

Smuggling in Egypt



It has been observed lately that some shipping lines are facing problems in Egypt with containers containing imported prohibited or smuggled cargoes.

In such cases, the Custom Authorities and Police Department seize such containers while the representatives of these shipping lines and their agents are brought to interrogation and may wrongfully face very heavy fines and even imprisonment. Owners of such cargoes are off course also interrogated, if they are present.

Authorities are usually suspicious of the shipping lines and their agents being allegedly aware of such smuggled cargoes or may be facilitating the smuggling operation.

From experience, it was seen in many examples that the authorities unfortunately try to involve the shipping lines or their agents in the smuggling process as a *scapegoat* especially if the responsible cargo owners have disappeared.

Smuggling was verified in the Egyptian Custom Law number 66 of the year 1963 and its amendments under Article 121 as follows:

“Shall be regarded as smuggling the bringing in or sending out of goods of any type from the Republic through illegitimate means without payment of all or part of the Custom duties payable or in contravention of the systems in operation in connection with prohibited goods. Possessing foreign goods for trading purposes, while knowing they are smuggled goods, shall be considered as good as smuggling. Submitting false and fabricated documents or invoices, placing phony marks, or committing any other act aimed at getting rid of due custom taxes, wholly or partially in violation of the systems in force concerning the banned goods, shall also be considered as good as smuggling. The failure to seize the goods shall not preclude from proving that smuggling has taken place. “

Article 200 of the Egyptian Maritime Trade Law number 8 of the 1990 has verified the duties of the shipper in clearly stating the particulars of the cargo in the bill of lading. It states:

“The following shall in particular be mentioned by the shipper in the bill of lading:

a)---

b) Description and specification of goods as indicated by the forwarder and in particular their nature, the number of parcels, and their weight or size or distinctive marks as mentioned thereon, as well as their external appearances including the containers in which they are placed. “

Article 205 of the same law states: *“The forwarder shall submit in writing the data concerning the goods, on delivering them to the carrier. This data shall be mentioned in the bill of lading. The carrier may set forth reservations on the bill of lading if he feels he has got serious reasons to suspect its validity, or is not possessed of normal techniques and*

methods to ensure its validity. The reasons for such reservations on the data of the bill of lading shall also be mentioned herein. “

Articles 206 and 230 of the same law makes the shipper liable to the carrier for any mis-declarations that may be given to the latter to issue the bill of lading, Article 206 states: *“The shipper shall be responsible vis –a – vis the carrier to indemnify him for the harm and damage resulting from all incorrect data, provided by the shipper about the goods thus carried, even if the shipper assigns the bill of lading to a third party. “*

Article 230 states: *“ If the shipper intently mentions incorrect data in the bill of lading concerning the nature or volume of the goods, the carrier shall not then be questionable for the deterioration or damage if such data is established to be correct. “*

As for the Custom law, there are various important articles that also highlight the position of the shipping lines and their agents in respect of smuggling.

Article 37 states: *“ The captains of ships, aircrafts and other means of transport , or their representatives shall ascertain that the amounts of goods, or the number of parcels or their contents are conforming to the list of shipment (Manifest) and shall preserve and maintain them until their complete delivery at the custom stores, or the warehouses, or to the concerned parties.*

A decree of the Head of Customs Authority shall determine the percentage of tolerance in bulk goods (more or less) and also the partial shortage in goods resulting from natural factors or weakness in the wrappings and the leakage and outflow of their contents. “

It is clear from Article 37 above that shipping lines will be held liable for any shortage or mis declaration of cargo, including if such cargo is prohibited from entering the country.

However, Article 38 removed the burden of liability in cases where the shipping lines can prove that such shortages or mis declarations are beyond their control.

Article 38 states: *“The responsibility for violating the provisions of Article 37 of the present law shall be removed in the following cases:*

- 1- If the missing goods or parcels have not originally been loaded from the shipping port.*
- 2- If they were loaded but have not been unloaded inside the country, or have been unloaded outside it.*
- 3- If the vessels’ holds have sound seals or if the containers have arrived bearing sound seals and numbers in conformity with what is indicated in the bill of lading or if the parcels have been delivered in an outward sound condition, the case in which the availability of a decrease before loading may be possible.*

The reason of the decrease mentioned in the aforementioned three items, shall be in accordance with the rules and conditions set by the executive regulations of this law. “

In relation to the paragraph number 3 of the above article, it is important to know that the custom authorities issue what is named “ Seals Opening Report “ which is a report that states the condition of the containers’ seals upon opening of the container, whether it was found intact or not. This is quite an important document for the shipping line to obtain as it proves that the latter has delivered the container as is without any intervention from its side in respect of its contents (provided off course that the Bill of Lading has a statement mentioning that the container was “ *Shippers’ count, load and stow*”).

Article 120 is also quite important in that it holds the owners of the goods responsible for their acts in declaring the nature of cargo they import.

It states: *“ The Captains of ships and aircrafts and the drivers of the other means of transport shall be regarded as being responsible under the Civil Code for each contravention pertaining to the crew of the ships, aircrafts or the means of transport. The ships, aircrafts and other means of transport shall be a guarantee for the payment of the custom duties and fines.*

The owners of the goods shall be responsible for the acts of their employees as well as for the acts of the clearing agents to the preparation of customs information and formalities and the clearing agents shall be answerable for their acts and those of their employees in this connection. “

As the reader can observe from the above, laws and regulations in Egypt are in fact adequate to protect shipping lines and agents against smuggling allegations but efficient clarification to the said authorities about these laws is vital and should be carefully relied to them to ensure releasing shipping lines from any liabilities and therefore we believe that the intervention of the P&I Club's correspondents is vital in such cases as being aware of the governing laws and regulations necessary to safeguard the rights of the shipping lines and their agents against any possible imposing of fines and other consequences.

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