

(c) Notwithstanding anything to the contrary in Articles 5.1(a) and 5.1(b) above, the Parties agree that in September of 2009 Loop 1 shall be suspended until further notice. At approximately the same time, Loop 2 will be restructured to operate with five (5) vessels with an actual capacity of at least 8,100 TEU (at 10 MT per TEU) and 500 reefer plugs, with CMA CGM shall providing one (1) vessel and MSC and Maersk Line providing two (2) vessels each.

(d) Each Party shall be responsible for the costs of the vessels it provides hereunder, including phasing-in and phasing-out of the vessel (which shall include the transshipment cost of moving containers from a vessel being phased out to another vessel); provided, however, that where phasing-in or phasing-out of a vessel is due to force majeure, then each Party shall bear the financial responsibility related to its own cargo and containers. The Parties are authorized to discuss and agree on rules and procedures to be followed in the event of drydocking and/or vessel repairs, both planned and unplanned.

(e) Adherence to the long-term schedule shall be the responsibility of the Vessel Provider, and Slot Users shall cooperate by adhering to the terms of this Agreement. If adherence to the long-term schedule is impossible for reasons beyond the reasonable control of a Vessel Provider, the Parties shall meet and agree to a revised port rotation, taking into account the legitimate interests of each Party in the affected Loop. Should a specific vessel delay necessitate *ad hoc* rescheduling measures, the Vessel Provider shall propose a rescheduling plan for discussion with the other Parties, which may include one or several port omissions. In the event the

Parties do not reach agreement on *ad hoc* rescheduling measures, then the Vessel Provider shall decide on such measures, always trying to mitigate the burden of such measures on the Parties.

(f e) Except as otherwise provided in this Article 5.1(f e), the Vessel Provider will be responsible for the material deviation of a vessel from the long term schedule and will be responsible to arrange for the transshipment and feedering (which may be by means of the next vessel) of the cargo and containers of the affected Slot User(s) on

board said vessel prior to the announcement of the *ad hoc* port omission. For export cargo from the omitted port(s) the Vessel Provider will compensate the Slot Users based on the average of each Slot User's liftings on the last three sailings from the omitted port, save that the Slot User shall not receive compensation insofar as the Slot User is able to utilise the slots it would have used at the omitted port(s) at subsequent ports, before commencing the trans-Pacific leg. The Vessel Provider shall have no other responsibility for compensation to the Slot Users whatsoever. The compensation shall be by space on subsequent sailings or payment at the slot release price, or a combination of both, by agreement. Notwithstanding the foregoing, the Vessel Provider shall not be responsible to the Slot Users for port omissions in the following circumstances:

- (i) Berth congestion at the omitted port was anticipated to incur a delay of 48 hours or more;
- (ii) Closure of the port or incapacity to operate the vessel in the port due to bad weather or strikes of any terminal service providers or unavailability of terminal equipment anticipated to incur a delay of 48 hours or more: or
- (iii) Save as modified by (ii) above, any lawful deviation such as saving or attempting to save life or property or any force majeure event as defined herein. A Vessel Provider claiming a force majeure event shall exercise reasonable commercial endeavours to overcome the consequences of such event.

(g f) It is the duty of the Vessel Provider to guarantee the availability of the slot and reefer plug allocations of each Slot User at any time during each voyage, even if this means a reduction of the Vessel Provider's own slot allocation and/or reefer plug allocation, save where a reduction in the actual capacity of a vessel has been caused

CGM shall purchase from MSC, space for 50 TEU or 500 tonnes (whichever is used first) on each Loop, which space shall include 3 reefer plugs on each Loop.

(d) For avoidance of doubt, the space allocations on the two Loops, including the adjustments set forth above, shall result in the following space allocations:

Loop 1	<u>Line</u>	<u>TEUs/Tonnes</u>	<u>Reefer Plugs</u>
	CMA CGM	1,670/16,700	103
	Maersk Line	4,040/40,400	249
	MSC	2,390/23,900	148
Loop 2	<u>Line</u>	<u>TEUs/Tonnes</u>	<u>Reefer Plugs</u>
	CMA CGM	1,670/16,700	103
	Maersk Line	3,240/32,400	200
	MSC	3,190/31,900	197

(e) Notwithstanding anything to the contrary in Articles 5.2(a) through 5.2(d) above, during the period Loop 1 is suspended and Loop 2 is restructured, the aforementioned Articles shall not apply and the Parties shall instead receive space allocations on Loop 2 in proportion of their contribution of vessels to the Loop, with the following adjustments:

(i) MSC shall provide Maersk Line with space for 500 TEUs or 5,000 tonnes (whichever is used first) per round trip voyage of Loop 2 in exchange for Maersk Line providing MSC with the same number of eastbound one-way slots from Yantian to Los Angeles on Maersk Line's TP1 service.

For avoidance of doubt, the space allocations on restructured Loop 2 during the period Loop 1 is suspended, including the adjustment described above, shall result in the following space allocations:

<u>Loop 2</u>	<u>Line</u>	<u>TEUs/Tonnes</u>	<u>Reefer Plugs</u>
	CMA CGM	1,620/16,200	100
	Maersk Line	3,740/37,400	231
	MSC	2,740/27,400	169

(f) Other than as provided for in ~~this~~ Article 5.2(e) above, there shall be no structural slot exchanges or structural slot purchases between Loop 1 and Loop 2, and each Loop shall always be considered independently (except as provided in Article 5.3).

(g) Slot allocations may be used in slots or weight (based on 10 tonnes per TEU), whichever is reached first. In the event the Vessel Provider discovers that any Slot User is departing from any port with total loadings in excess of that Slot User's allocation (either in slots or weight), the Vessel Provider may require such Slot User to discharge containers at that or any of the following ports until the Slot User is within its slot allocation (including any *ad hoc* purchases). All costs, losses, expenses and delays whatsoever, including extra fuel to make up time, shall be for the account of the Slot User with excess loadings.

(h ~~g~~) Except as otherwise provided herein, the Vessel Provider may exceed its slot allocation free of charge if such excess loadings are within the capacity of the vessel or are made within the unused slots of any of the Slot Users, it being understood that the Vessel Provider must at all times comply with Article 5.1(e) hereof.

(i ~~h~~) Each Party may use space within its allocation for intra-regional moves, which moves shall always be subject to operational constraints, scheduling, and the reasonable discretion of the Vessel Provider.

(j ~~i~~) Any Party may request additional space from the other Parties. The Vessel Provider shall have the first right to sell space from within its allocation to the requesting Party. In the event the Vessel Provider cannot or will not provide some or all of the additional space sought by the requesting Party, the other, non-requesting Party may sell to the requesting Party some or all of the space sought. The sale of slots shall be at a slot release price agreed by the Parties from time to time.

(k ~~j~~) Use of reefer plugs shall be subject to a surcharge payable to the Vessel Provider, the amount of which shall be agreed by the Parties from time to time.

(l ~~k~~) No Party may subcharter slots to any third-party without the prior written consent of the other parties. Any such third party must be a vessel-operating carrier. Notwithstanding the foregoing, any Party may always sub-charter space to its wholly owned vessel operating affiliates or subsidiaries and Maersk Line may sub-charter space to Wan Hai Lines. Any affiliate or subsidiary receiving space hereunder may not sub-charter that space to any third-party ocean common carrier. Any Party sub-