

Mrs. Yeliz Geriř
ICC Turkey - ICC Türkiye Milli Komitesi
Executive Director / Müdür
Dumlupınar Bulvarı No:252 (Eskiřehir
Yolu 9. Km) 06530
Ankara,
Turkey

22 December 2010

Subject: Document 470/TA.728 (replaces educational query of the same number)

Dear Mrs. Geriř,

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

QUOTE

Under a standby credit subject to UCP 600, in addition to a beneficiary's certificate, a copy of an unpaid invoice is required to be presented. The beneficiary's certificate complies, but the invoice is issued for an amount that is greater than that of the standby.

Bearing in mind that the invoice is a supporting document, please advise whether an issuing bank, a confirming bank, if any, or a nominated bank acting on its nomination, as the case may be, must accept such invoice as with the case of ISP98 rule 3.08 (e), or do they still reserve the right to refuse it in line with the content of UCP 600 sub-article 18 (b)?

ANALYSIS

The issue raised in this query highlights one of the problems that can arise when a bank issues a standby credit, subject to UCP 600, requiring presentation of a document such as a copy of an unpaid invoice without compensating for the fact that certain articles of UCP 600 will not apply in the examination of that document. It is the responsibility of the applicant to indicate the required data content for any stipulated document in the application for issuance, and for the issuing bank to indicate this in the standby credit. It is against this data content that the examination for compliance will be made.

In this context, UCP 600 article 1 indicates in part that the UCP are rules that “apply to any documentary credit (“credit”) (including, to the extent to which they may be applicable, any standby letter of credit) when the text of the credit expressly indicates that it is subject to these rules”.

The query makes reference to sub-article 18 (b) which reads “A nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank may accept a commercial invoice issued for an amount in excess of the amount permitted by the credit, and its decision will be binding upon all parties, provided the bank in question has not honoured or negotiated for an amount in excess of that permitted by the credit.”

Where a copy of an unpaid invoice is to be presented, it is not subject to examination under article 18. The original of that invoice was not issued, nor was it required to be issued, in the context of a letter of credit transaction subject to UCP 600.

The query makes reference to the copy of the unpaid invoice being a supporting document. The UCP makes no reference to a document having such status. As a document that is required by the standby credit, it is to be examined according to the requirements contained therein.

CONCLUSION

An issuing bank, confirming bank or a nominated bank acting on its nomination must accept the copy of the unpaid invoice, provided that it otherwise complies with the terms and conditions of the standby credit.

The opinion(s) rendered on this query reflect the opinions(s) of the ICC Banking Commission’s officers based on the facts under “QUOTE” above. They do not necessarily reflect the opinion(s) 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.



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,

A handwritten signature in black ink, which appears to read 'Thierry Senechal', is positioned above the printed name.

Thierry Senechal
Policy Manager
Banking Commission