

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES v. UNITED STATES SHOE CORP.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

No. 97–372. Argued March 4, 1998— Decided March 31, 1998

The Harbor Maintenance Tax (HMT) obligates exporters, importers, and domestic shippers, 26 U. S. C. §4461(c)(1), to pay 0.125 percent of the value of the commercial cargo they ship through the Nation’s ports, §4461(a). The HMT is imposed at the time of loading for exports and unloading for other shipments. §4461(c)(2). It is collected by the Customs Service and deposited in the Harbor Maintenance Trust Fund (Fund), from which Congress may appropriate amounts to pay for harbor maintenance and development projects and related expenses. §9505. Respondent United States Shoe Corporation (U. S. Shoe) paid the HMT for articles the company exported during the period April to June 1994 and then filed a protest with the Customs Service alleging that, to the extent the toll applies to exports, it violates the Export Clause, U. S. Const., Art. I, §9, cl. 5, which states: “No Tax or Duty shall be laid on Articles exported from any State.” The Customs Service responded to U. S. Shoe with a form letter stating that the HMT is a statutorily mandated user fee, not an unconstitutional tax on exports. U. S. Shoe then sued for a refund, asserting that the HMT violates the Export Clause as applied to exports. In granting U. S. Shoe summary judgment, the Court of International Trade (CIT) held that it had jurisdiction under 28 U. S. C. §1581(i) and that the HMT qualifies as a tax. Rejecting the Government’s characterization of the HMT as a user fee, the CIT reasoned that the tax is assessed *ad valorem* directly upon the value of the cargo itself, not upon any services rendered for the cargo. The Federal Circuit affirmed.

Held:

1. The CIT properly entertained jurisdiction in this case. Section 1581(i)(4) gives that court residual jurisdiction over “any civil action

Syllabus

... against the United States ... that arises out of any [federal] law ... providing for ... administration and enforcement with respect to the matters referred to in [§1581(i)(1)],” which in turn applies to “revenue from imports.” This dispute involves such a law. The HMT statute, although applied to exports here, applies equally to imports. That §1581(i) does not use the word “exports” is hardly surprising in view of the Export Clause, which confines customs duties to imports. Moreover, 26 U. S. C. §4462(f)(2) directs that the HMT “be treated as ... a customs duty” for jurisdictional purposes. Such duties, by their very nature, provide for revenue from imports and are encompassed within §1581(i)(1). Accordingly, CIT jurisdiction over controversies regarding HMT administration and enforcement accords with §1581(i)(4). Pp. 3–5.

2. Although the Export Clause categorically bars Congress from imposing any tax on exports, *United States v. International Business Machines Corp.*, 517 U. S. 843 (*IBM*), it does not rule out a “user fee” that lacks the attributes of a generally applicable tax or duty and is, instead, a charge designed as compensation for government-supplied services, facilities, or benefits, see *Pace v. Burgess*, 92 U. S. 372, 375–376. The HMT, however, is a tax, and thus violates the Export Clause as applied to exports. Pp. 3–9.

(a) The HMT bears the indicia of a tax: Congress expressly described it as such, 26 U. S. C. §4461(a), codified it as part of the Internal Revenue Code, and provided that, for administrative, enforcement, and jurisdictional purposes, it should be treated “as if [it] were a customs duty,” §§4462(f)(1),(2). Prior cases in which this Court upheld flat and ad valorem charges as valid user fees do not govern here because they involved constitutional provisions other than the Export Clause. *IBM* plainly stated that the Export Clause’s simple, direct, unqualified prohibition on any taxes or duties distinguishes it from other constitutional limitations on governmental taxing authority. 517 U. S., at 851, 852, 857, 861. Pp. 5–7.

(b) The guiding precedent for determining what constitutes a bona fide user fee in the Export Clause context remains this Court’s time-tested *Pace* decision. The *Pace* Court upheld a fee for stamps placed on tobacco packaged for export. The stamp was required to prevent fraud, and the charge for it, the Court said, served as “compensation given for services [in fact] rendered.” 92 U. S., at 375. In holding that the fee was not a duty, the Court emphasized that the charge bore no relationship to the quantity or value of the goods stamped for export. *Ibid.* *Pace* establishes that, under the Export Clause, the connection between a service the Government renders and the compensation it receives for that service must be closer than is present here. Unlike the fee at issue in *Pace*, the HMT is deter-

Syllabus

mined entirely on an ad valorem basis. The value of export cargo, however, does not correlate reliably with the federal harbor services, facilities, and benefits used or usable by the exporter. The Court's holding does not mean that exporters are exempt from any and all user fees designed to defray the cost of harbor development and maintenance. It does mean, however, that such a fee must fairly match the exporters' use of port services and facilities. Pp. 7–9.

114 F. 3d 1564, affirmed.

GINSBURG, J., delivered the opinion for a unanimous Court.