INTERNATIONAL CHAMBER OF COMMERCE
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Department of Policy and Business Practices

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Dear Ms. Ooghe,

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

QUOTE

A documentary credit was issued subject to UCP 600, and was available by deferred payment at the counters of the confirming bank. It required, among others, the following document:

+ Beneficiary's certificate dated and signed confirming that shipment details (vessel name, vessel flag, building date, quantity and date loaded, number of bills of lading, number of coils loaded and value of cargo) have been sent by e-mail to "xxx" ("xxx" being applicant's name), for insurance purposes, within 3 working days of maritime bill of lading date.

The following additional conditions were included in the credit:

+ Any spelling errors in our documentation is not going to affect payment obligation of the buyer, unless they materially affect quantity or value of product shipped.
+ The number of the letter of credit to be mentioned on the invoice.

The confirming bank honoured the documents.

However, the issuing bank refused to honour, stating the following discrepancy in its advice of refusal:

"Shipment certificate: O/ref LC number is not correct."

The credit was issued under ref "xxx0724xxx" and the certificate showed the credit number as "xxx0742xxx". The confirming bank did not agree with the refusal for the following reasons:

Quote

We absolutely disagree with the discrepancy mentioned.
We refer to your SWIFT MT 700 (+ date), field 47A Additional conditions item (a) (Any spelling . . . shipped) and item (b) (the number of the letter of credit . . . invoice) which are clear enough.
Furthermore, we refer to official Opinion R635/TA658 and Opinion R289, which are sufficiently self-explaining: "*As referred to in ICC Opinion R 289, a requirement for the insertion of a credit number on a document is only to assist in tracing documents should they go astray. Since the documents were received by the issuing bank and the issuing bank is applying the presented bill of lading under the correct credit number, it would seem to be an irrelevance and not valid grounds for refusal. The fact that the issuing bank misquoted the credit number would not detract from the intent of the discrepancy they were intending to highlight.*"
The mention of the credit number is only for internal use and convenience purposes and does not render in any possible case the document in itself as discrepant since it fulfils its function without any fail.
Unquote

Despite several discussions and exchange of correspondence, the issuing bank maintained and justified its position using UCP 600 sub-article 14 (d).

We would be grateful if you would kindly provide us with your opinion as to whether the issuing bank has the right to refuse to honour on the basis of the discrepancy raised.

UNQUOTE

ANALYSIS

The credit included a condition that the number of the credit was to be mentioned on the invoice. As stated in the query, the beneficiary's certificate stated an incorrect credit number.

This type of issue has been addressed in numerous ICC Opinions in the past:

- R289 states, "Regarding the question of the L/C number missing from the rail waybill, it has been the previous opinion of the ICC that the requirement is only to assist in tracing documents should they go astray. Since the documents were received by the issuing bank, the absence of the reference number, which in itself neither adds nor detracts from the purpose of the document, would seem to be an irrelevance and not valid grounds for rejection."
- R578 (TA567rev) states: "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."

- R635 (TA658) states: "The misquoting of the credit number on the bill of lading does not create a reason for refusal."
- R811 (TA823rev) states: "It has been the previous opinion of the ICC 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."

It is clear that the mistyping of the credit number on this type of document does not render such document discrepant as the figure and other information for the insurance coverage can still be ascertained.

Based on the above, the justification of the issuing bank, that UCP 600 sub-article 14 (d) supported its position, is erroneous.

It is worth further mentioning that inclusion of the condition, '*Any spelling errors in our documentation is not going to affect payment obligation of the buyer, unless they materially affect quantity or value of product shipped*', can also be interpreted to mean that insertion of an incorrect credit number cannot, in any event, be construed as a discrepancy provided that documents can be applied to the correct credit. Although this particular clause appears to relate to the wording of an instruction provided by the beneficiary to the applicant for inclusion within the terms and conditions of the credit, the text, as stated, would still bind the issuing bank to accepting spelling errors in documents presented by the beneficiary subject to the exclusions mentioned.

CONCLUSION

The discrepancy is not valid and the issuing bank does not have the right to refuse to honour on the basis of the issue raised.

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

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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,

Olivier Paul
Head of Policy, Banking Commission

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