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FEDERAL MARITIME COMM

BEFORE THE FEDERAL MARITIME COMMISSION

**PETITION OF UNITED PARCEL SERVICE, INC. FOR
EXEMPTION PURSUANT TO SECTION 16
OF THE SHIPPING ACT OF 1984 TO PERMIT
NEGOTIATION, ENTRY AND PERFORMANCE
OF SERVICE CONTRACTS**

FMC Petition No. P 3 - 03

July 25, 2003

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I. INTRODUCTION

In accordance with the Federal Maritime Commission's regulations at 46 C.F.R. §502.67, United Parcel Service, Inc. and its wholly-owned subsidiary, UPS Ocean Freight Services, Inc. ("UPSOFS") (collectively, United Parcel Service, Inc. and UPSOFS are referred to herein as "UPS") request that the Commission grant an exemption pursuant to Section 16 of the Shipping Act of 1984 (the "Act") to permit UPSOFS to utilize confidential service contracts with its shippers.

UPS is a worldwide surface and air freight carrier providing service as both an ocean transportation intermediary ("OTI") and non-vessel operating common carrier ("NVOCC"), as such are defined in the Act. UPS transports substantial volumes of freight which move via vessel-operating common carriers ("VOCCs") in end-to-end connection with UPS's other transportation modes.

Many of UPS's shippers, both large and small, depend on UPS both for transportation and full-service global supply chain management solutions, including features such as labeling and tracking of freight shipments, document processing, customs clearance, warehousing, "just-in-time" inventory delivery capabilities and specialized trade financing. In order to fulfill shipper service requirements, and to meet competition from large vertically-integrated VOCC organizations that also own or control OTIs, UPS needs the flexibility to negotiate and perform confidential service contracts with shippers covering the entire end-to-end movement.

An exemption to permit UPS to offer service contracts subject to Section 8(c) of the Act and the Commission's service contract regulations is necessary and appropriate in light of industry developments since enactment of the Ocean Shipping Reform Act of 1998 ("OSRA"), including ownership of OTIs by large VOCCs. The proposed exemption is consistent with the intent of Congress in enacting OSRA in 1998. Although Congress decided at that time to allow service contract authority only to VOCCs, there have been substantial changes in industry conditions since the Congressional deliberations in 1998. UPS, with its large asset base and strong presence in the surface and air freight industries, does not exemplify the concerns that Congress expressed about expanding service contract authority during the OSRA debate.

The requested exemption will promote commerce, and will not result in any reduction of competition. UPS will show that there is substantial support for this exemption among shippers.

II. STATEMENT OF EXEMPTION REQUESTED

United Parcel Service, Inc. and its wholly-owned subsidiaries, including UPSOFS, hereby request an exemption pursuant to Section 16 of the Shipping Act of 1984, as amended, 46 App. U.S.C. §1715 (the "Act"), to permit UPSOFS, a Non-Vessel Operating Common Carrier as defined in Section 3(17) of the Act, to enter into and perform service contracts, as defined in Section 3(19) of the Act, in the manner permitted in and subject to the requirements of Section 8(c) of the

Act and subject to the Federal Maritime Commission's regulations at 46 C.F.R. Part 530'.

III. JUSTIFICATION FOR EXEMPTION

A. BACKGROUND

1. UPS Corporate Profile

UPS, a Delaware corporation, was founded in 1907. UPS is the world's largest package delivery company and provider of specialized transportation and logistics services, serving some 200 countries worldwide.

Statistics regarding UPS are set forth in Appendix "A" to the attached Verified Statement of Michael Gargaro ("Gargaro Statement"). UPS, with 2002 corporate revenues of \$31.3 billion, has 360,000 employees. UPS delivers some 3.4 billion packages and documents annually, including 13.3 million daily global deliveries, two million daily U.S. domestic air packages and documents and 1.2 million daily international packages and documents. On a daily basis, UPS picks up from 1.8 million customers and delivers to an average of 6.1 million U.S. and international addressees and consignees.

UPS operates from 1,748 facility locations worldwide. The company operates a fleet of 88,000 trucks and other vehicles, and 581 aircraft. UPS flies nearly 1,900 daily air freight segments serving 364 U.S. airports and 405 terminals overseas. Principal UPS air freight hubs are in the U.S., Canada,

¹ UPS assumes that if the exemption is granted, its service contracts would be regulated and filed with the Commission pursuant to service contract rules in Part 530 rather than the tariff rules in Part 520 of the Commission's regulations. To alleviate any concern that UPS, which is not a VOCC, would not be subject to all service contract rules in Section 8(c) of the Act and 46 C.F.R. Part 530, the Commission may impose a condition to this effect on the requested exemption.

Europe and South and East Asia. UPS capital expenditures average \$2 billion annually. UPS's transportation assets, including aircraft, vehicles, terminals and technology, exceed \$25 billion on a cost basis and \$13 billion on a depreciated basis. Gargaro Statement, at 3 and Appendix "A."

UPS is a publicly-traded company. Its shares, traded on the New York Stock Exchange, have a current market capitalization of \$33.2 billion.

2. UPS International Parcel Shipping Service

As international volumes have grown, UPS has increasingly relied on ocean common carrier services to move containerized shipments of parcels for its customers. UPS combines ocean freight movements with its surface and air delivery capabilities to offer shippers the right combination of delivery times and economics for their needs. To provide the most comprehensive service at all levels, UPS has also made strategic acquisitions, like that of the Fritz Companies, Inc., a full-service global freight forwarder, customs brokerage and warehousing firm.²

UPS does not own or operate any vessels. All UPS ocean freight is shipped via ocean common carriers, in many instances pursuant to service contracts entered and performed pursuant to the Shipping Act and the Commission's regulations. UPS's service contracts with VOCCs range in volume up to 10,000 20-foot equivalent units ("TEUs"). In other cases, depending on volume and routing, UPS ocean shipments move in accordance with VOCC

² UPSOFS, formerly known as Fritz Transportation International, was part of the Fritz Companies, Inc. group acquired by UPS in 2001. Gargaro Statement, at 1.

tariffs, or they may be shipped under UPSOFS's own NVOCC tariff³ or through arrangements with other NVOCCs under their tariffs, or via other OTIs. Gargaro Statement at 13.

UPS moves approximately 300,000 TEUs of ocean freight annually. UPS serves a number of larger ocean freight shippers moving up to 4,000 TEUs each year. However, the majority of UPS's ocean movements are provided by shippers moving an average of about 350-500 TEUs annually. Such smaller shippers are typically suppliers to larger manufacturers or retailers importing products from overseas sources to consolidation, manufacturing, assembly, warehousing and delivery points in the U.S. Unlike bigger companies, these smaller shippers have few internal transportation or trade finance resources. They look to UPS to provide a "portfolio solution" covering aspects of their business from vendor management, packing and bar code labeling for tracking and processing purposes, loading and transport, to customs clearance. In many instances, UPS locates its own facility adjacent to the shipper's consolidated freight terminal or factory, or next to the shipper's customer's facility, to provide "vendor-managed inventory services." This allows the shipper's customer to avoid the cost of carrying inventory while still having access to goods on a timely basis as needed. Gargaro Statement at 13-I 4.

UPS also manages the flow of information and trade financial services that facilitate movement of parcel freight through its UPS Supply Chain Solutions

³ UPSOFS is a licensed NVOCC (FMC License No. 016871 N). Its NVOCC tariff is available at <http://globalview.fritz.com/fmci/fmccirates.go> and <http://rates.descartes.com>.

Group. UPS Supply Chain Solutions Group offers logistics, global freight, trade finance and consulting to enhance customers' business performance and improve their global supply chain management. UPS Supply Chain Solutions can manage complex transportation networks, carriers and multi-modal shipments, and deliver orders anywhere through its global network. UPS can put together the most effective solution for each shipper, using ocean, air, road, or rail. UPS manages the transportation details for the shipper, including shipment booking, carrier routing, tariffs, customs and documentation requirements. While the shipper's goods are in transit, the UPS information system provides visibility in the transportation process via the Internet, providing information on all aspects of the shipments. Gargaro Statement at 13-16.

For shippers whose goods can move most efficiently by ocean freight for all or part of the route, UPS has developed its UPS Trade DirectSM Ocean service. This service is presently available from locations in Asia and Brazil for inbound shipments to the United States. Trade DirectSM Ocean provides a port-to-door distribution center bypass delivery solution for U.S. importers that simplifies logistics management, reduces costs, and minimizes the risk of loss or product damage. Gargaro Statement, Appendix "B." Based on purchase order allocation and distribution information, UPS labels are placed on individual packages at the Customer's container freight station at the point of origin. Packages from ocean containers arriving at a U.S. port are fed directly into the UPS small package delivery network upon arrival and clearance in the United

States. For larger deliveries, Less than TruckLoad ("LTL") service is also available. Id.

Examples of comprehensive, customized supply chain management solutions created by UPS for smaller shippers are described in the Gargaro Statement at 14.

UPS has future plans for expansion of all these services, and will constantly develop new, innovative service features for its shippers as the industry changes.

B. PROPOSED UPS SERVICE CONTRACT OPERATIONS

With service contract authority, UPS would be able to satisfy growing shipper demand to offer a single confidential agreement covering all aspects of UPS's global transportation and supply chain management services. In a single comprehensive contract, UPS could provide unique, customized service packages to each shipper, charging rates appropriate to the specific needs and traffic flow of the shipper.

Without service contract authority, this is impossible. Rates are not confidential, and the parties cannot obtain the most efficient top-to-bottom pricing for the customized package of service features the shipper receives. The parties cannot effectively cope with changes in ocean cargo volume. Additionally, without the shipper's volume obligation provided by a service contract, UPS cannot reliably negotiate the best service and rate packages with VOCCs which would enable UPS to provide the optimal pricing for the shipper.

Under the requested exemption, UPS would implement its service contract business in accordance with the Commission's regulations at 46 C.F.R. Part 530. UPS service contracts and amendments would be filed with the Commission and notices and essential terms would be published, as required in 46 C.F.R. §530.5 and §§530.8 through 530.12 and Appendix A. UPS would be subject to the same regulatory requirements as other carriers using service contracts.

C. CHANGES IN OCEAN FREIGHT INDUSTRY SINCE ENACTMENT OF THE OCEAN SHIPPING REFORM ACT OF 1998, AND GROWTH OF INTEGRATED LOGISTICS SERVICES WARRANT USE OF SERVICE CONTRACTS BY UPS

1. Emergence of the Integrated Logistics Industry

During the last five years, various world economic, competitive and technology factors, as well as improvement of supply chain management techniques and innovative service offerings by freight carriers in all modes, have led to the emergence of new integrated logistics services in place of traditional stand-alone or end-to-end multimodal freight services. Increased international sourcing of components for manufactured goods, competitive practices in the field of production management and application of systems management technologies have caused supply chain management to become a crucial element of major multinational corporate strategies.

Key considerations in supply chain management include cost controls, reduction of transit time to shorten order times and cut inventory carrying cost, predictability of transit times, tracking of goods to assure arrival and availability, streamlining of documentation and processing at international frontiers, automation of inspection, quality control and compliance systems, negotiable title

documentation from upstream points in a form conducive to in-transit inventory financing, flexibility in routing, ability of carriers to assemble various multimodal services in a manner most advantageous to the shipper, and warehousing systems and locations to provide “just-in-time” deliveries either to the shipper or shipper’s customer. Large multinational companies have developed methods to maximize their advantages at each level of the supply chain, enabling them to be highly competitive while improving profit margins.

While large shippers have led the way, the demand for such service features applies equally to many smaller or mid-sized shippers. Large manufacturers and distributors often require small suppliers to locate their facilities adjacent to the big company’s production center, in order to provide nearby availability of goods for inspection and “just-in-time” deliveries. In other cases, smaller companies independently occupying profitable product market niches can take advantage of better supply chain management service features, if created in response to the needs of large-volume shippers. Once the necessary capital investment and technology development has been undertaken by the carriers to bring a new service feature on line in response to big shipper demands, they can eventually make it available to shippers moving smaller volumes. Gargaro Statement at 8-12.

The Commission has recognized the substantial impact of the growth of the integrated logistics industry on liner shipping. See, Federal Maritime Commission, The Impact of the Ocean Shipping Reform Act of 1998 (2001) (“FMC OSRA Report”) at 14.

2. Consolidation of VOCCs

In the five years intervening since enactment of OSRA, there has been considerable consolidation among the VOCCs. As the Commission has observed, the percentage of global containership capacity controlled by the 20 largest VOCCs has increased from about 50 percent in the period when OSRA was being legislated to well in excess of 80 percent today. FMC OSRA Report, at 15. In 1998 there were still a half-dozen larger carriers with relatively smaller market shares on most U.S. trade routes. Today two such VOCCs – Maersk Sealand and APL – have substantial market power in several key US trades. See Appendix "C" of Gargaro Statement. There has also been considerable consolidation among the next layer of VOCCs just below these large companies. As a result, the competitive landscape at the VOCC level has significantly changed from that Congress was addressing in 1998.

3. VOCC Ownership of and Control over OTIs

To meet shipper demands, larger VOCCs have now established, acquired or affiliated closely with OTIs providing upstream consolidation, forwarding and processing functions covering the full range of integrated logistics services. These companies have very substantial asset bases, in the billions of dollars, and operate comprehensive global services. See table at Appendix "D" of the Gargaro Statement.

UPS faces substantial head-to-head competition from Maersk-Sealand and its affiliate Maersk Logistics International A/S, based in Copenhagen. Maersk operates 281 vessels with a capacity exceeding 750,000 TEUs in

worldwide liner services. Maersk Logistics offers supply chain management, international forwarding, air freight, warehousing and distribution, vendor management, quality assurance, customs brokerage and information management services for its shippers. Gargaro Statement at 18.

Another typical large, vertically-integrated competitor is APL. Part of the NOL Group headquartered in Singapore, APL operates 74 vessels and 450,000 containers in worldwide liner trades serving over 100 countries. APL's affiliate APL Logistics is the fastest-growing business unit in the NOL Group, with an impressive 29 percent annual expansion rate. APL Logistics is a global leader in supply-chain management, offering forwarding vendor management, warehousing and consolidation services. With services including consulting and advanced information technologies, APL Logistics now maintains 15 offices in 55 countries. It also operates a system of more than 200 warehouses. Gargaro Statement at 18-I 9.

Other large VOCCs which offer comprehensive supply chain management services include Hanjin Line, Hyundai Merchant Marine, K-Line, NYK, Yang Ming, P&O Nedlloyd, CMA-CGM, Mitsui OSK and Zim Israel. Still other large VOCCs are offering certain integrated logistics services to shippers through use of electronic portal systems such as INTTRA, GT Nexus and CargoSmart. As many as 15 VOCCs participate in INTTRA. Gargaro Statement at 18-20 and Appendix D.

These large VOCCs that own and control OTIs and participate in portals have a significant advantage over UPS because of their ability to offer

confidential service contracts to their shipper customers through the VOCC entity in their corporate group. These VOCCs may quote specialized combinations of rates and service features, offering flexibility with respect to the ocean freight portions of their services that UPS as an OTI cannot match. Gargaro Statement at 19-20.

There has also been great consolidation among OTIs since 1998. NVOCC and freight forwarding functions have been merged, leaving fewer independent forwarders or NVOCCs. FMC OSRA Report, at 4, 31. Surface freight carriers and railroads are now also beginning to offer supply chain management services. Gargaro Statement at 20.

4. Service Contracts Now Dominate Bookings

Largely due to regulatory changes brought about by OSRA, such as elimination of the “me-too” requirement for similarly-situated shippers, as well as the attractiveness of confidentiality provisions, service contracts are now the overwhelmingly predominant rate-setting vehicle in U.S. ocean commerce. More than 80 percent of all liner cargo now moves under service contracts. FMC OSRA Report, at 2. In certain trades, shippers are now moving virtually 100 percent of their traffic via service contracts. Id. at 17.

Service contracts have affected cargo movements of both large and small shippers. The Commission’s 2001 OSRA survey of service contracts showed that 60 percent of them have minimum volume commitments of 100 TEUs or less. Id., at 18.

5. Shipper Demand for Integrated Logistics Services

With the explosive emergence of the modern integrated logistics industry, and with even modest-sized shippers having critical supply chain control needs, competitive multi-modal carriers must provide innovative and comprehensive transportation services to satisfy shipper demand. As the world's largest parcel carrier, UPS has developed a substantial transportation asset base and technologies to fulfill these needs, as have many of its major competitors among the ranks of VOCCs and OTIs. Gargaro Statement at 21-3, 25.

The rapidly advancing need for integrated supply chain management services also comes at a time when many smaller shippers are pinched by economic forces to downsize and outsource their shipping and logistics functions. Shippers of all sizes have had extra pressure arising from the need to comply with complex new regulatory requirements, such as the U.S. Customs Service 24-Hour Rule, and new regulations of the Homeland Security Department and Transportation Safety Administration. These shippers have difficulty keeping up with regulatory developments and meeting these compliance demands with their own staff. Many shippers would prefer to turn to the expertise of an OTI which has invested in the training and compliance systems necessary to meet all requirements. However, they cannot make full use of such an organization without giving up the benefits of having confidential arrangements and greater rate flexibility under ocean carrier service contracts. Gargaro Statement at 24-5.

While sophisticated OTIs may seek to provide the type of “one-stop shopping” necessary to fulfill all of a shipper’s traffic and compliance needs, the unacceptable complication in this approach is the requirement for use of NVOCC tariffs in lieu of service contracts. Use of tariffs is cumbersome and inefficient. Given the highly-competitive environments in which many shippers operate, and thinner margins that are possible, if not required, with modern supply chain management, it can be very disadvantageous for these shippers if their competitors and customers have ready access to this rate component of their cost structure.

6. UPS Corporate and Service Characteristics
Support Use of Service Contracts

a. UPS Has Substantial Assets and Net Worth
to Assure Performance

UPS has the financial wherewithal to stand behind service contract commitments to shippers. It is a large public company, with annual revenues in excess of \$31 billion. UPS’s transportation system assets have a cost basis of \$25 billion. UPS’s capital expenditures have averaged \$2 billion annually since 2000. Shippers can be confident UPS will faithfully perform its time-volume shipping obligations. Gargaro Statement at 2-3.

b. UPS Is a Major Freight Carrier by
Air and Surface Transport Modes

UPS has the experience and expertise to provide reliable multimodal transportation services. UPS is the world’s largest package transportation and delivery service, delivering 3.4 billion packages and documents annually, utilizing its fleet of 88,000 vehicles and over 500 aircraft. Much of UPS’s annual 300,000

TEU's of ocean freight is processed end-to-end with other UPS modes. Gargaro Statement at 13, and Appendix "A".

c. UPS Offers Comprehensive and Innovative Integrated Logistics Services to Large and Small Shippers

UPS services include its innovative Trade Direct SM Ocean program, offering fully-integrated supply chain management for ocean freight. UPS Supply Chain Solutions provides full vendor management and integrated logistics services, as well as trade financing. (See Gargaro Statement, Appendix B.)

Because of the size and diversity of the UPS shipper base, UPS can also work closely with various ocean carriers to mutual advantage. In the Transpacific trades, for example, UPS utilizes some dozen carriers, including not only the largest companies but also the smaller VOCCs. UPS's parcel customers supply chain management needs dictate the quickest possible transit times. Accordingly, UPS places a premium on ability to offer "next available departure" status for these shippers whose cargoes utilize ocean services. By having relationships with the broadest range of VOCCs, UPS has available the greatest range of sailing dates and times in this trade. Because of its significant, stable volume and ability to process shipments expeditiously, UPS is able to arrange more favorable terms with VOCCs to improve transit time that even substantial shippers might not be able to obtain based on their own traffic volumes. Gargaro Statement at 16.

Additionally, by dealing with both large and small VOCCs, UPS is able to enhance the utilization and competitive reach of the smaller carriers. This

improves competition in the trades, strengthening the ability of these smaller carriers to offer better terms. Gargaro Statement at 24-6.

However, without service contract authority, UPS cannot achieve its potential higher level of competitive efficiency. The inability to provide confidential rates is a disincentive to shippers, and there is not sufficient shipper obligation on cargo volume to enable UPS to negotiate the most advantageous rates with VOCCs.

D. BENEFITS TO SHIPPERS WHICH THE EXEMPTION WOULD PROMOTE

As explained in the Commission's decisions addressing Section 16 exemptions, the Commission has authority and broad discretion to consider and grant exemptions, provided the exemption (i) is not detrimental to commerce and (ii) does not result in a reduction in competition. Petition of A.P. Moeller-Maersk Line for an Exemption from the Notice Requirement of 46 C.F.R. 5530.9, Docket No. P5-99, 28 S.R.R. 1209, 1999 WL 1294890 (F.M.C.) ("Maersk Line").⁴ UPS's proposed exemption would be beneficial to commerce for many reasons.

1. Lower Cost and More Efficient Services

With service contract authority, UPS will be able to improve utilization of its capital base and its transportation equipment and systems in the air and surface modes, and to integrate and unify them better with its ocean freight

⁴ Also see Petition of Hamburg-Sudamerikanische Dampfschiffahrtsgesellschaft Eggert & Amsink for an Exemption from the Notice Requirement of 46 C.F.R. §530.9, Docket No. P4-99, 28 S.R.R. 1206, 1999 WL 1294991 (F.M.C.); Petition of China Ocean Shipping (Group) Company for a Limited Exemption from Section 9(c) of the Shipping Act of 1984, Docket No. PI-98, 28 S.R.R. 144, 147, 1998 WL 309053 (F.M.C.) ("COSCO").

services. Service contracts would also provide UPS with cargo volume obligations from its shippers which would enable it to negotiate more favorable rates and terms with ocean carriers. These factors would enable UPS to offer more competitive pricing and more advantageous service packages for shippers of all sizes throughout its system.

Many of UPS's shippers, especially smaller customers that do not have in-house resources, need specialized "bundled" combinations of service features. It is far more efficient, and results in pricing closer to market, if UPS and the shipper can negotiate individualized service contracts with confidential rates based upon the particular services the shipper requires. With service contracts, UPS will be able to provide those specific services the shipper wants – and only those services the shipper needs – in a customized package at a price tailored to the shipper's unique situation. This promotes better utilization of both the shipper's and UPS's equipment, personnel and other resources.

As shown in the Commission's 2001 survey, confidential service contracts have created greater flexibility in pricing policy. FMC OSRA Report, at 59-60. Service contracts, as a concept, were designed to permit ocean transportation service providers with greater flexibility in packaging and pricing their services to shippers. Service contracts are now the predominant means of rate setting. Carriers surveyed by the Commission indicate that individual service contracting has enhanced rate competition. FMC OSRA Report, at 19-22. The growth of service contracts resulting from OSRA has created an environment more conducive to business transactions, particularly due to the availability of

confidentiality. Carriers using service contracts pay closer attention to internal cost factors and individual service requirements in their relationship with shippers. Id., at 21.

2. Greater Reliability of Service Over Entire Range of Modes

Service contracts would enable UPS to provide a more efficient and productive flow of cargo through the entire intermodal movement.

Improved efficiency in the UPS system will also indirectly benefit VOCCs and rail carriers. Service contracting at the shipper level would help UPS deliver more stable volumes of such traffic to VOCCs and railroads. As a cargo source for VOCCs, UPS in turn enters service contracts with these carriers, allowing benefits of these contracts to flow back-to-back through to all participants in the integrated transport system. UPS ocean freight volume increases slot utilization for all VOCCs in the major ocean trades, and UPS trailer on flatcar shipments help VOCCs to reduce equipment imbalance problems. Gargaro Statement at 2, 26.

3. Uniformity of Contract Attributes over Entire Route

With service contract arrangements, UPS can provide greater uniformity of contract terms, including insurance, per-package loss value limitations and other features, over the entire door-to-door route. UPS could use a single bill of lading containing such terms. This is not currently possible to the degree shippers want through the use of NVOCC tariffs. Gargaro Statement at 11-12.

4. UPS Will Offer Greater Port Security and Enhanced International Transportation Security Access for TSA and Other U.S. Security and Law Enforcement Agencies

The core feature of the UPS freight system is its technology. One of the most significant value-added elements UPS provides supply chain management customers is shipment labeling, tracking and monitoring. Because of its substantial volume of international traffic in other modes, UPS is also a leader in development of efficient systems for compliance with new security and inspection requirements imposed by Customs, Homeland Security and other agencies.

Service contracts will enable UPS to streamline both shipper contracting and the freight documentation and tracing process to a higher degree. This will enable shippers to utilize better UPS's know-how with respect to processing, which in turn will facilitate compliance with new U.S. Customs regulations in the post-9/11 era. This will allow for a higher degree of security with respect to shippers, carriers and cargo.

E. THE EXEMPTION WOULD HAVE NO MATERIAL ADVERSE EFFECT ON COMPETITION

The second part of the threshold test under Section 16 is that the proposed exemption will not be detrimental to commerce. Maersk Line, 28 S.R.R. at 209; COSCO, 28 S.R.R. at 147. The proposed UPS exemption would stimulate competition at many levels of the international transportation industry, rather than harming it.

1. VOCCs Would Benefit from Back-to-Back Service Contracting with UPS as an Integrated Logistics Service Provider.

As the Commission noted in COSCO, 28 S.R.R. at 149, allowing a carrier greater flexibility is likely to increase rather than decrease competition among carriers. Service contracts have, as their fundamental feature, greater flexibility for both the carrier and shipper. By permitting a major transportation company such as UPS to enter service contracts upstream with shippers and downstream with VOCCs, more shippers, at smaller volume levels, will have cargoes moving under advantageous service contracts than would otherwise be possible. This in effect extends the market reach of the VOCCs to greater ranges of shippers, and allows them to price and tailor their services more closely to all segments of the market. It also enables smaller VOCCs that do not have affiliated OTIs or the resources to provide integrated logistics services to participate in greater volumes of traffic, leveraging off UPS's capabilities.

2. VOCC Volume, Capacity Utilization Rates and Efficiency Will Improve.

UPS moves substantial volumes of containerized ocean freight. UPS contracts with many VOCCs in each trade in order to have available the best range of sailings to satisfy the "next available departure" requirements UPS has with many of its shippers. The distribution of UPS freight across this spectrum of carriers will improve utilization of all VOCCs in each trade. Freight volumes available to larger VOCCs will be more reliable, due to the provisions of UPS's own service contracts with those carriers. Moreover, UPS practices for prompt

loading and departure of containers, and processing of containers at UPS facilities, will speed the throughput of cargo in each carrier's system, reducing demands on the carrier's own cargo handling infrastructure.

3. UPS Service Contracts will Not Substantially Affect OTIs.

The proposed exemption would not have any undue competitive impact on NVOCCs or other classes of OTIs. The large OTIs that are part of vertically-integrated VOCC organizations already have, in essence, the same authority as UPS seeks. Other large independent OTI organizations focused in forwarding and brokerage activities, which are mainly based outside the United States and do not own or operate their own fleets of transportation equipment, are in a somewhat different market niche than UPS, which is first and foremost a parcel delivery operation using its own transportation assets. Smaller OTIs, especially forwarders, which typically do not own or operate transportation assets, are in very different business than UPS, and in fact are frequently UPS customers themselves. These smaller entities are not direct competitors of UPS, and many of them would benefit from better UPS efficiency which would result from authorization of service contracts.

F. THE EXEMPTION IS CONSISTENT WITH LEGISLATIVE INTENT IN ENACTING OSRA

The proposed exemption is consistent with the legislative intent expressed in OSRA. UPS is both a substantial entity able to assure reliable performance of obligations to shippers and to bargain effectively with VOCCs, and is also a large transportation company with a significant capital base in air and surface transport equipment, systems and know-how.

During the process of legislating OSRA, Congress considered the possible extension of service contract authority to NVOCCs and other OTIs. See, S. Rep. No. 105-61 at 4, 19, 23 (1997). However, Congress chose not to do so for several reasons, including principally concerns that many OTIs are not large or well-capitalized companies, which might lead to inability to perform volume-based contracts, and an awareness that most of the larger OTIs were non-U.S. companies that might gain a competitive advantage. See, 144 Cong. Rec. S3192, S3200 (daily ed. April 3, 1998) (statement by Sen. Breaux), 144 Cong. Rec., S3305, S3307 (daily ed. April 21, 1998) (statement by Sen. Breaux), 144 Cong. Rec. H7011, 7016 (daily ed. August 4, 1998) (statement by Rep. Clement).

In the five years intervening since enactment of OSRA, these conditions have changed in very substantial ways. First of all, as noted above, there has been considerable consolidation among the VOCCs. See Appendix "C" of Gargaro Statement. As a result, the competitive landscape at the VOCC level is materially different than the one confronting Congress in 1998. Secondly, the larger VOCCs now have their own affiliated large, well-capitalized OTIs providing upstream functions covering the full range of integrated logistics services. Many other VOCCs provide supply chain management services similar to UPS's with the use of electronic portals. See Appendix "D" of Gargaro Statement. The Commission has observed that such comprehensive changes in the industry may require further scrutiny and may properly be the subject of an exemption proceeding. FMC OSRA Report, at. 48.

While Congress did not extend service contract authority to OTIs through OSRA, it also expressly and quite wisely recognized that conditions in U.S. ocean trades change rapidly, and that flexibility is necessary to avoid unnecessary regulatory restraints and to promote more efficient services. As a result, Congress broadened the ability of the FMC under Section 16 of the Shipping Act to grant exemptions to statutory or regulatory provisions to meet changing circumstances. S. Rep. No. 105-61, at 30.⁵

UPS believes the circumstances described above justify the requested exemption. The exemption will permit UPS, as an innovative U.S. company which has developed a strong global service network, to meet the needs of shippers, leverage more fully its transportation assets and multimodal services, and to compete more effectively in global commerce. Given UPS's large capital base and history of reinvestment in transportation assets, there is no risk of non-performance of service contracts in the manner Congress feared when it withheld authority from OTIs. The exemption will also enable UPS, as a U.S. company, to meet fairly the energetic, well-financed competition now existing from large vertically-integrated VOCCs and OTIs.

⁵ Prior to OSRA, in addition to the required findings that there would be no detriment to commerce or undue anti-competitive impact, Section 16 also required the Commission to determine that the exemption would not substantially impair effective regulation by the Commission or be unjustly discriminatory. See, e.g., COSCO, and Petition of China Ocean Shipping (Group) Company for a Limited Exemption from Section 9(c) of the Shipping Act of 1984, Petition No. P1-98, Order Amending Procedure for Compliance with Exemption, 29 S.R.R.199, 199, fn.3, 2001 WL 503700 (F.M.C.).

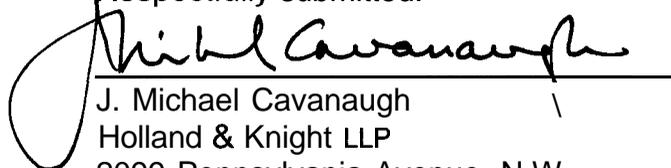
G. SHIPPER INTERESTS SUPPORT THE UPS PETITION

Shippers with whom UPS has discussed the exemption have agreed to support this petition. Support letters from these shippers will be provided as a supplement to this petition for the Commission's consideration.

IV. SUMMARY

For the foregoing reasons, UPS submits that the requested exemption to permit UPS to utilize service contracts, subject in all respects to Commission regulation, is a fully-justified and sound policy. It is within the Commission's discretion to grant the exemption, which satisfies statutory requirements. Accordingly, UPS respectfully requests that the Commission grant its approval.

Respectfully submitted.



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July 25, 2003

VERIFIED STATEMENT OF MICHAEL GARGARO

My name is Michael Gargaro. I am Vice President, Global Ocean Freight Services, UPS Ocean Freight Services, Inc. (formerly known as Fritz Transportation International), 55 Second Street, Suite 200, San Francisco, California 94105. I have held my present position for four years. United Parcel Service, Inc. ("UPS") acquired UPS Ocean Freight Services, Inc. as part of the larger acquisition of UPS Supply Chain Solutions, Inc. (formerly known as Fritz Companies, Inc.) in May 2001. UPS Supply Chain Solutions, Inc. provides distribution and logistics, international trade, transportation and freight services, serving 120 countries.

UPS Corporate Profile

UPS, a Delaware corporation publicly traded on the New York Stock Exchange, is the world's largest package delivery company and a leading global provider of specialized transportation and logistics services. UPS manages the flow of goods, funds, and information in more than 200 countries and territories worldwide.

Key statistics about UPS and its people, assets and finances are set forth in Appendix "A" to my Verified Statement. UPS today has 360,000 employees, including 320,000 in the United States. Our 2002 corporate revenue was \$31.3 billion. UPS delivers some 3.4 billion packages and documents annually, including 13.3 million daily global deliveries, two million daily U.S. domestic air packages and documents and 1.2 million daily international packages and

documents. We pick up from 1.8 million customers and deliver to an average of 6.1 million addressees and consignees daily.

UPS operates from 1,748 facility locations worldwide. The company operates a fleet of 88,000 vehicles, including cars, vans, tractors and motorcycles, and a fleet of 262 owned and 319 chartered aircraft. UPS flies 1,062 daily domestic U.S. air freight segments, and 828 international segments, serving 364 U.S. airports and 405 air terminals overseas. Our international air hubs are located in Germany, Taiwan, the Philippines, Hong Kong, Singapore and Canada.

UPS is also presently the largest U.S. intermodal rail customer, providing 2,600 daily trailer on flatcar ("TOFC") shipments. UPS traffic has provided a means for vessel operating common carriers ("VOCCs") to reduce equipment imbalance problems. VOCCs' empty containers tend to accumulate on the U.S. East Coast, while UPS's empties have tended to be in the Western U.S. UPS originates return loads to avoid the need to deadhead containers back to West Coast ports.

UPS has a history of reinvesting substantial capital back into the transportation asset base of its business each year. Our capital expenditures have averaged \$2 billion annually since 2000. Property, plant and transportation equipment assets of the UPS system, as set forth in the company's annual reports for recent years, include:

(Stated in millions of US\$)

Assets	2002	2001	2000
Vehicles	3,467	3,485	3,244
Aircraft	10,151	9,699	8,663
Land	704	670	649
Buildings	2,049	1,772	1,612
Leasehold Improvements	2,159	2,069	2,006
Plant Equipment	4,248	3,818	4,902
Technology Equipment	1,998	1,784	
Equipment Under Lease	50	16	n/a
Construction in Process	535	745	918
Sub Total Cost	25,361	24,058	21,994
Accumulated Depreciation:	(11,749)	(10,620)	(9,665)
Net Assets over Balance Sheet	13,612	13,438	12,329

UPS History

UPS was founded in Seattle in 1907 as a local messenger service. The company expanded its operations through the 1920s, establishing facilities in California and adding local contract carrier package delivery services for West Coast department stores and the U.S. Postal Service. UPS also developed the first “common carrier” service for parcel delivery, including modern forms of documentation. In 1930, UPS established its first East Coast operations in the New York-New Jersey region, and thereafter rapidly became a nationwide local delivery service provider.

In 1952 UPS began common carrier operations in cities where it could do so without the authority of state commerce commissions and the Interstate Commerce Commission (“ICC”). In 1953 Chicago became the first city outside California in which UPS offered common carrier service. Thereafter, UPS began to seek common carrier operating authority from the ICC and state regulatory commissions to operate over areas wide enough to satisfy growing public demand for its unique services.

Over three decades from the 1950s to the 1970s, UPS systematically fought to obtain authorization to ship freely in all 48 contiguous states. In 1975, the ICC granted UPS the authority to begin interstate service to and from Montana and Utah, and to extend statewide its partial service areas in Arizona, Idaho, and Nevada. UPS was also authorized to connect service in these five states with existing service on the Pacific Coast and eventually with all states to the east. As a result, UPS became the first package delivery company to serve every address in the 48 contiguous United States.

In 1929 UPS became the first package delivery company to provide air service via privately operated airlines. After a hiatus during the Great Depression and World War II, UPS resumed air operations in 1953, offering two-day service to major cities on the East and West Coasts. UPS packages flew in the cargo holds of regularly scheduled airlines. Called UPS Blue Label Air, the service grew, until by 1978 it was available in every state, including Alaska and Hawaii.

With growing demand for faster service, UPS entered the overnight air delivery business, and by 1985, UPS Next Day Air service was available in all 48 states and Puerto Rico. Alaska and Hawaii were added later. That same year, UPS entered a new era with international air package and document service, linking the U.S. and six European nations.

In 1988, UPS received authorization from the Federal Aviation Administration (“FAA”) to operate its own aircraft, thereby officially becoming an airline. Recruiting the best people available, UPS merged a number of cultures and procedures into a seamless operation called UPS Airlines. UPS Airlines became the fastest-growing airline in FAA history, formed in little more than one year with all the necessary technology and support systems. Today, UPS Airlines is one of the ten largest airlines in the United States. UPS Airlines features some of the most advanced air freight information systems in the world, like the Computerized Operations Monitoring, Planning and Scheduling System (COMPASS), which provides information for flight planning, scheduling, and load handling. The system, which can be used to plan optimum flight schedules up to six years in advance, is unique in the industry.

UPS first went international in 1975 when it offered services in Canada. Operations in Germany commenced the next year. In the 1980s, UPS established its presence in a growing number of countries and territories in the Americas, Eastern and Western Europe, the Middle East, Africa, and the Pacific Rim. In 1985 UPS started international freight air service between the United States and six European countries.

Today, UPS operates an international small package and document network in some 200 countries and territories, spanning both the Atlantic and Pacific oceans. With its international service, UPS can reach over four billion people, twice the number who can be reached by any telephone network.

UPS works with many sectors of the global transportation industry. In addition to our own shipper customers' packages and freight, substantial volumes of cargo we handle originate through independent freight forwarders and other carriers and intermediaries.

To serve its huge traffic volume, UPS has developed innovative technologies to maintain efficiency, keep prices competitive, and provide new customer services. Technology at UPS ranges from small handheld devices, to specially designed package delivery vehicles, and global computer and communications systems. The handheld Delivery Information Acquisition Device (DIAD), carried by every UPS driver, was developed to record immediately and upload delivery information to the UPS network. The DIAD information includes digital pictures of a recipient's signature, thus giving customers real-time information about their shipments. This proprietary device also allows UPS drivers to stay in constant contact with their headquarters, keeping abreast of changing pickup schedules, traffic patterns, and other important messages.

At the other end of the spectrum, UPS has developed the UPSnet, a global electronic data communications network that provides an information processing pipeline for international package processing and delivery. UPSnet uses more than 500,000 miles of communications lines and a dedicated satellite

to link more than 1,300 UPS distribution sites in 46 countries. The system tracks 821,000 packages daily. Between 1986 and 1991, UPS spent US\$1.5 billion on technology improvements, and the company plans to spend an additional US\$3.2 billion over the next five years. These capital investments are aimed at improving efficiency and expanding customer service.

In 1992, UPS began tracking all ground packages. In 1994, UPS.com went live, and consumer demand for information about packages in transit soared. The following year, UPS added features to its Web site that allowed customers to track packages in transport. The resulting popularity of online package tracking exceeded all expectations. UPS.com now processes 7.9 million online tracking requests daily.

By the late 1990s, UPS was in the midst of another transition. Although the core of the business remained the distribution of goods and the information that accompanies them, UPS had begun to branch out and focus on providing new specialized services for our customers. The company's expertise in shipping and tracking positioned it to become an enabler of global commerce, and a facilitator of the three flows that make up commerce: goods, information, and capital. To fulfill this vision of new service offerings, UPS began strategically acquiring existing companies and creating new kinds of companies that did not previously exist in the industry.

Through these acquisitions and creations, UPS sought to serve its customers in a new way. By providing unique supply chain solutions, UPS allowed its customers to better serve their own customers and focus on their own

core competencies. In 1995 UPS formed UPS Logistics Group to provide global supply chain management solutions and consulting services based on customers' individual needs. In 1995 UPS acquired a company called SonicAir, making UPS the first company to offer same-day, "next flight-out" service and guaranteed 8 a.m. overnight delivery. In 1998 UPS Capital was founded with a mission to provide a comprehensive menu of integrated financial products and services that enable companies to grow their business.

In November 1999, UPS offered shares of its stock to the public for the first time. This initial public offering strengthened UPS by giving the company the ability to use publicly traded securities to make strategic acquisitions in important markets around the world. UPS is traded on the New York Stock Exchange, and its stock has a current market capitalization of \$33.2 billion.

Additional UPS service descriptions, financial data and historical information are available at www.UPS.com.

Emergence of the Integrated Logistics Industry

During the last five years, various world economic factors as well as improvement of supply chain management techniques and innovative service offerings by freight carriers at all levels have led to the emergence of a new integrated logistics service in place of traditional end-to-end multimodal freight services.

Historically, the logistics system of a manufacturing and distribution company was a set of loosely-coordinated subsystems of varying degrees of sophistication rather than a tightly-integrated centrally-managed operation. A

multinational corporation would be part of multiple supply chains, both inbound and outbound. Many of the components of its logistical system would be located in different countries. Each country might have different regulations and be at different stages of development with respect to transportation and communications infrastructure. This created discontinuities in the level of logistics performance throughout the world. Problems were further aggravated by differing cultures and subcultures in various countries.

With the advances of the systems approach to management in the 1990s through improved management sciences, managerial accounting and information systems, a conceptual framework began to be developed in which “systems thinking” about logistics expanded at a rapid rate. Increased international sourcing of components for manufactured goods, as well as foreign competitive practices in the field of production management and opening of new global markets, led to more sophisticated approaches to production planning and materials management for the inbound side of the logistics pipeline. Market pressures, particularly in international competition, brought about the emergence and implementation of “Integrated Logistics Management” as a new business science and practice, and, most importantly, as a competitive tool and crucial dimension of major multinational corporate strategies.

Integrated Logistics Management functions at a number of levels within a multinational corporate shipper. Key considerations include:

- cost controls

- reduction of transit time from the source point to cut inventory carrying cost
- predictability of transit times
- tracking of goods to assure arrival and availability
- streamlining of documentation and processing at international frontiers
- automation of inspection
- quality control and compliance systems
- negotiable title documentation from upstream points in a form conducive to in-transit inventory financing
- flexibility in routing
- ability of carriers to assemble various multimodal end-to-end services in a manner most advantageous to the shipper
- control of timing to provide “just-in-time” deliveries to reduce inventory storage cost

Multinational companies have developed methods to maximize their advantages at each level of the supply chain, enabling them to be highly competitive while improving profit margins.

While large corporate shippers, exemplified by Wal-Mart, have led the way, the need for Integrated Logistics Management service features is no longer confined to the field of big-volume shippers. Frequently, smaller companies have highly sophisticated supply chain management needs, and often they can leverage supply chain control in highly advantageous ways. In many instances, large manufacturers and distributors will require smaller suppliers to locate their forward stocking locations within a short driving radius of the big company's

production center, in order to provide nearby availability of goods for inspection and “just-in-time” deliveries. This presented an opportunity for integrated logistics providers to manage inventories of such smaller suppliers through use of a “vendor managed inventory warehouse.” Use of such a facility stocked with parts from a wide range of suppliers reduces the cost of each individual parts supplier and reduces the inventory carrying cost of the manufacturer.

Many shippers use integrated logistics services to shorten order and delivery times on direct shipments to their customers. In other cases, smaller companies independently occupying profitable product market niches can take advantage of integrated logistics and supply chain management service features initially created by the demand of large-volume shippers. Once the service feature exists due to the demands and pioneering efforts of the bigger companies, and once the necessary capital investment and technology development has taken place, suppliers and carriers can more readily make it available to smaller shippers.

Smaller shippers especially need “one-stop shopping” services. Their internal per-unit cost of maintaining forwarding, tracking, trade finance and customs and compliance personnel trained in up to the minute regulatory requirements is very high. Often they do not have access to the sophisticated technology and other systems needed to manage this complex job. Traditionally, these functions may have been segmented, with carriers providing ocean and intermodal rates, customs brokers and other intermediaries handling processing and compliance, banks providing financing generally through working capital and

inventory finance lines, and specialized trade finance institutions offering factoring or other specialized trade finance services. However, for the modern supply chain management requirements of a smaller shipper, this approach has too many moving parts which often do not integrate well together. Where possible, shippers will seek a single service provider that can tailor a specialized program to fit their exact needs, charging them only for the services they use, at a figure appropriate to their volume.

UPS Role in Supply Chain Management

With its global reach, personnel, know-how, substantial capital base, equipment fleet and technology, UPS has been a leader in development of transportation services to meet supply chain control needs of shippers. To provide service at all levels, UPS has also made strategic acquisitions, like that of the Fritz Companies, Inc.

As international volumes have grown, UPS has increasingly relied on ocean common carrier services to move containerized shipments of parcels for its customers. For large volume movements of certain classes of goods, ocean freight is the most economical solution. UPS combines ocean freight movements with its surface and air delivery capabilities in the U.S. and overseas and its network of distribution facilities to offer shippers the right combination of delivery times and economics for their individual needs.

UPS does not own or operate any vessels. All UPS ocean freight is shipped via ocean common carriers, in many instances pursuant to service contracts entered and performed pursuant to the Shipping Act and Federal

Maritime Commission Regulations. UPS service contracts with VOCCs range up to volumes of 20,000 TEUs. In other cases, depending on volume and routing, UPS shipments move in accordance with VOCC tariffs, or may be shipped under UPS Ocean Freight Services' own non-vessel operating common carrier ("NVOCC") tariff or through arrangements with other NVOCCs or ocean transportation intermediaries ("OTIs").

Presently UPS is moving approximately 300,000 TEUs of ocean freight annually. While UPS has a number of large-volume shippers moving an average yearly volume of 2,000 TEUs, the majority of UPS's ocean freight movements arise from shippers that provide an average of about 350-500 TEUs annually. These companies are typically suppliers to larger manufacturers or retailers, which are moving products from sources in Asia, Latin America and Europe to delivery points in the U.S. Unlike bigger companies, these smaller shippers have few internal transportation or trade finance resources. They look to UPS to provide a "portfolio solution" covering aspects of their business from vendor management, packing and bar code labeling for tracking and processing purposes, loading and transport, to customs clearance and compliance with new security and inspection requirements. In some instances, UPS locates its own facility adjacent to the large customer to provide vendor-managed inventory services on behalf of their suppliers, many of whom are small-to-medium size companies,

An example of the comprehensive package of specialized integrated logistics services UPS Supply Chain Solutions can provide is a new program

developed for Birkenstock Footprint Sandals, Inc. UPS will manage special orders to be fulfilled by Birkenstock manufacturing centers in Germany, substantially shortening special-order handling and delivery times. UPS is providing a dedicated team utilizing its portfolio of air, ocean, customs brokerage and small package services, which will allow shipments to go directly to retail outlets. This program will take pressure off Birkenstock warehouses and give retailers more options for their customers.

Another illustration of customized supply chain management services provided by UPS is a service parts logistics program which UPS Supply Chain Solutions provides for Silicon Graphics, Inc. ("SGI") in Asia and Latin America. SGI service parts are distributed from UPS Supply Chain Solutions distribution centers and field stocking locations in these regions. SGI will also make use of UPS's extensive small package network in these regions. SGI's Latin American customers will be able to use computer technicians trained by UPS Supply Chain Solutions who will provide on-site repair service of selected SGI systems.

UPS Supply Chain Solutions

At UPS, global distribution involves managing not only the movement of goods, but also the flow of information and funds that move with the goods. UPS customers increasingly asked to tap into this expertise, which ultimately led to the formation of UPS Supply Chain Solutions Group.

UPS Supply Chain Solutions Group provides comprehensive logistics, global freight, financial services, mail services and consulting services to enhance customers' business performance and improve their global supply

chains. UPS Supply Chain Solutions services are delivered by various UPS subsidiaries, including UPS Ocean Freight Services, Inc., UPS Capital Corporation, UPS Supply Chain Solutions, Inc., and UPS Consulting, Inc.

With UPS Supply Chain Solutions, shipper customers get a single-source solution to the complexities of international transportation and freight, giving them the capacity to extend their global business reach. UPS can manage complex ocean, air, road, or rail transportation networks, dedicated fleets, carriers and multi-modal shipments, and deliver orders anywhere through its global network. UPS integrated solutions bring those parts together to make managing the shipper's supply chain simpler. With the UPS SonicAir service, UPS can provide same-day services to any address in the U.S. and 180 countries worldwide.

UPS manages the transportation details for the shipper, including shipment booking, carrier routing, tariffs, and customs requirements. While the shipper's goods are in transit, the UPS information systems provide visibility in the transportation process via the Internet, providing information on all aspects of the shipments. UPS can supply "virtual warehousing" services so goods in transit can be handled and redirected by shippers as though the goods were in the shipper's own warehouse. UPS can also perform functions such as "merge in transit" such that components for assembly into a finished product, in transit from multiple points or origin, will arrive simultaneously at the customer's facility.

For shippers whose goods can move most efficiently by ocean freight for all or part of the route, UPS has established ocean transportation networks specifically designed to meet their needs. This includes utilization of the services

of a number of individual ocean carriers around the world in order to provide the most efficient routing of containers at the lowest possible cost for each client. UPS Ocean Freight Services brings these carriers together and forms each network through the use of confidential service contracts with each ocean carrier. UPS Ocean Freight Services then publishes the rates that will apply for each shipper in its NVOCC tariff.

In order to provide a high-speed, direct-delivery product for its less-than-container-load customers, UPS has developed the UPS Trade DirectSM Ocean service. This service is presently available from locations in Asia and Brazil for inbound shipments to the United States. Trade DirectSM Ocean provides a port-to-door distribution center bypass delivery solution for US. importers that simplifies logistics management, reduces costs, and minimizes the risk of loss or product damage. Trade DirectSM Ocean can remove days from a shipper's supply chain by leveraging the breadth and reliability of the UPS global network - delivering goods from overseas directly to the shipper's customers' locations - which reduces inventory carrying cost and increases customer satisfaction. A graphic overview of the Trade DirectSM Ocean service is set forth in Appendix "B" to this Verified Statement.

Based on purchase order allocation and distribution information, UPS labels are placed on individual packages at the container freight station and fed directly into the UPS small package delivery network upon arrival and clearance in the United States. For larger deliveries, Full Container Load (FCL) and Less than TruckLoad (LTL) service is also available. This combination of services

enables UPS to extend the shipper's order fulfillment opportunities and improve its tracking capabilities - making it faster and less expensive to do business.

Features and benefits of UPS Trade DirectSM Ocean include:

Increased Efficiency: Goods are delivered directly to shippers' locations up to 20 days faster than traditional distribution channels.

Improved Shipment Visibility: Tracking through UPS single on-line interface provides shipment and carton level visibility. Access to online shipping information allows the shipper to see the status of each shipment, no matter where it may be, so the shipper is always informed, eliminating uncertainty.

Simplification: Small package deliveries are entered directly into the UPS system, using the shipper's own reference numbers or UPS tracking numbers.

Control: Pre-labeling eliminates re-processing packages - less handling means reduced risk of error, loss, and damage.

Streamlining Shipper Processes: Simplified management provides shippers with a single contact and consolidated invoices.

Improved Time In Transit: Inventory ownership time is reduced by up to 20 days with our distribution center by-pass program, for faster delivery and more consistent service.

Competition from Vessel Operating Common Carriers

In order to provide the service features demanded by shippers in today's logistics marketplace, a number of large ocean carriers have increasingly formed strategic alliances with OTIs or acquired them outright. Maersk Sealand, APL, NYK, P&O Nedlloyd and other large VOCCs now have their own wholly-owned or

affiliated OTIs or other entities offering many of the same supply chain management services as UPS. (See, Appendix “D” of this Verified Statement.)

A typical competitor is Maersk Sealand and its affiliate Maersk Logistics International A/S, based in Copenhagen. Maersk Sealand is a large VOCC which operates 281 vessels with a capacity of over 750,000 TEUs in worldwide liner services. Maersk Logistics offers supply chain management, international forwarding, air freight, warehousing and distribution, vendor management, quality assurance, customs brokerage and information management services for its shippers. Both Maersk’s VOCC operation and its integrated logistics services have grown at a rapid pace. (For a full description of Maersk Logistics International service offerings, see www.maersklogistics.com.)

Another large, vertically-integrated competitor is APL. Part of the NOL Group headquartered in Singapore, APL operates 74 vessels and 450,000 containers in worldwide liner trades serving over 100 countries. APL’s affiliate APL Logistics is the fastest-growing business unit in the NOL Group, with an impressive 29 percent annual growth rate. APL Logistics is a global leader in supply-chain management, offering forwarding vendor management, warehousing and consolidation services. With services including consulting, and advanced information technologies, APL Logistics now operates from 115 offices in 55 countries. It also operates a system of more than 200 warehouses. (For information about APL Logistics, see www.apllogistics.com.)

A third major competitor is NYK Logistics, a global group of supply chain management companies affiliated with NYK Line, a VOCC operating 61 vessels. NYK Logistics offers warehousing, forwarding, consolidation and distribution services, as well as land, sea and air transportation.

UPS also faces competition from the VOCCs through their development and participation in global service “portals” through which shippers may process and receive ocean bills of lading electronically. These portals enable shippers to manage ocean cargo transactions with participating carriers through a single web-hosted portal solution. Users can access sailing schedules, book cargo, submit shipping instructions, create standardized reports, and track and trace shipments around the globe. The three emerging major portals are INTTRA-Act, whose participants include 15 primarily European carriers such as Maersk Sealand, P&O, Hapag-Lloyd, Mediterranean Shipping and CMA-CGM (see www.inttra.com), GT Nexus, in which APL, Crowley, CP Ships and ten other carriers participate (see www.qtnexus.com), and CargoSmart, in which three large Asian-based carriers, OOCL, COSCO Container Line and Malaysia International Shipping Corporation participate (see www.cargosmart.com). Some carriers, such as NYK, participate in more than one portal. Through portals, VOCCs can establish a direct business relationship with shippers similar to that OTIs have traditionally held. They can provide much of the same service package as UPS with respect to certain types of traffic.

These large VOCCs that own and control OTIs or other logistics services entities or participate in electronic service portals have a significant advantage over UPS because of their ability to offer confidential service contracts to their shipper customers. These VOCCs may enter a single comprehensive agreement with confidential ocean freight rates and specialized integrated logistics service features, offering flexibility that UPS cannot match.

A particular advantage the VOCCs enjoy through service contracts is the ability to negotiate confidential rates. Many of our shippers compete in highly-competitive industries in which it is imperative to maintain the highest possible degree of confidentiality regarding costs. This is especially true with respect to larger companies, but also applies to many mid-sized and smaller shippers that have traffic profiles well-suited to service contract practices.

Many large surface and air transportation companies also now offer integrated logistics and vertically-integrated supply chain management services. These include Schneider Logistics, Yellow Corporation, Roadway and ABF Freight System. US. railroads also offer certain logistics services as well.

Need for the Requested Exemption

In order to fulfill shipper demands, meet our competition, maximize the value of our capital investment, and to provide full realization of the potential the UPS system can offer to shippers and their end-user customers, UPS needs to be able to operate in the same manner as its principal VOCC competitors in the logistics arena.

In many instances, a single shipper is utilizing a broad range of UPS services, In addition to the ocean freight portion of the movement through UPS Ocean Freight Services, UPS will be providing oncarriage services through its surface or air parcel delivery system. UPS may be providing advanced and highly customized vendor management features, including warehousing, special distribution services, and may also be providing trade financing.

Shippers asking for these services expect to enter a single agreement with the UPS group that would cover all modes of transportation and logistics services. When requesting us to provide a total supply chain solution, they expect that a broader commitment to UPS will result in savings in each area of the supply chain. A shipper's unique package of services should be taken into account in pricing the entire program for the shipper. Without the use of confidential service contracts, UPS cannot effectively do this.

Service contracts would simplify our pricing models in that we could offer incentives/discounts to customers based on overall volume, as well as ocean volume. Additionally, services contracts would improve and streamline transport documentation vis-a-vis the customer in that one multi-modal bill of lading could cover a through movement, including the ocean portion. With simplified transportation documentation, cargo tracking, quality control and the claims process will also be streamlined.

With binding service contracts in place with its shippers, UPS could negotiate larger, more efficient service contracts with ocean carriers. This is not possible using only UPS's NVOCC tariff terms. Within the service contract context, UPS would also be able to provide more flexibility to cope with service requirement changes that occur with great frequency. This is especially true with respect to mid-sized and smaller shippers. It is very difficult to allow for changes in container volumes within a published tariff. However, it is quite simple to adjust minimum quantity commitments and other service features and rates within a confidential service contract.

UPS contemplates that service contracts would be used for shippers of all sizes. In many instances a shipper with relatively modest volume may have special needs that create an opportunity for UPS to assemble an innovative solution, leveraging off UPS's ability to develop new service features as a result of its significant size, technology and experience in other transportation modes.

Confidential service contracts would also enable UPS to unify our worldwide small package delivery service with our ocean shipping service, and offer ocean freight services along with supplier management, cargo consolidation, freight forwarding, customs clearance, trucking and small package delivery all in one agreement.

Many NVOCCs have found the only way to overcome the handicap of unavailability of service contracts is to create and publish unique tariff rates for each shipper's specific commodities, origin and destination. This is at best highly impractical for a small NVOCC. For an operation the size of UPS it is an extreme

burden. Additionally, NVOCC tariffs are public, and shippers' rates are thus known to the shipper's competitors and customers. In today's very competitive environment, this is a serious disadvantage. Effective supply chain management dictates operating on very thin margins in many cases. If competitors know what rates the shipper has obtained, they will use this information to secure advantages for themselves. In some cases, customers may also utilize this information in price negotiations with the shipper.

The exemption UPS has proposed would permit UPS to offer and perform service contracts in exactly the same manner that large VOCCs do, pursuant to Section 8(c) of the Shipping Act of 1984 and the FMC's regulations at 46 CFR Part 530. Under this exemption, UPS's service contracts would be subject to the same regulatory compliance as VOCC service contracts, including the requirement to file all service contracts with the Commission.

Industry Changes Since 1998 Justify the Exemption

During the process of legislation of the Ocean Shipping Reform Act of 1998 ("OSRA"), Congress considered the possible extension of service contract authority to NVOCCs and other OTIs. Congress chose not to do so for several reasons, including principally concerns that many OTIs are not large or well-capitalized companies, which might lead to inability to perform volume-based contracts, and an awareness that most of the larger OTIs were non-U.S. companies that might gain a competitive advantage.

In the five years since enactment of OSRA, these conditions have changed in very substantial ways. First of all, there has been considerable consolidation among the VOCCs. In 1998 there were still a half-dozen very large ocean common carriers competing for large market shares. Today there are essentially two – Maersk Sealand and APL -- that have market dominance in some key US trades. (See table at Appendix "C" of this Verified Statement.) There has also been considerable consolidation among the next layer of VOCCs just below these large companies. As a result, the competitive landscape at the VOCC level has been altered in a way Congress could not have foreseen.

Secondly, the larger VOCCs have now established, acquired or affiliated closely with OTIs providing upstream consolidation and forwarding functions covering the full range of integrated logistics services. These companies have very substantial asset bases, in the billions of dollars, and operate comprehensive global services. (See Appendix "D" of this Verified Statement.)

Additionally, most of the shipper community is now being driven by economic necessity to downsize and outsource their transportation and logistics needs, at the same time their own customers require more sophisticated supply chain management services. Rapidly-changing regulations, such as the U.S. Customs Service 24-hour rule and new security compliance measures of the Homeland Security Department and Transportation Safety Administration put further pressure on shippers' resources. Shippers can solve these challenges by utilizing an OTI, but under current regulatory provisions, they cannot do so without giving up the advantages of using confidential service contracts.

UPS believes the circumstances described above justify the requested exemption. The exemption will permit UPS, as an innovative U.S. company which has developed a strong global service network, in meeting the needs of shippers. Given UPS's large capital base and history of reinvestment in transportation assets, there is no risk of non-performance of service contracts, in the manner Congress feared when it withheld authority from OTIs during the legislation of the OSRA in 1997-98. The exemption will also enable UPS, as a U.S. company, to meet fairly the energetic and well-financed competition now existing from foreign vertically-integrated VOCC/OTIs such as Maersk Sealand and APL.

Benefits to Commerce

As shown in the Trade DirectSM Ocean overview, UPS innovations have reduced origin-to-destination transit time for inbound freight from 32-45 days in traditional services to 25-30 days. UPS has also been able to provide supply chain management service features enabling shippers of all sizes to reduce costs, improve productivity and reliability, and compete more effectively in global markets.

Service contracts, as a concept, were designed to permit ocean transportation service providers with greater flexibility in packaging and pricing their services to shippers. With service contracts, UPS can offer these same additional benefits and flexibility to its many thousands of shipper customers. These benefits will flow to the bottom line of these shippers and their end-user

customers. UPS will be more competitive globally, and could offer better pricing and more advantageous service packages throughout its system.

Improved efficiency in the UPS system will also benefit VOCCs and rail carriers. As a cargo source for VOCCs, UPS in turn enters service contracts with VOCCs, allowing back-to-back benefits of these contracts to flow through to all parts of the integrated transport system. UPS ocean freight volume increases slot utilization for all VOCCs in the major ocean trades. UPS could also improve the stability of its TOFC throughput to transcontinental railroads.

Effects on Competition

UPS service contracts would have no anticompetitive effects at any level of the U.S. waterborne transportation system.

Service contracts would enable UPS to compete more effectively with the large vertically-integrated VOCCs that now offer full supply chain management services. Because UPS contracts with many VOCCs, large and small, the back-to-back effect of UPS service contracts with the smaller ocean common carriers would enable them to be more competitive with their larger counterparts.

Service contracts will also improve competition at the shipper level. By having the ability to negotiate time-volume rates in combination with specific service features needed by the shipper, the shipper can obtain the best rate leverage and pay for only those services it needs. Confidential rates will also improve shipper competitiveness.

UPS service contracts would increase UPS's competitive standing among OTIs, but not in a deleterious manner. This authority would enable UPS to compete fairly and more evenly with the large VOCCs which have affiliated OTIs and electronic service portals. Other large OTIs engaged in integrated logistics business that are, for the moment, independent of VOCCs, will not be unduly affected. Small forwarders and NVOCCs typically do not have the capital base necessary to provide supply chain management services, and thus are not in that business and would not be affected.

Shipper Support

In connection with our petition for an exemption, UPS has discussed this subject with a number of shippers in various categories of size and service needs. UPS will submit shipper support letters to the Commission as they are forthcoming, as a supplement to our petition.

UPS has encountered no opposition to the proposal from its customers.

Conclusion

For the reasons stated above, UPS believes the requested service contract authority exemption is justified under Section 16 of the Act and should be granted.

Respectfully submitted,


Michael G. Gargaro
Vice President
Global Ocean Freight Services
UPS Supply Chain Solutions

Dated: July 24, 2003

VERIFICATION

In accordance with the Federal Maritime Commission's regulations at 46 C.F.R. §502.112(c)(2), I hereby verify under penalty of perjury that the foregoing is true and correct.



Michael G. Gargaro
Vice President
Global Ocean Freight Services
UPS Supply Chain Solutions

Appendix A

UPS FACT SHEET

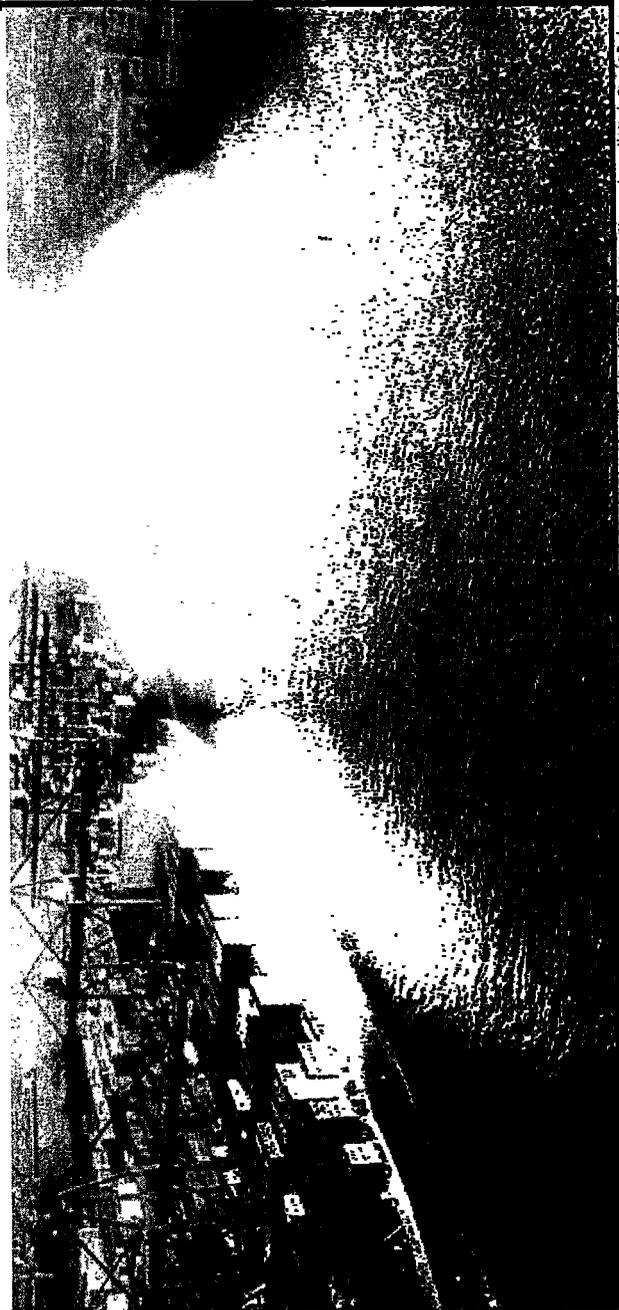
FOUNDED	August 28, 1907, in Seattle, Washington
HEADQUARTERS	Atlanta, Georgia
WORLDWIDE WEB ADDRESS	UPS.com
2002 REVENUE	US\$31.3 billion
2002 DELIVERY VOLUME	3.4 billion packages and documents
DAILY DELIVERY VOLUME	13.3 million packages and documents
DAILY U.S. AIR VOLUME	2 million packages and documents
DAILY INTERNATIONAL VOLUME	1.2 million packages and documents
SERVICE AREA	More than 200 countries and territories and every address in the United States
EMPLOYEES	360,000 (320,000 U.S.; 40,000 International)
CUSTOMERS	7.9 million daily (1.8 million pick-up, 6.1 million delivery)
UPS.COM	115 million hits per day including an average 7.9 million daily on-line tracking requests
OPERATING FACILITIES	1,748
DELIVERY FLEET	88,000 package cars, vans, tractors, and

	motorcycles	
UPS JET AIRCRAFT OWNED	51	727-100
	4	727-200
	11	747-100
	4	747-200
	75	757-200
	32	767-300
	23	DC-8-71
	26	DC-8-73
	27	Airbus A300F4-622R
	9	MD-11
TOTAL	262	
CHARTERED AIRCRAFT	319	
DAILY FLIGHT SEGMENTS	Domestic – 1,062; International – 828	
AIRPORTS SERVED	Domestic – 364; International – 405	
AIR HUBS – U.S.	Louisville, KY (main U.S. Air Hub) Philadelphia, PA Dallas, TX Ontario, CA Rockford, IL Columbia, SC Hartford, CT	
EUROPE	Cologne/Bonn	
ASIA PACIFIC	Taipei Philippines Hong Kong Singapore	
LATIN AMERICA and CARIBBEAN	Miami, FL	
CANADA	Hamilton, Ontario	

Appendix B

TRADE DIRECT- OCEAN OVERVIEW

UPS Trade DirectSM Ocean



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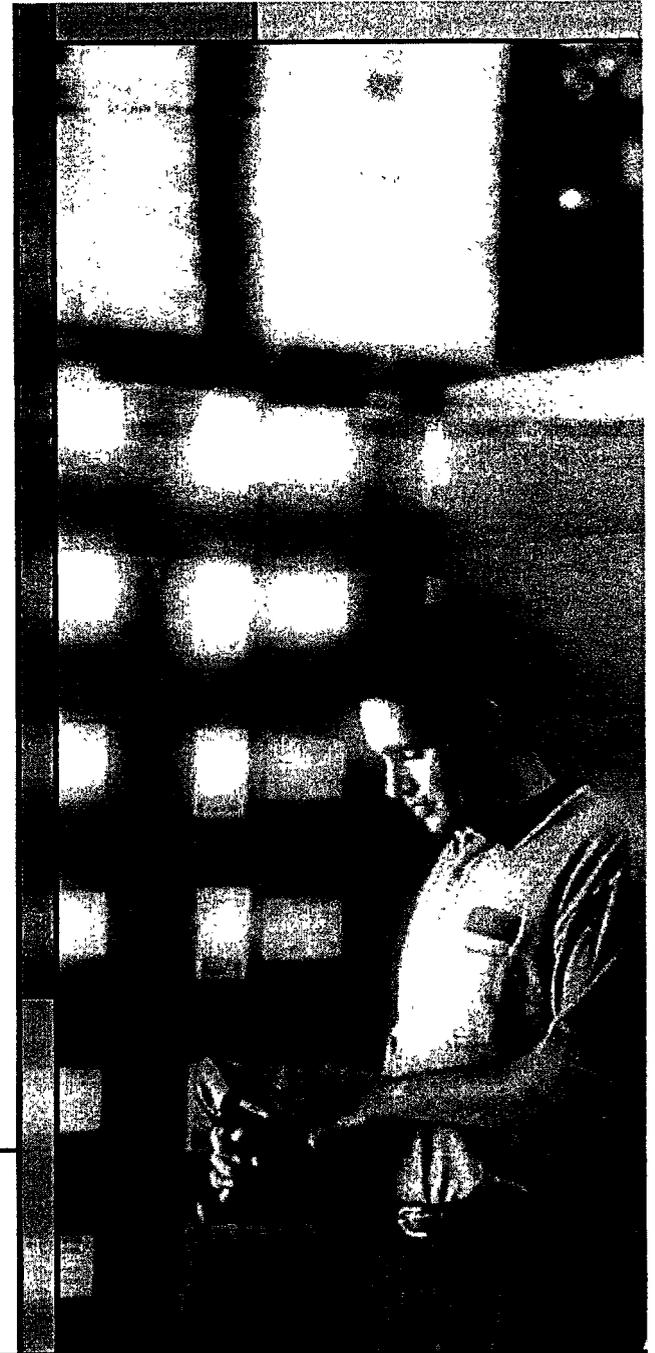
Today's Discussion

Traditional Ocean
Freight Forwarding

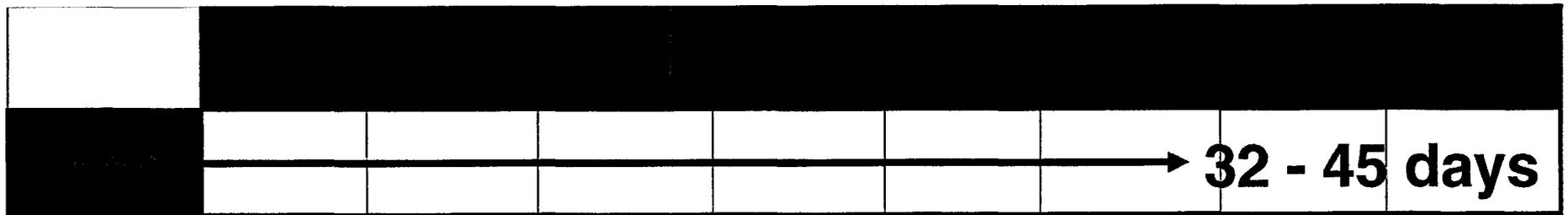
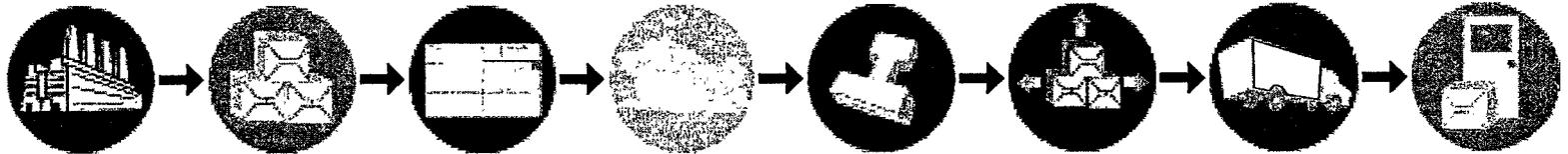
UPS Trade DirectSM Ocean

Case Study

Summary



Traditional Ocean Freight Forwarding



- Shipments / Packages delivered to Distribution Center (DC) or warehouse
- Goods received and stored
- Goods picked, packed and labeled for final delivery
- Individual orders shipped to store or end customer

Traditional Ocean Freight Forwarding

Issues faced when using the traditional process:

- High number of hand-offs/multiple parties involved
- Extra transportation segments
- No single point of contact
- DC / Warehouse costs at both origin and destination
 - Repeated handling of cartons
 - Space requirements
 - Package labeling
 - Labor
- Separate transaction to final destination
 - Loss of visibility
 - Increased chance of error / loss / damage

Requirements For Success

Your Needs

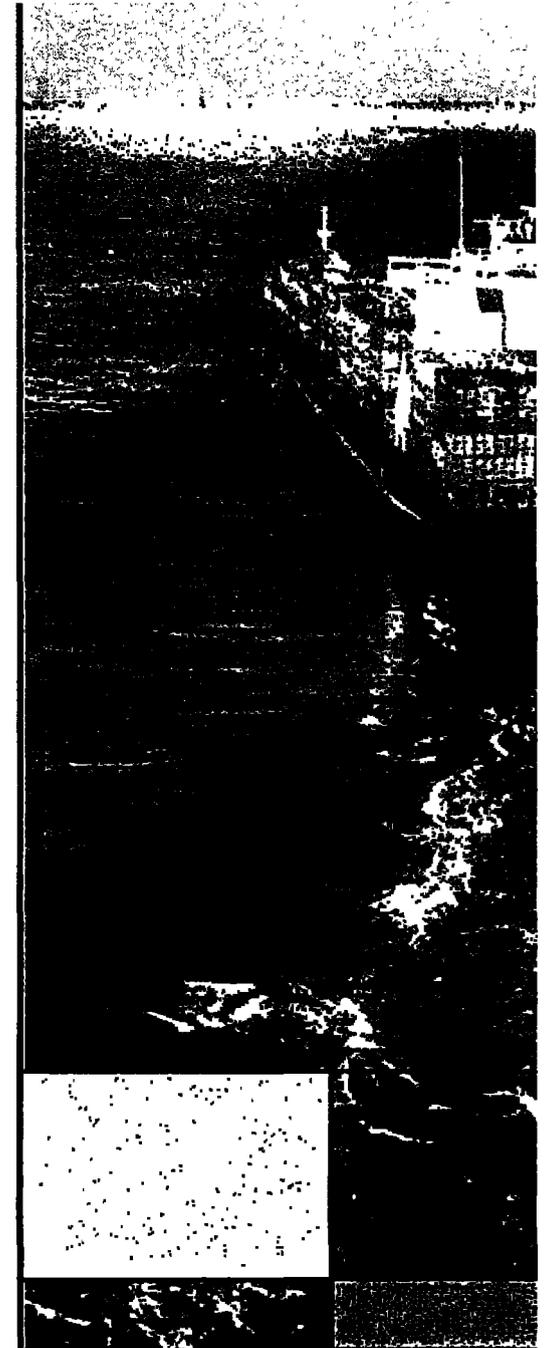
- Competitive time to market
- Take advantage of new opportunities
- Decreased warehousing, handling and labor costs
- Reduced risk of loss, damage or product obsolescence
- Consolidated management – full tracking and combined invoicing services
- Transportation vendor reduction

UPS Trade Direct Ocean

UPS Trade Direct Ocean is an integrated multi-modal solution that combines UPS Supply Chain Solutions ocean freight and customs clearance capabilities with final UPS small package delivery to anywhere in the United States.

Four origins to the US currently available:

- Hong Kong
- Shanghai
- Yantian
- Novo Hamburgo, Brazil



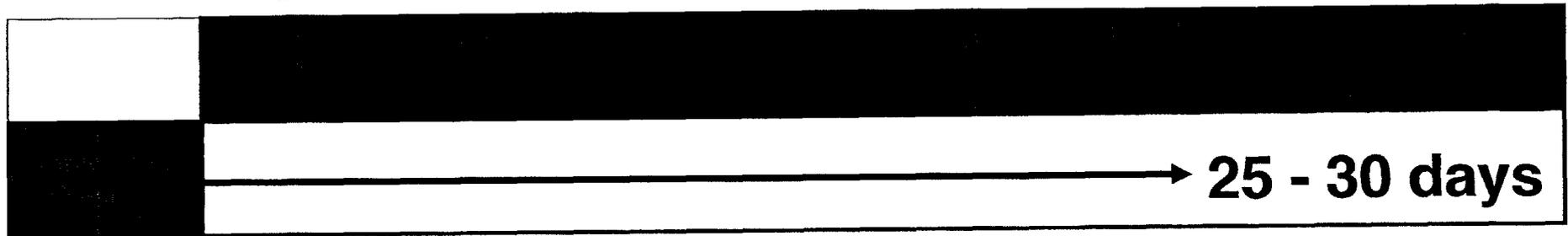
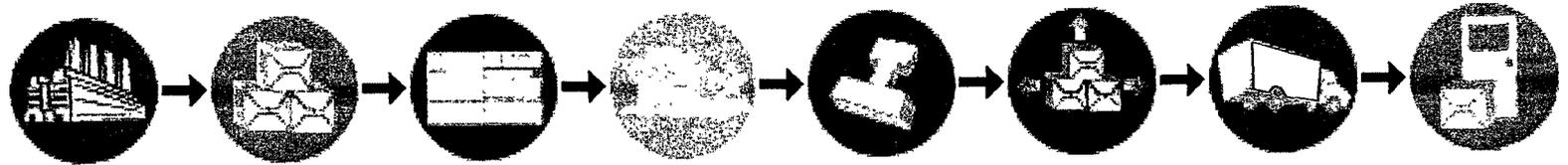
An Integrated Multi-Modal Solution

Single-Source Solution

- Packages / Cartons labeled at origin or at destination
- Shipment cleared through US. Customs
- Shipment moved directly to UPS Supply Chain Solutions CFS upon arrival
 - Shipments are de-consolidated and entered into the UPS transportation system
- DC or warehouse by-passed and excess handling eliminated
- Delivery direct-to-store or direct-to-customer
 - UPS small package service options and LTL available for final delivery



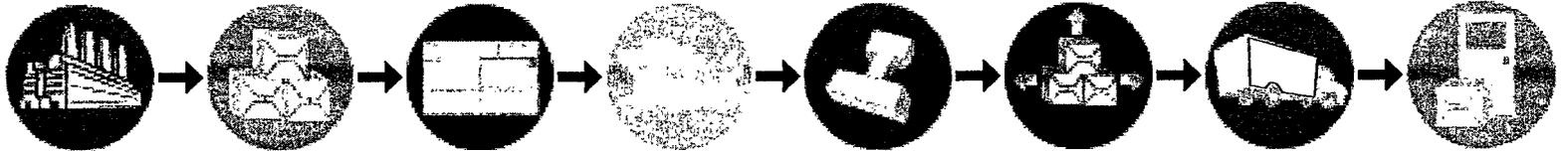
UPS Trade Direct Ocean



* Results will vary. Customs Clearance times vary by entry type and commodity

Optimized Supply Chain

Taking days out of your Supply Chain

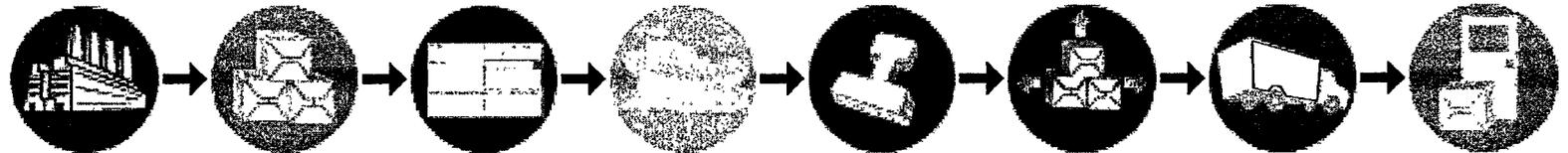


	Origin/ Vendor Booking	Delivery to CFS		Port to Port Transit	Customs Clearance	Delivery to CFS, DC or Warehouse	Receipt and Sort at DC	Delivery to Final Destination
	1	5	0	13	2	3-10	7	1-7
	1	5	2	13	2	1	0	1-6

Freight is tendered to the UPS Supply Chain Solutions CFS 2-3 days earlier for labeling process

Optimized Supply Chain

Taking days out of your Supply Chain

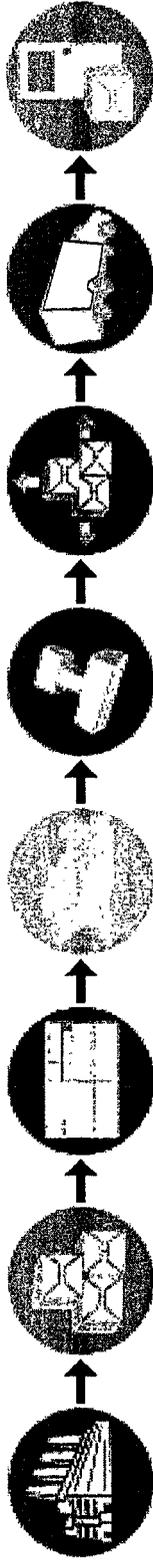


	Origin/ Vendor Booking	Delivery to CFS	Origin Labeling	Port to Port Transit	Customs Clearance		Receipt and Sort at DC	Delivery to Final Destination
	1	5	0	13	2	3-10	7	1-7
	1	5	2	13	2	1	0	1-6

- Shipment is delivered directly to a UPS Supply Chain Solutions CFS
- Delivery to DC or Warehouse is eliminated

Optimized Supply Chain

Taking days out of your Supply Chain

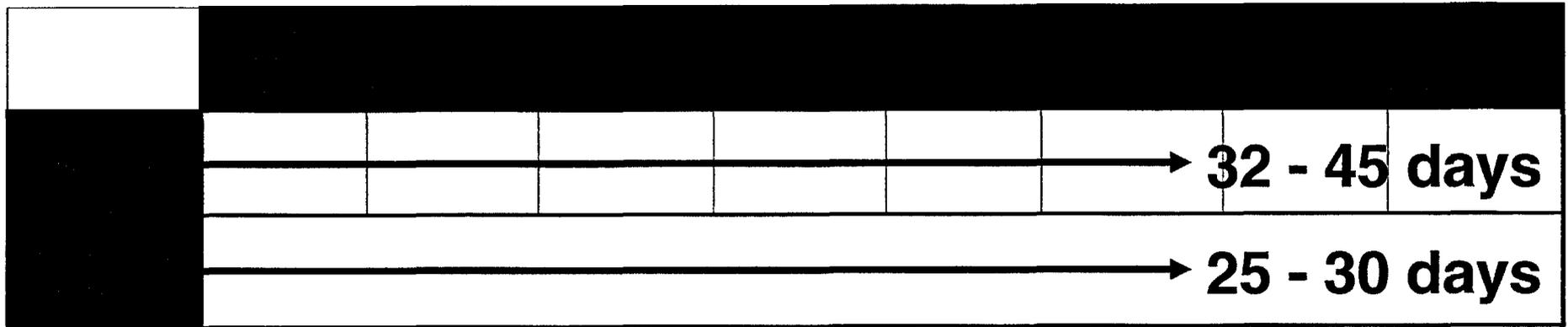
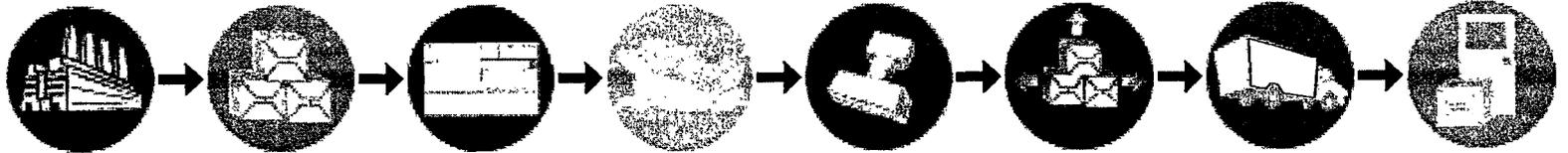


	Origin/ Vendor Booking	Delivery to CFS	Origin Labeling	Port to Port Transit	Customs Clearance	Delivery to CFS, DC or Warehouse	Delivery to Final Destination
	1	5	0	13	2	3-10	1-7
	1	5	2	13	2	1	1-6

- Packages are de-consolidated and entered into the UPS transportation system
- Receiving, sorting, handling and labeling are eliminated

Optimized Supply Chain

Taking days out of your Supply Chain



* Based on transit from a typical port in Asia to Long Beach. Results will vary, and times will differ based on port pairings. Customs Clearance times vary by entry type and commodity.

Benefits

- Reduced logistics costs and asset requirements
- Decreased inventory carrying costs
- Decreased labor and handling costs
- Decreased physical asset requirements
- Decreased risk of damage or loss
- Fewer errors
- Improvements in customer service and speed to market can increase market share and gross margins



Case Study

Customer Profile

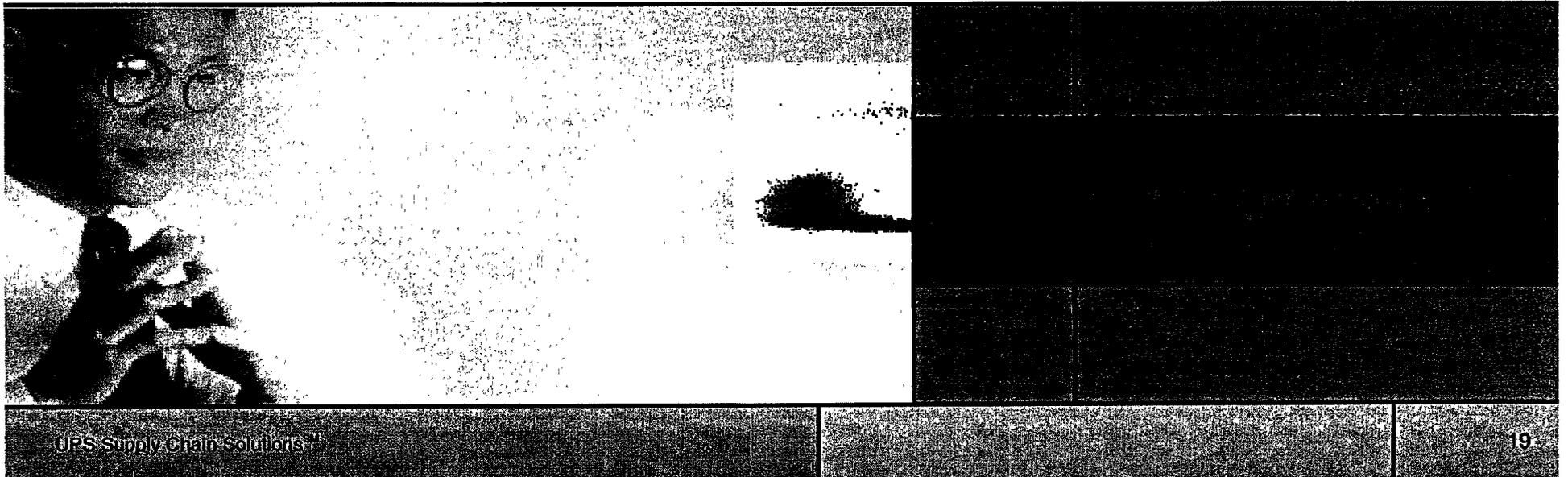
- Retailer with nearly 100 stores across the U.S.
- Quality goods and well-respected brand
- Selling products through their own retail and outlet store locations throughout the US and through other well-known retailers
- Sourcing time-sensitive products from Asia, including China
- Sourcing routinely took 35 days

Challenge

- Retailer required faster, more efficient supply chain
- Lack of an integrated electronic interface between the company, its suppliers and its transportation providers meant an overall lack of visibility throughout the process
- Existing DC resources stretched, particularly during peak season

Why UPS?

- Global network and infrastructure
- Comprehensive portfolio of logistics services
- Operational excellence
- Investment in technology
- Financial strength



Appendix C

VOCC STATISTICS

2003 – Largest VOCCs in US Trades		
<i>Carrier</i>	<i>Vessels</i>	<i>Capacity – TEUs Asia-U.S. Import Trade</i>
Maersk Sealand	281	750,997
Evergreen	124	651,623
Hanjin	73	534,886
COSCO	136	501,962
APL	78	478,027
Hyundai MM	33	396,540
K-Line	65	381,438
OOCL	57	348,042
NYK Line	61	343,462
Yang Ming	51	341,614

Appendix D

**VOCCS OWNING OR AFFILIATED WITH OTIs
AND PORTALS OFFERING INTEGRATED
LOGISTICS SERVICES**

<i>Ocean Carrier</i>	<i>OTI or Portal</i>	<i>Parent Company Nationality</i>
Maersk Sealand	Maersk Logistics International A/S	Denmark
NOL/APL	APL Logistics	Singapore
Hanjin	Hanjin Logistics	Korea
COSCO	Cargo Smart	China
Hyundai MM	Hyundai Logistics	Korea
K-Line	K-Line Total Logistics	Japan
OOCL	Cargo Smart	China
NYK	NYK Logistics	Japan
Yang Ming	Yes Logistics	Taiwan
P&O Nedlloyd	P&O Nedlloyd Logistics	U.K.
CMA-CGM	Logistics Link	France
Mitsui OSK Line	Total Logistics Solutions	Japan
Zim Israel	GT Nexus	Israel