

BENJAMIN L. CARDIN  
3RD DISTRICT, MARYLAND

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Congress of the United States  
House of Representatives  
Washington, DC 20515-2003

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OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

September 9, 2003

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

RE: Petition P3-03

Dear Commissioners:

It is my understanding that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) **from** entering into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised.

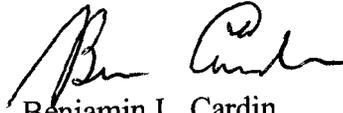
During consideration of *the Ocean Shipping Reform Act* (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than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

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

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

I ask you to give the UPS petition thorough consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Cardin". The signature is fluid and cursive, with the first name "Ben" and the last name "Cardin" clearly distinguishable.

Benjamin L. Cardin  
Member of Congress

BLC:cwl