

FSC Newsletter

Sugar Frauds

Newsletter 1/1993 dealt with some of the more common types of fraud seen in the market place. In recent years, however, there has been an increase in frauds relating to the sale of sugar consignments.

The purpose of this newsletter, therefore, is to bring to your attention the existence of these transactions which will enable readers to spot them more readily. The content of this newsletter is drawn from an article written by Mr Bruce Zagaris of the Commercial Crime Bureau ("CCB") and is reproduced with their consent. A special report on Sugar Frauds issued by the International Chamber of Commerce (Publication No 542, ISBN No 92 842 1193.2) is available from ICC Commercial Crime Services, Maritime House, 1 Linton Road, Barking, Essex IG11 8HG, United Kingdom, Phone +44 181 591 3000, Fax +44 181 594 2933.

The problem with sugar fraud

The nature of sugar trade is unique and contributes to the ability to perpetrate sugar frauds. Thirty percent of world sugar production, between 100 million to 120 million metric tons, is traded each year internationally. Most of this 30% of the world production goes to developing countries.

The supply of sugar makes the sugar trade different to trading in other commodities. To fulfil the need of sugar producers for finance and security, sugar is traded up to two years in advance. Agreements between refineries and sugar cane planters ensure a steady flow of raw materials. Sugar cane planters agree to furnish sugar cane exclusively to the refineries with which they have agreements whereas the refineries allocate funds and transfer technological expertise to the planters.

Sugar is a highly regulated commodity. Quota levels for import and export are published regularly to adjust to domestic and export requirements. Many governments hold monthly or quarterly tenders to satisfy their countries' demand for sugar.

The sugar industry is a close knit community. Traders know the import requirements for each country and the amount of sugar that has been purchased. The sugar community closely monitors and records the movements of world sugar cargoes and the volume involved.

The level of demand and supply reflects globally the prices on the future sugar markets. Market prices do not change dramatically in a short period of time and no method exists by which sugar can be traded in the international market at lower prices.

Sugar can be produced from cane or beet. Certain parameters determine the quality of white sugar. Established sugar traders have adopted standard documentation for sugar trades. They are as follows: copies of a clean Bill of Lading marked "Freight Pre-Paid", copy of a "Phytosanitary Certificate" declaring the sugar is fit for consumption;

copy of a "Certificate of Origin", copy of a "Certificate of Quality, Quantity and Packing" issued by Société Générale de Surveillance (SGS) or another independent international inspection company; copy of a certificate issued by the seller attesting that the sugar is free of liens and eligible for sale; and a copy of a certificate of eligibility and/or permit for export.

However, the purported sellers always insist that they are selling "floating cargoes", but under no circumstances will they give details of the carrying vessel unless a credit for the sugar is opened. When the buyers who have issued credits to purchase these sugar cargoes check, they find that none of the representations are accurate.

A characteristic of the sugar frauds is that the intermediaries expect to make unacceptable gains, not normally experienced in regular business, by receiving and transferring the letters of credit.

Many of the cargoes are intended for purchasers in China, the Indian subcontinent, the Middle East, Eastern Europe, including the Commonwealth of Independent States, which have been introduced to the purported sellers by their own nationals being abroad in the UK, Australia, New Zealand, Canada and the USA.

The sellers present documents allegedly issued by banks and shipping companies that include "Proof of Produce", "Comfort Letter", "Performance Bond" and "Bill of Lading" to prove the existence of the cargo. These documents have been found to be fraudulent.

Due to the fraudulent transactions, intermediaries and buyers are subjected to the consequences of non-performance by persons who will not answer their communications and in some cases cannot be located. The financial indebtedness to the banks will often limit their remedies and their lack of care during the negotiations will be exposed. The victims of the fraud may or may not report the fraud to law enforcement agencies. However, the police action may be limited and ineffective because of the transnational nature of the fraud, the multiple parties involved and the cost of the investigation.

The sugar described by the fraudsters does not exist. The CCB's report has offered the following check list for prospective buyers:

- **PRICE:** Suspicions should be aroused immediately if the offer is considerably below the market price. The current market price for sugar is available from major commodity news services and newspapers;
- **QUANTITY:** Amounts of sugar offered or quotas that are too large for the country of origin should arouse suspicion. The International Sugar Association publishes statistics of the world sugar production.
- **SPECIFICATIONS:** Sugar is not traded and has its own precise terms. Fraudulent sugar offers normally contain descriptions that the sugar is graded "A", "B" or "E". In the sugar trade no such description exists. The offer should be checked to ensure that the specification is correct.
- **FLOATING CARGO:** If the sugar is offered as floating cargo, checks can and should be made to ensure that the cargo is loaded on board the vessel in question, the vessel is in the correct location, and the cargo is available for sale.

The specifications of the sugar offered are generally given as:-

- **POLARISATION: 99.00% MIN:** [represents the percentage of pure sucrose in sugar, expressed in degrees and fraction of degrees. The higher the degree, the better quality.]
- **MOISTURE: 0.04% MAX:** [loss on drying expressed in percentage. The lower humidity/moisture, the better the quality].

- ASH: 0.04% MAX: [determined by conductivity in solution, expressed in percentage. The lower the percentage, the purer the sugar.]
- INCUMSA: 45 RBU: [related to the purity of sugar in solution, expressed in the international unit ICUMSA (The International Commission for Uniform Methods of Sugar Analysis)].
- SOLUBILITY: 100% Free Flowing.
- GRANULATION: FINE.
- COLOUR: Crystal White.
- RADIATION: Normal.

Corrective Action

With assistance from experienced sugar traders, potential victims (e.g buyers and financial institutions) should be able to identify a fraudulent offer. The fraudulent offers share consistently the same characteristics and fundamental errors. Fraudsters can undermine the stability and confidence of the business community with frauds because the business community does not have the know-how and does not exercise caution and diligence when presented with the proposed fraudulent schemes.

While victims complain of loopholes in the legal system and lack of response from law enforcement, the police have difficulty in investigating such international cases primarily because of the shortage of resources, the transnational nature of the schemes and the involvement of developing countries whose law enforcement authorities may lack resources and know-how in investigating and prosecuting those cases.

Victims may be reluctant to participate with law enforcement officials in the investigation, partly because they do not believe the investigation will achieve success. In addition, fraudsters take an aggressive stance, turning on victims and investigators. Fraudsters may threaten defamation proceedings if they are named, despite the fact that they have participated in a criminal scam. They even threaten and sue banks, whenever possible, for not concluding a fraudulent scheme.

Indeed, merchants must stand firm. The collation, analysis, and dissemination of information on fraud and fraudulent attempts enable businesses, potential victims, law enforcement authorities, and interested trade associations to identify patterns and trends and the individuals responsible for these frauds globally. The international banking community can especially contribute to law enforcement efforts. Further, the media can assist by exposing these crimes and by not allowing fraudulent offers of schemes to appear in their publications.

The Main Dangers

As far as buyers are concerned, once they instruct their banks to issue credit instruments for goods which do not exist, they are risking the total amount of the credit in exchange for a 2% performance bond. This is so under the ICC Uniform Customs and Practice for Documentary Credits. If documents presented under a letter of credit are correct on their face, banks will have to pay on these documents irrespective of the condition of the goods.

In the case of an irrevocable credit, cancellation or amendment to the letter of credit must be agreed by the beneficiary as well as the applicant. Therefore, applicants may find themselves totally exposed and powerless to do anything to stop the credit being utilised.

There is a great deal of naivety among potential buyers who believe that their letters of credit would not become operative until certain conditions are met. In reality these

conditions are in 'documentary' formats and can be falsified and used to negotiate the letter of credit.

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