

DATE: May 1, 1998

TO: Exporters, Customs Brokers, Freight Forwarders and Others Concerned

RE: *Harbor Maintenance Fee will no longer be collected by U.S. Customs*

In accordance with the March 31, 1998 U.S. Supreme Court decision unanimously affirming two lower court opinions holding the Harbor Maintenance Fee ("HMF") unconstitutional when assessed and collected on exports from the United States, the United States Customs Service announced in a recent Federal Register notice that, as of **April 25, 1998, the HMF will no longer be collected for port use associated with exports.**

Please note, the Customs Service has informed the public that the only procedure by which exporters may obtain a refund for HMF fees paid during the previous two years is to file an action with the Court of International Trade (CIT) seeking a refund and that exporters will not automatically receive a refund. The U.S. Customs Service also advises that it will neither decide nor respond to protests involving HMF refunds and that all previous correspondence from Customs regarding protests filed for refund claims should be disregarded. Customs advises that it will not issue further communications with respect to such protests.

If you have not yet filed an action with the CIT to recover HMF fees paid by your company during the past two years, we urge you to contact us for assistance in expeditiously preparing such actions. In this regard, and following a recent order of the CIT, Customs will design and disseminate a claim form as well as formulate a procedure to process HMF refund claims. Please contact us for more information and/or assistance in properly adhering to the new Customs procedures.

Moreover, although the Court held the assessment of the HMF to be unconstitutional only with respect to exports against which claims were filed within the two-year statute of limitations applicable to cases filed pursuant to 28 U.S.C. §15981(i), we strongly recommend all interested parties file actions covering all HMF payments made since the assessment of the tax in 1987. We are of the opinion that exporters should be entitled to recover all HMF fees paid and we anticipate filing a further challenge to the HMF in the near future.

We urge you to contact us with any questions concerning the above matters or if we can be of assistance to your company in seeking a refund of the HMF. Please contact us at either our Long Island office (516) 549-1938, our New Jersey office (201) 946-1200, or our New York office (212) 233-6630, or by e-mail at customs@idt.net or tariffaw@aol.com.