A study of international maritime fraud: a critical study of the Nigerian situation

Juliana Abiodun. Gunwa

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WORLD MARITIME UNIVERSITY
Malmö, Sweden

A Study of International Maritime Fraud;
A Critical Analysis of the Nigerian Situation.

By

Gunwa, Juliana Abiodun(Mrs)
NIGERIA

A dissertation submitted to the World Maritime University in partial
fulfilment of the requirements for the award of the :

Degree of Master of Science
in
General Maritime Administration

1993
I certify that all the material in this dissertation which is not my own has been identified and that no material is included for which a degree has been previously conferred on me.

The contents of this dissertation reflect my personal views and are not necessarily endorsed by the University.

(Signature) ........................................
(Date) .................................. 15th Oct. 1998

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International Maritime Bureau
national Maritime Bureau
DEDICATION

Dedicated to my loving husband, Olumayowa Gunwa, and my precious Children; Kehinde, Tinuola and Oluwaseun, for all your indescribable sacrifices, enduring loneliness, and steadfastness, throughout my two years stay in Malmo.
ACKNOWLEDGEMENTS

First and foremost, I have to be grateful and thankful to the Almighty God, who stood by me all through this remarkable period.

My Utmost appreciation goes to no other person, than the Managing Director of the Nigerian Shippers’ Council, Mr K. E. Usoh. Thank you for making it possible for your organisation to sponsor me for this MSC programme. You certainly made my dreams come true.

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To the Federal Ministry of Transport & Communications, I say thank you for your support in totality.

To my Course Professor Theodore Samson, you were like a father to the class, I am appreciative of your kindness, and dedication.

To my supervisor professor Hugh Williamson, thank you for the efforts you put into making my dissertation presentable.

My sister Dupe; How do I console you? I am believing God is in control of your situation.

To brother Gbenga Atoki, oh death! oh death! You were
cruel to us. I thought you will use brother Gbenga's life, as an exception to your rule of cutting short the lives of the wonderful people in this world.

Brother Gbenga, I never knew I will not come back to meet you, to give you a feedback on my accomplishments. At the time I could not make up my mind whether to come for this programme or not, you told me "Biodun, go ahead! Don't look back. All these Lady Ambassadors you find around today, never achieved these great heights without making sacrifices. You are lucky your husband is supportive". These were your exact words, brother Gbenga. Hm! How come you left us so soon? Adieu, brother Gbenga. I am missing you already, and I will forever continue to miss my intimate relationship with you. You were not a brother-Inlaw to me but a big brother. May your gentle, kind, patient, loving, peaceful, and enduring soul, Rest in Perfect Peace. (Amen).

To my parents, Chief & Mrs S. M. Fadile, thank you for always being there for me.

To my father inlaw, Pa P.O. Gunwa, you are a great father indeed. Thank you for your love.

To all my relations and friends who took care of my kids while I was away, I say a big thank you to you all.

To my Children, Kehinde, Tinuola, and Oluwaseun, its a pity, I had to constantly leave you all, from time to time. You know I love you three more than words can say. These
sacrifices are all for your sake. God please guide over these kids for me.

Finally, to my husband, Olumayowa Gunwa; you are just great. Thanks for given me the opportunity to fulfill my dreams. I appreciate your wonderfull care over the kids. Once again thank you very much for everything.
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ABSTRACT

In the last two decades maritime fraud has increased to an alarming proportion. It has become a major problem in the maritime industry, affecting both developed and developing countries.

This phenomenon is however as old as shipping itself. This study is intended to give a background to the subject as it affects Nigeria. It gives an analysis of the Nigerian situation, and at the same time describes the different dimensions in international maritime fraud. It is also aimed at exposing the intrigues used in perpetrating maritime fraud in Nigeria. It goes ahead to recommend measures to curb the crime. Hoping this goes a long way to restoring the damaging image Nigeria has had in international circle.

In recent years, Nigeria has acquired an unreputable image in the international business arena. One part of that image is caused by the fraudulent activities of a few Nigerian who have participated in maritime fraud worldwide. Such a negative image is disturbing and I am certain that it is not a true reflection of the country and its citizenry. Hence the urge to delve into this subject.

I have analysed the extent to which this subject has penetrated into the Nigerian Shipping sector, and its overall effects on the nation's maritime activities.

It is hoped this study will improve the shipping image of Nigeria, and the Economy as a whole.
CHAPTER 1

1. INTRODUCTION.

A major sign peculiar to the 70s was the great incidence of fraud in the maritime business. Maritime fraud had reached a proportion which caused concern world wide. Shipping, on its own, is an international activity, which demands very quick decisions even when a huge sum of money are involved.

There has always been the need to retain the moral standards and code of honour that govern the business. It is customary in shipping for one to stand by one's words irrespective of what type of commitment had been made. It has been the rule that who ever breaks his words is frozen out of the maritime business and thus prevented from exercising his profession in the future, whether as a ship owner or a broker (!).

However, from time immemorial society has been plagued by fraud, and the shipping industry is therefore no exception. It is the Christian Bible which tells us that 'the poor you will always have with you'. There is no doubt that this adage is becoming applicable to maritime fraud. This is because we will always have the fraudsters in the maritime industry.

All that can be done is to curtail their activities. In the last twenty years, one could readily observe an increase in the magnitude of fraudulent activities committed throughout the world, that had maritime connections. This includes piracy, which will be viewed as a
form of maritime fraud. It might not be a direct fraudulent act, but it has some elements of fraud inherent in it.

Before now, it was the underwriters that were the targets of fraud. The intention then was to collect insurance on vessels and cargoes. There were instances when the ship was scuttled; in others, insurance was effected after the ship was lost. However today, because of the vast use of modern technology in shipping the fraud has taken on a different dimension. One could start by examining the flow of information between shipowners, cargo owners and the banks. These various information requirements are now handled by computers. The enormous sums involved in shipping are a tempting target for computer frauds. These are more difficult to uncover when compared with the straightforward bill of lading frauds or the more practical cases.

Today's maritime fraud has sometimes been described as a perfect crime. However Conway (1981) notes that "there may never be a perfect crime but there is an ideal crime. It is a minimum risk, maximum profit affair easily adaptable to prevailing conditions, relatively simple to operate, difficult to detect and, even if detected still more difficult to prosecute successfully in court. The ideal crime, in short, is fraud."

As a result of the alarming rate of maritime fraud,
there grew a consciousness both at national and international levels on the evil of maritime fraud; and what should be done to curtail it. Countries organise conferences to enlighten people in the shipping business. International organisation sprang up, such as the formation of the international maritime bureau IMB, the united nations conference on trade and development UNCTAD and the international maritime organisation, IMO. The IMO developed interest in fighting this cankerworm that has eaten deep into the shipping society.

The international maritime bureau estimates that the total losses due to maritime fraud are in the neighborhood of 13 billion dollars per annum (2).
1-1. DEFINITIONS.

Maritime fraud has been defined by various people, and according to those definitions, it could be said that maritime fraud is a generic term. However according to Ken Luck of the International maritime Bureau IMB fraud can be described as follows;

"Fraud is the process whereby one or more individual or parties willfully make a representation by word or deed which they know to be false and which causes other individual or parties to do something which they otherwise would not have done thereby causing them to sustain loss."

Defining maritime fraud, Mr Peter Lowe, again of the International Maritime Bureau, IMB noted that maritime fraud has many guises which are open to infinite variations. The crime, he stated, could be classified into four major groups namely; the scuttling of ships; the illegal manipulation of shipping documents, ship diversion and subsequent theft of cargo and fraud related to the chartering of vessels.

However Mr K.E. Usoh, the managing director of the Nigerian Shipper’s Council, sees maritime fraud as that which imposes costs on both the provider of the services in the field, and the consumers of such services(3).
Personally, I see maritime fraud as an act that is completely wrapped up in deceit; in order to take advantage of the victim be it an insurer, a shipowner a charterer, a banker or others. Piracy in other words could be seen as a form of maritime fraud; the culprits may however not be directly involved in deceit, but the technicalities involved in carrying out the act qualifies it as a fraud.

According to the "Guide to Prevention of Maritime Fraud" An international trade transaction involves several parties; buyer, seller, shipowner, charterer, shipmaster or crew, insurer, banker, broker or agent. Maritime fraud occurs when one of these parties succeeds unjustly and illegally in obtaining money or goods from another party to whom on the face of it, he has undertaken specific trade, transport and financial obligations. In some cases several of the parties act in collusion, to defraud another. Although banks and insurers find themselves involved in instances of fraud sometimes as victims(4).

This could be instances when fraudsters present forged documents to the banks, or when there is a deliberate sinking of an overaged vessel to claim insurance premium.

1-II BACKGROUND TO INTERNATIONAL MARITIME FRAUD.

International maritime fraud is not a new phenomenon. The earliest case on record goes back to 360 BC. Zenothemis, and the shipowner, Hegesratos convinced a buyer to advance money to them in Syracuse upon declaring that their vessel was fully laden with maize belonging to
them. However the vessel was empty, and three days after sailing Hegestratos went down into the empty hold and tried and tried to cut through the ship's timbers in an attempt to scuttle the vessel. He was caught by the passengers, and, in his panic, jumped overboard and drowned. The scuttling failed (5).

Trade and fraud developed hand in hand as trade increased between nations. Then traders travelled with huge sums of money, which actually belonged to their business group. At the time trust was the order of the day.

Even then some untrustworthy traders simply disappeared with the money, while others returned with fake reports of robbery and at times piracy. As a result of these malpractices the Venetians developed the letter of credit, very much like today's travellers' cheque. As trade expanded the use of this new invention increased. So too did the incidence of malpractice.

These fraudulent letters of credit could easily be curtailed then, since they were usually locally manipulated. Therefore methods that were equally local were used in dealing with the crime at the time. In this present time when trade has expanded worldwide, one can trade now possibly from any part of the world. With this extension of operational bases for business problems and incidence of fraud have also become more complex and more international in outlook.
The first contemporary case of maritime fraud which made any sort of head-lines at all involved the peanut swindle in Angola around 1975. The method was simple. The Government of Angola ordered peanuts in shells, and all that they got were the husks with no nuts. One or two bags of husks would not have made much difference, but they had a whole shipload of the husks. The ship was subsequently arrested along with other sister ships belonging to the same owners.

The Government of Angola lost huge sums of money without being able to hold any body responsible. This is because usually the shipowner, the charterer, and the master do not necessarily have specific knowledge of what they are carrying nor do they have control over it.6

In 1979, there was another well publicised incident, "The Salem" scandal. The Salem was a very large tanker which was carrying oil in excess of 197,000 tonnes. Some considerable time later she was seen in a sinking condition in the Atlantic, just over a deep trench some distance off the coast of Senegal in West Africa.

For the crew of the British Trident, the British vessel that picked up the Salem’s crew, this initially appeared to be just a fortuitous rescue which prevented an unfortunate loss from becoming a tragedy. Little did they know at the time that this was the opening gambit in a fraud which was to send large waves throughout the international maritime community.
One crew member on the British Trident may have had some inkling that, perhaps, all was not well because he noted that "there is surprising little oil left on the surface considering that 197,000 tonnes of it has just gone down". The truth of the matter was that when the Salem went down, the only oil which could possibly have polluted the ocean was from her bunkers because she was loaded with nothing more potent than sea water.

The deliberate sinking of the vessel was all a calculated attempt to defraud the insurers of the value of the cargo. Again an attempt to break the sanction on the supply of oil to the Republic of South Africa (7). Desperate for oil after the cut off of the Iranian supply, the government of Pretoria resorted to many unorthodox and dubious means in order to assure itself of sufficient energy.

1- III DEVELOPMENT OF TRADE DOCUMENTATION.

When considering the era of prehistoric man, one understands that trade was by necessity conducted on trust, and contracts were entered into by words of mouth. The motto of the Baltic Exchange for instance is "Our word is our bond". In most cases there were little or no documentation in several commercial transactions. Let us take the following trade transaction as a case study:

A wine producer may have been fortunate enough to
produce a lot more wine than could be locally consumed. The next logical thought concerns what is to be done with the excess, and sending it by sea to another country became a reasonable possibility. A determination to ship wine from Egypt to England is known to have taken place, the sale of which allowed the owner to buy other items in England that could attract a higher price back in his Egypt. Trade of this simplicity expanded to Europe and the British Isles from a time when the Phoenicians visited England.

With the growth of international trade came the need for trading agreements. International trade can only take place within the bounds of agreements between the parties. To overcome the difficulties facing those engaging in such trade, a number of international laws developed to facilitate trade. The laws for instance, address issues such as when does the seller relinquish ownership of his goods, and the buyer take it over? Who has the responsibility of insuring goods in transit? And who has the right to claim when those goods are lost, or damaged? The intricacies involved in international trade were such that specific laws in form of documentation were required to adequately carry out the business.

As a consequence, many forms of documentation surfaced, including the contract of sale, CIF, or FOB, agreements the bill of lading, and the letter of credit.
As years have passed, businesses developed various methods of payment ranging from payment in advance to trading on an open account. The majority of international payments are however made by documentary letters of credit or bill of exchange.

The system of documentary credits offer a unique and universally recognised mechanism providing a commercially acceptable form of compromise that provides for payment to be made against documents that represent the goods.

In considering the number of people that are involved in international trade transactions such as; traders (buyers and sellers) of goods, shipowners, charterers, agents forwarders, bankers, insurers port Authorities; and customs services the transaction easily becomes very complex, creating a lot of loopholes. In the majority of international trade transactions certain commercial documents such as the Bill of lading are treated as if they were the goods themselves. This system of documentation and others have been seriously abused and there has been several calls for instance for reform of the existing system of documentary credits in order to avoid the occurrence of fraud.

At present technology development has facilitated trade through the use of computers. This has resulted in new types of documentary credits, including the stand by letters of credit. Both the documentary credits and collection arrangements rely entirely on the honesty of
the trading partners. Unfortunately this system has proved to be highly unreliable.

A fraudulent seller, for instance, can cash the letter of credit by presenting bogus documents of non-existent cargo. Alternatively, the cargo could be of lesser quality or quantity. Some sellers have gone to the extent of selling the same cargo to two or more parties and collecting monies from all the buyers. On the other hand, a fraudulent buyer can present forged bill of lading and collect the cargo without any payment. So one sees that the development systems have not been without its side effects. Even though they have aided international trade.

The following diagram overleaf illustrates the transit sequence of a containerised cargo. With this type of complication in transit procedure, fraud could occur at any point during the transit. The problem most often is finding out the point at which the fraud has been perpetrated.
TRANSIT SEQUENCE
CONTAINERISED CARGO

CONSIGNOR

CARRIER

TERMINAL

UNDER CRANE

SHIP

UNDER CRANE

TERMINAL

CARRIER

CONSIGNEE

SEA VOYAGE
TRANSNATIONALISM OF MARITIME FRAUD

Crime on the ocean wave is not a new phenomenon, but it has grown with a renewed vengeance over the past 15 years. Most of the time those committing fraud have the edge and they know it. They are bound by no jurisdictional limits, they can and do operate anywhere in the world, wherever there is the likelihood of a victim.

Incidence of maritime fraud have been recorded in most parts of the world. Although the overall percentage of the victims seem to be higher in the Middle East, West Africa, and South East Asia. Victims in this region have lost millions of dollars.

Take the sinking of the previously mentioned "SALEM", which focused the world attention on the serious problem of maritime fraud. "SALEM" the Liberian registered oil supertanker, with Tunisia crew and Greek officers, loaded a cargo of oil for an Italian firm at a Kuwaiti port, for delivery to a Dutch company, and then sold the stolen cargo to South Africa before scuttling the ship.

It is interesting to take a look at the number of national jurisdictions involved in this single fraud. Look at the protracted and costly legal battle as to who should bear the brunt of the loss; Examine the equally important battle of bringing the perpetrators to justice. In this case, culprits could be identified as being located in the United States, and Greece. So one sees maritime fraud as a crime that extends beyond national
boundaries, and perhaps in between applicable jurisdictions.

Though the "SALEM" case was quite sensational it is by no means unique. The International Maritime Bureau was set up in 1980 to investigate and look for lasting solution to these crimes. This organisation by 1984 had identified hundreds of cases of maritime fraud, ranging from relatively modest schemes to plots which are breathtaking in their audacity and scope. The following analysis of the IMB in 1984 is illustrative:

**ANALYSIS OF CASES IN 1984**

The Bureau investigated a total of 109 cases.

<table>
<thead>
<tr>
<th>Category</th>
<th>No. of cases</th>
<th>Amount involved in Million USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Documentary Fraud</td>
<td>15</td>
<td>105.0</td>
</tr>
<tr>
<td>Charter Party Fraud</td>
<td>13</td>
<td>25.0</td>
</tr>
<tr>
<td>Scuttling</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Deviation</td>
<td>15</td>
<td>12.0</td>
</tr>
<tr>
<td>Insurance Fraud</td>
<td>23</td>
<td>110.0</td>
</tr>
<tr>
<td>Voyage/Container Monitoring</td>
<td>6</td>
<td>not available</td>
</tr>
<tr>
<td>Negotiations</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Others</td>
<td>33</td>
<td>6.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>109</strong></td>
<td><strong>262</strong></td>
</tr>
</tbody>
</table>

(source: Papers delivered at an seminar on International Maritime and Commercial Fraud in Nigeria in 1985. Page 7)
Few knowledgeable persons in the maritime world dispute the fact that this kind of fraud runs into hundred of millions of dollars. In fact some of the pirates - hunters are convinced that it may run to billions. One reason for the growth in crimes of such magnitude is that where maritime fraud is concerned, international waters remain for all intents and purposes lawless.

To further illustrate the transnationalism of maritime fraud, it can be classified according to geographical areas of typical occurrence as follows:

<table>
<thead>
<tr>
<th>Regions</th>
<th>Type of frauds.</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Far East</td>
<td>Scuttling, Rust bucket fraud.</td>
</tr>
<tr>
<td>ii. Middle East</td>
<td>Theft of cargo by dishonest and illegal sale.</td>
</tr>
<tr>
<td>iii. West Africa</td>
<td>Diversion of ships for selling of cargo; Deliberate insolvency.</td>
</tr>
<tr>
<td>iv. World Wide</td>
<td>Documentary Fraud.</td>
</tr>
</tbody>
</table>

(Source: Laddies Maritime and Commercial Law Quarterly 1986 pg 40.)
PIRACY AS A FORM OF INTERNATIONAL MARITIME FRAUD

Until recently, piracy appeared to be one crime that had been successfully beaten. But current evidence shows that piracy is very much with us, and on the increase.

During the last ten years, IMO received reports of more than 400 separate incidence of piracy but the actual total is suspected to be much higher. This is because incidence are hardly reported. Therefore culprits easily go free without punishment.

The attacks ranged from incidents where the pirates have simply taken money and valuables from the crew and the ship's safe, to cases where the entire cargo of the vessel has been stolen. In other cases the ship has been stolen as well. Usually, only the threat of violence is used, but there have been injuries and some crew members have been murdered.

The coast of West Africa has been one of the major troubled areas, where ships that anchored offshore while waiting for a berth were being attacked, usually at night by armed robbers travelling in extremely fast motor launches. In other locations there are instances where the crew of the ships had to be tied up and the ship left to steam at full power with nobody in control after the robbers make their escape.

A ship in such circumstances is a threat to everything that lies in its path, and the possibility of a
collusion occurring is very real. If the ship happens to be a fully laden oil tanker then there is an equally strong possibility of a major pollution disaster. This danger is however greatest in the waters of south East Asia, where the navigational channels are often very narrow, and the traffic heavy, some 40,000 ships a year pass through the Malacca Straits (9).

These straits are the most dangerous area of all. Usually, long term and permanent seizures are indications that the attack has been carefully planned and involves a knowledge of the ship and the cargo.

Piracy is not a brainchild of the 20th century. It is however as old as seafarage itself; originating from the adventurous days of the sail, to the not so adventurous days of steam. Unfortunately however, the mercantile world, the maritime powers or even the united nations all appear to see piracy as an excusable act of a desperate set of bandits who deserve no more than romantic condemnations couched in the UN style of stereotyped outbursts against big power authorities (10).

Piracy is by far the greatest problem involving vessels berthed alongside piers and while at anchor up to six miles off shore (11). Piracy as it exists today has taken a major turn from that of the 17th and 18th century along the Spanish colonies. Then the buccaneers laid ambush on the highseas far away from land taking treasures by force day and night.
Piracy as defined in Article 15 of the Geneva convention of 1958 comprises any illegal act of violence, detention, or any act of depreciation for private ends by crew, passengers, and invaders of private ship. This could be directed against the ship, or against persons or property on board[12].

To be able to appreciate this intractable problem of piracy on the high seas, it is necessary to emphasize the plight of those directly affected, who turn out to be its victims. However, the simple criminal content of the act is undeniable in that it constitutes a theft on the high seas.

Such theft does not necessarily imply a loss for the carrier, it is noticed that an affidavit at the Notary Public on arrival at the port of destination discharges the carrier from the onus of conclusive proof of piracy.

In this respect, the liability for the loss resulting from the piracy falls squarely on the consignee.

The ports Authority's responsibility is purely humanitarian. Though the Authority will be expected to give the captain of the ship whatever legitimate assistance he seeks in order to recover the goods lost in transit. In instances of piracy on the high seas which the Ports Authorities gets to know, it is expected it acts in such a way that credible documentation of facts and figures are carried out. This includes the usual boarding and inspection of the attacked vessels, tallying of the available cargo in order to record short-landing
resulting from this nefarious act.

The consignee is the most seriously affected party when a piracy attack takes place. He is the true owner of the goods in transit. Therefore any loss resulting thereof is his primary loss. However when there is an insurance cover, his remedy might lie in instituting a claim of indemnity against the insurance company. Though in recent times cases of piracy on the high seas have witnessed a lot of distortion which could cast serious doubt on the integrity of the consignor.

In a typical situation of a pirate attack, a consignee who takes all the mercantile precautions, particularly by insuring his goods rarely suffers any tangible loss. So also, the consignor and the carrier hardly suffer any quantifiable damages owing to the protection of the contractual terms. Nevertheless Piracy still remains an act of economic sabotage.
ENDNOTES.


(5) Ibid pg 4.


(9) Ibid pg 4.

(10) Papers delivered at a seminar on *International Maritime Fraud in Nigeria*, Lagos 1984, pg 29.


CHAPTER 11

11. THE DIFFERENT DIMENSIONS IN INTERNATIONAL MARITIME FRAUD;

11--1 CLASSIFICATION OF MARITIME FRAUD;

Maritime fraud is a very complex subject, hence the difficulty of having a standard classification. Nevertheless to promote a better understanding it is important to classify the various dimensions of this crime. Especially if a lasting solution is to be sought. The classification will make it possible to introduce some orderliness into a complex issue enhancing the exposition of the fraud and assisting in the detection process.

In making a study of possible methods of classifying maritime frauds one can select any one of a number of possible divisions. The diagrams on the following pages are quite illustrative of the type of classification according to renown individuals who have carried out research on the subject. In the Far East Region investigation team report 1979 (FERIT); crimes are classified into Hull frauds and cargo frauds. This type of a simple division has only a limited appeal, because many frauds are aimed at both hull and cargo. Again when one classifies by victim, there are obvious difficulties where there are multiple victims in one single fraud. After a thorough study of the subject matter it appears to be useful to classify maritime fraud under the following sub-heads.
VARIOUS CLASSIFICATIONS OF MARITIME FRAUD

Source: Kapoor(1983)
Types of international trade fraud

ICC, London.
CLASSIFICATION OF MARITIME FRAUDS

MARITIME FRAUDS
  └── MAJOR FRAUDS
      ├── CHARTER PARTY
      │     └── FINANCE
      │         └── INSURANCE
      │             └── CARGO
      │                 └── HULL
      │                     └── CARGO
      │                           └── CARGO
      └── MINOR SHIPBOARD FRAUDS
          └── THEFT

Source: Kapoor (1983)
(1) Documentary fraud
(2) Deviation and cargo theft.
(3) Rust bucket fraud or scuttling.
(4) Arson, and registration fraud
(5) Charter party fraud
(6) Marine cargo and hull insurance fraud
(7) Miscellaneous fraud.

11-11 DOCUMENTARY FRAUD:

This type of fraud is an unfortunate fact of life in the world of international sea transportation. This occurs with cargo interest (sellers and buyers) insurers, brokers, and shipowners. In the majority of international trade transaction, certain commercial documents such as the bill of lading and letter of credit are treated as if they were goods themselves. However, both the documentary credit and the collection arrangements rely entirely on the honesty of the trading partners, unfortunately this system is easily abused. Take for instance a fraudulent seller can cash the letter of credit by presenting bogus documents for a non existent cargo. In another respect, the cargo can be of lesser quality or quantity. Some sellers have gone to the extent of selling the same cargo to two or more parties and collecting monies from all the buyers. A fraudulent buyer can also present a forged bill of lading and collect the cargo without any payment.
As a generalization on this type of documentary fraud involving the seller as perpetrator of the fraud, it has been said:

"The common features of documentary frauds, subject to rare exceptions are as follows:

(1) C.I.F or C&F contract of sale
(11) Payment by means of documentary credit
(111) New or untried trading partners.

(v) Victims tend to come from the developing countries.
(v) Shipowner and crew are usually innocent.
(vi) Victims have no recourse against the underwriters or the carriers**(13)

11-111 DEVIATION AND CARGO THEFT.

This category of fraud consists mainly of theft of cargo. This is usually carried out by the shipowner deceiving the cargo owner into chartering the vessel to carry the latter's goods to an agreed destination where the goods are sold for the benefit of the shipowner. Subsequently the vessel is intentionally sunk or disappears by changing its name, nominal ownership as well as country of destination.

The case of the "SALEM" is a good illustration of this type of fraud. Deviation can be premeditated or accidental. It will be regarded as premeditated when the carrier deliberately refuses to deliver the cargo to the agreed destination. However it will be accidental if as a result of charter party
disputes which could result as a matter of unnecessary delay at the port of destination or when the charterer for one reason or the other refuses to pay the agreed hire or freight.

11-IV RUST BUCKET FRAUD OR SCUTTLING.

Scuttling is the willful sinking of a vessel, with the connivance of her owners, for the purpose of claiming against insurance. It has been expressed that the highest occurrences of scuttling take place during the period of depressed freight markets. This is when financially trapped shipowners request the services of their crew to deliberately scuttle their vessels. This kind of act could be regarded as hull fraud.

Again the deliberate scuttling of a vessel may be due to cargo fraud when a vessel is lost or disappears with a high valued cargo. Ship scuttling is not a new phenomenon. The first reference to this crime was reported in 215 BC. When investigation was carried out in the 1920's as a result of the spate of scuttling, the following features were found:

(a) The shipping company was in financial trouble and probably having difficulty in meeting the mortgage payments.
(b) The vessel was experiencing difficulties in contracting charters.
(C) The freight rates were low;
(d) The vessels were grossly overinsured

Therefore the sinking of the vessel resulted in;
(a) Payment of mortgage from the insurance proceeds,
(b) Recoupment of investment in the ship
(c) Loss of burdensome shipping venture, and
(d) Windfalls.

Therefore the term "rust bucket" fraud, which describes the conditions of most vessels that became a casualty as a result of being deliberately sunk. The essence of this crime lies in a situation where a ship is approaching or has passed the end of its economic life, taking into account age, condition of the ship and the prevailing freight market.

11--V ARSON

The practice of arson is closely related to scuttling and offers the defrauding shipowner an alternative way of disposing of his vessel in order to claim against the insurer. Arson is the destruction or damage of property through fire. In recent times it became a popular way of getting rid of a vessel. In as much as fire at sea can be very dangerous, they have been used as a means to defraud the insurers. Take the case of "the Campello" it was held that the vessel was deliberately set on fire with the privity of the owner in order to gain from the over valuation of the vessel. In recent times there has been a dramatic increase
in the number of losses through fire at sea. This marked incidence of maritime casualties caused by fire, has occurred at a time when the shipping market continues to languish in the doldrums of world recession. This is with no single sign of recovery, which does little to allay deep suspicion in many circles of the maritime industry. However a significant number of these casualties were caused deliberately; that is by intentionally setting such vessels on fire.

The following case from commercial international is quite illustrative:

THE SINKING OF THE YI MAO 306

A fire in the engine room and the eventual sinking of a fishing vessel, followed by the abrupt suicide of its master and a subsequent insurance claim for 3 million USD by the owners.

Investigators found much evidence to suggest the fire aboard Yi MAO 306 was started deliberately and that her sinking was part of a detailed insurance fraud.

The circumstances behind the fire on the vessel also led investigators to be suspicious. It was said to have broken out in the engine room at about 0500 hrs on July 1, 1992, and was followed sooner by explosion. There was dense smoke and flames yet, unbelievably, it was reported that the radio officer was not awakened by the crew until 0700, two hours
after the fire started, so that he could call for assistance.

This fact followed by the master's suicide, the drastic inflation of the vessel's value for insurance purposes a cover up of the movements of the vessels during her last voyage prior to the sinking, led investigators to conclude that the fire was almost certainly started deliberately and a valve opened to cause her sinking.

As a result of this they advised the insurance company to declare the policy taken out by the vessel null and void. This happens to be a good illustration of a case of arson, this instance though, to defraud an insurance company.

11--V1 CHARTER PARTY FRAUD.

Vessels are chartered through contracts of carriage known as charter parties. Charter party fraud is either a fraud committed by the charterer against the shipowner or cargo interest by charging unilateral freight rates.

In the case of the charterer perpetrated frauds, a time charterer or even a bareboat charterer, charters a vessel the hire fee is usually fixed for a stated intervals. Then the charterer either sub charters the vessel on a voyage basis or opens a liner service, depending on the market situation. Under what ever circumstance, the charterer operates, the cargo eventually gets loaded, the charterer issues bill of lading, collects freight and subsequently defrauds on hire.
payments. The common system employed by the charterer in defrauding the ship owner is to disappear or go into li-
quidation. The shipowner is put in a difficult position of having to deliver the goods to the agreed destination.

Frauds committed by a shipowner against charterer or cargo interests are predominant in recessionary times. A typical situation is when a chartered vessel puts into a convenient port for alleged repairs and is subsequently arrested by an "accommodating creditor" for an unpaid bill. The vessel is sold by a court order. Generally under such circumstances the purchaser takes the vessel free of all incumbrance, including contract of affreightment, obligation of the previous owner as well as the cargo on board. He is thus in a position to demand additional freight rates from cargo interests. At a later stage it transpires that the previous owner, the accommodating creditor and the new owner are all part of a parent company\(^{(20)}\), all join hands to perpetrate the fraud.

11--V11 MARINE CARGO AND HULL INSURANCE FRAUD.

The transportation of goods of every kind, whether raw materials, manufactured products or valuables; entails certain risks. This is true regardless of whether the goods are sent from A to B by road transport, ship, or by aircraft. There is no system of transportation that is so secure that one does not require coverage against the consequences of an unforeseen event\(^{(21)}\). The consigned goods may be damaged through
accidents or even destroyed, they could equally be stolen. When it comes to the ship's hull, the ship could catch fire at any point during the voyage, it could be involved in collision; it could even genuinely sink. The need for insurance cover therefore becomes apparent.

Unfortunately this transaction has always been seriously abused. It will be seen that fraud of this nature is very diverse and usually overlaps with the other types of fraud. Marine cargo and hull insurance fraud are usually perpetrated with the main objective being to derive monetary gain under the insurance policy. Take for example; scuttling of vessels, deliberate standing of vessels, arson, and deliberate machinery damage. These are few of the type of marine insurance fraud that take place.

When one considers cargo insurance fraud; it will be seen to involve insurance of cargo far in excess of the true value. This is done in order to make a profit from the insurance proceeds of a loss. Such fraud is usually limited to countries where there are foreign exchange restrictions, and over invoicing is used as a means to transfer local currencies into hard currencies. The following example best illustrates this kind of fraud.

"These types of fraud involve a conspiracy between exporters in the Far East, and importers from Nigeria. The Nigerian importer would request his Far East contact, usually
a small time exporter situated in Hong Kong or Taiwan, for a consignment of cheap products, such as flash lights. As part of the conspiracy, the exporter would provide two sets of documentation. One set relating to the true contents and value of the cargo, and another set relating to a fictitious cargo of much higher value, such as audio products. The consignee would arrange for the higher valued goods to be insured locally in Nigeria, with one of the international insurance companies.

The cheap goods could be used using only one bill of lading provided by the carrier. This bill, under the shipper's instruction, could carry details of the fictitious cargo, as this document is an essential part of the insurance claim. When the cargo arrives at the Nigerian port, the importer would arrange for the cargo to be broken into and stolen inside the port area. The consignee then calls in a surveyor to make a claim on his freight insurance, using the fictitious documentation falsified by the exporter. The original genuine sets of commercial documents would only be used for bank credit and possibly customs clearance purchases. The same set of genuine documents will be presented to the insurance company for insurance claim on the supposed genuine cargo broken into at the port. This makes it so obvious that most times the insurer becomes a victim of fraud either directly or indirectly.
When one considers hull insurance fraud, it will be seen that most times the hull fraud goes hand in hand with cargo fraud. Take for instance scuttling; this is the oldest sub type of maritime fraud. It could happen that an old vessel loaded with high valued cargo deviates to a different destination; where the cargo is discharged and sold. After that the vessel is sunk, and the shipowner makes a claim under hull insurance, while the cargo owner makes a claim under the insurance policy. Quite often the vessel or the cargo are over insured. The shipowner could be a single vessel company whose ship is registered under a flag of convenience. At times it is found that the vessel did not sink as claimed but only went ahead to change its name.

Hull insurance fraud could also surface in the form of Arson. This is the act of maliciously setting fire to a property which has been insured with the intent of defrauding the insurers. The main reason for resorting to this type of destruction of the vessel is that fire is an insured peril\(^{(23)}\).

As Cadivallader (1981) pointed out:
"of all the peril which may be relied upon, fire is probably the most advantageous from the point of view of the assured. All that need to be proved is that there was a fire and that this brought about the loss. The assured does not have to prove how the fire started , if relevant by whom ...... the assured.
does not have to prove accidental fire, it is sufficient that there was a fire within the limits of its judicial interpretation, and that this caused the loss or damage to the subject matter.(24)

It is difficult to believe that one will ever be able to defeat fraud. Crime and commerce have always gone hand in hand, and will most likely continue to do so. However there is always scope to bring the difficulties to manageable proportions.

11--V111 MISCELLANEOUS FRAUD.
(a) FRAUD AND THE CONTAINER;
Containers have been hailed as one of the greatest technological advancement in the maritime field. Yet;

"it is the impression of many in the industry that the amount of cargo lost into the hands of criminal in the 1990's, when containers are so much part of the every day scene, is greater than the total lost through theft, pilferage, and non-delivery in the days of conventional cargo"(25).

When one examines the above assertion, it will be observed that while pilferage of cargo has all but disappeared when it is containerized, this petty crime has been replaced by group or organized crime which steals both systematically and in
quantity. However the peculiarities of the container system have not only increased the opportunities for theft but the box has become almost the perfect vehicle by which to commit fraud.

The following is an illustration of how a containerized system works. As soon as a consignment is ready for shipment, a container will be ordered and will be left at the premises, probably on a skeletal trailer. The factory personnel load the container, with the consignment dully counted by them, but without any independent check. The container door is closed upon completion of loading and a seal is applied. The container eventually arrives at its destination without any further checks, after having been handled several times along the way. In the advent of fraud therefore it becomes difficult if not impossible to pin down the culprit, or the point at which the fraud was perpetrated.

With conventional cargo, the system of tally and check tally was a fundamental part of the operation. Nothing moved unless it was counted. However with the advent of containerization the only security relied on is the container seal which has been abused in the operation of the system.

As will be seen, a shipper may commit fraud using the container either with a specific victim in mind or he may not be bothered as to who may end up as a victim.
A shipper may for instance load a container with some amount less than the manifested quantity or with goods which are sub-standard to those specified. When the shortage or the apparent substitution is eventually discovered, the shipper could decide to abscond or may contest any allegations vehemently and will allege all manner of crimes by all the other parties who have handled the container on its way.

The following case is illustrative of how a shipper can perpetrate fraud using the container:

"In the early days of containerization, a container of shotgun ammunition arrived in the United Kingdom with an actual content less than the manifested quantity. The police in the UK took a great interest in the case and one officer started working with a pocket calculator. He invariably demonstrated that, if the full quantity of cartons had been packed, then the resulting volume of the consignment would have been bigger than the outside measurements of the container. When this was pointed out to the shipper, there were profuse apologies, and the missing cartons were found, in a corner of the manufacturer's warehouse" (26).

Most times it is not so easy to discover the origin of the fraud, and equally difficult to find a ready solution as demonstrated above.

Again when one looks at the type of fraud perpetrated by the consignee through the container system; it will be
observed that this is usually limited to a false representations concerning the condition or the quantity of the content of the container.

A full container can be arranged to be delivered to a consignee's premises. Usually this needs no independent check whatsoever of the contents as they are being unloaded from the box. The possibilities are obvious, and it is perfectly open for a consignee to unload part of the contents and hide them, and then declare a shortage on out-turn.

(b) REGISTRATION FRAUD

This type of fraud has to do with vessel registration in one form or another. The most common form of this is the mortgage fraud. It is perpetrated by the shipowner as the mortgagor, who fails to meet the mortgage payments. He proceeds to avoid calling at the ports where the vessel can be arrested by the mortgagee, and sold at public auction.

The shipowner is able to obtain a registry for the ship in a country where the certification of charges and liens are not required. Then with the ship registered without any mortgages the unscrupulous owner can sell her to an innocent buyer, as if it were free of all incumbrance.

Again a shipowner may decide to register his ship in different registries under different names. This happens usually when the shipowner realizes that the vessel is in a
big trouble. It is not uncommon to find this type of act during depressed economy.

11--1X THE ROLE OF INTERNATIONAL MARITIME BUREAU (IMB) IN COMBATING INTERNATIONAL MARITIME FRAUD

The International Maritime Bureau is a non-governmen
tal, non-profit making organization. It was established by
the International Chamber of Commerce ICC in 1981. It was
designed as a focal point and a central clearing house for
information concerning maritime fraudulent activities. Also
it was designed to enable individuals, corporations, and
governments involved in international trade and maritime
affairs to avoid being victimized by such activities.

The IMB’s stated objectives are as follows;

(i) To prevent and contain fraud and other suspect
practices in international trade.

(ii) To receive information provided by commercial and
other interests including governmental and inter
national agencies relating to fraudulent or other
suspect practices in international trade, and to
collate this information as a basis on which to
advise members and the industry in general.

(iii) To suggest avenues of procedures to those
involved in a transaction which they believe may
be fraudulent or otherwise suspect.
(iv) To advise organizations in setting up or improving operational and commercial systems so as to reduce their vulnerability to fraud or other malpractice.

(v) To design and provide educational services relating to international trade fraud and suspect practices as an essential crime prevention service.

(vi) To conduct investigations into fraud or commercial malpractice and to assist injured parties who have suffered loss in effecting financial recoveries (27).

The IMB has been in existence for just over ten years, and during this period, it has concentrated on maritime crime with fraud being the predominate issue. While there have been some notable successes most criminals are still at large, and making a handsome living, very often at the expense of the insurance community.

When the bureau first started in 1981, the so called "Rust-Bucket" frauds were very much the order of the day. This phenomenon was spawned by the depressed state of the industry and the ease with which it could be committed because, by definition, the evidence was all at the bottom of the sea (28).

During the last decade, the bureau widened its activities by natural progression, and now finds itself concerned on a
day to day basis with a whole variety of criminal activity and malpractice.

On the preventive side the Bureau provides access for their members to a data base of information concerning the industry, its companies and its characters. This will enable them to be able to decide for themselves the probity of any venture they are considering. In fact the information section of the Bureau could be regarded as the bedrock on which the Bureau is built.

On the investigation side, there appears to be no limit to the type of tasks the bureau is undertaking. The modernization of the shipping practices further complicates the Bureau’s tasks.

One only has to look at containerization as an example, to see how the petty pilferer of yesteryears has been replaced by the organized criminal of today. Similarly the computer which was initially hailed as being the answer to everything for everyone has now been so corrupted as to have dented the efficiency edge of the system. Today computers are just like any other trading documents to a fraudster. Information can easily be manipulated to suit the culprits’ purpose.

However, of the various activities undertaken by the IMB to realize the objectives for which it was set up,
its investigations and its dissemination of information appear to be the most noteworthy. Apparently as a result of the world wide contacts established by the personnel of the (IMB) it has been highly effective in locating "missing" vessels, or cargo, authenticating documents and generally exposing fraudulent activities (27).

As a part of its dissemination of information role, it circulates fortnightly a confidential bulletin to its members concerning reported frauds and their modus operandi. This also includes the activities of companies and persons associated with fraud. As well as those involved in suspect practices, reports of stolen or forged survey certificates and letters of credits (30). In addition, its computerized data bank is open to members, wishing to investigate individuals or companies with whom they are about to do business. One of the notable aspects of the IMB informative role is its willingness to disseminate information about suspect individuals or activities, which is believed to be true but which has not been completely confirmed to be true. IMB also monitors voyages in order to prevent illegal deviation and discharge of cargo. An international cargo crime prevention bulletin is also equally distributed to their members on a monthly basis.

The original concept of the Bureau was not to become another investigation agency but to become an industry focus. In complying with that mandate, it has concentrated on publicity, information and education.
The Bureau has also, for the past several years, undertaken to organise its own courses for members and others. The duration of these courses varies from one day. These courses have proved to be equally popular and valuable.

Finally, the IMB is cooperating with UNCTAD in their initiative on maritime fraud. They also enjoy the support of the International Maritime Organization (IMO). The IMO has passed a resolution calling upon all member governments and their law enforcement agencies to cooperate with the IMB in achieving its objectives.

11--X THE PROBLEM OF INVESTIGATION AND PROSECUTION.

After having looked at the different types of fraud; it becomes necessary to examine the problems faced by the investigators. The international nature of the crime of maritime fraud makes it very difficult to identify, let alone apprehend and prosecute the perpetrators.

One could consider the following reasons as being responsible for the problems.

(i) Long distances exist between the buyer and the seller.

(ii) Limited contact takes place between the perpetrators of the fraud, and the victims.

(iii) Ability to disguise identities behind corporate shields exist.

(iv) Multi-jurisdictional nature confounds the prosecution
of most frauds. For instance, investigation of cases show that in most situations between four and ten countries may be involved in a particular investigation. The following case is illustrative. A vessel, M V "Scuttle", is owned by I.M Ignorant and Co. LTD. in country A and is registered in country B. The vessel is bareboat chartered to Van Lashing Inc. S.A in country C, who spot charters it to Goodwill and Co., LTD in country D to carry a cargo to be loaded in country E and delivered to country F. The officers and crew are from countries G and H supplied by Scuttler Anonymous in country L. The cargo insurance is placed by brokers in country J, with a company in country K. The vessel on sailing from E, deviates and sells cargo in country L and is then scuttled. (Adapted from Cooper (1980)

(v) Lack of response from the victims is common. It is estimated that one-third of maritime cases are not reported due to the commercial attitude of the victims. Some cases are not reported due to the commercial attitude of the victims. Some cases are not reported in order to avoid adverse publicity. At times the authorities are informed too late or the victims negotiate with the perpetrators to re-purchase their own goods. Ellen (1982) "This is because they are more interested in commerce than morals.

(vi) The costs of gathering information and bringing witnesses from abroad for trial are prohibitive Prior
to an investigation, the officer in-charge must submit a report of the facts, views and intended course of action to the Director of Public prosecution (DPP) in England and seek his advice on the cost and eventual result of the investigation and also on extradition agreements. As a result very few investigations are completed from complaint to eventual prosecution because of the international nature of the crime. Chaikin (1983) points out: There is a disturbing trend for domestic law enforcement agencies, for a variety of reasons to almost give up when a substantial foreign element is involved in the commission of a crime. The Roskill Report in England (1986) points out that the average cost of a commercial fraud case from the beginning of a police investigation to verdict, based on a sample of ten cases, lasting more than 25 days in which verdicts were reached in 1981-1984, was five hundred thousand pounds. The report goes on to say that this does not include the cost of any inquiries carried out by external inspectors under sections 431 and 432 of the companies Act 1985. The average cost of the reports produced by these inquiries was four hundred and sixty three thousands pounds.

(vii) The problems of extradition of offenders from different jurisdictions is significant.

(viii) There are certain basic offenses, such as theft and piracy, which are universally recognized as crimes. Nevertheless when it comes to such cases individual
nations have various ways of treating the offenders. Take for instance the case of the "Salem", despite the conclusive evidence of scuttling, the master and the chief engineer were released by the Liberian authorities.

While civil law has the ability to resolve complex disputes between merchants in international transactions, civil actions are not considered by the victims of maritime fraud, because their success depends, inter alia, on factors such as made evident in an article titled (UNCTAD (1983));

(a) Ability to bring civil action in a court with jurisdiction.
(b) Ability to obtain a judgement in their favor, for which depending on the type of fraud major difficulties of proof may exist.
(c) Ability to enforce the judgement against the perpetrators of the fraud.
(d) Finding sizeable assets on which to enforce the judgement, because of the ease with which the proceeds of the frauds can be laundered" (31).

Again when one considers the development in communications, technology, transportation and the increased mobility of individuals, companies and capitals have contributed to a situation where the conception and commission of
ordinary criminal law offenses involve two or more jurisdic-
tions.

The investigators have not got the ability to compete
with the sophisticated organization of the international
commercial criminal because of the lack of facilities to
exchange information between countries.

However the international maritime bureau, has been out
to put an end to fraudulent activities in our society The
court of appeal in England took the following decisions in
favor of the bureau.

"In late 1981, IMB had received information that a
named, infamous fraudstar was connected with a new company
called Maritime Tradition S. A. The IMB verified the
information and posted a notice in the Baltic Exchange,
stating that information regarding the activities of the
grecian was available from the bureau to members con-
templating doing business with the company. As a result of
this, an action for defamation was brought against the
bureau, the grecian, obtained a temporary injunction restrai-
ning the bureau from further disseminating the allegedly
defamatory information about the company.

The IMB appealed to seek relief from the injunction
imposed upon it by the lower court. The appeal judges Lord
Denning M .R, Lord justices Griffith and Kerr unanimously
found that the bureau's actions were justified and that it could issue warnings to its members about shipping concerns. Even if it did not have concrete proof of fraud provided there were reasonable grounds for an honest belief.\(^{(32)}\)

Problems of delays in investigation and prosecution due to lack of resources are compounded by a lack of power to obtain evidence, and delay is also a weapon in the armory of a fraudsters. Many of them try to put off their trials for the following reasons.

(a) To enable them to commit more offenses in the knowledge that the prosecuting authorities are likely to charge every offence and that even if charge with further offenses concurrent sentences are likely to be imposed.

(b) To ensure that offenses are so stale that the sentences will be minimized

(c) They hope that witnesses will, for one reason or another become unavailable, thereby giving a greater chance of acquittal.

In some countries there may be delays in maritime fraud cases where the judiciary is unfamiliar with the concepts and request instructions. In a number of cases the fraudsters instead of being remanded to custody, are granted bail and subsequently they on occasions not only fail to appear but they carry on their activities once again under another name.
The foregoing section has highlighted the complexity of the problem in investigation and prosecution. There have been several calls for reform, especially from International Organisations such as the IMO, IMB which concern themselves with curtailing the incidence of maritime fraud. Still there has been lack of positive action to deal with the problem of maritime fraud.
ENDNOTES


(14) Ibid Pg 9


(17) Guide to the prevention of maritime trade fraud (1980) London ICC. Pg 8


(19) Special report Fire at Sea Accident or Arson (1984) London ICC pg 1


(22) Ibid Pg 10

(23) Filinto Alegre (1990) Unpublished MSC WMU.Malmo, Sweden pg 33


(26) Ibid Pg 12-13


(30) Ibid Pg 16


(32) Ibid Pg 38
CHAPTER 111

111. PARTICULAR EXPERIENCES IN NIGERIA AND THE EFFECTS ON THE SHIPPING ACTIVITIES IN THE COUNTRY.

III-1 THE NIGERIAN SHIPPERS;

"The exact arithmetic or geometric growth made through maritime trade in Nigeria is an economist’s nightmare caused by the presence of maritime fraudsters. While the government and the patriots are striving hard to actualise their dreams of making maritime trade in the country a major source of enviable earnings, fraudsters continue to widen their nefarious acts which invariably is affecting the healthy development of the trade" (33).

The term "Nigerian shippers", what does it mean? A Nigerian shipper is any person or organisation who directly or indirectly transports merchandise from one point to another, and would stand disadvantaged by the loss or damage of such transported consignment.

From the above definition, it implies that the Nigerian public falls within the definition, and as such the interlink between all economic activities.

The Nigerian maritime trade, in the last decade, has experienced a great deal of documentary frauds in connection with chartering, scuttling and cargo theft.
There have been reported cases of falsification of shipping documents, letters of credits, and in some cases non payment or short payment of the supposedly shipped goods. The following incident is illustrative.

In May 1978, a Nigerian buyer contracted with a Danish seller, to purchase 125 tonnes of salt, sugar, and rice at a C&F price of US $200,000. Payment was to be under documentary credit. This cargo was overvalued by about 10 times. In view of the strict exchange control regulations in Nigeria at that time, presumably the Danish seller was to credit the excess sum of US $180,000 (approx), less the sellers’ commission, to the buyers’ account outside Nigeria. The buyer opened a letter of credit through a local issuing bank. The paying bank was in Denmark.

The seller realised that if he shipped no goods at all, the buyer would be in a difficult position i.e the buyer’s own fraud of foreign exchange rules would be exposed. The seller seized this opportunity and did not ship any goods, presented false documents to the paying banks and awaited payment. At the same time, another person in the issuing bank also realized the gross over-invoicing of the goods, and he promptly appropriated the sum of US $200,000. This third party who defrauded both the buyer and the seller was certain that it would not be reported in view of the other offences. The buyer was unaware of the seller’s fraud, and when the vessel named in the Bill of Lading arrived, he went to claim the goods. Fortunately for the shipowners, the vessel did not call at the port named in the Bill of Lading. To add to the complexities, the vessel was under time charter. The time charterers, immediately started an investigation and the
details of the fraudulent activities came to light.

The following Nigerian insurance fraud is another case: This fraud involves a conspiracy between exporters in the Far East and importers from Nigeria. The Nigerian importers would request of its Far Eastern contact, usually a small exporter situated in Hong Kong or Taiwan, for a consignment of cheap products, such as flash lights. As part of the conspiracy, the exporter would provide two sets of documentations, one set relating to the true contents and the value of the cargo, and another set relating to the fictitious cargo of much higher value, say audio products.

The consignee would arrange for the higher valued goods to be insured locally in Nigeria with one of the larger international insurance companies. The cheap goods could be shipped using only one Bill of Lading, provided by the carrier. But, this Bill under the shipper’s instruction would carry details of the fictitious cargo, as this document is an essential part of the insurance claim. When the cargo arrives at the Nigerian port, the importer would arrange for the cargo to be broken into, and stolen inside the port area. The consignee then calls in a surveyor to make a claim on his freight insurance, using the fictitious documentation falsified by the exporter. The original, genuine set of commercial documents would only be used for bank credit and possibly customs clearance purchases.

This is because it contains the non existent cargo. Analysing the evil effect of maritime fraud in the country, a private shipping consultant Chief Stephen Okpareske,
said fraud has eaten deep into the Nigerian trade. He added that available records indicated that Nigerian lost about US $25 billion in over invoicing, forged Bills of Lading and customs Bill of entry between 1973 -1989. Chief Okpareke pointed out that these acts are widespread reaching beyond Nigerian shores, thereby raising fears as to the successful implementation of the national shipping policy.

The fear according to him is because the fraudsters have perfectly mastered their acts to the extent that forgeries look as perfect as originals as it can be. In fact one would require independent expert opinion as to whether or not a reasonably competent person would have discovered the forgery by exercise. Secondly they always have the backing of law enforcement agents and officials who are expected to prevent fraud. This means that the perpetrators of these nefarious acts are often aided by insiders whose questionable actions are capable of causing frauds, through access to official secrets, or negligence for illegal considerations either of cash or kind.

111-11 THE NATURE OF MARITIME FRAUD PERPETRATED IN NIGERIA.

Nigeria is a big maritime nation. Her maritime activities are quite diversified. Apart from banking and insurance, shipping could be a major earner in the country if given the right attention.

In Nigeria the nature of maritime fraud perpetrated is manifold. The range of fraud affecting Nigeria includes falsification of shipping documents, marine insurance
fraud, where claims are time barred, theft of vessels or cargo, charter frauds, armed boarding of vessels or plain piracy in ports, or on the high seas. There is also the manipulation of Bill of entry, falsification of invoices, double or overinvoicing. This is to mention only a few. It is however noteworthy, that Nigerians are not always the culprits. Many times they are victims as well.

In the following a few typical charter party frauds are presented as they were experienced by the Nigerian importers in the recent past. Generally the year 1977 witnessed a world wide depression in the shipping business and a lot of vessels were laid up. During this period, more than 62 vessels laden with cargo bound for Nigeria were declared missing because shipowners were known to have seized the ship and cargo due to unpaid charter fees and then in order to make cargo owners lose track of vessels, changed the name several times and sailed her to ports where there are ready markets sell the cargo and offset outstanding charter fees.

Furthermore, a number of charterers employ various methods to defraud cargo importers. Most prominent among them is to time charter a vessel and book cargo for her, collect pre-payable freight for the voyage from shippers then pay part of the monthly hire and depart to a far away country to count their loot. Another method is whereby charterers, in connivance with shipowners, deliberately employ an unseaworthy vessel and collect freight only to declare a general average on the vessel a few days after sailing, either by reporting a major engine breakdown or steering breakdown.
The salvage operation is carried out by a sister ship and would not be under the Llvdos open form of salvage agreement. A demand is made for payment of a cash deposit in unreasonable terms, when this is not forthcoming, the cargo is sold off by private auction.

The following four cases involving these four vessels will be highlighted:

(i) Emmanuel Kamateros
(ii) Shenton
(iii) Swift Seagull
(iv) Jal Sea Condor.

(i) "EMMANUEL KAMATEROS"

"She loaded from various European ports for Lagos, and Port Harcourt in Nigeria, with general goods totaling approximately 10 million Nigerian Naira. On arrival in Nigeria she was diverted from Port Harcourt, without discharging any cargo, to Kalamata, in Greece on the allegation of outstanding mortgage payments."

It was later reported that her owners had gone bankrupt and the vessel was sold by public auction, when it was renamed "JOINT VENTURE" by the new owners. All efforts were made to protect cargo interests by the joint intervention of the Salvage Association and Yinka Omilani and Associates a company in Nigeria. Cargo interests had to share all expenses incurred as accruing to shipowners, and on the return voyage there was a fire incident at Sicily which necessitated further enormous expenses for salvage services and general average contributions. Fortunately the support of the central bank of Nigeria was given but a good part of cargo as auctioned in some
unsatisfactory circumstances by parties representing the ship's interest.

In all, it must have cost the cargo owners and underwriters a loss of approximately four million Nigerian Naira. It was on record that only a few importers were able to collect and tranship their cargo in other vessels"[34] This is a true illustration of an illegal diversion of cargo.

(ii) "SHENTON"

"She loaded general goods from Italy valued about five million Nigerian Naira, for Lagos ports. She arrived on schedule at the Tin Can Island port, under the pretence that she was going to take fresh water in Cotonou. She never returned to Nigeria with the remaining cargo valued about 2.5 million Nigerian Naira, and all efforts to arrest her failed. The owners of "SHENTON" issued new sets of documents and sold the remaining cargo to a trader resident in Dakar.

When the case was taken to court in Dakar, the trader was pronounced the sole owner of the consignment."[35].

(iii) "SWIFT SEAGULL"

The Swift Seagull carried cargoes destined for Nigerian ports valued about five million Nigeria Naira. Before the vessel arrived in Nigeria, it was gathered that the charterers had arranged to sell the vessel and cargo to a Lebanese. In order to prevent the fraud, the Salvage Association ordered the vessel's arrest off the port of Dakar. Consequently, the charterers disappeared and subsequently negotiations were held with the ship owners.
who listed several impossible conditions under which the charter party would be completed and cargo delivered.

In the meantime reports had it that organised pirates broke into the vessel and removed some items for sale in Dakar. According to Senegalese customs, this act was regarded as smuggling thereby the vessel and cargo were liable to seizure. Eventually, the entire consignment were sold by the Senegalese customs Dept. Again the Nigerian importers lost both the cargoes and the sale proceeds—(36).

(iv) "JAL SEA CONDOR"

"The JAL Sea Condor" was built in 1958 in Shaftesbury in 1972. She became the "PORTOE" and in 1973 she was acquired by a company in Chile and was renamed "ARAUCO". On the 2nd of March, 1978 the vessel was sold again to Messrs Hong Kong Lee Sing Shipping Company Limited for the sum of US $296,280. The ship was sold for scrap for delivery to a breaking up berth at Junk Bay, Hong Kong, and it was a condition of the sale agreement that the ship would not be traded again.

However on the 15th March, 1978, for an additional payment of US $40,000, Messrs Hong Kong Lees Sing purchased an option to trade or sell the vessel for trading. On the following day, 16th March, 1978 Messrs Lee Sing agreed to sell the vessel to Messrs Fife Shipping Company for US $397,280. The vessel was delivered to Fife Shipping Company "AS IS WHERE IS" at Junk Bay on the 31st March, 1978.

The vessel at last sank off the coast of southwest Africa on the 6th July 1978. At the various loading ports,
she loaded general cargo including rice, garments, electric goods, and canned fish valued at about US $6.5 million bound for Nigeria. From the foregoing it was obvious that the vessel was finally purchased to defraud Nigeria importers\(^{(37)}\). This is because all the cargo were owned by Nigerian importers.

\[\text{111-111 THE GREAT NIGERIAN OIL SCANDAL.}\]

Fraud involving Nigeria oil is probably the most persistent of the present crop of frauds. The concept is simple; the apparent risk is modest; the potential profit is high; the technique is almost an art form in itself\(^{(38)}\).

The basis for the fraud is a mixture of a demand for oil, and an unfortunate perception that some Nigerians are those whose operations are not always strictly above board.

Apparently, when an offer is made to sell a million barrels of oil at a price a few cent below the spot price as a personal favour, the victim believes it. I however believe the victim deserves this act of being cheated. This is because he is interested in fraud himself, and therefore the circumstances relating to him fit easily into his idea of the way things are done by some Nigerians.

Most times the circumstances surrounding the oil fraud go unsuspected. This is because the seller does not ask for the full purchase price but only for an advance fee to cover expenses incurred in loading and other disbursements in Nigeria. This advance fee is usually something
between a third and a half a million dollars which is a lot of money when viewed in isolation.

At the end, the victim pays his money and ends up with a "Bill of Lading" which he eventually presents at the discharge port, only to end up frustrated. This is because he finds out that his Bill of Lading is but one of four or five similar Bills, all of which prove ownership of the cargo. Some where among these bills is one that is genuine. Unfortunately the mechanisms to determine the true bill of lading could be involved long and time consuming that all the victims could end up loosing interest in the fight.

The Nigerian oil frauds are essentially either
(i) Documentary frauds or
(ii) Advance fee frauds.

In this circumstance it is a documentary fraud because the seller uses false documents to persuade the buyer or his bank that cargoes have been consigned to the buyer and thus obtains the purchase price from him.

Again it could be an "advance fee" fraud; here the seller persuades the buyer to part with a sum, relatively small compared with the potential profit. Again the documents are used to persuade the buyer that the goods are on the way to him.

The following are the modus operandi involved in perpetrating this fraud:

The originators of the fraud is persons of the Nigeri
an origin, are usually well dressed, well spoken and with the usual characteristic of persons of substance. Their victims are usually small to medium sized companies. The buyers become attracted to the transaction by a common desire to make an unusually substantial profit from a single transaction. A sentiment which plays them into the hands of the seller.

This is coupled with the offer price of the oil which is usually lower than the current market price. The seller dubiously impresses upon the buyers that the oil for sale is of special allocation, and therefore request the transaction to be kept secret. Buyers are often advised that the highest echelons of power in the armed forces, and the Nigerian National petroleum corporation NNPC are involved in the deal.

The buyer, fully convinced of the genuity of the transaction, concludes his own part of the payment agreement. The oil is truly loaded at the loading port. This unfortunately could be sold several times during the voyage.

When the vessel finally arrives at the discharge port; as many as five different claimants to the cargo would be waiting for the oil to be discharged. Only to end up frustrated as the legitimate buyer instructs the ship’s agents to discharge his cargo to his order.

Many buyers at this stage have instructed lawyers and commenced an action against the vessel for wrongful delivery. In the courts it is quickly established that the owner of the cargo is not the buyer, but the other party who has purchased it either directly from the NNPC, the
major oil companies, or those companies having long term purchasing LTP Agreements with the NNPC. The buyer ends up losing an "advance fee of US $250,000 (39) which is the intent of the "seller" in the first instance.

111-1V LOCAL MARITIME FRAUD

In the previous section, the international maritime fraud as it affects the Nigerian shipper was discussed. Local maritime fraud is part and parcel of the international fraud. When this is viewed from the importation angle it will be observed that about 98 percent of the country’s local fraud is concentrated on the high valued imports that come into the country (40).

111-1V(a) THE NIGERIAN PORTS AUTHORITY;

The Nigerian Ports Authority is the sole custodian of goods discharged and stored in any of its ports. The Authority charges the importer for the use of its services, and therefore is a bailee for reward.

Now in Nigeria, it is fashionable to complain that times are hard, that the economy is poor, the Nigerian Naira is virtually valueless. Unfortunately not many Nigerians ever give a thought to the vicious attack the economy suffers at the hands of Nigerians themselves.

It is becoming clearer, for instance that the weak mono product economy based on oil, is being made even weaker by massive fraud going on at our ports. The scale of the fraud is such that it is indeed a miracle that the economy has not caved in under its pressure. Its nature is such that will do the greatest and most lasting damage to the economy. This is because it is focused on export commodities such as palm kernel, palm oil, cocoa, and
rubber which are the country's major agricultural exports.

At the heart of this nefarious activity, are a few unpatriotic Nigerians who are urged on by certain foreigners. These Nigerians are to be found in the Customs and Excise, the Ports Authority, the maritime Authority, and the Central Bank. They are supposed to process the export forms filed by these raiding foreigners, which they deliberately fail to do as they must have taken some bribes from the exporter. They are therefore forced to dance to their tune.

The fraud is committed as follows; The exporter does not document his exports. When he does, he undervalues same by as much as 50 percent in quantity and in the market price.

The proceeds are eventually shared amongst those involved in the deals, to the detriment of the nation. Again at Nigerian ports, there is such a laxity that cargo such as cars could be cleared without confirmation as to whether or not the carrier of the Bill of Lading is truely the owner. The following instance is illustrative.

"A Nigerian living in the United States of America, bought a volvo car 740 GLE for his sister in Lagos. He used Panalpina World Transport Limited, a multi-national shipping and freight forwarding agency. He shipped the car to Lagos, and notified his sister about the car's bill of lading which he sent through one of the major courier companies in the country.

When the man phoned his sister in Lagos a few weeks
later to enquire whether he had received the Bill of Lading, he was alarmed to find out that the documents had not reached their destination. He quickly got another set of the Bill of Lading from the shipping agency and flew to Nigeria, only to be informed in Nigeria that the car had been cleared from the port, with the original bill of lading.

Investigation by the Ports Investigation and Intelligence Bureau (PIIB) confirmed what had been suspected. The Bill of lading sent through the courier company was intercepted, and the interceptor cleverly made up an identity to match the name on the Bill of Lading, to clear the car. It turned out that the despatch staff of the Port Harcourt branch of the courier company had been in the habit of sifting through the mails and confiscating any package that contained bills of lading for imported cars.

Unfortunately, the Nigerian Ports Authority Act section 91, on the liability for loss of goods — As a warehouse man provides that;
"subject to the provision of this ordinance or any contract, the Authority shall not be liable for the loss, misdelivery or detention or damage to goods.
(a) delivered to, or in the custody of, the Authority otherwise than for the purpose of carriage.
(b) Accepted by the Authority for carriage, where such loss, misdelivery, detention or damage occur otherwise than when the goods are in transit;

Except when such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care.
on the part of the Authority or any servant of the Author-
ity (42).

This particular provision has protected the servants of the Authority even when fraud is committed. The provi-
sion places onus of proof that the Authority has not excercised reasonable foresight and care on the owner of the goods or his assigned agent before the Authority could be held liable for loss or damage. The ideal thing is that the Authority should prove that it has not excercised reasonable foresight and care, and should not be the other way round.

If an ammendment to this act is not made, the servants of the Authority will continue to manoeuver under this umbrella at the expense of the entire economy.

There have been instances where the Authority's staff have issued discrepancy certificates indiscriminately to importers (especially for container traffic) without the necessary guidelines for such issuance being followed. They do this either out of ignorance or in connivance with the importer; thereby defrauding the government of its resources.

111-IV(b) STEVEDORING COMPANIES.

Stevedoring companies in Nigerian ports are not blame free when the issue of maritime fraud within our local environment is concerned.

Stevedoring companies in the country have connived with local traders who sweep the ships, to deliberately destroyed sound bags of rice and other items at the
expense of the shipping companies. This deliberate damage of cargo in the name of sweeping has caused the nation a amount estimated conservatively of more than 50 million Nigerian Naira yearly\(^4\)\(^3\)

The booking of stevedoring gangs is another issue; each gang is supposed to consist of 16 men on board. However instead of the normal booking of 16 men in a gang, the stevedoring companies hire only 6 men. They however still charge the same amount of money as if they hired 16 men. The balance is shared among the culprits. This contributes to a further delay in loading and offloading of cargo, causing longer waiting time for vessels in the port.

111-1IV(c) CLEARING AND FORWARDING AGENTS.

Clearing and forwarding agents have equally contributed to the incidences of local maritime frauds recorded in the Nigerian maritime industry. As a result of their fraudulent activities, the average Nigerian refers to them as "backwarding and forwarding agents".

These lots falsify documents, deprive government of the revenue due to it, disappear with the goods they clear on behalf of their clients. They also go ahead to impose arbitrary charges on their clients.

In the "Nigerian Guidian" of 25th of January 1992, it was stated that Nigeria may be losing no less than 300 million Nigerian Naira in terms of revenue yearly as a result of the fraudulent activities of some foreign clearing and forwarding companies, operating in the sea ports.
111-1V(d) CUSTOMS AND EXCISE DEPARTMENT;

The customs and excise department is invested with the role of ensuring that all ships, aircraft and vehicles coming into the country through the sea, air, road, and rail, pass through approved "custom ports". Through this process the department is to ensure that all goods entering or leaving the country's frontiers are duly cleared by the department.

Unfortunately, the process of releasing cargo through the customs and excise department is very cumbersome, and expensive in terms of time and money. The volume of paperwork involved in a simple transaction like this should be made simpler to cut down cost, and time.

In order for shippers to cut down on cost and time they fall into the trap of the unscrupulous customs officers, who take many bribes before releasing any consignment. When visiting Nigerian ports, one finds the activities of these custom officers extremely unethical. The activities of these customs officers could be seen as an indirect way of committing fraud.

111-1V(e) SHIPPING AGENTS AND SECURITY AGENTS.

Shipping agents constitute a section of fraudsters in the shipping industry. In Nigeria they have been known to issue shippers with arbitrary bills with charges for non-existent services. Those legitimate are often inflated between 40 and 100 percent of actual cost. These are arbitrary and fraudulent in application. (44)

Often some shipping agents after admitting responsibility for loss or damage to consignments have dragged
their feet in the process of settling the claims, as a means to report to their principals that they have been unable to settle the claims because they have been time-barred.

In other cases shipping companies or their agents have bluntly refused to issue discrepancy certificates even when survey reports indicate serious damages to the consignments. Where they finally agree to issue such certificates, they do it so late that by the time the shipper presents his claims it will have been time-barred.

111-IV(f) INSURANCE COMPANIES

The insurance companies have been one of the targets of fraudsters in the marine industry. Though there are times when they are culprits themselves, especially when they avoid payment of claims presented to them. This is usually more rampant during the period of economic recession. The insurance companies most times are willing to receive business, especially if the business has come directly from the shipper and not through a broker.

This is because they are aware brokers could easily identify loopholes if they happen to exist. They capitalise on the ignorance of the shipper, finally invoking one or two points in order to avoid a claim. Whereas the same insurance company failed to inform the ignorant shipper that there are exclusions, and he could pay extra premium to cover such risks. A broker may have effectively protected the interest of the shipper if the shipper had gone through him. However most often it is the insurance companies that fall as victims to fraud perpetrated by shippers. The following write up in one of the Nigerian
news papers "SUNDAY TRIBUNE, of 10th January 1993 is quite illustrative.

"Fraudsters invade Nigerian insurance industry" is the title of the write up. According to the newspaper fraudsters otherwise known as "419" have shifted their area of concentration to the marine and vehicle insurance sector in the country.

In the marine sector fraudsters connived with port officials to clear their cargoes, and after some weeks raise alarm that their items have been cleared by unknown persons.

At times when port officials hesitate to work as accomplices, the fraudsters tender forged certificates and get the cargoes cleared.

The managing director of Nigerian Insurance PLC, who had been a victim, said that his company had lost millions of Nigerian Naira to the syndicate in the previous few months.

111-IV(g) IMPORTER (CONSIGNEE)

The Nigerian importer has his own share of the blame for fraud in the country's maritime trade. Most shippers during the period of economic recession tend to inflate their claims figures on insurance companies.

Some importers even arrange with exporters to short ship, not to ship at all, or request that rubbish should be shipped in the consignment. So that they could take
their claims from the insurance companies. The following case is from Commercial Crime International, August 1993.

"Nigerian launch latest: variation on a theme fraud - the shipment of container load of rubbish." According to this article in the "commercial fraud international" they claimed that history shows that many fraud attempts have their origin in Nigeria and a lot of people in Nigeria wish this were not the case. Now the latest variation on a theme has emerged from Nigeria. Based on a scam which was first identified in the late 1970's, traders outside Nigeria have been receiving an unsolicited letter suggesting they get involved in a scheme with the writer, who says he is acting on behalf of a Nigerian import agency.

The exporter is asked to ship a container loaded with rubbish to the Nigerian importer, but with all the documentation and necessary insurance to suggest the container is loaded with high valued merchandise. On arrival in Nigeria, the importer arranges to have the container stolen or burgled before any official examination, and then make an insurance claim for the goods which never existed. Everyone makes a profit except the insurer.

The 1970's version of this scam was an effort to overcome Exchange Control Regulations, and involved the opening of a letter of credit by the importer for high value goods. Once again only rubbish was sent. When the arranged theft of the container took place, not only was there a fraudulent insurance claim but the further benefit of currency being moved out of the country.
The new scheme does not mention a letter of credit so this could be just a straightforward insurance fraud. As no one is known to have taken up the latest offer, investigators are unsure of its true purpose. It could be that, as with the Nigerian oil frauds, the letter is only the overture to something more complex. The investigators feel that no responsible trader would think of getting involved, but insurers may get caught. They have however gone ahead to advise insurance companies over payment for "a whole box loss in "Nigeria. This they advised should only be done after the very closest scrutiny to ensure the cargo actually existed.

111-v THE EFFECTS OF MARITIME FRAUD ON THE SHIPPING ACTIVITIES IN NIGERIA

Fraud is not a new phenomenon in Nigerian commercial environment. The phenomenon seems to be in constant struggle for popularity supremacy in the thoughts of Nigerians with their first names as Nigerians.

Fraud has eaten deep into every nook and cranes of the various arms of the economy, both in the local and international fronts. It is fraud that portrays Nigeria in the ugly light before the larger world. The mere mention of the name Nigeria or the sighting of the green international passport booklet registers fraud: master of the game, be cautious and alert, is at the back of the minds of an average foreign national. Still fraud seems to be the ace held by a few individuals as a means of livelihood in the country.

To a Nigerian, fraud is the order and not in the least a deviation. Thus stating that any part of the
nation's organisation is fraud free is synonymous to asserting "confirmatively" the falacious claim of scarcity of sand in the Arabian desert.

However, the blow dealt on the maritime sector in Nigeria obviously outstrips its resistance and reactionary prowess. Perhaps more worrisome is the fact that syndicates are fast turning into perfect fraudsters. It is disheartening to see and to hear of the devastating image Nigeria has received in the international world. It is rather unfortunate that it is only a few individual in the country who have put it on themselves to tarnish the image of the country. All in an attempt to get rich quick.

When it comes to international trade, even aside from shipping, in recent times it is difficult to convince any investor to come to the country.

My course professor, professor Theodore Sampson who is an American personally narrated an experience he had with a Nigerian friend, who wanted to go into partnership with an American business enterpreneur. According to him, his Nigerian friend is a decent, upright man. Unfortunately when my professor contacted few of his American friends who could be interested in investing abroad; the first question asked was which part of the world? When my professor mentioned Nigeria, that was the end of the discussion.

From all they had heard happening in Nigeria, they did not want to have anything to do with Nigerians irrespective of who they are or what they stand for.
It was very shameful, and highly depressing hearing this impression expressed about my country. It would have been okay with me if that were the true image of what Nigeria is.

Unfortunately, there are only a few individuals who perpetrate these unscrupulous acts. It is really difficult now to attract investors into the country, which has further worsened the country’s already dilapidated economy.

Again I had some disheartening experiences during my time researching this problem while at the International Maritime Bureau in London. In the bureau I was astonished at the numbers of fraudulent letters written by Nigerians in order to defraud some foreign partners. The bureau has a file on the Nigerian situation. I went through the file and it was difficult for me to believe that my fellow countrymen committed all those havoc for the nation. The letters were fraudulent and unbecoming of a nation with such potential as Nigeria.

At the international maritime bureau. I was personally informed that because of these fraudulent characteristics of some unscrupulous Nigerians, they do not recommend any Nigerian to any body interested in entering into any form of venture in Nigeria.

This is a great problem for the country. Apart from the fact that her beautiful image has been tarnished, internationally Nigeria has been classed with other nations of the world who are reknowned to have being blacklisted when it comes to uprightness.
What the government is going to do to buy back the glittering image of Nigeria of yesteryears is still a mystery to me.

However in the conclusion there will be suggestions of measures which could go a long way to minimising the occurrence of these fraudulent activities. The federal government is however not ignoring the problem of this disturbing image; it put the following plan of action into place. In the last five years, the federal government has introduced a series of preventive measures to ensure that goods imported into the country are protected from the criminal activities of fraudulent persons.

The increasing rate at which international maritime fraud was affecting the Nigerian national economy was of great concern to the various governments of the country. This brought about measures to ensure the quality specification of goods. To ensure that import licences issued correspond with what is shipped into the country. This led to the use of a comprehensive inspection supervision scheme (CISS) which issues a clean report of finding, if satisfied with any inspection carried out. The inspectors are sustained at international ports. Their main assignments is to examine imports, certify the genuity of the cargo before it can be shipped to the country.

The federal government through the central bank has further introduced the use of form M in the country's international trade. This is to monitor what is being exported into the country. This measure coupled with the CISS has in no small way reduced the fraudulent practices
in the insurance and circulation of forged letters of credit in the country's international trade. These measures made it difficult for fraudsters, to bring or import whatever they like into the country. There is a proper scrutiny before exchange approval is granted.

The recent introduction of advance duty payments and the existing requirements by the Central Bank of Nigeria, that a copy of the Bill of entry and evidence of duty payments be sent to it. These have in no little way reduced fraud emanating from documentary fraud, non shipment and short shipment of consignments to mention just a few. The Nigerian shipper's council is fighting tooth and nail to put an end to this cankerworm that has eaten deep into the fabric of the society. In the light of the above the Nigerian shipper's council in conjunction with the Nigerian Insurance Association held a seminar which was to design and suggest ways of implementing such precautionary measures as may be beneficial in reducing maritime frauds. The Nigerian Shippers's Council in addition has embarked on a nation-wide identification of shippers with a view to developing a register of bonafide shippers in the country. This is to reduce the incidence of frauds, pilferages, and other malpractices in the industry.
ENDNOTES;

33) African_Maritime_Economies (March, 1999) Nigeria. Daar Communications. 1 pg 15

(34) Seminar paper on International_Maritime_and_Commercial_Frauds in Nigeria. (1985) pg 14

(35) Ibid. pg 15

(36) Ibid. pg 15

(37) Ibid. pg 15

(38) Maritime_Fraud_and_the_Insurer_Review_and_Preview (1993) ICC London pg 3

(39) Special report on Nigerian_oil_scandal (1992) ICC London pg 10


(41) Nigerian daily news paper; the Nigerian Guardian (September 1, 1992) pg 11.

(42) Seminar paper on International_Maritime_Fraud in Nigeria. Lagos, Nigeria. (1985) pg 52

(43) Ibid pg 53

(44) Ibid pg 53.
CHAPTER IV

IV. CONCLUSION AND RECOMMENDED ABATEMENT IN THE NIGERIAN SITUATION.

IV-1 RECOMMENDED ABATEMENT IN THE NIGERIAN SITUATION;

Crime on the ocean is not a new phenomena, but it has grown with a vengeance over the past fifteen years. Cargo has always had a special attraction to the criminal. And depressingly, although there have been plenty of individual cases, where intended maritime frauds have been forestalled, for the most part, the fraudsters have the edge and they know it. For however ingenious and persistent may be the investigators, the crooks have several overwhelming powerful factors on their side.

Quite apart from such essential aids as natural human gullibility and greed, even on the part of major business and financial corporations, the aspiring maritime fraudster has no jurisdictional limits on his activities. He can and does operate wherever a likely victim can be found.

Marine cargo handling is an evolving process, and in the present day international maritime trade, the unscrupulous appears to be able to practice his art with little danger of discovery or retribution. This was true until recently when both governments and the industry itself began to sit up, take notice and encourage positive
action. Various suggestions have been made for combating maritime fraud in many seminars, and in various organisations.

In fact the creation of the International Maritime Bureau (IMB) is itself a fruition of one such suggestion. Efforts should be made to ensure that suggestions merit consideration. It is just not enough to bring up suggestions to combat fraud, they must be realistic and practicable suggestions.

Prevention is better than cure. Therefore the main burden of preventing fraud rests with the buyer. In order to protect himself, the buyer must not enter into a contract until he has satisfied himself, that he is dealing with a credit worthy and reputable person. In addition the buyer must compare the price offered for the goods with the world market price.

Unfortunately, where maritime fraud is concerned, international waters remain to all intents and purposes lawless. Even the International Maritime Organisation (IMO) has had little success in solving this problem, despite making it an "urgent" priority back in 1980. Perhaps one of the most depressing aspects of the situation is that the major aid to the fraudsters identified at least a decade ago is still firmly in place, and used with enthusiasm today.
For while the crooks have kept up with changing methods, and technology, the basic methods of payment for international trade, with all its glaring security inadequacies has hardly changed at all(47).

In my recommendation for abatement in respect of Nigeria's situation, there is a focus on the types of maritime fraud that appear to be prevalent in the Nigerian Maritime industry.

1V-(11) DOCUMENTARY FRAUD;

The most elaborate form of cargo fraud is the "documentary fraud" in which the element of insurance may play an insignificant, or non existent part. From the practitioners' point of view, this is both the least dramatic and, potentially the most profitable scam of them all.

The operation of documentary fraud depends largely on the letter of credit payment system, which operates to a large degree on trust. This unfortunately has been highly abused.

In order to prevent documentary fraud in Nigeria, the following measures are recommended;

(a) The documentary credit should not be made payable on presentation of documents until the Nigerian buyer has had a long standing relationship with the seller. Some sort of delay should be built into the credit (perhaps a maximum of seven days) to
allow for appropriate checks to be carried out.

(b) At the time of opening the credit, the buyer especially those buying a shipload of cargo should request the opening bank to pass instruction to the paying bank, to carry out the following checks before payment is made. Check the vessel's particulars, ie name, port of registry, ownership, and compare the deadweight with the quantity of cargo stated in the bill of lading. Check the vessel's geographical position at the time of loading. Check with the port authority /customs that they have a cargo manifest lodged for the said vessel, and that the bill of lading issued is maintained in the manifest.

These checks would only take a few minutes and the information can be obtained fairly easily from computerised or published sources, such as Lloyd's Register of ships, and Lloyd's shipping index. The cost of these services are to be borne by the applicant requesting them at the time of opening the credit.

Documentary frauds can easily be detected by a few simple telephone calls. In certain circumstances however, documents could be passed through an organisation such as the international maritime bureau (IMB), with a condition to this effect being inserted in the letter of credit.
An illustration of how prior thought and infinite care can enable a purchaser to protect himself is the case of the Asian exporter, living and working in the Far East, who purchased 10,000 tons of Thai rice which he intended to export to Nigeria. He went to his bank to open a letter of credit and there met friends who warned him that ships were disappearing in the region, and particularly so off west Africa. Heeding the warnings, he related his fears to his bank manager, and wanted protection by entering a number of conditions in the letter of credit. An appropriate letter of credit with all the conditions was drafted.

At the end of the day, perhaps not surprising the seller backed away from the deal, after he realised the exporter has already equipped himself against being defrauded. It was only later that the Asian exporter discovered that the rice did not exist, and the whole transaction was fraudulent. Therefore by taking special precaution, he was able to save himself a fortune. (48)

(c) The buyer should call for a full set of bill of lading relating to the goods to be presented.

(d) Certificates pertaining to the cargo, take for instance, certificate of quality / analysis, should be issued by an independent surveyor of international repute.

The certificate must state that the samples used to determine quality of, or to analyse the cargo were taken from the cargo being loaded on board the vessel (stating
the name of the vessel) and several such samples should be obtained during loading. After the analysis, the certificates should be sent directly to the paying bank by the surveyor and not given to the shipper. These points should be made one of the conditions of the documentary credit.

(e) Then Nigerian Shipowners and the government lines should instruct their masters and agents that in cases where there is a discrepancy between ship’s figures and those stated on the bill of lading particularly where ship’s figures are less, a protest should be noted and the bill of lading claused according

(f). The practice of issuing a clean bill of lading for goods in lieu of a letter of indemnity in cases where damage materially affects their condition, should be abolished. and should not be treated as being customary. It can be argued that all the master is doing is increasing the carrier’s liability for damage prior to shipment. It should however be remembered that the master is deliberatingly issuing a legal document which he knows to be untrue, and that the P&I clubs do not provide cover in such circumstance

(g). The practice of giving a guarantee to the carrier when an original bill of lading can not be produced for delivery is unsatisfactory and should be avoided.

(h). Shipowners / operators should instruct masters and agents not to sign blank bills of lading or issue a second
set for the same cargo without themselves destroying the first set.

(i). Blank bill of lading forms should be kept under lock and key and carriers should not allow their bill of lading to be used by others, as a bill of lading can be purchased on the open market very easily.

(j). A bill of lading should have the logo of the company endorsed on it in colour to make forgery more difficult.

(k). Avoid contracts dealings which require payment by documentary credit issued in favour of a party other than the seller.

Again, the following case illustrates how a documentary fraud can be aborted due to a preemptive action on the part of a bank. On 4th of May, 1988, one tanker loaded 64,000 tons of Nigerian light crude oil at Bonny for delivery to Total International in France. The cargo was split into two parcels, each with a duly completed bill of lading. This was duly conveyed to the French port of Fos where it was discharged to its consignees. Everything about the voyage seemed in perfect normal order.

And so it was. Unfortunately, the events happening around the voyage were rather less straightforward. For while the cargo was en route to Fos, a branch of the midland bank in Birmingham was being presented with bills of lading to draw on a letter of credit just opened by a
Greek businessman. He had just opened the account with the bank under the impression that it would be used to pay for a cargo of 117,871 tons of Bonny crude aboard the vessel.

Accompanying the bills of lading which turned up in Birmingham, and which carried the same reference numbers as the genuine articles, were other papers including an Ullage Report, and what purported to be the receipt signed by the master of the tanker. In common with the Bills of Lading themselves, which were correct in all details apart from the destination given as the US Gulf. The name of the consignee and the size of the cargo which at 118,871 tons appeared to be beyond the capacity of the tanker. All these papers were faked bearing forged signatures. It was as a result of a check by the Birmingham branch of the Midlandbank with its group overseas department in London that it was found, before the letter of credit was drawn up, that the ship supposedly carrying its customers' oil to the Gulf was in fact discharging its cargo at a French port. The bank promptly froze all transactions involving the account(50).

IV-(111) PIRACY:

The increasing effect of piracy on modern commerce cannot be overstressed. International law establishes an obligation on states to co-operate in the suppression of piracy and grants states certain rights to seize pirate ships. In particular the convention on the Law of The Sea (UNCLOS), provides in article 100:
"All states shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any state." And in article 105: "On the high seas, or in any other place outside the jurisdiction of any state, every state may seize a pirate ship or aircraft, taken by piracy and under the control of pirates, and arrest the person and seize the property on board.

The courts of the state which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third party acting in good faith". Piracy will only be defeated when people are made fully aware of its effects and consequences, and in addition put continued pressure on law enforcement agencies to respond.

The Far East, and West Africa are sensitive areas to piracy. Nigerian waters used to be a notable area, but these attacks have been drastically reduced if not completely eradicated. This was accomplished by the efforts of national, regional and international bodies. However one of the major problems is that a number of pirate attacks are not reported.

It is clear that before law enforcement agencies can make any moves to deal with the problem, they must be furnished with sufficient information. To be fully effective, reports need to be made immediately following an
attack. Since most vessels have not got reporting systems on board. They will probably have to get to the nearest port to be able to make a report.

The creation of a standard reporting forms for pirates attacks and creation of a Regional Center for the suppression of piracy, will assist in terms of information gathering and reporting of incidence. The installation of video cameras and alarms in vessels would certainly help to give early warning to an attack. The education of members of the crew in handling attack cases is quite vital. Finally, a greater commitment from the ship owning communities to report incidence can herald a new determination for a pro-active response to the problem.

IV-(1v) CHARTER PARTY FRAUD;

Recession is a great aid to the charter party fraudster. Depressed conditions in the shipping industry mean that shipowners, particularly those with older vessels are often desperate to find customers for their ships. So when the charter conman comes along, they are very vulnerable to exploitation. A majority of charter party frauds, are not pre-meditated, and arise out of the insolvency of the charterer or the shipowner. Hence it is not easy to suggest a fixed set of guidelines, however, the following measures should be implemented where necessary.

(1) Precaution by the ship owner;

(a) Signing bills of lading; In cases where the charterer
sublets a space, it is essential that the bill of lading issued by the charterer, conforms with the mates's receipt.

(b) The charter hire, and the freight earnings to be put in a special joint bank account. This account will be payable only after successful completion of the charter. The shipowner receive agreed payments from the account for the running cost of the vessels.

(c) There should be a performance bond /bank guarantee from the charterer's bank.

(d) Other precautions should be followed such as using market information on the track record of charterers.

(2) Precaution by the charterer against;

(a) The sub- charterers defaulting /defrauding

(b) The shipowner becoming insolvent and the vessel getting arrested.

To cover these risks of the sub-charterer's default, the charterer can take the same precaution as outlined above for the shipowner. As to the ship owners' insolvency / fraud; the precautions are;

(a) A joint account where the hire and freight are deposited until the voyage is completed.
(b) Employ a super cargo who will stay with the ship during the charter.

In particular, reference to ship owners and charterers, the ICC guide to the prevention of maritime fraud presents certain advice to consider before entering into a charter party: The best way for vessel owners and charterers to avoid their involvement in the incidence of fraud is to make the necessary inquiries. This is to satisfy themselves as to the standing and integrity of the parties with whom they are dealing with. This should be done prior to entering into any binding commitments. The following recommendations are made in this respect.

(1) Owners should seek advice on time charterers before agreeing to a charter. Bimco, Baltic Exchange, and similar organisations can often assist with inquiries. Only reputable shipowner should be used.

(2) Owners should check on the financial status of a charterer and in certain circumstances, should demand that a bank guarantee coverage estimated hire be delivered to them on signing the charter party.

(3) Owners should very firmly resist requests from unknown charterers for the inclusion of a clause in the time charters. Furthermore, they should not grant their agents the right to sign Bills of Lading on behalf of their master.
(4) Charterers should know the real owners of the vessels to be chartered and should be able to check on their records.

**IV-(V) EMBASSY COMMERCIAL SECTIONS & CHAMBER OF COMMERCE.**

Embassy commercial sections and chambers of commerce can do much on the educational side to make traders become aware of the risks in trade and transport sections. They could also make a minimum series of checks before advancing the names of potential suppliers, buyers or transport companies. An up to date lists of lawyers and others in their country or region capable of advising on shipping disputes and difficulties should be kept. Otherwise they should be able to guide the inquiring party to the appropriate body at national or regional level capable of providing this advice.

Chambers of commerce should be capable of advising merchants on reputable organisations in their country or region capable of issuing the "Independent Loading Certificate" and report on vessel type document.

Chamber of commerce is responsible for authenticating documents such as certificates of origin. Therefore when it is suspected that their authentication on a particular document has been forged, the responsible authority should immediately be notified, in this instance the Nigerian government.
IV-(V1) FREIGHT FORWARDERS.

Freight forwarders or similar intermediaries often know very well the condition of local transport markets. On one hand they have close relationship with the shipper of the cargo (seller or buyer), on the other hand they have a continuous contact with the shipowners, or charterers and their ports agents.

Freight forwarders now act, and must increasingly continue to do so, as the "shipper's antenna" in the port of loading. They should react not only when a specific problem is submitted to them, but also when they hear any information that could be of use to their customers. These include new developments in shipping service, tendencies in freight rates, and working situations in the port of loading and discharging.

Freight forwarders are increasingly called upon to express their opinion about the quality of services offered by the respective maritime carrier, the quality of ships placed on berth, and about the quality of the stevedoring work performed by owners stevedores. This means of course, that the freight forwarders themselves must take the necessary checks before proposing a particular maritime service to their customers.

IV-(VII). DEVIATION FRAUDS / ILLEGAL SALE OF CARGO.

One area in which there has been absolutely no improvement, and indeed probably a drastic deterioration in the
last decade, is the simplest and most traditionally practical maritime fraud of all. This is the diversion of ships from their course and stealing the cargo. A number of Nigerian shippers have fallen victims to this category of fraud; the following guides are therefore recommended.

(a) The Nigerian Shippers should beware of very low freight rates. Compare the freight offered with the market rate.

(b) They should investigate the track record of the shipping company or operator before using their services to transport goods. Check with other exporters / shippers if they have any knowledge of the firm’s track record. As an added precaution, the owner / operator should be asked to put up a "performance bond" which could be handled by the P&I club. Organisations like Bimco, the Baltic Exchange, and the IMB maintain extensive records that can assist their members when making enquiries.

(c) Check the clauses in the charter party particularly, those relating to lay days. Compare them with the normal lay days for that type of voyage. If those in the charter party are heavily in favour of the charterer, then it is advisable to seek alternative tonnage.

(d) Beware of "singleton" ownership particularly if it is a newly established company not registered with Lloyds, and its ownership is obscure.
(e) Investigate the age and condition of the vessel. If the vessel is over fifteen years old, check that it has not passed through various owners in recent years.

(f) Make use of supercargo to monitor the voyage. The IMB provides a voyage monitoring service (54). They are able to tell at any time where a vessel is, whether it is sailing or not.

IV-V11 MARINE INSURANCE FRAUD;

Many of the previous suggestions made in connection with other types of maritime fraud will also have a beneficial impact in eliminating certain types of marine insurance fraud. In order to minimise the extent of exaggerated or fraudulent cargo insurance claims, presented to the Nigerian insurance companies, the insurers are advised to cross check the accuracy and validity of all supporting documents with the appropriate surveyor and ports authorities. They should also ensure that their surveyors receive adequate guidelines for the preparation of their reports. In addition, the insurance brokers before placing the risks, should check the track records of the ship owner, while the underwriters should confirm with the brokers that the owners track record has been checked before accepting the risk.

IV-(1X) INVESTIGATION AND PROSECUTION.

The only way victims can help is by informing the Nigerian authorities that is, the responsible arm of government of any form of misfortune as soon as they
become aware that something is amiss.

At governmental levels; the following could help:

(a) Maritime fraud should be created as a universal crime based on the "universality principle" by an international convention. This can be done by allowing international punishment to apply to all affected offenders.

(b) There is need to reconsider the statutory barriers in order to allow free flow of information.

(c) The government officers investigating in foreign countries should be given greater co-operation and assistance by the local authorities when they are interviewing witnesses.

(d) In the event of a conviction the policy of heavy sentencing should be adopted by the Nigerian government.

(e) Commercial criminals or maritime fraudsters should not be given suspended sentences, and should not be granted bail.

(f) When a commercial criminal is convicted on more than one count, the sentences should not run concurrently. In the field of investigation and prosecution, while there had been a number of changes, there are as yet, no signs of anything positive having been achieved. Therefore, to be able to overcome the threat to the system of inter
national trade, the only way forward is to be as imaginat-
ive and resourceful as the criminal.

However, this can only be achieved by mutual co-
operation of all the participants of the system. While a
number of short term solutions have been recommended, in
the long term however, there is need to discard archaic
practices, and concentrate on the development and use of
electronic documents and electronic data interchange.
However, these new systems are not fraud proof but when a
system changes often, the fraudsters will have to put in
more effort to get round the system.

IV-(X) THE ROLES OF GOVERNMENT:

Before the Nigerian government can be expected to
initiate any special measures against maritime fraud; they
must come to recognise the particularly serious nature of
the problem. The Nigerian governments have a specific
obligation to attempt to eradicate all criminal activities
within their jurisdiction, and it is in their own interest
to do so as rapidly as possible.

In the case of Nigeria, there is no doubt about the
urgency required by the government in putting into place
measures to curb maritime fraud in the country. The
nation's image is already at stake. Efforts are therefore
required to erase this devastating image, and promote
credibility and reliability to the whole world.
The potential costs of maritime fraud to Nigerian government can not be exaggerated. In almost all cases of fraud, Nigerian government loses some revenue. It is the victim of the fraud who suffers the trading loss, but as this usually means a drop in trading profits, there is a consequential reduction in its liability for corporate tax.

The question of what governments can do in response to maritime fraud is perhaps not very appropriate, government can technically legislate into existence anything it desires. This includes measures to curb maritime fraud.

The government of Nigeria may wish to take the following additional measures in curbing the occurrences of maritime fraud in the country.

(1) Creation of national task forces to combat maritime fraud.

At present there is little co-operation and virtually no coordination between the various governmental departments such as the department of Transport, department of Defence, and the department of internal affairs, which have roles to play in combating maritime fraud. Information or expertise available within one department or agency is rarely available or even offered to others. Similarly, the various parties involved in international maritime trade (ie buyers, sellers, shipowners, charterers, masters, insurers, bankers, and brokers), possess intimate knowledge of their part of the trading system, wherein a
fraud may occur. Yet they are rarely approached for their expertise.

It is recommended that a task force be established at the national level with representatives of both government and industry to work hand in hand to overcome these problems. The task force should not function as a mere clearing house for information on maritime fraud, but should rather serve as a coordinating center. It should be empowered to co-opt members of the industry whose special expertise may be required for a specific case.

Special attention should be paid by the task force to any pattern or characteristics which appear to be emerging from incidents of maritime fraud. Once a profile is established this should be disseminated to the industry at large, to enable it to take suitable precaution. Once a maritime fraud is detected, the task force should have the trained personnel available to conduct the necessary investigations and be empowered to make the arrests.

(2) PUBLICITY & EDUCATION.

Another measure the Nigerian government can readily adopt concerns publicity and education. Conferences and seminars should regularly be held to ensure that industry is fully aware of the problems involved in maritime fraud. The industry should also be kept up to date on any new developments in maritime fraud, such as new techniques of forging documents.
All investigation into cases of maritime fraud should also be published for two main reasons. First, public trust and confidence in government will be retained as the public will be able to see that the government is doing all in its power to protect and safeguard their interest and property.

Second, and most important, publicity has an undeniable deterrent value. However, maritime fraud being an international issue; it might be difficult for just one government to eradicate it completely from its country. It might be essential to have regional and international co-operation.

(3) REGIONAL CO-OPERATION

The government of Nigeria could bring pressure to states which are less vigilant. Economic and political pressure could be brought to bear on countries in West Africa sub-region which refuse to co-operate. The most effective way is by using sanctions against defaulting countries. This sanction could be in form of trade sanction.

(4) COMMUNICATION LINKS

The Nigerian government should establish "hot lines" between the headquarters of the various national task forces or between the police departments responsible for investigating maritime fraud may be of use.

(5) ENACTMENT OF LEGISLATION.

Enact new international legislation. The possibility of
proposing and enacting new international legislation against maritime fraud could be considered. Since international convention takes a long time to come into effect, and indeed only becomes international law through the passage of time and continued evidence of its use. International convention on the average, enters into force roughly ten years after first being proposed. Resolution could be a better option. The Nigerian government is therefore advised to review the resolutions adopted at the 1985 conference on international maritime fraud, organized by the Nigerian Shippers' council and the Nigerian insurance Association.

(6) Ratification of existing legislation; the Nigerian government is urged to ratify existing legislation that are related to maritime fraud.

1V(X) CONCLUSION;

As has been seen from the previous chapters, maritime fraud is a complex issue, a full cure might be impossible. As long as there is money to be made through crooked ingenuity, ingenious crooks will do their best to get at it.

The most realistic aim is to make those occasions as few and far between as possible. Ensuring that those who want to scoop fraudulent profits from the world's oceans have to keep looking over their shoulders, and stand a great risk of being not only caught, but also sentenced.
So the achievable target is to mount a much higher degree of preventive action to lessen the opportunities for the conmen.

One of the most depressing facts about the control of maritime fraud over the past decade is that so little has changed. Indeed it sometimes seems that some of the only people who have shown real and sustained initiative in reacting to technological and economical developments, where this type of crime is concerned are the fraudsters themselves.

It may be that with increased attention being brought to the problem internationally, the problem of maritime fraud and piracy may temporarily become less sever. The establishment of the IMB has had a favorable impact in reducing the number of maritime frauds. Though the IMB alone can not single handedly curb all the occurrences of maritime fraud; a lot of co-operation is necessary from the industry. In terms of both national and international legislation.

However, an attempt has been made in this study, to define the generic term "maritime fraud". This embraces such offenses as fraud, theft, deceit, forgery, arson, and piracy.

Maritime fraud has also been classified into the various groups. This is for a better understanding of the problem. Particular experiences of fraud either with Nigeria being
a victim or as a culprit. were treated in great details. The efforts made by the Nigerian government to combat this great problem was equally highlighted. Preventive measures were also recommended to restore Nigeria's glittering image. It was made obvious in the write up that constant vigilance is required by all parties to a transaction, in order to protect oneself from becoming a victim of the skillful manipulators of the present system of international trade. Hence there is a greater need for the operator to keep himself fully informed of the types of fraud and of the precautions and remedies available.

The fact that trade is international, precludes the possibility of effective outside regulation by any one body. The problem of fraud has therefore got to be tackled from within the industry.

Finally, the subject matter of this study "maritime fraud" has been on my mind for over ten years. I became interested in the subject matter, after I watched a film on maritime fraud during a seminar organized in Nigeria on the subject matter.

I eventually got to realise how much this cankerworm had eaten deep into the Nigerian maritime industry. It became my desire to carry out a study on this subject matter as it affects Nigeria, with the hope of coming out with tangible measures to minimise the occurrence of this problem. It is therefore my hope that this study and
findings will be useful to the relevant section of the Nigerian government.
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