

## **THE POLICIES AND MANAGEMENT'S METHODS FOR INTERNATIONAL MARITIME FRAUDS PREVENTION**

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The special interest for consignment gave a pronounced development of maritime criminality. This is a particular truth of them, who damage the system without being involved in directly.

"The operation" of the consignment on maritime way it's a process of continuous expansion and in present, in the international maritime commerce, undoubtedly this "art" become being able to be practiced with few chances to be discovered.

Eventually this was possible till governmentally and in maritime expedition industry started to be taken actions and to be encouraged positive actions in this way.

Initiated management's policies for fighting and control of this illicit process created majors problems, both to the cause and effect level. But the effort is not known by the simple people who don't see the consequences that should directly affect them, which not brings to ask for protective measurements. Management's methods for frauds preventions will be commented in a bigger social, economical and commercially interrelated context.

### ***a) Documentary fraud as a economical-managerial modality.***

Commercial details of the documents for international commerce makes the fraud and the associated false to become a complex procedure associated with implicated parts: the seller and buyer. The phenomenon became the subject of international debates where the geographical distance it's bigger and the implicated persons are less, the confidence in documents it's essential from the point of view of commerce. But the system it's obviously vulnerable by the fraudulent manipulations.

The time and the distance implicated in maritime transport of goods makes the system of payment before the delivery to be a current practice.

One of the two parties, the sender or the recipient, for a short time, should not be in possession of any money or property. The development of the system put the beneficiary in this position.

This convention has given rise the letters of credit system as a banking tool. The operating

system has been tested over time and is still available with good results. The distance that separates the parts determine the involvement of an intermediary, which inevitably is a bank. The buyer, who usually places his money under the risk, nominates a bank who will pay the money to the seller, once the well established preconditions have been met. This situation centers on the transfer of documents, because they can be transferred much faster than goods to which they refer.

The falsehood has become an important factor in this type of crime, as is the focal point of business documents transfer. The paying bank should give satisfaction to the sender, waiting to be paid and who, at its turn, satisfied the conditions imposed by the receiver. The common denominator in this case could be the bills of lading, which can be true or false. Is obvious that not all banks are willing to accept, in a letter of credit, to follow the instructions. Up to a certain extent this attitude is understandable. The banks deal with the letters of credit with thousands and different conditions for some of them would make the whole system more difficult to master. Moreover, are recorded many examples in which the most elementary caution could prevent the loss of large sums of money. There were cases in which the goods were offered on the stock market as being on board that is under way. A simple verification of the name of the ship in cargo port could show that the ship is away of the port in question on thousands of miles. It's surprising that neither the victim nor the forger check these facts.

With such a lack of attention to detail is not surprising that sometimes the fake bill offers an amount of goods that exceed the ship's tonnage which will make the transportation. Who'll be responsible, if it were possible to verify the authenticity of the documents? May claim that bank as a place to change the documents would have to handle this? The banks almost have not met any responsibility for the actions or the consequences thereof for any deficiencies of the action. There are situations in which the banks are victims of maritime frauds. In such a case recently in New York, a bank was a victim of forged

documents maritime expedition. The experts think that this case is rooted in the massive fraud against the National Bank of North America and the author is Tidal Marine who was engaged in business as an owner of ships.

This kind of business takes place usually on borrowed money. The most important safety measure o guarantee granted mortgage loans is the taken mortgage of ship and a notify of the charterer entered in the current deal between owner and operator of ship. Although fundamental, letter of credit system operates only between the buyer and seller, there are plenty of agents involved, such as an international transaction becomes multinational, and who leads the inherent investigative and jurisdictional issues. Regarding insurance, are cases where the insurer can take the load on the policy, so that goods are not subject to risk. This is evident in the case of fraud where knowledge documentation, invoices, certificates of origin are falsified. If the goods do not exist, at that time is nothing on which insurance may be attached, and the insurer disclaims liability under the policy.

In terms of prevention there are no insurmountable problems. It's necessary to update the commercial practice and the involved parties should take their own measures for protection.

#### **b) Contract fraud**

The contract fraud is committed by the charterer in the detriment of the ship's owner or operator. The changes in recent years in the maritime expedition, the aging and the technological obsolescence of ships, created a fertile ground type of crime. Lot of this kind of ships is in the hands of small owners that are ready to run. They are ideal from the economical point of view to be involved in fraudulent arrangements, particularly in areas where the social development is overcome by the development of commercial practice. The unethical or fraudulent operators will charter this kind of ship, paying the necessary minimum costs, regarding cargo space, collecting charter taxes, and then checking if the ship is loaded in its road towards the destination. When the second or the next rental fees must be paid to the owner, it finds out that the carrier is gone and there is no funding. The problem is complex and the motivations of various parties, other than the carrier, are all understood so that further progress becomes difficult.

The sender that is entirely an innocent party in the transaction, except the imprudence to accept a low cost of carrier or other such "advantages", wants his property to reach their destination. The

importer, paying the goods wants to get in their possession and the owner, who is usually the commander of his own ship, discovers that he has not, for example, enough food to complete the voyage, to pay salaries, the fuel, port fees and other.

These problems have been solved in different ways. The shipper agrees, sometimes, to pay a higher carrier rate in order to see the goods at destination, without taking into account other consequences. Sometimes accepts a diversion and a sale of assets to cover costs and then begin a new export operation. It can happen that the ship's owner or master will deviate the ship from the normal route and then will sell the loads where he can. And it is a crime as serious as those of the charterers that endanger the entire state of affairs. The legal proceedings may become endless, with responsibility for the losses encountered, usually divided among the participants. As in the case of documentary fraud, these situations can be avoided by exercising a bigger commercial prudence than is usual now.

#### **c) The intentionally sinking ship fraud**

The old ships with expired life, that floods the market, fall into hands of small owners or owners of the "unique ship", which prospect to obtain a higher income from insurance than from legal trade that appears more attractive. These ships who load goods, depart having a bigger value than the ship itself. Later the crew escaped by a miracle, will tell about "catastrophic conditions" that led the ship sinking. The investigations often show that the ship has entered into an unscheduled port, downloaded and sold the cargo on the quay, before the "catastrophe" that led to sinking. The ease with which these crimes can be committed is accidentally than derived from a previously well-designed plan. The recent development of this type of crime has shown those not only don't stops to the old and small ships, nor absolve the owners or charterers of involvement.

#### **d) The piracy**

Another result of political instability is the recrudescence of piracy. The phenomenon is currently expanding and all measures taken in the International Maritime Organization had not expected any results.

#### **e) Who Pays?**

Even the sea fraud is on a small scale, the size of the damages claimed, the difficulty of the standard trade exhibition can be considered as having two roots.

The first, the overall volume of world trade, not necessarily the maritime one, is increasing, and what was particular became general.

Second, exist lot of commercial fields that earn their operational autonomy before to learn the base principles of international trade.

It's true that immediate injured are the insurers, the maritime companies, individual exporters and importers, the owners and even the state itself. The today's losses became tomorrow overcharged and in the final analysis is the consumer who pays, because he is the last of the chain of those who bear the burden of price increase.

**f) The future**

As was shown, the maritime criminality from particular situation increased and grew rapidly on the background conditions created by the current international trade.

By influencing the business climate can make:

- from those who have the power of foresight to realize that they are the potential victims and should exercise more attention than ever exercised. This is not a critic for they, but only an attention on the experiences of others.

- The intervention of specialized organizations has become essential.

For such complex problem like this one, it not exists a simple panacea, but should be operated at all levels. This necessity arise tasks on commercial organization's capability and place it at the level of an organization which, while having a proper commercial practice all these variations, however, is enough to provide corrective measures at government level.

**g) Specific activities to prevent fraud**

All the parts that could protect themselves, being extremely careful when they are negotiating for the first time with the unknown juridical persons or by initiating discreet investigations about standards and the integrity of those persons, before concluding a firm deal. Specially, the owner could deal with owners or transporters who have a good reputation. If the transporter is not known by the loan's owner, this can see in Lloyd Register if the ship is classified, what is it's transport capacity with was registered and after to see the Bulletin Lloyd the information about the ship. In many cases the transport ship wasn't in the situation to fulfill its obligations.

The cargo owner must take care when he notices that the shipping fee is too attractive. This could be explained in a way, but he should manifest more prudence than when he fined out

that the transport ship is owned by a company of naval transporting who has one owner and passed more than 15 years from the last time when the ship departed on the sea, and changed many owners. If the cargo owner is not decided, he can renounces and ask elsewhere or to support the consequences engaging a dishonored transporter.

A such trader who is interest in these issues will be able to modify their demands according to its own risk assessments.

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