

A dark blue background featuring a close-up photograph of a person's hands. One hand is holding a white, slightly crumpled piece of paper, while the other hand is resting on top of it, fingers spread. The lighting is dramatic, with strong highlights and shadows.

**STAND YOUR GROUND,
BE A LEADER!**

CAPTAINS' EDITION (1A)

01

INTRODUCTION





Course Description

This course will give you a better understanding of corruption and key concepts within international anti-corruption laws.

It will also show you some typical scenarios that you might encounter as well as give you tips on how to act in order to increase your bargaining power, helping you to stand your ground and be a leader.

Through this training, we hope to give you the tools to better address challenging situations and to come closer to achieving a maritime industry free of corruption.

The aim of the course is also to encourage employees to work together and improve their communication lines when tackling maritime corruption. The course will take approximately 25 minutes to complete.



Test Assessment

At the end of the course there will be a test, so please pay attention!



Welcome from the MACN

The Maritime Anti-Corruption Network (MACN) is a global business network working towards its vision of a maritime industry free from corruption, enabling fair trade to the benefit of society at large.

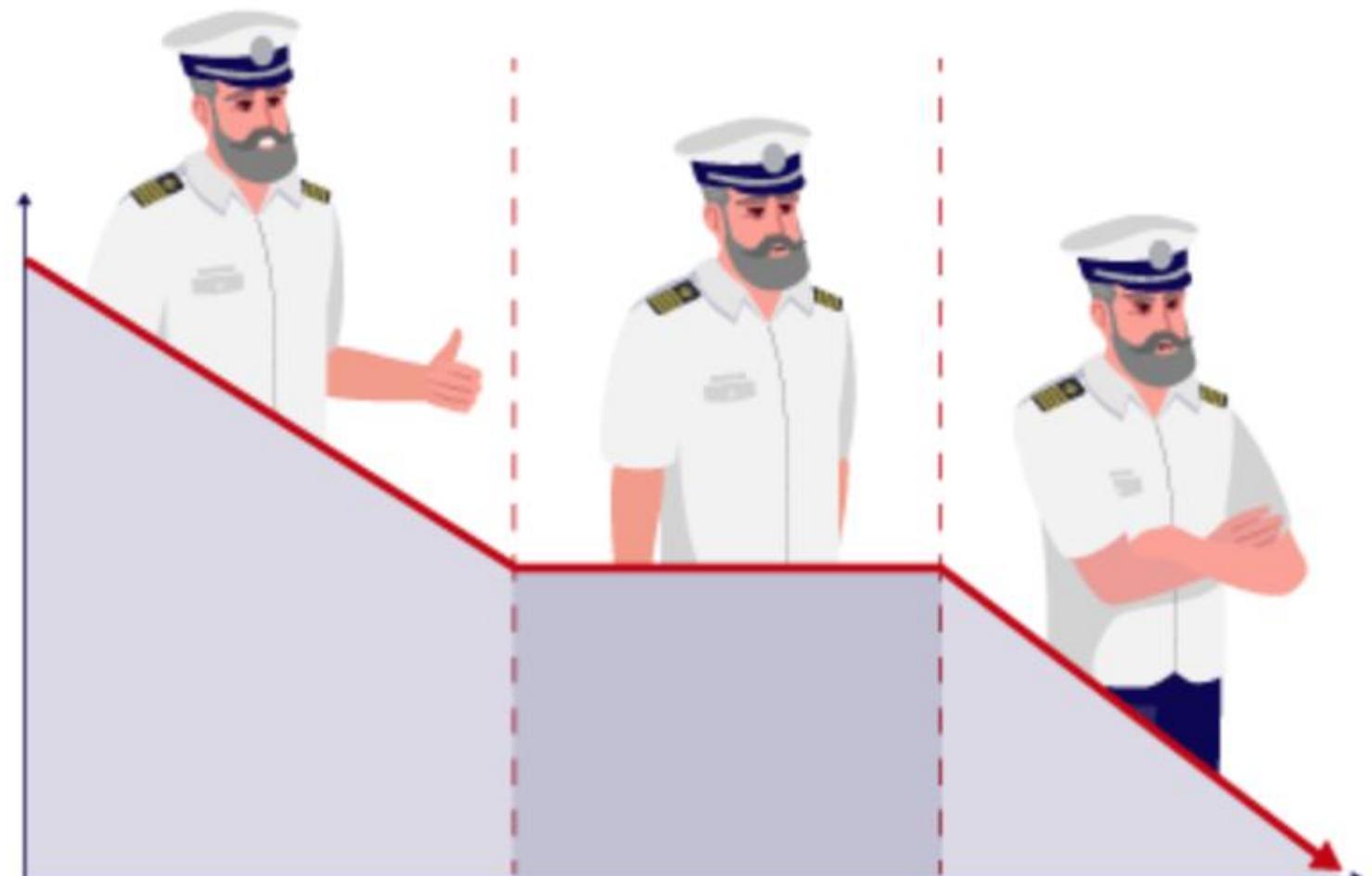
MACN's mission is to promote good business practices in the maritime industry for dealing with bribes, facilitation payments and other forms of corruption by:

- developing and sharing best practice
- creating awareness of the challenges
- collaborating with key stakeholders to develop sustainable solutions.

This training is supported by MACN and aims to put MACN members on the right track toward achieving a maritime industry free of corruption.

Key Elements of Corruption

Level of Trust



Why does corruption matter?

Strong business ethics are required to maintain the trust of customers, partners and employees. Not complying with anti-corruption laws, diminishes that trust and can therefore damage a company's reputation and have severe financial consequences.

This course will cover the most frequently experienced types of corruption in shipping: bribes and facilitation payments.

Corruption is Regulated Globally

THE US FOREIGN CORRUPT PRACTICES ACT (FCPA)



THE UK BRIBERY ACT



The two main anti-corruption laws that have a global reach are:

1. The US Foreign Corrupt Practices Act (FCPA)

- Applies to virtually all the world's largest companies and makes the bribery of foreign government officials illegal.

Corruption is Regulated Globally

THE US FOREIGN CORRUPT PRACTICES ACT (FCPA)



THE UK BRIBERY ACT



The two main anti-corruption laws that have a global reach are:

2. The UK Bribery Act

- Sets high anti-corruption standards which companies must live up to. It has a global jurisdiction, meaning that it is not only limited to companies that are based in the UK. The Act classifies all bribery and facilitation payments as illegal, and thereby makes no distinction between them.

During the past few years, many countries have followed the strict regulations that the UK put forward in 2010.

Countries are focusing more time and resources to tackle the problems caused by facilitation payments including companies who continue to pay these, and applying a global jurisdiction.

WHICH COUNTRY'S LAW MAY APPLY?

which country's law may apply?



Danish Vessel



Egyptian Waters



British Crew



Indian Agency



Swiss Charterer



Corruption is Regulated Globally

An example of the complexity of global jurisdiction:

"A Danish flagged vessel sails through the Suez Canal with UK based Captain and crew. The ship is chartered by a company operating from Switzerland. The Captain pays a bribe to jump the line as he is running short on time. The Captain is employed by a ship management company based in India."

WHICH COUNTRY'S LAW MAY APPLY?

which country's law may apply?



Danish Vessel



Egyptian Waters



British Crew



Indian Agency



Swiss Charterer



Corruption is Regulated Globally

Which country's law may apply?

- Denmark – as it is a Danish flagged vessel?
- Egypt – as the ship is sailing through Egyptian waters?
- UK – as the crewmembers are from the UK?
- India – as the ship management agency that the crew is employed by is based in India?
- Switzerland – as the charterer is responsible for actions made on behalf of the company?

In fact all of these jurisdictions may apply!

What is Corruption?

Click on the boxes to view key elements of corruption.



Bribery



Facilitation Payments



Third-Party Risks



Extortion and Duress



Bribery

Bribery is the acceptance, offering, solicitation or promise of benefits, in kind or in cash, in the hope of gaining advantages to which you would not otherwise be entitled. For example, paying to come to the front of the line during a canal transit is a bribe. It includes payments to commercial organisations, as well as public officials.

Bribery is illegal worldwide, and MACN members are committed to comply with relevant laws prohibiting bribery. Bribery can either be:

- **Passive bribery:**

A person asking for, accepting or receiving a bribe commits passive bribery.

- **Active bribery:**

A person offering, promising or paying a bribe commits active bribery.

Both passive and active bribery is illegal in most countries.

Facilitation Payments



Facilitation payments are small payments, in cash or in kind, made to low-level government officials to perform a part of their routine duties. For example, giving a few packs of cigarettes to get an official stamp on a document even though you are legally entitled to it.

Despite being illegal in most countries, facilitation payments remain customary globally and therefore represent a challenge for the shipping industry.

Responsibilities for Third Parties



In the shipping industry, the most common third parties are port agents.

For example: if a port agent acting on your behalf makes a bribe or a facilitation payment for the benefit of the company, the company is legally responsible for that payment.

If an agent makes an illegal payment to a government official in a foreign country, prosecution charges can be pressed against the company and its employees in that foreign country, the company's or employees' home country and potentially other countries (such as the UK and US, whose laws have global jurisdiction).

Situations of Extortion can Occur



Some public officials can act aggressively when making demands for a payment whether it is in cash or in kind, which is a form of extortion. They can become threatening and physically and/or verbally abusive. This behaviour can be so intense that the operator or crew can feel that their personal health and/or safety is in danger.

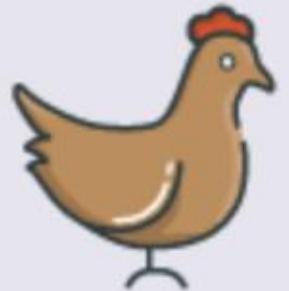
This type of situation is legally defined as duress. If you feel that you are physically threatened, you may take necessary action as deemed reasonable to ensure personal safety and safety for others. But keep in mind duress only applies to physical threats. It does not include economic threats, such as delays or threats of delays (e.g. being refused permission to berth).

It is important that you report such incidents to your company as these must be recorded and investigated.

What can Corruption Look Like?



CANDY, COFFEE, CHEESE BREAD



CHICKEN



TEA, SODA, SPREAD



MILK FOR THE KIDS

The terms "tea" and "coffee" money are widely used as code words for bribery, and often conceal the true nature of a corrupt transaction. Whether it happens on the ship, or in the boardroom, corruption rests on the abuse of power. Further, corrupt demands are often coded as a token of appreciation, a gift, a sign of respect or a favour for a friend. There is no exception in shipping, where requests for petty corruption are common.

What can Corruption Look Like?



CANDY, COFFEE, CHEESE BREAD



CHICKEN



TEA, SODA, SPREAD



MILK FOR THE KIDS

Examples of how bribery is concealed:

- **Kenya:**

During the Kenyan elections in 2009, it was revealed that employees used the word "chicken" to refer to bribes in their emails. The case is known as the "Chickengate Scandal"

- **In Hungary,**

the term "Nokia box" became a symbol of corruption in 2010 after the head of the Budapest Public Transport Company was caught handing over cash to the deputy mayor of Budapest in a Nokia box.

Why Anti-Corruption Matters

Our company has a zero-tolerance policy towards bribery and facilitation payments.

Click on the icons to understand how corrupt activities can affect your company and you personally.



Working Environment



Liability

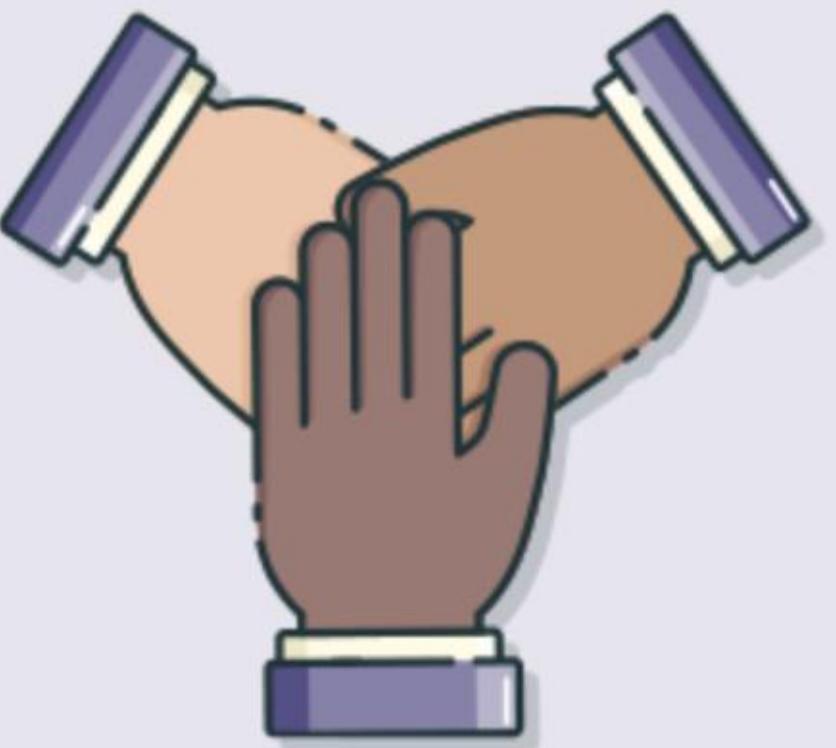


Your Company's Reputation



Corporate Fines

Working Environment



Corruption leads to an unsafe working environment. By rejecting corruption, we create a safer working environment for crews by mitigating operational risks and delays.

Liability

Corruption is regulated by criminal law. The possible consequences of corruption therefore include prison sentences.



Your Company's Reputation

Trust of customers is essential when doing business. This requires that you act and are an honest and reliable partner in everything the company does. Corrupt activities pose a huge risk to your reputation and the company.



Corporate Fines

A feature of anti-corruption legislation around the world is that companies are fined if they are found guilty of corruption. For example:

On 31 January 2020, the UK Serious Fraud Office entered into a Deferred Prosecution Agreement (DPA) with Airbus SE. Under the terms of the DPA, Airbus agreed to pay a fine and costs amounting to €991m in the UK, and in total €3.6bn, as part the world's largest global resolution for bribery, involving authorities in France and the United States.



Fighting Corruption



Fighting corruption can be difficult. But there are numerous ways to tackle a corrupt demand. Preparation is key to success.

The following three screens show experiences collected from Captains who have been successful in rejecting corruption globally, including in high risk countries.

Prevent Risks



1. Double check all documentation in advance:

- e.g. Check individual crewmembers' paperwork and escalate directly to your crew operator if the paperwork is not in order. This may include crew visas, yellow fever certificates, employment contracts, etc.

2. Submit documentation electronically where possible:

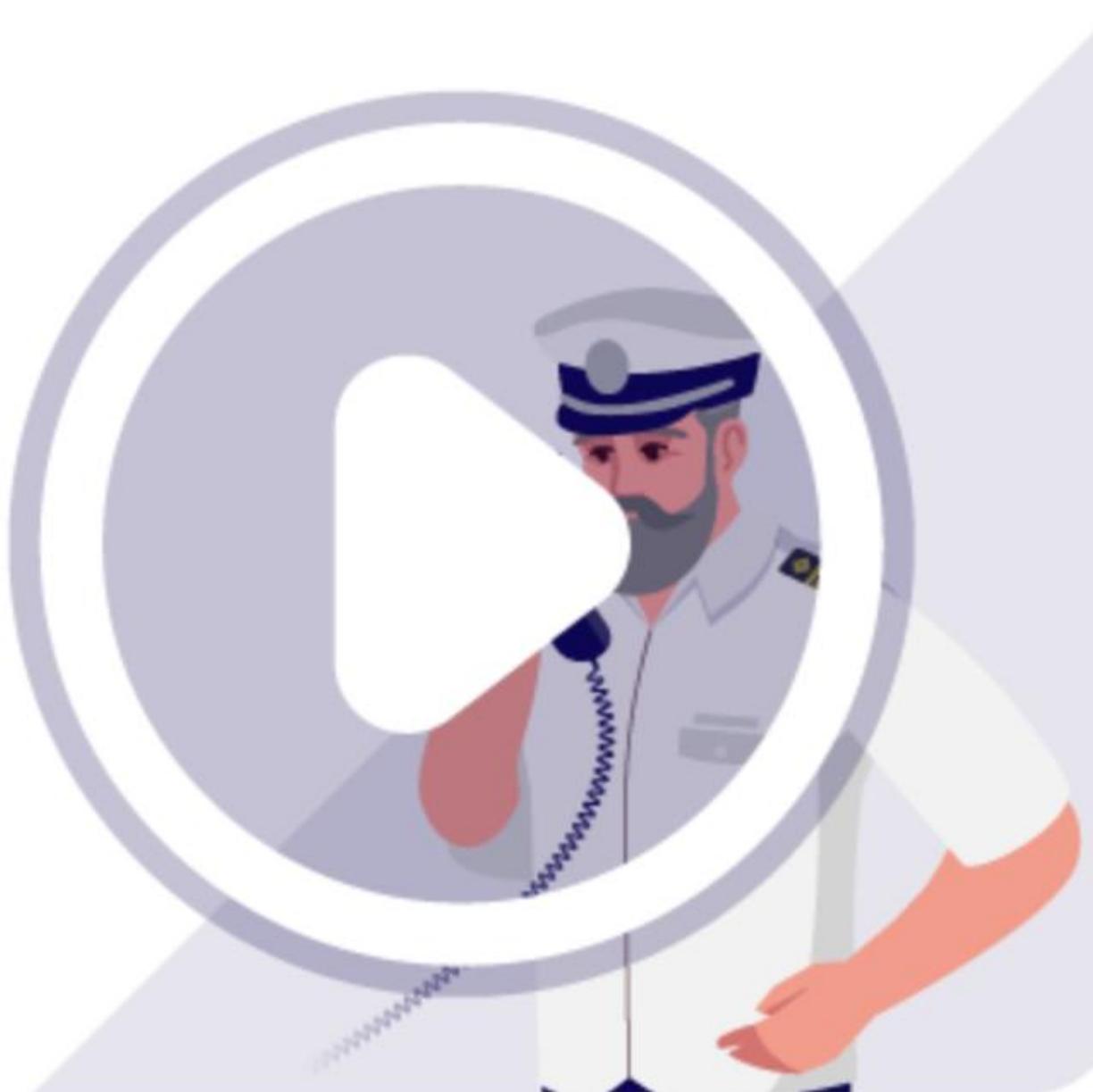
- e.g. pre-arrival documents.

Prevent Risks



3. Have all relevant documentation in order and have it ready when meeting with government officials.
4. Include as much time to prepare as possible when planning actions that require government interaction.
5. It is also important to be prepared operationally in advance:
 - e.g. Discharge expired medicine and check all medicine lists to ensure they reflect the actual medical supply.

Keep Calm



- 1. Ask the agent how official payments (fees, fines) are paid before speaking with government officials. This will help to avoid cash transactions and also show that you are aware of local requirements.**
- 2. Where possible, get your company's local manager or agents to inform the local authorities about your company's anti-corruption policy. This action can prevent a demand later.**
- 3. Inform the agent in advance of your company's anti-corruption policy, and of the fact that third parties acting on your company's behalf must enforce the same rules.**



Keep Calm

4. Post anti-corruption signs at the gangway and in the office so they are clearly visible for visitors.
5. Collect data on corrupt demands. Share these internally.
6. If relevant, check the charterer's instruction on corruption, and especially on facilitation payments.
7. In ports prone to corruption, assess if it is relevant to have a P&I club representative or protective agent on board when meeting with authorities.
8. Finally, consider asking for an official fine letter and for a signed receipt.



Stand Your Ground

1. Use the lessons learned and be consistent in the rejection of corrupt demands.
2. If one vessel successfully reduced or eliminated demands, share the experience so sister ships can follow. If you are successful once, it is likely that the success can continue.



Stand Your Ground

3. Share information on how the mitigation of corrupt demands is progressing – among ships, in the office, and among offices in the same geographical region.
4. Prepare new colleagues on what to expect before the first government official interaction in a specific location.
5. Use local experience and input to design specific elimination plans:
 - e.g. seek input from agents on the best way to eliminate corrupt demands or facilitate a dialogue with local third parties on how to combat corrupt demands together.

02

CASE STUDY

DON'T OPEN THE FLOODGATES



Bargaining Power

Here are some lines that might help to increase your bargaining power with officials:

1. Make it personal:

I trust you are aware that you are asking me to break my company's rules.

2. Explain that the decision is not up to you – that your hands are tied:

My company has a strict anti-corruption policy, so I cannot do that.

Headquarters audits everything on board, so I will have to record your name.



Bargaining Power

3. Be assertive, polite and confident:

When possible, don't give in. Attitude can go a long way in these kinds of situations, so stand your ground and have the right body language.

Never lose your temper – be polite, calm and show respect.



Officials Board the Ship

A ship is berthed in a port which is known for corruption. The Captain is waiting for the officials to embark the vessel. The ship is running on a tight schedule due to some delay in the previous port with bunker supply.

The health authorities are the first ones to come on board, and they are looking at the Crew Health Certificates and Vessel Sanitation Certificate carefully, looking for anything which is out of line.

Officials Board the Ship



The Captain is prepared. He has informed the agent in advance of the company's anti-corruption policy and that they are an MACN member. He has signs visible at the gangway and he has followed the company's instructions on preventive measures. He has made sure the health documents are fully in order with no substantive or technical violations.



Officials Board the Ship

Guidance for Captains:

- Guidance for Captains – Leaflet
- Guidance for Captains – Poster

Guidance for Agents

- Guidance for Agents – Letter
- Guidance for Agents – Tips and Tricks

Welcome On Board

- Welcome On Board – Poster
- Welcome On Board – Leaflet
- Welcome On Board – Poster (Non-Smoking)



We Could Work Faster

One of the officials approaches the Captain:

Official

So how can we make this go faster?

Captain

I'm sorry, I don't understand.

Official

My men would be more likely to put some extra effort into making sure your ship leaves on time if you give us a few bottles of alcohol.



CASH



CIGARETTES



ALCOHOL

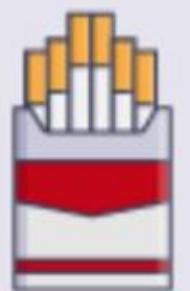
This is a demand for a facilitation payment as the official has not found any deficiencies. Which of the following are common facilitation payments?

- Small amounts of cash.
- Alcohol.
- Cigarettes.
- All of the above.

Types of Facilitation Payment



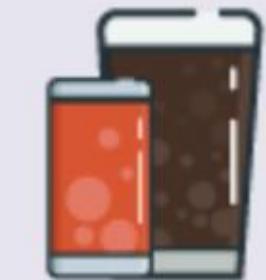
CASH



CIGARETTES



ALCOHOL



SOFT DRINKS

Anything of value taken off the ship can be a facilitation payment, including small amounts of cash, alcohol, cigarettes, soft drinks, food, bonded goods etc.

Food and drinks consumed on board are considered as hospitality.



You Stand Your Ground

The Captain can tell that the official is not happy; however, he stands his ground.

Captain

I am sorry, I cannot give you any bottles of alcohol. It is against our policies and we don't have any alcohol on board.

Official

Then you will have to give me some cigarettes.

Captain

I cannot do that either. My company has strict policies against such payments and everything on board is recorded and audited.

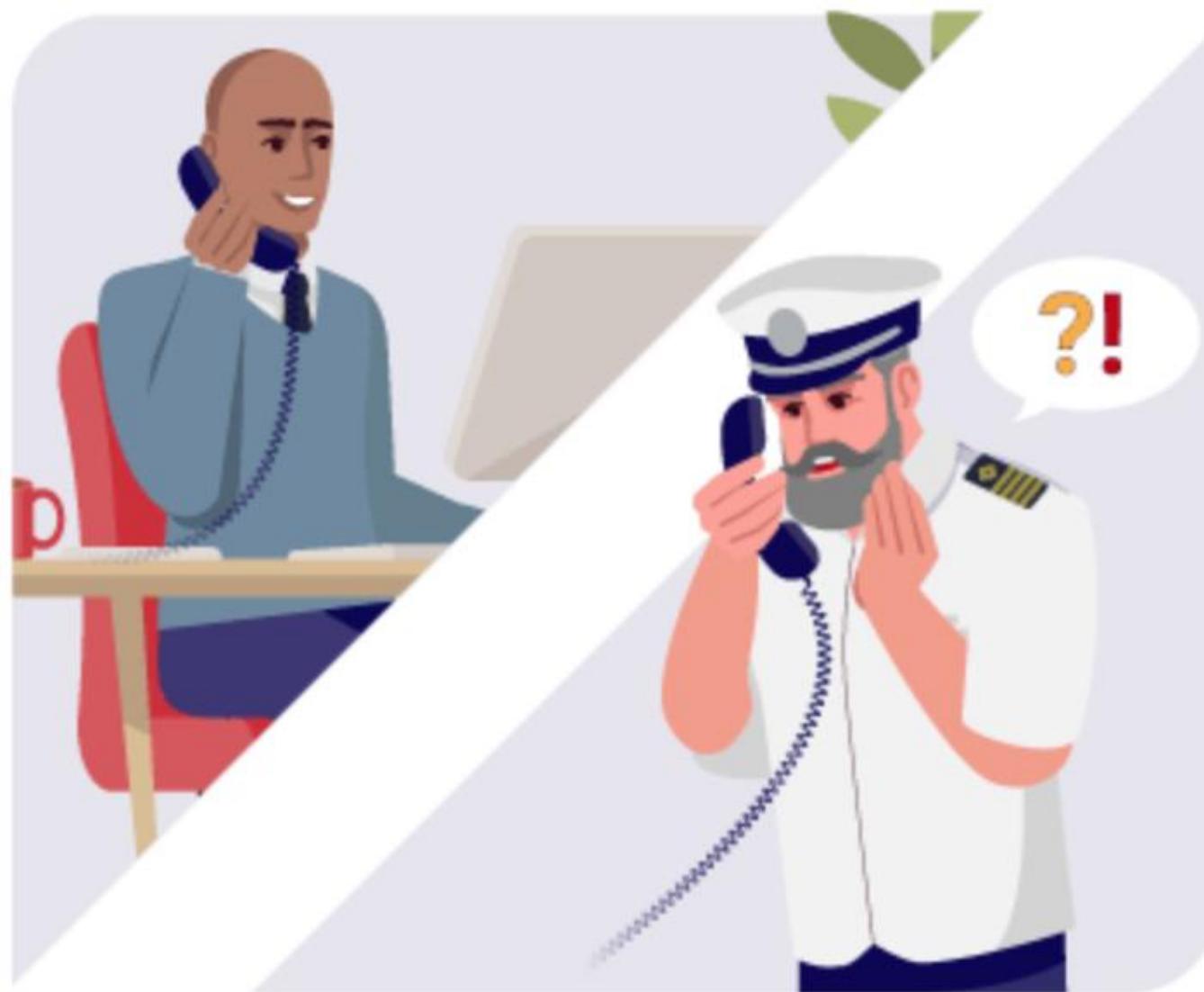


Breaking Point

Official

OK, let me have a look at the papers again as I might have missed something.

The officials set off to look for something they may have missed the first time. In the meantime, the Captain asks the agent to come on board again as he sees the situation escalating. He also calls his operator.



Consider this Conversation

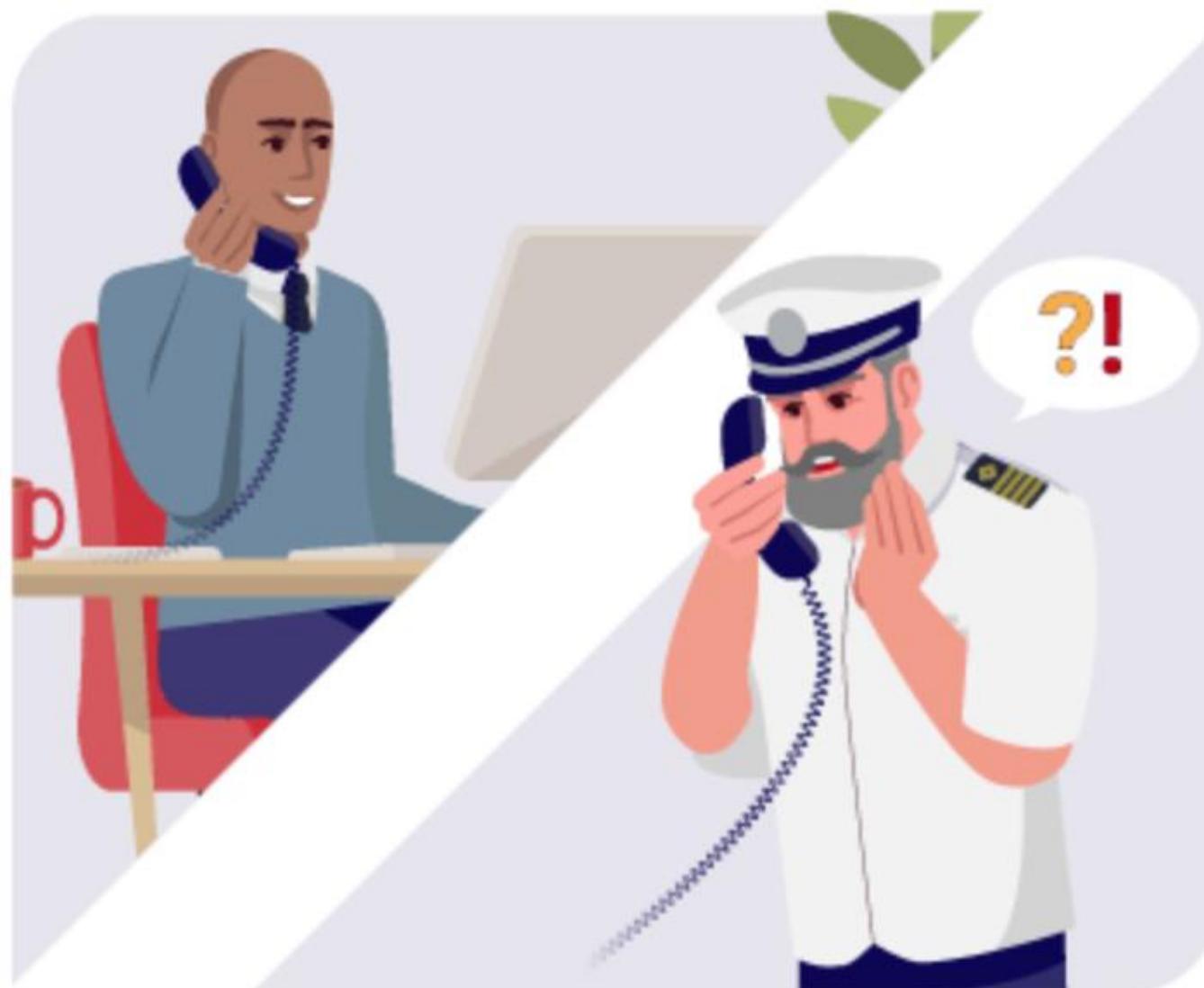
The Captain calls the Operator...

Captain

The official is demanding payment to ensure a smooth process. He is not backing off. We risk delaying the departure.

Operator

I am sorry to hear you are in this situation. Try to stand your ground and follow company procedures and we support you if you are faced with a delay. And keep me updated on the outcome.



Consider this Conversation

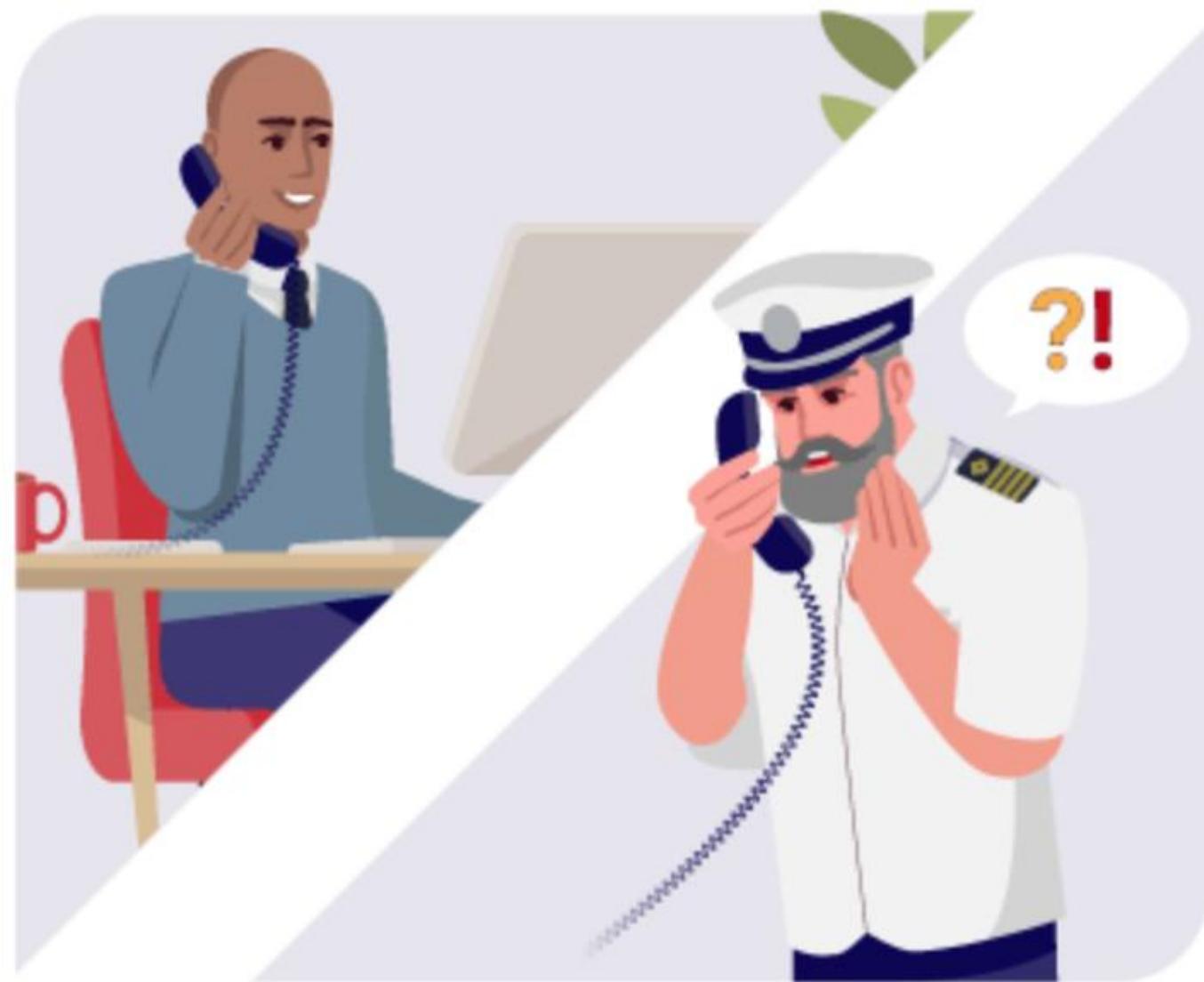
Captain

I will do that, thanks!

After two hours, the Captain can see that the situation is not improving, and he is getting really stressed.

How could the Captain mitigate the ongoing situation?

Answer the question on the next screen.



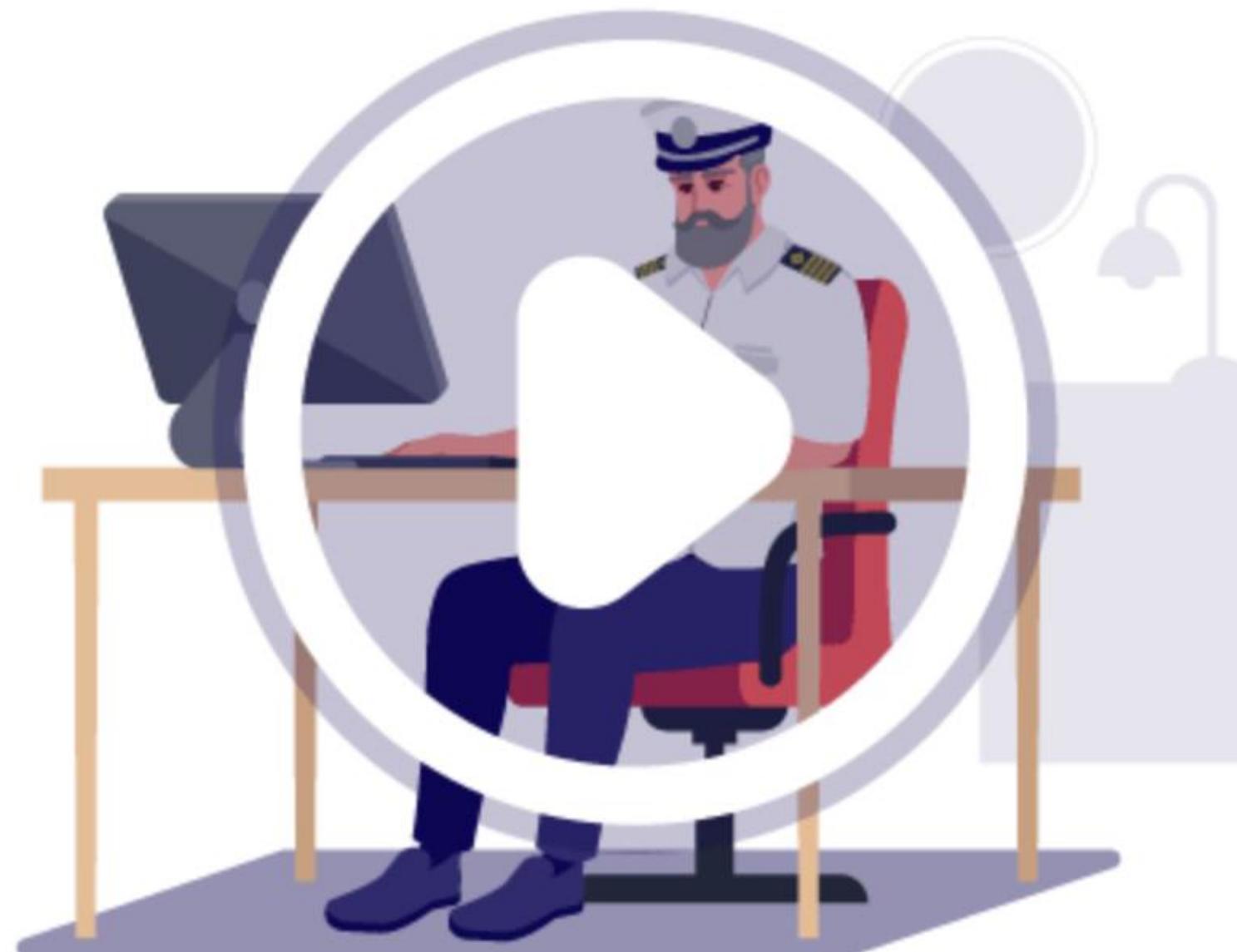
How could the Captain mitigate the ongoing situation?

- Keep calm and inform the official that he can make his request to the company's Head of Operation instead and the Captain offers to call him up.
- The Captain can show the anti-corruption placards he has which include names of management he can escalate problems to.
- The Captain informs the officials that his company is a member of MACN.
- The Captain informs the officials that the ship's P&I club representative will be contacted.
- All of the above.



How Could this Situation be Prevented?

1. Double check all documentation in advance.
2. Submit documentation electronically when possible, e.g. pre-arrival documents.
3. Have all relevant documentation in order and have it ready when meeting with the government officials.
4. Include as much lead time as possible when planning actions that require government interaction.



How Could this Situation be Prevented?

5. It is also important to be prepared operationally in advance:

- Get detailed information from the agent on how official payments (fees, fines) are paid before speaking with government officials. This will help you to avoid cash transactions. You also show that you are aware of local requirements.
- Inform the agent in advance of your company's anti-corruption policy, and of the fact that third parties acting on your company's behalf must enforce the same rules.
- Have anti-corruption signs clearly visible for visitors, e.g. at the gangway.



How Could this Situation be Prevented?

The escalation process worked for now and the health authorities give the vessel Free Pratique.

But the situation is not over.

You understand that the Health Authority officials are angry and communicate something to the Immigration and Customs officials who are waiting by the gangway.

No Bargaining Power



Next on board are three Immigration officials and two Customs officials, and they are also making demands to do their job properly. The Captain notices that they are already upset when they come on board and immediately ask for cigarettes. The Captain responds firmly but politely that he is not authorised to give them any cigarettes.

If the Captain paid the previous officials, it would have drastically eroded his bargaining power with the Immigration and Customs officials. He knows that if he pays once he will have to continue.

One of the senior Immigration officials does not give up and he hints that the risk of getting stowaways on board during the night is very high and he may come back tomorrow to check.

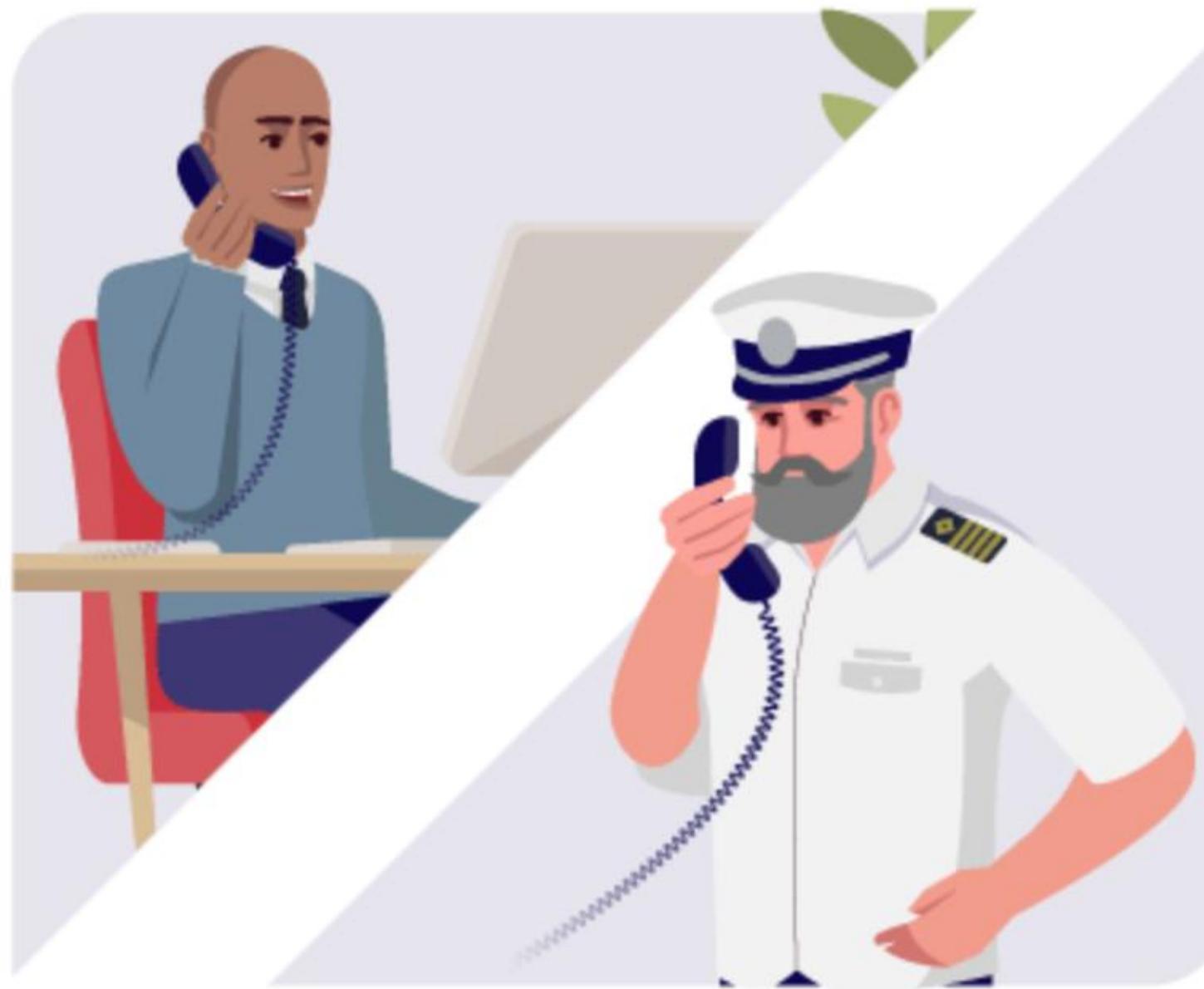


No Bargaining Power

Having unauthorised persons on the ship can lead to severe fees and potential imprisonment for the Captain. However, the official says he can make sure that does not happen if he gets some packages of cigarettes.

The Captain gets really frightened; he does not want to be taken off the ship for questioning. The Captain assesses that the situation is becoming severe, but he continues to push and reject. Eventually he also calls his company representative as he needs support. The operator advises that the company will escalate immediately to the Head of Immigration responsible for this port.

Report Back to the Operator



Captain

I wouldn't have been able to escalate this alone – thank you for your support.

Operator

I am sorry to hear that, but I am glad we were able to escalate this. Please make sure to report the experience. In this way, we can keep track of demands and explore means to avoid these situations in the future.

This is not a behaviour we want to accept!

Captain

Thank you. I will send the report ASAP.



Lessons Learnt

1. In the first interaction with the authorities, the Captain stood his ground and acted with strong leadership. He did everything right to mitigate risks of corruption and remained calm.
2. However, later, the Captain was challenged by the hostile environment he was operating in. He felt pressured to keep the ship on schedule and in this situation the officials caught a scent of this and used it to escalate to a situation where the Captain got concerned for his own safety. If his own safety was threatened this might be considered as an act of duress, but it needs to be properly documented. Mere delay to the ship is not duress.



Lessons Learnt

3. To avoid this, be prepared – know what to expect, typical demands, the consequences of breaking a law/regulation, etc. If in doubt, the Captain should seek advice from the agents with support from this company.
4. Without the agent present, there is no one there to verify that the officials are making false statements. The agent should be present.



Lessons Learnt

5. If the Captain caves in to the first demand, the next officials will find out about it, and they won't stop until they also get paid. Don't open the floodgates for your ship and later ships – stand your ground.
6. Ask for a receipt and document the situation properly. The Captain should report the incident (through your company's reporting channels). Reporting is a recognition of the reality that Captains face in many places.

03

CASE STUDY

MINOR THINGS CAN HAVE BIG
CONSEQUENCES



The Devil is in the Details

Preparing the Customs manifest

Before arriving at a port, the Captain receives a long request list from the authorities, including demands for detailed information on how much medication, money, etc. is on board.

The Captain spends a long time preparing the list to the best of his abilities and sends it to the authorities before arriving at the port.

Arriving at the Port



Three Customs officials board the ship and start the process of clearing the vessel. While on the vessel, they act aggressively, pushing and verbally abusing crew members. After a while, one approaches the Captain:

Official

We have found a mismatch. In the manifest you said you have 90ml of morphine, but we have found 91ml.

Captain

I thought I had double-checked all quantities. I am very surprised there was a mistake. I apologise if that is the case.

Official

Give us some money now, and we will make the problem go away. Otherwise, we will make your life very complicated.



Stand Your Ground

The official is standing very close to the Captain and is acting menacingly. The Captain can see he is serious, and the Captain feels physically threatened. He acts confidently and tries to stand his ground.

Captain

I would be happy to re-count and to resubmit the statement if we were wrong. However, I am quite certain we only have 90ml of morphine.

Official

That is not possible. Either pay us now or there will be physical consequences. Or I will make sure we find illegal drugs on board and involve the police.

Captain

I can't make a payment without getting approval from my operator, so you will have to excuse me for a moment so that I can call him.

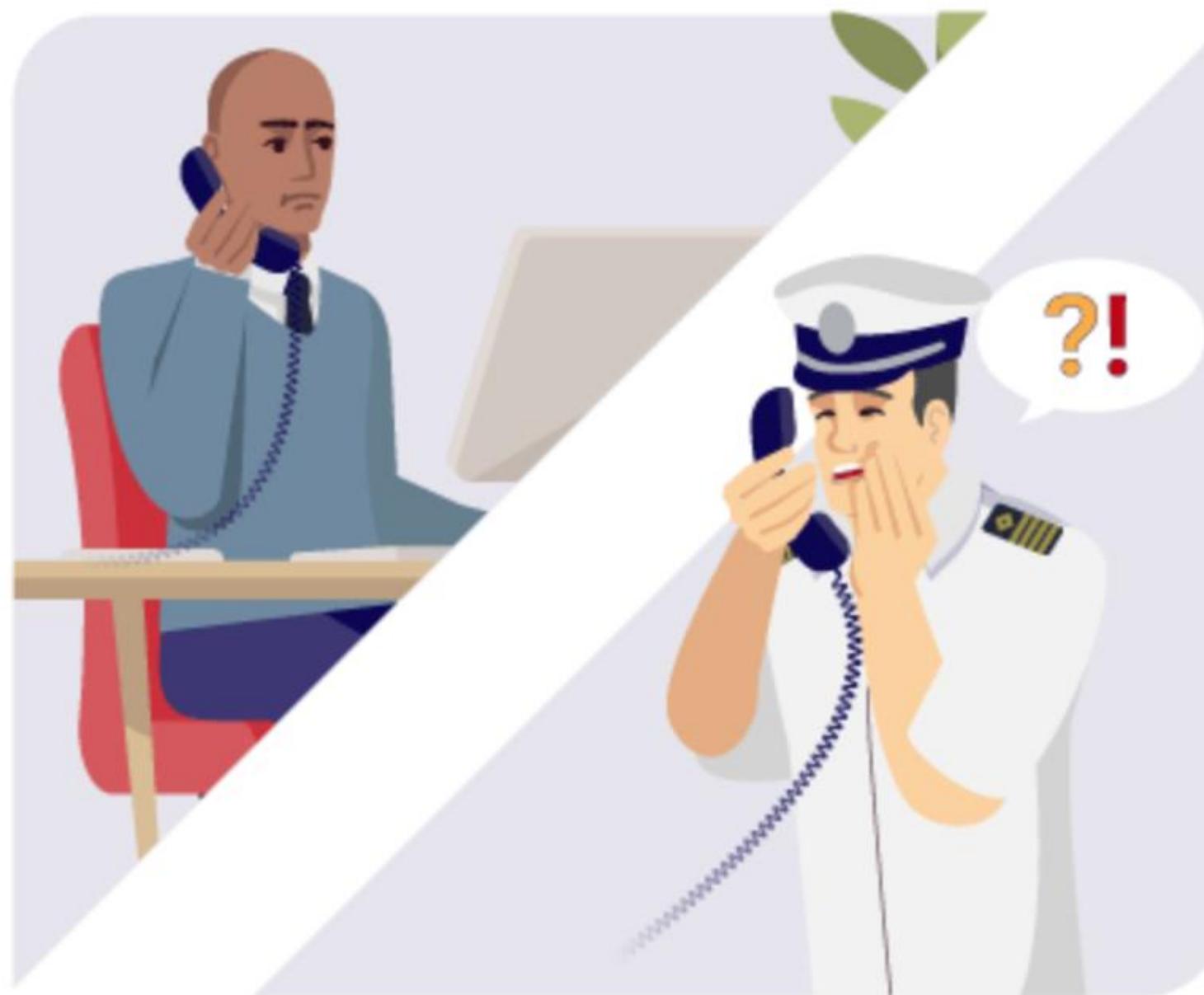


Captain

"The official is not backing down. He has acted aggressively both verbally and physically. I personally feel that my health and physical safety are in danger."

This is a case of duress. What does this mean in practice?

- When under duress, you are legally allowed to make the payment to the official.
- Duress does not change anything. You should continue to resist.

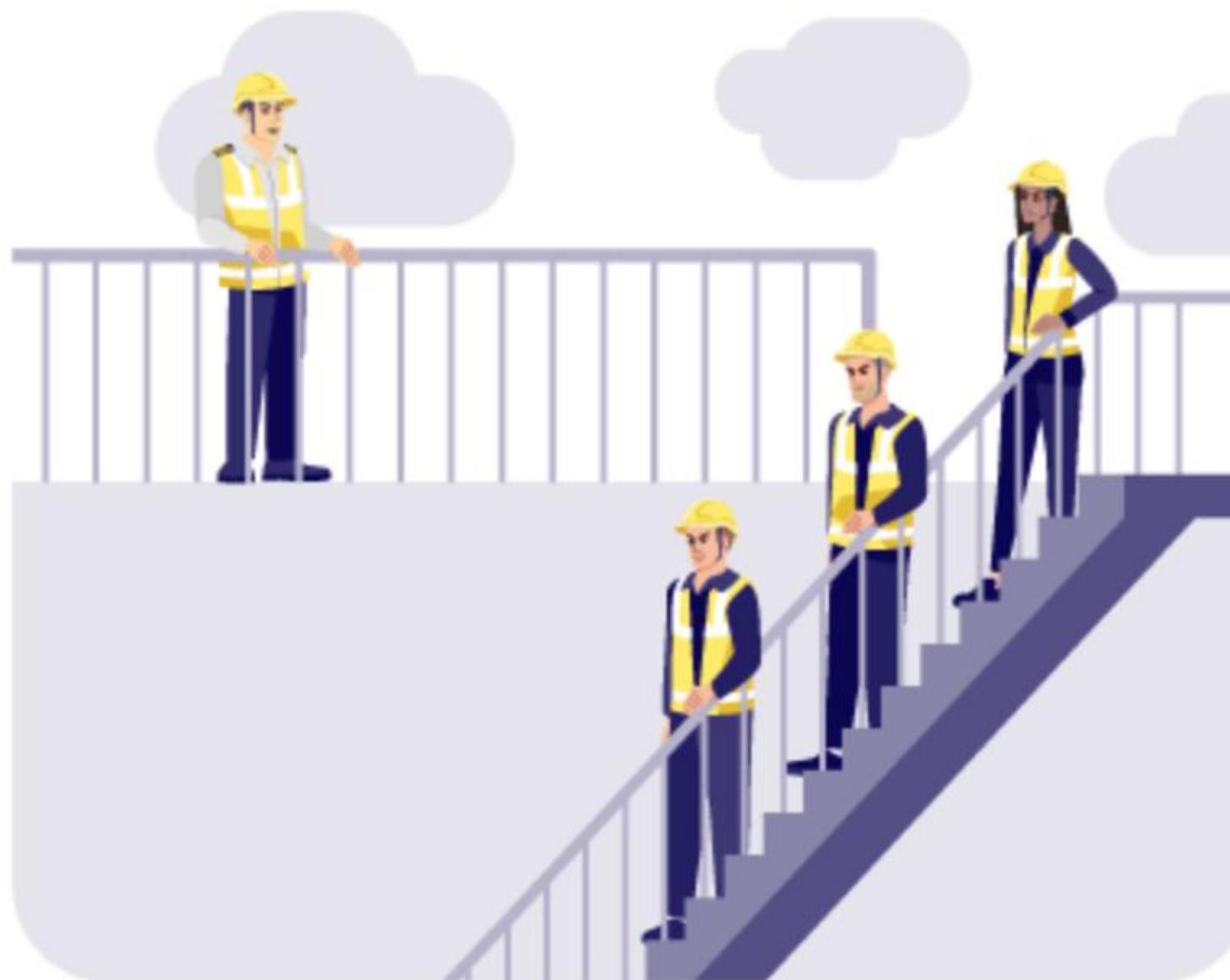


Duress

When the physical safety of the Captain or his crew is under threat, the Captain is under duress.

There is a legal provision making it permissible to pay in those circumstances, but it needs to be reported and investigated by the Company.

The Captain Calls the Operator



The Captain calls the operator to discuss the situation:

Captain

A Customs official is threatening me and is demanding money. He claims we have more morphine than we stated. He says he will ignore the discrepancy if I pay him. He is not backing down, and I feel that my crew's and my own physical safety and security are at stake because he is also making threats of physical consequences.

Operator

This is a case of duress. It means you are allowed to make the payment as your personal safety always comes first. Keep me updated on what happens.

Out of Hand



The situation is becoming worse, and the Customs official is acting even more impatiently now that the Captain had to step aside to call the operator. He is continuing to act aggressively, and the Captain feels physically threatened.

Because his safety was threatened, the Captain makes the decision to pay him. After the payment is made, the officials leave the vessel.

The Captain calls his operator to inform of the outcome of the situation. The operator supports his decision and is relieved that the official has now left and that the Captain is safe.

The Captain reports the payment and the situation was escalated through the company's existing channels.



Lessons Learnt

1. Safety comes first

- Making a payment is permissible in situations of duress where there is a real threat to the physical safety of the Captain or their crew.

2. Try to avoid giving officials more bargaining power than they already have

- Incorrect manifests will always leave you vulnerable to demands from officials. Ask the crew to be as thorough as possible when filling out these forms, as even small mistakes can be used to justify a demand for a bribe. It is also possible to spot potential risks in advance, e.g. a request for an extensive medicine list before arriving at the port will be a red flag in some instances.



Lessons Learnt

3. Be prepared and know what to expect

- It is important to have local knowledge on what are typical requests in a specific port and engage the agent early. Be prepared and know what the local situation may look like, e.g. do authorities tend to be aggressive? Do they have a history of making up deficiencies or discrepancies to request payments? How have other Captains managed to avoid making payments?

4. Use the internal escalation channels for support

- Get support from your operations team or legal team on how to handle the situation. They can also support with escalating issues locally through the agent or directly to the head of the relevant department.



Lessons Learnt

5. Report the incident (through your company's reporting channels)

- Cases of potential duress must be investigated by the company and properly documented as duress can be difficult to prove. Recording the incident is not a stamp of approval for payments. It is a recognition of the reality in many places.

The company may decide to share details of the case with others. Evidence of real cases may be used to demonstrate to governments and others that there are systemic issues and support them to mitigate risks. The data does not show individual names or companies unless specifically agreed with the company who reports.

04

CASE STUDY

TIME IS MONEY

First Time at a Port



The Captain arrives to a port to load grain during the high season. He has never been to this port before and is unsure of what to expect. The Captain calls the operator to discuss the port call.

Captain

I'm arriving at this port for the first time and don't know what to expect.

Operator

I have heard of issues with government cargo hold surveyors requesting substantial amounts of money or threatening to unjustly fail the clearance of cargo holds. However, our Captains have managed to stand their ground and not pay. Be prepared when they come on board and advise them of our anti-corruption policy. Remember that acting confidently goes a long way.



First Time at a Port

Captain

I will try that, but what if it fails?

Operator

Use your judgement and act confident. Please revisit our frontline guidelines and have anti-corruption placards visible on the ship. Call us if you need support.



Time is Money

As soon as the government hold surveyors come on board, they request a cash payment to ensure operations run smoothly as they know the Captain is on a tight schedule. As expected, they threaten to fail the clearance of the cargo holds if a payment is not made, even though the holds are appropriately cleaned.

This would result in serious commercial and thereby financial consequences.



WHO IS BOARDING
THE SHIP?



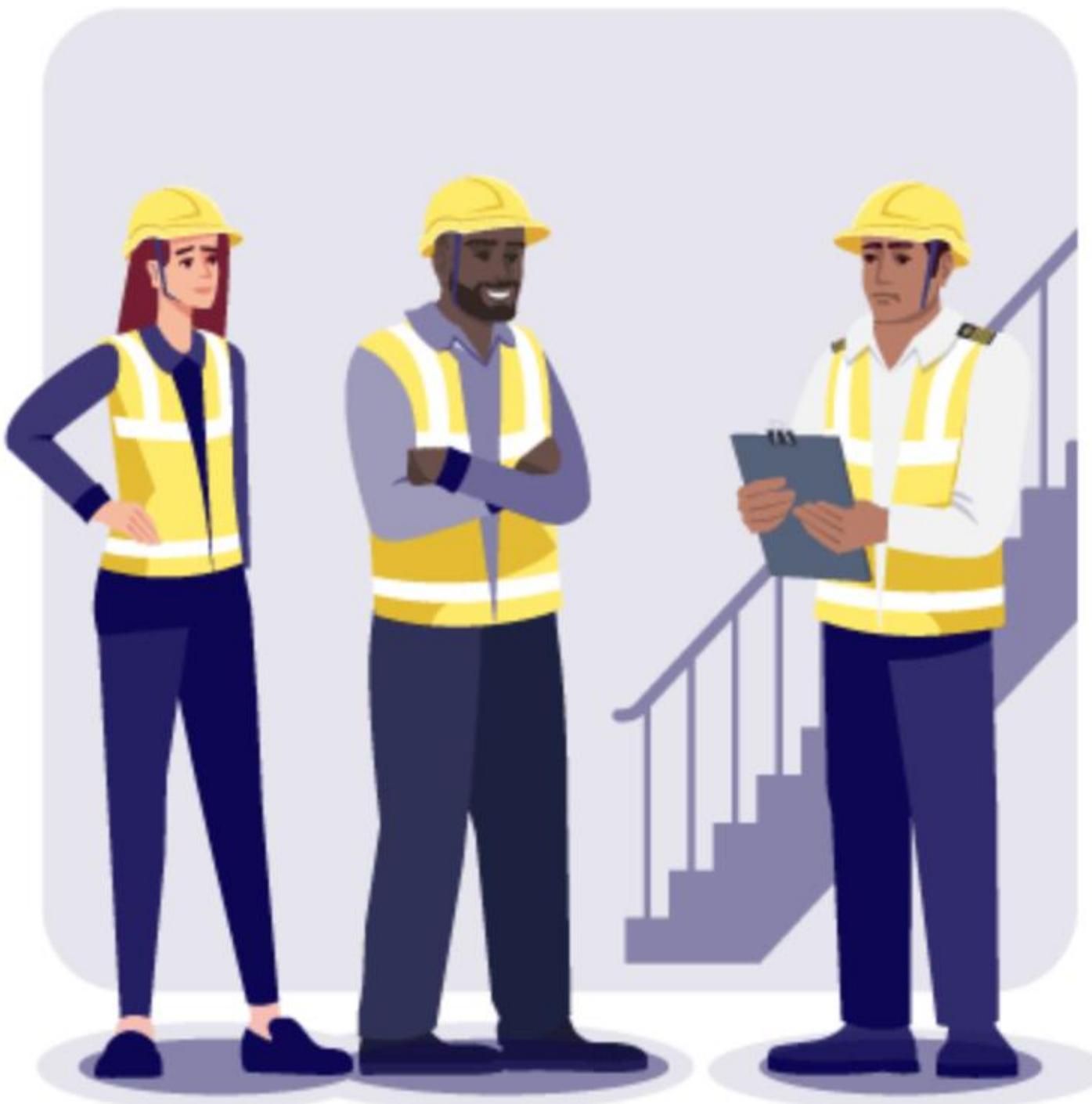
CAPTAIN SHOULD
WEAR UNIFORM



NEVER LET OFFICIALS WALK
AROUND THE SHIP WITHOUT
A CREW MEMBER

The officials are about to board the ship. What should you do in preparation for their arrival?

- Ensure there is a senior crew member to greet the officials before they come on board and accompany them around the ship.
- At the gangway, record the names of the officials that come on board.
- Put on your uniform.
- All of the above.



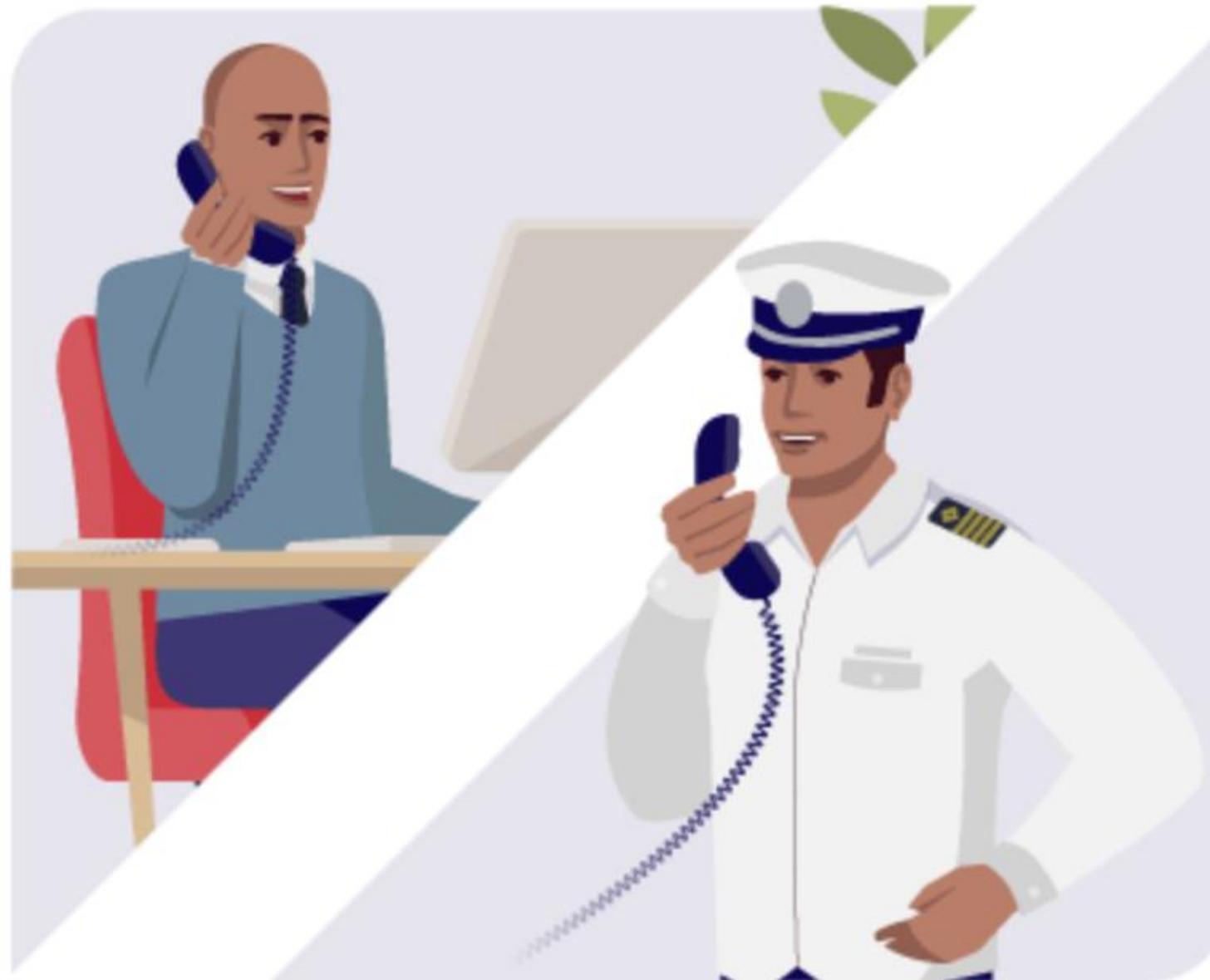
The Officials are About to Board

All of the options are mitigating factors the Captain should consider in preparation for officials boarding the ship.

First, it is vital that we know who boards the ship. Second, many cultures respect seniority and authority, so have a senior crew member greet them and the Captain should put on his/her uniform.

Finally, never let the officials walk around the ship without a crew member with them. Every official should be accompanied by at least one crew member.

Reporting Back



Captain

I think it worked. I told them we had a strict policy against such payments. I acted confidently, and even though they insisted for a while, they finally gave in and left the vessel.

Operator

Great job! In case a similar situation presents itself, and you can see they are not backing down, make sure to contact me again.

Captain

I will.

Lessons Learnt



KNOW WHAT TO EXPECT



USE THE KNOWLEDGE
OF THOSE AROUND YOU



STAY CALM



REPORT THE CASES TO MACN

1. As this is your first port call it is important that you get support from the office. Both the office and vessel can focus on being prepared – know what to expect, what type of requests may come, what the consequences are for breaking a law/regulation and inform the agent of the company's anti-corruption policy in advance of the port call.

Lessons Learnt



KNOW WHAT TO EXPECT



USE THE KNOWLEDGE
OF THOSE AROUND YOU



STAY CALM



REPORT THE CASES TO MACN

2. If you have worked with this port previously, consider what happened last time. If not, make sure to use the knowledge of those around you. The Captain can also engage with other Captains on the same trade route to share experience and local insight.

3. It is important to stay calm in these situations. Those who stand their ground and have the right body language are generally not worth the trouble. You can benefit from having a confident and calm attitude when dealing with officials as you are backed by the company.

05

CASE STUDY

CASH IN HAND

Ballast Water Exchange Records



All vessels arriving in ports must have proper ballast water exchange records and sealing of the various overboard valves to comply with regulations for pollution prevention. In some countries, corrupt demands from local authorities are common during ballast water exchange inspections.

Ballast Water Exchange Records



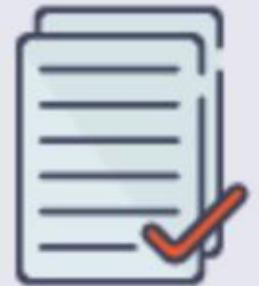
During one inspection which led to a deficiency, the Captain noticed that the penalty slip the official issued was only in one copy and the Captain was concerned that the cash payment for the fine went straight into the official's own pocket and wasn't properly documented. Even if the deficiency is valid, the payment of the fine may also include corruption risks.

The Captain questioned the payment and discussed it with the operational manager.

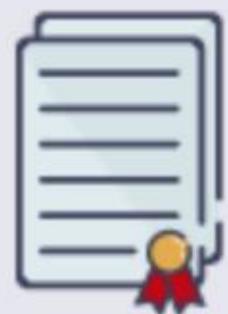
How Could this have Been Avoided?



NO CASH PAYMENTS



AUTHENTICITY OF LETTERS



OFFICIAL DOCUMENTS

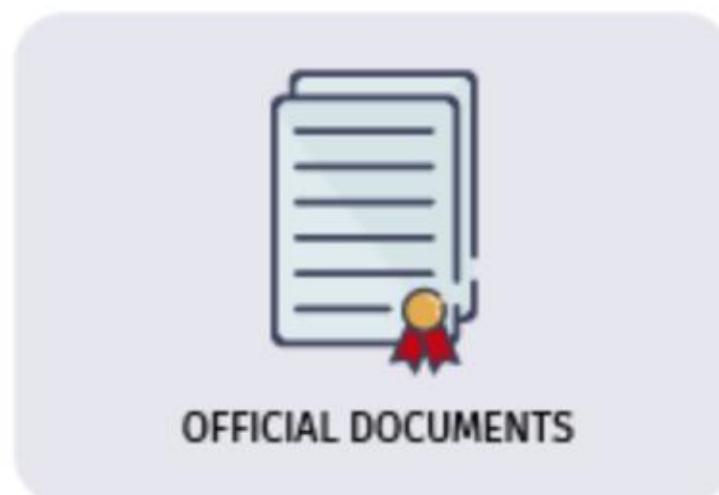
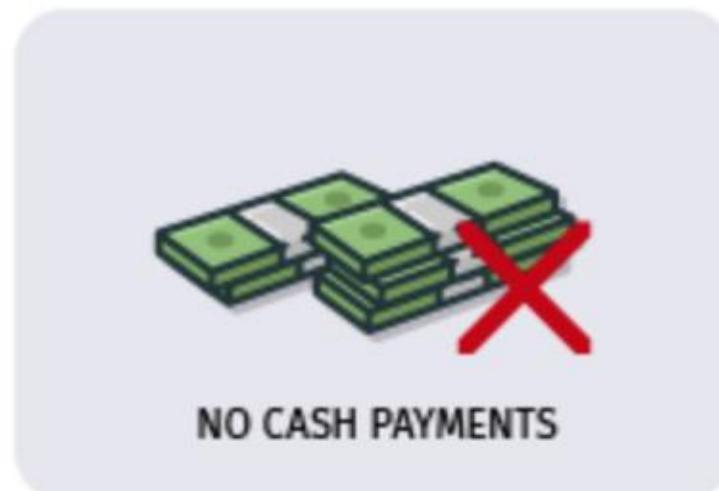


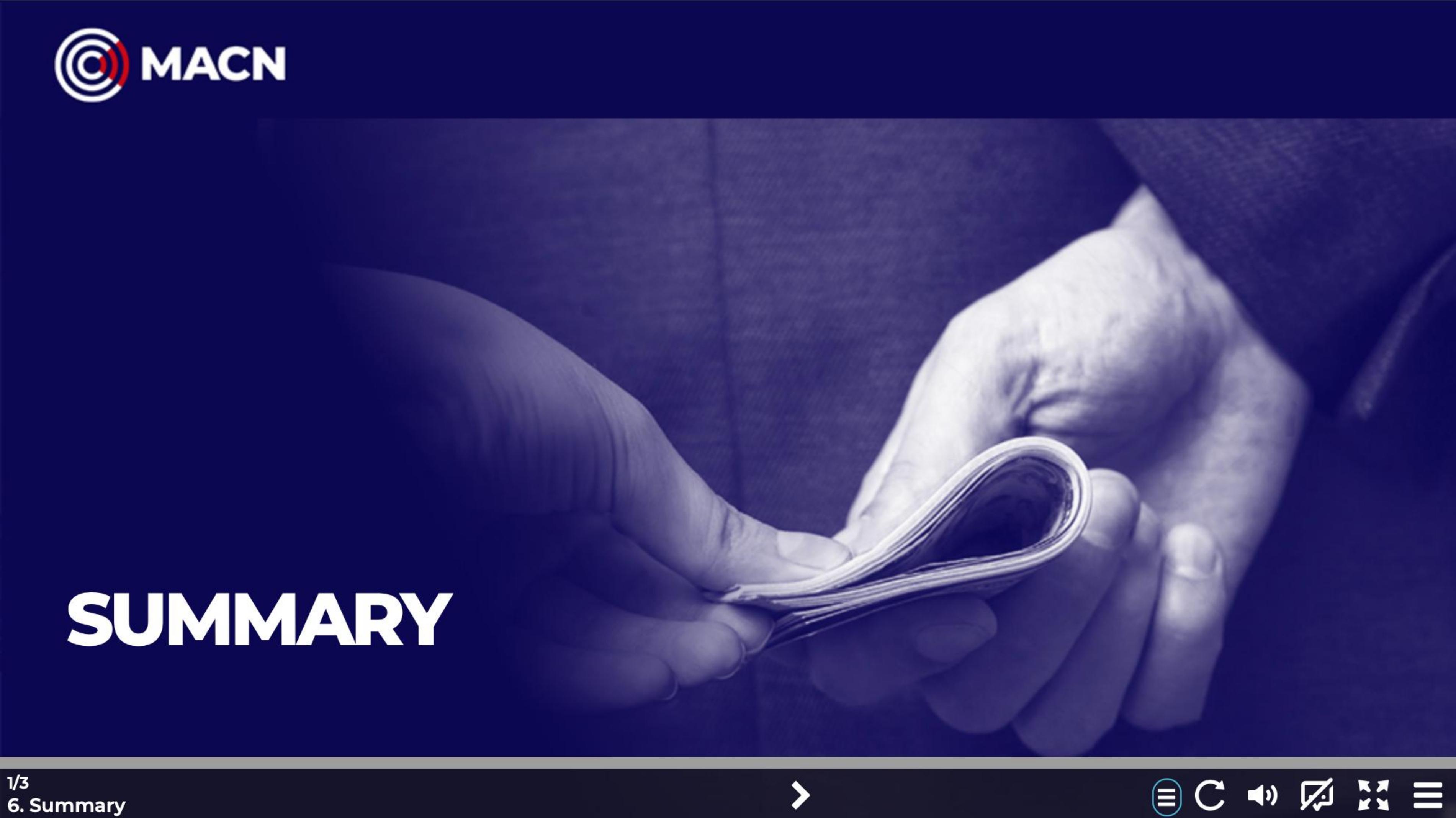
LOCAL LAWYER TO PARTICIPATE

- Be aware of the procedure for violations with local law – know whether the official should issue an official notice in multiple copies.
- Never pay cash – always pay to a bank account.

How Could this have Been Avoided?

- Question the authenticity of letters and fines in such situations, if in doubt.
- Official documents from the government should contain addresses or contact information for the offices of the local authorities concerned.
- Ask the company to have a local lawyer to participate in these situations.



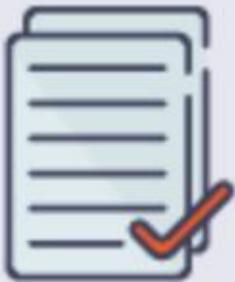


SUMMARY

Summary



NO CASH PAYMENTS



AUTHENTICITY OF LETTERS

BE PREPARED,
STAND YOUR GROUND,
BE A LEADER

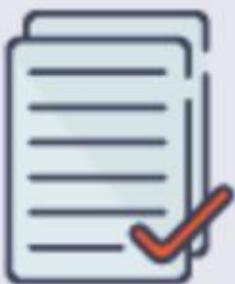


1/2





NO CASH PAYMENTS



AUTHENTICITY OF LETTERS

BE PREPARED,
STAND YOUR GROUND,
BE A LEADER



Summary

- Bribery is the acceptance, offering, solicitation or promise of benefits, in kind or monetary, in the hope to gain business advantages to which you would not otherwise be entitled.
- Remember to:
 - Be Prepared
 - Stand Your Ground
 - Be a Leader

**In the following pages, the Assessor will ask you some questions.
They will appear in a random order. Please note that some are
more important or difficult than others and may therefore have
been allocated a higher individual mark.
Your score will be recorded only on your first attempt.**

"The acceptance, offering, solicitation or promise of benefits, in type or monetary, in order to gain business advantages to which you would not otherwise be entitled."

What is this a definition of?

- A bribe
- A facilitation payment

All of the ship's and crew's paperwork was in order. Immigration officials asked the Captain for some cans of soda as they will not leave the ship "empty-handed". After long negotiations, the Captain agreed to give them six cans of soda.

How would the cans of soda be considered?

- A facilitation payment
- A bribe

A ship is in a foreign country, and in a hurry to leave the port. The local officials quickly learn that the ship is running behind schedule and suggest the Captain pay them some cash that would 'help' his/her ship leave the port faster. The Captain pays.

What would this payment be considered to be?

- A bribe
- A facilitation payment

What if some of the ship's paperwork was not in order, and the Captain gave the Customs officials cigarettes to ensure that the process ran smoothly?

How would the cigarettes be considered?

- A bribe
- A facilitation payment

The ship is running behind schedule when she enters the port. There is a long queue for ships waiting to get their goods cleared by Customs officials. The local officials quickly learn that the ship is running behind schedule and offer the Captain the chance to jump the line. The Captain pays.

Who committed bribery?

- The Captain
- The public official
- The Company
- All of the above
- No-one

If a Captain gives some bottles of alcohol to the Customs authorities, in order to gain business advantages to which he/she would not otherwise be entitled.

How would that be considered?

- A bribe
- A facilitation payment
- Business as usual, not a criminal offence

The Captain and his/her crew have been threatened with physical harm by the health official for refusing to make a payment. This is a threat to their health and safety, which means that the situation is legally considered as duress.

What does this mean in practice?

- They are allowed to make the payment; however, you have to report it to the company
- They are allowed to make the payment, no need to report it
- Duress doesn't change anything

A Captain told you that he gave a bribe to the port authorities and someone filmed him/her while doing that. What are the possible consequences for his/her company?

- Fines
- Prison sentences
- Loss of business
- All of the above

A ship is at berth, and the agent resorts to bribery to help the ship leave the port faster. Can the company be liable for the bribery committed by the agent?

No

Yes

A health official has demanded a payment from the Captain. After long negotiations, the Captain manages to avoid paying.

What should the Captain do now?

- No payment was made so there is nothing to report
- Report the demand in order to share best practices