

Coastwise Coalition

April 29, 2005
PRESIDENT'S ADVISORY
PANEL
ON FEDERAL TAX REFORM
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The Honorable Connie Mack III
Chairman
The President's Advisory Panel on Federal Tax Reform
1440 New York Avenue, N.W. / Suite 2100
Washington, D C 20220

Dear Mr. Chairman:

I write on behalf of the Coastwise Coalition, a group of public and private sector organizations that believe Federal policy should encourage the greater use of waterborne transportation to help solve very real capacity problems in the landed modes of transportation. The potential for moving freight within the United States along coastal and inland waters is getting increasing attention. It can be especially attractive in those parts of the country where water routes parallel major highway and rail corridors that are increasingly congested, such as the I-95, I-10, and I-5 corridors, and where hazardous materials now transit heavily populated areas. In furtherance of this goal, the Coalition proposes that your panel recommend a change to the Harbor Maintenance Tax (HMT), 26 U.S.C. §4461 et seq., which is a major disincentive to increased use of waterborne transport for domestic cargo.

Proposal

Specifically, the Coalition proposes that the HMT be waived for purposes of cargo traveling in domestic moves between U.S. ports. The waiver would be applied to general cargo being carried in marine shipping containers, on trucks and trailers, and in the form of roll-on, roll-off vehicles. That is our proposal. In fairness, some of our Coalition members also would recommend that the HMT be waived for general cargo traveling between Canada and the United States on the Great Lakes. Still others urge that NAFTA-related general cargo be excused from the HMT.

The HMT would otherwise continue to be collected on other domestic (e.g., bulk) and international import cargoes and on cruise ship passengers.

The HMT was created by Congress in Title XIV of the Water Resources Development Act of 1986 (PL 99-662) and took effect in 1987. Initially a charge of .04 percent on the value of international and domestic cargo and cruise ship passenger tickets, the HMT was increased by Congress to its current level of .125 percent of cargo value in 1990. The HMT is applied to the cargo and therefore is paid by the cargo owners, i.e., shippers or importers. Certain vessels (fishing, ferries) and shipping routes (Alaska, Hawaii) are partly or fully exempt from the tax. The main purpose of the HMT is to offset the cost of Federal channel maintenance. The HMT is collected in coastal and other ports that are not a part of the inland waterway system. (A barge fuel tax is applied to vessels moving on the inland waterway system to support inland waterway navigation construction e.g., locks.)

Impact of Proposal

There are several reasons why this proposal makes good public policy sense, beyond the general benefit of helping to reduce congestion on our highways and the transport of hazardous materials through heavily populated areas.

The HMT is collected by Customs. However, in contrast to its collection on international cargo (imports), which is cleared for entry to this country by Customs, domestic cargo movements are not tracked by Customs or another Federal agency. Enforcement of the HMT is therefore difficult to accomplish. HMT payments on domestic moves are essentially paid on the honor system, which, while not unique to American tax collection practices, is not easily accounted for. Waiving the HMT as it applies to certain cargo, especially cargoes that for the most part do not now use waterborne transportation for moves within the United States, could obviate the administrative difficulty of collecting and enforcing the HMT collection. The fact that relatively little revenue results now also argues for a waiver.

Secondly, the tax is being collected twice on the same cargo in some instances. Congress eliminated the so-called "double hit" of the tax on international cargo in the Washington-Alaska trade but neglected to do so elsewhere in the country. Imports to this country that pay the tax on entry and are then put on a second vessel for transit to another U.S. port are charged double. That is inequitable and discriminatory. The corrected policy should be that no cargo should be hit more than once by the tax. By waiving the HMT as we propose that would be remedied.

The main policy purpose behind this proposal is to remove a major hindrance to the use of waterborne transportation, which is more efficient and environmentally beneficial than other modes of transportation. The carrying capacity of barges and ships, even small ones, make vessels more efficient. Importantly, as our land modes of transportation, especially, but not only, in metropolitan areas, become more congested, the national transportation system cries out for more capacity to support our growing economy.

Along coastal corridors that capacity can be enhanced much more economically through waterborne transportation. The related infrastructure costs are minimal when compared with the cost of building interstate highway lanes or adding to the rail system. In some parts of the country adding capacity on land is as difficult as it is costly. Coastwise shipping activity, usually on relatively shallow draft vessels, requires little channel depth and therefore entails few dredging requirements. The main infrastructure cost is on land at the port where some intermodal road connections may be the largest capital investment requirement. Between the US ports is open water—a natural made blue highway.

The cost of the HMT applied to a container of goods will vary according to the size of the container and the value of the cargo. A case study by the Port Authority of New York & New Jersey estimated the potential cost involving shipments between the Port of New York/New Jersey and the Port of Camden (NJ) and the Port of Bridgeport (CT) to range between \$40 and \$84 for a container. Estimates in other markets have been higher. That cost can make a major difference in the decision by a shipper or trucker as to whether to send the freight by water.

This proposal not only would stimulate new capacity in the interstate transportation system but would directly benefit United States business and labor. By law, only U.S.-flag vessels can cargo goods and passengers between U.S. ports. The "Jones Act" fleet of vessels is American-owned, built in American shipyards, and crewed by American men and women. Therefore, even though the vast majority of the shipping tonnage that plies the oceans and calls in this country is comprised of foreign flag vessels, this proposal would benefit only the U.S.-flag interests.

As important, a national transportation system that lacks needed capacity will strangle economic growth.

Trade-offs and Other Issues

There are two principal issues we would bring to your attention. First, the revenue cost to the government would be very small. The Supreme Court in 1998 found the HMT as it was applied to US exports to be unconstitutional. That left HMT collections on imports and domestic cargo as well as on foreign trade zone activity and cruise passenger tickets. The substantial portion of HMT receipts collected annually is on imports. For example, FY 2002 receipts, the last year for which data is reported, breakdown as follows:

- Import: \$544.7 million
- FTZ: 69.1 million
- Domestic: 27.8 million
- Cruise: 9.6 million

As you will note, in FY 2002, total collections from domestic cargo were \$27.8 million. Inasmuch as the use of domestic waterborne transportation for shipments—U.S. port to U.S. port—primarily consists of liquid and dry bulk commodities e.g., petroleum, grain, minerals, the assumption is that the majority of HMT receipts collected on domestic cargo has its source in those bulk shipments. (Again, the point of this proposal is to provide an incentive—or remove a disincentive—to cargo owners whose goods for the most part do not move on the water now.) Thus it is also assumed that only a small portion of the \$27.8 million in annual revenue has its source in general cargo.

Secondly, the Federal government has been collecting more in the HMT than it has been spending. While clearly a tax, the HMT was also described by Congress as a user fee and was enacted to have users of the Federal channels cover the cost of channel maintenance. However offsets of channel maintenance costs have not kept up with revenues. (That is because the Federal O&M budget of the Corps of Engineers has been lower than the revenue.) Since 1987 there has been an accumulating unexpended end balance in the Harbor Maintenance Trust Fund, which currently is projected for FY 2006 to be \$3.072 billion. (The President's FY 2006 Budget)

Summary

The purpose of this proposal is to improve our transportation system by encouraging the development of new shipping services that would effectively add new capacity to our lanes of commerce. It would promote the use of coastal waterborne transportation as a safe and environmentally beneficial means of meeting the needs of American shippers, passengers and service providers for cost competitive, reliable transportation, relieving traffic demands on busy and increasingly congested U.S. surface transportation corridors, and supporting a growing national economy.

Thank for your consideration of this proposal.

Sincerely,



Paul H. Bea Jr
Chairman