

ELLEN O. TAUSCHER  
10TH DISTRICT, CALIFORNIA

COMMITTEE ON  
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**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-0510

1034 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
TELEPHONE (202) 225-1880  
FAX (202) 225-5914

2121 NORTH CALIFORNIA BOULEVARD  
SUITE 555  
WALNUT CREEK, CA 94596  
TELEPHONE (925) 932-8899  
FAX (925) 932-8159

2000 CADENASSO DRIVE  
SUITE A  
FAIRFIELD, CA 94533  
TELEPHONE (707) 428-7792  
FAX (707) 438-0523

420 WEST 3RD STREET  
ANTIOCH, CA 94509  
TELEPHONE (925) 757-7187  
FAX (925) 757-7056

Web Address [www.house.gov/tauscher](http://www.house.gov/tauscher)

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FEDERAL MARITIME COMMISSION

September 18, 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. I urge you to provide a more equitable balance between vessel operators and non-vessel operators by amending the policy set forth in the Ocean Shipping Reform Act (OSRA) revisions of 1998.

In the late 1990s, most NVOCCS were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers. The U.S. ocean shipping industry has changed dramatically since passage of OSRA and unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers has occurred. 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 urge your favorable consideration of this petition, as I am confident in your interest and ability to restore a level playing field between vessel operators and non-vessel operators.

Sincerely,



ELLEN O. TAUSCHER  
Member of Congress  
10<sup>th</sup> District of California