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ON REFLECTION – Container and Terminal Security

Cargo moves around the globe in enormous quantities and with ever-increasing speed. It is the very life-blood of survival. To a great extent, this explosion in commerce has been facilitated by the advent of the sea-borne cargo container. From hesitant beginnings during World War Two and with a degree of co-operation and standardisation the speed of which was probably unique in the international arena, we now have around 90% of non-bulk cargoes moved in this way. With this fundamental revolution has come an equally radical change in security attitude and techniques brought about partly by the nature of the container itself and partly by the shift in commercial emphasis.

When asked to submit this article I thought back to my very first offering of any length and found with a mixture of astonishment and dismay that it was well over a quarter of a century ago that Lloyd's List did me the honour of almost a whole page. This same reflection process made me consider something near half a century of work experience, thirty years in the Police Service with the Port of London Authority and some twenty years (and still counting) in the private sector, the greater part of it influenced by – the container.

I find that the principles set out, rather pretentiously, by that young(ish) idealistic policeman in 1975 still hold but there are executives in the shipping industry nearing retirement, who have never known anything else apart from container operations and may well move on to that 'little place in the country' still wondering why the criminals are getting away with it.

The reasons are simple and the situation is irrevocable – well, almost.

The advent of the container did not herald merely a more efficient way of moving cargo but, with the benefit of that hindsight which makes sages of us all, caused a complete change of attitude on the part of almost everyone in the industry. Prior to the late sixties, early seventies, cargo operations were based on the bailee principle with every link in the movement chain being responsible for the safe-keeping of the cargo entrusted to its care. This meant that every one of this string of bailees made as certain as they could that they didn't lose or damage anything at all. This, in its turn produced secure ports, tallying systems, signatures, cloused receipts and everything which was associated with this concept of Due Care.

Allowing the odd hitch or two – the system worked.

However, with the container came the obvious consequence that as each successive bailee could

neither see nor check what they had in the box then how, in all honesty, could they accept responsibility for it? Fair enough, you may say but if something went missing then who picked up the tab? The insurer of course.

Now this meant that if the bailee, or carrier if you prefer the term – which includes the terminal – could show that it had performed what it had contracted to perform then it mattered not if the box arrived at destination empty, they would not be liable. This led to some idiosyncracies including the remark from the Claims Manager of a large through transport operator who would say, if you gave him but half a chance "We–receive–a–box–we–handle–a–box–we–deliver–a–box–we–are–not–responsible–for–quantity–or–condition–of–content."

This was an early one in a long line of consequential dominoes in that if, in any specific loss situation, every bailee managed to take a sustainable 'no liability' position then the cargo insurer paid out – eventually. But if there is but the slightest chink in this 'no liability' position then the cargo insurer goes for the throat and the onus is on the carrier liability insurer. All too often, the cargo owner, be it consignor or consignee ends up as 'piggy-in-the-middle', waiting an age for a settlement and sometimes, in the case of a small, under-capitalised organisation, going 'bankrupt-in-waiting'.

The effect on terminal security has been rather drastic. Gone are the days when the old 'total responsibility' of the bailee meant stringent controls with empowered port police forces. We are now in a situation where the absolute minimum is the order of the day, the under-lying maxim appearing to be, "Why spend resources in defending a liability we are not required to accept?" The logic cannot be denied but the ultimate loser – he who relies on trading, not processing insurance claims – seems to come a long way down the pecking order of priorities.

The theory behind the situation is either well-known or is transparently obvious but what actually happens out there? You have all-sorts:

- * Looking at the container as nothing more than a transportable shed, you have the old-fashioned shed breaking – the annoying 'snatch and run' attacks which cost more for management to process than the sum total of the loss;
- * You have theft of the whole container by violence, stealth or deception from a terminal;
- * You have theft of the whole container whilst in road or rail transit;
- * You have fraud and deception of all types with just about everyone in the system, at one time or another, being either the target or the victim (not always the same thing);
- * You have a whole sheaf of different crimes which are not cargo-orientated.

The general theft crimes are easy to understand and are nothing more than a sophisticated form of the cargo crime which has always been with us except, as was once said, the goods are now 'gift-wrapped'.

By contrast, the fraud and deception crimes are an art form in themselves.

You have the basic deception which revolves around the seal and its system. I once said that there wasn't a seal on the market which I could not compromise in a way which would defy detection in normal operating conditions. This is no longer true mainly, I believe, because I have given up trying but I am given to understand that there is still not total improvement. In any event, this is of little consequence because there is neither consistent seal checking nor consistent enquiry should there be an irregularity. What then is the point of it all?

From the investigative viewpoint, the 'content fraud' crimes provide the best sport. There is a certain adrenalin-prompting buzz in looking at an empty container 'said to contain', and asking 'Who's had it?' 'Where did they do it?' 'How did they do it?' 'Was it ever there in the first place?' 'Who's telling the truth?' 'Who's telling lies?' As you look at all the empty space you know that the truth is in there somewhere, it is only a question of finding it.

This brings us to the question of 'Who does the looking?' and this is another of the problems which the industry has to face. Regular police forces the world over are society-orientated in that they serve those who pay for them. This will mean that the tax-payers of one Far Eastern country will not be too keen on their police spending time investigating an alleged crime which may well not have happened in their jurisdiction and, if the only result is going to be protection of an insurer's liability, then "to hell with it, Mr Policeman, do something else, nearer home."

The only alternative is private, or civilian, commercial investigation and this does not always come cheap. It is quite possible for the costs of an investigation to reach the sum of the loss being investigated quite quickly and there's no profit in that. This gives rise to the phenomenon that some insurers will not be interested in doing anything at all about losses below a certain figure as the necessary costs will inevitably mean a greater loss. A few years ago, this spawned a very interesting series of frauds perpetrated between an individual in the UK who was both an exporter and an insurance broker and members of his family overseas who were his 'customers'. He placed the insurance cover all round the market so no pattern showed and arranged for all the 'losses' to be just below this 'cut-off' figure and there was never an investigation.

What do people steal? Just about everything. There are the obvious universal targets of tobacco and spirits but there are also the targets of 'local' importance - second-hand clothing in East Africa- electronic components in the computer assembly countries of the Far East - just about everything in Italy and the FSU (former Soviet Union) states where the black economy and lack of effective law enforcement means that anything can happen - and does.

It would not be right to leave a consideration of the subject without a mention of the non-cargo crimes, many of which are regional. Of high profile at the present time are the stowaways or II's, (illegal immigrants) as the media would like to call them.

There are always those people who want to be somewhere else whether for reasons of persecution at home or for economic reasons - we saw harrowing examples of these with the Vietnamese boat people. The container, along with the road transport trailer, provides an effective means of moving people without discovery over considerable distances. At the time of writing, those who

like to browse the Net will find regular coverage of this in the web-site of the South China Morning Post. But it is not limited to Far Eastern Countries. A few years ago, when the yoke of Communism fell away from Eastern Europe, particularly the Balkan countries, we had many economic migrants finding their way to the Atlantic ports of France and trying to find a container going on a ship to the United States or Canada. The literacy level was not always high because more than one of these unfortunates ended up somewhere else completely.

We then had the oddity of the situation where the carrier was held responsible for the incident and for the costs of repatriation but, in Canada, the 'illegal' was bailed until his case came up for consideration in court and there was more than one perplexed look when he did not answer his name when called!

Of course, there has to be a mention of smuggling. The container was the answer to a smuggler's prayer – no opening, no checks, no risk. Hardly a day will go by without there being some mention of a drugs-haul somewhere be it in a sea-borne container or a road train – there are remarkable similarities.

It is difficult to see the answer to this one because the very essence of the container operation is interference-free transit whilst the very essence of smuggling detection is inspection. This is oil-and-water with a vengeance. The United States tackled this a few years ago with a carrier liability programme to ensure that containers shipped were drug-free, with draconian penalties for non-compliance sufficient to bankrupt even the biggest operator. Europe seems to have moved more towards the intelligence mode although there is still the odd seizure resulting from random inspection. It is the basis of the drug scene that availability creates demand in an ever-ascending vicious spiral and, with the rewards for the criminal being so great, this is one problem which will not go away of its own accord.

What of the future?

At the present time container security and associated terminal security is market driven in that it is set at a level at which the various parties to cargo operation can survive. There is no 'social conscience' about it at all. This will mean that there will be no improvement until there is international agreement on minimum standards and uniform operation but for this, I for one, amongst many of my colleagues, am not holding my breath.