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MARITIME FRAUD - A POLICE PERSPECTIVE

by

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Introduction

Ever since the advent of the ocean-going vessel when much of international trade came to be conducted over the seas, maritime trade, with its promise of vast riches and fortunes, has always been a target for the devious mind. Beginning with the early pirates of the high seas up to the more sophisticated criminals of our time, maritime crime has always promised lucrative proceeds.

2 Maritime fraud - to describe crimes relating to maritime trade - in itself is no stranger to Singapore as we are one of the busiest ports in the world as well as an established financial centre. Crime statistics show that for the past eight years, a total of 64 cases of maritime fraud were reported. Since 1979 the number of cases reported annually has been at least 13, with an all time high of 18 in 1981.

3 It is clear, therefore, that maritime fraud should be regarded as a major cause of concern for both trade and industry. There is thus a need for a better and closer cooperation between those directly involved in international maritime trade and the Police in the investigation into and prevention of maritime fraud.

Investigation of Maritime Fraud

4 One of the earliest reported cases is that of the vessel "Kien Kun" in 1965. In this incident, a shipment of "abalones" was purportedly on board the said vessel to be shipped from Singapore to Hong Kong. In truth however, nothing more than sacks of "salt" were loaded into this rusty old bucket. The "Kien Kun", which was purchased for the purpose of this fraud, eventually left Singapore.

5 The vessel was then "scuttled" in the Straits of Malacca whilst purportedly enroute to Hong Kong. The sinking was duly reported but a wrong location was intentionally given. As a result, the Police, who acted on the report, could not locate the vessel.

6 In a subsequent development, a sunken vessel was sighted at low tide in the Straits of Malacca with only its mast sticking out from the water. Although the location was entirely different, the vessel, from a preliminary description, was identified as the sunken "Kien Kun". Police investigations re-commenced and the Royal Navy's expertise was enlisted in a salvage operation. Altogether the operation involved a cruiser and a minesweeper, with Royal Navy divers called in for the undersea search and salvage operations. However, no trace of "abalones" was discovered but only empty gunny sacks, still within the holds of the ship.

7 The cost of the whole operation landed the Police with a hefty bill for \$250,000 from the Royal Navy. The results of the investigation were rather inconclusive because of the lack of evidence against the probable suspects but the Police gained new insights in respect of investigations into maritime fraud from this experience, which, in later years, proved to be invaluable.

8 In recent years however, the incidence of maritime fraud has not only increased but also grown in complexity. A great deal of effort and manpower is required nowadays in each case of maritime fraud. Investigations can take from as little as a few months to as much as two to three years to complete. As most of such cases involve the conspiracy of many parties in the crime reported this requires painstaking investigation for

the collection of evidence to establish the links between and the involvement of the parties in connection with the offence.

When and in what circumstances will Police investigations commence?

9 The requirement that a crime has been committed or is about to be committed is essential before any Police investigation can be undertaken. What is required is sufficient evidence to provide a reasonable inference that a crime punishable by law has been committed or is about to be committed. Mere suspicions or bare allegations of such an eventuality will fall short of this requirement.

10 In maritime fraud cases, proper documentary evidence to support a complaint may provide a reasonable cause to commence investigations. As most such cases will involve a great range of resources, if investigated, the Police will have to consider all matters carefully before deciding on a report for investigation and committing its resources for the job to be done.

11 Maritime fraud also invariably involves a number of different countries whereby the local Police may have to require the assistance of Interpol or other national police organisations in order to establish the nature of the offence and to collect evidence required for a prosecution. Consequently, where the complainant is a foreign national or an overseas company it would be imperative that the complaint be supported by sufficient and cogent evidence. Survey reports and other documentary proof should be submitted together with the complaint. The underlying reason for this approach is

that "only verbal" complaints will be very difficult to substantiate in the local context without such supporting evidence.

12 In Singapore, the Commercial Crime Division of the Criminal Investigation Department handles most, if not all, of the maritime fraud cases. Much headway has lately been achieved in the investigations into such cases.

13 Besides cases of "scuttling", the Division also handles the more frequent incidents of maritime fraud which are as follows:-

- a Non-delivery of goods, after credit has been received;
- b Short delivery of goods;
- c Delivery of goods other than those ordered, as in the difference in quality or type;
- d Using forged or false shipping documents, as in negotiating Letters of Credit with the aid of false Bills of Lading;
- e Barratry;
- f Other cases of a criminal nature involving maritime trade.

14 The Division, together with other divisions of the Police Force, is also actively involved in the prevention of maritime fraud and cooperates fully with the banks and insurance companies to achieve this end.

General Difficulties arising in Police Investigations of Maritime Fraud

15 One of the greatest difficulties facing a Police investigation into maritime fraud is the obtaining of evidence. With the exception of the "Kien Kun", most scuttling cases nowadays are done in deep waters which would require a costly and major salvage operation to raise the vessel from her watery grave, where feasible. In such cases, and especially in those where there are no feasible means of physically ascertaining the existence of the scuttled ship or the cargo, the investigator has to conduct his investigations by employing the more tedious approach of obtaining secondary evidence in relation to the subject matter. The officer will have to rely on supporting documents and other evidence to prove that no goods were shipped and that the said vessel was "sunk" for the purpose of committing the fraud in question. Such an approach is both difficult and fraught with uncertainties as the necessary underlying documents may be unobtainable.

16 Furthermore, if the supplier, the shipper and the shipping company are in collusion then all the documents may have been so well prepared as to appear to be in order. Hence, much more extensive investigations will be required. Indirect means of ascertaining the facts will be resorted to. The correlation and analyses of seemingly useless data may reveal flaws in the documents presented. In one related case, a check with trade statistics compiled by the Department of Trade showed that the amount of the item purported to have been exported as disclosed in the Bill of Lading was definitely fictitious as it far exceeded the total amount of that product produced or imported for the same period in previous years.

17 In addition to the documentary and other evidence, corroborating statements will be required to identify the culprits and their involvement in the fraud. These will definitely not be forthcoming if the parties are in collusion with each other in the fraud. An accomplice or another person who is well informed of the conspiracy may be required to assist in the investigations. The statements recorded from them tend to be lengthy and detailed. The recording of such statements take as long as one to two months each, and especially so if the evidence to be given by the witness is crucial. The difficulty that the Police face in this respect will be the finding of such witnesses - who will also have to be reliable - to testify for them.

18 In most maritime fraud cases, the crew of the stricken ship is usually not available by the time police investigations get underway. They would have been paid off and repatriated to their respective countries. The testimony of the crew would have assisted the Police in ascertaining the cause of the marine tragedy but this is all too often unobtainable as the crew's whereabouts will not usually be known. Furthermore, even if located, they are generally uncooperative. The "threats" made by the principal culprits to the crew make it unlikely that they will volunteer the required information to the authorities.

19 The obtaining of the required evidence will necessarily involve the seizure of a great deal of documents from the various parties involved. From this will follow the sifting and the collation of the seized documents to provide the links and evidence of each party's involvement. Together, the collection of such evidence and the recording of statements will take up a sizeable proportion of the time spent on the

investigations. This stage of the investigation will also involve the employment of much needed manpower and resources.

20 Another difficulty that has been noted is that in some cases certain necessary documents become unobtainable. As in many maritime fraud cases, the time between the date of the offence and that on which the report is made, spans a considerable period. This increases the likelihood of documents being mislaid or destroyed. There also exists a possibility that the culprits themselves would have destroyed all the incriminating evidence and absconded from the country.

21 It is very difficult for an officer to investigate into such cases and especially so if the complainants themselves cannot produce the necessary documents nor provide positive identifications of the culprits concerned. Due to the exigencies of the banking business, for example, banks can only present a schedule of the documents presented in the negotiation of Letters of Credit or other trade credit. Consequently, the necessary documents will have to be obtained from other sources or seized from the culprits.

22 Another difficulty that is also encountered is the identification of the culprits. Since a great deal of trade credits may be given on the basis of mutual trust without any proper verification of the background of the other parties, the Police may consequently find it difficult to trace the true identities of the culprits in any subsequent report of a fraud resulting from the transaction. Furthermore, the use of "two dollars" businesses as a front in their activities has made it a difficult task to identify the culprits and their true roles.

23 Some of the more professional perpetrators of maritime fraud have been known to use legitimate business concerns and their employees or other innocent parties to assist in their operations so as to camouflage or cover their criminal acts. Companies, including shipping companies, have been incorporated by them to help in the provision of "authentic" trade and shipping documents. In some instances, the culprits, who may own a share of a legitimate shipping company, uses his position to issue fraudulent copies of duly certified bills of lading and other documents to help perpetrate the fraud.

24 A recent case produced evidence that the shipper, the ship owner, the suppliers, the consignees and the shipping company were all very much involved in a conspiracy to commit maritime fraud. The extent to which they went to produce authentic Bills of Lading and other documents clearly shows that there is a growing sophistication in the employment of legitimate companies and other businesses to effect the fraud intended. The success of this modus operandi is also due largely to the initial steps taken by these "legitimate businesses" in cultivating the confidence of the banks and their other victims, which could be necessary for the eventual outcome of the fraud.

25 In other simpler cases, the culprits will only gain the confidence of the banks by carrying out some "dummy" runs involving genuine transactions. After they have done so, together with the subsequent negotiations of Letters of Credit with the bank, they will then move in for the "kill". They will, at this stage, submit false Bills of Lading to help them negotiate one or more Letters of Credit for a large amount. After doing so, they then abscond with the proceeds.

26 In one incident, which occurred as far back as 1972, the culprits, after gaining the confidence of the banks, successfully negotiated 2 irrevocable Letters of Credit in respect of a shipment of tin concentrates. It was subsequently discovered that the goods that were shipped were "Ilmenite" ore, a substitute for tin ore, instead of tin concentrates. Although a survey was conducted before shipment and a certificate of analysis given, the tin concentrates were subsequently substituted without disturbing the surveyors' seals which remained intact. Investigations revealed that the worthless substitute was substituted after the wires of the seals had been tampered with. The culprits had also absconded and that there were no traces of them as they were only known by their first names. The said company was also not registered in Singapore but in Malaysia. This company, too, subsequently disappeared with no trace of its directors or promoters.

27 In a more recent case in 1981, the culprits who had a good knowledge of banking practices with regard to the negotiation of Letters of Credit, submitted false Bills of Lading to successfully negotiate a number of Letters of Credit with a local bank. It was finally revealed that the culprits had made previous arrangements with their conspirators in Taiwan for the opening of several Letters of Credit in their favour. The said Letters of Credit were then used to cheat the bank with the false Bills of Lading issued by their company. In this case, a simple check by the bank with the Registry of Companies would have shown that the culprits' company was not a shipping company in the first place and hence could not have issued any Bills of Lading. Another check, too, with the Port of Singapore Authority would have revealed that the ship in question was not in Singapore at the material time and was then operating from Bangkok.

28 Investigations in both cases were hampered or rendered fruitless as the culprits managed to remain elusive by employing several fronts to conceal their true identities. Furthermore certain foreign nationals involved in the fraud were believed to have left Singapore after the commission of the various offences.

29 Difficulties may also arise due to the international nature of maritime fraud. In many cases which involve a conspiracy of several parties located in different countries, the investigation has to provide for the exigencies that arise from the international frontiers encountered. Assistance may be required in such circumstances from Interpol or other national police organisations. Collusion between the parties may make it difficult and costly to obtain the necessary evidence pertaining to the offence. A perennial problem is the difficulty in persuading foreign witnesses to testify at the trial. They are either uninterested, are too busy to spare the time to come, are frightened of repercussions, or are simply not traceable. This is in spite of the offer by the Police to pay their air-fares, lodging and other expenses during their attendance at the trial.

30 Another aspect of investigative difficulties lies in the Police Department itself. Maritime fraud investigation requires that the officers conducting the inquiries need to be well versed with the intricacies peculiar to international maritime trade, banking, insurance, etc. The difficulties that the officer faces when he delves into the subject becomes evident when he is confronted by the specialised terms, language and documents used in those fields. In such cases, an adequate knowledge in banking, insurance and shipping is an

essential requirement for a proper investigation to be carried out. An experienced officer is able to approach the case in a much better perspective if he is "armed" with this knowledge.

He will be able to identify the possible areas where fraud could have been effected and to obtain the relevant evidence to substantiate a possible charge.

31 Although police officers in the Commercial Crime Division do not undergo any specialised or formal training for the investigation of maritime fraud they have successfully investigated such crimes by employing their own initiative and plain detective work, together with advice and guidance from the Attorney-General's Chambers. Furthermore, much insight and experience have been obtained from the many cases of maritime fraud successfully dealt with so far, and every lesson learnt has not been forgotten. The more experienced officers, in turn, have shared their experiences with their younger colleagues, and this practice has at least minimised the need for any formal training for the moment.

32 Finally, it should always be borne in mind that before the difficulties faced by the investigating officers arise, the fraud itself must be identified and recognised. In some cases a "fraud" may appear to have been disclosed but which could actually be only a simple breach of contract that should properly have been dealt with in a civil suit without any police involvement at all. For example, a consignment of inferior goods received may initially be regarded as a case of cheating but which can also be regarded as a breach of contract of sale pertaining to quality. Accordingly, the intentions of the parties involved will be of the utmost importance.

Towards better prevention, detection and investigation of maritime fraud

Usefulness of Survey Report and Cooperation of Surveyors

33 Survey reports provide an independent attestation as to the quality and quantity of the goods awaiting shipment. They may also provide additional evidence as to the physical presence of the goods on board the ship and to the shipment as well. As a great deal of importance is attached to survey reports and to surveyors, such reports should be sufficiently detailed and should cover all the necessary requirements of the buyers or any other persons relying on it.

34 Survey reports provide an assurance to the overseas parties that his goods are all in order and, subsequently, to his releasing the money to the exporter through his banks. Surveyors thus owe a duty of care to ensure that such conditions as are insisted upon by the buyers are met. The surveyors themselves should be both qualified and independent. The conduct of the survey must be in such a manner that the goods are properly and physically checked and assessed. The surveyor must then see to it that the goods are not tampered with or switched with others. To achieve this aim, he can seal the goods after his examination of them or inspect the goods again immediately before it is shipped.

35 In this respect, to prevent non-shipment or the shipment of inferior materials or other items, survey reports should be specified as a condition in the negotiation of Letters of Credit or export credits. In all cases, survey reports should be honest and where necessary, should be qualified with an endorsement that the requirements of the buyer have not been

met. Such a report should be sent directly to the overseas parties for their information.

36 The usefulness of proper and honest survey reports will be instantly appreciated in those cases where false bills of lading are tendered in for the negotiation of Letters of Credit and where no goods are eventually shipped. In one reported case in 1976, mud and water were shipped to the buyers instead of palm acid oil.

Areas in which the Banks and Insurance Companies cooperate and assist the Police

37 The parties that can assist the Police considerably in the fight against maritime fraud are the banks and the insurance companies. Very often it is realised that if greater cooperation had existed between these parties the fraud could have been detected earlier. Furthermore such cooperation can also facilitate and speed up the investigations.

38 There are many possible areas of cooperation between the Police, the banks and the insurance companies. An interesting area of cooperation is the common sharing of information and expertise vis-a-viz the fraudster. Insurance companies and banks can pool their own information and intelligence together on suspected and known companies or persons involved in maritime fraud.

39 However, a much simpler approach can be adopted on the lines of the Hotel Industry's compilation of their "skippers" list. This list concerns hotel guests who "skip" the hotel without paying their charges. Banks, in a similar vein, can come up with a list of persons known to be involved in maritime fraud. However the legal aspects of banking secrecy in

relation to clients may impose some restraints in the compilation of any such list. This list will not have to necessitate the suspension of business dealings altogether with the suspects in mind but can provide the basis for the exercise of the necessary caution in any further dealings with the suspect till the matter is resolved.

40 Insurance companies, however, have less restrictions in the compilation of such a list as the nature of their business requires them to check the background and nature of the policy required. However, the practice of allowing insurance brokers to transact on their behalf has given rise to the emergence of a different problem. Insurance policies may be more easily obtainable with the minimum of checks through such brokers and this increases the risk of a policy which has been previously denied by other insurance companies, being issued. The competitive nature of the market and the commission basis on which the earnings of brokers are based means that such practices will continue unless a concerted effort is made to remedy this weakness.

41 On the other hand if brokers conduct a proper research into the background and nature of the request for the policies, they will be in a better position to prevent maritime fraud by consequently refusing to accept clients with a history of claims or suspected involvement in maritime frauds. With the ease with which companies can assume different identities, a comprehensive list of companies and their authorised officers can be compiled to be of use in the insurance industry and to insurance brokers and agents. The list can also incorporate details available from the banks and vice versa.

42 The practical aspects of implementing such a scheme should be noted while the relevant relationship between the

banks and their customers should be respected. However, even with the many constraints imposed on the making of such a list, an acceptable compromise to all the parties involved can be reached and such a scheme adopted as it will be of great potential benefit to those concerned with the prevention of maritime fraud.

43 The Police on their part should enlist the cooperation of the banks and the insurance companies, not only during the course of their investigations into a crime after it has been reported, but also in their continual efforts to prevent maritime fraud. In this respect, the Police can help to provide an environment that will be conducive for effective cooperation with these bodies. They should convince the banks and insurance companies that they are working as a team together with the Police in seeking to prevent the commission of maritime fraud rather than being regarded as bystanders to be called in to assist in the investigations only when the crime has been committed.

Conclusion

44 Maritime fraud can be prevented if proper care is exercised and documents are checked and controlled by those involved in international maritime trade. From the various modus operandi in cases that have occurred, a few simple precautions can be improvised to help prevent a higher incidence of such frauds. The point to note is that maritime fraud, like all other crimes can be prevented.

45 An important preventive measure is the use of survey reports. Such reports, as mentioned earlier, make it more difficult for the fraud to be committed as an independent surveyor will have to examine the goods in question. The

surveyor also acts as an independent contact between the overseas client and the exporter, unlike other cases where contact is made between the parties themselves by calls and correspondence only.

46 As can be seen, banks can play an important role in the prevention of maritime fraud. Although the ICC Uniform Customs and Practice for Documentary Credits does not require negotiating banks to check on the truthfulness of the shipping documents presented, banks should not only accept such documents as long as "they appear on the face to be in accordance with the terms and conditions of credit" but should also employ and exercise a degree of business sense and caution that would be expected of their trade. To illustrate the point I would relate the salient facts of a recent case, where the bank officer concerned, who should have had some grounding in commodity trading, did not realise that the export of a tonne of "birds nest" in one shipment is practically not possible. In a scarce market for such a rare item the accumulation of such a huge quantity would be a marvellous feat of business or a sheer miracle. His suspicions should have been aroused and drawn him to a closer scrutiny of the Bills of Lading presented (which turned out to be false). Unfortunately, this was not so and the culprit managed to cheat the bank due to the bank officer's poor exercise or lack of, business sense. Banks and their officers should therefore take note of this incident.

47 The need for the exercise of prudence also applies to insurance companies. In a glaring incident, as revealed in a recent case, the insurance broker placed cover for \$20 million for his clients' cargo. The shippers' previous nominations of 3 vessels had been unacceptable to the insurance companies due to one reason or another. A fourth vessel was however,

subsequently used as the broker, being too preoccupied with his brokerage commission, overlooked the possibility of fraud in that case. He therefore failed to exercise prudence in his hurry to provide cover. Because of this, and other factors, the fraud was accomplished.

48 A further preventive measure is for the various parties involved in maritime trade to exercise proper care before extending credit facilities, delivery or payment in any business transaction. A prudent businessman will be able to avoid being a victim of maritime fraud at only a minor inconvenience of having to establish the background of his clients, especially if they are recent ones. However, business convenience and the risk-taking nature of most entrepreneurs invariably seems to dictate otherwise, but only at a high price if the wrong decision is made. The important point to note is that a little care and dilligence goes a long way in reducing incidents of maritime fraud. Insurers, bankers and businessmen as a whole should employ these inexpensive measures and protect themselves from maritime fraudsters.