Ms. Kelly Lim
Executive (AEMEA),
Global Business Division
Singapore Business Federation
10 Hoe Chiang Road #22-01
Keppel Towers
Singapore 089315

28 November 2012

Subject: Document 470/TA.766 Final

Dear Ms. Lim,

Thank you for your query regarding UCP 600. We refer to our letter dated 11 May 2012. Please find below the opinion of the ICC Banking Commission.

QUOTE

We seek the opinion of the ICC Banking Commission on a letter of credit transaction that has drawn two dissimilar views amongst the members in our association. It concerns certificates and the place of the certification versus the place of their issuance, and whether such certificates are compliant or discrepant. The LC is subject to UCP 600 and the facts are:

i) <u>LC conditions include:</u>

(a) Certificate of Weight issued by PT [G Company] at load port.
(b) Certificate of Sampling & Analysis issued by PT [G Company] at load port.

ii) <u>Documents presented</u>

The two documents were duly presented but:

(a) Certificate of Weight does not indicate or bear the words "issued at load port".
(b) Certificate of Sampling & Analysis is worded: "This certificate is issued at loading port".

iii) <u>Further information appearing on the Certificate of Weight</u>

- the loading port is shown as MUARA SABAK ANCHORAGE, JAMBI, INDONESIA (the relative bill of lading shows the same)

- the document is signed as follows:

Signed for and on behalf of
PT. [G Company]
for
[A stamp is inserted bearing the name PT [G Company]
[signature]
Suwandi

- its letterhead address is BANDUNG, INDONESIA
- the last clause reads: "*This is to certify that the weight Coal of Indonesia Origin in Bulk (Indonesian Steam (Non-Coking) Coal) loaded on Board the vessel as determined by draft survey at loading port is: XX Metric Tons*".

iv) The compliance group's argument

This group argues compliance because the certificate of weight was issued by PT [G Company], as called for, and it is clear that the weight of the merchandise was determined at the loading port. Presumably, it is because the merchandise is capable of losing/gaining considerable weight during its journey and up to the moment it is discharged, that its weight at loading port matters most, and not so much where the certificate is issued. In other words, as far as a weight certificate is concerned, "weight determined at" is the same as or better than "issued at". Therefore, the certificate is acceptable.

v) The discrepancy group's argument

This group's main argument is found in the way the discrepancy is worded: "Certificate of Weight does not evidence that it was issued at load port"

That is, there is nothing to show that this document was ***issued*** at JAMBI. Beneath the signature, the named place where this document was issued and signed (Suwandi) is not JAMBI, and neither is the letterhead address (BANDUNG). And, unlike the Certificate of Sampling and Analysis, it does not expressly state that it was issued at load port. In other words, this group is not so interested in where the weight of the merchandise was determined or why it should be so, but where the certificate is issued, as stipulated in the LC. Thus, for this group, the LC condition that the certificate is to be issued at the load port has not been fully met.

Our Association would appreciate the opinion of the ICC Banking Commission on these issues.

ANALYSIS

The credit stipulated that the Certificate of Weight and the Certificate of Sampling & Analysis was to be issued by PT [G Company] and required each certificate to be issued "at load port".

The query in this case pertains to the interpretation of the requirement for the Certificate of Weight to be issued at load port; in particular whether there is a requirement for the certificate to state that it has been issued at the load port. The Certificate of Sampling & Analysis contains the wording “This certificate is issued at loading port”, and therefore is not the subject of this query.

The Certificate of Weight was issued on the letterhead of PT [G Company] Bandung, Indonesia without any specific reference as to the place of issue. It did, however, indicate “This is to certify that the weight Coal of Indonesian Origin in Bulk (Indonesian Steam (non-coking) Coal) loaded on board the vessel as determined by draft survey at loading port is: XX metric tons.”

Although the company signing the certificate is not located at the port of loading (Jambi) but in Bandung, the certificate does indicate that a draft survey was performed at the loading port. The function of the Certificate of Weight, as required by the credit, is to certify the weight of the goods at the load port. The content of the certificate clearly indicates that the declared weight of the goods is based on a survey performed at the load port. Therefore, the certificate fulfils its required function.

It is to be noted that the interpretation of the “discrepancy’s group argument” in relation to Suwandi being a place (of issue) would not appear to be correct. Suwandi appears to indicate the name of the person who signed the document.

CONCLUSION

Based on the facts in this particular case, the document is acceptable even though it does not contain the statement “issued at load port”.

The opinion(s) rendered on this query reflect the opinion of the ICC Banking Commission based on the facts under “QUOTE” above.

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, 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
Policy Manager
Banking Commission