

RECEIVED  
2015 MAY 22 PM 1:02  
OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

Original Title Page

SEALAND/APL CARIBBEAN  
SLOT CHARTER AGREEMENT  
FMC AGREEMENT NO. **012338**

A Cooperative Working Agreement

Expiration Date: None



**TABLE OF CONTENTS**

ARTICLE 1:	FULL NAME OF THE AGREEMENT
ARTICLE 2:	PURPOSE OF THE AGREEMENT
ARTICLE 3:	PARTIES TO THE AGREEMENT
ARTICLE 4:	GEOGRAPHIC SCOPE OF THE AGREEMENT
ARTICLE 5:	AGREEMENT AUTHORITY
ARTICLE 6:	AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY
ARTICLE 7:	VOTING
ARTICLE 8:	DURATION AND TERMINATION OF AGREEMENT
ARTICLE 9:	NON-ASSIGNMENT
ARTICLE 10:	GOVERNING LAW AND ARBITRATION
ARTICLE 11:	SEPARATE IDENTITY/NO AGENCY OR PARTNERSHIP
ARTICLE 12:	NOTICES
ARTICLE 13:	SEVERABILITY

**ARTICLE 1: FULL NAME OF AGREEMENT**

The full name of this Agreement is the Sealand/APL Caribbean Slot Charter Agreement (“Agreement”).

**ARTICLE 2: PURPOSE OF THE AGREEMENT**

The purpose of this Agreement is to authorize Sealand to charter space to APL in the Trade (as hereinafter defined) and to authorize the parties to enter into cooperative working arrangements in connection therewith.

**ARTICLE 3: PARTIES TO THE AGREEMENT**

The parties to the Agreement (hereinafter “Party” or “Parties”) are:

1. Maersk Line A/S DBA Sealand (“Sealand”)  
50, Esplanaden  
DK-1098, Copenhagen K.  
Denmark
2. APL Co. Pte Ltd  
9 North Buona Vista Drive  
#14-01  
The Metropolis Tower 1  
Singapore 138388

and

American President Lines, Ltd.  
16220 N. Scottsdale Rd.  
Scottsdale, AZ 85254-1781  
USA  
(collectively “APL”)

**ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT**

The geographic scope of the Agreement shall extend to the trade between ports in Puerto Rico and ports in Panama, the Dominican Republic, and on the Caribbean Coast of Costa Rica. All of the foregoing is referred to herein as the “Trade.”

**ARTICLE 5: AGREEMENT AUTHORITY**

5.1 Charter of Space. Sealand shall sell and APL shall purchase, on a used/not used basis, slots for 300 TEUs (or a maximum of 3600 metric tons) (including 30 reefer plugs) on each sailing of Sealand’s Caribbean feeder service. Notwithstanding the foregoing, in case of vessels sailing from a port with less than 2 days spacing between them for reasons solely within Sealand’s control, APL shall be relieved from its commitment to pay on a used / unused basis on the second of those two vessels. Loadings on the second vessel shall be invoiced by Sealand on an as used basis only. The Parties are authorized to increase or decrease any of the above numbers by up to 75 percent, or to sell/buy additional slots on an individual voyage basis, without amendment.

5.2 Terms of Sale. The sale of slots under Article 5.1 shall be on such terms and such conditions as the Parties may agree from time to time.

5.3 Sub-Chartering. APL shall not sub-charter slots made available to it hereunder without the prior written consent of Sealand.

5.4 Port Omissions Due to Force Majeure. In the event Sealand clearly demonstrates that the need to omit a port or ports to restore the schedule has been caused by a force majeure event occurring within the scope of this Agreement, then Sealand retains the right to discharge and load APL's cargo at the nearest port of convenience (which, to the extent reasonably possible, shall be a scheduled port within the scope of its service covered by this Agreement) with transshipment, storage and pre- and on-carriage costs ("Recovery Costs") to be for the account of APL for such cargo. In such cases, Sealand shall undertake to ensure proper and immediate notice and provide consultation as to efforts to minimize related costs.

Further, Sealand shall not be responsible to APL for Recovery Costs in the following circumstances:

- (a) Berth congestion at the omitted port was anticipated to incur a delay of 48 hours or more;
- (b) 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;
- (c) Any lawful deviation such as saving or attempting to save life or property or force majeure; or
- (d) Bad weather at sea with winds of Beaufort 6 and above for more than twenty four hours in any one leg, which can cause operational hindrance, provided that intended route for sea passage could not avoid such conditions and that Sealand can supply supporting evidence such as, but not limited to, the vessel log book and weather routing data.

This Article 5.4 shall be restricted to port omissions only; other damages including loss of or damage to cargo are outside the scope of this Article. If the need to omit a port within the scope of this Agreement has been caused by a delay encountered outside the scope of this Agreement and except where port omissions are excused in this Agreement, it is the responsibility of Sealand to arrange, at its expense, for the pre or on carriage (including by own vessels) and transshipment of APL's cargo and containers destined to or to be exported from the omitted port(s) of the rotation and the transshipment port. Sealand shall have no other or further responsibility to compensate APL whatsoever. The compensation shall be by space on subsequent sailings or payment at the slot release price, or a combination of both, by agreement.

5.5 Addition/Omission of Ports. Ad-hoc addition of port(s) of call may be implemented, at the discretion of Sealand, if such call(s) does not affect the schedule integrity, the weekly frequency and the normal transit time. In such a case, Sealand will be responsible for the additional costs and will have exclusive rights of discharge/load at the additional port(s) of call. APL may be invited to load/ discharge at the additional port(s) of call after having accepted to share the additional costs of call including but not limited to port costs, fuel, and deviation costs in proportion to its share of containers loaded/discharged/restowed in that port. In Sealand has exclusive rights of discharge/load at the additional port(s) of call, and the schedule integrity is affected, the costs incurred to recover schedule integrity will not be imposed APL.

In the event Sealand decides, at its sole discretion, to void a sailing or voyage, Sealand shall use reasonable best efforts to provide a minimum of 14 days prior notice

to APL. In any such case, there shall be no slot payments due from APL nor shall there be any compensation of slots on adjacent sailings.

5.6 Compliance with Laws. The Parties agree to comply, and to not cause the other Party to fail to comply, with all applicable laws, rules, regulations, directives and orders issued by any authorities having lawful jurisdiction over either of the Parties in relation to their respective performance of this Agreement and the services operated hereunder. The Parties warrant that they, their affiliates, subsidiaries and/or agents providing services under this Agreement and the shippers, consignees, and others named on bills of lading are not identified, not owned 50 percent or more by one or more persons or entities identified on the U.S. Treasury Department's list of specially designated nationals and blocked persons ("SDN List") or, to the extent it could prohibit either Party from performing under this Agreement, on the OFAC Consolidated Sanctions List. The Parties further agree that goods and/or containers transported hereunder will not be transported on a vessel owned and/or operated by any party on the SDN List, including Islamic Republic of Iran Shipping Line (IRISL) and HDS Lines, as well as on any vessel identified on said List or owned and/or operated by HDS Lines. The Parties may agree upon such additional terms as they believe prudent and necessary to assure their respective legal compliance with applicable laws and regulations, including but not limited to lawful trade sanctions regimes.

5.7 Terminals. The Parties shall negotiate separately with terminal operators for their individual terminal contracts, but are authorized to discuss and agree on their respective responsibilities for charges incurred with respect to common terminal-related charges and costs, such as shifting and lashing of containers.

5.8 Miscellaneous. The Parties are authorized to discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from time to time, including, but not limited to, performance procedures and penalties; stowage planning; record-keeping; responsibility for loss or damage; insurance; the handling and resolution of claims and other liabilities; indemnifications; force majeure; salvage; general average; documentation and bills of lading; and the treatment of hazardous and dangerous cargoes.

5.9 Further Agreements. The Parties may discuss, agree upon, and implement any further agreements contemplated herein, subject to compliance with the filing and effectiveness requirements of the U.S. Shipping Act, 46 U.S.C. 40101, et. seq. (Shipping Act”), and implementing regulations of the FMC.

5.10 Implementation. The Parties shall collectively implement this Agreement by meetings, writings, or other communications between them and make such other arrangements as may be necessary or appropriate to effectuate the purposes and provisions of this Agreement. In the event of a conflict in terms between this Agreement and any implementing agreement between the Parties, this Agreement shall govern.



**ARTICLE 6: AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY**

The following are authorized to subscribe to and file this Agreement and any accompanying materials and any subsequent modifications to this Agreement with the Federal Maritime Commission:

- (i) Any authorized officer of either party; and
- (ii) Legal counsel for either party.

**ARTICLE 7: VOTING**

Except as otherwise provided herein, all actions taken pursuant to this Agreement shall be by mutual agreement of the Parties.

**ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT**

8.1 This Agreement shall become effective on the date it is effective under the Shipping Act, or such later date as may be agreed by the Parties. It shall continue in effect for an initial period of fifteen (15) months after the effective date and shall continue indefinitely thereafter. After the passage of twelve (12) months from the effective date, either Party may terminate the Agreement on three (3) months prior written notice.

8.2 Notwithstanding Article 8.1 above, this Agreement may be terminated pursuant to the following provisions:

- (a) Upon 30 days written notice if the port rotation or port coverage of the service provided Sealand is changed in such a way that it has a material adverse effect

on the commercial benefits reasonably expected to be gained by APL when it entered into this Agreement;

(b) If, at any time during the term of this Agreement there shall be a change in ownership of a Party, and such change is likely to materially prejudice the cohesion or viability of the Agreement or the other Party's commercial interest, then the other Party may, within 3 months of becoming aware of such change, give not less than three months' written notice terminating this Agreement.

(c) If at any time during the term of this Agreement either Party is dissolved or becomes insolvent or makes a general assignment, arrangement or composition with or for the benefit of its creditors or has a winding-up order made against it or enters into liquidation (whether voluntarily or compulsorily) or seeks or becomes the subject of the appointment of an administrator, receiver, trustee, custodian, or other similar official for it or for all or substantially all of its assets or is affected by an event or similar act or which under the applicable laws of the jurisdiction where it is constituted has an analogous effect or takes any action in furtherance of any of the foregoing acts (other than for purposes of a consolidation, reconstruction or amalgamation previously approved in writing by the other Party), and such event or occurrence is or may be materially detrimental to this Agreement or to payment of sums that may be owed, other than those that may be disputed in good faith, and may not be paid in full or may be delayed in payment, then the other Party may give written notice terminating this Agreement with immediate effect. Such termination shall be without prejudice to any

accrued obligations arising hereunder prior to the provision of such written termination notice.

8.3 In the case of a material breach by either Party, such Party shall correct the breach within 30 days from the date of written notice of such breach sent by the other Party. In the event that the breach is not resolved within 30 days thereafter, then the non-breaching Party shall have the right to terminate the Agreement effective 30 days from the date notice of termination is given.

8.4 Any termination hereunder shall be without prejudice to any Party's financial obligations to the other as of the date of termination, and a non-defaulting Party retains its right to claim against the defaulting Party for any loss and/or damage caused or arising out of such termination.

#### **ARTICLE 9: NON-ASSIGNMENT**

Neither Party shall assign all or any part of its rights, nor delegate all or any part of its obligations, under this Agreement to any other person or entity without the prior written consent of the other Party.

#### **ARTICLE 10: GOVERNING LAW AND ARBITRATION**

10.1 The interpretation, construction and enforcement of this Agreement, and all rights and obligations between the Parties hereunder, shall be governed by the laws of England, provided, however, that nothing herein shall relieve the Parties from the applicable requirements of the U.S. Shipping Act of 1984, codified at 46 U.S.C. § 40101 et seq.

10.2 Any dispute or claim arising out of or in connection with this Agreement which cannot be resolved amicably shall be referred to arbitration in London (unless varied by agreement of the Parties). The arbitration shall be conducted in English in accordance with the LMAA (London Maritime Arbitrators Association) rules current at the time when the arbitration proceedings are commenced, and each arbitrator shall be a member of the LMAA. Where the amount in dispute does not exceed U.S. \$200,000, the arbitration will proceed on documents and written submissions basis only; provided, however, that oral evidence may be allowed in exceptional cases at the discretion of the arbitrators.

**ARTICLE 11: SEPARATE IDENTITY/ NO AGENCY OR PARTNERSHIP**

Nothing in this Agreement shall give rise to or be construed as constituting a partnership for any purpose or extent. Unless otherwise agreed, for purposes of this Agreement and any matters or things done or not done under or in connection herewith, neither Party shall be deemed the agent of the other.

**ARTICLE 12: NOTICES**

Any correspondence or notices required hereunder shall be made by courier service or registered mail or, in the event expeditious notice is required, by email followed by courier or registered mail, to the following:

Maersk Line:  
–Maersk Line A/S  
2801 SW 149th Ave.  
Huntington Center II, Suite 400  
Miramar, Florida 33027  
Attn: Thiago Covre  
E-mail: ThiagoCovre@sealand.com

APL:  
APL Co. Pte Ltd  
9 North Buona Vista Drive  
#14-01 The Metropolis Tower 1  
Singapore 138588  
Attn: Alliance Management  
E-mail: alphonsus\_b\_c\_sng@apl.com

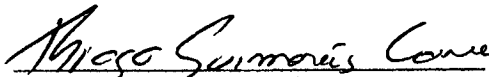
CC:  
APL Limited  
Legal Department  
16220 N. Scottsdale Rd.  
Attn: General Counsel  
E-mail: Eric\_Swett@apl.com

### **ARTICLE 13: SEVERABILITY**


Should any term or provision of this Agreement be held invalid, illegal or unenforceable, the remainder of the Agreement, and the application of such term or provisions to persons or circumstances other than those as to which it is invalid, illegal or unenforceable, shall not be affected thereby, and each term or provision of this Agreement shall be valid, legal and enforceable to the full extent permitted by law.

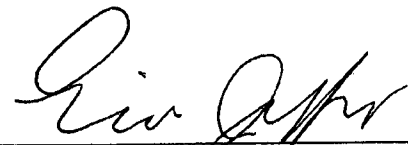
**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of this 21<sup>st</sup> day of May, 2015.

  
A.P. Moller-Maersk A/S  
Name: THIAGO GUIMARAES CORRE  
Title: CHIEF LINE OFFICER

\_\_\_\_\_  
A.P. Moller-Maersk A/S  
Name:  
Title:

  
APL Co. Pte Ltd  
Name: Eric Jeffrey  
Title: Legal Counsel

  
\_\_\_\_\_  
American President Lines, Ltd.  
Name: Eric Jeffrey  
Title: Legal Counsel