International Chamber of Commerce
The world business organization

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Subject: Document 470/TA.772 Final

Dear Ms. Nussbaum.

Thank you for your query regarding UCP 600. We refer to our letter dated 27 June 2012. Please find below the opinion of the ICC Banking Commission.

QUOTE

A letter of credit required the presentation of a “certificate of origin issued by a chamber of commerce” and the beneficiary, Company ABC presented a certificate of origin as follows:

The certificate is signed by the chamber of commerce. The field titled “Country of origin” is, however, filled in with the words “see below”. In the field immediately below, titled “Observations”, the following statement is inserted:

“PRODUCED BY COMPANY ABC, SWITZERLAND”

We are of the opinion that the presented certificate of origin is discrepant. Since the most important field, the “country of origin” is left blank, the document does not, in our opinion, fulfil its function. Even though the field “country of origin” states “see below”, we do not consider the statement “Produced by Company ABC, Switzerland” sufficient to certify to the origin of the goods. This statement merely confirms who produced the goods; it does not indicate the country of origin, which in our opinion is the essential information to be shown in a certificate of origin.

The beneficiary does not agree with this assessment. According to them the certificate is acceptable for the following reasons:

- It is clearly stated that the goods were produced by Company ABC. This statement is sufficient evidence of the origin of the goods.

- The certificate of origin is issued in accordance with the “Ordinance on the Certification of the Non- Preferential Origin of Goods" as per Swiss legislation.

- The fact that the chamber of commerce stamped and signed the certificate of origin supports the view that the certificate of origin is a valid document that fulfills its function.

It is important to note that the letter of credit does not prescribe the country of origin of the goods, but it often requires that the certificate of origin bear a certification that "the machines are produced by Company ABC". This, however, does not, in our opinion, automatically cancel the need for the country of origin to also be indicated in the document.

In the future, the beneficiary will issue more of these certificates of origin. For this reason we would appreciate receiving your official opinion whether such a certificate of origin is acceptable under UCP 600 or not.

ANALYSIS

UCP 600 sub-article 14 (f) states: "If a credit requires presentation of a document other than a transport document, insurance document or commercial invoice, without stipulating by whom the document is to be issued or its data content, banks will accept the document as presented if its content appears to fulfil the function of the required document and otherwise complies with sub-article 14 (d)."

ISBP Publication 681, paragraph 181 states: "A requirement for a certificate of origin will be satisfied by the presentation of a signed, dated document that certifies to the origin of the goods."

The certificate of origin presented states 'see below' in the box titled 'country of origin'. In a box titled 'Observations', the following statement is made: 'Produced by Company ABC Switzerland'

There appears to be an intention of the issuer of the certificate to refer to the information in the box titled 'observations' as an indication of the origin of the goods. However, this box merely refers to the entity that has produced the goods. While the country of the producer may be a criterion in establishing the origin of the goods, it does not necessarily equate to the country of origin.

CONCLUSION

There is no clear indication of the country of origin in the certificate and, therefore, it fails to fulfil its function. The certificate is not acceptable as a "Certificate of Origin".

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