

## Maritime Administration Approves CMA CGM DAKAR for Maritime Security Program



On June 15, 2022, the Maritime Administrator approved the entry of the geared containership CMA CGM DAKAR (IMO No. 9436070) into the Maritime Security Program (MSP). Launched in 2010, the CMA CGM DAKAR is operated by APL Marine Services, Ltd. and is capable of carrying 1281 twenty-foot containers in a militarily-useful configuration. The CMA CGM DAKAR entered U.S. registry in December, and began operation in MSP the same day.

Established by Congress in 1996, the Maritime Security Program promotes the economic resiliency and national security of the United States by supporting a fleet of 60 U.S.-registered, militarily-useful commercial vessels that carry U.S. foreign trade and humanitarian cargoes in peacetime and provide guaranteed sealift and shoreside intermodal capacity to the Department of Defense in times of armed conflict or national emergency. Administered by the Maritime Administration, the Maritime Security Fleet forms the core of U.S. international ocean shipping, ensuring that U.S.-Flag carriers stay competitive in the international market, and supporting 2400 highly-skilled merchant mariners afloat and thousands of shoreside positions that keep the U.S. economy resilient and guarantee that U.S. forces will be supplied anywhere in the world.

The full text of the approval letter follows.



U.S. Department  
of Transportation  
**Maritime  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

June 15, 2022

Gregory Doyle  
Executive Vice President  
APL Marine Services, Ltd.  
1667 K Street, NW, Suite 400  
Washington, D.C. 20006

Dear Mr. Doyle:

On June 15, 2022, the Maritime Administrator took the following actions regarding the application of APL Maritime, Ltd. (“APLMS”), dated June 22, 2021, and supplemented on October 1, 2021, to: (1) approve replacement of the containership APL AGATE (IMO No. 9139713) under Amended and Restated Maritime Security Program (“MSP”) Operating Agreement No. MA/MSP-57 (“Operating Agreement”) by the geared containership CMA CGM DAKAR (IMO No. 9436070) (“DAKAR”) in the Maritime Security Fleet (“Fleet”); and (2) approve amendment of the Operating Agreement to replace the APL AGATE with the DAKAR:

- (A) Found that the proposed vessel ownership and operational structure for the DAKAR as detailed in Appendix A, attached, meets the citizenship requirements for owners, charterers, and operators of Fleet vessels under 46 U.S.C. § 53102(c)(2).
- (B) In view of (A) above, determined that the DAKAR meets the Fleet vessel control eligibility requirements of 46 U.S.C. § 53102(b)(1).
- (C) Noted that: (1) APLMS will operate the DAKAR in established trade in the Western Pacific pursuant to a registry endorsement, but will not carry cargo between any State or Territory of the United States and the Commonwealth of the Northern Mariana Islands, except as permitted by U.S. Customs and Border Protection.
- (D) In view of (C) above, determined that the DAKAR will provide transportation in foreign commerce, meeting the Fleet vessel operational requirements of 46 U.S.C. § 53102(b)(2).
- (E) Found that the DAKAR is a diesel-powered, self-propelled vessel, completed in 2010. Thus, the DAKAR will be 15 years of age or less at the time of its inclusion in the Maritime Security Fleet, and therefore determined that the DAKAR meets the Fleet vessel age and propulsion requirements of 46 U.S.C. § 53102(b)(3).

- (F) Noted that: (1) the Deputy Commander, United States Transportation Command (“TCDC”), by letter dated August 23, 2021, advised the Maritime Administration (“MARAD”) that United States Transportation Command (“USTRANSCOM”) found the DAKAR to be militarily useful and suitable as a replacement vessel; (2) found the approval given by TCDC constitutes approval or agreement by the Commander, USTRANSCOM (“Commander”) regarding the DAKAR’s military suitability; (3) found that APLMS will employ the DAKAR in established and ongoing foreign commerce, as noted above in (C); and (4) determined that the DAKAR is commercially viable.
- (G) In view of the notations, findings, and determinations in (F) above, determined that the DAKAR meets the Fleet vessel capabilities requirements of 46 U.S.C. § 53102(b)(4).
- (H) Found that the DAKAR is documented under United States law pursuant to 46 U.S.C. ch. 121, and determined that the DAKAR meets the Fleet vessel documentation requirements of 46 U.S.C. § 53102(b)(5).
- (I) In view of the notations, findings, and determinations in (A) through (H), above, found that the DAKAR meets all the statutory Fleet vessel eligibility requirements of 46 U.S.C. § 53102(b), and determine that the DAKAR meets the statutory Fleet replacement vessel eligibility requirements of 46 U.S.C. § 53105(f).
- (J) Noted that 46 C.F.R. § 296.30(c) permits the replacement of a vessel under an MSP Operating Agreement with another vessel that is eligible to be included in an MSP Operating Agreement under 46 C.F.R. § 296.11(a) if the Secretary of Transportation (“Secretary”), in conjunction with the Secretary of Defense (“SecDef”), approves the replacement vessel.
- (K) Noted that: (1) 46 C.F.R. § 296.11(a) implements 46 U.S.C. § 53102(b); (2) the DAKAR meets the Fleet vessel eligibility requirements and qualifications of 46 U.S.C. § 53102(b), as determined and stated above; and (3) determined that the DAKAR satisfies the MSP Operating Agreement replacement vessel requirements of 46 C.F.R. § 296.11(a), and that the Secretary and SecDef granted their approval of the DAKAR as a replacement Fleet vessel, as determined and stated above.
- (L) In view of (J) & (K), above, determined that approval of these actions constitutes joint approval of the DAKAR for purposes of Article I-4 of the Operating Agreement and MSP regulations at 46 C.F.R. § 296.30(c).
- (M) In view of both (L), above, and the foregoing findings and determinations regarding the DAKAR, determined that APLMS and the DAKAR satisfy the requirements of Article I-4 of the Operating Agreement and the MSP regulations at 46 C.F.R. § 296.30(c) regarding the eligibility of MSP Operating Agreement replacement vessels.

- (N) Noted that: (1) pursuant to the requirements of Article I-22 of each Operating Agreement, APLMS has provided to MARAD copies of the United States Citizen Trust Agreement, Demise Charter, Time Charter, and Ship Management Agreement that will govern the operation of the DAKAR as detailed in Appendix B, attached; (2) found that all the entities with whom APLMS intends to enter into charters or agreements for the operation of the DAKAR meet the citizenship requirements for owners and operators in MSP; (3) found that MARAD's Office of Chief Counsel has reviewed the United States Citizen Trust Agreement, Demise Charter, Time Charter, and Ship Management Agreement that APLMS submitted and found them to be satisfactory in form and substance; and (4) approved them pursuant to Article I-22 of the Operating Agreement.
- (O) Noted that: (1) Article I-2(a) of each Operating Agreement requires that the Operating Agreement holder warrant to MARAD that it is either the owner of the vessel operating, or proposed to be operated, under the Operating Agreement, or that it charters the vessel at financial risk through a demise charter that transfers virtually all the rights and obligations of vessel ownership to the Operating Agreement holder; and (2) found that APLMS will be operating the DAKAR at financial risk under the terms of the Demise Charter.
- (P) In view of (O), above, found that APLMS will operate the DAKAR in accordance with Article I-2(a) of the Operating Agreement.
- (Q) Found that APLMS must enroll the DAKAR in a Department of Defense-approved Emergency Preparedness Program pursuant to the requirements of 46 U.S.C. § 53107, Article I-9 of the Operating Agreement, and the regulations at 46 C.F.R. § 296.31(c), and determined that enrollment of the DAKAR in the Voluntary Intermodal Sealift Agreement ("VISA") program will satisfy this requirement.
- (R) Noted that APLMS has registered the DAKAR under United States law.
- (S) In view of the notations, findings and determinations above: (1) approved replacement of the APL AGATE with the DAKAR under the Operating Agreement; and (2) approved amendment to the Operating Agreement to replace the APL AGATE with the DAKAR.
- (T) Authorized the Office of the Chief Counsel to prepare appropriate documentation to effectuate the foregoing.

I request that you indicate your acceptance of the actions above by signing and returning the enclosed copy of this letter to the Office of Sealift Support, noting the date of the signing thereon.

Sincerely,

Gabriel Chavez  
Secretary  
Maritime Administration

cc: U.S. Transportation Command (USTRANSCOM)  
U.S. Coast Guard, Office of Commercial Vessel Compliance (CG-CVC)

Accepted:

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APL Marine Services, Ltd.

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Date