International Chamber of Commerce
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Policy and Business Practices

Mr. Mark Borton
ICC Australia
c/o Trade and Supply Chain
National Australia Bank
Sydney
Australia

27 May 2010

Subject: Document 470/TA.726

Dear Mr. Borton,

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

QUOTE

We request an official ICC opinion in terms of the following scenario.

Details:

A letter of credit was issued in favour of one of our beneficiary's calling for shipment from 'Any Australian ports'.

On presentation of documents from the beneficiary, charter party bills of lading may be received that follow either of the following scenarios:

Example 1

A 'shipped on board' charter party bill of lading is presented evidencing the following details:

Port of loading: Melbourne / Brisbane, Australian Ports
Shipped on board 31 Aug XXXX

Example 2

A 'shipped on board' charter party bill of Lading is presented evidencing the following details:

International Chamber of Commerce
38 Cours Albert 1er, 75008 Paris, France
Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 28 59
E-mail icc@iccwbo.org Website www.iccwbo.org

Port of loading: Melbourne and Brisbane, Australian Ports
Shipped on board 31 Aug XXXX

Question:

Our query is - is there a requirement in the above cases for the bill of lading to show separate shipped on board dates pertaining to each port of loading where the goods are actually loaded?

NATIONAL COMMITTEE ANALYSIS AND CONCLUSION:

Since shipment has been effected from two ports, we believe that the bill of lading needs to evidence separate on-board notations for each port along with the relevant on board date.

Our rationale for this is because we need to establish on the basis of the document alone:

- that the shipment has actually been effected at the ports specified; and
- that all parts of the shipment have been completed within the time limits stipulated in the L/C.

As we can only be guided by the data 'on the face' of the documents, if the bill of lading does not show a date on which the goods have been loaded at each port, we believe that there is no way of knowing which port came first - thereby stepping outside sub-article 14 (a).

Further, we believe that the shipment is completed only when the goods stated on the invoice have been loaded at the second (or final) port and, as we are unable to determine to which port the shown on-board date pertains to, we are not in a position to ascertain whether or not the shipment has therefore been completed in compliance with the stated L/C requirements.

The final date shown would then be the date that completes the shipment for the purpose of determining whether shipment was effected within the latest shipment date, with the first date being the operative date for dating of any insurance documents.

Issues for ICC Banking Commission:

The beneficiary disagreed with the discrepancy arguing that the Shipping Company would have inserted the on-board date only after the entire quantity had been loaded at the final port of loading. Hence there would not be a requirement for a separate on-board notation for each loading port.

Kindly also clarify whether the position would be different if the bill of lading were not subject to a charter party or if a 'received for shipment' bill of lading was presented.

ANALYSIS

Whilst it is conceivable that the shipping company would only issue and/or add a dated on board notation to the charter party bill of lading once the final shipment had been completed, banks are required to examine documents on their face. If only one on board notation appears, it is not apparent to a document examiner as to whether that date applies to the completed shipment or to the loading of the cargo at the first port of loading.

CONCLUSION

The analysis and conclusion of the national committee is agreed. The same response would apply to a transport document that is subject to examination under articles 19, 20 and 21 of UCP 600.

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