

(DRAFT)
**THE SURFACE AND MARINE TRANSPORT REGULATORY
AUTHORITY ACT, 2001**

(No. 9 of 2001)

RULES

Made under Section 38 (1)

PART I

PRELIMINARY

- | | |
|-----------------------------------|---|
| Short title and commencement date | 1. These Rules shall be cited as SUMATRA (Procedures for settling claims for late delivery of cargo), Rules 2009 |
| Application | 2. These Rules shall be read together with SUMATRA` s Order No SMTRA/06/2008 and apply to the Dar es Salaam Port, Tanzania International Container Terminal Services and container depots designated to deliver container to consignees. |
| Interpretation | 3. In these Rules unless the context requires otherwise:

“arrival of cargo” means the date in which the cargo was off-loaded from the vessel;

“cargo” : Means container cargo to and from the terminal operator and includes transit cargo;

“consignee” : Means a person mentioned in the Bill of Lading or cargo owner;

“Declaration and disposal order” means an invoice or receipt issued by TPA for final payments which entitles a consignee to take delivery of cargo;

“delivery of cargo” : Means delivery of container cargo on a transport unit of a consignee or his agent; |

“designated port area” includes port terminal and inland container depots;

“Equipment interchange receipt” means a receipt issued by the terminal in-charge to a consignee allowing movement of cargo from the port

“Tax invoice” means an invoice or receipt issued by container depot for final payments which entitle consignee to take delivery of cargo.

“Terminal in-charge” means port, depot manager or master;

“Terminal Operator” means any container depot assigned to deliver container cargo to consignees; and

“Transit unit” means wagon, vessel or a track which is brought by a consignee or his agent to carry cargo out of the port

PART II

CARGO DELIVERY PROCESS

Cargo delivery process 4. The process of delivery of cargo to a consignee shall commence where a consignee presents the Delivery Order, effects payment in accordance with Declaration and Disposal Order or Tax Invoice and presents the Customs Release Order or approved equivalent.

Delivery of cargo to consignee 5. Delivery of cargo to a consignee shall be made after the consignee has made payment in accordance with the Tax Invoice or Declaration and Disposal Order.

Timely delivery of cargo 6. The Terminal in-charge shall deliver the cargo to the consignee within 24 hours from the time of payment of Tax Invoice or Declaration and Disposal Order.

Taking delivery of cargo 7. The Terminal in-charge shall deliver the cargo to a consignee who has complied with the conditions of equipment interchange receipt and has made available a transport unit within he designated area.

Late delivery of cargo 8. Late delivery of cargo to a consignee shall occur where:

- (a) delivery is made after the free period of 7 for imports and 21 days for transit cargo from the date of arrival of the cargo; and
- (b) delivery is made after expiry of 24 hours from the time of payment of Tax Invoice or Declaration and Disposal Order or
- (c) the consignee's transport unit enters the designated port area for purposes of taking delivery of cargo and stays unloaded for more than four hours.

PART III

ENTITLEMENT TO COMPENSATION

Claim for compensation

9. (1) A claim for compensation shall arise where a consignee claims existence of late delivery of cargo as per rule 8 of these Rules
- (2) A burden of lodging and proving the claim is on the consignee or agent.

PART IV

LODGING AND SETTLEMENT OF CLAIM

Procedure for lodging a claim

- 10-(1) A consignee who has a claim for the delivery of cargo shall fill a Claim Form stipulated in the First Schedule to these Rules, attach copies of Delivery Order, Equipment Interchange Receipt and Tax Invoice or Declaration and Disposal Order and lodge the claim to the Terminal in - charge.
- (2) Where a consignee lodges a claim to the Terminal in-charge he shall serve a copy on SUMATRA.
- (2) Upon lodging the claim, a consignee may attach any other relevant document necessary to support the claim.

Compensation rate

11.-Compensation for late delivery of cargo shall be claimed per day in accordance with the approved rates as stipulated in **Second Schedule** to these Rules.

Settlement of claim

12.-(1) The Terminal in-charge upon receipt of the Claim Form shall acknowledge receipt of the claim within 7 days.

- (2) Where the Terminal in-charge receives a claim he shall examine and if satisfied effect payment to the consignee.
- (3) Settlement of claim shall be made in USD or in Tanzanian Shilling equivalent at the prevailing rate of USD on the day of payment.
- (4) Where the Terminal in-charge receives the Claim Form and does not dispute or settle the claim within 14 days, the claim shall be deemed to have been accepted.
- (5) Subject to sub rule (4) of this rule the consignee shall lodge a demand letter after the expiry of 30 days to the terminal in-charge demanding immediate settlement of the claim in accordance with the claim form
- (6) Where the Terminal in-charge rejects the claim he shall notify the consignee in writing assigning reasons for the rejection within 7 days from the date of receipt of the claim and serve a copy on SUMATRA.

PART V LIMITATION PERIOD

Time limit for lodging claim

13.-(1) A consignee intending to lodge a claim for compensation for delay in delivery of cargo shall lodge it not later than 14 days after taking delivery of the cargo.

(2) No claim shall be entertained by the Terminal in-charge if it is lodged after expiry of 14 days from the date of taking delivery of the cargo, provided that the claim shall be accepted after the expiry of 14 days for good cause.

PART VI

Appeal

14. Where a consignee is dissatisfied with the decision of the Terminal in-charge in relation to the claim of it shall refer his complaint to SUMATRA in accordance with the SUMATRA (Review and Appeal Procedures) Rules, 2008.

Dar es Salaam
Thisof 2009

P.C. Bakilana
Chairman of the SUMATRA Board

SUMATRA CF 1

FIRST SCHEDULE (Rule 10)

CLAIM FORM

PART 'A'

PARTICULARS OF CONSIGNEE

1. Name of Consignee/Agent.....
2. Address
.....
.....
3. Residence
.....
.....
.....

PART 'B'

DESCRIPTION OF THE CARGO

4. Cargo Particulars
5. Container Number
6. Tax Invoice/D&DO Number
7. Equipment Interchange Number
8. Transport Unit Number (truck or wagon registration number)
.....
9. Gate Pass Number.....

PART 'C'

DELIVERY OF CARGO

- 10. Time and date of entry into the Port.....
- 11. Time and date of loading/.....
- 12. Exit time and date
- 13. Number of hours or days of delay
- 14. Time of booking.....
- 15. Reasons for late delivery
.....
.....

PART 'D'

CLAIM AND ACKNOWLEDGEMENT

- 16. Amount claimed in:
 USD
- TShs.
- 17. Name of Consignee/Agent:
- Signature and stamp
- Date of lodging the claim
- 18. Date and time of the receipt of the claim
- 19. Signature of Port Terminal in-charge
- 20. List of copies supporting documents attached to this form
 - 1 Delivery Order
 - 2 Equipment Interchange Receipt
 - 3 Tax invoice or Declaration and disposal order

SECOND SCHEDULE (Rule 11)

COMPENSATION CHARGES

	Type of Container	No of days	Amount of
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		cargo stayed in the deport	compensation per day in USD or Tshs equivalent
1	all	0-7 days	Free
2	Twenty Feet Equivalent Unit (TEU)	8-21 days	40
3	Forty Feet Equivalent Unit (FEU)	8-21 days	40
4	Twenty Feet Equivalent Unit (TEU)	22 days onward	40
5	Forty Feet Unit (FEU)	22 days onward	80