



August 15, 2005

The Honorable Arnold Schwarzenegger  
Governor  
State Capitol  
Sacramento, CA 95814

Dear Governor Schwarzenegger:

I am writing on behalf of the Waterfront Coalition to urge you to oppose any and all proposals that would impose state taxes on cargo moving through California. Several of these proposals have been offered in the legislature and by private sector groups in recent months and they usually take the form of a tax on international shipping containers. The supporters of these taxes argue that the revenue they would generate could be used for a variety of important state priorities including pollution mitigation and highway infrastructure.

These proposals are seriously flawed. A state-imposed tax on international cargo would directly challenge several provisions in the U.S. Constitution, and would, if enacted create a significant new precedent that could seriously disrupt national and international commerce. As a general matter the U.S. Constitution reserves the taxation of commerce, both national and international to the federal government. Therefore these proposals are guaranteed to result in litigation that would take years to resolve and would very likely end up before the U.S. Supreme Court. Any revenue from taxes on commerce would, at best, take many years to realize.

There are other good reasons to oppose these proposals. They are bad for business, especially California's agricultural exporters. They have been crafted by individuals who do not fully understand international commerce or the national and international consequences of burdening it with new taxes. They have been put forward without any consultation with the cargo interests who are expected to pay these new taxes or who might face trade retaliation as a result of them. But, ultimately, the main reason to oppose taxes on international cargo is the absolute certainty that they will be challenged in court and will end up costing the State of California more than they are likely ever to raise.

Indeed, the difficulties surrounding a state-imposed tax on foreign commerce, underscore the fact that infrastructure supporting the international intermodal transportation system is not merely a state issue. It is, quite properly a federal issue and we all must work together to insist

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that the U.S. government adopt a policy for goods movement. We must also work together to ensure that Congress invests the Secretary of Transportation with the authority and discretion to identify intermodal initiatives of national significance. Finally, we must ensure that some additional federal resources be directed to help state and local governments meet the challenges that face them with respect to growing international commerce.

We urge you to take two important steps in this regard: First, communicate directly and publicly with the President of the United States and the California Congressional delegation urging them to work immediately to develop a national goods movement policy. Second, we urge you to empanel a special state committee composed of state stakeholders, including cargo owners, importers, exporters, citizens and others who will work over a short time frame to develop a prioritized list of goods movement initiatives and projects that are critical to the State of California. Once the priorities are identified, we urge you to help bring stakeholders together to determine the best means of financing from available resources (local, state, federal and private) to make each of these projects a reality.

The Waterfront Coalition stands ready to help you identify the best goods movement projects and initiatives in the State of California. We are, ourselves, lobbying Congress and the Administration about the importance of adopting a national goods movement policy on and providing some additional federal resources for intermodal projects of national significance.

In closing we would like you to remember that importers and exporters are supporting many of California's existing infrastructure projects through the fees they pay to ocean carriers, which are, in turn, paid to terminal operators and ultimately to California's port authorities. In addition, Waterfront Coalition members now pay the PierPass traffic mitigation fee in the ports of Los Angeles and Long Beach--a privately assessed fee the Waterfront Coalition helped shape and craft. Finally, of course, many of our members use the Alameda Corridor and pay that fee, as well.

We do understand that infrastructure is expensive. We stand ready to offer our help with those projects that we believe are priorities for the state and the nation. We believe that cooperative efforts can go a long way toward dealing with the issues that have been created by the phenomenal growth in international commerce. For the past several years, our Coalition and its Members, representing most of the largest importers in the Nation, have worked hard on congestion related issues in California. That said, the constant recent stream of fee based proposals has caused some to question the business environment for import/export operations motivating some to look elsewhere to regions that are actively seeking this commerce. We urge you to oppose these proposals publicly and to veto them should the legislature send them to you.

By way of background, The Waterfront Coalition is a group of concerned business interests representing importers and exporters committed to educate policy makers and the public about the economic importance of U.S. ports and foreign trade, and to promote the most efficient and technologically advanced ports for the twenty-first century. Our members include U.S. manufacturers, national brand names, agricultural producers and retailers exporting and importing cargo through California's blue water ports. If you have any questions about the Coalition or our views on this subject, please feel free to contact me at (202) 861-0825 ext 201.

Sincerely,

Robin Lanier  
Executive Director

CC:

Honorable Cruz Bustamante

Honorable Bill Lockyer

Honorable Steve Westly

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Honorable Sunne Wright McPeak

Honorable Alan Lloyd, Ph.D

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