

FRAUD AND ANTI-FRAUD IN THE PORT SECTOR

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ARTICLE INFORMATION

Article history:

Received Sept 02, 2017

Revised Dec 22, 2017

Accepted March 27, 2018

JEL Classifications

D73; H54

Key Words:

Fraud;

Anti-fraud;

Port;

Indonesia

DOI:

10.21532/apfj.001.18.03.01.17

ABSTRACT

The purpose of this study was to determine the anti-fraud and fraud in the port sector. Research method used in this research is qualitative approach, with case study. The results of this study found that fraud was committed by employees (employee fraud), management (management fraud), supplier (vendor fraud), and customer (customer fraud). And for anti-fraud program, the Indonesia Port Corporation has launched IPC clean program as a form of the implementation of Whistle-blowing System.

INTRODUCTION

Port is a reflection or miniature of a nation and serves as the gateway of a country's economy. The culture and customs of a nation or country can immediately be seen through the face of its port, supposing that the cleanliness of a house can be seen from the condition of the outside of the house. If the outside of the house is dirty, it can be ascertained that the condition inside the house is also dirty. Port is the gateway of the economy. The economy of a country can be classified as a high cost economy because of the high cost in the port, either official costs or other costs beyond the provisions, commonly known as illegal levies. The illegal levies at the port, according to Indonesia Corruption Watch (ICW)¹, citing a summary of the study results from the Center for Asia Pacific Studies of Gadjah Mada University in cooperation with United State Agency for International Development (USAID) in 2004 alone, reached 3 trillion / year.

The ports referred to in this study are container ports or container terminals in Indonesia, especially in Jakarta. The flow of export and import containers in Jakarta alone has reached 5.44 million of TEUs (twenty

¹ *Indonesia Corruption Watch (ICW)* <http://www.antikorupsi.org/id/content/biaya-pungli-diperkirakan-mencapai-rp-3-triliun-tahun-290704>

feet container units) per year. As quoted from *Bisnis Indonesia*², the flow of containers throughout the container terminal of Tanjung Priok Port increased by 4.72% or 5.44 TEUs in 2016 from 5.20 TEUs last year. This makes the port area becomes very important to manage professionally and should be free from illegal levies, so that ports in Indonesia can compete with ports in other countries.

From the background described above, it can be said that port must be managed well and professionally so as to be free of illegal levies. Therefore, the author is interested in raising the topic with the title ***“Fraud and Anti-Fraud in the Port Sector”***.

LITERATURE REVIEW

Definition of Illegal Levies

In Indonesian Dictionary, illegal levies are defined as asking for something (money, etc.) to someone (institution, company, etc.) without following the applicable rules. Solahuddin states that Illegal levies are acts committed by a person or Civil Servant or State Official by requesting payment of an unsuitable amount of money or not under the rules relating to the payment.³ Meanwhile, according to Ibrahim (2017: 9), illegal levies are the provision of something in the form of either money or certain objects and facilities to the government officials or persons under the auspices of an organization or group directly, with certain objectives that are not based on a legal regulation.⁴

From some of the above definitions, it can be concluded that illegal levies are acts committed by someone, who has the authority,

to ask for rewards / wages for the services he has given to others that have no legal provisions. If they do not give the rewards / wages, they will have difficulty to get the services.

Definition of Fraud

In Indonesian Dictionary (KBBI), fraud is defined as cheating, dishonesty, or unfairness. According to ACFE (Association of Certified Fraud Examiners),⁵ fraud can encompass any crime for gain that uses deception as its principal modus operandi. Arens, Elder & Beasley (2012: 336) describe fraud from two sides: first, in the context of broad legal concept, fraud describes any deliberate deception intended to take the property or the rights of others; second, in the context of an audit of financial statements, fraud is defined as a deliberate misstatement of financial statements.⁶

Coenen (2008: 6) states that occupational fraud and abuse goes by many other names, including internal fraud, employee fraud, employee theft, and embezzlement.⁷ Meanwhile, according Setianto, et al, (2008:3), fraud is an irregularity or illegal acts committed intentionally for a particular purpose - for example cheating or misleading - for personal or group benefit unfairly, either directly or indirectly, resulting in losses on the other parties.⁸

From some definitions of fraud above, it can be concluded that fraud is an act committed by individuals or groups that can harm other people, organizations or companies by taking advantage of material for personal and group benefits.

² *Bisnis Indonesia* <http://industri.bisnis.com/read/20170130/98/624152/arus-petikemas-tanjung-priok-naik-472>

³ Moh. Toha, Solahuddin. (2016), *Majalah ParaiKatte Progressive & Innovative, Majalah Perwakilan BPKP Sulawesi Selatan Quarterly Edition III – Volume 26*. P. 2.

⁴ Ibrahim Hot,. (2017). *Rahasia Dibalik Sapu Bersih Pungli*.(Yogyakarta:Deepublish Publisher).p. 9.

⁵ ACFE (*Association of Certified Fraud Examiners*) <http://www.acfe.com/fraud-101.aspx>

⁶ Arens, Alvin A., Elder, Randal J., Beasley, Mark S. (2012). *Auditing and Assurance Services: an Integrated Approach*.(USA:Pearson Prentice Hall). p.336.

⁷ Tracy Coenen (2008), *Essentials of Corporate Fraud*(Canada:John Wiley & Sons, Inc).p. 6.

⁸ Hari Setianto,dkk. (2008).*Fraud Auditing* (Jakarta: Yayasan Pendidikan Internal Audit).p.3.

Illegal levies are included in Fraud

Based on the above discussion, illegal levies are essentially the acts committed by a person or a civil servant or a state official by requesting payment of the amount of money which is not in accordance with regulations relating to such payments. So, illegal levies have fulfilled the elements of fraud above and belonged to the category of malfeasance, where with his or her position and authority, the officer or employee has committed the act of benefiting himself or others, misusing his or her power to force a person to give something, to pay or receive a payment with reduction, or to do something for himself.

In the book entitled "Fraud Risk & Control" compiled by Internal Audit Development Center, published by Foundation for Internal Audit Education (YPIA) Jakarta⁹, it is stated that the elements of fraud that need to be identified are as follows:

- a) There are disadvantaged parties, whether the organization where the perpetrator works for or other parties such as bank customers and investors, the Government, or the public;
- b) There are losses that can be quantified from fraud;
- c) There are parties who are benefited, either material benefits or other economic benefits;
- d) There is a mode or way how the perpetrator commits fraud including the way / media / tools used by the perpetrator to hide fraud and deceives the victim;
- e) There is a motive for fraud;
- f) There is a deliberate action.

From the above information, it can be concluded that illegal levies are included in the category of fraud.

⁹ Pusat Pengembangan Internal Audit. (2015). *Fraud Risk & Control*.(Jakarta: Yayasan Pendidikan Internal Audit). p.7

Types of Fraud

The types of fraud are;¹⁰

- a) *Employee Embezzlement or Occupational Fraud*
It is the type of fraud committed by employees due to their position or power. The victim is usually an organization or company.
- b) *Management Fraud*
It is the type of fraud committed by management, usually by presenting financial statements improperly for the benefit of an organization or company by way of reversing the financial statements as if they are profitable, with the goal to attract investors. The victims are usually investors and other stakeholders. This type of fraud is included in white-collar crime.
- c) *Investment Scam*
It is the type of fraud committed by persuading the investor to invest with the promise of obtaining a large profit in a short time. Initially the investor will receive the result as promised but then it will end with a standstill.
- d) *Vendor Fraud*
It is the type of fraud committed by a vendor by selling goods or services in a price which is higher than the quality of goods or services.
- e) *Customer Fraud*
It is the type of fraud committed by the buyer or customer. Less or not pay the price of goods or services that have been received. The victim is the seller of goods or services
- f) *Computer Fraud*
It is the type of fraud committed by damaging computer programs, data files, operating systems, tools or media used resulting in losses for organizations whose computer systems are manipulated

¹⁰ Hari Setianto, dkk. *op.cit.* h. 11.

Prevention Program / Anti-Fraud

In an attempt to prevent fraud, companies can build a prevention program called anti-fraud program. Anti-fraud program can be done by referring to the internal control system initiated by COSO (the Committee on Sponsoring Organizations) that includes control environment, risk assessment, control activities, information & communication, and monitoring. Procedures for detecting and preventing fraud that can be implemented into compliance programs should be proactive in making policies related to fraud, management oversight and monitoring systems.¹¹ In the monitoring system, there are 3 ways used, namely *reporting program*, *hotline* and *rewards*. After implementing the above programs, the next step is performing a special audit or better known as fraud audit. According to Safuan, fraud audit is an attempt to determine the extent to which the organization or company has been harmed over a case that has been previously identified so as to be able to estimate the amount of the loss. This audit includes the investigation of internal and external reports including each type of the same report, regardless of the source. The investigations are often demanded by management and focus on allegations and irregular behavior. The reasons for the investigative audit include internal theft, misuse of assets, and or conflict of interest.¹²

Research Purposes

The purposes of this research are:

- 1) To find out the types and modes of fraud occurring in the port sector.
- 2) To find out the anti-fraud program used in the port sector

¹¹ Association of Certified Fraud Examiners.(2012). *Fraud Examiners Manual (International Edition)*. (USA: ACFE,.Inc).hh.4.617-4.623.

¹² Safuan.(2017). *Panduan Praktis Internal Auditor*. (Bandung:Alfabeta).p.12.

RESEARCH METHOD

This study uses qualitative approach, with case study. The research procedures are as follows:

- 1) Determining the focus of qualitative research,
- 2) Determining the type of qualitative research (case study) in accordance with the research focus,
- 3) Identifying cases, including individual, a number of individuals, a program, an event, and an activity related to fraud in the container terminal environment,
- 4) Collecting data including observation, interview, document, and audiovisual,
- 5) Analyzing data on the basis of holistic analysis of all cases including detailed description of the case studied, case history, chronological events, daily activities, theme analysis, context analysis, and interpretation of the meaning of the case,
- 6) Reporting the research results. This study reports the cases examined in detail.

RESEARCH RESULTS

This study finds that employee fraud includes:

- a) Asking tips on entry to the port,
- b) Theft of container contents,
- c) Manipulation of container weight,
- d) Asking tips to truck drivers to keep container quickly removed,
- e) Fictitious overtime,
- f) Closing Time,
- g) Manipulation of used spare parts,
- h) Purchase Request (PR) – Purchase Order (PO) Back Date,
- i) Collusion with vendors,
- j) Coordination costs.

Management fraud includes:

- a) Company in the Company,
- b) Official travel,
- c) Report Manipulation.

Vendor fraud includes:

- a) Unoriginal or low quality spare parts,
- b) Collusion with employees,
- c) Subcontract.

Customer fraud includes:

- a) Slowing down the container retrieval resulting in Dwelling Time,
- b) Falsification of documents,
- c) Theft of container contents,
- d) Manipulation of container weight,
- e) Allowing damaged container / goods to enter the port resulting in claim from the ship.

From the above findings, the research focuses on fraud related to the issues in the Port only. For anti-fraud program, Indonesia Port Corporation (IPC) has launched IPC Clean program as a form of the implementation of whistle-blowing system.

DISCUSSION

This chapter focuses on the fraud related to the Port issue only. For issues outside the Port are not deliberately discussed in this discussion. The discussion is divided into two, that is, fraud in the Port sector and anti-fraud program implemented in the Port

A. *Fraud in the Port Sector*

1. Fraud committed by employees (Employee Fraud)

- a) Asking tips on entry to the Port
Truck activities in and out through the Port gate, where in every gate there are officers who guard. The duty officers ask for tips to truck drivers in different amount with the average IDR 2,000, - / truck. This is in accordance with the news published in DETIK that interviewed the truck drivers at Tanjung Priok Port as follows;

“In each post, each driver must pay IDR 10,000. Based on the regulation, if a driver already gets entrance ticket, there will be no more charges. But it is different. When entering the port, the drivers have to pay the entrance of IDR 3,000, cigarette money of IDR 2.000 per officer, document processing of IDR 7.000 and pocket for thugs.”

- b) Theft of container contents,
The theft of container contents is done by the driver in cooperation with the duty officer and employees. The modus operandi is as follow: in his operation, the truck driver who will commit the theft is backed up by security officer and employees. The stolen goods will be stored by the driver under or behind the truck seat.
- c) Manipulation of Container Weight,
The loading and unloading equipment, according to the provision, can only lift the container with maximum weight of 45 tons. If the container weight is above the existing provision, the container cannot be unloaded or loaded. With this provision, the truck driver and the employee will try to manipulate the existing weight so that the container with the weight exceeding the provision is manipulated in accordance with the provisions.
- d) Asking for tips to truck drivers for immediate process of their containers.
The unscrupulous operators usually ask for tips from IDR 2,000 to 20,000 depending on the position of the container and the level of difficulty in the stack.

- e) Closing Time
 Closing Time is the deadline for exporters to send containers to the port before being loaded on board. Ports will apply fines to exporters who are late in delivering their container at the prevailing tariff. However, this gap is used by employees to take advantage of late exporters by manipulating the data so that late exporters will not be subject to fines that are in accordance with the provisions or are considered not late so that the fine money can be taken by unscrupulous employees concerned.
- f) Coordination Fee
 Coordination fee is given by employees to officials such as customs, police, port authorities, and others. The purpose

of this fee is to speed up the existing activities and licensing. The coordination fee varies from IDR 500,000 to IDR 5,000,000. For the company, this cost is put into entertainment cost.

- a) Fraud is also committed by the customer (Customer Fraud).
 Slowing down container retrieval may result in Dwelling Time
 Containers entering the port for the first day up to the third day are not subject to stacking charges, but on the 4th day, the container will be charged with the tariffs based on the Decree of Directors of Indonesia Port Corporation (IPC) 2014, which can be seen in the following table:

STORAGE SERVICE TARIFF	20'	40'
BASIC TARIFF (BT)	IDR 27,200	IDR 54,400
STORAGE PERIOD		
FREE PERIOD : 1-3 DAYS	FREE	FREE
PERIOD II : 4-10 DAYS	500% X BT	500% X BT
PERIOD III : 11 DAYS – NEXT	700% X BT	700% X BT

Due to the low cost, the importer does not want to rush to take the container. This is what causes dwelling time. To anticipate fraudulent practices, the Port has issued new provisions set forth in

the Decree of the Board of Directors of Indonesia Port Corporation (IPC) No. HK.568/23/2/1/PI.II/16 which can be seen in the following table:

STORAWGE SERVICE TARIFF	20'	40'
BASIC TARIFF (BT)	IDR 27,200	IDR 54,400
Day 1 st	FREE	FREE
Day 2 nd – next	900% X BT	900% X BT

- b) Falsification of documents
 Falsification of container retrieval documents is done by falsifying documents and then attempting to remove containers. This is done by unscrupulous officers of Cargo Ship

Expedition (EMKL). The fraud mode is also disclosed by “neutralnews” as follows:

“They confess that this crime is committed by falsifying the

*documents of Delivery Order to remove containers from the container storage”.*¹³

- c) Theft of container contents,
The theft of container contents is committed by the driver in cooperation with the duty officer and the employees. The modus operandi is as follow: in his operation, the truck driver who will commit the theft is backed up by security officer and the employees. The stolen goods will be stored by the driver under or behind the truck seat.
- d) Manipulation of container weight,
The loading and unloading equipment, according to the provision, can only lift the container with maximum weight of 45 tons. If the container weight is above the existing provision, the container cannot be unloaded or loaded. With this provision, the truck driver and the employee will try to manipulate the existing weight so that the container with the weight exceeding the provision is manipulated in accordance with the provisions.
- e) Damaged container / goods from outside are brought into the Port resulting in claim from the ship
The modus operandi is by taking advantage of the negligence of the officers in checking the physical container, or giving tips to inspectors so as not to check the physical container.

B. Anti-Fraud Program

For Ports in Jakarta, IPC group has launched anti-fraud program called “IPC

¹³ Pencuri Kontainer Ditangkap <http://www.netralnews.com/news/megapolitan/read/71946/pencuri.kontainer.ditangkap>

Clean”¹⁴. It is a real program of IPC management and all Port Branches and Subsidiaries to realize clean work place from fraud, corruption and extortion.

One of the applications provided by IPC for all stakeholders who have information and want to report an indication of violation committed by those working at IPC and Subsidiaries is independent whistle-blowing System. For IPC employees or stakeholders who report will be given protection, both in terms of identity confidentiality and the possibility of retaliation by the reported party. In addition, IPC is also trying to optimize the three areas of focus in improving future performance such as the preparation of governance foundation, revenue enhancement, and cost effectiveness.¹⁵ For the implementation of all mentioned above, in 2016 IPC corporately compiled 210 SOPs in various fields and Directorate. Since then, IPC has achieved Criteria of Superior Performance Appraisal score of 532. In addition, IPC has also optimized the role of Internal Audit Unit in IPC Group environment and improved Good Corporate Governance (GCG) as an umbrella of all IPC activities within the scope of the Main Directorate function.

CONCLUSION AND SUGGESTION

Conclusion

The conclusions that can be drawn from the above research are as follows:

1. Illegal levies are included in the fraud category. The impacts are detrimental to both the company and the stakeholders.
2. Fraud in the Port sector, based on the above research, involves employees (employee fraud) and customers (customer fraud)
3. The anti-fraud program has been launched by IPC Group through the website <https://ipcbersih.tipoffs.info/> which can be used

¹⁴ IPC Bersih <https://ipcbersih.tipoffs.info/>

¹⁵ IPC [http://www.indonesiaport.co.id/news/ipc/pt-pelindo-ii-\(persero\)-raih-laba-rp.-2,7-triliun-meningkat-32,87-percent-533.html](http://www.indonesiaport.co.id/news/ipc/pt-pelindo-ii-(persero)-raih-laba-rp.-2,7-triliun-meningkat-32,87-percent-533.html)

by stakeholders to report all forms of fraud, corruption and extortion. In addition, IPC has also optimized the function of Internal Supervision Unit

Suggestion

The suggestions that could be put forward are as follows:

1. Fraud in the Port sector can be minimized with commitment and synergy of all people involved in the Port (Port operators, Customs, Ports, Port Authorities and Customers) who have responsibility in this sector
2. The anti-fraud program cannot work without the socialization to the entire people involved in the Port activities. In order to be successful in its implementation, in addition to socialization, there should be regular monitoring of incoming reports and concrete actions from existing reports

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