Ms. Amalie Butze
ICC Denmark
Boersen
1217 Copenhagen K
Denmark

7 June 2011

Subject: Document 470/TA.746

Dear Ms. Butze,

Thank you for your query regarding UCP 600. Please find below the opinion of the ICC Banking Commission Group of Experts and Officers.

QUOTE

We kindly ask your official opinion to the following query related to documents presented under a documentary credit issued subject to UCP 600.

The documentary credit calls for:
"Insurance document covering Institute Cargo Clauses (C) showing the appointed settling agent in Taiwan".

Presented is a certificate of insurance. In the field "Insured Goods" (at the body of the document) it is stated:
"The Appointed Settling Agent in Taiwan is shown below".

Below (just above the signature) the following is stated:
"In case of damage apply immediately for survey to:
XX Marine Surveyors
[Address and phone number in Taiwan]
Att. Mr. YY"

The presentation is refused by the issuing bank citing the following discrepancy:
"Insurance certificate does not show the appointed settling agent in Taiwan".

The nominated bank questions the refusal arguing that the reference made to "the appointed settling agent in Taiwan" can only be to *XX Marine Surveyors* as this is the only company in Taiwan mentioned on the document. Further, the fact that *XX*

Marine Surveyors are mentioned as surveyors does not mean that they are not also an appointed settling agent.

The issuing bank argues that "*XX Marine Surveyors*" is mentioned as surveyors only and not as appointed settling agent.

We ask you kindly to advise if the discrepancy cited by the issuing bank is correct.

ANALYSIS

UCP 600 sub-article 14 (a) states: "[A] nominated bank acting on its nomination, a confirming bank, if any, and the issuing bank must examine a presentation to determine, on the basis of the documents alone, whether or not the documents appear on their face to constitute a complying presentation."

UCP 600 article 2 defines complying presentation: "[C]omplying presentation means a presentation that is in accordance with the terms and conditions of the credit, the applicable provisions of these rules and international standard banking practice."

The credit required an insurance document to show an appointed settling agent in Taiwan. The insurance certificate, in the field "Insured Goods", states: *"The Appointed Settling Agent in Taiwan is shown below"*. Below this statement there is a name: *"XX Marine Surveyors"* and their address and phone number.

It is also indicated that they are to be applied to, for survey, in case of damage (*"In case of damage apply immediately for survey to"),* i.e., they were clearly appointed to act as the surveyor.

There is no other company with a location in Taiwan mentioned in the document.

In marine insurance a settling agent is a person authorized to pay losses out of funds provided by the marine underwriter. Such agents have usually broader powers than the claim agent (also called a surveyor), whose authority is limited to surveying and certification of losses.

CONCLUSION

"XX Marine Surveyors" are apparently appointed to act as "a surveyor". The reference to *"The Appointed Settling Agent in Taiwan is shown below"* in the field "Insured Goods" may be related to this surveyor, however on its own does not suffice to nominate *"XX Marine Surveyors"* to be a "settling agent". The discrepancy is valid.

The opinion(s) rendered on this query reflect the opinion of the ICC Banking Commission's Group of Experts and 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 or any of the Group of Experts 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
Senior Policy Manager
Banking Commission