

DATE: August 3, 1998

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

RE: Harbor Maintenance Fee Refund

---

The U.S. Court of International Trade ("CIT") has issued an Order setting forth a Claims Resolution Procedure to govern U.S. Customs' ("Customs") refund of the Harbor Maintenance Fee ("HMF"). The HMF was found to be unconstitutional by the U.S. Supreme Court in *United States v. U.S. Shoe Corp.*, No. 97-3720 (March 31, 1998).

In order to be eligible to receive a refund of the HMF, exporters must first commence an action by filing a Summons and Complaint at the CIT. After a Summons and Complaint is filed with the CIT, an exporter must file a claim form and send it to Customs by **October 15, 1998**. After the claim form is sent to Customs, a refund will be issued according to the CIT's Claims Resolution Procedure:

Phase 1: Customs will verify that the exporter has, in fact, paid the amounts alleged in the claim form and issue a payment report to the exporter. If the exporter and Customs agree on the amount paid and subject to refund, the exporter must file a judgment form and send it to the U.S. Department of Justice to be forwarded to the CIT.

Phase 2: If an exporter disputes the payments verified by Customs, it must forward additional supporting documentation to Customs. Customs must conduct another review of its database and issue a revised payment report to the exporter.

Phase 3: If an exporter and Customs cannot resolve a dispute concerning the amount of HMF paid, the exporter may file a scheduling order with the CIT.

We urge all exporters to review their records to ascertain the date and amount of all HMF paid. **In order to claim a refund, exporters must file an action with the CIT seeking the return of HMF paid on all shipments during the previous two years as exporters will not automatically receive a claim form from U.S. Customs or the CIT.** Moreover, as the assessment was held unconstitutional, exporters may be able to recover all HMF fees paid since 1987 and should consider filing claims for payments made prior to the two-year period since this issue is presently before the CIT.

**Should you have any questions or if we can be of assistance to your company in seeking a refund of the HMF, please do not hesitate to call us either at our Long Island office (516) 549-1938, New Jersey office (201) 946-1200, or New York office (212) 233-6630. You may also contact us by e-mail at CUSTOMS@IDT.NET or TARIFFLAW@AOL.COM.**