Policy and Business Practices

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Subject: Document 470/TA.729 (replaces educational query of the same number)

Dear Mrs. Geriş,

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

QUOTE

A standby credit, subject to UCP 600, stipulates instalment drawings as follows: USD50,000.00 may be drawn between 01 Jan 2010 and 01 Mar 2010. USD50,000.00 may be drawn between 02 March 2010 and 01 May 2010.

Please advise whether the standby credit ceases to be available for the first and second instalment if the beneficiary does not draw partly or wholly under the first instalment between 01 Jan 2010 and 01 Mar 2010.

ANALYSIS

UCP 600 article 1 states 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. They are binding on all parties thereto unless expressly modified or excluded in the credit."

UCP 600 article 32 states "[I]f a drawing or shipment by instalments within given periods is stipulated in the credit and any instalment is not drawn or shipped within the period allowed for that instalment, the credit ceases to be available for that and any subsequent instalment."

Unless excluded by the terms and conditions of the standby credit, the content of article 32 will apply to any standby credit that contains an instalment drawing or shipment schedule.

CONCLUSION

Even though it may not be expected that the standby will be drawn under, if the first drawing is not made partly or wholly within the period specified, the standby credit ceases to be available for that and the second instalment.

Where an instalment schedule is stated in a standby credit subject to UCP 600, article 32 should always be excluded.

The opinion(s) rendered on this query reflect the opinion(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,

Thierry Senechal
Policy Manager
Banking Commission