

Mr Timo Vuori
Executive Director, ICC Finland
WTC Helsinki, Aleksanterinkatu 17, Box
1000, FI 00101 Helsinki
Finland

11 August 2017

Document 470/TA.877

Dear Mr. Vuori,

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

QUOTE

A documentary credit, issued by SWIFT MT700, and subject to UCP 600, included the following transport information:

44E: Port of Loading/Airport of Departure
ANY PORT IN EUROPE

44F: Port of Discharge/Airport of Destination
JIANGYIN FUJIAN, CHINA

46A: Documents Required
FULL SET OF CLEAN ON BOARD OCEAN BILL OF LADING MADE OUT TO
ORDER, BLANK ENDORSED, MARKED 'FREIGHT PREPAID' AND NOTIFYING
APPLICANT.

The presented bill of lading included the following information:

[Field] Port of loading 'St Petersburg'
[Field] Port of Discharge 'Jiangyin - Jiangsu'
[Field] Vessel 'Bomar Vanquish'

In the field 'Kind of Packages, Description of goods, Marks and Numbers, Container No./Seal No.' the following appears:

Kind or Packages; Description of goods; Marks and Numbers; Container No./Seal No.

1 Container Said to Contain 2 NE

2 UNITS

Contract No:

LC NO: L

Port of discharge: JIANGYIN FUJIAN, CHINA

1 40 DRY 8'6 2 NE 4842.000 KGS 40.000 CBM

Shipper Seal :
SHIPPER'S LOAD, STOW, WEIGHT AND COUNT

FREIGHT PREPAID

CY/CY

The nominated bank found the documents (including the bill of lading) to be complying, and negotiated accordingly.

After receipt of the documents, the issuing bank refused the presentation citing the following discrepancy:

'IN BILL OF LADING: PORT OF DISCHARGE 'JIANGYIN-JIANGSU' DIFFER FROM LC FIELD (44F) 'JIANGYIN FUJIAN, CHINA'

The nominated bank disputed the refusal claiming that the bill of lading was fully complying and arguing that according to ISBP 745, paragraph E8 (b), when a credit requires shipment to be effected to Jiangyin Fujian, this may be evidenced by a notation stating "Port of discharge Jiangyin Fujian" and that such a notation is visible in the body of the bill of lading.

They further argued that 'Jiangyin Fujian, China' in the notation is the actual port of discharge and should override 'Jiangyin – Jiangsu' in the port of discharge field.

The issuing bank maintained its refusal arguing that ISBP 745, paragraph E8 (b) does not refer to a scenario such as this i.e., where the port of discharge field is populated and where there are two different ports of discharge mentioned in the bill of lading.

We ask for your official Opinion as to whether or not the refusal quoted by the issuing bank is valid under UCP 600.

UNQUOTE

ANALYSIS

The credit required the port of discharge to be stated as 'Jiangyin Fujian'. The presented bill of lading stated 'Jiangyin – Jiangsu' in the port of discharge field. In addition, the bill of lading stated 'Port of discharge: Jiangyin Fujian, China'. ISBP 745 paragraph E8 (b) addresses the acceptability of a notation giving the name of the port of discharge, but only where "Jiangyin Fujian" had been stated in a field headed place of final destination, or words of similar effect. This is not the case with this query inasmuch as "Jiangyin Fujian" does not appear in the port of discharge or place of final destination fields but, instead, appears as a separate statement within the area designated for 'Kind of Packages, Description of goods, Marks and Numbers, Container No./Seal No.'.

For the statement 'Port of discharge: Jiangyin Fujian, China' to be considered as a notation giving the actual port of discharge, 'Jiangyin Fujian' should appear in the field 'Place of final destination' or words of similar effect.

CONCLUSION

The discrepancy is valid.

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.

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