RECEIVED
2015 OCT 26 PM 3:58
OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

Original Title Page

MSC/MAERSK LINE TRANS-ATLANTIC SPACE CHARTER AGREEMENT

A Space Charter Agreement

FMC Agreement No. _ **012367**

Expiration Date: None

EFFECTIVE
OCT 2 6 2015
UNDER THE SHIPPING ACT OF 1984
Federal Maritime Commission

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

TABLE OF CONTENTS

		Page
ARTICLE 1:	FULL NAME OF THE AGREEMENT	1
ARTICLE 2:	PURPOSE OF THE AGREEMENT	1
ARTICLE 3:	PARTIES TO THE AGREEMENT	1
ARTICLE 4:	GEOGRAPHIC SCOPE OF THE AGREEMENT	1
ARTICLE 5:	AGREEMENT AUTHORITY	2
ARTICLE 6:	OFFICIALS OF THE AGREEMENT AND DELEGATION OF AUTHORITY	5
ARTICLE 7:	MEMBERSHIP AND RESIGNATION	6
ARTICLE 8:	VOTING	6
ARTICLE 9:	DURATION AND TERMINATION OF AGREEMENT	6
ARTICLE 10:	GOVERNING LAW AND ARBITRATION	8
ARTICLE 11:	ASSIGNMENT	8
ARTICLE 12:	NOTICES	8
ARTICLE 13:	SEVERABILITY	9

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

ARTICLE 1: FULL NAME OF THE AGREEMENT

The full name of this Agreement is the MSC/Maersk Line Trans-Atlantic Space Charter Agreement (hereinafter referred to as the "Agreement").

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to authorize MSC to charter space to Maersk Line in the Trade (as hereinafter defined).

ARTICLE 3: PARTIES TO THE AGREEMENT

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

1. Maersk Line A/S ("Maersk Line")
   50 Esplanaden DK-1098
   Copenhagen K
   Denmark

2. MSC Mediterranean Shipping Company S.A. ("MSC")
   12-14 Chemin Rieu
   1208 Geneva
   Switzerland

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of this Agreement is the trade from Bremerhaven, Germany and Rotterdam, the Netherlands to the Port of New York/New Jersey (the "Trade").

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

ARTICLE 5: AGREEMENT AUTHORITY

5.1 MSC shall charter to Maersk Line, and Maersk Line shall purchase from MSC, space on a weekly basis for the movement of 220 TEU or 2,420 tonnes (whichever is used first) per sailing in the Trade, which allocation shall include use of up to 22 reefer plugs. The Parties are authorized to discuss and agree on the terms and conditions applicable to the sale and purchase of space, including the amount of slot charter hire. Additional slots may be chartered to Maersk Line on an *ad hoc* basis, subject to space availability.

5.2 (a) Maersk Line shall not sub-charter or otherwise sell any space received hereunder to any ocean common carrier without the prior written consent of MSC.

(b) Dangerous goods and out-of-gauge cargo will be accepted, subject to MSC's prior approval and on such other terms as may be agreed by the Parties from time to time.

5.3 (a) MSC shall be responsible for maintaining the sailing schedule. In the event of a delay to any vessel, it is agreed that Maersk Line's commitment to purchase slots and the sharing of any additional costs incurred in the delivery of cargo on board shall be determined solely in accordance with this Article 5.3. The cost of action required to maintain the schedule such as increasing speed shall be for the account of MSC unless such delay is due to the fault of Maersk Line.

(b) Where a vessel is delayed by more than 7 days, the subsequent voyage shall be deemed to have been missed. If alternative slots can be made available between normal ports of call then Maersk Line may take such slots at the normal slot charter rate. MSC may alternatively offer extra slots on later voyages. If extra

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

slots are taken, they will be charged at the normal slot charter rate. To the extent MSC is able to offer alternative or extra slots, MSC shall have no other liability whatsoever to Maersk Line.

(c) Subject to Article 5.3(d) below, to the extent the need to omit a port(s) has been caused by factors for which MSC, their agent(s) or sub-contractor(s) are responsible, MSC will arrange transhipment and/or on-carriage of the affected cargo to the port at which the cargo should have been discharged, provided always that MSC shall be responsible for port omissions only to the extent they are caused by the negligence, breach of this Agreement, or other fault of MSC, their agent(s) or sub-contractor(s). Notwithstanding anything herein, MSC shall not be responsible to the Maersk Line for port omissions in the following circumstances and all costs to get Maersk Line's cargo to the port at which it should have been discharged will be for the Maersk Line's account:

(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, industrial action, 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 by the Parties from time to time.

(d) If port omissions to recover schedule delay are programmed for the next succeeding voyage on due notice to Maersk Line, thereby giving time for suitable planning to be undertaken to maximise the capacity on the vessel for a reduced port range, no adjustment will be made to the slot allocation in respect of an

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

omitted port. No port(s) can be omitted on two successive voyages without prior consultation and agreement with Maersk Line.

(e) If MSC decides to permanently change the geographical scope or rotation of the service, it shall give not less than fifteen (15) days written notice to Maersk Line and the Parties shall meet to agree on any necessary amendments to this Agreement. MSC shall have the right to revise Maersk Line's slot allocation in accordance with allocation/performance at the affected port(s).

5.4 The Parties are authorized to discuss and agree on matters relating to terminal operators and stevedores, and to reach agreement on other issues relating to the loading and/or discharge of cargo.

5.5 The Parties agree to comply with all applicable laws, rules, regulations, directives, or orders issued by any authorities that have jurisdiction in relation to the Trade and this Agreement including, but not limited to, laws and regulations requiring the provision of information to Customs or other authorities.

5.6 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; port omission arrangements; stowage planning; record-keeping; responsibility for loss of or damage to cargo and/or containers; insurance; force majeure; the handling and resolution of claims and other liabilities; indemnification; documentation and bills of lading; the treatment of hazardous and dangerous cargoes; and the monitoring and handling of and responsibility for reefer containers.

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

5.7 Pursuant to 46 C.F.R. § 535.408(b), any further agreement contemplated herein cannot go into effect unless filed and effective under the Shipping Act of 1984, as amended, except to the extent that such agreement concerns routine operational or administrative matters.

5.8 Each Party shall retain its separate identity and shall have separate sales, pricing and marketing functions. Each Party shall issue its own bills of lading and handle its own claims. Nothing in this Agreement shall give rise to or be construed as constituting a partnership for any purpose or extent and, unless otherwise agreed, neither Party shall be deemed to be the agent of the other.

ARTICLE 6: OFFICIALS OF THE AGREEMENT AND DELEGATIONS OF AUTHORITY

6.1 This Agreement shall be administered and implemented by meetings, decisions, memoranda, writings and other communications between the Parties.

6.2 The following individuals shall have the authority to file this Agreement with the Federal Maritime Commission as well as the authority to delegate same:

(a) any authorized officer of each of the Parties; and

(b) legal counsel for each of the Parties.

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

ARTICLE 7: MEMBERSHIP AND RESIGNATION

New Parties to this Agreement may be added only upon unanimous consent. The addition of any new Party to this Agreement shall become effective after an amendment noticing its admission has been filed with the Federal Maritime Commission and become effective under the Shipping Act of 1984, as amended. Any Party may withdraw from this Agreement in accordance with the provisions of Article 9 hereof.

ARTICLE 8: VOTING

Except as otherwise provided herein, actions taken pursuant to, or any amendment of, this Agreement shall be by mutual consent of the Parties.

ARTICLE 9: DURATION AND TERMINATION OF AGREEMENT

9.1 (a) This Agreement shall enter into effect on the date it becomes effective under the Shipping Act of 1984, as amended, and shall commence as of that date or such later date as the Parties may agree.

(b) The Agreement shall remain in effect for as long as the TA4 service operated under FMC Agreement No. 012293 is suspended.

9.2 Notwithstanding Article 9.1(b) above, this Agreement may be terminated pursuant to the following provisions:

(a) MSC may terminate this Agreement with immediate effect in default of payment of an undisputed invoice more than 30 days after the invoice payment date agreed by the Parties.

(b) Should Maersk Line start a parallel service or buy slots from

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

another carrier within the Trade without the prior written agreement of MSC, MSC will have the right to terminate this Agreement on the expiry of 30 days written notice, at its sole discretion.

(c) If at any time during the term of this Agreement a Party is dissolved, or becomes insolvent or fails to pay its debts as they become due, or becomes subject to any form of insolvency, liquidation or bankruptcy procedure or takes any action in furtherance of the same (other than for the purpose of a consolidation, reconstruction or amalgamation previously approved in writing by the other Party), the other Party may give notice to the affected Party terminating with immediate effect or suspending for such period as the other Party, in its sole discretion deems appropriate, this Agreement or any part thereof.

(d) In case the ownership or shareholding of a Party is modified in a way altering the relevant Party's financial control or their material ownership, the other Party, if it judges in good faith that such modification is likely to jeopardize the Agreement's implementation and performance and/or to be likely to prejudice the cohesion and or viability of this Agreement, shall be entitled to terminate the present Agreement on one (1) months prior written notice which notice must be given within three (3) months of the judging Party being advised of the change of ownership or shareholding.

9.3 Any termination of this Agreement shall be without prejudice to the accrued rights and obligations of the Parties hereunder and to any right and obligation hereunder expressed to survive such termination.

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

ARTICLE 10: GOVERNING LAW AND ARBITRATION

10.1 This Agreement and any dispute or matter arising out of or under this Agreement shall be governed by and construed in accordance with the laws of England and Wales and the Parties hereby submit to the exclusive jurisdiction of the High Court in London.

10.2 Notwithstanding the above any dispute where the claim or counterclaim does not exceed US$100,000 shall be referred to arbitration under the LMAA Small Claims Procedure

10.3 Either Party may at any time call for mediation of a dispute under the auspices of the LMAA. Unless agreed such mediation shall not otherwise interfere with or affect anything else including the time bars and Court procedure. If a Party calls for mediation and such is refused, the Party calling for mediation shall be entitled to bring that refusal to the attention of the Court.

ARTICLE 11: ASSIGNMENT

Neither Party shall be entitled to assign or transfer its rights or obligations under this Agreement, except with the other Party's consent.

ARTICLE 12: NOTICES

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

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

Maersk Line:

Maersk Line A/S
50 Esplanaden
1098 Copenhagen K
Denmark

MSC:

MSC Mediterranean Shipping Company
S.A
12-14 Chemin Rieu
1208 Geneva, Switzerland

ARTICLE 13: SEVERABILITY

If any provision of this Agreement is held to be invalid, illegal or unenforceable in any jurisdiction in which this Agreement is operational then the said provision shall cease to have effect between the Parties but only to the extent of such invalidity, illegality or unenforceability and no further. All remaining provisions hereof shall remain binding and enforceable.

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

MSC/MAERSK LINE TRANS-
ATLANTIC SPACE CHARTER
AGREEMENT
FMC Agreement No. 012367

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of this 26th day of October, 2015.

MSC Mediterranean
Shipping Company S.A.

By: _____

Name: Lucio Vaccaro

Title: Vice President

Maersk Line A/S

By: _____

Name: _____

Title: _____

Maersk Line A/S

By: _____

Name: _____

Title: _____

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017

MSC/MAERSK LINE TRANS-
ATLANTIC SPACE CHARTER
AGREEMENT
FMC Agreement No. **012367**

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of this 26TH day of October, 2015.

MSC Mediterranean
Shipping Company S.A.

By: _____

Name: _____

Title: _____

Maersk Line A/S

By: _____

Name: ANDERS BOERNAES

Title: V.P.

26/10/2015.

Maersk Line A/S

By: _____

Name: SONNY DATH

Title: V.P.

26/10 - 15

FMC Agreement No.: 012367 Effective Date: Monday, October 26, 2015
Downloaded from WWW.FMC.GOV on Wednesday, April 26, 2017