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Fraud in Letter of Credit - Malaysian Banks' Perspective

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FRAUD IN LETTER OF CREDIT – MALAYSIAN BANKS' PERSPECTIVE

Rosmawani Che Hashim,¹ Ahmad Azam Othman² & Akhtarzaite Abdul Aziz³**Abstract**

Letter of credit (LC) is a payment mechanism in international trade which is claimed to provide utmost security to the contracting parties compared to other methods of payment. The security provided by this device however does not extend to fraud risk. The nature of LC transactions and rampant development in technology has opened a pathway for fraudster to capitalize on the dependence of the parties to the LC transactions on paper-based documentation. Since LC documents can be easily fabricated, there are many occasions in which the payment by LC were refused in introductory trade relationship due to suspicion of fraudulent documents. Moreover, the existence of fraud may destroy the smooth flow of LC procedure of payment and cause a disaster to the whole transaction. Consequently, fraud in LC transaction will frustrate the parties involved such as buyer, seller as well as banker. This paper aims to examine the fraud climate in LC transactions with special reference to Malaysian banks practices. Furthermore, it seeks to identify the *modus operandi* used by fraudsters in LC transactions in Malaysia. Last but not least, it highlights the actions undertaken by Malaysian banks in dealing with fraud in LC transactions. Due to lack of published materials and written information of this issue in Malaysia, interviews were conducted with LC's key person and experts to explore the real situation. The finding of this study established that the phenomenon of fraud in LC transaction is not uncommon in Malaysia where its occurrence is marginal and not negligible.

INTRODUCTION

Letter of credit is one of the methods of payment which is used to facilitate trade locally and at international level. By using LC, payment for the goods will be made based on compliance of seller's documents. The bank plays an essential role in this payment mechanism where the bank acts as a reliable paymaster to advance payment to the seller. In making payment, banks in LC transaction are dealing with documents only.⁴ This kind of arrangement in certain situation has given an opportunity for the fraudsters. What the fraudsters must do is to prove to the bank that they have a contract, which is actually fictitious. Bank will then issue an LC after having been confirmed by customers that their dealing is credible. When documents are presented to bank against LC, it is not possible for the bank concerned, neither it is required under the UCP, to verify the genuineness of any such documents including the bill of lading or the signature thereon.⁵ The vast number of shipping companies and their agents throughout the world, most of who are empowered to issue bills of lading, make such a check totally impracticable. Internationally, it is renowned that the existence of fraud in LC transaction is a signal of disaster to commercial sale. Victims of LC fraud will suffered bankrupt and to certain extent total loss to their business.

Fraud in LC transaction is possibly perpetrated by the intentions of fraudulent buyer, seller and financial intermediary.⁶ Among these three patterns, fraud committed by seller is the easiest and is common⁷ whereas it is unlikely to have fraud arranged by buyer alone to import the goods and

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⁴ Article 5, UCP 600.

⁵ See, Article 34, UCP 600.

⁶ Donal Curtin, *Letters of Credit, Combating Commercial Crime*, Edited by Weston, Rae, The Law Book Company Limited, New South Wales, 1987, at 114.

⁷ For instance, "false documents are presented by the seller to the bank, which comply with LC terms. The confirming bank pays and sends documents to issuing bank. The buyer believes that the cargo has been loaded and on its way to its destination. In many cases, it is only when the vessel is due to arrive at destination port that the buyer discovers that the cargo, as contracted, has not been loaded on board. He has paid put under spurious documents." Mr P. Mukundan, Director, ICC Commercial Crime Services, Seminar on "Managing International Trade Fraud Risks." 13 May, 2010, Kuala Lumpur; see also, Ricky J. Lee, "Strict Compliance and The Fraud Exception: Balancing the Interests of Mercantile Traders in The Modern Law of Documentary Credits," (2009) *Mqjbl* vol 5, 137-169, LexisNexis database.

disappear.⁸ Similarly, it is very rare that a financial intermediary or a bank misappropriates the proceeds.⁹

In Malaysia, payment by way of letter of credit (LC) is also the most frequent method used by traders and issued by bankers.¹⁰ It was established that similar kind of *modus operandi* is perpetrated in LC transaction by fraudsters. This paper examines the fraud climate in LC transactions from the perspective of Malaysian banks practice. Secondly, it determines the *modus operandi* used by fraudsters in LC transactions in Malaysia. Thirdly, it highlights the actions undertaken by Malaysian banks in dealing with fraud in LC transactions.

METHODOLOGY

This study adopted qualitative method. Due to the lack of published materials in this area data collection was conducted by in-depth face to face interview with respondents as an alternative way to obtain information. In addition, this approach is claimed to be the most suitable way to obtain specific information which is difficult to be disclosed in public.¹¹ Thus, since LC is a subject which is not widely discussed in Malaysia, information pertaining to LC is considered as specific¹² and difficult to be obtained.¹³ Therefore, an in-depth interview is the most appropriate data collection method for the completion of this study.

Overall, 30 respondents participated in interviews. A majority of respondents are Malaysian commercial bankers. The rest are trainers and also director of the International Maritime Bureau (IMB). Since there is no specific requirement for the number of respondents in qualitative research,¹⁴ the respondents were selected based on certain criteria such as their position,¹⁵ experience¹⁶ and accessibility to be approached. For the sake of ethical reason, the names of the respondents and the institutions where they attached were not disclosed and the respondents are labeled by the capital letter R such as R1, R2 or R3. As such, their institutions were labeled as Bank A, Bank B or Bank C and AA, BB or CC.

This study has used structured or guided discussion interviews. This technique was applied since the researcher knew at the outset what information was needed,¹⁷ and the researcher had a plan of sequenced questions to take the respondents through.¹⁸ Questions for structured interview were drafted based on information gathered from reading materials and collected literature. This study did also use unstructured interviews conducted in an informal manner to obtain information on experiences, opinions, attitudes, feelings or perceptions.¹⁹ Structured interviews were

retrieved 2 June, 2010 at 138; see also, Miller, Norman I, "Problems and Patterns For Letter of Credit," (1959) HeinOnline. U. Ill. L.F. 162, at 186, JSTOR database <<http://www.jstor.org/stable/755155>> retrieved 19 March 2010.

⁸ "However, it is observed that these days of computer generated document, it eased the fraudulent buyer to produce a bill of lading in which appearance of the script is exactly the same as original. The buyer may use this false bill of lading to collect the cargo directly at the port without going to the bank and pay the cargo to get the bill of lading." Mr Mukundan, n 4.

⁹ See also, *Zulkiflee bin Hj Hassan & Anor v PP* [1991] 1 MLJ 240.

¹⁰ Unanimously agreed by Malaysian Commercial bankers ((Interviewed by researcher, 20 May, 2009).

¹¹ Neil, J. Salkind, *Exploring Research*, 7th Edition, Pearson Education International, 2009, at 195.

¹² It is specific since LC is not the general knowledge which is known by public but only bankers and trainers or expert can explain how LC works.

¹³ It is difficult to obtain as certain LC information such as relevant material, data and statistic are considered as confidential and not published.

¹⁴ "To provide some idea of the scale of qualitative investigation one might expect to achieve between 20 and 50 interviews for a one-to-one investigation and around 60 to 100 participants at group interview, depending on the research question." Wilmot, Amanda, *Designing sampling strategies for qualitative social research: with particular reference to the Office for National Statistics Qualitative Respondent Register*, via Google <www.statistics.gov.uk/about/services/dcm/downloads/AW_Sampling.pdf>, viewed 1 Feb, 2010.

¹⁵ Mann used 10 bankers who engage in LC transactions in his study on discrepancies in LC transaction, see, Mann, Ronald, J, *The Role of Letters of Credit in Payment Transactions*, (1999) 98 Mich. L. Rev., 249. via Google <http://papers.ssrn.com/paper.taf?abstract_id=214633>, viewed on 5 July, 2007.

¹⁶ Most of the respondents are the Head of Trade finance of Malaysian commercial banks.

¹⁷ Most of the respondents have six to 15 years experience in LC affairs.

¹⁸ Sekaran, Uma, *Research Methods For Business*, Fourth Edition, John Wiley & Sons, Inc, United States of America, 2003, at 227; Anwarul Yaqin, *Legal Research and Writing*, Malayan Law Journal, Malaysia, 2007, at 170.

¹⁹ M. Clark, *Researching and Writing Dissertations in Business and Management*, 1st Edition, Thompson Learning, Croatia, 2000, at 132.

¹⁹ Sekaran, n 13 at 225; Yaqin, n 13 at 170.

conducted with bankers and trainers or experts, whereas unstructured interviews were carried out with the director of IMB.

DATA GATHERING

Once the specific respondents were identified, the appointment was arranged for the interview through phone calls or e-mails. The respondents were contacted by phone where the researcher explained the aim of the study and enquired about a specific department which handles LC matters. An authorisation letter from employer which highlighted the purpose of the interview was later submitted to the identified respondent.

The interview questions were emailed prior to the interview date in order to give the respondents an opportunity to have a clear picture about the issue to be discussed. In addition, it saved time in reading the questions and provided ample time for the respondents to sketch the answers. The interviews took between one (1) to two (2) hours. In certain cases, due to their tight schedule, some respondents could spend only half an hour for one meeting. Therefore, those respondents were interviewed for more than one (1) time.

During the interview, the conversation was recorded from the beginning until the end of the session. The IC recorder²⁰ was used to record the interviews. Prior consent was obtained before the commencement of the interview and all the respondents agreed to be recorded.

DATA ANALYSIS

All recorded interviews were transcribed directly on the same day of the interview. For verification, the complete verbatim transcriptions was saved in the Microsoft Word format and attached to the respondents' e-mails. Only two (2) respondents edited and returned the transcription while the rest agreed with the original attached transcriptions. The respondents were always referred to should new issues arise in LC matters and subsequent meetings or phone interviews were conducted whenever necessary.

Furthermore, the interviewed data was analysed using Nvivo software version 8, which is the latest version.²¹ First, the themes were created in accordance with the issues focused on the interview namely LC and fraud. These two (2) themes were stored in nodes,²² called parent nodes. Under these parent nodes, there were child nodes. The child nodes represented the questions for the interviews which had been converted in the form of summarised phrases such as "fraud – Direct Implication to Banks, Fraud in Document – Modus Operandi, Suspicious Fraud – Bank's Action and Fraud on Goods – Bank's Action. After all the child nodes were coded in the tree nodes, a thorough checking and reading of each node were done by the researcher in order to make sure that the child nodes were properly coded under the correct parent nodes.²³ Adjustment was made to the tree nodes where certain nodes were removed if found not to be significant or overlapping with other nodes. In addition, new themes and nodes were created should new issues be discovered based on the interview data.

The data was analysed by using coding query. Matrix coding query was primarily used to analyse all the child nodes which automatically created the data in the form of figures. Query based on attribute condition was used in all the nodes. Then, the figures were exported to Microsoft Excel to enhance the view where they were converted into bar charts in order to clarify the findings

²⁰ IC stands for Integrated Circuit; IC recorder is a digital voice recorders.
²¹ "Nvivo is a qualitative data analysis (QDA) computer software package produced by QSR International. It has been designed for qualitative researchers working with very rich text-based and/or multimedia information, where deep levels of analysis on small or large volumes of data are required." QSR International, "What is qualitative research?" <<http://www.qsrinternational.com/what-is-qualitative-research.aspx>> viewed on 27 November, 2008.
²² "Nodes in Nvivo will store coding about topics or concepts or themes, but sometimes nodes are used for organizational purposes." Patricia Bazeley, *Qualitative Data Analysis with Nvivo*, SAGE Publication, 1st Edition, 2007, reprinted 2008, at 83.
²³ "Adjustment and re-organization of the tree nodes (which consist of parent nodes and child nodes) in Nvivo is a continuous process to develop a clear structure and to gain confidence in working with data." Bazeley, n 18 at 85.

during analysis. Editing was done in Microsoft Excel before all the figures were copied to Microsoft Word to be analysed.

FINDING

In Malaysia, there are no statistics which represents specific data on LC fraud.²⁴ Based on the responses given by Malaysian bankers, fraud in Malaysian LC transaction is always perceived as "not so serious and very rare."²⁵ One (1) Conventional banker states:

"In term of percentage, very minimum we got fraud cases. LC fraud is very-very low. I can tell you in banking the highest fraud cases will be for credit card and the lowest will be LC."²⁶

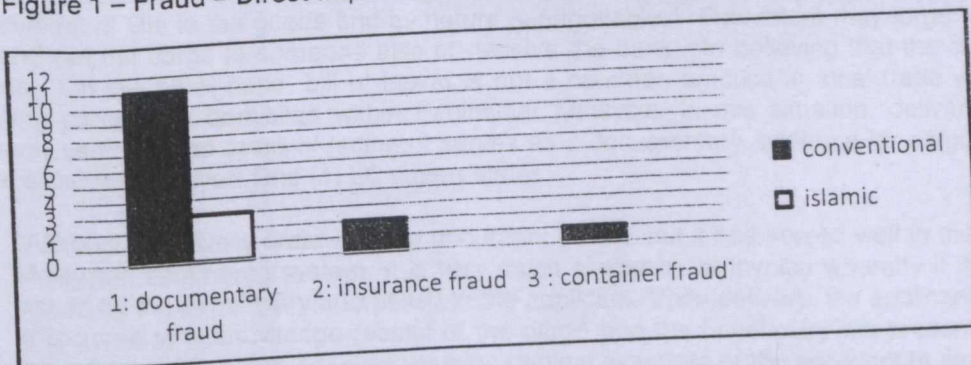
Conversely, a different remark given by one (1) foreign expert when asked about LC fraud's climate in Malaysia:

"It is difficult to be specific, I probably can't estimate. But I don't see any reasons why Malaysia should be any different to any other part of the world, because fraudsters are there in every country. Every commercial centre will have the same proportion of crooked people that you have anywhere else. So, in Dubai, London and Hong Kong, we will have a large numbers because the volume is higher but the proportion is exactly the same. In Malaysia too, you have had some major frauds over time."²⁷

These divergent views prompt the researcher to further explore the real situation in Malaysia pertaining to LC fraud. For a clear interpretation of how Malaysian bankers deal with fraud in LC transaction in Malaysia, the responses are converted into figures below. To enhance the findings, the analysis is divided into conventional and Islamic banks.

Fraud – Direct Implications to Bank

Figure 1 – Fraud – Direct Implications to Bank



The above figure 1, column 1 shows that documentary fraud is admitted as being the most famous category of fraud committed in LC transaction in Malaysia. Other types of fraud are insurance fraud (column 2) and container fraud (column 3) which form a small percentage of LC transaction. Documentary fraud is reported to be on the rise during financial and economic crisis

²⁴ Inquiry for LC fraud statistic has been forwarded to the Central Bank of Malaysia, Malaysian Commercial Banks, Malaysian Royal Police and other relevant governmental and non-governmental bodies but, notwithstanding the banker's secrecy or confidential matter, no statistic on LC fraud specifically reported by those institutions. However, the statistic of fraud crimes is provided by the Royal Police of Malaysia which includes commercial fraud on African scam, atm card, lucky draw, credit card etc.

²⁵ This fact is unanimously agreed by the respondents which consist of Malaysian bankers and experts.

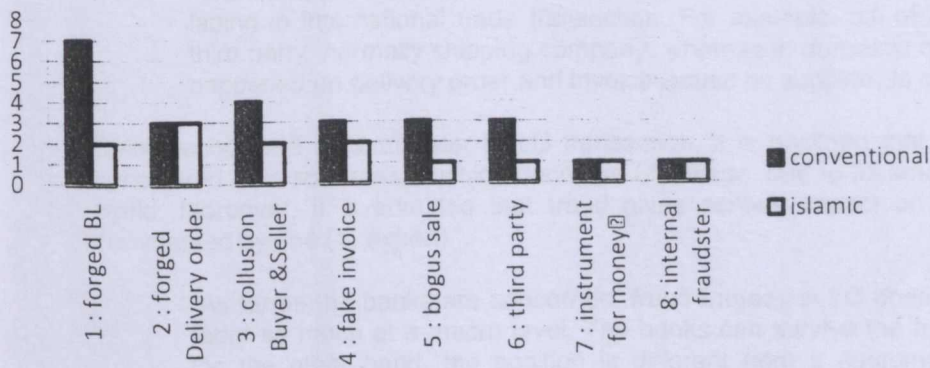
²⁶ R20, Bank R (Interviewed by researcher, 23 July, 2009); R9, Bank G (Interviewed by researcher, Penang, 18 June, 2009).

²⁷ Mr. Pottengal Mukundan, Director of the ICC International Maritime Bureau, London (Interviewed by researcher, 20 May, 2009).

where fraudsters may make use of LC to get financing from the bank for non-existence cargo. Accordingly, it appears that the fraud in LC operations is quite rampant in the economic adverse climate.

Fraud in Document – Modus Operandi

Figure 2 - Fraud in Document – modus operandi



Further interviews with those particular bankers who experienced fraud in documents revealed that the common modus operandi used by fraudsters involves a combination of fraud as presented by figure 2, column 1, 2, 3, 4, 5 and 6 which consists of presentation of forged documents such as bill of lading, forged delivery order, fraud colluded by buyer and seller, faked invoice, bogus sale and fraud perpetrated by third party.²⁸ Other modus operandi as shown by column 7 and 8 involves, using LC as an instrument for money laundering²⁹ and internal fraudster.³⁰

As shown by column 1, forged bill of lading is the highest ranking fraud in Malaysia. Bill of lading is a document of title to the goods and by nature is negotiable.³¹ Fraudsters may forge this bill of lading and sell the cargo to someone else or deceive the bank into believing that the cargo is in existence. On the other hand, bill of lading is not a common practice in local trade where the contracting parties are domiciled within Peninsular Malaysia. In this situation, delivery order is customarily used instead of bill of lading. It serves as a documentary evidence for cargo delivery from the seller to the buyer. One (1) LC expert states:

“Although a delivery order is not a document of title, but it has served well in the Malaysian commerce system. It is very much similar to an invoice whereby it is issued by the beneficiary addressed to the applicant. Upon delivery, the applicant is required to acknowledge receipt of the cargo and the beneficiary will present the acknowledged delivery order bearing original signature of the applicant to the bank for negotiation.”³²

The use of delivery order in local trade is due to domestic infrastructure layout, transport system and geographical condition where delivery of cargo of various natures including liquid cargo is made by road transport. This long established custom has obligated the presentation of a delivery order to form one of the conditions in the local LC. Being the widely used document in local trade, the inherent risks are undeniably devastating as this document is not issued by a third party but

²⁸ For example, bill of lading is faked by third party, normally shipping agent, see *United City Merchant Investment v Royal Bank of Canada* [1983] 1 AC 168, per Lord Diplock, at 178.

²⁹ Money laundering is defined by Section 3 of the Anti-Money Laundering Act (AMLA) 2001 as “any act which acquires, receives, possesses, disguises, transfers, converts, exchanges or removes from or brings into Malaysia proceeds of any unlawful activity.” Any transactions which involves an unlawful act such as drug money or money derived from crime or criminal acts are amount to money laundering.

³⁰ Fraud committed by banks' staff, see example, at 154.

³¹ See, Article 20, UCP 600.

³² R28 from Z Company (Interviewed by researcher, Petaling Jaya, 20 July 2007).

by the beneficiary himself. This would open up a large leaking hole as fraud collaboration may easily take place. The fraud collaboration is untraceable if the trade transaction takes place between subsidiary companies or companies which share the common directorship. In conducting document checking, banks normally give high priority to delivery order where in some cases confirmation of receipt from the applicant would make a big difference in detecting fraud.

Indeed, bill of lading is the famous 'vehicle' used by fraudster, followed by delivery order (column 2), collusion by buyer and seller (column 3) and fake invoice (column 4). These approaches directly implicate the banks as viewed by (1) Conventional banker:

"The most famous fraud is documentary fraud. It is always happened on bill of lading in international trade transaction. For example, bill of lading is faked by third party, normally shipping company, whereas in domestic trade, fraud always happened on delivery order and invoice issued by supplier, to cheat the bank."³³

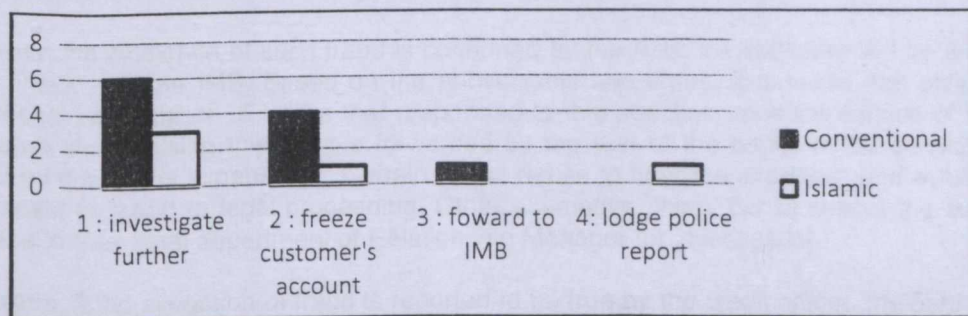
Being recognised as a disaster to LC transaction, it is declined that fraudulent bill of lading is considered as a sole reason which decrease LC usage, due to its small percentage in the whole world. Moreover, it is admitted that fraud gives serious impact on the part of customer, as commented by one (1) expert:

"As far as the banks are concerned, fraud tragedy in LC does not hit the bank's radar so much at a macro level. The banks can survive the fraud and move on. On the other hand, the position is different from a customer's point of view, whereby fraud implication on customer is very different as he could go bankrupt. So, the customer must be very careful since fraud brings in very bad impact on his business venture."³⁴

As far as the above modus operandi is concerned, result shows that Islamic banks experienced lesser fraud than Conventional banks. Among the reasons submitted is the lower number of LC issued by Islamic banks. Besides, being new comers in this area, Islamic banks have learned the trend of fraud suffered by Conventional banks.³⁵

Suspicious Fraud - Bank's Action

Figure 3 – Suspicious Fraud - Bank's Action



In dealing with suspicious fraud on the part of customer, various actions taken by the Malaysian banks to handle this matter. Based on figure 3, column 1 and 2 above, majority of the banks will investigate the alleged fraud and freeze customer's account. It is highlighted by one (1) Islamic banker:

"Applying the prudent approach concept, banks will first need to validate the news and will perform its own investigations, that is by liaising and checking with

³³ R1, Bank A (Interviewed by researcher, Kuala Lumpur, 19 March, 2008).
³⁴ Mr. Pottengal Mukundan, Director of the ICC International Maritime Bureau, London (Interviewed by researcher, 20 May, 2009).
³⁵ R12, Bank J (Interviewed by researcher, Kuala Lumpur, 24 October, 2008)

the relevant parties, that is the local authorities, banking regulators, banking association etc."³⁶

Similar approach is adopted by the Conventional bankers. It is explained by one (1) banker from Conventional bank that they would immediately inform the credit officer handling this customer to investigate further and provide further instructions. All transactions for this customer would be frozen pending further instructions from the credit officer.³⁷

However, it should be emphasised that before cancelling the facilities, the bank should have strong proof that actual fraud has been committed. Otherwise, customers may sue the bank if the suspicious fraud cannot be proved. Thus, the bank cannot simply cancel the payment based on suspicious fraud on document.³⁸

The same approach adopted by Conventional bankers where it is pointed out by one (1) banker from Conventional bank:

"If bankers know the fraud before the documents sent to the issuing bank, they may not want to handle documents, they may cancel all the facilities line or whatever lines, but still they have to prove. Otherwise the customer can sue the bank for simply ceasing the line."³⁹

It is a practice of some banks as shown by column 3, to forward the suspicious bill of lading to the IMB to confirm the alleged fraud.⁴⁰ The report will be sent through e-mail to the IMB. The bank will forward the issue and enclose the suspected customer's detail to the IMB for investigation. It is mentioned by the Director of IMB:

"Some of the transactions are very complex. It is very difficult for the bank to really control this fraud. One of the ways to be done is by the service we offer them which is verification of bill of lading. The principle behind that is, in the trade transaction, the bank is financing the cargo which has been shipped on board a vessel bound for the stated consignee and that fact is what needs to be verified. If that is verified then the transaction is ok. We are focusing exactly on this verification. We receive the bill of lading from the bank and we verify if the cargo went on board the ship and was bound for the consignee. Then, the bank knows whether their clients are telling them the truth or not."⁴¹

Then, when the existence of such fraud is confirmed by the IMB, the customer will be advised to counter-check with the IMB. Based on the above table and figure, it is found that only 1 (one) Conventional bank out of 16 banks that responded to this question used the service of the IMB. The reason for not using this service forwarded by the rest of the banks is the service charge imposed by the IMB is expensive.⁴² Certain banks refuse to bear the expenses and would advise the applicant to resort to legal proceeding. Other alternative, those banks submit the suspected fraud case to their legal department of Relationship Manager for investigation.

Furthermore, if the allegation of fraud is reported to be true by the credit officer, the bank will first cancel the facilities by freezing customer's account. It is also shown by column 4 that the bankers will lodge a police report if necessary for further investigation.⁴³ In addition, it is agreed by majority of bankers that in any case of suspicious fraud on documents, bankers always cross check with their customer and act according to the provisions provided for in the UCP.⁴⁴

³⁶ R15, Bank M (Interviewed by researcher, Kuala Lumpur, 20 October, 2008).

³⁷ R4, Bank B (Interviewed by researcher, Petaling Jaya, 18 April, 2009).

³⁸ R15 Bank M (Interviewed by researcher, Kuala Lumpur, 20 October, 2008).

³⁹ R11, Bank I (Personal communication, 9 April, 2008).

⁴⁰ "The IMB offers service of independent verification, where they verify a bill of lading within 48 hours (two working days)."

Mr. Mukundan, Director of International Maritime Bureau (IMB), London (Interviewed by researcher, 20 May, 2009).

⁴¹ Mr. Pottengal Mukundan, Director of the ICC International Maritime Bureau, London (Interviewed by researcher, 20 May, 2009).

⁴² "The fee is part of membership and the cost of checking a bill of lading is around GBP£20 to GBP£25." Mr. Mukundan, Director of International Maritime Bureau (IMB), London (Interviewed by researcher, 20 May, 2009).

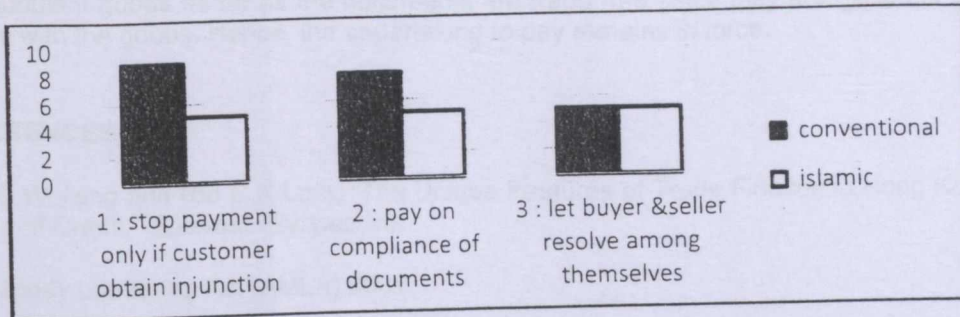
⁴³ R18, Bank P (Interviewed by researcher, Kuala Lumpur, 19 March, 2009).

⁴⁴ See, Article 16, UCP 600.

Therefore, if the existence of proven fraud comes to the bank's knowledge prior to the payment, the bank may dishonor the payment to the seller. In any case, the first step taken by the banks is to get a customer's police report.

Fraud on Goods – Bank's Action

Figure 4 – Fraud on Goods – Bank's Action



If the seller delivered fraudulent goods, majority of the Malaysian bankers as shown by figure 4.5.4 above, do not involve with such dispute. In fact, it is not for them to decide as they are excluded by the UCP to get involved in the disputes. Thus, if it is brought to banks' attention that a seller has intentionally shipped inferior goods despite tendering compliant documents, as shown by column 1 and 2 above, Malaysian bankers will pay on compliance of documents unless if there is a court's injunction order to stop payment. It is commented by one (1) Conventional banker: "Banks deal with document and we are not in any position to determine if such an allegation is true or not. Applicant will need to apply for court injunction to stop the bank from honouring their obligation under the LC."⁴⁵

Therefore, in order for a buyer to cancel the payment, he should apply for a court injunction. It is reported that in practice, the issue of fraud has rarely arisen in cases involving defective goods.⁴⁶ The customer will normally settle the dispute among themselves. For example, in certain cases, a buyer may accept the goods under a special arrangement and the remaining amount will be paid by other means of payment such as documentary collection, cash or a transfer telegraph.

As shown by column 3 above, as far as the dispute is concerning fraud on the goods, bankers will leave the parties to resolve their dispute among themselves. In other words, banks will pay as long as all the documents are complied. It is emphasised by one Conventional (1) banker: "As far as the bank is concerned, we do not involve with fraud on the goods and let the parties resolve among themselves. Likewise, banks are not willing to involve with court procedure unless they were sued by an applicant."⁴⁷

From the result above, it shows that the Malaysian banking industry is fully subscribed to the principle of autonomy and strict compliance provided for in the UCP. Bankers have strictly observed the rules in the UCP provisions and isolated themselves from any cases relating to fraud on the goods. Thus, bankers examine the documents only on their face as required by the UCP. As long as the documents are in compliance, bankers honour their duty to pay the seller beneficiary regardless of the conditions of the goods. Any allegations of fraud are cautiously dealt with by taking those steps as mentioned above.

CONCLUSION

Evidently, once LC is issued, the door is opened for fraudster to produce the documents which look like genuine. Besides, in today's world of laser copiers, colour printers and scanners, there is no document which cannot be re-produced with ease. In dealing with this incident, it is

⁴⁵ R5, Bank C (Interviewed by researcher, Kuala Lumpur, 21 March, 2008).

⁴⁶ This fact is unanimously agreed by the majority of respondents during the interview.

⁴⁷ R1, Bank A (Interviewed by researcher, Kuala Lumpur, 19 March, 2008).

demonstrated that the Malaysian bankers applied a stringent approach in dealing with LC documents. Indeed, the practices of Conventional and Islamic banks are consistent in managing the issues of fraud in LC documents. Likewise, they shared the same problems as far as fraud on documents is concerned, where the highest fraud committed on documents is the bill of lading in international LC and delivery order in local LC. Furthermore, the existence of fraud should be proven with clear and obvious evidence; otherwise, it is not sufficient to cancel the payment undertaking in LC transaction. Last but not least, Malaysian bankers may not entertain any claims on fraudulent goods as far as the documents are fraud free since they are excluded by the UCP to deal with the goods. Hence, the undertaking to pay remains in force.

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