

## **Receiving Goods/Services under a documentary credit – an Importer’s perspective.**

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This article is a sequel to my earlier write up on “How to get paid under a documentary credit an Exporter’s perspective”. If you remember the opening statement in that article i.e. “many exporters view documentary credits as a necessary evil, primarily because they do not get paid when the export is completed”. Importers too pursues a similar view but for a different reason. The reason being, requiring payment to be made against complying documents under a Documentary credit, prior to receipt of the agreed goods or services.

The importer’s main focus is to receive goods or services that they have agreed. In order to achieve this goal importer needs to accept the premise that Banks only deal in documents and not with goods or services or performances to which these documents may relate. (Article 5 UCP 600)

Although importers are not very keen to accept documentary credits as a payment method, it is imperative sometimes that they will be required to do so when the respective markets or regulation dictate. (e.g. Importation of vehicles into Sri Lanka)

A documentary credit is issued by the Issuing bank, at the request of it’s import client, based upon a LC application. The Importer must fill in this application and must ensure that it reflects the underlying agreement with the Exporter. The intention of the importer should be only to include the relevant information and not all the information in the underlying contract. Importers should not include, as integral part, to the LC’s , copies of underlying contracts, Proforma invoices and the like. (Article 4 b UCP 600).

An importer must carefully consider the following information when completing a LC application.

Time of payment plays a vital role in determining the Cash flows, risks and performance under a DC. It would be advantageous for an importer to secure a term DC, where the credit is payable at a later date and allows inspection of goods prior to payment.

The latest shipment date and period of presentation and Expiry must be carefully considered referring to the underlying contract. Latest shipment date must adequately facilitate the shipment being received at the disposal of the importer as and when required. A delay in shipment will have negative consequences such as missed markets or production delays (when raw materials are imported.) A period for Presentation of documents must be allowed in the

LC. Twenty one (21) Calendar days after shipment will apply if specific presentation period is not mentioned in the credit. This too should be carefully considered by the importer since providing a lengthier period would delay receipt of documents. Consequently if goods are received prior to receiving the documents, importer will be forced to apply for a shipping guarantee to clear the consignment which would entail additional costs. The date of expiry would be the last date allowing exporter to make presentations under the credit. The importer must ensure that the correct expiry is entered as issuing bank's commission is based on the period between issuance and expiry.

The name and address of the beneficiary and applicant must be stated clearly and must in all cases avoid insertion of contact information such as phone, fax, email etc. However there could be instances where advising bank being the correspondent bank of the issuing bank (not the beneficiary's bank) elects to advise the credit directly, would require contact details of the beneficiary.

The credit must state the currency in which it is payable and the amount. Credit may be stated in exact quantities to be shipped or the amounts to be drawn or indicate tolerances. For example by using words such as about/circa in connection with the amount/quantity or unit price which allows a tolerance not to exceed 10% more or less.

Importer must make special emphasis on the shipment details. If the intention of the importer is to receive the shipment in one lot, LC should prohibit Partial shipment. Remember if LC is silent on this aspect, it would mean partial shipments are allowed. Considering the present day containerized shipments it is prudent to allow Transshipment. Even if the DC prohibits transshipment, transshipment will be acceptable if the goods are shipped in containers, Trailer or LASH barges evidenced by the bill of lading. (Article 20 © UCP 600). This follows that if an importer wishes to prohibit transshipment, the LC must exclude this UCP provision.

The next important information in the DC is the goods description because it is for the goods that the importer ultimately pays. Excessive details must be avoided and must be in general terms where the consignment could be easily identified. It is advisable to include a reference to the underlying contract e.g. Proforma invoice number. It is also important to include the respective incoterm agreed. (e.g. CIF Colombo Port, Sri Lanka, Incoterm © 2010)

In order to receive the Goods/services required under the DC, "required documents" play a pivotal role. In general the parties should agree on minimum documents of type and number. The standard requirements of the most common documents are given in UCP 600 document & ISBP 745 and for other documents the importer must stipulate in the LC the issuer of the document and its data content.

Following is a list of documents that are being commonly called for in a DC, including a simple guideline when calling in the LC

### Commercial Invoice

The invoice is covered by the UCP 600 article 18, by simply calling for an Invoice the following requirement would automatically be invoked;

- Must be issued by the exporter.
- Must be issued to the importer.
- Must be issued in the same currency that of the LC.
- Must include the goods description that would correspond with the LC goods description.
- Need not be signed. (If you require invoices to be signed, LC must so state)

### Packing list

The Packing list is not covered in the UCP 600, but ISBP 745 contains few requirements.

- Must be issued by the entity stated in the LC.
- If no entity is stated in the LC, any entity could issue.
- Any information as to the packing of the goods.
- Any special requirements to the packing list must be stated in the LC.

### Certificate of origin.

The Certificate of origin is not covered in the UCP 600, but ISBP 745 contains few requirements.

- Must be issued by the entity stated in the LC.
- If no entity is stated in the LC, any entity could issue.
- If the LC requires CO to be issued by the beneficiary , a CO issued by the Chamber of commerce and the like will be acceptable provided the document indicates the beneficiary, the exporter or the manufacturer as the case may be.
- If the LC requires CO to be issued by Chamber of commerce, a CO issued by the Chamber of Industry, Association of industry and the like is acceptable.
- CO should require to indicate the origin of the goods.
- Being a certificate this will invoke the document to be signed and relates to the invoiced goods certifying their origin.
- Any party which the importer requires the CO to be legalized (for example an Embassy or consulate) must be mentioned in the LC.

### Weight List

The weight list is not covered in the UCP 600, but ISBP 745 contains few requirements.

- Must be issued by the entity stated in the LC.
- If no entity is stated in the LC, any entity could issue.
- Any information as to the weight of the goods.
- Any special requirements to the weight list must be stated in the LC.

### Certificate of Quantity

The certificate of quantity is not covered in the UCP 600, but ISBP 745 contains few requirements.

- Must be issued by the entity stated in the LC.
- If no entity is stated in the LC, any entity could issue.
- Any information as to the quantity of the goods.
- Any special requirements to the Quantity assessment/ any other related action must be stated in the LC.
- The aforesaid action should be on or prior to the shipment.

### Certificate of Quality

The certificate of quantity is not covered in the UCP 600, but ISBP 745 contains few requirements.

- Must be issued by the entity stated in the LC.
- If no entity is stated in the LC, any entity could issue.
- Any information as to the quality of the goods.
- Any special requirements to the Quality specifications/ any other related action must be stated in the LC.
- The aforesaid action should be on or prior to the shipment.

### Inspection certificate.

The Inspection certificate is not covered in the UCP 600, but ISBP 745 contains few requirements.

This would be the most important document for the importer since it will reveal the existence and the agreed standard of the goods from the eyes of a third party.

- Must be issued by the entity stated in the LC.

- If no entity is stated in the LC, any entity could issue.
- Any information as to the inspection of the goods.
- Any special requirements to the inspection / any other related action must be stated in the LC.
- The aforesaid action should be on or prior to the shipment.

#### Multimodal transport document.

When the corresponding shipment involves at least two different modes of transport, the importer must call for a multimodal transport document in the LC. The requirements are fully covered under article 19 of UCP 600 and will be invoked when such document is called for. For example it is not necessary that you state a full set of multimodal transport documents since this rule is invoked automatically. What should be mentioned are the additional requirements which are not covered under this article. For example you may need to mention that the MTD to be issued to the order of the issuing bank and notify applicant. It is also important to correctly mentioned the Ports/places involved in respective SWIFT fields 44A: place of receipt, 44B: place of delivery, 44E; port of loading and 44F : port of discharge, appropriately.

#### Bill of lading

When the corresponding shipment involves a sea port to sea port shipment importer must call for a Bill of lading. The requirements are fully covered in article 20 UCP 600 and will be invoke when such document is called for. For example it is not necessary that you state a full set of clean on board bill of lading since this rule is invoked automatically. What should be mentioned are the additional requirements which are not covered under this article. For example you may need to mention Bill of lading to be issued to the order of the issuing bank and notify applicant It is also important that you will only mention the 44E; port of loading and 44F : port of discharge, appropriately.

#### Charter party bill of lading

When the corresponding shipment involves a sea port to sea port shipment and the voyage being handled by a chartered vessel importer must call for a Charter party Bill of lading. The requirements are fully covered in article 22 UCP 600 and will be invoke when such document is called for. For example it is not necessary that you state a full set of clean on board charter party bill of lading since this rule is invoked automatically. What should be mentioned are the additional requirements which are not covered under this article. For example you may need to mention Bill of lading to be issued to the order of the issuing bank and notify applicant and marked freight payable as per charter party agreement. It is also important that you will only mention the 44E; port of loading and 44F : port of discharge, appropriately.

### Airway Bill.

When the corresponding shipment involves a airport to airport shipment and the importer must call for an Airway bill. The requirements are fully covered in article 23 UCP 600 and will be invoke when such document is called for. For example it is not necessary that you state a full set of clean Airway bills since this rule is invoked automatically. What should be mentioned are the additional requirements which are not covered under this article. For example you may need to mention Airway bill consigned to the issuing bank. It is also important that you will need to mention the 44E; port of loading and 44F : port of discharge, appropriately.

### Insurance documents

The insurance document is covered in the UCP 600 article 28. When an Insurance document is called for under a LC the article 28 rules will automatically be invoked into the required document. There is no need to restate these requirements in the DC. If a DC requires an “Insurance certificate” it is acceptable when an “Insurance policy” is presented, but vice-versa would not be acceptable. So it will be required to clearly mention the type of insurance document in the LC and any additional details that are not been dealt in this article.

### Other requirements.

The following requirements should be carefully considered when issuing a LC, and must avoid unless there is good reason to include. (these are comprehensively discussed in ISBP 745 under general principles.)

- Requirement to exclude/Modify UCP 600 articles.
- Non documentary conditions.
- Usage of abbreviations and virgules.
- The use of comma when indicating a range of data which results in a different meaning.
- Expressions not defined in UCP 600.

Once the LC is issued by the Importer’s bank, and upon receipt of the transmitted copy of the LC, the importer must scrutinize the LC whether all information being entered correctly in the LC. If there is any deviation they must inform the Bank and arrange for an amendment soon.

When the documents are received, the importer must carefully check the Issuing bank's notification. There could be two scenarios.

- (1) The documents comply with the LC terms and conditions.
- (2) The documents are discrepant and do not comply with LC terms and conditions.

In the first scenario, the issuing bank is obligated to pay the presenting bank, and the Importer will have to arrange funding. This needs to be finalized prior to the close of fifth banking day following the day of presentation of documents to the issuing bank. It is normal banking practice that when documents are not taken up by the importer within this time frame the issuing bank would pay the presenting bank, by debiting an internal account called the Inward Bills receivable account which would accrue interest. When the documents are released to the client this would be settled by debiting the clients account or by granting a post import loan.

In the second scenario, the issuing bank would inform all the discrepancies in the documents to the importer for their acceptance. If the discrepancies are not material to the importer they would accept them and Issuing bank will follow the payment routine discussed in scenario one. If the discrepancies are material and importer decides to refuse this will be conveyed to the issuing bank and in turn the issuing bank will inform the presenting bank, by way of a "notice of refusal" by SWIFT. The issuing bank has four options available for the disposal of documents,

- (1) Hold the documents pending instructions from the presenting bank.
- (2) Hold documents pending instructions from the Applicant.
- (3) Return the documents.
- (4) Act on instructions received previously by the presenting bank.(when the presenter has already instructed the issuing bank the way in which the documents should be handled in case of discrepancies)