



Overview and Status of the Harbor Maintenance Trust Fund

AAPA Harbors, Navigation & Environment Committee Meeting

Port of Miami

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Harbor Maintenance Trust Fund Background

- Established in WRDA 1986
- Reimburses Treasury for 100% of harbor O&M since 1990
- Also for Construction (CG) of dredged material disposal facilities for O&M and navigation environmental mitigation
- Ad valorem tax of .125% on cargo value
- Also support St. Lawrence Seaway operations, Customs data collection
- Issues:
 - Tax on exports ruled unconstitutional by U.S. Supreme Court in 1998 and no longer collected
 - Tax on imports may be challenged at WTO
 - Increasing balance - **\$5.1 billion** at end FY09 (\$5.22b thru Dec)
 - Not “off budget” like Highway Trust Fund so transfers fall under agency budget ceilings

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HMTF Challenges

- **HMTF Revenues in FY 09: \$ 1.3 billion (incl interest)**
- **Transfers to Program Agencies in FY 09: \$ 807.5 million**
 - **Of which Corps: \$ 772.5 million**
- **Balance at end of FY 09: \$ 5.1 billion (\$5.22b thru Dec)**
- **Appropriations determine available O&M funds for harbor maintenance by the Corps**
- **Transfers from HMTF then based on Corps expenditures**
- **Corps has unmet maintenance dredging needs: full channel dimensions available only 35% of the time**

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HMTF Report to Congress 2007-08

- **Draft report being finalized for review by HQ, ASA(CW), OMB**
- **Will include Corps expenditures by project eligible for recovery from HMTF displayed by**
 - **Deep or shallow draft**
 - **State**
 - **Coastal reach: Atlantic, Gulf, Pacific, Lakes, Inland**
- **Historic HMTF data 1987 – 2008**
 - **Collections by source (imports, domestic, FTZ, passengers)**
 - **Transfers to agencies**
- **Dredging quantities 1987 – 2008**
- **Waterborne commerce volume and value**
- **Goal: Have 2009 report completed by May 2010**
 - **OMBIL modifications (O&M Business Info Link) screen for HMTF-eligible projects**
 - **Navigation Project Profiles**

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**Harbor Maintenance Tax Collections by Source,
Fiscal Years 1987 - 2009**
(thousands of dollars)

Fiscal Year	Imports	Exports	Foreign Trade Zone	Domestic	Passengers	Net Collections	Cumulative Total
1987	43,249	6,777	677	2,414	120	53,237	53,237
1988	99,793	35,938	3,120	9,170	551	148,572	201,809
1989	105,927	44,618	3,876	8,590	666	163,677	365,486
1990	109,215	45,808	4,020	9,069	559	168,671	534,157
1991	258,321	93,194	9,166	19,518	1,977	382,176	916,333
1992	342,402	142,916	16,974	28,451	3,275	534,018	1,450,351
1993	361,678	169,141	20,959	31,858	4,748	588,384	2,038,735
1994	391,679	168,241	21,895	34,558	4,811	621,184	2,659,919
1995	418,858	214,821	14,548	20,241	2,792	671,260	3,331,179
1996	409,708	209,217	27,982	26,788	3,179	676,874	4,008,053
1997	438,395	209,439	48,444	32,828	3,865	732,971	4,741,024
1998	462,895	94,998	45,319	39,158	2,460	644,830	5,385,854
1999	484,169	-49,552	66,674	48,801	1,213	551,305	5,937,159
2000	558,513	-9,587	76,883	44,502	2,152	672,463	6,609,622
2001	583,198	2,455	86,285	39,365	10,309	721,612	7,331,234
2002	544,746	1,566	69,115	27,786	9,643	652,856	7,984,090
2003	624,436	272	87,343	40,649	5,295	757,995	8,742,085
2004	694,883	2,177	109,341	56,588	6,707	869,696	9,611,781
2005	841,675	18	137,959	59,765	8,445	1,047,862	10,659,643
2006	953,592	0	177,022	65,758	10,128	1,206,500	11,866,143
2007	994,682	0	188,204	67,847	10,998	1,261,731	13,127,874
2008	1,087,508	110	265,189	102,866	11,560	1,467,233	14,595,107
2009	856,446	1	184,560	74,319	9,917	1,125,243	15,720,350
Totals	11,665,968	1,382,568	1,665,555	890,889	115,370	15,720,350	



HMTF Cash Flow 1992 - 2009

Year	Start Balance	Tax Receipts	Interest Income	Total Available	Total Transfers	End Balance	Corps Transfers	Other Agency
1992	\$72.8	\$514.6	\$16.5	\$603.9	\$482.9	\$120.9	\$462.2	\$20.7
1993	\$120.9	\$637.2	\$13.5	\$771.7	\$468.4	\$303.3	\$446.4	\$21.9
1994	\$303.3	\$633.4	\$12.8	\$949.5	\$497.1	\$452.4	\$476.6	\$20.5
1995	\$451.4	\$670.7	\$30.2	\$1,152.3	\$531.1	\$621.2	\$519.2	\$11.9
1996	\$621.2	\$698.3	\$40.9	\$1,360.3	\$494.8	\$865.5	\$482.1	\$12.7
1997	\$866.1	\$735.5	\$53.6	\$1,655.2	\$549.5	\$1,105.7	\$536.0	\$13.5
1998	\$1,112.2	\$621.5	\$66.4	\$1,800.1	\$511.9	\$1,288.2	\$496.9	\$15.0
1999	\$1,289.0	\$552.8	\$62.8	\$1,904.6	\$295.7	\$1,609.0	\$281.2	\$14.5
2000	\$1,609.0	\$677.6	\$83.0	\$2,369.5	\$701.9	\$1,667.6	\$686.9	\$15.0
2001	\$1,667.6	\$721.6	\$89.2	\$2,478.4	\$659.6	\$1,818.8	\$643.6	\$16.0
2002	\$1,818.8	\$652.9	\$57.9	\$2,529.6	\$656.2	\$1,873.4	\$639.9	\$16.3
2003	\$1,873.4	\$758.0	\$46.5	\$2,677.9	\$585.9	\$2,092.1	\$568.9	\$17.0
2004	\$2,092.1	\$869.7	\$52.7	\$3,014.5	\$648.2	\$2,366.3	\$630.9	\$17.3
2005	\$2,366.3	\$1,047.9	\$74.8	\$3,488.9	\$706.0	\$2,782.9	\$687.2	\$18.7
2006	\$2,782.9	\$1,206.5	\$114.4	\$4,103.8	\$798.1	\$3,305.7	\$779.0	\$19.0
2007	\$3,305.7	\$1,261.7	\$154.0	\$4,721.5	\$909.9	\$3,811.6	\$890.6	\$19.2
2008	\$3,811.6	\$1,467.2	\$159.2	\$5,438.1	\$786.5	\$4,651.6	\$766.0	\$20.5
2009	\$4,651.6	\$1,125.2	\$143.3	\$5,920.1	\$807.5	\$5,112.5	\$772.5	\$35.0

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**U.S. Army Corps of Engineers Expenditures
Eligible for Recovery from the Harbor Maintenance Trust Fund,
Fiscal Years 1987 - 2008**
(thousands of dollars)

Preliminary for 2007-08 and Excludes Supplementals

Fiscal Year	Deep Draft Operations and Maintenance Costs		Shallow Draft Operations and Maintenance Costs		Total Operations and Maintenance Costs	Eligible DMDF Costs in Construction, General Account	Cumulative Total
	Dollars	Percent	Dollars	Percent	Dollars	Dollars	Dollars
1987	319,607	0.856	53,944	0.144	373,551	0	373,551
1988	320,291	0.810	75,173	0.190	395,464	0	395,464
1989	330,742	0.832	66,752	0.168	397,494	0	397,494
1990	303,185	0.819	66,962	0.181	370,147	0	370,147
1991	393,946	0.856	66,502	0.144	460,448	0	460,448
1992	378,307	0.866	58,613	0.134	436,920	0	436,920
1993	415,667	0.876	59,020	0.124	474,687	0	474,687
1994	436,277	0.844	80,609	0.156	516,886	0	516,886
1995	418,893	0.871	62,126	0.129	481,019	0	481,019
1996	461,722	0.866	71,550	0.134	533,272	0	533,272
1997	498,002	0.863	79,118	0.137	577,120	0	577,120
1998	570,308	0.905	60,053	0.095	630,361	0	630,361
1999	585,375	0.861	94,755	0.139	680,130	3,200	683,330
2000	530,227	0.847	95,927	0.153	626,154	5,000	631,154
2001	554,184	0.844	102,173	0.156	656,357	13,000	669,357
2002	507,330	0.819	111,834	0.181	619,164	26,000	645,164
2003	559,969	0.824	119,254	0.176	679,223	5,900	685,123
2004	568,234	0.840	107,914	0.160	676,148	5,300	681,448
2005	628,144	0.896	72,888	0.104	701,032	7,758	708,790
2006	601,207	0.873	87,713	0.127	688,920	8,270	697,190
2007P	664,271	0.879	91,348	0.121	755,619	9,201	764,820
2008P	683,068	0.893	81,703	0.107	764,771	29,117	793,888



HMTF Reconciliation 2000-2008 (07-08 Prelim)

Year	Corps Eligible	HMTF Transfers	Over (+)/Under(-) Transfer
2000	631.2	686.9	55.7
2001	669.4	643.6	-25.8
2002	645.2	639.9	-5.3
2003	685.1	568.9	-116.2
2004	681.4	630.9	-50.5
2005	716.4	687.2	-29.2
2006	705.1	779.0	73.9
2007	764.4	890.6	126.2
2008	793.4	766.0	-27.4
2009		772.5	
Total	6291.6	7065.5	1.4

MR&T Adjustment for Cumulative
Year Ineligible Transfers 1987-
2005

37.1

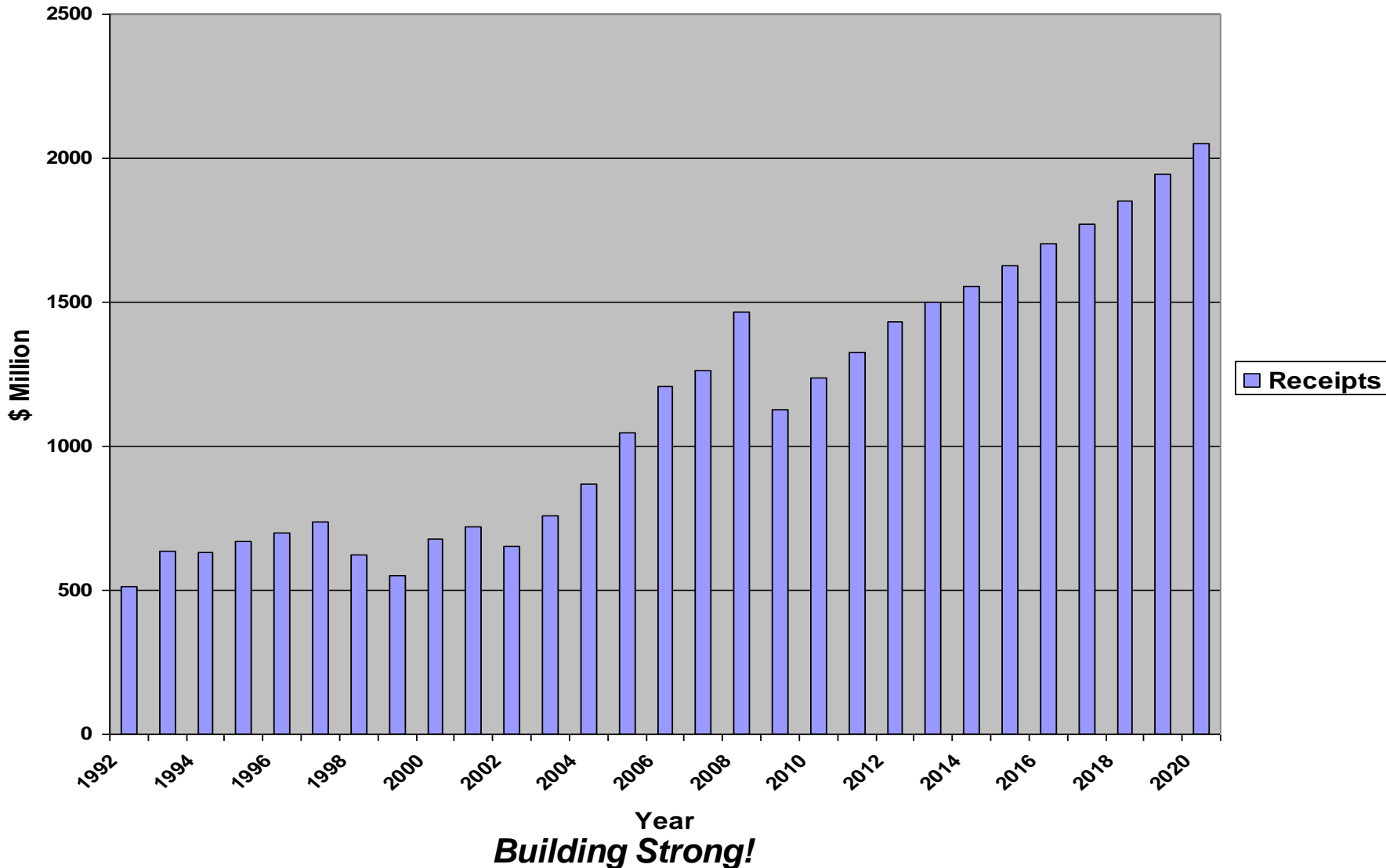
Cumulative Over Transfer for
Reconciliation

38.5

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HMTF Receipts, Historic and Projected



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HMTF Receipts by Port

- Not available currently
- Interagency effort for International Trade Data System (ITDS)
 - Treasury leads
 - More than a dozen agencies participating including Corps
 - Lack of funding has affected implementation schedule
 - Hope to have HMT receipts available by port in 12-18 months
 - Will only be imports and FTZ receipts
- Current options
 - Estimate from cargo value by customs districts
 - TVA initiative using dock-level Corps cargo data for imports and domestic, and estimated cargo value by commodity type (2007 data)
 - Result of GAO recommendations to Corps and CBP for improved audit capability primarily for receipts for domestic cargo

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U.S. Army Corps of Engineers (USACE) - Defense

ITDS Related Mission

The U.S. Army Corps of Engineers (USACE) maintains databases and statistics pertaining to waterborne commodity and vessel movements and domestic commercial vessel characteristics, which it uses for determining the need for building, improving, or rehabilitating port and waterway facilities, lock facilities, lock operations, and navigation dredging projects.

Planned Data Exchange

Based on current plans, ACE will:

- Provide the Corps of Engineers with a monthly Harbor Maintenance Fee (HMF) Report, displaying aggregate totals of the HMF fees collected, sorted, and summarized by port, vessel type, and commodity. The Corps of Engineers will maintain the Schedule "K" (Foreign Port Codes) and the "Classification of Ships by Type" code tables in ACE,
- Allow the Corps of Engineers the ability to use the ACE Portal to obtain product and commodity information reported from importers that identifies which commodities are shipped on which vessels to which ports,
- Provide a correlated entry summary, manifest, and vessel entrance data report, by correlating various ACE vessel entrance and clearance data into one record per vessel movement or cargo shipment, and
- Provide the Corps of Engineers with carrier contact information through the ACE Portal (already available).

Unscheduled - M1 (Originally 10/2008) – HMF Reports will be available via the ACE Portal; USACE will receive information reported by carriers on incoming vessels and trains (manifest reports) as well as carrier entrances and clearances.

Industrial Products & Services Tax Alert*



In this Issue

Increased customs audit risk and exposure

PricewaterhouseCoopers has recently learned of an issue that may present a significant monetary risk for companies that ship large amounts of products domestically, by water. U.S. Customs has increased enforcement of a little known shipping fee that many companies are not aware of. We believe this exposure may most often affect companies in the Energy, Industrial Products, and Utilities sectors.

Issue

U.S. Customs and Border Protection ("U.S. Customs") collects the Harbor Maintenance Fee ("HMF") on imports into the U.S. via maritime ports and on domestic maritime shipments between designated U.S. ports. While importers typically pay HMF on imported shipments at the same time as import duties and other associated fees, shippers of domestic freight between U.S. ports are responsible for making a quarterly payment of HMF fees directly to U.S. Customs. Many domestic shippers are not aware of this obligation.

We have learned U.S. Customs is now approaching U.S. companies seeking unpaid HMF on domestic shipments. U.S. Customs appears to be analyzing vessel operation data from the Army Corps of Engineers to identify companies that likely owe this fee. U.S. Customs then notifies the company of its obligations, provides shipment data and requests payment of the fee or documentation that the fee was properly paid. One company we have worked with recently had a quarterly liability of well over \$200,000 for just one quarter in unpaid HMF, with the unpaid fees dating back several years. Unfortunately, U.S. Customs can assess interest and penalties for the unpaid amounts. In recent weeks, we have seen that U.S. Customs is expanding its inquiries to cover multiple quarters.

Companies with shipments in the following areas are expected to be most at risk:

1. Gulf Coast
2. Great Lakes
3. East Coast
4. West Coast

Companies affected by this tax typically will be buyers/sellers of the following in bulk quantities:

1. Petroleum and related products
2. Coal
3. Iron and other metal ores
4. Aggregate materials
5. Chemicals

Action

It is important for companies that pay freight on domestic maritime shipments of cargo to ensure they are in compliance with their obligation to pay this fee. Typically this fee would be calculated by their Operations or Logistics teams, so a good first step is to evaluate internally if the fee is being paid. If it is not, PwC's WMS - Customs & International Trade practice can assist by assessing any potential liabilities and in preparing the necessary filings should there be any exposure to unpaid fees under this provision. Since certain categories of domestic maritime cargo and certain ports are exempt from HMF, PwC can assist companies in identifying any exemptions that may apply to their operations.

For more information, please contact Dom Gambardella at (646) 471-3791, Shannon Luttermoser at (313) 394-6837, Robert Olson at (415) 498-7572, Larry Legates at (646) 471-8822, or Mike Burak at (973) 236-4459.



Take Aways

- HMTF 07-08 Report draft available being finalized
- HMTF 09 Report target May 2010
- Further improvements to OMBIL to track HMTF-eligible expenditures across accounts (regular appropriations by account; supplementals)
- Working with ITDS on ability to track HMT receipts by port for imports and FTZ
- CBP and IRS have shown interest in audit of HMT receipts, particularly for domestic
- We welcome your views on how to improve HMTF report content to meet stakeholder needs



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