

Letter No. 0109-2021-APMTC/CL

Callao, February 22th, 2021

Señores
W.E COX LLC.
2785 Route 115
Suite 201
Effort, PA 18330

Attention:	Claudette Moore Claims Specialist
Subject:	Resolution No. 01
Case File:	APMTC/CL/0035-2021
Claim Matter:	Cargo Damage Claim

APM TERMINALS CALLAO S.A., ("APMTC") with Taxpayer Registration No. 20543083888, with registered office at Av. Contralmirante Raygada No. 111, Callao, by virtue of the fact that **W.E COX LLC.** ("W.E COX" or the "Claimant") has filed its claim the term established in article 2.3, you have complied with submitting the requirements established in article 2.4 of the APMTC User Claims Attention and Solution Regulation (the "Regulation"), we proceed to state the following:

I. BACKGROUND

1.1. On 01.02.2021, W.E COX filed a claim via email to the APM TERMINALS CALLAO S.A. Claims Department ("APMTC"), for the alleged damage to the Front Loader Tires, model 140GC, serie No. W9200487, during discharge operation in the terminal.

II. ANALYSIS

From the review of the claim filed by W.E COX, we can see that its object refers to the alleged damage to the tires of the CATERPILLAR front loader, model 140GC, series No. W9200487, during the discharge operations at the TNM.

In this sense, in order to proceed with the review of the substantive arguments of the claim brief, it is necessary to evaluate the origin of the claim and verify if it is not immersed in any of the causes established in the Regulation of Attention and Solution of Claims. by APMTC.

In this regard, it is verified that literal e) of numeral 2.10 of the Regulation of Attention and Solution of User Claims the APMTC that prescribes the following:

"2.10 Inadmissibility of the Claim

APM TERMINALS CALLAO S.A. must evaluate and declare the inadmissibility of the claim, if it is involved in any of the following cases:

- a) When the claimant lacks legitimate interest.*
- b) When there is no connection between the facts presented as the basis of the claim and the petition that contains the same.*
- c) When the claim is legally or physically impossible.*
- d) When the appealed body lacks competence to resolve the claim filed.*
- e) **When the claim has been submitted outside the period established in article 2.3 of these Regulations.** (...) "*

-The highlight and underline is ours-

Now, article 2.3 of the APMTC Claims Attention and Resolution Regulations expressly states the following:

"2.3 Deadline for the Presentation of Claim

USERS have a period of sixty (60) business days to file their claims with APM TERMINALS CALLAO S.A., which will be counted from the day the events that give rise to the claim occur or are known. "

-The underline is ours-

In this sense, it is established that users must present their claims within the corresponding period, in order for APMTC to proceed to make a substantive analysis of these, otherwise their requests will incur in grounds of inadmissibility.

In the specific case, it has been verified that W.E. COX asked APMTC to take responsibility for the alleged damage to the tires of the CATERPILLAR brand front loader, model 140GC, series No. W9200487, during unloading operations at the TNM.

In order to proceed with the substantive analysis, it is necessary to verify if the Claimant is within the established period to file her claim, for which we detail the maximum period for filing the claim.

Now, according to the TDR of the aforementioned ship, the cargo subject matter of claim was unloaded on October 18, 2020. Likewise, according to the MOST system report, said merchandise was withdrawn from the TNM on 10/20/2020, this in accordance with what is indicated in the referral guide sent by the Claimant as evidence.

Therefore, said date will be taken into consideration for the calculation of the term for filing the claim.

In that sense, taking as reference 10.20.2020, as the date of knowledge of the alleged damage, in application of the deadlines established for the filing of user claims in accordance with the APMTC and OSITRAN Regulations, the Complainant had until 18.01.2021 for the filing of the same.

However, just on 02.01.2021, W.E. COX submitted its claim, that is, outside the claim filing period according to the APMTC Claims Regulations.

Therefore, it is concluded that the present claim was presented outside the established term, corresponding to declare it IMPROPER, in accordance with what is stated in subsection e), article 2.10 of the APMTC User Claims Attention and Solution Regulations; and, in article 40 of OSITRAN's Claims Attention and Dispute Resolution Regulations.

III. RESOLUTION

Due to the foregoing, the claim request submitted by W.E. COX LCC for the file No. APMTC / CL / 0025-2021 is declared INADMISSIBLE.



Deepak Nandwani
Jefe de Servicio al Cliente
APM Terminals Callao S.A.