International Chamber of Commerce
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Policy and Business Practices

Emmanuelle Nussbaum
Secrétaire générale adjointe
ICC Switzerland
Hegibachstrasse 47
CH-8032 Zurich
Switzerland

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Subject: Document 470/TA.722

Dear Ms Nussbaum,

Thank you for your query regarding UCP 600. Please find below the opinion of the officers of the Banking Commission.

QUOTE

A documentary credit issued by Bank A required the following documents (only the documents which are relevant for this case are listed):

- Signed commercial invoice in 3 originals and 3 copies indicating L/C no. and contract no. 09ICDINTL0804A.
- Beneficiary's certified copy of fax dispatched to the applicant within 10 working days after shipment advising name of vessel, shipment date, quantity, weight and value of shipment.

There was no requirement for the contract number to appear on any other document except the invoice, nor was the number mentioned anywhere else in the L/C.

The beneficiary presented documents. The invoice showed "*Contract no. 09ICDINTL0804A"*. Additionally, all the documents that were issued by the beneficiary, such as invoice, packing list, certificate of quantity/weight, certificate of origin, beneficiary's certificate, etc. indicated "o*ur ref. 746293-SEG"* or simply "*746293-SEG*".

Only on beneficiary's certified copy of the fax did this reference appear as "*contract no. 746293-SEG*". There was no requirement in the L/C for any contract or reference number to be mentioned in the fax.

The issuing bank refused payment as follows:

We refuse to honor according to UCP article 16 due to the following discrepancies:

1. *contract no. on shipping advice differ from that on invoice*

We are holding the documents until we receive a waiver from the applicant and agree to accept it, or receive your further instructions prior to agreeing to accept a waiver.

We rejected this refusal on the following grounds:

The L/C required that the contract no. of the applicant is shown in the invoice. This requirement was fulfilled. The fact that the other documents showed beneficiary's reference, which was named in the fax message as contract number, does not render the documents discrepant.

The issuing bank insisted that the documents were discrepant and refused to pay. Ultimately, the documents were accepted, but only at a reduced price.

We would appreciate receiving your opinion whether the mentioning of beneficiary's reference number as contract number is really a discrepancy or not.

ANALYSIS

Sub-article 14(d) states "[D]ata in a document, when read in context with the credit, the document itself and international standard banking practice, need not be identical to, but must not conflict with, data in that document, any other stipulated document or the credit."

It is recognized that the number shown on the certified copy of the fax was the same number that the beneficiary had inserted on other documents as "our ref" or merely by insertion of the number.

However, the credit did not require the contract number to appear on the certified copy of the fax. Nevertheless, the beneficiary inserted 'contract number' and quoted a number that was not the contract number stated in the credit or the number appearing as the contract number on the invoice. By inserting data on a document, the beneficiary is inviting the bank to examine that date for compliance with the credit and the UCP. According to sub-article 14 (d), the data shown as the contract number is in conflict with that shown on the invoice and in the credit.

CONCLUSION

The refusal was correct.

The opinion(s) rendered on this query reflect the opinion of the ICC Banking Commission's officers based on the facts under "QUOTE" above. They do not necessarily reflect the opinion of the ICC Banking Commission until the Banking Commission renders its approval or disapproval of these opinion(s) at the next scheduled meeting.

The reply given is not to be construed as being other than solely for the benefit of guidance and there should be no legal imputation associated with the reply offered.

If this query relates to a matter currently under consideration by the courts, the ICC Banking Commission will refrain from considering it for adoption as an opinion.

Neither the ICC nor any of its employees, nor any member of the Banking Commission, including the Chairman, Vice-Chairmen or Technical Adviser shall be liable to any person for any loss or damage arising out of any act or omission in connection with the rendered opinion(s).

Yours sincerely,

Thierry Senechal
Policy Manager
Banking Commission