United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-283304

October 7, 1999

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives

Subject: U.S. Customs Service: Update on the Merchandise Processing Fee

Dear Mr. Chairman:

In your March 11, 1999, request you asked us to provide information on Customs' merchandise processing fee (MPF) that is charged on certain imports,[1] including information on the relationship between the fee and the cost of services provided. The MPF was established by the Omnibus Budget Reconciliation Act of 1986.[2] In a June 18, 1999, briefing for the Subcommittee, we discussed MPF revenues, the legislatively based MPF fee structure, and that Customs does not separate MPF costs from the broad cost category of trade compliance. This letter summarizes our work on these issues.

To do our work, we updated information in our 1994 report[3] on the structure and use of the MPF. We also interviewed Customs officials in Washington, D.C., and reviewed Customs cost and budget documents, related user fee legislation, and the Department of the Treasury Inspector General's report on Customs 1998 financial statements. We conducted our work from June 1999 through August 1999 in accordance with generally accepted government auditing standards.

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[1] Merchandise is exempt from the MPF if it meets one of the following conditions: (1) all goods released/entered under a provision in Chapter 98, Harmonized Tariff Schedule (HTS) of the United States, except for goods entered under 9802.00.60 and 9802.00.80 of the HTS; (2) all products of an insular possession of the United States; (3) all products of Caribbean Basin Initiative countries; (4) all products of Least Developed Developing Countries; (5) all merchandise imported directly from Canada, which qualifies under the U.S./Canada Free-Trade Agreement (merchandise, which is not imported directly from Canada, is to be assessed the fee); (6) all products of Israel; and (7) merchandise generally imported via mail.

[2] P.L. 99-509 (1986).

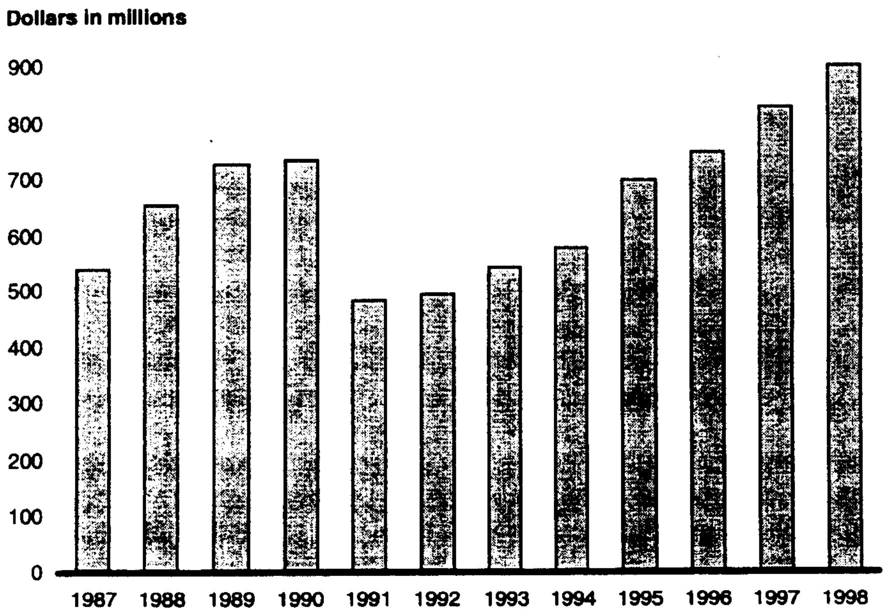
[3] Customs Service: Information on User Fees (GAO/GGD-94-165FS, June 17, 1994).

MPF Revenues

According to Customs, for each fiscal year, Congress appropriates funds to the Customs Service for its commercial operations and drug and other law enforcement activities through a single appropriation entitled "Salaries and Expenses." MPF revenue collected throughout the fiscal year is deposited in the Customs User Fee Account. Congress appropriates funds out of the User Fee Account to Customs as part of its Salaries and Expenses appropriation. Customs commercial operations include activities that support the (1) assessment and collection of duties, taxes, and fees on imported merchandise; (2) collection and reporting of import statistics; and (3) enforcement of laws of other federal agencies and international agreements.

Figure 1 shows MPF revenue collections for fiscal years 1987 through 1998.

Figure 1: MPF Revenue Collections, Fiscal Years 1987 Through 1998



Source: U.S. Customs Service.

MPF Fee Structure

The MPF fee structure is set by Congress and is assessed (ad valorem) on the declared invoiced value of formal merchandise entries.[4] It was initially set in 1986 at a rate of 0.22

[4] Merchandise entries are foreign shipments that require evidence of the importer's right to bring the merchandise into the United States. Formal entries generally refer to merchandise with a value of over $2,000. Informal entries generally refer to merchandise with a value of less than $2,000 or personal importations regardless of value. When an entry is filed with Customs, the importer of record pays the applicable fees.

percent of the invoiced value, decreased legislatively to 0.17 percent in 1987, and remained at 0.17 percent until increased to 0.21 percent in 1995.

In November 1987, after some U.S. trading partners protested the initial MPF fee structure, a General Agreement on Tariffs and Trade (GATT) panel ruled that the MPF exceeded the cost of services rendered and essentially discriminated against imports to the United States in favor of domestic products. In response to the GATT panel's decision, Congress passed the Customs and Trade Act of 1990[5] that added a new minimum and maximum fee schedule of $21 (for entries under $11,053) and $400 (for entries over $210,526), respectively.

The Omnibus Budget Reconciliation Act of 1990[6] further amended the MPF by giving the Secretary of the Treasury the authority to adjust the ad valorem rate within a range of 0.15 percent and 0.19 percent. The Uruguay Round Agreements Act of 1994[7] subsequently raised the MPF to 0.21 percent in 1995 and authorized the Secretary of the Treasury to adjust the ad valorem rate within a range of 0.15 percent and 0.21 percent. It also increased the maximum fee authorized by the Customs and Trade Act of 1990 to $485 (for entries over $230,952); the minimum fee was increased to $25 (for entries valued under $11,904).

The MPF rate is currently 0.21 percent of the total declared value of imported merchandise for entries with a value between $11,904 and $230,952.

These changes to the MPF are summarized in table 1.

Table 1: Historical Changes to the MPF

Date of legislative action	Actual ad valorem rate	Minimum rate authorized	Maximum rate authorized	Minimum fee	Maximum fee
1986	0.22 %	N/A	N/A	N/A	N/A
1987	0.17	N/A	N/A	N/A	N/A
1990	0.17	N/A	N/A	$21	$400
1990	0.17	0.15%	0.19%	21	400
1995	0.21	0.15	0.21	25	485

N/A: Not Applicable.

Source: U.S. Customs Service data and relevant user fee legislation.

The President's fiscal year 1999 budget sought to give the Secretary of the Treasury authority to increase the ad valorem rate from 0.21 percent to 0.25 percent to pay for a portion of Customs' Automated Commercial Environment system modernization. Congress did not approve the proposed fee increase. An MPF increase was not proposed in the President's fiscal year 2000 budget submission.

[5] P.L. 101-382 (1990).

[6] P.L. 101-508 (1990).

[7] P.L. 103-465 (1994).

Customs Does Not Separate MPF Costs From Total Trade Compliance Costs

Customs has employed a Cost Management Information System (CMIS) since fiscal year 1997 to produce data on its costs of operations. CMIS is an activity-based cost accounting system that uses financial, workload, and reporting data maintained by Customs. CMIS organizes activity-based costs according to Customs' core business processes, such as trade compliance and passenger processing. According to Customs, CMIS captures all costs related to the processing of merchandise under its trade compliance business process, including some costs that are not covered by MPF legislation. However, CMIS cannot separate merchandise processing costs from other costs Customs incurs for nonmerchandise processing activities in the trade compliance area. These nonmerchandise processing activities include the costs of supporting crew searches, drug enforcement-related activities, and disseminating Customs trade bulletins. Therefore, the information necessary to determine the relationship between the fee and the cost of services provided is not readily available from CMIS.

Agency Comments

We requested comments on a draft of this letter from the Secretary of the Treasury. In a letter dated September 15, 1999, Treasury's Director, Office of Finance and Administration (Office of Enforcement), commented that the Office of Enforcement is in agreement with the draft letter, with the exception of one technical comment and revision suggested by Customs. We discussed the technical comment with Customs officials and revised our draft letter.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 10 days after the date of this letter. We will then send copies to Representative Sander M. Levin, Ranking Minority Member of your Subcommittee, the Honorable Lawrence H. Summers, Secretary of the Treasury, and the Honorable Raymond Kelly, Commissioner of Customs. We will also make copies available to others on request.

This work was performed by Darryl Dutton, Sam Caldrone, Andrew Hoffman, and Jessica Tucker-Mohl. If you have any questions about this letter, please contact me at (202) 512-8777.

Sincerely yours,

Laurie E. Ekstrand

Laurie E. Ekstrand
Director, Administration
of Justice Issues

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