Mr Nico Bakakuri
Head of ICC Banking Committee Georgia
ICC Georgia
19 Gamrekeli Street
Tbilisi 0160
Georgia

19 February 2014

Subject: Document 470/TA.802

Dear Mr Bakakuri

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

QUOTE

Bank A (Issuing Bank) in country A issued a standby credit subject to UCP 600 which was advised to the beneficiary in country B by Bank B (Advising Bank).

The beneficiary presented a demand under the credit which arrived at the counters of the Bank A before the expiry date of the credit.

Bank A issued a notice of refusal on the third day following presentation stating one discrepancy: “Original Standby LC Not Presented”.

There was no wording in the credit requiring presentation of the original Standby LC.

1) Is the discrepancy stated by the Bank A correct?

2) Can Bank A raise further discrepancies at a later date in respect of the one presentation made by the beneficiary under the credit?

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ANALYSIS

1) It is unclear as to the intention of the issuing bank in requiring the "original" of the credit to be presented at their counters. Furthermore, unless the credit was issued by mail or in paper format, it is doubtful as to how such originality could be determined. Unless otherwise specifically requested within the terms and conditions of a credit, it is not normal practice for the advising bank to return the original credit document. In any event, in this particular instance, the credit included no wording requiring presentation of the original credit with the claim.

2) UCP 600 sub-article 16 (c) states that when a bank decides to refuse or negotiate, it must give a single notice to that effect to the presenter. UCP 600 clearly does not allow for further discrepancies to be raised that were apparent at the time of the initial presentation, as is referred to within former ICC Opinions R196, R328, R271 and TA764rev.

CONCLUSION

1) The discrepancy is not valid.

2) Additional discrepancies are not to be considered, as banks only have one opportunity to raise discrepancies for each presentation.

The opinion(s) rendered on this query reflect the opinion of the ICC Banking Commission's 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 Advisers 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