Ms. Mimi Ipsen
ICC Denmark
Boersen
1217 Copenhagen K.
Denmark

28 November 2012

Subject: Document 470/TA.773 Final

Dear Ms. Ipsen,

Thank you for your query regarding UCP 600. We refer to our letter dated 17 July 2012. Please find below the opinion of the ICC Banking Commission.

QUOTE

An ocean carrier has a box designated “Shipped on Board Date” on their shipped on board bill of lading. When issuing a shipped on board bill of lading, the date when the entire shipment is loaded on board the named vessel is inserted in this box. For information, the bill of lading also includes the following pre-printed wording: “SHIPPED, as far as ascertained by reasonable means of checking, in apparent good order and condition unless otherwise stated herein.”

At the same time the bill of lading has a box designated “Date of Issue”, where the date of issuance of the transport document is inserted.

When presented with this bill of lading a bank refused the document referring to the second paragraph of UCP 600 sub-article 20 (a) (ii), requiring that an additional stamp or notation of the shipped on board date is made. Otherwise they would consider the date of issuance as the shipped on board date, which in turn led to the transport document not being compliant with UCP 600 sub-article 14 (c) i.e., that documents were presented later than 21 days from bill of lading date.

UCP 600 sub-article 20 (a) (ii) reads:
“The date of issuance of the bill of lading will be deemed to be the date of shipment unless the bill of lading contains an on board notation indicating the date of shipment, in which case the date stated in the on board notation will be deemed to be the date of shipment.” [Emphasis added]

In light of the above, you are kindly requested to assist in the interpretation of UCP 600 sub-article 20 (a) (ii) as to whether a date inserted in a box designated

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"Shipped on Board Date" on a shipped on board bill of lading can be taken as the shipped on board date and that no additional stamp or notation is required in such case.

ANALYSIS

UCP 600 sub-article 20 (a) (ii) clearly indicates that the date stated in an on board notation will be deemed to be the date of shipment.

ISBP Publication 681, paragraph 96, elaborates on this by adding that this position will apply whether or not the on board notation date is before or after the issuance date of the bill of lading.

A dated on board notation may be in the form of a stamp appended to the bill of lading; text added to the document at the time of its signing; or by way of insertion of a date in a field or box that is designated to indicate the date the goods were shipped on board.

The ICC Banking Commission recommendation paper in respect of on board notations refers, in the flowchart shown at section 6, to the circumstances where a bill of lading is pre-printed "shipped on board" with an additional on board notation or completion of a box labeled "shipped on board date". The paper indicates that where no means of pre-carriage is shown, and with or without an indication of a place of receipt, the date of the on board notation is considered to be the date of shipment – whether this is evidenced by a separate notation or a date shown in a box labeled "shipped on board date".

In the referenced case, the format of the bill of lading allows for the carrier to insert an on board date in a preprinted box designated "Shipped on board date". There is no need to add a separate on board notation. Therefore, the date in the box designated "Shipped on board date" will be considered to be the date of shipment.

CONCLUSION

The bank was not entitled to refuse the bill of lading.

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