International Chamber of Commerce
The world business organization

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Subject: Document 470/TA.774 Final

Dear Mr. Gori,

Thank you for your query regarding UCP 600. We refer to our letter dated 10 September 2012. Please find below the opinion of the ICC Banking Commission.

QUOTE

A Country I bank confirmed a credit available by payment where the MT700, in field 46A and two subsequent amendments requested, among other documents, the following:

1. Analysis certificate stamped and signed showing batch number;

2. Certificate of conformity to product specification as per technical data sheet stamped and signed showing batch number;

3. Beneficiary's certificate (supported by a copy of the courier receipt) stating having express couriered within 7 working days from the forwarder's certificate of receipt date to …..

Moreover, a general condition under "Additional Conditions" in field 47A stated:

- "The number of L/C must be mentioned on all documents."

The presentation of documents was considered compliant by the confirming bank, which sent them to the issuing bank. The confirming bank did not pay the beneficiary and was waiting for the acceptance message of the issuing bank.

The issuing bank refused the documents for the following reasons:

- Analysis certificate not stamped;

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- Certificate of conformity not stamped; and
- L/C Nr. missing on copy of courier receipt.

The confirming bank contested the refusal message of the issuing bank on the grounds of:

- UCP 600 article 3 and ISBP 681 paragraph 39 for 1st and 2nd discrepancy; and
- ISBP 681 paragraph 26 for the 3rd discrepancy.

In particular, the beneficiary presented five analysis certificates and five certificates of conformity each of which were signed as follows: name of the beneficiary company was typed in capital letters perfectly readable and a manual signature appeared below that. The confirming bank holds that the signatures evidenced on these documents were perfectly in line with the provisions of UCP 600 article 3, in respect of the request of the credit ("signed and stamped"), and standard banking practice applicable to article 3, by ISBP 681 paragraph 39 stating "signed and stamped" or a similar requirement is also fulfilled by a signature and the name of the party typed, or stamped or handwritten, etc."

As far as the third discrepancy was concerned, the confirming bank holds that the courier receipt did not need to show the L/C number. The document requested by the credit was "beneficiary's certificate (supported by a copy of the courier receipt) stating that …" and not "copy of the courier receipt ….". The beneficiary's certificate duly showed the L/C number. The confirming bank holds that the requirement of the credit "The number of L/C must be mentioned on all documents" was met because "beneficiary certificate (supported by a copy of the courier receipt)…" is a request for one document and not two. The confirming bank refers to ISBP 681 paragraph 26 which states "Pages which … … contain internal cross references … ….. are to be examined as one document even if some pages are regarded as an attachment".

During the dispute, which has lasted five months, the confirming bank paid the beneficiary. The issuing bank has never reimbursed the confirming bank.

We will be grateful to know the opinion of the ICC Banking Commission in respect of the discrepancies mentioned above.

ANALYSIS

<u>1st and 2nd discrepancies</u>

The L/C stated that both the analysis certificate and the certificate of conformity should be stamped and signed.

ISBP 681 paragraph 39 states: 'A requirement for a document to be "signed and stamped", or a similar requirement, is also fulfilled by a signature and the name of the party typed, or stamped, or handwritten, etc.'

The certificates that were presented bore a signature below the typewritten name of the issuing entity.

3rd discrepancy

The L/C stated that the beneficiary's certificate should be 'supported by a copy of the courier receipt', and furthermore that the number of the L/C must be mentioned on all documents.

It would appear that the beneficiary's certificate mentioned the correct L/C number. ICC Opinion R696 stated that a beneficiary's certificate and an associated courier receipt formed part of the same documentary requirement, and either the certificate and the courier receipt or the certificate alone may indicate the credit number.

Furthermore, a conclusion given in ICC Opinion R578 should also be noted:

"It should be pointed out that the request for insertion of L/C numbers is usually at the instigation of the issuing bank to facilitate the collation of documents when one or more go astray. The ICC has commented in the past that a refusal based on the absence of a L/C number on a document, where requested in the L/C, is not grounds for refusal."

ISBP 681 paragraph 26 is not relevant in this case as there are two separate documents called for.

It should be noted that a confirming bank, having determined that a presentation was complying, is obligated to honour or negotiate and should not await an acceptance advice from the issuing bank, before doing so.

CONCLUSION

The discrepancies are not valid.

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.

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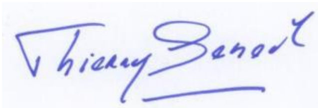
Yours sincerely,



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