

# 1. Fraud: B/L's issued by NVOCC

Int. Maritime Bureau: 97% of all false B/L's are issued by NVOCC's !! Causes are that some NVOCC are often:

- too close relation with exporter.....Strong competition...
- unsupervised, unregulated, little know how...
- very weak structure, no assets, no insurance coverage
- often in opaque jurisdictions

=> **NVOCC B/L= often an illusion of security for the banks and buyers**

# The issue of B/L's issued by NVOCC

- We may not generalize: many NVOCC are OK.
- In practice: how to determine a B/L is issued by NVOCC ?? How to distinguish "good" from "bad" NVOCC's ?
- UCP 600 does not allow to distinct or reject NVOCC B/L's
- No waterproof solution available
- Risk mitigation by reality check for important amounts or where the bank finances the cargo by consulting IMB ICC London, website for tracking of vessels/containers...
- IMB proposes to introduce a register with Code of Conduct for NVOCC as a basis for improvements

## 2 Fraud with L/C documents

- Fraud which is obvious “upon its face” false, or which immediately can be proven as false by reliable other documents is a valid reason for non-honouring.
- Problem however is that in reality many cases are not black or white and that the concept of fraud can differ per country or jurisdiction or even per Court...
- Documents can be :
  - a) “**Intrinsic false**” = in reality established by another person/party than purportedly issued => always fraud

## 2 Fraud with LC documents

b) “false in facts” = the document is authentic and issued & signed by the named party but some elements do not correspond with reality: e.g. shipment date on B/L is changed to meet L/C requirement or “clean” B/L for damaged packing/ goods...

= not always considered by all courts as fraud...

Much depends on the facts of the case, the impact & consequences of what has been changed, the intention to gain undue profit or to create damage, etc

=> in such cases leave it to the Court. Do not make own judgements