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CONGRESSMAN DANA ROHRABACHER
Congress of the United States - House of Representatives
46th District of California
Huntington Beach, California

FACSIMILE TRANSMITTAL SHEET

To: Mr. Bryant L. VanBrakle

FROM: Mr. Alberto Sandoval

DATE: September 5, 2003

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46th District, California

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September 5, 2003

Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

Dear Commissioners:

It is my understanding that the United Parcel Service (UPS) has filed for an exemption **from** the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts **with** their ocean shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised. I write in strong support of the UPS **petition** currently pending before the FMC.

During consideration of **the** *Ocean Shipping Reform Act (OSRA)* revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late **1990s**, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being **shipped**. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

The state of **the** U.S. ocean shipping industry has, however, changed dramatically since the passage of OSRA. There has been unprecedented consolidation among ocean **carriers** resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operate the most sophisticated, integrated, intermodal, transportation network in **the** world, which includes air, rail **and** surface and NVOCC transportation, and is deemed a "**carrier**" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its asset-based transportation **infrastructure**. These facts alone set UPS apart from the companies that first raised concerns about the regulatory status **of NVOCCs**.

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The UPS petition, citing the recent evolution of the ocean-shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean **shipping** industry with the passage of **OSRA**, Congress did not contemplate how fast or how smoothly the market could adapt to these **changes**. By granting this petition, the FMC will acknowledge these changes, level the playing field between **NVOCCs** and vessel operators, and ultimately benefit ocean shipping consumers around **the** world.

I **trust** the FMC will give the United Parcel Service petition its most serious consideration and render an equitable decision.

Sincerely,



Dana Rohrabacher
Member of Congress