INTERNATIONAL CHAMBER OF COMMERCE
The world business organization

Department of Policy and Business Practices

ICC Pakistan
V. M. House
West Wharf Road
PO Box 4050
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Pakistan

9 December 2014

Subject: Document 470/TA.810rev

Dear Sirs,

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

QUOTE

Bank K in country P opened a documentary credit for US$ 54,000 CFR Karachi Port, for the import of 6000 SFT cow leather in hides, available by acceptance at the counter of Bank U in country I. The tenor of the documentary credit was 90 days from the bill of lading date. The date and place of expiry was February 19, 2014 in country I. The latest date of shipment was February 5, 2014 and the period for presentation was 15 days from date of shipment.

Documentary credit prohibited partial shipment.

Field 46A (documents required) included the following documents:

- Invoice
- Bill of Lading
- Packing List
- Beneficiary Certificate
- Copy of Shipment Advice sent to the insurance company on Fax no. ---------------- and to the opener on Fax no. ----------------- within 3 working days of all shipment referring cover note no. ------------ dt --------- issued by NH Insurance Company -------------. Shipment Advice must accompany the documents.

<u>Series of Events:</u>

- Bank U sent compliant documents on Jan 8, 2014 for US$54,000 for payment on the maturity date i.e. March 24, 2014, calculated 90 days from shipped on board bill of lading stamp dated December 24, 2013.

- Bank K sent a refusal message (MT734) on January 13, 2014 citing the following discrepancy:

  "Invoice amount is incorrect in shipment advice. Shipment advice shows invoice amount USD 54,00.00 instead of 54,000.00."

- Bank U replied on January 16, 2014 that this is a typing error that does not affect the insurance and there is no requirement in the documentary credit for the invoice amount to be mentioned on the shipment advice.

- Bank K returned original documents on January 18, 2014.

- Bank U although not convinced with the discrepancy, but at the request of Bank K over the telephone, made a re-presentation including a corrected shipment advice (showing the correct amount). The forwarding letter was dated February 10, 2014 and received at the counter of Bank K on February 12, 2014.

- On February 12, 2014 Bank K refused the presentation citing the following discrepancy:

  "Late Presentation"

  There were messages exchanged between Bank U and Bank K on this discrepancy. Bank U considered that there was no discrepancy in the original presentation, but sent an adjusted shipment advice at the request of Bank K. Bank K maintained that the presentation with the corrected shipment advice was made too late.

UCP 600 sub-article 14(d) Standard for Examination of Documents reads:
Data in a document, when read in context with the credit, the document itself and international standard banking practice, need not be identical to, but must not conflict with, data in that document, any other stipulated document or the credit.

ISBP 745 paragraph A23 reads:
A misspelling or typing error that does not affect the meaning of a word or the sentence in which it occurs does not make a document discrepant. For example, a description of the goods shown as "mashine" instead of "machine", "fountan pen" instead of "fountain pen" or "modle" instead of "model" would not be regarded as a conflict of data under UCP 600 sub article 14 (d). However, a description shown as, for example, "model 123" instead of "model 321"will be regarded as a conflict of data under that sub-article.

Under CFR incoterm, insurance is arranged by the importer/applicant. The purpose of a shipment advice is for the insurance company to initiate insurance policy & calculation of premium to be charged to the applicant, based on the shipment details provided in the shipment advice (including the invoice value).

The typing error (USD54,00.00 instead of USD54,000.00) on the shipment advice may result in a lesser value of goods covered in the insurance but as the insurance's cover note (issued by the insurance company in favour of Bank K prior to issuance of documentary credit to comply Bank K issuance requirements) is for US$54,000 where no partial shipment is allowed in the documentary credit, the insurance company can safely believe value of shipment is US54,000. At a first glance it appear as shipment advice is in conflict with the invoice value but common sense prevails in the given situation that this is clearly a typing error where one zero has been missed out in the shipment advice.

At the request of bank K, the amount on the shipment advice was corrected by the beneficiary and a full set of documents re-presented to bank K, and subsequently refused with a new discrepancy “Late Presentation”.

Although there is a conflict of data on the shipment advice with other documents, we are of the opinion thatr this is still not a valid reason for refusal. Based on the above, our conclusion is that the ‘shipment advice’ discrepancy is not correct, and that bank K should therefore reimburse bank U.

For this particular case, we kindly ask you to advise us regarding the following questions:

1. Does the omission of a “0” in the amount in the Copy of Shipment Advice constitute a valid discrepancy, or can it be regarded as a typing error that – in the context of this presentation – does not affect the meaning.

2. Is it acceptable for the issuing bank to raise a discrepancy on the re-presentation that was not raised in the first presentation?

3. Is the issuing bank obligated to reimburse the nominated bank?

We kindly ask your official opinion if our conclusion is correct.

UNQUOTE

Analysis

Under documentary credits covering CFR shipment it is quite common for a credit to call for a copy of shipment advice sent to an insurance company to be included in the list of required documents.

The function of a shipment advice is to provide timely information of correct shipment details for the purpose of arranging appropriate insurance cover. In this particular query, there is no dispute in respect to the timeliness of the information.

The copy of shipment advice presented under the credit is to be checked in accordance with UCP 600 sub-article 14 (f) which provides that the document presented fulfils the function of a shipment advice and otherwise complies with UCP 600 sub-article 14 (d) (conflicting data).

The shipment advice presented under the credit stated value of shipment as USD

54,00.00 whereas the invoice stated USD 54,000.00. The value stated on the insurance's cover note is irrelevant for determination of compliance as it is not required under the credit.

As the credit and documents were issued in English, then according to English convention, amounts of higher than 999.00 are commonly presented using a comma as delimiter; forming groups of maximal three digits before the radix point. An amount stated as USD 54,00.00 does not follow this convention and can clearly be classified as a typing error. Even in countries using a decimal comma rather than a decimal point, USD 54,00.00 would not follow convention.

ISBP745 paragraph A23 provides that a typing error that does not affect the meaning of a word does not make a document discrepant and would not result in conflicting data.

The copy of shipment advice presented under the credit stated value of shipment as USD 54,00.00 whereas the invoice stated USD 54,000.00. However, even though the amount of USD 54,00.00 is clearly a typing error, it does affect the meaning of the data due to the fact that the recipient of the shipment advice cannot rely on this information in order to ensure appropriate insurance cover. Thus the function of a shipment advice is not met by the document presented.

The issuing bank asked for re-presentation of corrected documents by phone. There is no evidence as to the scope of this instruction. It is quite usual for beneficiaries to correct discrepant documents in order to re-present them. Such re-presentation however, would not benefit from a former presentation date, but will be checked for timely presentation independently. Refusal of re-presented documents on the basis of "late presentation" is not considered violation of the requirement of a "single" notice of refusal.

Conclusion

1. In this case, the typing error in the amount in the copy of Shipment Advice is a discrepancy; the shipment advice does not fulfil its function of providing correct information on shipped goods in order to arrange insurance cover.
2. Yes, as this was a new presentation.
3. No, the issuing bank is not obligated to reimburse the nominated bank.

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 or Technical Advisers shall be

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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
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Banking Commission

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