

Carta No. 0491-2022-APMTC/CL

Callao, August 23rd, 2022

MAERSK LINE A/S - SEALAND

502 & 503, 5th Floor, Godrej 2,
Pirojshah Nagar, Eastern Express Highway,
Vikhroli (E), Mumbai - 400079.

Attention:	Jerry Kinny Claims Adjuster
Subject:	Resolution No. 01
File No.:	APMTC/CL/0242-2022
Claim matter:	Container & Cargo Damage Claim
Reference :	CHARLOTTE MAERSK // Mfto. 437

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 **MAERSK LINE A/S - SEALAND** ("MAERSK" or the "Claimant") has filed its claim the term established in article 2.3, and 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 August 11th, MAERSK filed a claim via email to the APMTC Claims Department, for the alleged damage to the container TCKU7406585 during discharge operations on February 28th, 2022.

1.2. On August 12th, APMTC issued the letter No. 0471-2022-APMTC/CL, stating that the Claimant must comply with the following documents according to the APMTC Claims Rules, otherwise its claim will not be filed.

- Details of the Legal Representative, the Attorney and the sponsoring attorney, if any.
- Simple copy of the document that proves the legal representation (e.g., validity of powers of the legal representative, the attorney or the lawyer if any).
- Simple copy of the identity document (ID, Passport or Alien Card).
- Signature or fingerprint of the User who presents the claim or of his Legal Representative.
- The factual and legal grounds that support the claim.

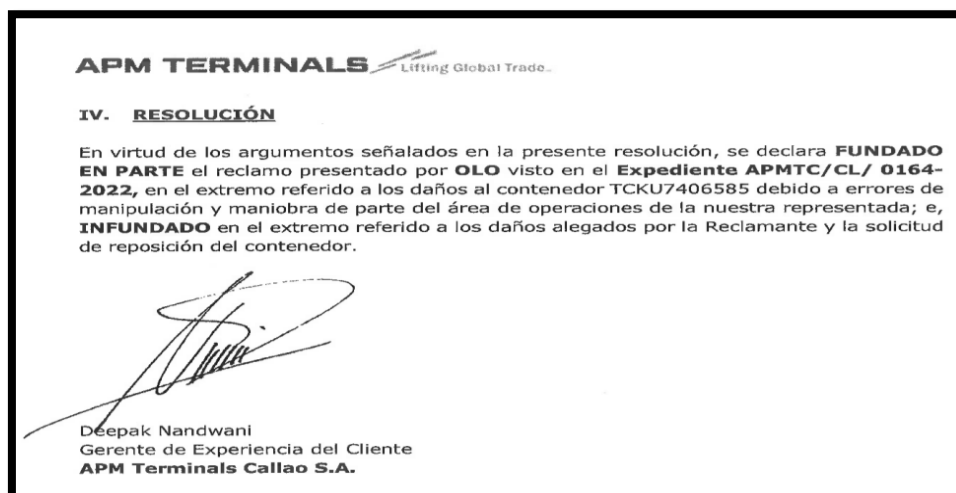
1.3. On August 13th, MAERSK complied with the requested documents

II. ANALYSIS

From the claim filed by Maersk we can see that it attributes responsibility for the alleged damage to container TCKU7406585 to APMTC during operations at the Callao's Multipurpose North Terminal managed by APMTC.

In order to review the substantive arguments of the claim, it is necessary to evaluate its origin and verify if it is not subject to some of the assumptions established in article 2.10 of the APMTC's Claims Rules.

In this regard, it is important to mention that the claim submitted by MAERSK has been previously analyzed in a claim presented by OLO DEL PERÚ S.A.C, as container TCKU7406585 cargo consignee, the said claim was seen in File No. APMTC/CL/164-2022¹, the claim was declared Partially Founded as seen in the following image:



Likewise, the Claimant didn't challenge our pronouncement. Therefore, the case was closed.

It should be noted that, when the APMTC's pronouncement was issued, OLO DEL PERU did not challenge our decision, so it was deduced that it did not violate, ignore or harm a right or legitimate interest of the Claimant, thus leaving our pronouncement firm, as res judicata, which means that the content of said claim cannot be seen again in administrative or judicial level.

Thus, it is verified that this claim incurs in the cause of inadmissibility prescribed in literal c) of numeral 2.10 of the APMTC's Claims Rules, whose content indicates the following:

¹ Resolution attached as Annex 01.

"2.10 Inadmissibility of the Claim

APM TERMINALS CALLAO S.A. must evaluate and declare the inadmissibility of the claim, if it is 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 for 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 after the term established in article 2.3 of these Regulations. (...)"*

-The emphasis is ours-

For all of the above, it is appropriate to declare the claim inadmissible. Notwithstanding the foregoing, in the event that the Complainant considers that this Resolution violates, ignores or harms a right or legitimate interest, it may file against it the means of challenge described in Chapter III, numerals 3.1.1 and 3.1.2 of the APMTC´s Claims Rules².

III. RESOLUTION

Due to the foregoing, the claim request submitted by MAERSK for the file APMTC/CL/0242-2022 is declared **INADMISSIBLE**.



Deepak Nandwani
Customer Experience Manager
APM Terminals Callao S.A.

² APMTC´s Claims Rules

"3.1.1 Reconsideration

Against the resolution issued by APM TERMINALS CALLAO S.A. The filing of an appeal for reconsideration proceeds within fifteen (15) days of notification of the resolution. The support of this requirement will be done with the presentation of new evidence. This resource is optional, so its non-filing does not prevent the filing of the appeal. APM TERMINALS CALLAO S.A. It will be pronounced within the term of twenty (20) days following its admission for processing. Once said term has expired, and if there is no decision, positive administrative silence will be applied.

3.1.2 Appeal

Against the resolution issued by APM TERMINALS CALLAO S.A., an appeal is filed. The appeal must be filed with APM TERMINALS CALLAO S.A. within fifteen (15) days of notification of the resolution. Any of the parties in the procedure may file when the challenge is based on a different interpretation of the evidence produced or when it is a question of pure law or is based on a nullity; or in those cases in which the negative administrative silence proceeds; or when having a new test, the reconsideration resource is not chosen."