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FEDERAL MARITIME COMMISSION

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FEDERAL MARITIME COMMISSION

Memorandum

TO : Bryant L. VanBrakle, Secretary DATE: December 2, 2003

FROM *RFD*: Rebecca F. Dye, Commissioner

SUBJECT : Petition No. P3-03 - 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

On December 1, 2003, I met with Mr. Michael G. Gargaro, Vice President, UPS Global Ocean Freight Services, Mr. Thomas Jensen, UPS Public Affairs Manager, Ms. Kathy Luhn, Senior Advisor, Tran Systems Advisors, as well as Mr. J. Michael Cavanaugh of the law firm Holland & Knight at their request to receive their views on United Parcel Service's petition to the Federal Maritime Commission. The petition requests an exemption pursuant to Section **16** of the Shipping Act of 1984 to permit UPS Ocean Freight Services, Inc., a non-vessel operating common carrier, to enter into and perform service contracts in a manner permitted in and subject to the requirements of Section 8(c) of the Ocean Shipping Act of 1984.

Mr. Gargaro discussed UPS Global Ocean Freight Services' business in general and stated that the entire logistics industry has been evolving into an international and integrated business which handles all aspects of a customers logistics related operations. UPS' customers have increased their profits by outsourcing their logistics operations. Mr. Cavanaugh stated that UPS' customers want confidential service contracts to prevent their competitors from having knowledge of their ocean freight costs.

Ms. Luhn stated that the industry has changed since the enactment of the Ocean Shipping Reform Act of 1998. The vessel operating carriers are no longer owned by Americans while the non-vessel operating common carriers are often large and well financed American companies. Mr. Cavanaugh explained that he strongly believes the FMC has the authority to grant this Section 16 exemption and the exemption will not result in substantial reduction in competition or be detrimental to commerce. UPS plans to send the Commission additional written comments explaining its views on the Commission's Section 16 authority.