

**AD HOC BUSINESS COALITION
ON PORT USER FEES**

September 20, 2002

The Honorable Thomas A. Daschle
Majority Leader
United States Senate
Washington, DC 20510

Dear Senator Daschle:

The organizations signing this letter represent a broad cross section of American manufacturers, agricultural exporters, shippers, retailers and many other businesses engaged in international trade. We are writing to convey our opposition to the Senate proposal to include a port user fee in the port security legislation (**S.1214 and H.R. 3983**) now in conference committee negotiations.

Our members support improving security at our nation's borders and indeed are already taking important steps at considerable expense to make security improvements in their own operations. But they oppose a new \$4 billion tax on imports and exports as the means to secure additional revenue for this purpose. Such a tax will impede the growth of trade, raise costs for businesses and consumers, and adversely affect employment in many sectors of the economy.

U.S. importers already pay over \$1 billion in merchandise processing fees each year for customs processing and almost \$600 million annually in user fees to fund dredging projects of the Corps of Engineers. These fees are in addition to approximately \$20 billion in customs duties paid each year, over 75 percent of which are on goods imported through ports.

A third tax on top of these levies would cause serious economic harm at a time when many businesses engaged in trade are still struggling to cope with the economic slowdown in the United States and the global market place.

The proposed port user fee also raises domestic and international legal concerns. The U.S. Constitution prohibits the taxing of exports. Not long ago, the Supreme Court ruled a comparable tax, the Harbor Maintenance Fee, to be illegal as it applied to exports. The port user fee is likely to face a similar legal challenge as an export tax. Our trading partners could also claim that the port user fee violates World Trade Organization rules because it discriminates against foreign trade. The proposed fee applies only to imported and exported goods, not to goods shipped between U.S. ports, and only to one mode of transportation.

A further concern is that, since the user fee proceeds are included in general revenues, they would not necessarily be used to fund port security improvements. Experience with

other border fees does not give us confidence that the port user fee revenues will be used solely to facilitate trade. The proceeds from the merchandise processing fee, for example, have been used for many other purposes aside from the improvement of the Customs Service's commercial operations. We fear the same outcome with respect to the port user fee.

In closing, we agree that improving port security should be a high priority in the federal budget. However, this is a national and homeland security responsibility. Funding for port security improvements should appropriately come from general revenues since these improvements directly or indirectly benefit all Americans. The burden should not be placed solely on businesses involved in importing and exporting goods through U.S. ports.

Thank you for considering our views. We look forward to cooperating with Congress on ways to improve homeland security.

Sincerely,

**Alliance of Automobile Manufacturers
American Apparel and Footwear Association
American Forest and Paper Association
American Frozen Food Institute
American Meat Institute
American Petroleum Institute
American Potato Trade Alliance
Association of International Automobile
Manufacturers
Grocery Manufacturers of America
International Mass Retail Association
International Warehouse Logistics
Association
Joint Industry Group
Motor and Equipment Manufacturers
Association**

**National Association of Manufacturers
National Chicken Council
National Fisheries Institute
National Food Processors Association
National Foreign Trade Council
National Meat Canners Association
National Potato Council
National Retail Federation
National Turkey Federation
Toy Industry Association
U.S. Business Alliance for Customs
Modernization
U.S. Council for International Business
U.S. Hide, Skin and Leather Association
Washington State Potato Commission**