, peas and beans are exported through the Seaway each year. The Great Lakes shipping industry estimates that the toll proposal will add 30 cents to the cost of each ton of export grain. International grain sales are often won or lost by pennies per ton.
>
> Cost effective shipping is important to other economic sectors as well. The region's steel industry is heavily dependent upon the Seaway. In turn, the North American automotive industry relies upon cost effective steel products. At Great Lakes ports, thousands of Americans are employed on the docks as longshoremen, crane operators, warehousemen, truckers, cargo inspectors, tug operators, vessel agents, marine pilots, etc.
>
> The toll proposal discriminates against the Great Lakes navigation system and the shippers that rely upon it. In fact, it is the only new maritime user fee in the Administration's budget. Great Lakes ports compete with those on the East Coast and Gulf of Mexico for the handling of import and export cargoes. A new tax imposed exclusively on Great Lakes shipping will disadvantage products from our region, and possibly result in a diversion of cargo to other ports with a resulting loss of jobs on our docks.
>
> It is important to note that Great Lakes navigation system users are already paying

a user fee to support the operation and maintenance of the St. Lawrence Seaway (and other navigation infrastructure). The Harbor Maintenance Tax (HMT) was enacted in 1986 for that specific purpose. It is currently assessed at all Great Lakes and coastal ports. Revenue from the tax is deposited to the Harbor Maintenance Trust Fund, which today carries a surplus balance of $459 million. New Seaway tolls would represent double taxation of navigation system users for the same purpose [7].

Such a proposal takes a step away from strategic regulation of Great Lakes shipping, and instead looks at this enterprise as a revenue source to be utilized elsewhere within the government's budget. The proposed new toll on Great Lakes shipping, which in addition to dramatically increasing the tax cost to ship products through the lakes, would also include yet another layer of compliance for shipping companies. Rather than imposing such a new toll in an ad hoc manner, our research would propose a streamlined, simplified method for taxing shipped product. Chapter 3 of this report continues this discussion of possible changes to the tax structure.

1.3 Relevant literature

Data

Data sources for background to the tax structure presented in this report were derived from the following:

- United States. Maritime Administration. Dept of Transportation. Industry Survey Series: Great Lakes Operators 2005. Nov. 2005. 18 May 2006 http://www.marad.dot.gov/marad_statistics/ [8].

  This reports findings of a survey (conducted by the MARAD) of the U.S.-flag carriers who account for 93 percent of the 2004 domestic (lake) Great Lakes traffic, and includes data on annual cargo, industries supplied to, carriers' investment preferences. This work supplies data on annual cargo transported on the GL, and industries served.

- United States General Accounting Office. Maritime Industry: Federal Assessments Levied on Commercial Vessels (GAO/RCED-93-65FS, Mar. 5, 1993, and especially the supplement to this report, Commercial Maritime Industry: Supplemental Information on Federal Assessments (GAO/RCED-99-260S) [9].

  This key resource, and conversations with the U.S. Department of the Treasury, supplied the information from which data transcription for the assessment inventory was made.

– United States General Accounting Office. Commercial Maritime Industry: Updated Information on Federal Assessments, 09/16/1999, GAO/RCED-99-260) [10].

– United States General Accounting Office. Marine Transportation: Federal Financing and a Framework for Infrastructure Investments (GAO-02-1033 September 2002) [11].

– Great Lakes Waterborne Commerce. United States. Institute for Water Resources. Department of the Army Corps of Engineers. Waterborne Commerce of the US. 2004. 23 May 2006 [12].

  This source supplied tables about commerce on the Great Lakes, and includes definitions, details on freight traffic, and in specific data on ton-mileage/freight-tons of foreign and domestic freight carried on the Great Lakes.

Research Contributions

Researchers whose discussions furthered our understanding of the specifics of stakeholders' positions, such as the port authorities, vessel operators/carriers, terminal operators, trucking companies, warehouse or container freight station operators, railroads, importers and exporters, freight forwarders, cruise line operators, contract security forces, labor groups and dock workers, and trade associations include the following:

For background on Great Lakes Marine Transportation Systems:

– Stewart, Richard D. Great Lakes Marine Transportation System. Great Lakes Maritime Research Institute. 10 Mar. 2006 [13].

  This white paper was prepared for the Midwest Freight Corridor Study and reports current operations, strategies for optimizing the GLMTS and GL challenges (physical and non-physical, regulations).

– The Cleveland Trans-Erie Ferry Feasibility Study May 20, 2004 [14].

  The Cleveland-Cuyahoga County Port Authority authorized a feasibility study concerning the commencement of a ferry service on Lake Erie. An analysis of US and Canadian laws was done, and included helpful discussions such as
  Part 1: US laws and regulations, HMT, Dept. of Homeland Security and marine safety; Part 2: Canadian laws; Part 3: Index of US and Canadian laws most applicable to implementation of ferry service; Part 4: Three legal memoranda and special focus on HMT, truck cabotage and the Canadian Coasting Trade Act.

For St. Lawrence Seaway Traffic Report:

- St. Lawrence Seaway Management, Transport Canada and St. Lawrence Seaway Devel . US Dept of Transportation. St. Lawrence Seaway Traffic Report 2005 Navigation Season. 2005. 17 May 2006 www.greatlakes-seaway.com [15].

  Including St. Lawrence Seaway combined data tables on toll traffic, cargo, and ports.

For Environment Advantages of Waterborne Transportation:

- United States. Maritime Administration. Dept of Transportation. Environmental Advantages of Inland Barge Transportation. 1994 [16].

  Including discussion of energy efficiency of barge transportation results in environmental benefits and fuel savings.

- United States. Maritime Administration. Dept of Transportation. Transportation Mode Comparison Energy Environment Efficiency. 7 Jan. 2002. 6 June 2006 http://www.mvr.usace.army.mil/navdata/tr-comp.htm [17].

  Including discussion of relative energy efficiencies.

For status of HMTF:

- United States. Institute for Water Resources. Army Corps of Engineers. Status of the Harbor Maintenance Trust Fund Fiscal Years 2000, 2001, 2002. 12 June 2006 [18].

- And also conversation and data from the U.S. Department of Treasury for updated HMT revenues and transfers

For Bureau of Transportation Financials:

- United States. Bureau of Transportation Statistics. Dept of Transportation. Government Transportation Financial Statistics 2003. 2004. 9 June 2006 [19].

For articles on HMT:

- United States. Congressional Budget Office. Impose a New Harbor-Maintenance Fee. 12 June 2006 http://www.cbo.gov/bo2005/bo2005_showhit1.cfm?index=300-03 [20].

- The U.S Harbor Maintenance Tax Controversy: Is there a solution?
  Kumar, Shashi N. " The U.S Harbor Maintenance Tax Controversy: Is There a Solution?" International Journal of Maritime Economics 4 (2002): 149-163. 12 June 2006 [21].

– Short Sea Vessel Service and Harbor Maintenance Tax
  National Ports & Waterways Institute. Short Sea Vessel Service and Harbor Maintenance Tax. Oct. 2005. Short Sea Shipping Cooperative Program, SCOOP; University of New Orleans. 9 June 2006 [22].

For dredging information:

– Duluth Superior Dredging Report from United States. Detroit District. Army Corps of Engineers. Annual Report/Contract Dredging Report. 10 Feb. 2006. 26 July 2006 [23].

– The National Dredging Needs Study of Ports and Harbors
  Planning and Management Consultants, Ltd Illionis. The National Dredging Needs Study of Ports and Harbors. 12 June 2006 [24].

1.4 Methodology, basic approach

This project presents an inventory of taxes, fees, duties and assessments on Great Lakes maritime commerce. An analysis of the current scenario variables presents assessments in relative significance. The project then recommends methods for decreasing the tax impact on Great Lakes shipping from both a tax burden and a compliance standpoint and offers a viable option for government to help ease the tax complexities that shipping companies face.

The project conducts a review of current tax regulations as applied to Great Lakes shipping and provides proposals for an improved tax system for Great Lakes shipping.

1.5 Report organization

This report is divided into the following Chapters:

Chapter 1: Introduction
Chapter 2: Great Lakes Maritime Tax Inventory
Chapter 3: Harbor Maintenance Tax Review
Chapter 4: Potential Economic Impacts of the Research Results
Chapter 5: Conclusion

The report includes a reference section which includes citations for all sources mentioned in the body of the report. This report also includes four appendices.

Tables and figures are listed separately in the Contents pages as List of Tables and List of Figures and follow chapter numbers plus sequential table or figure number.

Chapter 2: Great Lakes Maritime Tax Inventory

2.1 Tax data

Data include individual assessments currently levied on the commercial maritime industry by federal agencies (119 assessments).

Note: Most variables have footnotes. The database is presented in Appendix A to this report (without notes) and the full data is available in digital format from the Great Lakes Maritime Research Institute.

Each data record is made up of the following variables:

- Assessment name
- Description of the assessment
- Agency that levies the assessment
- Type of service provided, tax, or duty associated with assessment
- Type of vessel the assessment is levied on
- Commerce type of vessel the assessment is levied on
- Flag type of vessel the assessment is levied on
- Payor of the assessment
- Entity that collects the assessment
- Type of fund that receives the collections
- Entity that uses the collections
- Formula and frequency of assessment
- Collection amounts for FY 1989 through FY 1991, FY 1996 through FY 1998, and estimated collections for FY 1999
- Collection limitations
- Laws and regulations

2.2 Analysis of Tax Data

An overview of federal agencies represented in this inventory shows the following rank order by number of assessments:

2.1 Overview of Federal Agencies Ranked by Number of Assessment on Maritime Commerce

Coast Guard, U.S. Dept. of Transportation	25
National Marine Fisheries Services, National Oceanic and Atmospheric Administration	23
Federal Maritime Commission	17
Panama Canal Commission	17
Customs Service, U.S. Treasury	13
Maritime Administration, U.S. Dept. of Transportation	8
Federal Communications Commission	8
Internal Revenue Service, U.S. Treasury	3
Animal, Plant, and Health Inspection Service, U.S. Dept. of Agriculture	3
National Marine Fisheries Services, National Oceanic and Atmospheric Administration	1
Grain Inspection, Packers, and Stockyards Administration, U.S. Dept. of Agriculture	1
Centers for Disease Control and Prevention, U.S. Dept. Health and Human Services	1

Detailed views of these data presented in this report include the following breakouts:

1) Federal Commercial Maritime Assessments Other than Great Lakes
   Federal Commercial Maritime Assessments Great Lakes Only
2) Top Collections Assessments
3) Tables of Assessments by Stakeholder
4) Kinds of Assessments Levied on Great Lakes Commerce
5) HMT Tables

1) Federal Commercial Maritime Assessments Other than Great Lakes

Table 2.2: Federal Commercial Maritime Assessments Other than Great Lakes			
Panama Canal Commission (PCC)			
Name of Assessment:	**Description of Assessment:**	**Collected by:**	**Payor:**
Docking /Undocking Tug Service Fee	For providing tug services for vessels docking, undocking, or shifting at berth (a)	PCC	Owner or operator
Extraordinary Transit Tug Service Fee	For providing tug services for vessels with physical or operating deficiencies at the time of transit and for vessels that request tug service (a)	PCC	Owner or operator
General Tug Service Fee	For towing through the Canal and other transit tug services not covered by a fixed fee (a)	PCC	Owner or operator
Handling Lines for Docking After Transit Service Fee	For PCC deckhands to assist the vessel crew in handling the cables that guide the vessel while docking after transit of the Canal (a)	PCC	Owner or operator
Handling Tug Line Service Fee	For PCC deckhands placed on board the vessel to receive and secure the ropes from the tugboats to the vessel (a)	PCC	Owner or operator
Handling Vessel Lines Service Fee	For PCC deckhands to connect cables attached to locomotives located on the side walls of Panama Canal locks to vessels transiting the locks (a)	PCC	Owner or operator
Launch Service Fee-Dredging Division	For Dredging Division launches used to transport officers of the National Port Authority of Panama or other Canal users as per agreement with the National Port Authority to assist small vessels in lieu of a tug and to visit vessels for inspection purposes as authorized by PCC (a)	PCC	Owner or operator
Launch Service Fee-Marine Bureau	For Marine Bureau launches used to transport officers of the National Port Authority of Panama or other canal users as per agreement with the National Port Authority to assist small vessels in lieu of a tug and to visit vessels for inspection purposes as authorized by PCC (a)	PCC	Owner or operator
Offshore Pilotage Fee	For requiring or requesting a PCC pilot to board or debark a vessel outside the Atlantic breakwater (a)	PCC	Owner or operator
Pilotage Fee at the Gamboa Mooring	For providing a PCC pilot at the PCC mooring facility at Gamboa (a)	PCC	Owner or operator
Pilotage Fee During Dock Trial	For providing a PCC pilot for vessels undergoing a dock trial (a) Note: Testing a vessel's engine while it is securely docked at a pier to see if repairs will hold is an example of a dock trial.	PCC	Owner or operator
Port Pilotage Fee	For providing a PCC pilot to dock, moor, or anchor a vessel after	PCC	Owner or

	transiting the Canal or to pilot the vessel beyond Canal waters (a)		operator
Sea Tug Service	For providing tug services involving a trip to sea (a)	PCC	Owner or operator
Special Ad-measurement Service Fee	For determining a vessel's Panama Canal tonnage and issuing a Panama Canal tonnage certificate when the vessel arrives without proper documentation (a)	PCC	Owner or operator
Standard Tug Service	For providing tug services to vessels coming into and out of each set of locks and through Gaillard Cut (a)	PCC	Owner or operator
Tolls For Transit	For utilizing the Panama Canal Waterway (a)	PCC	Owner or operator
Transit Booking Fee	For reserving a time for vessels to transit the Panama Canal (a)	PCC	Owner or operator

2) Federal Commercial Maritime Assessments Great Lakes Only:

For the list of assessments that apply to the Great Lakes Only, please see the material in Appendix A to this report. For a version of these data that includes all variables, including footnotes, in digital or paper form, please see the Great Lakes Maritime Institute or the University of Minnesota Duluth Labovitz School Bureau of Business and Economic Research.

3) Top Collections Assessments

Table 2.3: Top Ten Revenue Producing Commercial Maritime Federal Assessments

Name of Assessment:	Description of Assessment:	Collections in Thousands 1999 (est.)
Customs Duties	Total duties are calculated by summing the total dollars collected for consumption entries, warehouse withdrawals, mail entries, passenger baggage entries, crew member baggage entries, military baggage entries, informal entries, vessel repair entries, and other duties. Note: The "other duties" consist of duties in which payments of supplemental duties are recorded posted as cash receipts.	$18,030,233
Merchandise Processing Fee	For processing documentation for imported cargo that is brought into the United States	$924,250
Harbor Maintenance Fee	For the loading or unloading of imported commercial cargo from commercial vessels at a U.S. port for which federal funds have been used since 1977 for construction, maintenance, or operation (Note: This assessment does not apply to ports de-authorized by federal law before 1985.)	$598,231
Tolls For Transit	For utilizing the Panama Canal Waterway	$567,239
Air/Sea Passenger fee	This fee is levied for inspection and processing services that are provided for all passengers aboard commercial vessels or aircraft arriving in the U.S. Customs territory from a place outside the United States.	$246,385
Inland Waterways Fuel Tax	A tax imposed on any liquid used as a fuel on certain U.S. inland and intercoastal waterways Note: Collected taxes are used for construction and rehabilitation of the inland waterways.	$120,000

Guarantee Fee for MARAD's Title XI Program	For covering a portion of the principal and interest on guaranteed financing in the event of a default and administrative, custodial, and insurance costs associated with defaulted equipment Note: Collections specifically reimburse the agency for the potential expenses incurred in the event of a default.	$100,000
Vessel Tonnage Tax	A tax on vessels entering the United States from any foreign port or place (Note: Tax is based on the net tonnage of the vessel, as well as the origin of the vessel's voyage).	$67,989
Docking /Undocking Tug Service Fee	For providing tug services for vessels docking, undocking, or shifting at berth	$53,300
Handling Lines for Docking After Transit Service Fee	For PCC deckhands to assist the vessel crew in handling the cables that guide the vessel while docking after transit of the Canal	$40,400

4) Tables of Assessments by Stakeholder

Table 2.4: Great Lakes Assessments Paid by Passenger and Non-Passenger Vessel Operators			
Name of Assessment:	**Type of Service:**	**Collected by:**	**1999 (est.)**
Harbor Maintenance Fee	Miscellaneous	Customs Service	598,231
Inland Waterways Fuel Tax	Taxes	IRS	120,000
Vessel Tonnage Tax	Taxes	Customs Service	67,989
Ship Passengers International Departure Tax	Taxes	IRS	18,543
Collection of Fees for Sanitation Inspection of Cruise Ships	Physical Services	HHS: USPHS (CDC)	1,300
Stowage Examination Fee	Physical Services	USDA: GIPSA	1,175
Reimbursement of Travel and Subsistence Costs for Overseas Vessel Inspections	Physical Services	DOT: Coast Guard	1,000
Ship Radio Station License Regulatory Fee	Admin. Proc. & Assoc. Services	FCC	508
International Telecommunications Settlements	Physical services	FCC	435
Ship Radio Station License Application Fee	Admin. Proc. & Assoc. Services	FCC	427
Certification Fee for Payment of Vessel Tonnage Tax and Certify Admeasurment by Foreign Vessels	Admin. Proc. & Assoc. Services	Customs Service	88
Entry of Vessel from Foreign Port Fee	Admin. Proc. & Assoc. Services	Customs Service	72
Clearance of Vessel to Foreign Port Fee	Admin. Proc. & Assoc. Services	Customs Service	56
New Agreement Filings Requiring Commission Review	Admin. Proc. & Assoc. Services	FMC	48
FMC: Special Permission Application Fee	Admin. Proc. & Assoc. Services	FMC	43
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	Admin. Proc. & Assoc. Services	FMC	25
Ageement Filing Under Delegated Authority Application Fee	Admin. Proc. & Assoc. Services	FMC	24
Agreement Amendment Filing Requiring Commission Action	Admin. Proc. & Assoc. Services	FMC	17
Radio Communications Equipment Carriage Exemption Processing Fee	Admin. Proc. & Assoc. Services	FCC	10
FMC: Special Docket Application Fee	Admin. Proc. & Assoc. Services	FMC	9
Filing fee for service contracts and amendments	Admin. Proc. & Assoc. Services	FMC	8
Receiving Post Entry	Admin. Proc. & Assoc. Services	Customs Service	6
Receiving Manifest and Granting Permit to Unlade (s)	Admin. Proc. & Assoc. Services	Customs Service	5

Table 2.4: Great Lakes Assessments Paid by Passenger and Non-Passenger Vessel Operators			
Issuance Fee for a Permit to Proceed (p)	Admin. Proc. & Assoc. Services	Customs Service	4
Petition for Rulemaking Fee	Admin. Proc. & Assoc. Services	FMC	1
Formal Complaint Filing Fee	Admin. Proc. & Assoc. Services	FMC	1
Additions and changes to filer registration	Admin. Proc. & Assoc. Services	FMC	1
Name of Assessment:	Type of Service:	Collected by:	1999 (est.)
Harbor Maintenance Fee	Miscellaneous	Customs Service	598,231
Inland Waterways Fuel Tax	Taxes	IRS	120,000
Vessel Tonnage Tax	Taxes	Customs Service	67,989
Ship Passengers International Departure Tax	Taxes	IRS	18,543
Collection of Fees for Sanitation Inspection of Cruise Ships	Physical Services	HHS: USPHS (CDC)	1,300
Stowage Examination Fee	Physical Services	USDA: GIPSA	1,175
Reimbursement of Travel and Subsistence Costs for Overseas Vessel Inspections	Physical Services	DOT: Coast Guard	1,000
Ship Radio Station License Regulatory Fee	Admin. Proc. & Assoc. Services	FCC	508
International Telecommunications Settlements	Physical services	FCC	435
Ship Radio Station License Application Fee	Admin. Proc. & Assoc. Services	FCC	427
Certification Fee for Payment of Vessel Tonnage Tax and Certify Admeasurment by Foreign Vessels	Admin. Proc. & Assoc. Services	Customs Service	88
Entry of Vessel from Foreign Port Fee	Admin. Proc. & Assoc. Services	Customs Service	72
Clearance of Vessel to Foreign Port Fee	Admin. Proc. & Assoc. Services	Customs Service	56
New Agreement Filings Requiring Commission Review	Admin. Proc. & Assoc. Services	FMC	48
FMC: Special Permission Application Fee	Admin. Proc. & Assoc. Services	FMC	43
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	Admin. Proc. & Assoc. Services	FMC	25
Ageement Filing Under Delegated Authority Application Fee	Admin. Proc. & Assoc. Services	FMC	24
Agreement Amendment Filing Requiring Commission Action	Admin. Proc. & Assoc. Services	FMC	17
Radio Communications Equipment Carriage Exemption Processing Fee	Admin. Proc. & Assoc. Services	FCC	10
FMC: Special Docket Application Fee	Admin. Proc. & Assoc. Services	FMC	9
Filing fee for service contracts and amendments	Admin. Proc. & Assoc. Services	FMC	8
Receiving Post Entry	Admin. Proc. & Assoc. Services	Customs Service	6
Receiving Manifest and Granting Permit to Unlade (s)	Admin. Proc. & Assoc. Services	Customs Service	5

Table 2.4: Great Lakes Assessments Paid by Passenger and Non-Passenger Vessel Operators			
Issuance Fee for a Permit to Proceed (p)	Admin. Proc. & Assoc. Services	Customs Service	4
Petition for Rulemaking Fee	Admin. Proc. & Assoc. Services	FMC	1
Formal Complaint Filing Fee	Admin. Proc. & Assoc. Services	FMC	1
Additions and changes to filer registration	Admin. Proc. & Assoc. Services	FMC	1

Table 2.5: Great Lakes Assessments Paid by Passenger and Non-Passenger <u>Owners</u>			
Name of Assessment:	**Type of Service:**	**Collected by:**	**1999 (est.) U.S. Totals in thousands**
Guarantee Fee for MARAD's Title XI Program	Miscellaneous	DOT: MARAD	$100,000
Agricultural Quarantine and Inspection User Fee (for commercial vessels over 100 net tons)	Physical Services	Customs Service	$23,386
Commercial Vessel Fee	Physical services	Customs Service	$18,973
Direct User Fees for Inspection and Examination of U.S. or Foreign Commercial Vessels	Physical Services	DOT: Coast Guard	$10,700
Approval of Exchange of Certificate of Documentation Requiring Mortgage Consent	Admin. Proc. & Assoc. Services	DOT: Coast Guard	$2,500
Fisheries Obligation Guarantee Program Guarantee Fee	Miscellaneous	NOAA: NMFS	$1,735
Collection of Fees for Sanitation Inspection of Cruise Ships	Physical Services	HHS: USPHS (CDC)	$1,300
Reimbursement of Travel and Subsistence Costs for Overseas Vessel Inspections	Physical Services	DOT: Coast Guard	$1,000
Title XII War Risk Interim Binder Fees	Miscellaneous	American War Risk Agency	$800
Barge /Bulk Carrier Fee	Physical services	Customs Service	$791
Evidence of Financial Responsibility for Water Pollution Certificate Fee	Admin. Proc. & Assoc. Services	DOT: Coast Guard	$772
Ship Radio Station License Regulatory Fee	Admin. Proc. & Assoc. Services	FCC	$508
International Telecommunications Settlements	Physical services	FCC	$435
Ship Radio Station License Application Fee	Admin. Proc. & Assoc. Services	FCC	$427
New Agreement Filings Requiring Commission Review	Admin. Proc. & Assoc. Services	FMC	$48
FMC: Special Permission Application Fee	Admin. Proc. & Assoc. Services	FMC	$43
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	Admin. Proc. & Assoc. Services	FMC	$25

Agreement Filing Under Delegated Authority Application Fee	Admin. Proc. & Assoc. Services	FMC	$24
Agreement Amendment Filing Requiring Commission Action	Admin. Proc. & Assoc. Services	FMC	$17
COFR for Indemnification of Passengers for Nonperformance of Transportation Application Fee	Admin. Proc. & Assoc. Services	FMC	$15
Radio Communications Equipment Carriage Exemption Processing Fee	Admin. Proc. & Assoc. Services	FCC	$10
FMC: Special Docket Application Fee	Admin. Proc. & Assoc. Services	FMC	$9
COFR to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Application Fee	Admin. Proc. & Assoc. Services	FMC	$8
Foreign Transfer of Ownership or Registry Application Fee	Admin. Proc. & Assoc. Services	DOT: MARAD	$7
Foreign Transfer of Ownership Pursuant to MARAD Contracts	Admin. Proc. & Assoc. Services	DOT: MARAD	$7
Foreign Fishing Permit Application Fee	Admin. Proc. & Assoc. Services	NOAA: NMFS	$4
Formal Complaint Filing Fee	Admin. Proc. & Assoc. Services	FMC	$1
Petition for Rulemaking Fee	Admin. Proc. & Assoc. Services	FMC	$1
Aquaculture Permit	Admin. Proc. & Assoc. Services	NOAA: NMFS	$1

Table 2.6: Great Lakes Assessments Paid by Passenger and Non-Passenger Exporters			
Name of Assessment:	**Type of Service:**	**Collected by:**	**1999 (est.) U.S. Totals in thousands**
Customs Duties	Miscellaneous	Customs Service	$18,030,233
Merchandise Processing Fee	Admin. Proc. & Assoc. Services	Customs Service	$924,250
Phytosanitary Certificate Fee for Plants and Plant Products	Physical Services	USDA: APHIS	$4,791
Export Health Certificate Endorsement Fees for Animals	Physical Services	USDA: APHIS	$3,823
Stowage Examination Fee	Physical Services	USDA: GIPSA	$1,175

Table 2.7: Great Lakes Assessments Paid by Passenger and Non-Passenger Importers			
Name of Assessment:	**Type of Service:**	**Collected by:**	**1999 (est.) U.S. Totals in thousands**
Customs Duties	Miscellaneous	Customs Service	$18,030,233
Merchandise Processing Fee	Admin. Proc. & Assoc. Services	Customs Service	$924,250
Harbor Maintenance Fee	Miscellaneous	Customs Service	$598,231
Stowage Examination Fee	Physical Services	USDA: GIPSA	$1,175

Table 2.8: Great Lakes Assessments Paid by Passenger and Non-Passenger Other Stakeholders				
Name of Assessment:	**Payor:**	**Type of Service:**	**Collected by:**	**1999 (est.) U.S. Totals in thousands**
Harbor Maintenance Fee	foreign trade zone user, domestic shipper, or operator of commercial passenger vessel	Miscellaneous	Customs Service	$598,231
Air/Sea Passenger fee	Individual passenger	Physical services	Customs Service	$246,385
Export Health Certificate Endorsement Fees for Animals	broker	Physical Services	USDA: APHIS	$3,823
International Telecommunications Settlements	U.S. ship owners utilizing telecommunication services off foreign coasts	Physical services	FCC	$435
New Agreement Filings Requiring Commission Review	marine terminal operator	Admin. Proc. & Assoc. Services	FMC	$48
FMC: Special Permission Application Fee	NVOCC	Admin. Proc. & Assoc. Services	FMC	$43
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	marine terminal operator	Admin. Proc. & Assoc. Services	FMC	$25
Agreement Filing Under Delegated Authority Application Fee	marine terminal operator	Admin. Proc. & Assoc. Services	FMC	$24

Agreement Amendment Filing Requiring Commission Action	marine terminal operator	Admin. Proc. & Assoc. Services	FMC	$17
COFR for Indemnification of Passengers for Nonperformance of Transportation Application Fee	charterer	Admin. Proc. & Assoc. Services	FMC	$15
FMC: Special Docket Application Fee	NVOCC	Admin. Proc. & Assoc. Services	FMC	$9
COFR to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Application Fee	charterer	Admin. Proc. & Assoc. Services	FMC	$8
Foreign Fishing Permit Application Fee	representative of the foreign fishing nation	Admin. Proc. & Assoc. Services	NOAA: NMFS	$4
Formal Complaint Filing Fee	shipper, or other interested party	Admin. Proc. & Assoc. Services	FMC	$1
Petition for Rulemaking Fee	shipper, or other interested party	Admin. Proc. & Assoc. Services	FMC	$1

5) Kinds of Assessments Levied on Great Lakes Commerce

Table 2.9: Tax Assessments on Great Lakes Maritime Commerce

Assessment Name	Type of Service	1999 U.S. Totals Est. in Thousands
Harbor Maintenance "Fee" [declared a tax by U.S. Supreme Court, 1998]	Miscellaneous	$598,231
For the loading or unloading of imported commercial cargo from commercial vessels at a U.S. port for which federal funds have been used since 1977 for construction, maintenance, or operation (Note: This assessment does not apply to ports de-authorized by federal law before 1985.)		
Inland Waterways Fuel Tax (Not applied to Great Lakes per se but applied to inland and intercoastal waterways)	Taxes	$120,000
A tax imposed on any liquid used as a fuel on certain U.S. inland and intercoastal waterways Note: Collected taxes are used for construction and rehabilitation of the inland waterways.		
Vessel Tonnage Tax	Taxes	$67,989
A tax on vessels entering the United States from any foreign port or place (Note: Tax is based on the net tonnage of the vessel, as well as the origin of the vessel's voyage).		
Ship Passengers International Departure Tax	Taxes	$18,543
A tax imposed on each passenger who embarks from or disembarks in a U.S. port and whose voyage extends over 1 or more nights (more than 24 hours)		

<u>Table 2.10:</u> Duty Assessments on Great Lakes Maritime Commerce

Assessment Name	Type of Service	1999 U.S. Totals Est. in Thousands
Customs Duties	Miscellaneous	$18,030,233

Total duties are calculated by summing the total dollars collected for consumption entries, warehouse withdrawals, mail entries, passenger baggage entries, crew member baggage entries, military baggage entries, informal entries, vessel repair entries, and other duties. Note: The "other duties" consist of duties in which payments of supplemental duties are recorded posted as cash receipts.

<u>Table 2.11</u>: Fee Assessments on Great Lakes Maritime Commerce (descriptions available in the appendix matter to this report)

assessment name	type of service	1999 U.S. totals est. in thousands
Merchandise Processing Fee	Admin. Proc. & Assoc. Services	$924,250
Tolls For Transit	Physical services	$567,239
Air/Sea Passenger fee	Physical services	$246,385
Guarantee Fee for MARAD's Title XI Program	Miscellaneous	$100,000
Docking /Undocking Tug Service Fee	Physical services	$53,300
Handling Lines for Docking After Transit Service Fee	Physical services	$40,400
Transit Booking Fee	Admin. Proc. & Assoc. Services	$35,200
Agricultural Quarantine and Inspection User Fee	Physical Services	$23,386
Commercial Vessel Fee	Physical services	$18,973
Direct User Fees for Inspection and Examination of U.S. or Foreign Commercial Vessels	Physical Services	$10,700
Offshore Pilotage Fee	Physical services	$5,300
High Seas Fishing Compliance Act Permit Application	Admin. Proc. & Assoc. Services	$5,000
Phytosanitary Certificate Fee for Plants and Plant Products	Physical Services	$4,791
Export Health Certificate Endorsement Fees for Animals	Physical Services	$3,823
Approval of Exchange of Certificate of Documentation Requiring Mortgage Consent	Admin. Proc. & Assoc. Services	$2,500
Fisheries Finance Program Application Fee	Admin. Proc. & Assoc. Services	$1,735
Fisheries Obligation Guarantee Program Guarantee Fee	Miscellaneous	$1,735
Collection of Fees for Sanitation Inspection of Cruise Ships	Physical Services	$1,300
Stowage Examination Fee	Physical Services	$1,175
Launch Service Fee-Dredging Division	Physical services	$1,087
Reimbursement of Travel and Subsistence Costs for Overseas Vessel Inspections	Physical Services	$1,000
Title XII War Risk Interim Binder Fees	Miscellaneous	$800
Barge /Bulk Carrier Fee	Physical services	$791
Evidence of Financial Responsibility for Water Pollution Certificate Fee	Admin. Proc. & Assoc. Services	$772
Ship Radio Station License Regulatory Fee	Admin. Proc. & Assoc. Services	$508
Ship Radio Station License Application Fee	Admin. Proc. & Assoc. Services	$427
Bluefin Tuna Permit Application Fee	Admin. Proc. & Assoc. Services	$414
Special Ad-measurement Service Fee	Physical services	$240
Coastal Migratory Pelagic Fish Permit Application Fee	Admin. Proc. & Assoc. Services	$97

Certification Fee for Payment of Vessel Tonnage Tax and Certify Ad-measurement by Foreign Vessels	Admin. Proc. & Assoc. Services	$88
Entry of Vessel from Foreign Port Fee	Admin. Proc. & Assoc. Services	$72
Atlantic Swordfish Permit Application Fee	Admin. Proc. & Assoc. Services	$63
Clearance of Vessel to Foreign Port Fee	Admin. Proc. & Assoc. Services	$56
Reef Fish Permit Application Fee	Admin. Proc. & Assoc. Services	$44
FMC: Special Permission Application Fee	Admin. Proc. & Assoc. Services	$43
Snapper-Grouper Permit Application Fee	Admin. Proc. & Assoc. Services	$36
Shark Permit (fee)	Admin. Proc. & Assoc. Services	$29
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	Admin. Proc. & Assoc. Services	$25
Agreement Filing Under Delegated Authority Application Fee	Admin. Proc. & Assoc. Services	$24
Groundfish Endorsements Permit	Admin. Proc. & Assoc. Services	$23
Marine Mammal Authorization Program Registration Fee	Admin. Proc. & Assoc. Services	$22
Spiny Lobster Permit Application Fee	Admin. Proc. & Assoc. Services	$15
COFR for Indemnification of Passengers for Nonperformance of Transportation Application Fee	Admin. Proc. & Assoc. Services	$15
Radio Communications Equipment Carriage Exemption Processing Fee	Admin. Proc. & Assoc. Services	$10
FMC: Special Docket Application Fee	Admin. Proc. & Assoc. Services	$9
COFR to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Application Fee	Admin. Proc. & Assoc. Services	$8
Foreign Transfer of Ownership or Registry Application Fee	Admin. Proc. & Assoc. Services	$7
Foreign Transfer of Ownership Pursuant to MARAD Contracts	Admin. Proc. & Assoc. Services	$7
South Atlantic Rock Shrimp Permit	Admin. Proc. & Assoc. Services	$7
Receiving Manifest and Granting Permit to Unlade (s)	Admin. Proc. & Assoc. Services	$5
Commercial Spiny Lobster Permit	Admin. Proc. & Assoc. Services	$5
Issuance Fee for a Permit to Proceed (p)	Admin. Proc. & Assoc. Services	$4
Foreign Fishing Permit Application Fee	Admin. Proc. & Assoc. Services	$4
Pelagics Permit	Admin. Proc. & Assoc. Services	$2
Formal Complaint Filing Fee	Admin. Proc. & Assoc. Services	$1
Petition for Rulemaking Fee	Admin. Proc. & Assoc. Services	$1
Vessel Certificate of Inclusion Application Fee	Admin. Proc. & Assoc. Services	$1
Aquaculture Permit	Admin. Proc. & Assoc. Services	$1
Bottomfish /Seamount Groundfish Permit	Admin. Proc. & Assoc. Services	$1
Conciliation Service Application Fee	Admin. Proc. & Assoc. Services	$0
Declaratory Order Application Fee	Admin. Proc. & Assoc. Services	$0
Informal Procedures Application Fee	Admin. Proc. & Assoc. Services	$0

Petition for Investigation to Determine Existence of Adverse Conditions Affecting U.S.-flag Carriers	Admin. Proc. & Assoc. Services	$0
Petition for Relief for U.S.-flag Vessels Operating in Foreign-to-Foreign Trades	Admin. Proc. & Assoc. Services	$0
Petition for Section 19 Relief	Admin. Proc. & Assoc. Services	$0
Authority to Transfer Ownership of Ships Built With Construction Subsidies Application Fee	Admin. Proc. & Assoc. Services	$0
Foreign Fishing Observer Fee	Physical Services	$0
Foreign Fishing Poundage Fee	Miscellaneous	$0
Golden Crab Permit	Admin. Proc. & Assoc. Services	$0
Wreckfish Permit Application Fee	Admin. Proc. & Assoc. Services	$0

Table 2.12: Other Assessments, including Permits, Administrative Charges, and Other User Fees on Great Lakes Maritime Commerce

Assessment name	Type of Service	1999 U.S. Totals Est. in Thousands
International Telecommunications Settlements	Physical services	$435
Payment of line charges for U.S. ships communicating via foreign coast earth stations		
New Agreement Filings Requiring Commission Review	Admin. Proc. & Assoc. Services	$48
For processing new agreements that require review by the Commission		
Agreement Amendment Filing Requiring Commission Action	Admin. Proc. & Assoc. Services	$17
For processing agreement amendments that require review by the Commission		
Receiving Post Entry	Admin. Proc. & Assoc. Services	$6
For processing a report of merchandise found but not manifested for vessels entering into the U.S. Customs territory (Note: Name change only).		
Permission to Correct Clerical Errors on Service Contracts Application	Admin. Proc. & Assoc. Services	$0
For processing requests to correct clerical or administrative errors in the essential terms of a serivce contract		

6) HMT Tables

As noted above and in the references, Harbor Maintenance Trust Fund data is available only through the U.S. Treasury Bureau of Public Debt. The data from the source does not make available the answer to some interesting questions about compliance levels for the HMT, the details of how much refund activity has followed the Supreme Court decision to grant exclusion for exporters, and HMT collections by port.

Table 2.13: Harbor Trust Fund Transfers and Revenues 1988-2006

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Beginning Balance	$15,199	$9,715	$12,312	$30,254	$72,795	$120,931	$303,277	$451,385	$621,194	$866,063
Revenues:										
Harbor Maint. Tax	$144,001	$166,000	$180,493	$374,420	505,827	$628,462	$622,253	$670,532	$698,267	$735,534
Toll Receipts	$10,448	$9,806	$8,849	$9,267	$8,733	$8,739	$11,112	$173	$0	$0
Interest*	$6,528	$7,343	$8,281	$11,814	$16,502	$13,521	$12,826	$30,186	$40,870	$53,632
Net Revenue	$160,977	$183,149	$197,623	$395,501	$531,062	$650,722	$646,191	$700,891	$739,137	$789,166
Net Available	$176,176	$192,864	$209,935	$425,755	$603,571	$771,653	$949,468	$1,152,276	$1,360,331	$1,655,230
Transfers:										
Corps of Engineers	$148,000	$159,026	$159,074	$333,401	$462,229	$446,434	$476,620	$519,196	$482,126	$535,987
St. Lawrence Seaway	$9,424	$10,382	$11,397	$9,075	$10,950	$13,584	$10,765	$10,193	$9,539	$10,322
SLS Toll Rebates	$8,895	$10,977	$9,041	$10,298	$9,565	$8,074	$9,546	$1,512	$0	$0
Dept. of Transportation	$0	$0	$0	$0	$16	$160	$175	$181	$169	$193
Administrative Costs	$142	$167	$169	$186	$184	$124	$0	$0	$3,000	$3,000
Transfer to Customs										
Net Expenditures	$166,461	$180,552	$179,681	$352,960	$482,944	$468,376	$497,106	$531,082	$494,834	$549,502
Surplus/(Deficit)	$9,715	$12,312	$30,254	$72,795	$120,627	$303,277	$452,362	$621,194	$865,497	$1,105,728

	1998	1999	2000	2001	2002	2003	2004	2005	2006
Beginning Balance	$1,112,241	1,289,018	$1,608,957	$1,667,642	$1,818,841	$1,873,417	$2,092,080	$2,366,263	$2,782,936
Revenues:									
Harbor Maint. Tax	$621,500	552,835	$677,588	$721,612	$652,856	$757,994	$869,699	$1,047,862	$993,300
Toll Receipts	$0	$0							
Interest*	$66,370	$62,766	$82,965	$89,156	$57,933	$46,524	$52,684	$74,768	$91,885
Net Revenue	$687,870	$615,601	$760,553	$810,769	$710,789	$804,518	$922,383	$1,122,630	$1,085,185
Net Available	$1,800,111	$1,904,619	$2,369,510	$2,478,411	$2,529,630	$2,677,935	$3,014,463	$3,488,893	$3,868,121
Transfers:									
Corps of Engineers	$496,900	$281,202	$686,897	$643,601	$639,909	$568,900	$630,944	$687,249	$674,000
St. Lawrence Seaway	$11,000	$11,260	$11,971	$12,975	$13,305	$13,974	$14,273	$15,707	$16,284
SLS Toll Rebates	$0	$0							
Dept. of Transportation	$193	$200							
Administrative Costs	$3,000	$3,000							
Transfer to Customs			$3,000	$2,993	$3,000	$2,981	$2,982	$3,000	$3,000
Net Expenditures	$511,093	$295,662	$701,869	$659,570	$656,214	$585,855	$648,200	$705,956	$693,284
Surplus/(Deficit)	$1,289,018	$1,608,957	$1,667,641	$1,818,841	$1,873,416	$2,092,080	$2,366,263	$2,782,937	$3,174,837

Source: Funds Accounting Branch, Financial Management Services, Department of the Treasury

* Does not include Interest Income which is not available for obligation ($229,200 in FY 1999).

**"Interest" represents the total interest accrued on interest bearing securities during the fiscal year, including interest from securities that matured in FY 1998 and an estimate of interest earnings on longer-term investments. For FY 1999 the interest actually deposited in the fund was $ 53.6 million.

2.3 Challenges of Great Lakes Maritime Infrastructure: Army Corps of Engineers Dredging on the Great Lakes Ports

Table 2.15 presents comparative ACE activity data by district within the Great Lakes & Ohio River Division. District data is also presented in detail by port. Figure 2 shows the geographic distribution of districts within the division.

Figure 2: Great Lakes & Ohio River Division, Army Corps of Engineers Dredging Districts.
Source: ***http://www.lrd.usace.army.mil/***

As has been discussed in Stewart's 2003 Twin Ports Intermodal Freight Terminal Study and Fruin and Fortowsky's 2004 Modal Shifts from the Mississippi River and Duluth/Superior to Land Transportation study, beneficiaries of ACE dredging activity do not necessarily correspond with payors of the HMT. For instance, the HMT paid by the now terminated Incan Superior railcar ferry (estimated at $200,000 in 1991) delivered no benefit to this vessel requiring a loaded draft of about 17 feet in a navigation channel of 27 feet [25]. An overview of beneficiaries of the HMT follows, with detailed Great Lakes port by port totals for 2000 to 2004 amounts spent for port maintenance supported by the collections of the HMT.

Table 2.14: Total Bid Dollars by Corps of Engineers, by District in the Great Lakes & Ohio River Division, 2000-2005						
District	2000	2001	2002	2003	2004	2005
DETROIT	$10,444,958	$10,966,793	$8,475,339	$6,493,502	$5,485,298	$10,172,216
BUFFALO	$5,533,946	$5,892,469	$4,942,435	$3,157,400	$6,497,900	$4,025,160
HUNTINGTON	$141,800	$1,392,221	$1,012,881	$1,544,632	$1,922,831	$1,232,033
CHICAGO	$4,548,503	$2,784,000	-	-	-	-
LOUISVILLE	$3,463,784	$3,577,197	$3,650,087	$3,843,153	$4,053,216	-
PITTSBURGH	$334,095	$1	$2	$112,846	$1	$32,000
Total Dollars (Bid)	$587,819,249	$790,126,695	$1,013,629,099	$600,260,707	$666,377,838	$466,963,933
Source: BBER. http://www.usace.army.mil/						

Table 2.15: Buffalo District Detail, ACE Activity by Port, 2000-2004		
Year	Port	Actual $ Spent
2000	Fairport Harbor	$798,645
2000	Lorain Harbor	$361,095
2000	Huron	$334,149
2000	Dunkirk	$231,185
2000	Irondequoit Harbor	$146,899
2000	Wilson Harbor	$116,522
2000	Oak Orchard Harbor	$96,959
2000	Cleveland(Cuy.R.)	-
2000	Sandusky	-
2000	Toledo Harbor	-
2000	Toledo(River)	-
2000	TOTALS	$2,085,454
2001	Maumee River/Bay	$1,725,000
2001	Ashtabula	$660,800
2001	Fairport	$651,289
2001	Sandusky	$472,463
2001	Rochester	$464,735
2001	Toussaint	$382,724
2001	Vermilion	$204,617
2001	Cuyahoga	
2001	TOTALS	$4,561,627
2002	Toledo Maumee River	$947,867
2002	Huron	$468,111
2002	Toledo Maumee River	$385,000
2002	Dunkirk	$273,158
2002	Cuyahoga River	-
2002	Fairport	-
2002	TOTALS	$2,074,136
2003	Buffalo River & Black Rock C	$2,003
2003	Cleveland	$2,003
2003	Huron Harbor	$2,003
2003	Lorain Harbor	$2,003
2003	TOTALS	$8,012
2004	Maumee Bay	$1,542,100
2004	Cleveland Harbor	$1,376,708
2004	Maumee River	$830,600
2004	Rocky River/Vermilion Harbor	$414,958
2004	Cooley Canal/West Harbor	$410,250
2004	Conneaut Harbor	$390,724
2004	Toussaint Harbor	$218,870
2004	Buffalo River	-
2004	G. Sodus/Oak Orchard/Oswego	-
2004	Rochester Harbor	-
2004	TOTALS	$5,184,211

Chicago District		
2000	Calumet Harbor & River, Il	$2,762,289
2000	Burns Small Boat Hbr, In	$1,350,081
2000	Michigan City Hbr, In	$839,800
2000	Waukegan Harbor, Il	$434,684
2000	TOTALS	$5,386,854
2001	Calumet Harbor & River, Il	-
2001	Waukegan Harbor, Il	-
2001	TOTALS	-

Detroit District		
2000	St Clair River, Mi	$1,861,896
2000	Green Bay Harbor, Wi	$1,825,400
2000	Saginaw River, Mi	$1,471,901
2000	Holland Harbor, Mi (Inner)	$1,033,070
2000	Clinton River, Mi	$764,404
2000	Detroit River, Mi (Eo&Ll)	$754,311
2000	Duluth-Superior Hbr Mn&Wi	$705,986
2000	Two Rivers Harbor, Wi	$310,716
2000	St Joseph Harbor, Mi (8a)	$252,249
2000	Caseville Harbor, Mi (8a)	$212,156
2000	Ontonagon Harbor, Mi	$197,091
2000	Lexington Harbor, Mi (8a)	$165,275
2000	Grand Haven Hbr, Mi (Outer)	$157,885
2000	Saugatuck Harbor, Mi	$140,330
2000	Menominee Harbor, Wi	$138,365
2000	Manitowoc Harbor, Wi	$128,428
2000	Harrisville Harbor, Mi (8a)	$113,409
2000	Whitefish Point, Mi	$95,680
2000	Leland Harbor, Mi	$85,270
2000	Big Bay Harbor, Mi	$82,185
2000	Holland Harbor, Mi (Outer)	$75,589
2000	Pentwater Harbor, Mi	$73,787
2000	South Haven Harbor, Mi	$48,057
2000	Arcadia Harbor, Mi	$41,804
2000	TOTALS	$10,735,244
2001	Green Bay Harbor, Wi	$2,451,379
2001	Milwaukee County Port, Mi	$633,986
2001	Duluth-Superior Hbr Mn&Wi	$546,536
2001	Saginaw River, Mi	$427,927
2001	Ludington Harbor, Mi	$417,894
2001	Point Lookout Hbr, Mi (8a)	$409,975
2001	Manitowoc Harbor, Wi	$382,860
2001	Monroe Harbor, Mi	$341,394
2001	Little Lake Harbor, Mi	$338,023
2001	Ontonagon Harbor, Mi	$319,810
2001	Manistee Harbor, Mi	$277,328
2001	St Joseph Harbor, Mi (O)	$262,709
2001	Saugatuck Harbor, Mi	$259,141
2001	Bolles Harbor, Mi	$193,123
2001	Au Sable Harbor, Mi	$189,729
2001	St Joseph Hbr, Mi (I)	$168,614
2001	Port Sanilac Harbor, Mi	$159,562
2001	Grand Haven Harbor, Mi(O)	$148,565
2001	Saxon Harbor, Mi (8a)	$133,167
2001	North Manitou Is Hbr, Mi	$121,950

2001	Duluth Superior Hbr Mn&Wi	$118,276
2001	Cornucopia Harbor, Wi	$98,920
2001	Holland Harbor, Mi (O)	$84,888
2001	Pentwater Harbor, Mi	$82,744
2001	Leland Harbor, Mi	$80,072
2001	Black River(Up), Mi	$70,384
2001	White Lake Harbor, Mi	$59,133
2001	New Buffalo Harbor, Mi	$45,532
2001	Arcadia Harbor, Mi	$37,392
2001	Milwaukee Harbor, Wi	$21,597
2001	St Marys River, Mi	-
2001	TOTALS	$8,882,611
2002	Detroit River, Mi	$1,876,110
2002	Green Bay Harbor, Wi	$1,758,999
2002	Saginaw River, Mi	$1,636,722
2002	Duluth-Superior Hbr Mn&Wi	$813,550
2002	Rouge River, Mi	$609,248
2002	Ontonagon Harbor, Mi	$537,705
2002	Big Suamico Harbor, Wi	$303,982
2002	Muskegon Harbor., Mi	$283,216
2002	South Haven Harbor, Mi	$198,591
2002	St Joseph Harbor, Mi(O)	$193,587
2002	Portage Lake Harbor, Mi	$190,506
2002	Grand Haven, Harbor Mi (O)	$170,824
2002	Port Wing Harbor, Wi	$160,424
2002	Holland Harbor, Mi (O)	$126,548
2002	Leland Harbor, Mi	$79,296
2002	Pentwater Harbor, Mi	$65,245
2002	Arcadia Harbor, Mi	$62,644
2002	TOTALS	$9,067,197
2003	St Marys River, Mi	$1,825,092
2003	Green Bay Harbor, Wi	$1,804,455
2003	Black River (Ph), Mi	$617,878
2003	Ontonagon Harbor, Mi	$435,860
2003	Monroe Harbor, Mi	$329,947
2003	Little Lake Harbor, Mi	$238,573
2003	Port Washington Harbor, Wi	$185,595
2003	St Joseph Harbor, Mi	$126,885
2003	Holland Harbor, Mi	$126,500
2003	Grand Haven Harbor, Mi	$103,601
2003	Leland Harbor, Mi	$80,546
2003	New Buffalo Harbor, Mi	$67,124
2003	Lexington Harbor, Mi	$60,443
2003	Port Sanilac Harbor, Mi	$57,407
2003	Pentwater Harbor, Mi	$37,389

2003	Arcadia Harbor, Mi	$33,246
2003	Grand Traverse Bay Hbr, Mi	
2003	TOTALS	$6,130,541
2004	Manistee Harbor, Mi	$402,408
2004	St Joseph Harbor, Mi	$286,336
2004	Holland Harbor, Mi	$217,749
2004	Grand Haven Harbor, Mi	$177,710
2004	Port Austin Harbor, Mi	$172,896
2004	Saugatuck Harbor, Mi	$159,056
2004	Bolles Harbor, Mi	$135,238
2004	Little Lake Harbor, Mi	$104,602
2004	Frankfort Harbor, ,Mi	$90,905
2004	Leland Harbor, Mi	$83,010
2004	Pentwater Harbor, Mi	$78,169
2004	Arcadia Harbor, Mi	$39,424
2004	Ontonagon Harbor, Mi	$0
2004	Detroit River, Mi	-
2004	Duluth-Superior Mn&Wi	-
2004	Muskegon Harbor, Mi	-
2004	Saginaw River, Mi	-
2004	St Clair River, Mi	$1,947,501
2004	TOTALS	$3,895,004

Louisville		
2000	Ohio Riv Open (4 Yr Opt)	$2,410,190
2000	TOTALS	$2,410,190
2001	Ohio Riv Open(1of4yr Opt)	$1,998,481
2001	TOTALS	$1,998,481
2002	Ohio Riv Open 2nd Of 4yr Opt	$1,665,872
2002	TOTALS	$1,665,872
2003	Ohio Riv Open 3rd Of 4yr Opt	$1,963,541
2003	TOTALS	$1,963,541
2004	Ohio Riv Open 4yr Of 4yr Opt	$1,945,350
2004	TOTALS	$1,945,350

Huntington		
2000	Portsmouth Harbor	$140,387
2000	TOTALS	$140,387
2001	Elk River Harbor	$439,729
2001	Big Sandy Harbor	$418,721
2001	Kanawha River	$143,050
2001	TOTALS	$1,001,500
2003	Big Sandy River - Opt Yr 1	$811,990
2003	Elk River	$236,029
2003	Portsmouth Harbor	$88,475
2003	TOTALS	$1,136,494

2.4 Highlighting the Harbor Maintenance Tax

From the foregoing tables we find the Harbor Maintenance Tax to be very significant to the overall burdens placed on Great Lakes maritime commerce. Noting especially the ranking of assessments for the top revenue producing assessments, we note from Table 2.3 HMT is third in assessments paid by importers, behind Customs Duties, and Merchandise Processing Fee.

The HMT is unique to commerce assessments in that the revenue is dedicated to maintenance of maritime transportation infrastructure. The following chapter in this report discusses the HMT and possible changes to the current tax structure to improve the efficiency of port maintenance tax collection and expenditure, and to improve intermodal transportation fuel efficiency.

Chapter 3: The U.S. Harbor Maintenance Tax, a Bad Idea Whose Time has Passed?

It's a sunny mid-summer afternoon at South Bass Island on Lake Erie north of Sandusky, Ohio. The harbor on South Bass Island is filled with hundreds of recreational boaters enjoying the beautiful summer weather, touring the island's historic sites and stopping for lunch and cold beverage at many of the island's bars and restaurants. If you travel to the south end of the island, you might see an ore carrier traveling through the Great Lakes. The ore carrier will not, however, stop at South Bass Island since its shallow water harbor is not suitable for deep water commercial vessels.

The Edward L. Ryerson leaves Duluth Harbor bound for Cleveland with a cargo of 25,000 tons of taconite a few tons below its maximum capacity. In an unusual attempt to utilize this excess capacity, the Ryerson agrees to accept a small container from St. Jude Medical in Minneapolis. The container (which weighs only a few pounds) holds 500 new heart valves bound for the Cleveland Clinic. The Ryerson can handle the extra weight, and its merchant mariners barely notice the additional cargo. Upon arrival in Cleveland, the two cargo items (taconite and heart valves) are unloaded and forwarded to US Steel and the Cleveland Clinic for further processing. Both products are subject to a tax that few U.S. taxpayers are familiar with, the U.S. Harbor Maintenance Tax or HMT. Here is where the similarity in transport of these two items ends. The HMT is an ad valorem (value based) tax, so the heart valves draw $4,165 in tax while the taconite draws $1,836 in tax. It's an anomaly in our tax system that a tax intended to recover the government's cost of canal and port dredging would impose a lower amount of tax on 25,000 tons of unprocessed steel raw materials, than it does on a few pounds of heart valves, but that is how the HMT is structured.

Figure 3: ***Edward L. Ryerson***

It's also an anomaly that the recreational boaters at South Bass Island received $132,310 dollars in dredging services in 1999. An amount paid entirely by the HMT, a tax that is not assessed to them at all, but rather is borne by the ore carrier and all other forms of commercial maritime transportation. As shown in the foregoing Great Lakes tax inventory section of this report, the HMT is one of the most significant contributors to Great Lakes maritime infrastructure. This section of the report will address the problems noted above, and explain why the HMT should be abolished.

History of the Harbor Maintenance Tax

As shown in the HMT timeline in the previous report section, and as detailed in Appendix C, the U.S. has a long history of taxing products transported onboard ship;

some of the first taxes imposed by the southern colonies were import taxes [26]. In 1789, Congress authorized the first improvement projects for navigable channels. The Army Corps of Engineers was established in 1824 as the agency charged with maintaining the nation's water navigation [27].

The HMT was enacted as part of the Water Resources Development Act of 1986 [28]. Prior to the HMT's enactment, general funds from the U.S. Treasury were used to cover the federal government's share of costs to maintain and deepen both inland ports and coastal ports. The HMT was intended to recover a portion of the federal government's cost of maintaining the nation's deep draft navigation channels [29]. The Act created both the HMT and the Harbor Maintenance Trust Fund (HMTF). The HMTF is the trust fund which holds HMT revenues from the time they are collected, until they are disbursed by Congressional appropriation [30].

Originally, the HMT was intended to recover only 40% of port maintenance costs. However, in 1990 the HMT was more than tripled by Congress to its current rate equal to 0.125 percent of the value of the commercial cargo involved [31]. This dramatic increase in the HMT was intended to recover 100 percent of maintenance dredging expenses. The HMT currently is imposed at the time of unloading [32] on importers and domestic shippers, but the term domestic shipper would include foreign flag vessels traveling between U.S. ports [33]. The HMT was created as an ad valorem tax in an attempt to minimize its impact on U.S. exports, especially price sensitive bulk commodities [34]. The impact on U.S. exports was eliminated by a U.S. Supreme Court decision in March of 1998, where the court held that the HMT was unconstitutional as applied to exports [35]. One might have expected that this dramatic change in application of the HMT would have resulted in a major drop in HMT revenues. However, the decrease in HMT revenue from 1997 to its low-water mark in 1999 was only 21.99% [36]. By 2001, HMT revenues had once again exceeded their pre-1998 levels [37].

Legal Challenges to the HMT's Validity

The principal legal challenge to the HMT began with a constitutional challenge based on the export clause of the U.S. Constitution. The U.S. Shoe Corporation brought an action on November 3, 1994 against the U.S. Government in the Court of International Trade (CIT). U.S. Shoe sought a refund of the HMT it had paid on exports arguing that the HMT was an unconstitutional tax as applied to exports [38]. Both the CIT and the Court of Appeals for the Federal Circuit held that the HMT was a tax, not a user fee, and that as a tax, it violated the Export Clause. The U.S. Supreme Court agreed to hear the case after the decision by the Federal Circuit.

The first step in the Supreme Court's analysis of the HMT was to determine whether the CIT had proper jurisdiction over the case as filed by U.S. Shoe. The scope of the CIT's jurisdiction is established by 28 U.S.C. §1581. The HMT's own jurisdictional provision states that for jurisdiction purposes, the HMT, "shall be treated as if such tax were a customs duty" [39]. The CIT's jurisdictional statute states that the CIT has jurisdiction over civil actions against the U.S. that, "…arises out of any law of the United States providing for – (1) revenue from imports or tonnage; (4) administration and enforcement with respect to the matters referred to in paragraphs (1) – (3) of this subsection….” [40]. The Supreme Court found HMT claims to be within the jurisdiction of the CIT because at that time, the HMT applied to both imports and exports and its specific jurisdictional provision references revenue from imports. Even though the lawsuit involved the HMT's applicability to exports, it was possible for the CIT to rely on jurisdiction created over imports [41].

The Supreme Court then turned to the issue of whether the HMT was a "tax" which would potentially be impermissible under the Export Clause, or whether it qualified as a "user fee" which might survive Export Clause scrutiny. The Court found that the HMT is a tax, basing its decision on the Congressional description of the HMT as a "tax on any port use" [42]. The Court went on to analyze the HMT and determined that it is not a user fee. It distinguished prior cases involving user fees such as the civil aircraft registration fee, [43] and other valid user charges that involved either the Dormant Commerce Clause or the Takings Clause, finding that the Export clause contained a "simple direct and unqualified prohibition on any taxes or duties…on exports" [44]. The Court then analogized the HMT to the excise tax on tobacco that was the subject of the Court's 1876 decision in *Pace v. Burgess* [45]. In *Pace*, the stamps required to sell tobacco in the export market, "'bore no proportion whatever to the quantity or value of the package on which [the stamp] was affixed' and the fee was not excessive" [46]. Since the amount of HMT paid by an exporter, "does not correlate reliably with the federal harbor services used or useable exporter" [47] it imposes a tax, not a user fee, and as such was invalid as applied to exports. The Court invalidated the HMT as it applied to exports, but since the Export Clause does not prohibit taxing imports or domestic transportation, the HMT continues to apply to both imported items and domestic transportation.

Litigation Subsequent to U.S. Shoe

Since the Court's decision in U.S. Shoe, the Harbor Maintenance Tax has continued to be controversial. On February 28, 2000, the Court of Appeals for the Federal Circuit ruled that there was no statute of limitations for exporters asserting claims for refund of the HMT. This effectively required the U.S. Customs Service to refund all HMT paid on exports back to April 1, 1987, the original effective date of the HMT [48]. Exporters, whether they were involved in the U.S. Shoe litigation or not, immediately began to file claims for refund of the HMT paid on exports.

The second post-U.S. Shoe suit involved interest on refunds of HMT. Here the exporters did not fare as well. The Court of Appeals for the Federal Circuit ruled that the U.S. government was not required to pay interest along with refunds of the unconstitutionally collected HMT [49]. The court's decision was based on the principal that, "interest may only be recovered in a suit against the government if there has been a clear and express waiver of sovereign immunity by contract or statute, or if interest is part of compensation required by the Constitution" [50]. The court found that nothing in the HMT statute, the Constitution, or other equitable principals required payment of interest on HMT refunds.

Problems with the Harbor Maintenance Tax Today

Application to Imports but not Exports. As a result of the U.S. Supreme Court's decision in U.S. Shoe, described in the litigation section above, as it exists today, the Harbor Maintenance Tax applies to imported products and products transported domestically, but it does not apply to exported products. Undoubtedly, exported products put as much burden on U.S. harbors and shipping channels as do imports, but they are exempt from this ad valorem tax. To resolve this imbalance, either of two steps could be taken. The U.S. Constitution could be amended to allow taxation of exports (a very difficult and likely unsuccessful approach) or, the HMT could be replaced with another system of taxation that passes constitutional muster.

The HMT Discourages the Most Fuel Efficient Means of Transportation. Water transportation is the most fuel efficient method of transportation currently available in the United States. Ships can transport a ton of cargo 514 miles using one gallon of diesel fuel, whereas trucks can transport that same ton of cargo only 59 miles on the same gallon of fuel. As an ad valorem tax, the HMT serves to encourage the use of truck transport for higher value lower weight cargo, leaving waterborne transport as a viable option only for lower-value high-weight cargo. In an era where the U.S. is increasingly dependent of foreign oil, we simply cannot afford to have a tax policy that discourages fuel efficiency in transportation. A recent example of U.S. efforts to make tax policy consistent with fuel efficiency can be found in the modification of §179. This provision reduced the small business write-off for sport utility vehicles, (SUVs) from $100,000 to a maximum of $24,000) [51]. Eliminating the HMT would allow companies to use waterborne transit for items which are currently transported using less fuel efficient means. This not only reduces America's dependence on foreign oil, but could reduce highway traffic and reduce the number of accidents that occur on our highways [52].

The HMT Violates GATT. After the decision in U.S. Shoe, the HMT applies to imports but not to exports. On February 6, 1998 the European Communities brought a Request for Consultations (RC) against the United States in the World Trade Organization's Dispute Settlement Body. Canada, [53] Japan, [54] and Norway [55] also joined in the RC. The RC alleged that the HMT violated Articles I, II, II, VIII and X of GATT, as well as the Understanding on the Interpretation of Article II: 1(B) of GATT [56]. The European Community's RC was introduced a few weeks before the Supreme Court's decision in U.S. Shoe, but the U.S. Shoe decision at least arguably makes the EC's claim against the HMT even stronger. By dropping the HMT on exports, but maintaining it on imports, the U.S. has unintentionally violated the national treatment obligation under GATT [57]. This in effect allows tax free port use to products originating in the U.S. but imposes a tax on imported products, a direct violation of the national treatment clause of GATT Article III [58]. One important exception to this rule applies to user fees which are imposed for services actually rendered. However, as the Supreme Court noted in U.S. Shoe, the HMT is not a valid user fee because it has little or no direct relationship to services provided to importers [59]. The WTO has not acted on the European

Community's RC. No panel has been established to act on the Request for Consultations [60]. Abolishing the HMT would clearly be viewed favorably by our European and other trading partners.

The HMT Unfairly Taxes High Value Cargo When Compared to Low Value Cargo. As noted in the preceding section, one effect of the HMT is to impose a large tax burden on high value cargo. While the intent of the HMT is to provide a revenue source for dredging and harbor maintenance, its effect is to strongly discourage manufacturers of high value non-bulk items from using waterborne transportation. While this would appear to suggest that a tonnage tax would be a fairer means of generating harbor maintenance revenue, fuel efficiency and other issues and opportunities indicate that generating this revenue elsewhere actually represents better national tax policy.

The HMT has Prevented Some Types of Waterborne Transport from Flourishing in the Great Lakes. Both Roll-On/Roll-Off (RORO) and various truck ferry services have been very difficult to establish on the Great Lakes due in large part to the existence of the HMT. It effectively transfers goods and products that could be shipped on the Great Lakes to both truck and rail-based transportation systems. The HMT creates a disincentive for maritime shipping of both ferry cargo and containerized cargo. As an ad valorem tax, the HMT imposes a requirement that containerized cargo be valued for the purpose of assessing HMT. The burden of the HMT is two-fold: First, the HMT represents an added cost of 0.125 percent for the product shipped. But also, compliance with the HMT requires valuation of items within any container or vehicle transported onboard a ship, requiring a substantial volume of paperwork [61]. There is currently one operating truck-only ferry on the Great Lakes, the Detroit/Windsor Truck Ferry, ferry service exists to various islands such as the Erie Islands and the Apostle Islands, and a RO-Pax (Roll-On/Roll-Off with Passenger Service), the Michigan Car Ferry Service on Lake Michigan [62]. The opportunities for additional truck ferry and RO/RO service on the Great Lakes are substantially limited by the imposition of the HMT. Previous research has indicated that the HMT (applied to both imports and exports at the time) was an important factor and perhaps even the primary factor in the termination of RO/RO service between Duluth, Minnesota and Thunder Bay, Canada [63].

As Currently Enacted the HMT is Difficult to Properly Enforce. The HMT currently applies to imports and to domestic transportation. With respect to imports, it is collected by the U.S. Customs Service when the goods arrive in a U.S. port and clear customs. Payment is voluntary with respect to domestic shipping. Since the Customs Service doesn't monitor domestic shipping there is no clear enforcement tool for domestically shipped items. While potential compliance problems alone are usually not sufficient to militate elimination of a tax system, when the system is as flawed as the current HMT, it may be better to eliminate the tax altogether than to try to create a new and expensive system to ensure taxpayer compliance.

The HMT is a Barrier to International Trade. Our trading partners in Europe particularly those who are members of the European Community have routinely expressed strong opposition to the HMT. Its imposition on imports (many of which come from Europe) but not on exports is perceived as a tariff on imported goods. While this was clearly not the intention of the Supreme Court's U.S. Shoe decision [64], the decision's effect is unavoidable. Eliminating the HMT would eliminate this inadvertent "tariff".

The HMT Results in a Shift in Container-Borne Cargo to Canadian Ports. Port-related jobs currently employ about five million U.S. workers. These workers earn roughly $44 billion in annual personal income. With respect to containerized cargo, the Port of Seattle estimates that each container of goods that arrives in port adds about $1,000 to the local economy [65]. Containerized cargo (and bulk cargo as well) entering the U.S. through U.S. ports is subject to the HMT. If the cargo is containerized and enters a Canadian port where the container is moved to a truck or train, it avoids the HMT altogether. The HMT puts ports near the Canadian border at a competitive disadvantage. This disadvantage results in job losses at U.S. ports, some of the highest paid union jobs in the U.S. [66].

The HMT Generates Substantially More Revenue than the U.S. Currently Needs for Harbor Maintenance. The HMT has been a very effective (perhaps too effective) vehicle for generating revenue for the Army Corps of Engineers dredging and harbor maintenance activities. There is currently a $3.1 billion surplus in the Harbor Maintenance Trust Fund, an amount sufficient to support the Army Corps of Engineer's dredging and harbor maintenance at the current rate for 3 ½ years. The HMT could be abolished currently, and a replacement revenue stream could be deferred or phased in over a period as long as three years without risking any of the Corps' ability to complete important dredging and harbor repairs.

Table 3.1: Harbor Maintenance Trust Fund Balances (figures rounded to nearest thousand)

	Beg. Balance	Revenue	Total Balance	Expenditures	Ending Balance	Net Change
FY 97	$866,063	$789,166	$1,655,230	$549,502	$1,105,728	$239,665
FY 98	$1,112,241	$687,870	$1,800,111	$511,093	$1,289,018	$176,777
FY 99	$1,289,018	$615,601*	$1,904,619	$295,662	$1,608,957	$319,939
FY 00	$1,608,957	$760,554	$2,369,511	$701,869	$1,667,642	$58,685
FY 01	$1,667,642	$810,769	$2,478,411	$659,570	$1,818,841	$151,199
FY 02	$1,818,841	$710,789	$2,529,630	$656,214	$1,873,417	$54,576
FY 03	$1,873,417	$804,518	$2,677,935	$585,855	$2,092,080	$218,663
FY 04	$2,092,080	$922,383	$3,014,463	$648,200	$2,366,263	$274,183
FY 05	$2,366,263	$1,122,630	$3,488,892	$705,956	$2,782,936	$416,674

*See estimated collections for 1999 (Table 2.3)

Data source: Bureau of the Public Debt, Office of Public Debt Accounting, Trust Fund Management Branch

The Income from the HMT is not Fairly Allocated to the Commercial Ports Which Generate HMT Revenues. As previously noted, the HMT was enacted to fund dredging and maintenance of commercial ports. Unfortunately, the HMT is used for a variety of waterway projects that are completely unrelated to dredging and maintenance of commercial ports. Even if the HMT were lowered so that it produced only enough revenue to fund current and future harbor maintenance and dredging expenses, the allocation of funds is currently unfair.

In some cases HMT revenues have been spent on maintenance of harbors which provide little or no commercial trade, and hence contribute virtually nothing to the HMTF. In other cases HMT revenues are collected at ports which do not require or fund maintenance through HMTF expenditures. The Great Lakes Boating Federation, in making a case for federal support for recreational boating notes that recreational boaters benefit from large breakwaters protecting cities like Cleveland and Chicago, built and maintained by the Army Corps of Engineers. [http://www.greatlakesboatingfederation.org/action/infrastructure.html] On the other hand, commercial interests, as represented by the AAPA note in testimony before a House subcommittee "Ports like Seattle and Tacoma, which need little or no maintenance dredging, have long suffered the inequity of competing for cargos that must pay significant fees for essentially no service" [67].

Calculation and direct comparison of collections and expenditures is currently compromised by lack of data; as noted in the arguments for reform of the HMT and for increased intermodal support by the National Ports and Waterways Institute (NPWI) at the University of New Orleans, since all domestic shipment databases are weight-based almost no information is available on the value of shipments. The NPWI study makes estimates from ACE lake-wise waterborne commerce data for average value per ton, and shows lake-wise commodity tonnage shipped. See appendix D for these data and estimates [68].

The HMT does not Allocate its Tax Burden to Either 1) Ports which Require the Largest Dredging Expenditures, or 2) Vessels which Require the Deepest Drafts. While the U.S. Supreme Court made it clear that the HMT is to be classed as a tax [69], not a user fee, a tax that is enacted to recover the government's cost for providing a specific service should be fairly applied to the users of those services, to be perceived by the public and the stakeholders as an equitable tax. Dredging expenses (but not necessarily other port maintenance) are largely a function of draft depth of ships traveling through the Great Lakes and St. Lawrence Seaway and the amount of sediment deposited in various locations on the system from rivers and other runoff. The HMT does not attempt to account for these differences in its imposition of an ad valorem tax.

The Income from the HMT is Used for Work at Some Ports but not Others. The Port of Seattle incurred $792,500 in HMT funded expenses for the years 1999-2004. International imports to Seattle incurred $27,966,250 in HMT for 2004 alone. Seattle is a naturally deep water port containing at least 15 berths that are at least 50 feet deep. The Port of Seattle handled 20,564,860 metric tons of cargo in 2005 with this minimal amount of HMT [70]. By comparison, the Port of Wilmington, North Carolina incurred $95,015,705 in HMT funded expenses during the same five year period while international imports shipped through Wilmington incurred only $1,790,000 in HMT for 2004. HMT collections were estimated using USACE value of cargo.

HMT Revenue is a Small Portion of Total Transportation Tax Revenue and a Small Portion of Transportation Spending. The HMT represents only three percent of the U.S. government's revenue from transportation sources. While government spending on water transport is 6% of the total transportation budget, this apparent "imbalance" is more than justified by the importance of water transport as both a strategic military tool, and the fuel efficiency of waterborne transport as identified previously. The significance of these funding levels is that while the HMT stands as a meaningful barrier to specific types of water transport, it actually provides a very small percentage of the federal government's transportation budget.

Attempts to Fix the HMT's Flaws

The argument in this report is far from the first indictment of the HMT. Carriers, port authorities, shippers, manufacturers and legal scholars have provided almost constant opposition to the HMT [71]. For most of these stakeholders, the most significant opposition resulted in the U.S. Shoe litigation which ended in the elimination of the HMT on exports. Since the end of the U.S. Shoe litigation, several attempts have been made to reform the HMT.

The 1992 Attempt to Reduce the HMT. In August of 1992, H.R. 5896 was introduced to reduce the HMT from 0.125 percent to 0.04 percent, its pre-increase level. The bill also attempted to broaden the types of expenses which could be funded by the HMT and to enhance enforcement by turning 10 percent of all HMT revenue over to the IRS to cover costs of IRS enforcement of the HMT. The bill was not reported out of the House Ways and Means Committee's Subcommittee on Water Resources, and enforcement remains an activity of the U.S. Customs Service [72].

The Trust Fund Excess/HMT Rate Reduction Bill. A bill was introduced by Congressman McDermott (D-WA) to reduce the HMT rate to .0105 for 1996, 0.085 for 1997, and 0.065 percent for 1998. It would then have reduced the post- 1998 HMT rate by 0.01 percent for each calendar year in which the HMTF remained funded in excess of $100,000,000. The bill was introduced on March 6, 1995 with an effective date of January 1, 1996. It did not pass a vote in the House Ways and Means Committee [73].

The Harbor Services Fund. In April 1999, the Clinton Administration proposed a new Harbor Services Fund Tax (HSF) as part of the Harbor Services Fund Act of 1999, H.R. 1947. The Harbor Services Fund Tax was proposed to replace the revenue lost as a result of the Supreme Court's U.S. Shoe decision. This additional tax would have produced roughly $850 million in additional annual revenue [74]. The HSF met with strong opposition from a wide variety of shipping industry stakeholders. In describing the HSF, Kurt Nagle, President of the American Association of Port Authorities (AAPA) stated, "the Federal Government continues to suggest that it completely abdicate its financial responsibility for federal navigation channel maintenance" [75]. The Harbor Services Fund proposal failed in 1999 and was reintroduced by the Bush Administration as part of its fiscal year 2001 budget request, where it once again failed.

The Support for Harbor Investment Program Act of 1999. On March 24, 1999 Representatives Borski (D-PA) and Oberstar (D-MN) introduced a bill to repeal the HMT, use the funds in the HMTF to fund dredging activities, and once those funds were expended, to fund the Army Corps of Engineers' dredging out of the general fund of the U.S. Treasury [76]. The bill was referred to the House Ways and Means Committee and the Committee on Transportation and Infrastructure. The Committee on Transportation and Infrastructure referred it to its Subcommittee on Water Resources and Environment on March 26, 1999. The bill was not reported out of the Subcommittee and died there [77].

The Container Port Exemption Bill of 2002. A bill was introduced in the House, in July of 2002, to provide an exemption to the HMT for any port that is within 200 miles of a container port in a foreign country and which does not use harbor maintenance funds from the Treasury. The bill, offered by several members of Washington State's congressional delegation, essentially would have provided an HMT exemption for the Port of Seattle/Tacoma Washington. The bill was not reported out of the House Ways and Means Committee [78].

The $100,000,000 Import Value Port Limit Bill of 2003. A 2003 bill attempted to change the definition of exempt port under IRC §4462(a)(2). This section provides that the HMT does not apply to ports which have not received federal funds for construction, maintenance or operation at any time after 1977. The bill, which was introduced in the Senate by Senator John Kerry (D-Mass.), attempted to remove this exemption for any port which was used to transport more than $100,000,000 of commercial cargo in any year after 2001. The bill was not reported out of the Senate Finance Committee.

The Ferry Borne Trailer Cargo Exemption Bill of 2004. In March of 2004 a bill was introduced in the House which would have provided an exemption from the HMT for "qualified container cargo." Qualified container cargo included cargo, "in or on a truck trailer or semi-trailer parked on a ferry operating between two ports for the sole purpose of transporting such trailers and trucks between such ports due to traffic congestion on the nearest international bridge serving the area in which such ports are located" [79]. This bill, introduced by Congressman Phil English (R-PA) was an attempt to exempt the Detroit-Windsor Truck ferry and other similar ferries from HMT. The bill was not reported out of the House Ways and Means Committee.[80]

The Short Sea Shipping Tax Exemption Act of 2005. Congressman Dave Weldon, M.D. (R-FL) introduced a bill on July 18, 2005 which would provide an exemption from the HMT for domestic container-based cargo unloaded in U.S. ports transported between U.S. ports via coastal routes or river systems [81]. This would have effectively eliminated the HMT on products shipped in containers within the U.S. and left the HMT in place for imports and bulk cargo only. The bill has not been reported out of the House Ways and Means Committee.

The Great Lakes Short Sea Shipping Enhancement Act of 2006. On July 26, 2006 a bill was introduced in the House to exempt from the HMT commercial non-bulk cargo loaded at a port in the Great Lakes or St. Lawrence Seaway System and unloaded at any other port in the Great Lakes or St. Lawrence Seaway System [82]. The bill was referred to the House Ways and Means Committee, but has yet to be reported out of that committee.

Proposed Solutions to the HMT Problem

After at least nine failed reform attempts in a ten-year period, it's time for a major change to the HMT. We suggest three possible proposals for change: The first two reform proposals would provide a permanent solution to the HMT problem and retain the ability to fund Army Corps of Engineers' important dredging and harbor work. The third proposal, while not solving the HMT problem, at least provides a tax incentive for companies engaged in short sea shipping.

Proposal 1: Abolish the HMT and Fund Harbor Maintenance Using General Government Revenue. This proposal calls for a renewal of the Support for Harbor Investment Program Act of 1999. It provides a clear set of appropriations for the Army Corps of Engineers by requiring funding only in years after the funds in the HMTF are fully expended.

Proposal 2: Abolish the HMT and Fund Harbor Maintenance Using an Increase in the Diesel Fuel Excise Tax. This proposal requires abolishing the HMT and replacing its revenue stream with funds generated from an increase in the federal excise tax on diesel fuel sold for over-the-road use. This excise tax is currently $0.245 cents per gallon. In order to fund the Army Corps of Engineers' dredging and maintenance activities, the required increase in the excise tax would be $0.0112 cents per gallon [83]. While this tax increase is borne by the over-the-road transportation industry as opposed to the marine transport industry, it's fair to propose this burden in order to increase over-all fuel efficiency, which favors water transport. As suggested, a tax structure of this type would divert traffic to water transportation and thereby reduce our nation's dependence on foreign oil. This modal shift would potentially reduce congestion on America's highways as well. (See for instance Fruin's calculations and conclusions of cost increase incurred by a proposed shift from waterway to land transportation in the Mississippi Metro area, or the recent modal shift from water to truck for New York trash disposal New York is trying reverse) [84]. This approach has been used successfully in Europe, with the support of the trucking industry.

Table 3.2: U.S. Fuel Consumption and Demand			
	(millions of barrels per day)		
Demand	2005	2006	2007
Motor Gasoline	9.13	9.19	9.28
Jet Fuel	1.63	1.66	1.70
Distillate Fuel Oil	4.11	4.20	4.31
Residual Fuel Oil	**0.91**	**0.76**	**0.81**
Other Oils	4.88	4.93	5.08
Total Demand	20.66	20.74	21.18
Source: Energy Information Administration\Short-Term Energy Outlook - July 2006, Table 5a			

Table 3.3: Percent Change in U.S. Fuel Consumption*			
	Millions of barrels per day		
Demand	**2005-2006 change**	**2006-2007 change**	**2005-2007 change**
Motor Gasoline	0.66%	0.98%	1.64%
Jet Fuel	1.84%	2.41%	4.29%
Distillate Fuel Oil	2.19%	2.62%	4.87%
Residual Fuel Oil	-16.48%	6.58%	-10.99%
Other Oils	1.02%	3.04%	4.10%
Total Demand	0.39%	2.12%	2.52%
*Diesel fuel is projected to have the greatest change from 2005-2007.			
Source: Energy Information Administration\Short-Term Energy Outlook - July 2006, Table 5a; Bureau of Business and Economic Research			

Table 3.4: 2005 U.S. Diesel Excise Tax and Daily, Yearly Demand	
	Federal tax: 24.4 cents per gallon
	State tax: 21.6 cents per gallon
Daily Demand	= 4.11 Million Barrels (Barrel = 42 U.S. Gallons) = 172.62 Million Gallons
Yearly Demand	= 63,006.3 million gallons
2005 Excise Tax collection total	= $630,063,000
Sources: Diesel Demand from: Energy Information Administration\Short-Term Energy Outlook - July 2006, Table 5a; Excise Tax Totals from: Energy Information Administration, Petroleum Marketing Monthly, February 2006, Explanatory Notes, Table EN1	

Table 3.5: U.S. Tax Collections and Revenue, Diesel Excise Tax Compared to HMT				
Scenario 1	Increase excise tax to cover expenditures		Amount needed to cover:	$705,956,074*
Scenario 2	Increase excise tax to cover total revenue		Amount needed to cover:	$1,122,629,667*
			HMT Collections	
Rise in Excise Tax (cents)		2005	2006**	2007**
Scenario 1	1.12	$705,670,560	$721,123,200	$740,009,760
Scenario 2	1.78	$1,121,512,140	$1,146,070,800	$1,176,086,940
* Based on 2005 HMT Collections ** Projection based on stable excise tax using the projected distillated demand provided by the Energy Information Administration				
Source: UMD Bureau of Business and Economic Research;				

Proposal 3: The Short Sea Shipping Tax Credit. While abolishing the HMT would be ideal from a tax policy standpoint, should Congress choose to leave the HMT in place, a tax credit should be created to provide a tax incentive for Great Lakes and other U.S. short sea shipping. This non-refundable credit, the "Short Sea Shipping Tax Credit," would operate as follows:

- The credit would be offered to companies engaged in transporting either products or people between any two U.S. ports, or originating in a port in either Canada or Mexico, and ending in a U.S. port.
- The credit would be incremental, meaning that companies would claim the credit on their corporate tax return, but it would be based on the increase in products or people shipped in the current tax year over a base period of the preceding three tax years.
- The credit would be the greater of: 10 percent of the increase in value of items shipped for the tax year, or an amount based on the increase in tonnage of items shipped. This tonnage portion of the credit would provide different credit amounts per ton for grain, coal, sand, salt, iron ore, or other bulk cargo.
- The credit would be nonrefundable, meaning that it would only offset positive current tax liability of the carrier. If the carrier has a tax loss for the year, the credit could be carried back two years and forward for five years.

Harbor Maintenance Tax Time Line

1987	TITLE XIV WATER RESOURCES DEVELOPMENT ACT OF 1986	***HMT and HMTF ad valorem tax established at 0.04% value of cargo.***
1990	SECTION 11214 OMNIBUS BUDGET RECONCILIATION ACT OF 1990	***HMT rate increased to 0.125%***
1996	WATER RESOSOURCES DEVELOPMENT ACT OF 1996	***Water Resources Development Act of 1996 allows the ACE to recover the Federal share***
1997	APPELLATE COURT RULES HMT ON EXPORTS UNCONSTITUTIONAL	***Appellate court confirms the lower court decision that the HMT on exports is unconstitutional.***
1998	SUPREME COURT FOUND HMT UNCONSTITUTIONAL	***U.S. Supreme Court has declares the harbor maintenance fee (HMF) an unconstitutional tax on exports by a vote of 9 - 0 .***
1998	HMF REFUND STATUS	***When exporters can expect their Harbor Maintenance Fee (HMF) refunds remains open.***
1998	HMF REPLACEMENT PROPOSED	***Clinton Administration rolls out proposal to replace the Harbor Maintenance Fee (HMF).***
1999	HMT UPDATE	***Although ruled unconstitutional on exports, challenges by IBM and etc.)***
2000	CHALLENGING CUSTOMS	***Supreme Court Hears Arguments in two import-export cases.***
2000	COURT RULES ALL EXPORT HMT SUBJECT TO REFUND	***Court of Appeals for the Federal Circuit ruled that all harbor maintenance tax (HMT) payments made since 1986 (when the law was enacted) are subject to refund.***
2000	HMT INTEREST OVERTURNED	***The Court of Appeals for the Federal Circuit finds the U.S. immune from interest payment.***
2000	RECOVER INTEREST APPEAL	***I.B.M. has filed an appeal to the U.S. Supreme Court over the question of whether exporters are entitled to recover interest on HMT refunds. The Court of Appeals rules no.***
2000	HARBOR MAINTENANCE TAX UPDATE	***Swisher International, Inc. v. United States confirms that there is no statute of limitations which applies to harbor maintenance tax refunds.***
2000	HMT REFUNDS	***Effective March 28, 2001, Customs issued interim rules for those seeking refunds of harbor maintenance taxes.***
2006	HMT INTEREST	***Re question of interest, importers counseled to file complaints at the CIT to claim two years of HMT payments at time of filing.***
2006	NO INTEREST ON EXPORT HMT	***CIT held there was no statute which authorized the payment of interest and no obligation on the part of the government to pay it.***
2006	HMT RULED LEGAL ON IMPORTS	***CIT rejects attempts to extend the illegality of the HMT. Possible appeals pending.***

Challenges and Appeals

Figure 4: HMT Timeline. *Source:* See expanded detail of this chronology in Appendix C, courtesy of Rodriguez O'Donnell Ross & Fuerst.

Chapter 4: Potential Economic Impacts of the Research Results

The three proposals presented in Chapter 3 (Abolish the HMT and Fund Harbor Maintenance Using General Government Revenue; or Abolish the HMT and Fund Harbor Maintenance Using an Increase in the Diesel Fuel Excise Tax; or institute a Short Sea Shipping Tax Credit) share the possible outcome of increased shipping activity on the Great Lakes. A conference call among port and shipping stakeholders confirmed the likelihood of some increase in shipping activity following the incentive provided by removing the tax.

The input-output modeling tool IMPLAN® can provide a general estimate of the possible economic impact of increased shipping activity associated with the proposed hypothetical tax relief [85]. For purposes of estimation, we use a hypothetical assumption of $1 million in increased shipping output for the economy of the State of Minnesota, reported in 2005 dollars. The following table shows estimated impacts for the economic measures and effects that might be associated with a change in the HMT.

IMPLAN modeling here includes the impact 2002 NAICS Definitions 483 Water Transportation (or IMPLAN sector 393 Water Transportation). NAICS sector 483 Water Transportation industries provide water transportation of passengers and cargo using water craft, such as ships, barges, and boats.

The subsector is composed of two industry groups: (1) one for deep sea, coastal, and Great Lakes; and (2) one for inland water transportation. This split typically reflects the difference in equipment used.

Table 4: Estimated Economic Impact per $Million Increase in Shipping

Table 4.1: Value Added Impact

Industry	Direct	Indirect	Induced	Total
Water transportation	$252,114	$95	$119	$252,328
Scenic and sightseeing transportation and support	$0	$53,190	$134	$53,324
Insurance carriers	$0	$27,050	$3,002	$30,052
Owner-occupied dwellings	$0	$0	$21,209	$21,209
Wholesale trade	$0	$12,562	$7,307	$19,869
Total	$252,114	$212,101	$117,303	$581,519

Table 4.2: Employment Impact

Industry	Direct	Indirect	Induced	Total
Water transportation	2.0	0.0	0.0	2.0
Scenic and sightseeing transportation and support	0.0	0.6	0.0	0.6
Food services and drinking places	0.0	0.2	0.3	0.5
Insurance carriers	0.0	0.2	0.0	0.2
Wholesale trade	0.0	0.1	0.1	0.2
Other State and local government enterprises	0.0	0.2	0.0	0.2
Accounting and bookkeeping services	0.0	0.2	0.0	0.2
Travel arrangement and reservation services	0.0	0.2	0.0	0.2
Architectural and engineering services	0.0	0.2	0.0	0.2
Total Employment	2.0	3.3	2.4	7.7

Table 4.3: Output Impact

Industry	Direct	Indirect	Induced	Total
Water transportation	$1,000,000	$377	$471	$1,000,848
Scenic and sightseeing transportation and support	$0	$62,791	$158	$62,949
Insurance carriers	$0	$53,587	$5,946	$59,533
Other State and local government enterprises	$0	$35,983	$3,572	$39,554
Petroleum refineries	$0	$27,294	$4,274	$31,568
Total	$1,000,000	$404,378	$194,930	$1,599,308

Table 4.4: Total Impact

	Direct	Indirect	Induced	Total
Total Value Added Impact	$252,114	$212,101	$117,303	$581,519
Employment Impact	2.0	3.3	2.4	7.7
Output Impact	$1,000,000	$404,378	$194,930	$1,599,308

Source: IMPLAN. UMD BBER. Estimates are reported in 2003 dollars, the most recent year of IMPLAN data available.

Scenic and sightseeing water transportation services are not included in 483 Water Transportation but are included in Subsector 487, Scenic and sightseeing transportation. Although these activities use water craft, they are different from the activities included in water transportation. Water sightseeing does not usually involve place-to-place transportation; the passenger's trip starts and ends at the same location. The IMPLAN model shows the impact on both Water transportation and Scenic and sightseeing transportation and support as quantified in the tables above.

The three measures modeled here include Gross Output (the value of local production or maritime activity in Minnesota); Value Added (the maritime industries' contribution to the State of MN, in wages, rents, interest and profits); and Employment (in terms of jobs, which include part time or short term jobs).

Value Added, Employment and Output measures are modeled here with three effects, sometimes referred to as "rounds of spending": the direct effect (the initial new spending), the indirect effect (additional inter-industry spending), and an induced effect (additional household expenditure from the direct and indirect impact).

For every million dollars in increased maritime shipping activity, the economy of Minnesota could see an additional total Value Added impact of $581,519, an additional $500,000 in Output, and almost eight new jobs added to the economy.

Chapter 5. Conclusion

Analysis of the federal assessment structure for current Great Lakes maritime commerce shows an array of 119 various fees, duties, taxes and other assessments. Among these the Harbor Maintenance Tax deserves special and immediate attention for reform as a failed taxation system that arose out of the "user fee fever" of the 1980s.

A substantial portion of the HMT's tax base was found to be unconstitutional by the U.S. Supreme Court, leaving an unbalanced, unfair and excessive tax in effect. The Harbor Maintenance Trust Fund continues to grow well beyond the amounts needed for harbor maintenance. At least nine attempts have been made to reform this failed system in the past ten years, none of which were successful. It's time for Congress to abolish this failed method of taxation and replace the revenue stream with funds from either the Treasury's general fund or funds generated by an increase in the diesel fuel excise tax.

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Chapter 4

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Appendix A: Tax Inventory Data

Source: United States General Accounting Office. Maritime Industry: Federal Assessments Levied on Commercial Vessels (GAO/RCED-93-65FS, Mar. 5, 1993; and United States General Accounting Office. Commercial Maritime Industry: Updated Information on Federal Assessments, 09/16/1999, GAO/RCED-99-260)

Note: Other variables in this inventory, as used elsewhere in this report, include data for GAO source page; Name of Assessment; Update; Description of Assessment; Type of Service; Collected by; Fund that receives collections; Used by; Commerce Type; Payor; Vessel Type; Flag Type; Specific to Maritime Industry?; Formula and Frequency of Assessment; Collection Limitations; Laws and Regulations; Collections for 1989, 1990, 1991, 1996, 1997, 1998, and 1999 (est.) ; and Description of Exemption. See the Great Lakes Maritime Research Institute for a digital copy of these data.

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
Abstract of Title	DOT: Coast Guard	Requestor
Agricultural Quarantine and Inspection User Fee (for commercial vessels over 100 net tons)	Customs Service	Owner (a)
Export Health Certificate Endorsement Fees for Animals	USDA: APHIS	Exporter or broker
Phytosanitary Certificate Fee for Plants and Plant Products	USDA: APHIS	Exporter
Collection of Fees for Sanitation Inspection of Cruise Ships	HHS: USPHS (CDC)	Owner or operator
Approval of Exchange of Certificate of Documentation Requiring Mortgage Consent	DOT: Coast Guard	Owner
Certificate of Compliance	DOT: Coast Guard	Owner
Certificate of Ownership	DOT: Coast Guard	Requester
Direct User Fees for Inspection and Examination of U.S. or Foreign Commercial Vessels	DOT: Coast Guard	Owner
Evidence of Deletion from Documentation	DOT: Coast Guard	Requester
Evidence of Financial Responsibility for Water Pollution Certificate Fee	DOT: Coast Guard	Owner or operator
Exchange of Certificate of Documentation	DOT: Coast Guard	Owner
Filing and Recording: Bills of sales and Instruments in Nature of Bills of Sale	DOT: Coast Guard	Owner

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
Filing and Recording: Mortgages and Related Information	DOT: Coast Guard	Owner or mortgagee
Filing and Recording: Notice of Claim of Lien and Related Instruments	DOT: Coast Guard	Lien claimant
Initial Certificate of Documentation	DOT: Coast Guard	Owner
Late Renewal Fee	DOT: Coast Guard	Owner
Miscellaneous Applications: Rebuild Determination--Preliminary or Final	DOT: Coast Guard	Owner
Miscellaneous: Copy of Each Instrument or Document	DOT: Coast Guard	Requester
New Vessel Determination	DOT: Coast Guard	Owner
Reimbursement of Travel and Subsistence Costs for Overseas Vessel Inspections	DOT: Coast Guard	Owner or operator
Replacement of Lost or Mutilated Certificate of Documentation	DOT: Coast Guard	Owner
Return of Vessel to Documentation	DOT: Coast Guard	Owner
Trade Endorsement: Coastwise Bowaters Endorsement	DOT: Coast Guard	Owner
Trade Endorsement: Coastwise Endorsement	DOT: Coast Guard	Owner
Trade Endorsement: Fishery Endorsement	DOT: Coast Guard	Owner
Waiver: Bill of Sale Eligile for Filing and Recording	DOT: Coast Guard	Owner
Waiver: Original Build Evidence	DOT: Coast Guard	Owner
Wrecked Vessel Determination	DOT: Coast Guard	Owner
Air/Sea Passenger fee	Customs Service	Individual passenger
Barge /Bulk Carrier Fee	Customs Service	Owner (d)
Certification Fee for Payment of Vessel Tonnage Tax and Certify Admeasurment by Foreign Vessels	Customs Service	Operator
Clearance of Vessel to Foreign Port Fee	Customs Service	Operator
Commercial Vessel Fee	Customs Service	Owner (d)
Customs Duties	Customs Service	Importer
Entry of Vessel from Foreign Port Fee	Customs Service	Operator
Harbor Maintenance Fee	Customs Service	Importer, foreign trade zone user,

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
		domestic shipper, or operator of commercial passenger vessel
Issuance Fee for a Permit to Proceed (p)	Customs Service	Operator
Merchandise Processing Fee	Customs Service	Importer
Receiving Manifest and Granting Permit to Unlade (s)	Customs Service	Operator
Receiving Post Entry	Customs Service	Operator
Vessel Tonnage Tax	Customs Service	Operator
Great Lakes Radio Agreement Inspection Fee	FCC-Licensed Technicians	Owner or operator
International Telecommunications Settlements	FCC	U.S. shipowners/telecommunicationoff foreign coasts
Oceangoing Vessel Radio Inspection Fee	FCC-Licensed Technicians	Owner or operator
Radio Communications Equipment Carriage Exemption Processing Fee	FCC	Owner or operator
Safety Convention Radio Inspection Fee	FCC-Licensed Technicians	Owner or operator
Ship Radio Station License Application Fee	FCC	Owner or operator
Ship Radio Station License Regulatory Fee	FCC	Owner or operator
Small Passenger Vessel Radio Inspection Fee	FCC-Licensed Technicians	Owner or operator
Ageement Filing Under Delegated Authority Application Fee	FMC	Owner, operator, or marine terminal operator
Agreement Amendment Filing Requiring Commission Action	FMC	Owner, operator, or

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
		marine terminal operator
Agreement Filing for Terminal and Carrier Exempt Agreements Application Fee	FMC	Owner, operator, or marine terminal operator
COFR for Indemnification of Passengers for Nonperformance of Transportation Application Fee	FMC	Owner or charterer
COFR to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Application Fee	FMC	Owner or charterer
Conciliation Service Application Fee	FMC	Owner, operator, shipper, or other interested party
Declaratory Order Application Fee	FMC	Owner, operator, shipper, or other interested party
FMC: Special Docket Application Fee	FMC	Owner, operator, or NVOCC (e)
FMC: Special Permission Application Fee	FMC	Owner, operator, or NVOCC (e)
Formal Complaint Filing Fee	FMC	Owner, operator, shipper, or other interested party
Informal Procedures Application Fee	FMC	Owner, operator, shipper, or other interested party
New Agreement Filings Requiring Commission Review	FMC	Owner, operator, or marine terminal operator

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
Permission to Correct Clerical Errors on Service Contracts Application	FMC	Owner, operator, shipper, or other interested party
Petition for Investigation to Determine Existence of Adverse Conditions Affecting U.S.-flag Carriers	FMC	Owner, Operator, NVOCC, importer, exporter, freight forwarder, shipper or other interested party
Petition for Relief for U.S.-flag Vessels Operating in Foreign-to-Foreign Trades	FMC	Owner or operator
Petition for Rulemaking Fee	FMC	Owner, operator, shipper, or other interested party
Petition for Section 19 Relief	FMC	Owner, operator, NVOCC, importer, exporter, or other interested party
Stowage Examination Fee	USDA: GIPSA	Importer or exporter
Inland Waterways Fuel Tax	IRS	Operator
Leaking Underground Storage Tank (LUST) Tax	IRS	Operator
Ship Passengers International Departure Tax	IRS	Operator
Authority to Transfer Ownership of Ships Built With Construction Subsidies Application Fee	DOT: MARAD	Owner
Foreign Transfer of Ownership or Registry Application Fee	DOT: MARAD	Owner
Foreign Transfer of Ownership Pursuant to MARAD Contracts	DOT: MARAD	Owner
Guarantee Fee for MARAD's Title XI Program	DOT: MARAD	Owner
Investigation Fee	DOT: MARAD	Owner
Substitution of Participants for Title XI Assistance Application Fee	DOT: MARAD	Owner or mortgagee

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
Title XI Application Filing Fee	DOT: MARAD	Owner
Title XII War Risk Interim Binder Fees	American War Risk Agency	Owner
Aquaculture Permit	NOAA: NMFS	Owner
Atlantic Swordfish Permit Application Fee	NOAA: NMFS	Owner
Bluefin Tuna Permit Application Fee	NOAA: NMFS	Owner
Bottomfish /Seamount Groundfish Permit	NOAA: NMFS	Owner
Coastal Migratory Pelagic Fish Permit Application Fee	NOAA: NMFS	Owner or operator
Commercial Spiny Lobster Permit	NOAA: NMFS	Owner
Fisheries Finance Program Application Fee	NOAA: NMFS	Borrower
Fisheries Obligation Guarantee Program Guarantee Fee	NOAA: NMFS	Owner
Foreign Fishing Observer Fee	NOAA: NMFS	Owner or representative of the foreign fishing nation
Foreign Fishing Permit Application Fee	NOAA: NMFS	Owner or representative of the foreign fishing nation
Foreign Fishing Poundage Fee	NOAA: NMFS	Owner or representative of the foreign fishing nation
Golden Crab Permit	NOAA: NMFS	Owner
Groundfish Endorsements Permit	NOAA: NMFS	Owner
High Seas Fishing Compliance Act Permit Application	NOAA: NMFS	Owner
Marine Mammal Authorization Program Registration Fee	NOAA: NMFS	Owner or operator
Pelagics Permit	NOAA: NMFS	Owner
Reef Fish Permit Application Fee	NOAA: NMFS	Owner
Shark Permit	NOAA: NMFS	Owner
Snapper-Grouper Permit Application Fee	NOAA: NMFS	Owner

Overview of Maritime Tax Inventory by Federal Assessment Name, Collector, and Payor

Name of Assessment:	Collected by:	Payor:
South Atlantic Rock Shrimp Permit	NOAA: NMFS	Owner
Spiny Lobster Permit Application Fee	NOAA: NMFS	Owner or operator
Vessel Certificate of Inclusion Application Fee	NOAA: NMFS	Owner or operator
Wreckfish Permit Application Fee	NOAA: NMFS	Owner
Docking /Undocking Tug Service Fee	PCC	Owner or operator
Extraordinary Transit Tug Service Fee	PCC	Owner or operator
General Tug Service Fee	PCC	Owner or operator
Handling Lines for Docking After Transit Service Fee	PCC	Owner or operator
Handling Tug Line Service Fee	PCC	Owner or operator
Handling Vessel Lines Service Fee	PCC	Owner or operator
Launch Service Fee-Dredging Division	PCC	Owner or operator
Launch Service Fee-Marine Bureau	PCC	Owner or operator
Offshore Pilotage Fee	PCC	Owner or operator
Pilotage Fee at the Gamboa Mooring	PCC	Owner or operator
Pilotage Fee During Dock Trial	PCC	Owner or operator
Port Pilotage Fee	PCC	Owner or operator
Sea Tug Service	PCC	Owner or operator
Special Admeasurement Service Fee	PCC	Owner or operator
Standard Tug Service	PCC	Owner or operator
Tolls For Transit	PCC	Owner or operator
Transit Booking Fee	PCC	Owner or operator

Appendix B: Commercial Maritime Assessments Tax Code Inventory

Tax Code Inventory of Assessments as Legislated for U.S. Commercial Maritime

Source: GAO

31 U.S.C. § 9701; 46 C.F.R. § 67.509, 58 Fed. Reg. 60256, November 15, 1993.
31 U.S.C. § 9701; 46 C.F.R. § 67.533, 58 Fed. Reg. 60256, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R § 68.05(requirement); 46 C.F.R. § 67.511(c) (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.101 (requirement); 46 C.F.R. § 67.550 (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.133 (requirement); 46 C.F.R. § 67.523 (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.141(requirement); 46 C.F.R. § 67.501(fee); 58 Fed. Reg. 60226, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.141(requirement); 46 C.F.R. § 67.507 (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.171 (requirement); 46 C.F.R. § 67.550 (fee); 58 Fed. Reg. 60266, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.175 (requirement); 46 C.F.R. § 67.521 (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.177 (requirement); 46 C.F.R. § 67.525 (fee)
31 U.S.C. 9701; 46 C.F.R. § 67.220(requirement); 46 C.F.R. § 67.527 (fee).
31 U.S.C. 9701; 46 C.F.R. § 67.303 (requirement); 46 C.F.R. § 67.537 (fee) (Note: Previously, a statute authorized this assessment; currently, a regulation authorizes this assessment.)
31 U.S.C. 9701; 46 C.F.R. § 67.503; 58 Fed. Reg. 60266, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.507
31 U.S.C. 9701; 46 C.F.R. § 67.517(fee); 58 Fed. Reg. 60226, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.527; 58 Fed. Reg. 60226, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.529; 58 Fed. Reg. 60226, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.531; 58 Fed. Reg. 60226, November 15, 1993.
31 U.S.C. 9701; 46 C.F.R. § 67.539; 59 Fed.reg. 49847, September 30. 1994.
31 U.S.C. 9701; 46 C.F.R. § 68.05(requirement); 46 C.F.R. § 67.511(a) (fee).
31 U.S.C. 9701; 46 C.F.R. § 68.05(requirement); 46 C.F.R. § 67.511(b) (fee).

31 U.S.C. 9701; P.L. 100-710, 46 C.F.R. §. 67.301 (requirement); 46 C.F.R. §. 67.535 (fee).

33 U.S.C. § 2716; 42 U.S.C. § 9608; 33 C.F.R. §138.130.

46 C.F.R. § 2.10.
46 C.F.R. § 502.51.
46 C.F.R. §502.404(a).
46 C.F.R. §502.68(a)(3).

46 U.S.C. §121; 19 C.F.R. §4.20.
46 U.S.C. §3317(b); 46 C.F.R. § 2.10.
46 U.S.C. App. §1281; 46 C.F.R. § 308.102
47 U.S.C. § 158(g); 47 C.F.R. §1.1103 and §1.1119
47 U.S.C. § 159; 47 C.F.R. § 1.152.

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Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1989, P.L. 101-239, §3001 (a), 103 Stat. 2124; 47 U.S.C. §381, 382, and 385; 47 C.F.R. §1.1103; and §80.901.
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Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1989, P.L.101-239, §3001 (a), 103 Stat. 2124; 47 U.S.C. §351, 352 and 381; 47 C.F.R. §1.1103, §80.801: and §80.851.
Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1989, P.L.101-239, §3001 (a), 103 Stat. 2124; 47 U.S.C. §351, 352 and 381; 47 C.F.R. §1.1103, §80.951.
Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993, P. L. 103-66, §6003; 47 U.S.C. §158; 47 C.F.R. §80.951 (e); Safety of Life at Sea Convention, ch. 4, regulation 5 (b), 16 U.S.T. 185, T.I.A.S. No. 9700.

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Merchant Marine Act of 1936, c.858, §1103 as added June 23, 1938, ch. 600, §46, 52 Stat. 969, as amended by American Fisheries Promotion Act, P L. 96-561, §220, 94 Stat. 3291; 46 U.S.C. §1271; 50 C.F.R. §253.16 (b) 15 C.F.R. 902, 61 Fed. Reg. 19171, May 1, 1996.
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Public Health Service Act, c. 373, § 361-369, 58 Stat. 704, 42 U.S.C. § 264-272, 42 C.F.R. 71; P. L. 99-591, § 101(i), Department of Labor, HHS and Education and Related Agencies Appropriations Act 1987, 52 Fed. Reg. 27060, July 17, 1987 and 54 Fed. Reg. 48942, November 28, 1989.

Tariff Act of 1930, c 497, 46 Stat. 590; 19 U.S.C. §1202; Omnibus Trade and Competitiveness Act of 1988, P. L. 100- 418, §1204, 102 Stat. 1148; 19 C.F.R. §148.33-39.

Tax Reform Act of 1986, P. L. 99-514, §1893(a), 100 Stat. 2927; 19 U.S.C. §58c(a)(8).

Foreign Shipping Practices Act of 1988, P.L. 100-418, Title X, 102 Stat. 1570; 46 U.S.C. app. 1710a; 46 C.F.R. § 588.4. On May 1, 1999, the authority for the Shipping Act of 1984, is amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 555.4(a).

Shipping Act Amendments of 1979, P. L. 96-25, §5, 93 Stat. 72; 46 U.S.C. App. §821; Shipping Act of 1984, P. L. 98-237, §11(a), 98 Stat. 80; 46 U.S.C. App. §1710(a); 46 C.F.R. §502.62 (f); 46 C.F.R. §502.301(a). Effective May 1, 1999, the statutory authority for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P. L. 105 - 258, 112 Stat. 1902.

Shipping Act of 1916, as amended, § 2, § 3, § 9, § 37, and § 41; 46 App. U.S.C. §802, §803, §808 (c), §835 and the Merchant Marine Act, 1936, as amended, § 204 (b); 46 C.F.R. § 221.7 (b) and § 221.15.

Shipping Act of 1916, as amended, § 2, §3, §9, §37, and §41; 46 App. U.S.C. §802, §803, §808 (c), §835 and the Merchant Marine Act, 1936, as amended, § 204 (b); 46 C.F.R. § 221.7 (b) and § 221.15.

Shipping Act of 1984, P. L. 98-237, §11(a), 98 Stat. 8046 U.S.C. App § 1710 (a) ; 46 C.F.R. §502.182; §502.301(c); and §502.182; §502.304(b). Effective May 1, 1999, the statutory authroity for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902.

Shipping Act of 1984, P. L. 98-237, §8 (d) and 9 (c), 98 Stat. 74; 46 U.S.C. App. §1707(d); 46 C.F.R. §514.21 (f). Effective May 1, 1999, part 514 of 46 C.F.R. is deleted, and this assessment was located at 46 C.F.R. § 520.14 (c) (1).

Shipping Act of 1984, P. L. 98-237, §8, 98 Stat. 74; 46 U.S.C. App. §1707; 46 C.F.R. §502.92 (a) (3) (ii). Effective May 1, 1999, the statutory authority for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P. L. 105 - 258, 112 Stat. 1902.

Shipping Act of 1984, P. L. 98-237, § 8 (c), 46 U.S.C. app. 1707 (c), as amended by the Ocean Shipping

Reform Act of 1998, P. L. 105-258, 112 Stat. 1902; 46 C.F.R. § 530.11 (c) (1).

Shipping Act of 1984, P. L. 98-237, § 8 (c), 46 U.S.C. app. 1707 (c), as amended by the Ocean Shipping Reform Act of 1998, P. L. 105-258, 112 Stat. 1902; 46 C.F.R. § 530.11 (c) (2).

Shipping Act of 1984, P. L. 98-237, § 8 (c), 46 U.S.C. app. 1707 (c), as amended by the Ocean Shipping Reform Act of 1998, P. L. 105-258, 112 Stat. 1902; 46 C.F.R. § 530.11 (c) (3).

Shipping Act of 1984, P. L. 98-237, § 8 (c), 46 U.S.C. app. 1707 (c), as amended by the Ocean Shipping Reform Act of 1998, P. L. 105-258, 112 Stat. 1902; 46 C.F.R. § 530.11 (c) (5).

Shipping Act of 1984, P. L. 98-237, §4, 5 and 6; 46 U.S.C. app. 1703-1705; 46 C.F.R. § 572.401(f); 63 Fed. Reg. 50534, September 22,1998. On May 1, 1999, the authortiy for this assessment, the amendments to the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 535.401 (f).

Shipping Act of 1984, P. L. 98-237, §8, 46 U.S.C. app. 1707; 46 C.F.R. § 514.21(k) (2). On May 1, 1999, the authority for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 530.11 (c)(4).

Shipping Act of 1984, P.L. 98-237, § 13(b)(5), 46 U.S.C. app. 1712; 46 C.F.R. § 587.3. On May 1, 1999, the authority for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 560.3 (a)(2).

Shipping Act of 1984, P.L. 98-237, §4, 5 and 6; 46 U.S.C. app. 1703-1705; 46 C.F.R. § 572.401(f). On May 1, 1999, the authority for this assessment, the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 535.401 (f).

Shipping Act of 1984, P.L. 98-237, §4, 5 and 6; 46 U.S.C. app. 1703-1705; 46 C.F.R. § 572.401(f); 63 Fed. Reg. 50534, September 22,1998. On May 1, 1999, the authority for this assessment, the amendments to the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. § 535.401 (f).

Shipping Act of 1984, P.L. 98-237, §4, 5, and 6; 46 U.S.C. app. 1703- 1705; 46 C.F.R. § 572.401 (f); 63 Fed. Reg. 50534, September 22,1998. On May 1, 1999, the authority for this assessment, the amendments to the Shipping Act of 1984, was amended by the Ocean Shipping Reform Act of 1998, P.L. 105-258, 112 Stat. 1902 and is located at 46 C.F.R. §535.401(f) .

U.S. Grains Standards Act, c.313, Pt. B, §5, 39 Stat. 483; 7 U.S.C. §77; Agricultural Marketing Act, c.966, §203, 60 Stat. 1087; 7 U.S.C. §1622; 7 C.F.R. §800.71, §800.75 and §800.76.

Water Resources Development Act of 1986, P.L. 99-662, §1402(a), 100 Stat. 4266; Omnibus Budget Reconciliation Act of 1990, P. L. 101-508, §11214(a), 104 Stat. 1388-436; 26 U.S.C. §4461-4462; 19 C.F.R. §24.24

Appendix C: Detailed HMT Timeline

HARBOR MAINTENANCE TAX

By permission, Rodriguez O'Donnell Ross & Fuerst

See also: http://rorfgw.com/TOPIC_ARCHIVE/Harbor_Maintenance_Fee/harbor_ maintenance_fee.html

HMT Ruled Legal on Imports
09/02

In a closely watched case which attempted to extend the illegality of the HMT, the position of Thomson Multimedia was rejected by the Court of International Trade. The bases for Thomson's claims were technical in nature relying on interpretations of several provisions in the U.S. Constitution. The court rejected all of Thompson' arguments. Could this be an indicator of the outcome if the currently mentioned security user fees are enacted and challenged?

The HMT on exports was found unconstitutional as a tax of exports. That same principal does not apply to imports and so Thomson's position was soundly defeated. It remains to be seen whether the case will be appealed.

No Interest on Export HMT
06/02

One of the few questions remaining regarding the harbor maintenance tax on exports was whether the government had to pay interest on the monies refunded to exporters. Under the doctrine of sovereign immunity, a government is immune from suit unless it agrees to allow itself to be sued. In the case of the HMT, there are statutory provisions which allow the collection of duties and user fees to be challenged in court. The Court of International Trade in Swisher resoundingly answered the question about payment of interest by saying - no! A variety of arguments were made, including Constitutional ones, all of which failed to persuade the court. In the end, Judge Restani held there was no statute which authorized the payment of interest in the circumstances presented and so there was no obligation on the part of the government to pay it.

HMT UPDATE
6/01

Wondering what all the fuss is about the HMT and imports? Check our web site for a recent posting which provides the latest information regarding both imports and exports.

HARBOR MAINTENANCE TAX UPDATE
5/01

There is much in the trade press these days regarding an issue many thought resolved - refunds of the harbor maintenance tax (HMT) on exports. We provide in this memorandum an update regarding the refunds for exports plus information in the newly developing area of the potential for refunds on imports.

Exports:

Between the U.S. Shoe and Swisher cases, it is now clear that the HMT on exports was unconstitutional and could be challenged in a number of ways which were successful. Swisher challenged the HMT relying on the standard method of challenge - protests. U.S. Shoe challenged the HMT relying on the inherent jurisdiction of the court. Both were successful and, in many instances, the refunds have already been issued.

Subsequent cases addressed interest, saying none would be paid if refunds were obtained relying on U.S. Shoe. Whether interest will be paid if protests were filed remains unclear.

The latest development in the export context is a new Customs regulation which, in effect, cuts off all refund claims not already filed. In reliance on a comment by one of the judge’s, Customs changed its regulations to provide a one year statute of limitation for all export refund claims. Since no one has paid HMT for several years, such action effectively cuts off all claims not already filed. The new regulation is not retroactive so any pending claims are unaffected.

Customs is currently focused on the claims arising out of the Swisher decision and is obligated to process those refunds by June 18, 2001. Customs has approximately 2,700 administrative refund claims on which it will start the refund processing thereafter. One open question is exactly how much supporting documentation exporters will be required to provide so that their claims are deemed complete and refunds are issued.

Imports:

One area where there has been recent movement has to do with the possibility of HMT refunds on imports. On April 18, 2001, the Court of Appeals for the Federal Circuit (CAFC) overturned the decision of the Court of International Trade (CIT) dismissing the lawsuit brought by Thomson Consumer Electronics (Thomson). Thomson filed its claim relying on the inherent jurisdiction of the courts (called 1581(i) or residual jurisdiction). Thomson claimed the HMT violated the U.S. Constitution regarding the Port Preference and Uniformity clauses. Thomson also asserted that since the HMT on exports was invalid, the HMT on exports and the HMT on imports could not be severed and so if one was invalid, so was the other. Rather than deciding the case, the CIT dismissed saying it lacked jurisdiction because the proper basis to challenge the HMT assessment on imports was said to be by way of a protest (1581(a) or the traditional method of challenging assessments on imports).

The CAFC held that Customs had no authority to decide whether or not the HMT was constitutional and so the filing of a protest would be a futile act. The court went on to state that Thomson is not required to undertake a futile act and so the CIT decision was reversed. The CAFC also made a point of stating it has not made any determination as to whether or not the HMT on imports is unconstitutional (which many think unlikely) as the merits of that claim must first be decided by the lower court.

While it may well be several years before the HMT litigation regarding imports is finalized, importers may wish to take advantage of the Thomson decision by filing complaints at the CIT to preserve the issue. They can claim two (2) years of HMT payments at time of filing. Importers might also keep in mind that a future court could determine that the filing of protests is required and so undertaking both steps in tandem may be the safest way to proceed.

HMT REFUNDS
4/01

Effective March 28, 2001, Customs issued interim rules for those seeking refunds of harbor maintenance taxes, see T.D. 0125.

INTEREST ON HMT - IS IT DEAD?

01/01

With the holding in IBM v. US, the courts made clear that HMT refunds could be obtained but no interest would be paid. Then the court issued its decision in Swisher v U.S. relying on standard protest jurisdiction - 1581(a). The IBM case relied on 1581(i) or residual jurisdiction. The granting of a protest allows the award of interest pre-judgment. 21 plaintiffs who received their refunds relying on the IBM case, recently sought to amend those judgments to include an award relying on the Swisher case. The court denied their motions saying the cases have to come to finality. If the plaintiffs wanted to keep open the option of recovering interest, they should not have signed the judgments and accepted the benefits. While Swisher allows for an award of interest back to date of filing, HMT payments date all the way back to 1987. Interest back to date of HMT payment is not likely to be allowed absent further litigation.

MORE HMT LITIGATION
12/00

I.B.M. has file an appeal to the U.S. Supreme Court over the question of whether exporters are entitled to recover interest on HMT refunds. The Court of Appeals for the Federal Circuit said no.

HARBOR MAINTENANCE TAX UPDATE
12/00

In Swisher International, Inc. v. United States, No. 99-1227 (February 28, 2000), the Court of Appeals for the Federal Circuit confirmed that there is no statute of limitations which applies to harbor maintenance tax refunds. The case was appealed to the U.S. Supreme Court which refused to hear it.

In an attempt to deal with the lack of a time limit, the Customs Service has now proposed a one year limitations period which would start to run from the date of the quarterly payment to Customs. The proposed change has no effect on HMT payments made on imports. Exporters are, therefore, advised to file their refund claims as quickly as possible.

HMT UPDATE
03/00

There was unexpected good news for exporters in late February when the Court of Appeals for the Federal Circuit ruled that all harbor maintenance tax (HMT) payments made since 1986 (when the law was enacted) are subject to refund, even those outside the two (2) year statute of limitations generally governing the jurisdiction of the Court of International Trade (C.I.T.). The court reached its decision because there is no time limit governing when an HMT refund request has to be filed. The case has been returned to the C.I.T. to calculate the amounts due the exporter. Once that judgment is entered, it is expected the case will again be appealed.

If finally upheld on appeal, an administrative procedure is likely to be established (possibly through Customs) allowing claims for additional HMT refunds. Whether it will literally extend to all HMT payments not previously refunded remains to be seen.

Now we hear that the question of replacing the HMT monies with some other funding source is turning to earmarking certain monies collected by Customs, a decidedly unpleasant turn of events given the inability to find the $1.4 billion needed to fund Customs' new computer system.

HMT INTEREST OVERTURNED
3/00

The Court of Appeals for the Federal Circuit has overturned a CIT decision finding that exporters are entitled to be paid interest for any harbor maintenance taxes refunded, instead finding the U.S. was immune from interest payment because there was no law authorizing it.

CHALLENGING CUSTOMS
1/00

By Su Ross, ©1999 Los Angeles Daily Journal

Supreme Court Hears Arguments in Two Import-Export Cases The 1999 U.S. Supreme Court session was quite surprising for practitioners in the import-export arena. At the beginning of the year, the first import-export case was argued before the Supreme Court since the early 1970s. The case involved the harbor maintenance tax. See United States Shoe Corporation vs. United States, 523 U.S. 360, 118 S.Ct. 1290 (1998).

The HMT was assessed as a percentage of value on imports into, and exports out of, the United States and was intended to fund improvements at America's ports and waterways. See 26 U.S.C. § 4461. U.S. Shoe challenged the HMT assessment on exports only. Despite the Government's argument that the HMT was a permissible user fee, relying on the export clause of the U.S. Constitution (U.S. Const., art. I, §9, cl. 5), the Supreme Court found the HMT to be a tax on exports and declared it unconstitutional.

Still pending is the question of whether interest has to be paid on the HMT amounts being refunded. Interest was found to be due by the Court of International Trade (a specialized lower court), but that decision has been appealed to the U.S. Court of Appeals for the Federal Circuit. See International Business Machines Corp. v. United States, Court No. 94-10-00625, 1998 Ct Intl Trade LEXIS 73 (1998). The judgment in U.S. Shoe found interest was due, but that portion of the decision was stayed pending the outcome of the IBM case, an outcome that carries substantial consequence for the government in that as of early September 1999, some $732 million previously paid in HMT fees had been refunded.

Using different procedural devices, the HMT was challenged on imports in Thomson Consumer Electronics, Inc. v. United States, Court No. 95-32-00277, 1999 Ct. Intl. Trade, LEXIS 81, Slip Op. 99-84 (1999) and Amoco Oil Co. v. United States, Court No. 95-07-00971, 1999 Ct. Intl. Trade LEXIS 89, Slip Op. 99-91 (1999). In both cases, the basic argument was that the HMT on imports is not severable and so, if invalid on exports, it is equally invalid on imports. Further, assessing the HMT solely on imports violates the Uniformity and Port Preference Clauses of the Constitution (as some 20 States do not have ports). These arguments were rejected by the Court of International Trade which found the HMT to be validly assessed on imports.

Later in the same Supreme Court session, the second trade-related case was argued before the Supreme Court, United States vs. Haggar Apparel Company, 143 L.Ed. 2d 480, 119 S.Ct. 1392 (1999). The basic dispute was over whether the operations Haggar performed on the jeans it processed in Mexico qualified as assembly or manufacturing. The difference was important in determining the value on which duty would be calculated. If the process was a manufacturing operation, duty would be assessed on the full value of the finished jeans. However, if the operation was qualified as an assembly process, duty would be due only on the value added in Mexico.

The trial and appellate court both dealt with the issues and found in favor of Haggar. The result turned on how the courts interpreted the "permapressing" performed in Mexico was interpreted.

Permapressing became the focal point of the case because of the way in which the tariff provision relied upon by Haggar was worded. Harmonized Tariff Schedule provision 9802.00.80 and 19 U.S.C. § 1202 provide a duty exemption for:

Articles... assembled abroad in whole or in part of fabricated components, the product of the Unites States, which ... (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating and painting.

Subheading 9802.00.80 HTSUS, 19 U.S.C. § 1202.

The relevant regulation described processes that did not qualify for partial duty exemption under HTSUS 9802.00.80:

Any significant process, operation, or treatment other than assembly...shall not be regarded as incidental to the assembly and shall preclude the application of the exemption to such articles...Chemical treatment of components or assembled articles to impart new characteristics, such as showerproofing, permapressing, sanforizing, dying or bleaching of textiles.

19 C.F.R. § 1016(c) (1998).

The U.S. Customs Service contended that permapressing took the jeans out of the assembly provision because permapressing is specifically named as a disqualifying operation and so that the resulting garments were manufactured in Mexico not assembled. Haggar argued the exact opposite and won before the Court of International Trade, Haggar Apparel Co. vs. United States, 938 F. Supp. 868 (1996), relying on arguments explaining that permapressing as done today is no longer the harsh chemical treatment it was once thought to be and so Customs' regulatory determination was no longer accurate.

The question of the deference to be given to Customs' interpretation of HTSUS 9802 was raised again by Customs before the appellate court, which nonetheless affirmed the decision. United States v. Haggar, 127 F.3d 1460 (1997). Customs then appealed to the Supreme Court, which granted Certiorari.

What makes Haggar notable, beyond its being the second trade case in one term argued before the Supreme Court, was the deference question. The question posed to the Supreme Court was whether Customs had undertaken sufficient rule-making in enacting the relevant regulations so that judicial deference should be given to its interpretation, an issue raised for the first time by this case. This type of deference is known as Chevron deference (Chevron U.S.A. Inc. vs. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984), Relying on the holding in Chevron, courts generally give the regulations promulgated by an agency judicial deference, provided those regulations are the result of proper rule-making and reasonable interpret and implement an otherwise ambiguous statutory provision.

The Supreme Court in Haggar found that if Congress speaks directly regarding a question, the court must give deference to Congress' specific intent pursuant to Chevron. However, if an agency's statutory interpretation fills a gap or defines a term, that interpretation is to be given judicial deference, provided the Administrative Procedures Act (5 U.S.C. Section 553) has been complied with.

In the case of the regulations in question, Customs had indeed published them in proposed form, accepted comment, and then issued final regulations. In those regulations, permapressing was specifically named as a chemical treatment, which qualified the resulting garments as having been manufactured, rather than assembled. As a result, the Supreme Court remanded the case to the Federal Circuit for further consideration, as the appellate court had only dealt with the question of Chevron deference and rejected it. On remand, the Federal Circuit was directed to consider whether the regulations themselves actually warrant deference.

The question of Chevron deference was raised again by Customs in Mead Corp. vs. United States, 1999 U.S. App. LEXIS 17831 (Fed. Cir. July 28, 1999). Customs issued a ruling to Mead regarding the tariff provision and rate that would apply to its day-planners. Mead took issue with Customs' decision. By complying with the requisite procedures, Mead was eventually able to bring the matter before the Court of International Trade, which granted Customs' motion for summary judgment affirming the original classification decision.

The Federal Circuit took note of the Haggar case and held that a ruling by the Customs Service is an interpretation of a tariff provision. It does not involve input from any party except the importer to whom the ruling is issued. A ruling is issued only when requested by an interested party. It involves no public debate prior to issuance (although it is subject to public comment after the fact if an appropriate petition to overturn the results is filed - a rare but not unheard of event). A ruling is confined to the specific facts presented. It does not clarify the law or the rights of an importer.

Conversely a regulation undergoes notice and comment and provides a mechanism for input from the interested public. It may be amended or changed later in response to subsequent public input. Therefore, the appellate court found that rulings are not entitled to Chevron deference. Customs has not yet decided whether it will appeal this decision to the Supreme Court.

Many practitioners think the holding in Haggar will force them to carefully monitor each regulation as it is proposed by Customs to ensure it is a reasonable interpretation of congressional intent so as to preserve the issue for trial. Many others think it does not mean that each and every regulation is subject to challenge because it wrongly interprets congressional intent. In the end, what both Haggar and Mead do is provide practitioners with yet one more tool to use in challenging Customs' decisions.

HMT UPDATE
10/99

Even after the finding that the harbor maintenance tax (HMT) an unconstitutional tax on exports, a number of outstanding issues remained. IBM is prosecuting a case questioning the government's liability to pay interest and how it is to be calculated. Stone Container deals with the question of the applicable statute of limitations. Is it two years under the law's general provisions or is the HMT void from inception?

Thomson and Amoco challenged the HMT on imports. Thomson just argued the law's general two (2) year statutory provision. Amoco made the same argument but raised it via a protest. In both cases, the basic argument was the HMT on imports is not severable and so, if invalid on exports, is equally invalid on imports. Further, assessing the HMT solely on imports violates the Uniformity and Port Preference Clauses of the Constitution.

The focus of the non-severability argument is that Congress would not have enacted the HMT on imports alone. An additional argument is that assessing the HMT on only imports violates international treaty obligations. Also, the argument was made that not all ports are water ports thereby excluding cargo loaded in 20 states. The tax is also not assessed on domestic movements. As a result, because it is not geographically uniform, the HMT violates the Uniformity and Port Preference Clauses.

As of late August/early September 1999, Customs had refunded about $732 million to about 3,4000 exporters. Both the Thomson and Amoco claims were recently dismissed. Thomson's on the technical ground that no protest was first filed. In the Amoco case, the court rejected all the arguments mentioned above. At the same time, the European Union is threatening a WTO complaint about the continuing imposition of the HMT strictly on imports.

Additionally, the Court of International Trade has now decided the BMW case. BMW sought a finding the HMT was not applicable to shipments entered into a foreign trade zone (FTZ). The CIT found the HMT applied because there was no exception in the law. The court also found the HMT is not a duty so the provisions of the FTZ law did not bar its application.

HMF REPLACEMENT PROPOSED
8/98

The Clinton Administration finally rolled out its proposal to replace the Harbor Maintenance Fee (HMF). (Challenge of the fee against imports is being considered at the WTO.) The HMF was previously assessed against importers and exporters based on the value of their goods. The fee against exporters was overturned by the courts. The Harbor Services User Fee will be assessed against carriers, who are expected to pass the cost on to their customers. It will be calculated based on a ship's net tonnage with an adjustment for cargo space not otherwise included. Bulk ships and tankers will be taxed per port of call, while container and cruise ships will be taxed per voyage.

As announced, it appears container ships will be taxed at twice the rate for tankers, five times the rate for dry bulk ships and seven times the rate for cruise ships. Justification for the disparity is given as a response certain ships operating across the largest number of ports with time-sensitive movements. Assuming some form of this new tax is adopted, its validity remains in doubt because the largest amount of money would be raised from West Coast ports which have the least need for dredging. As a result, the new fee does not closely match where the expenditures are being made. Will it withstand a court's scrutiny?

HMF REFUND STATUS
7/98

The question of when exporters can expect their Harbor Maintenance Fee (HMF) refunds remains open. The government contends it should not be required to calculate and pay any refunds until all the legal issues are decided. The government also arbitrarily selected a handful of HMF claims in order to determine whether its own records could be used to confirm those claims. It was successful only 50% of the time. Therefore, it is expected the government's proposed claim form will soon be approved for distribution to litigants.

The major issues under review are interest and whether there is a time bar to claims' filing. The government contends interest is not due but lost before the trial court. It also claims that a two year statute of limitations applies. Exporters argue because the HMF is an illegal tax, it is void from its date of enactment, so exporters should be able to obtain refunds regardless of when their HMF was paid. The lower court has yet to rule about the statute of limitations. Appeals are expected on both issues.

Another challenge to the HMF as applied to imports is being mounted on the grounds it is illegal as 1) not severable from the import tax, 2) a violation of the equal protection and port preference clause of the U.S. Constitution, and 3) a violation of U.S. WTO obligations. In the meantime, Customs has announced it will not accept HMF protests for domestic movements, commercial vessel passengers and admission into foreign trade zones.

HMF FOUND UNCONSTITUTIONAL
4/98

In a decision amazing for its speed and its unanimity, the U.S. Supreme Court has declared the harbor maintenance fee (HMF) an unconstitutional tax on exports by a vote of 9 - 0 . As a result, any exporter who filed a claim with the Court of International Trade (CIT) under the two year jurisdictional statute can expect refunds - maybe!

The CIT has issued an order stating the government is to develop a claim form. The refunds will be issued with interest. The claim form is to be completed within thirty (30) days and the bulk of the refund claims are to be processed within 18 months. The claims will be processed even if there are issues on appeal regarding the statute of limitations, interest or any other issue.

It is expected the claim form the government develops may also be applied to those who have protests pending. When the claim form is finalized and the requirements to prove a claim are issued, those details will be published in the Customs Bulletin.

SUPREME COURT TO HEAR HMF CASE
11/97

The U.S. Supreme Court has agreed to hear the government's appeal of the harbor maintenance tax case. A decision is expected by early next summer. In the meantime, exporters should continue to pay the tax, seek refunds from Customs and file court action. Up to now the courts have uniformly held any exporter has two years from date of payment in which to file an action seeking refund of all sums paid. However, until the decision is final (and it is not yet), all options should be kept open by seeking refunds from Customs, too.

HMF REFUNDS
8/97

Depending on the source, Customs either has already filed or is about to file a Notice of Appeal with the U.S. Supreme Court seeking a hearing on the case involving the harbor maintenance fee (HMF) on exports. Exporters have won before both lower courts which have held the HMF is an illegal tax on exports. A similar case was filed regarding imports: Sarne Corp. vs. U.S.. It was dismissed with a finding that Sarne could point to no specific harm caused to it by the way in which the Harbor Maintenance Trust Fund is administered. It is not clear whether the import case will be appealed. On the export side, it is not clear the Supreme Court will agree to hear the case because it recently decided U.S. vs. Int'l Business Machines Corp. and found a non-discriminatory federal tax on exports to be unconstitutional.

HMF LOSES AGAIN
6/97

Late last week the appellate court issued its ruling confirming the lower court decision that the harbor maintenance fee (HMF) is an unconstitutional tax on exports. The court also found there is no discretion for Customs to exercise, so exporters wishing to receive HMF refunds need not protest first. All exporters need do is file complaints at the Court of International Trade (CIT) within two (2) years of having made their payments.

It is expected the government will appeal the decision, although it is not clear whether the Supreme Court will agree to hear the case, having recently ruled regarding unconstitutional taxes on exports in another matter. In the meantime, exporters should continue to file both protests with Customs and complaints at the CIT.

The HMF challenge to imports failed with the judge finding that relief from the HMF on imports must come from Congress and not the court.

HARBOR MAINTENANCE FEE UPDATE

It was originally thought that oral argument on the harbor maintenance fee (HMF) case (U.S. Shoe) would take place before the end of 1996. Then it seemed likely the time frame would be February 1997. Even once argued, it was unclear how long the Court of Appeals for the Federal Circuit would take to reach the decision whether or not it agreed with the lower court that the HMF on exports is unconstitutional. Individual exporters were advised to continue to file their protests at time of payment while also seeking relief directly from the Court of International Trade for these same payments.

Appendix D: Estimating Harbor Maintenance Tax Revenues

Problems surrounding the data for HMT collections, and strategies for calculating the estimated tax collected are presented in "Short-Sea Vessel Service and Harbor Maintenance Tax," Prepared for The Short Sea Shipping Cooperative Program – SCOOP, by National Ports and Waterways Institute University of New Orleans, October 2005. (By permission.) See http://www.shortsea.us/scoop_hmt_report.pdf (This report provides a comparison between the amount of HMT collected with private and external benefits attained by short-sea intermodal operations.)

We note below from this report a statement summarizing data problems, as well as relevant tables for calculating the HMT in a specific import situatation. Pursuing these data and making up to date calculations for the lake-wise variables and the Great Lakes region would constitute an appropriate area for further research:

> "The enforcement of 0.125% *ad-valorem* tax, HMT, on domestic cargo movements is complicated by many factors. First, vessel operators carrying domestic cargo are used to reporting the weight of shipments and not the value, and secondly, as most of the cargo involved are bulk shipments, the calculation of weights is relatively easy. In contrast, break-bulk cargo and space consuming light material, etc. are reported in terms of measurement tons and the overall tonnage is often estimated as revenue tonnage. Because of these data constraints, it is not possible to compare actual revenue collections against the value of domestic cargo or to determine the degree of compliance in paying the levy." III-6

Figure I-1: Comparison of Tax Revenues to Benefits in a Sample of Short-Sea Services

Item	Boston-NYC Loop	NYC-Miami Loop	Total
Annual TEU Estimate			
Number of Truck-Loads per Day	360	180	540
TEU Equivalent per Day @ 2.5 TEU/truck	900	450	1,350
Total TEU Handled per Year	315,000	157,500	472,500
Cargo Value Estimate			
Value/ton of Imports on Liner Vessels in 2004 ($)	3,636	3,636	
Value per TEU @ 6.5 tons/TEU ($)*	23,894	23,894	
Value of Cargo Handled ($millions)	**7,527**	**3,763**	**11,290**
Total HMT Estimates for 2004			
HMT Gross Revenue in 2004($ millions)			880.0
Tax on Imports ($ millions)			737.0
Tax on Domestics ($ millions)			56.6
Short-Sea Collection of HMT ($ millions)	**9.4**	**4.7**	**14.1**
Short-Sea Operation Benefits			
Financial Cost Savings per Trailer ($)	51.0	335.0	
Annual Financial Cost Savings ($ millions)	**6.4**	**21.1**	**27.5**
Social Cost Savings			
Infrastructure Costs ($ millions)	0.2	0.5	0.7
Air Pollution Costs ($ millions)	1.6	3.1	4.7
Congestion Costs ($ millions)	9.6	11.0	20.6
Noise costs ($ millions)	0.7	1.4	2.1
Accident Costs ($ millions)	1.9	4.3	6.2
Annual Social Cost Savings ($ millions)	**14.0**	**20.3**	**34.3**
Total Cost Savings ($ millions)	**20.4**	**41.4**	**61.8**
Cost Savings to HMT Ratios	**2.2**	**8.8**	**4.4**
Short Sea Share of Total HMT (%)	**1.0**	**0.5**	**1.5**

Source: Figure II-1 and Figure III-7 of this report.

* As applies to trailers; average payload per TEU is based on conversion from average payload per truck-semi trailer combination at 36,000 lbs. as reported in "Freight Analysis Framework Highway Capacity Analysis – Methodology Report," Office of Freight Management and Operations, DOT, April 2002.

Figure III-2: Cargo Value by Vessel Service and HMT Collections

Vessel Service	2001	2002	2003	2004	2001-2004 Change (%)
Liner Vessels					
Value ($ millions)	345,458	353,861	358,322	376,679	9.0%
Weight (1000 metric tons)	84,493	94,424	93,934	102,479	21.3%
Value/metric ton ($)	4,089	3,748	3,815	3,676	-10.1%
Annual Change (%)		-8.3%	1.8%	-3.6%	
Tanker Vessels					
Value ($ millions)	98,914	95,507	123,765	165,047	66.9%
Weight (1000 metric tons)	572,794	550,150	604,520	630,089	10.0%
Value/metric ton ($)	173	174	205	262	51.7%
Annual Change (%)		0.5%	17.9%	27.9%	
Tramp Vessels					
Value ($ millions)	78,714	89,082	122,544	177,042	124.9%
Weight (1000 metric tons)	172,673	168,997	182,960	223,679	29.5%
Value/metric ton ($)	456	527	670	792	73.6%
Annual Change (%)		15.6%	27.1%	18.2%	
Total					
Value ($ millions)	523,086	583,450	604,631	718,765	37.4%
Weight (1000 metric tons)	829,959	813,571	881,414	956,247	15.2%
Value/metric ton ($)	630	717	686	752	19.3%
Annual Change (%)		13.8%	-4.3%	9.6%	
HMT Revenue by Source*					
Imports ($ Millions)	583.2	544.7	620.0	737.0	26.4%
Exports ($ Millions)	2.5	1.7	n/a	n/a	n/a
Domestic ($ Millions)	39.4	27.8	40.6	56.6	43.7%
Domestic Containers ($ Millions)	n/a	n/a	1.9	1.7	n/a
Other ($ Millions)	96.6	78.7	n/a	n/a	n/a
HMT Total	721.7	652.9	827.0	880.0	21.9%
HMT Total-Annual Change (%)		-9.5%	26.7%	6.4%	
HMT for Containers (%)**			0.2%	0.2%	

Source: Army Corps of Engineers Report to the U.S. Congress and U.S Bureau of Census.
* HMT Revenues for 2003 and 2004 are estimates based on 2002 HMT Annual Report to Congress, and the U.S Imports value trends.
** Share of domestic containers is provided by " Preliminary Estimate of CY 2003 and 2004 Domestic Coastwise Tonnage", USACE.

Figure III-4: HMT Domestic Collection Trends and Coastwise / Lake-wise Tonnage Trends, 1998-2002

Fiscal Year	HMT Revenue Domestic ($1,000)	Change (%)	Total Coastwise & Lakewise Tonnage (1,000)	Change (%)	Total Value of shipments ($ millions)	Value/ton ($)
1998	39,158	19.3%	371,769	-3.7%	31,326	84
1999	48,801	24.6%	342,689	-7.8%	39,041	114
2000	44,502	-8.8%	341,290	-0.4%	35,602	104
2001	39,365	-11.5%	323,608	-5.2%	31,492	97
2002	27,786	-29.4%	317,862	-1.8%	22,229	70
1998-2002 Change	-11,372	-29%	-53,927	-15%	-9,096	-17%

Sources: HMT Annual Report to Congress, Fiscal Years 2000, 2001 and 2002, and Annual publications of the Waterborne Commerce of the United States.

Lake-wise cargo movements for 2002 and 2003 are analyzed
by commodity types and in terms of relative shares in Figure III-6.

Figure III-6: Summary of Coastwise and Lake-wise Waterborne Commerce by Commodity - 2003

SITC Code	Commodity Description		Coastwise Commodity Shares & Tonnage Tonnage (1,000)	Major Group	Minor Group	Lakewise mmodity Shares & Tonnage Tonnage (1,000)	Major Group	Minor Group	Total Major Group
	Total	all commodities	223,456	100%	--	89,776	100%	--	--
10	Total	Coal	10,607	5%	--	17,959	20%	--	9%
20	Total	Petroleum and Products	161,361	72%	--	1,531	2%	--	52%
21		Crude Petroleum	50,953	--	32%	0	--	0%	--
2-29		Petroleum Products	110,409	--	68%	1,531	--	100%	--
30	Total	Chemicals & Products	13,014	6%		198	0%	--	4%
31		Fertilizers	1,454	--	11%	0	--	--	--
32		Other Chemicals & Products	11,561	--	89%	198	--	100%	--
40	Total	Crude Materials, Inedible	13,868	6%	--	65,793	73%	--	25%
41		Forest Products, w ood & Chips	1,989	--	14%	0	--	0%	--
43		Soil, Sand, Gravel, Rock & Stone	10,551	--	76%	25,549	--	39%	--
44		Iron Ore & Scrap	400	--	3%	39,095	--	59%	--
46		Non Ferrous Ores & Scrap	662	--	5%	26	--	0%	--
47		Sulphur, Clay & Salt	15	--	0%	38	--	0%	--
50	Total	Primary Manfactured Goods	8,826	4%	--	3,933	4%	--	4%
51		Paper Products	179	--	2%	0	--	0%	--
52		Lime Cement & Glass	2,650	--	30%	3,781	--	96%	--
53		Non Ferrous Metal Products	5,647	--	64%	1	--	0%	--
60	Total	Food & Farm Products	6,101	3%	--	316	0%	--	2%
2-65		Grain & Oilseeds	322	--	5%	299	--	95%	--
66		Processed Grain & Animal Feed	842	--	14%	9	--	3%	--
68		Other Agr. Products	4,849	--	79%	0	--	0%	--
70	Total	All Man. Equipment, Machinery & Pr.	9,619	4%	--	0	--	--	3%
	Total	Commodity Shares		100%	--	--	100%	--	100%

Source: Waterborne Commerce of the United States, Calendar Year 2003.

Although the SCOOP report estimates Coastwise Tonnage Estimates Subject to HMT Levy, 2003 Lake-wise levies are not estimated.