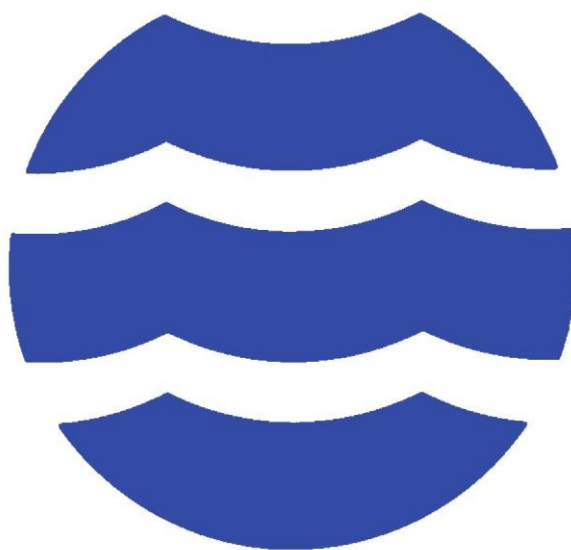


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# **CONFIDENTIAL BULLETIN TO MEMBERS**

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## THE GROWTH OF THE MISREPRESENTED BILL OF LADING

Since 2008, the IMB has witnessed a prolific growth in what it has termed the mis-represented Bill of Lading.

Like the banks that negotiate such documents for payment in international trade, the IMB relies on the key information contained on the B/L in order to initiate its enquiries. What has been observed is that certain material facts are deliberately mis-represented or omitted from the shipping documents that trigger payments under L/Cs.

Typically the mis-representations include changes to the vessel name, ports of loading and discharge and container numbers.

All the above tactics are employed to divert attention from the true relationships or parties involved in the underlying transaction.

The increase in this activity is for one main reason – an attempt to circumvent the regulations against trade with sanctioned countries such as Iran. At first glance, the companies involved in issuing such documents would appear to have no relation or connection with sanctioned parties.

In one series of recent referrals from a number of different banks, the documents – all issued by the same party in Pakistan – covered containerised shipments purportedly for discharge at Jebel Ali. IMB enquiries quickly established that many of the actual containers were shipped directly to Bandar Abbas. The Bureau also found that several of the vessels listed simply did not exist. Some of the shipping documents had no carrying vessel listed - only a

reference to the voyage number. The Bureau also found that many of the container numbers provided did not comply with the industry standard. It was quickly established that the numbers had been altered to mask the true ownership of the containers.

Another recent development suggests an increase in pre-financing schemes, where payment has been made well before the shipment has actually been effected. In one series of referrals late last year, it was established that the shipments took place more than six weeks after the documents had been presented to the banks. This was in addition to the mis-represented tactics described above.

Banks and other financial institutions face stiff penalties if they are involved in any US dollar transactions that have a connection to any sanctioned entities. It would appear that the issue of mis-represented Bs/L is not just confined to Iranian entities. The Bureau has found that many agents and others associated with shipments are reticent about providing the correct information, even when that is contradicted by independent sources.

As part of its service to members, IMB conducts due diligence on all trade documents, including Bills of Lading, and seeks independent third-party verification to provide an extra level of confidence in transactions. Such checks have recently proved invaluable in identifying parties and trades intent on mis-representing the material facts on Bs/L in an attempt to counter sanctions against certain countries, which are unlikely to diminish in the short term.



# COMMERCIAL CRIME

## International

March 2010

### Beware Iranian schemes that manipulate trade finance

Iran's woes – a weak economy, a weak currency and the debilitating consequences of economic sanctions – are starting to have financial consequences for others beyond that country's national boundaries, with banks around the world now facing new challenges that they must be prepared to respond to.

So says the ICC International Maritime Bureau (IMB), which has uncovered evidence that various organisations linked to Iran are currently exploiting the trade finance system in a bid to get their hands on hard currency and prohibited goods.

Amongst the cases investigated by the Bureau is one of a NVOCC set up in Hong Kong that issued bills of lading for cargoes to be shipped from Asia to Jebel Ali. But close scrutiny of the documents revealed that the vessel named did not correspond to that of any existing ship, and that the container owner code had not been allocated. Instead, a vessel with a very similar name was found regularly operating into Iran. And in addition, if the container owner code on the documents was substituted with that of a registered carrier, it corresponded with that of a 'real' container. Moreover, when the IMB looked into the ownership of the Hong Kong NVOCC it found the company behind it was a sanctioned carrier. Subsequently, the IMB has found another two NVOCCs set up to perform the same function, and has identified a number of other

NVOCCs that are willing to issue documents knowing that they relate to sanctioned shipments. It says it also knows of agents, mostly in the container trade, who are issuing documents knowing full well that the shipments referred to are not starting from or going to the destinations stated on the bill of lading.

The agency says that against a background in which Iranian officials 'tolerate' improperly drawn bills of lading to bypass sanctions, it is logical to conclude that other abuses of the trade finance system also take place such as capital flight that further damage the local economy. The IMB is aware of a number of such schemes as a result of enquiries that have been done.

A case uncovered that may relate to this involved container cargoes shuttling from the UAE to Iran. In this instance, the IMB found that the shipment was being paid for by buyers in Iran at an inflated price. Thus the group were able to convert funds in weak Iranian Riyals into harder currencies such as the UAE Dirham or US Dollars. Moreover, on every occasion the buyers and shippers involved in the transactions turned out to be related companies, and they used a number of different banks in Iran and the UAE to disguise the operation. The IMB believes that a significant part of the container trade into Iran is in some way misrepresented, underlining the need for banks to be on their guard as the consequences

of getting caught facilitating such transactions could have serious consequences. If payments are made in US dollars there is a risk that if they are identified to be linked to a sanctioned transaction or parties, the funds could be frozen whilst in transit through New York for settlement. At the very least this means that the Seller may not get paid for a considerable period of time and this may become an unforeseen credit risk for the bank involved.

The agency says the danger for banks from these types of operations is that they only see their part of the transaction, which makes it very difficult to spot money laundering, capital flight, sanction-busting and any other dubious transactions. Whilst encouraging banks to check the information on all documents to make sure it is correct as a matter

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## Trade Fraud

### Iranian trade finance manipulation

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of routine, the IMB warns that this, in itself, will be insufficient to see the whole picture and be able to identify any emerging patterns of malpractice. For this reason, it urges banks to report any suspicious documents to its document checking service for further verification.

An IMB spokesman points out that it is in the banks' interest to do so, as they are unlikely to be able to identify a sanctioned shipment based on just the information they are given, the penalties for being found complicit in sanction-busting are high, particularly if the bank also operates in Europe or the US, and they are unlikely to get much sympathy from regulators if they are unable to show that they have measures in place to detect such schemes. Finally, they should not forget the potential damage their reputation might suffer if linked to one of these schemes.

### Australia wants port workers fingerprinted

LAW enforcement agencies are pressing the Australian government to introduce mandatory fingerprinting for 200,000 port and airport employees to reduce the risks of terrorism and criminal infiltration of the shipping and aviation work forces.

The move comes after reports that an Australian Crime Commission investigation last year found wharves and airports had been infiltrated by organised crime figures.

A separate review of the maritime security identification card system

### Mexico cargo fraud warning

THE ICC International Maritime Bureau is warning members to watch out for cargo fraud involving Mexico after investigating a number of related cases in recent weeks.

The fraud concerns shipments of container loads of chemicals that have been stolen whilst en-route to the same terminal in Altamira. Because they are not checked or weighed after arrival at the terminal, the losses have only been discovered weeks later when they reach their final destination and are opened.

The IMB says there is widespread evidence of organised crime involvement in the theft of the contents of up to 100 containers, which it is certain took place before they arrived at the port. Harking back to container thefts of years ago, it appears the trucks carrying the containers are stopped on the road where the hasp rivet on the container is compromised and the contents transferred to another waiting vehicle. This method ensures that when the container arrives at the port its seal appears intact. The gangs behind the fraud would appear to know that the crime will not be discovered once this check has taken place and that the container will not be either weighed or inspected again before it is loaded.

In addition, it says that the stolen goods have all been transported by the same trucking company and that all nine of the cases it has investigated on behalf of a member to date involved nine separate drivers, suggesting not only that the scam is widespread within this trucking company but also that a large number of its drivers have been coerced in one way or another by organised crime to become complicit. The IMB believes the chemicals, once stolen, may be going to South America for resale.

A spokesman said that whilst the reason for the theft is not entirely clear, it may be that cargo fraud of this nature is now preferable to other traditional types of organised crime, which the Mexico police have clamped down on in recent months. Certainly, the theft of goods from trucks in the country is fairly widespread. Insurance companies have estimated that 1% percent of all cargo trucks on Mexican roads are attacked each month. And in 2008, Kroll put financial losses due to cargo theft at \$80 million. It also says that a company employee is directly involved in over 80% of theft incidents.

meanwhile found cases where employees convicted of criminal offences, including violence and identity fraud, had been issued the identification cards.

CrimTrac, the agency that carries out checks on criminal records of workers with access to sensitive areas in ports and airports, last month told a parliamentary inquiry that existing name-based background checks can be evaded with the use of aliases or assumed identities. It says the security system should be tightened by requiring fingerprint-based criminal record checks of all employees

applying for a new aviation security identification card or maritime security identification card.

The Australian Federal Police Association has backed the proposal, which would involve electronically scanning and storing the fingerprints of 120,000 employees with aviation cards and a similar number of workers with maritime cards. The cards allow unescorted access to security zones in airports, maritime ports and offshore oil and gas facilities. In Australia's sea ports these are held by stevedores, truck drivers and maintenance workers.



# COMMERCIAL CRIME

## International

December 2010

### IMB offers members a solution to increased Iran sanctions pressure

As the regulators ramp up the pressure on anyone caught trading with Iran, the need to take precautions grows ever greater. And as banks and marine insurers can find themselves as culpable as traders, all parties to a transaction are required to increase their due diligence and trade document checking procedures as a matter of priority. This might seem straightforward, but some of the sanctions busting schemes are complex and hidden beneath layers of corporate and transactional subterfuge.

There have been several developments on the sanctions front in recent months that indicate the size, scale and variety of the issues that currently need to be addressed, and which provide a reminder of the problems that honest traders, shippers and their banks face.

#### Ramping up the pressure

In July, EU foreign ministers decided to impose tougher sanctions on Iran's oil sector, limiting dealings with Iran's state shipping company and air cargo transporters. In August, London's marine insurance market created a clause to ensure underwriters do not breach sanctions. As a result, it had been claimed that Iranian-flagged ships are facing problems all over the world as they now have no insurance. In November, President Obama is reported to have discussed with Indian government officials a list of 41 Indian compa-

nies that may be violating US and EU sanctions against Iran. Allegedly, these companies include India's second largest oil production company, which apparently has plans to increase its dealings with Iran.

#### IRISL focus

And broadening its campaign against Iran's Islamic Republic of Iran Shipping Line (IRISL), the US last month named another 37 companies in Germany, Malta and Cyprus that it alleged were fronts for IRISL. The Treasury Department's list of designated IRISL front companies and affiliates is currently nearing 70, and it has also named more than 100 ships that are allegedly involved in 'deceptive' behaviour. The complete list can be found at <http://www.ustreas.gov/offices/enforcement/ofac/actions/20101027.shtml>

More recently, European Union foreign ministers agreed to ban all cargo handling by IRISL within EU territory as a result of the increased sanctions, the details of which were reported in CCI in September. In future, the loading and unloading of IRISL ships in EU ports will be illegal, although the EU will still allow IRISL to operate within its territory. In addition, the EU has also issued regulations outlining tough restrictions on the sale of equipment and technology to the Iranian oil and gas industry, as well as investment in those sectors.

#### Iranian response

Iranian President Ahmadinejad may have said that imposing sanctions on Iran has been the "most ridiculous and failed" move adopted by the world powers, but they are clearly hurting enough for Iran to continue finding new ways to keep trading.

Iranian weapons, for example, were recently found in a container in Lagos, Nigeria, that was declared to contain building materials. It is only the latest of many cases reported by the IMB to its members. Indeed, the anti-crime agency says it has found at least 30 instances of bills of lading being switched to evade trade sanctions against Iran in recent months, prompting it to take new measures to ensure

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## Sanctions

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### IMB helps identify sanctions busting - from page 1

members are kept right up-to-date with developments to give them the best possible chance of avoiding getting caught up in the current sanctions-busting debar, and thus minimise the risk of the possible penalties that can result.

#### **Ahead of the curve**

Commenting on tactics to avoid sanctions using front companies and innocent third parties, the IMB says it has been seeing crudely doctored bills of lading for some time. As a result, it has been able to assemble a growing list of techniques, trades and victims that are passed onto members.

Apparently, if you know what to look for it's not that hard to spot a suspicious transaction. The key things to check are the designated port and vessel, and incorrect container owner codes. Importantly, the checks can be done quickly and the results/warnings issued virtually in real time, and certainly in sufficient time to instigate preventive action in most cases.

Another, more recent, trend is for the shipment to take place but not as recorded on the bill of lading. For instance, there have been cases where the actual shipment took place on a different ship and to a different port several weeks after

that recorded on the bill of lading. This may be a tactic to ensure the money is received before the goods are shipped and so avoid the deal being defeated by the sanctions.

"The problem with the various lists of alleged sanctions-busting companies being produced is that the information is invariably out-of-date by the time traders get access to it," says an IMB spokesperson. "That's not anyone's fault, but it does mean that honest traders and their banks run the risk of having inadvertently broken sanctions before they discover the problem, and are thus on the back foot in terms of trying to avoid the inevitable financial penalties that will result when the trade and their involvement in it eventually comes to light.

#### **Proactive response**

"Our approach, on the other hand, enables traders and shippers to be proactive. They and their banks send us the documents for checking and we quickly tell them whether there is any cause for suspicion. If there is, they are in a much stronger position to respond in time to avert the danger, and we are in a position to offer advice if needed" he adds.

In another proactive move to help members understand sanctions' issues, the IMB has also put to-

gether a presentation that it uses to forewarn members of the potential dangers they now face. The presentation, which is either given at the IMB or member's office, looks at the background to the current situation, highlights some typical target trades and explains the key warning signals. The IMB says it is getting a very positive response from those members who need a crash course on the problem, and that it is proving an excellent way of quickly getting them up to speed on its potential to do harm, as well as providing some simple steps to avoid being caught out.

#### **IRISL**

US Treasury officials continue to maintain that IRISL "is a prime carrier of cargoes related to Iran's missile and other military program as well as of arms shipments to Hezbollah." Treasury Undersecretary Stuart Levey has said that Iranian tactics to evade sanctions include "repainting or renaming ships, falsifying shipping documents and assigning vessel ownership to front companies outside Iran." He has also called for more vigilance over both Iran's domestic shipping lines and attempts to use third-country shippers and freight forwarders for illicit cargo. It is essential that governments throughout the world now ensure the new sanctions are translated into action, he added.

In essence, this almost certainly means that sanctions' issues are only going to get bigger in the short-term, so prudent traders, shippers and banks might be wise to accept the inevitable and think about increased measures to protect themselves. It may even be appropriate to follow the example of companies like Royal Dutch Shell, which has already conducted a risk assessment on the impact of sanctions on its business with Iran, and stopped some of its activities as a result. Time will tell, but it seems likely that doing nothing is no longer an option.

### UAE feeling the pressure too

The UAE may have a long history of commercial links and strong ties with Iran, but apparently even it has been feeling the pressure to tighten-up trade oversight recently, in the light of the new sanctions.

It is reported that the Ras Al Khaimah free-trade zone, just across the Straits of Hormuz from Iran, has, to comply with sanctions, all but stopped issuing new licences to Iranian companies. In September, the Dubai Financial Services Authority, which regulates activity in the Dubai International Financial Centre free zone, announced that it had frozen the accounts of the Dubai branch of the Persian International Bank. And last month, in another move, the UAE Central Bank signed an agreement with the Dubai Multi Commodities Centre requiring that free zone to share information on any financial transaction suspected of having links to money laundering for the possible purpose of terrorist financing. The agreement requires that a compliance officer will operate within the free zone and monitor financial transactions.