



# **TF** Introduction to Trade Finance Handbook for the banks in Myanmar

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Zusammenarbeit (GIZ) GmbH



Deutsche Bank 

## Acknowledgement

We would like to express special thanks to all those who made valuable contributions to the development of this Handbook. Credit goes in particular to the main authors Ms. Brigitte Falkenstein and Mr. Patrick Robert. As participants of Deutsche Bank's International Corporate Volunteering programme, they provided valuable support to GIZ's Financial Sector Development Project by creating this Handbook.

Based on the initiative of Myanmar Banks Association (MBA), the intention of this handbook is to support the development of Myanmar's banking sector. As it is particularly directed at Myanmar institutions, it relies on experiences and knowledge of Myanmar stakeholders and experts.

With the support of MBA, the authors received valuable insights from various sector experts. We would like to thank in particular the following distinguished contributors for supporting the development of this Handbook:

Dr. Sein Maung - Chairman of First Private Bank and Vice-Chairman of MBA and the distinguished and experienced senior experts identified by MBA including U Hla Thaug - Senior Advisor United Overseas Bank, U Soe Win - Managing Director of Myanmar Vigor Limited, U Kyaw Nyunt Thein - Consultant of Kan Baw Za Bank, U Mya Than - Chairman of Myanmar Oriental Bank, U Kyi Nyunt - General Manager of Myanmar Oriental Bank, U Myo Myint Aung - Senior General Manager of Myanmar Citizen Bank,

Special thanks goes to the dedication and commitment of Daw San San Yin - Ex-Deputy General Manager of Myanmar Investment and Commercial Bank providing comprehensive input to this Handbook.

In addition, we would like to thank U Thaug Tun - General Manager of Myanmar Investment and Commercial Bank, U Khin Pe Oo - Deputy General Manager of Myanmar Investment and Commercial Bank, U Aung Thein Tun - Principal of Myanmar Institute of Finance, Daw Swe Thida Hlaing - Deputy General Manager of Kan Baw Za Bank, Daw Nyein Su Maung - Deputy Manager of Kan Baw Za Bank, Mr. Mahesh k Bhandari - Director of Trade Services United Amara Bank, Daw Thandar Htike - Senior Manager of United Amara Bank, Daw Kay Thi Oo - Assistant General Manager of Ayarwaddy Bank, Mr. Teh Chow Liang - Senior General Manager of Ayarwaddy Bank.

We would like to express our thanks to the many more individuals who have contributed their kind ideas and knowledge to the content of this Handbook. Please accept our sincere apologies if your name is not individually mentioned.



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# 1. Introduction

Initiated by a request from the Myanmar Banking Association (MBA) addressed to Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the following Handbook about trade finance has been edited according to the specific need of the Myanmar financial sector.

The aim of this Handbook is to assist local Myanmar banks in the current situation to support the increasing demand for trade finance so that bank staff can refer to this and hence creating more business by better supporting their clients in explaining the various options in the international trading business.

This document should give bank staff the opportunity to explain their clients the various available instruments to facilitate import and export activities and provide an increased demand of working capital by applying more security and easier financing of the same.

While supposed to serve as a paper of guidance, this Handbook has no aim to be a professional, official book for international trading which is certainly available on the markets. It should rather reflect on the specific needs in the fast growing international trade business of Myanmar based on the input we have collected in various workshops and meetings with local banks and related organizations.

While it is understood, that not all products mentioned in this document are currently in use or even allowed, this document should also show trade finance related products that might get relevant and important for the Myanmar market in the near future as changes in the local market and further lifting of regulations are to be expected.







## 2. General Topics

In the following chapter the reader will find general information important to understand the environment of trade finance and how banks operate in it.

It includes an introduction to risks that banks face when dealing with trade finance activities as well as what kind of checks and balances banks should have in place to detect and avoid such risks. The chapter also provides an overview of commonly used documentation in trade activities as well as background information on international agreements.

## 2.1. Principles of Know your Customer and Anti-Money-Laudry

### Typical Know Your Customer (KYC) procedures:

Know your customer procedures are very important to prevent financial fraud, money laundering and terrorist financing. They prevent banks from being used, intentionally or unintentionally, by criminal elements for their activities. Without such a governance in place, banks may face significant risks such as reputational, operational, and legal risks, which subsequently can result in significant financial losses.

Applying KYC procedures for new and existing customers (and persons or entities connected to them) also allows banks to better understand their customers and their expected transactional behavior.

KYC procedures should include the following controls:

- Verification and validation of customer's identity (such a passport copies)
- Initial and regular name matching against lists of known parties (such as embargo lists, list of politically exposed person, etc.)
- Source of money/wealth (e.g. certificate of registration)
- Expected transactional behavior
- Regular monitoring of transactions incl. Anti-Money Laundry controls (see dedicated section below)

### Typical Anti-Money-Laudry controls:

Bank employees are instructed to report activities that they deem suspicious (anomalies like any sudden and substantial increase in funds, a large withdrawal, or moving money to a bank secrecy jurisdiction). Transactions with blacklisted countries, governments or organization but even smaller transactions (structuring) that meet certain criteria may also be deemed suspicious and must reported to the bank management or Compliance Department, who must then determine whether to file a report with the government and/or Central Bank, obeying the respective regulation.

**Note :** Both, KYC procedures and Anti-Money-Laudry controls, should be in line with domestic rules and guidelines applicable in Myanmar but also comply with international standards.

### **Excursus: Definition of the Terms of Money Laundering and Terrorism Financing**

Money Laundering is the intentional movement of cash and / or assets derived from illegal and criminal activities (predicate offences) into the legal financial cycle. The attempt to disguise the true source or ownership of the funds, to disguise the ultimate disposition of the funds and to eliminate audit trails are part of the laundering process. Predicate offences are defined by local law and could comprise for example forgery of money, extortionate robbery, drug crime as well as fraud, corruption, organized crime and terrorism etc.

Although money laundering is a diverse and often complex process, it is described to take place in the following three “stages”:

<b>Placement:</b>	The introduction of illegally obtained money or other valuables into financial or non-financial institutions
<b>Layering:</b>	Separating the proceeds of criminal activity from their source through the use of layers of complex financial transactions, such as money orders, letter of credit, stocks / bonds or purchasing valuable assets. These layers are designed to hamper the audit trail, disguise the origin of funds and provide anonymity
<b>Integration:</b>	Placing the laundered proceeds back into the economy in such a way that they re-enter the financial system as apparently legitimate funds.

These “stages” are not static and overlap broadly. Financial institutions may be misused at any point in the money laundering process. Penalty is independent to the point in time (or “stage”) in which a financial institutions gets involved in the laundering process.

Terrorism financing is defined as the providing, depositing, distribution or collecting of funds, by any means, intended to be used, or knowing that they are to be wholly or partially used, for committing terrorist acts. It is not relevant whether such funds are of legal or illegal origin.

## **2.2. Risks in International Business**

Any business entity, including banks, involved in international transactions may be subject to specific risks, including the following.

### **Economic Risks:**

- **Risk of Manufacture:** Completion or delivery of produced goods is unreasonable or impossible due to changed circumstances at the importer or in his country
- **Transport Risks:** Loss of or damage to the product on the transport route, delay or dispatch fault
- **Risks of Non-acceptance of Goods:** Delivered goods are not removed by the importer or not in time. Quality or customer’s complaints also belong to the acceptance risks
- **Credit Risks:** Insolvency, unwillingness or delay in payment of the importer

■ **Risks of Non-Delivery/Quality:** Delivery period, goods quality/quantity not complied by the exporter

■ **Foreign Exchange Risks:** FX Risks have a particular importance in international trading. When companies conduct business across borders, they usually must exchange foreign currencies for home currencies when dealing with receivables, and vice versa for payables. This is done at the current exchange rate between the two countries. Foreign exchange risk results from the fact that the exchange rate might change unfavorably for the companies before the payment is made or received in the foreign currency.

### Excursus: Foreign Exchange Hedging

To eliminate or mitigate such FX risks, FX Hedging is a common method used by companies.

A foreign exchange hedge moves the foreign exchange risk from the trading or investing company to a third party that carries the risk, such as banks. When setting up an FX hedge the third party will charge costs to the requesting company for taking over the risk.

While there is many different currency hedging methods ranging from basic to extremely complicated, the most popular method of currency hedging is a Foreign Currency Option which gives the purchaser the right, but not the obligation, to buy or sell the currency pair at an explicitly defined exchange rate at specific date in the future. That means that, if the current exchange rate is more favorable, then the purchaser will not exercise this option.

**Note:** Since FX hedging is not only a complicated but also a rather risky enterprise, it is key that importers and exporters that want to hedge their FX risk have a proper hedging strategy in place. Such a hedging strategy should be based on a thorough analysis of their current and anticipated future currency exposure in combination with their risk appetite.

### **Political Risks:**

Political risks in the narrower meaning: e.g.

■ **International hostilities** (war, boycott).

■ **Domestic problems** in the country of the importer (strike, disturbances, civil war), payment bans or moratoria, etc...

■ **Conversion risks:** The exchange of home currency in the invoiced currency is delayed or is impossible, foreign exchange control or missing foreign currency in the import country.

■ **Transfer risk:** The export of domestic currency is limited or forbidden by the import country for political reasons.

### **Other Risks:**

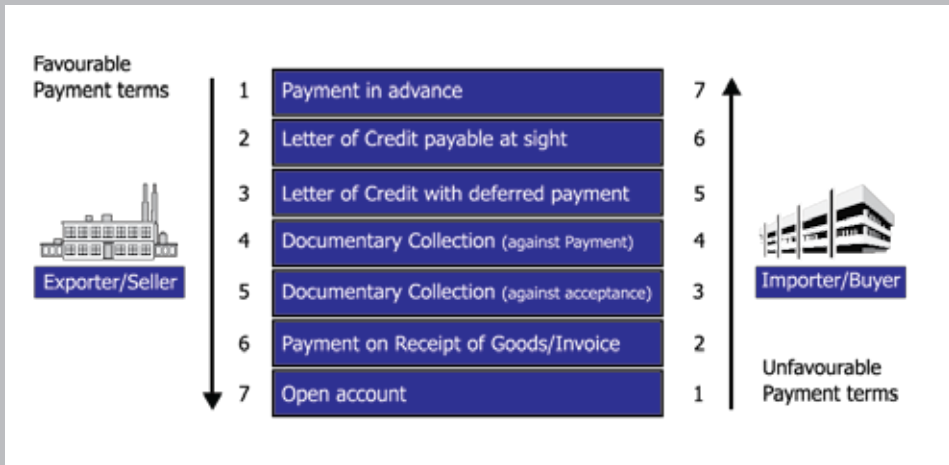
■ **Communication Problems:** Different language of the business partners leading to misunderstandings.

- **Different Rights and Trade Usances:** different opinions and regulations about rights and duties of the persons involved.

### 2.3. Payment Terms

Depending on whether bank's customer is Importer or Exporter the different payment terms are more or less favourable for him. The subsequent overview shows the different views:

#### Payment terms – conflicting interest



- **Payment in advance:** Importer has to pay the invoice upfront, before the goods are even shipped. This payment term is beneficial if bank's customer is Exporter since he might use the advance payment to fund the goods he wants to sell. For the Importer this payment term is the worst one.

- **Payment on Receipt of goods (against invoice):** The Importer has to pay the invoice only after having received the goods. This payment term gives Importer the security that the goods are already in his possession before payment. For the Exporter this payment term means that he receives funds only after arrival of the goods at the Importer.

- **Open Account:** The Importer can pay the invoice at a later point of time after having received the goods. This payment term is the most beneficial one if bank's customer is Importer since no specific due date is fixed for the payment and he has the possibility to check the quality of the received goods and deal with them before paying the invoice to the Exporter.

**Note :** For detailed explanation of Letter of Credit and Collection please refer to the respective product chapters.

## 2.4. Common Documents in International Trading

**Common Description:** All papers, which are used in the national, but primarily in the international goods traffic as documents or proof papers evidencing the transportation or the storage of a product, its insurance, assessment, composition or condition and/or rendering a service.

### 2.4.1. Invoice

The invoice is the basis document for all other documents and usually contains the following details:

- Name and address of buyer and seller
- Exact and details description of goods / service with details to quantity respective weight and quality
- Unit price and total price of goods / services
- Kind of packing, quantity of packages and labels
- Terms of delivery and payment
- Stamp and signature of seller

### 2.4.2. Transport Documents

- **Bill of Lading** - issued in several originals. If one is submitted the others become invalid
- **Air Waybill** – Acknowledgement of receipt of the airfreight company, having received the goods for transportation. Issued in 3 copies
  1. Air Carrier
  2. Recipient of the goods (Buyer)
  3. Sender (Seller)
- **FCR (Forwarding Agent's Certificate of Receipt)** – with this certificate the Forwarding Agent confirms having received the specified goods with the irrevocable instructions for transport to the stipulated recipient.
- **Truck Receipt (=Truck Waybill „CMR”)** - it is used for international cross border truck transport. It is issued in three originals: pink colored copy for the sender, blue colored copy for the recipient and green colored copy for the carrier. Under the Letter of Credit the pink colored copy will be presented.

### 2.4.3. Insurance Documents

- **Insurance policy**
- **Insurance certificate** (under a global policy)



**Note :** In some countries an insurance policy is assessed higher compared to an insurance certificate. To avoid any problems it is recommended that the letter of credit shows “Insurance Policy or – Certificate”

#### 2.4.4. Other Documents

- **Certificate of origin:** Attests where the product was harvested, mined, gathered or produced. Normally the certificate of origin is issued by the custom office.
- **Packing list / Weight List (Weight Note):** contains a detailed itemization of all packages with an indication of labelling, lot size, type of packaging, content, weight and other specifications (such as name and address of buyer and seller, place of unloading/address for dispatch).
- **Inspection certificate:** document issued by the producer, vendor or a neutral inspector to confirm the contractually determined characteristics of the goods.
- **Quality certificate:** document issued by the producer or vendor to confirm the utilization of sound and quality material for the production of the goods.
- **Fumigation certificate:** also referred to as a ‘**pest control certificate**’. It is the proof that wooden packing materials used in international sea freight shipping e.g. wooden pallets and crates have been fumigated or sterilized prior the international shipment. It usually contains details such as purpose of treatment, the articles in question, temperature range used, chemicals and concentration used, etc.
- **Certificate of Analysis:** certifies the quality and purity of pharmaceuticals as well as of animal and plant products.



## 2.5. Document Checks

The subsequent chapter gives an overview about what should be considered while checking the different documents.

### 2.5.1. Document Checklist for Letter of Credit

#### Principles of checks & verification

- Conditions of the Letter of credit
- **“Uniform Customs and Practice for Documentary Credits”** (UCP), publication no. 600 of the International Chamber of Commerce, Paris.
- International Standard Banking Practice for the Examination of Documents under Documentary Credits (ICC Publication No. 681E).
- Relevant legislation, custom and usage such as signature of original bill of lading, Incoterms and embargoes

#### General verification

- Are the documents within the validity of the letter of credit and within the deadline after loading specified in the letter of credit (if not specified, a period of 21 days applies – see Art. 14c of UCP 600)?
- Have all applicable changes been considered?
- Are all documents available that are specified in the L/C - also in the specified quantity?
- Have provisions for partial shipment been respected?
- Is it allowed that the used credit amount for full delivery is below the total amount of letter of credit (see also 3.1 Commercial Invoice)?
- Are the relevant documents not contradicting each other and also not containing conflicting statements?
- Do the relevant documents contain the specified information such as Import License number and Letter of Credit number?
- Have any corrections or adjustments been highlighted by the issuer of the corresponding document?
- Corrections/adjustments in third party documents must be countersigned by the issuer or his authorized agent.
- Corrections/adjustments in certified or notarized documents must be countersigned by the same parties that performed the certification or notarization.
- Corrections/adjustments in documents issued by the beneficiary do not require a certification (with the exception of drafts), provided they were not certified or notarized and there is no contrary specification in the letter of credit.

- Different fonts or handwritten notes in a document are not considered corrections or adjustments.
- In case of several corrections/adjustments within the same document, those must all be covered with the same certificate.
- Documents that are not explicitly required in the Letter of Credit are not be verified and are to be returned to the presenting party.
- Any conditions of the letter of credit for which no compulsory documentation is required, will be disregarded.

## 2.5.2. Individual Checks of selected Documents

### 2.5.2.1. Commercial invoice

(see also art. 18 UCP600, ISBP point 57 to 67)

- Has the invoice been issued by the beneficiary? and Is it issued on behalf of the principal? or Does the letter of credit contain different instructions?
- Does the description of the goods match the description in the letter of credit (literally and in language) including specifications of price, weight, quantity and dimensions as well as quality designations?
- Is the invoice solely covering the goods specified in the letter of credit?
- Does the invoice contain the required references as per the letter of credit, such as “according to pro-forma invoice from ...” or “according to the order from...”?
- Are the labels matching the instructions as per the letter of credit?
  - ▶ Additional information on the labels is acceptable. It is not conflicting if other documents do not include this additional information.
- Unless a deviation of quantity is strictly prohibited, is the delivered quantity of goods in a range of +/- 5% of the quantity indicated in the letter of credit?
  - ▶ Deviations in quantity are generally not allowed for quantities specified in packaging units or pieces.
- Is the currency of the invoice matching the currency indicated in the letter of credit?
- Is the total amount of the invoice matching the amount specified in the letter of credit (unless the letter of credit does not prohibit a deviation in amount)?
  - ▶ An under-usage of 5% of the amount specified in the letter of credit is permitted for Letter of Credit that do not allow partial shipments, if the total quality of shipment matches the total quality mentioned in the Letter of Credit and if the specified price per unit is not lower than the price defined in Letter of Credit (see: Art. 30 c UCP600).

This article in the UCP serves to bill the actual freight rates and insurance costs, in case they do not match the rates and costs mentioned in the contract and are lower than initially estimated.

- In case of “approximate” quotation in the Letter of Credit, is it the amount and/or the quantity of goods and/or the price per unit exceeding or falling below 10% of the figures specified in the Letter of Credit (Cf.: Art. 30a UCP 600)?
- Does the invoice contain a delivery clause and is this in line with the conditions of the Letter of Credit?
- Is a detailed breakdown available disclosing any additional charges that are included in the total amount, if specified in the Letter of Credit?
- Does the letter of credit contain requirements for declarations, certifications, acknowledgments or similar notes?
  - ▶ Declarations are to be checked against effective embargo/boycott provisions.
  - ▶ Negative declarations that violate effective embargo/boycott provisions prevent a correct processing of the letter of credit
- Are all copies signed, if specified in the Letter of Credit?

#### 2.5.2.2. Transport Document

Covering at least two different modes of transport (Multimodal transport document see also Art. 19 UCP600 and ISBP Point 68. to 90.)

- Does the transport document mention at least two different modes of transport?
- Does the transport document disclose that the goods have been sent to the delivery address as specified in the Letter of Credit, or have been passed over or taken on board?
- Are place of dispatch, place of taking in charge, place of loading and the final destination matching the details specified in the Letter of Credit?
- Unlike the bill of lading, the Multimodal Transport document may contain a note “intended” or a similar reservation in terms of vessel, loading port or port of discharge.
- Transshipment is allowed, even if the letter of credit prohibits transshipment.

*Apart from the above, the same conditions apply as listed under the following section 3.3. Bill of Lading*

#### 2.5.2.3. Bill of Lading

(see also art. 20 UCP600 and ISBP point 91-114)

- Is the required number of originals and copies available (full set = all Originals)? Is the number of the issued originals mentioned in the bill of lading?
- Does the bill of lading contain the name of the carrier? Was it signed by the carrier, the master or a named agent for the carrier /master? Is the signature clearly marked as the one from the carrier/master or, if signed by an agent, did the agent clearly indicate the name and role of the person he is acting on behalf?
- Does the bill of lading contain the exact name of the vessel (either by pre-printed

wording such as “shipped on board” or, for bill of lading of type “received for shipment”, by a dated “Shipped on board” note)?

- Is the bill of lading “clean,” i.e. not containing any notes that highlight a defective condition of the product and / or packaging?
- Does the bill of lading contain any notes, which invalidate, restrict or contradict substantial property of it?

► Example:

- ◆ If required by the carrier, this Bill of Lading duly endorsed must be surrendered in exchange of the goods or delivery order  
(or)
- ◆ If the carrier so requires, before he arranges delivery of the goods one Original Bill of Lading duly, endorsed, must be surrendered by the Merchant to the Carrier at the Port of Discharge or at the same other location acceptable to the Carrier.

While it is assumed that normally the carrier will not demand original documents anymore, the carrier reserves the right to exceptionally demand an original document.

With this remark on the “front page”, which is the relevant page for checking the external validity of the documents by the bank, the carrier tries to partially revoke his principal carrier obligation which not only includes the shipment of goods from A to B but also the power of disposition for the holder of the bill of lading who is at least formally entitled. Likewise the carrier seems to attempt an abolition of, or at least to endanger, a substantial property of the bill of lading as a traditional document. For this reason there is also the risk that the issuing bank may not accept such a document as a letter of credit.

- Is the bill of lading in line with the requirements from the letter of credit (on behalf, on behalf of a recipient, directly to a recipient)? Is the “Notify” address specified as per letter of credit?
- Is the bill of lading duly endorsed as required?
- Are loading port and port of discharge, as well as place of taking in charge and final destination, if applicable, indicated as per letter of credit?
- Does the bill of lading contain the words “intended” regarding the ship and / or in relation to the loading port?
  - If so, a separate on-board notation is required which clearly mentions the port of loading in accordance with letter of credit, the date of shipment and the name of the vessel.
- In case a transshipment is recognizable in the document, is this permitted under the given circumstances?
  - Even if the Credit prohibits transshipment, transshipment is allowed provided the goods as indicated on the bill of lading were loaded in containers and the entire sea transport was covered by one and the same bill of lading.

- Does the bill of lading disclose a loading on deck which was not specifically allowed?
- Is the bill of lading subject to a chartering party that is not explicitly permitted?
- Is the latest date of shipment in line with the letter of credit?
  - ▶ In case of “shipped on board” remark the date of the same is relevant as date of shipment.
- Are details of packages, labels, gross weight etc. in line with the information in the other documents?
- Are the goods described in a way that there is no contradiction with the description of the goods in the letter of credit?
  - ▶ Otherwise, in the bill of lading - as well as in all documents except for the Commercial Invoice - the goods can be described in generic terms.
- If case of CIF or CFR deliveries is there any remarks such as “Freight prepaid” indicating that the freight costs are paid?
  - ▶ Declarations on the bill of lading are to be checked against current embargo / boycott provisions.
  - ▶ Negative pledges that violate effective embargo / boycott provisions prevent a correct clearing of the letter of credit.

#### 2.5.2.4. Charter Party Bill of Lading

(see also art. 22 UCP600 and ISBP point 115 to 133)

The same criteria mentioned in section 3.3 is applicable for Charter Party bill of Lading but with the following exceptions:

- Has the charter party bill of lading been signed by either:
  - ▶ the master or named agent of the Master,  
(or)
  - ▶ by the owner of the vessel or a named agent of the owner of the vessel  
(or)
  - ▶ by the charterer or a named agent of the charterer?
- Is the signature marked as the one of the master, owner, charterer or their agent or respectively has the signing agent clearly indicated the name and role of that person on whose behalf he is acting?
- Are loading port and port of discharge in line with the letter of credit? Port of discharge can also be expelled with several ports or a geographical region if it is in accordance with the letter of credit.

#### 2.5.2.5. Air transport document

(see also art. 23 UCP600 and 134. ISBP point to 156.)

- Is the document presented the “Original 3 (for shipper)” version?
  - ▶ The submission of this copy also satisfies the request for a full set of originals



- Does the Air Waybill contain the name of the carrier? Has it been signed by the carrier or a named agent of the carrier? Is the signature marked as the one of the carrier or respectively did the signing agent indicate on behalf of which name and role he is acting?
- Is the air waybill indicating the recipient as per the letter of credit?
- Is the “Notify address” according to the letter of credit?
- Are departure airport and destination airport in accordance with the letter of credit and are any provisions relating to the way of transportation complied with? In case a transshipment is recognizable in the document, is this permitted under the given circumstances?
  - ▶ Even if the letter of credit prohibits transshipment, transshipment is allowed provided the entire transport was covered by one and the same air waybill.
- Was the latest shipment performed within the timeline specified in the letter of credit?
  - ▶ If the letter of credit requires an actual date of departure, it must be disclosed accordingly with a special remark. Other information such as the ones in the “for carrier use only” section or similar data such as flight number and flight date are not sufficient. In these cases the date of shipment is to be derived from the special remark or the issue date of the air waybill.
- Is the air waybill “clean,” i.e. not containing any notes that highlight a defective condition of the product and / or packaging?
- Are details of packages, labels, gross weight etc. in line with the information in the other documents?
- Are the goods described in a way that there is no contradiction with the description of the goods in the letter of credit?
- Is the information about payment of freight costs in accordance with the letter of credit?

#### 2.5.2.6. Documents for road transportation

(see also Art. 24 UCP600 and ISBP point 157. to 169.)

- Specific examples: Truck Waybill **“CMR”** (Abbreviation of French “Convention relative au Contrat de transport international de **M**erchandises par **R**oute = Convention on the Contract for the international road transport).
- Does the document disclose the name of the carrier? Has the document been signed by the carrier or a named agent of the carrier. Otherwise has the document been stamped by the carrier or a named agent of the carrier with a reception stamp or other proof of reception? Has the agent clearly indicated for which person and in which role he is acting?
  - ▶ If the carrier is not explicitly mentioned on the railway duplicate waybill, the signature and stamp of the railway can be accepted as a proof that the document is signed by the carrier.

- Does the waybill disclose the freight carrier according to the letter of credit?
- Is the document version the particular copy for the carrier?
- Are station of loading and station of destination in accordance with the Letter of credit and were any specific outlined rules on the way of transport respected?
- In case a transshipment is recognizable in the document, is this permitted under the given circumstances?
  - ▶ Even if the Credit prohibits transshipment, transshipment is permitted with in the same mode of transport if the whole transport is covered by one and the same transport document.
- Is the latest date of shipment in line with the letter of credit?
  - ▶ The date of issue is considered as date of shipment, unless the document contains a reception stamp or a clear reception date or date of shipment.
- Is the document “clean,” i.e. not containing any notes that highlight a defective condition of the product and / or packaging?
- Are details of packages, labels, gross weight etc. in line with the information in the other documents?
- Are the goods described in a way that there is no contradiction with the description of the goods in the letter of credit?
- Is the information about payment of freight costs in accordance with the letter of credit?

#### 2.5.2.7. Insurance document

(see also art. 28 UCP600 and 170. ISBP point to 180.)

- Has the insurance document been issued and signed by an insurance company, an insurer (underwriters), or one of their agents or their attorney? Is the signature of the insurance company or of the insurer marked as such respectively did the agent/attorney clearly indicate on behalf of which person and in which role he is acting?
    - ▶ Cover notes must not be accepted
  - In case there is a clear note about more than one original document, were all originals presented?
  - Has the document been issued prior to or latest on the same day as the loading or otherwise contain a clear statement that coverage is valid from the day of loading?
  - Has the insurance document been issued in accordance with the letter of credit (e.g. on behalf)?
- Was it correctly endorsed?

- ▶ Under point 179 of the new ISBP it always has to be checked that the Insurance certificate / policy is always issued to the rightful holder/bearer, so that it can be endorsed accordingly. An endorsement by the beneficiary without this addition (“issued to bearer” or “claims payable to the lawful holder”) is not permitted

- Is the insurance document issued with the same currency as mentioned in the letter of credit?
- Is the insurance coverage at least 10% higher than the CIF/CIP value?
- Are all risks covered that are specified in the letter of credit?
  - ▶ Under Article 28 (i) of the ERA 600, exclusion clauses are allowed, unless the letter of credit explicitly overrules this article.
- Does the insurance document specify the covered way of transport and also cover the specified mode of dispatch?
- Does the document contain a remark “premium paid”?
- Is there a clear indication of the claims settling agent for payment in case of damage and, if so, is this in accordance with the letter of credit?
- Are details of packages, labels, gross weight etc. in line with the information in the other documents?
- Are the goods described in a way that there is no contradiction with the description of the goods in the letter of credit?

#### 2.5.2.8. *Bill of exchange*

(see also ISBP point 43. to 56.)

- Has the bill of exchange been issued, signed and – if applicable – endorsed by the recipient?
- In case of duplicate are the bills of exchange marked with “pay this first Bill of Exchange Second unpaid” or “pay this second bill of exchange first unpaid”?
- Is the due date specified correctly?
- Are the amount and currency covered by the letter of credit?
- Do the indicated figures match in words and numbers?
- Is the bill of exchange drawn on the name of the payer as specified in the letter of credit?
- Does the bill of exchange contain any remarks such as “Drawn under...” as possibly specified in the letter of credit?

#### 2.5.2.9. *Additional documents*

(see also Art. 3 und Art. 14f UCP 600 and ISBP)

- Has the document been issued by the issuer mentioned in the letter of credit?
  - ▶ Documents that are neither transport documents nor insurance documents and for which the letter of credit does not specify an issuer, can also be issued by the beneficiary himself.
  - ▶ In case the issuer is not explicitly mentioned in the letter of credit, but is qualified by terms such as “first-class, well-known, qualified, officially” or others, anyone but the beneficiary himself can issue the document.

■ Examples are other documents are listed here:

- ▶ Certificate of origin
- ▶ Pack- / weight list
- ▶ Certificate of quality

**Special attention is to be given on the following:**

- ▶ Declarations need to be cross-checked against current embargo / boycott provisions.
- ▶ Negative pledges that violate effective embargo / boycott provisions prevent a correct processing of the letter of credit.

## **2.6. Incoterms (International Commercial Terms)**

The costs for transportation, insurances are an important point at the pricing for an export good and in the case of the damage or the loss, the costs for a possible replacement of the product. Therefore it is imperative to obtain agreement about the delivery terms and to hold them tight in the sales contract.. At the specification of the delivery terms, as a rule, the wordings of the incoterms are used.

The incoterms do not represent any international right. They are published by the ICC (International Chamber of commerce) in Paris and are valid only when they were agreed on between the contracting parties, i.e. if the Incoterms are expressly part of the contract.

The Incoterms currently in force define 11 trade terms

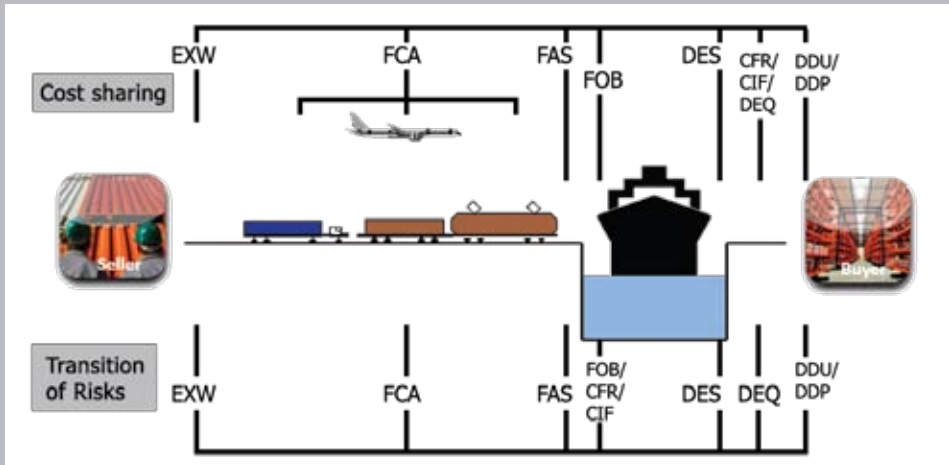
### **Basic Rules of Incoterms**

#### **Exporter**

Has the duty to properly deliver the good to the agreed place?  
Furthermore he has to ensure that the goods are suitable packed for transport.

#### **Importer**

Has the right to execute on his own account an examination of the goods?  
It is his duty to properly take over the goods on time.



## RULES FOR ANY MODE OR MODES OF TRANSPORT :

SOURCE: <https://en.wikipedia.org/wiki/Incoterms>

### EXW Ex Works

The seller makes the goods available at their premises. This term places the maximum obligation on the buyer and minimum obligations on the seller. The Ex Works term is often used when making an initial quotation for the sale of goods without any costs included. EXW means that a buyer incurs the risks for bringing the goods to their final destination. Either the seller does not load the goods on collecting vehicles and does not clear them for export, or if the seller does load the goods, he does so at buyer's risk and cost. If parties wish seller to be responsible for the loading of the goods on departure and to bear the risk and all costs of such loading, this must be made clear by adding explicit wording to this effect in the contract of sale.

The buyer arranges the pickup of the freight from the supplier's designated ship site, owns the in-transit freight, and is responsible for clearing the goods through Customs. The buyer is also responsible for completing all the export documentation.

These documentary requirements may cause two principal issues. Firstly, the stipulation for the buyer to complete the export declaration can be an issue in certain jurisdictions (not least the European Union) where the customs regulations require the declarant to be either an individual or corporation resident within the jurisdiction. Secondly, most jurisdictions require companies to provide proof of export for tax purposes. In an Ex Works shipment, the buyer is under no obligation to provide such proof, or indeed to even export the goods. It is therefore of utmost importance that these matters are discussed with the buyer before the contract is agreed. It may well be that another Incoterm, such as FCA seller's premises, may be more suitable.

**FCA Free Carrier**

*The seller delivers the goods, cleared for export, at a named place. This can be to a carrier nominated by the buyer, or to another party nominated by the buyer.*

*It should be noted that the chosen place of delivery has an impact on the obligations of loading and unloading the goods at that place. If delivery occurs at the seller's premises, the seller is responsible for loading the goods on to the buyer's carrier. However, if delivery occurs at any other place, the seller is deemed to have delivered the goods once their transport has arrived at the named place; the buyer is responsible for both unloading the goods and loading them onto their own carrier.*

**CPT Carriage Paid To**

*CPT replaces the venerable C&F (cost and freight) and CFR terms for all shipping modes outside of non-containerised seafreight.*

*The seller pays for the carriage of the goods up to the named place of destination. Risk transfers to buyer upon handing goods over to the first carrier at the place of shipment in the country of Export. The seller is responsible for origin costs including export clearance and freight costs for carriage to named place of destination (either final destination such as buyer's facilities or port of destination has to be agreed by seller and buyer; however, named place of destination is generally picked due to cost impacts). If the buyer does require the seller to obtain insurance, the Incoterm CIP should be considered.*

**CIP Carriage And Insurance Paid To**

*This term is broadly similar to the above CPT term, with the exception that the seller is required to obtain insurance for the goods while in transit. CIP requires the seller to insure the goods for 110% of their value under at least the minimum cover of the Institute Cargo Clauses of the Institute of London Underwriters (which would be Institute Cargo Clauses (C)), or any similar set of clauses. The policy should be in the same currency as the contract.*

*CIP can be used for all modes of transport, whereas the equivalent term CIF can only be used for non-containerised seafreight.*

**DAT Delivered At Terminal**

*This term means that the seller covers all the costs of transport (export fees, carriage, unloading from main carrier at destination port and destination port charges) and assumes all risk until destination port or terminal. The terminal can be a Port, Airport, or inland freight interchange. Import duty/taxes/customs costs are to be borne by Buyer.*

**DAP Delivered At Place**

*Can be used for any transport mode, or where there is more than one transport mode. The seller is responsible for arranging carriage and for delivering the goods, ready for unloading from the arriving conveyance, at the named place. Duties are not paid by the seller under this term. The seller bears all risks involved in bringing the goods to the named place.*



**DDP Delivered Duty Paid**

*Seller is responsible for delivering the goods to the named place in the country of the buyer, and pays all costs in bringing the goods to the destination including import duties and taxes. The seller is not responsible for unloading. This term is often used in place of the non-Incoterms “Free In Store (FIS)”. This term places the maximum obligations on the seller and minimum obligations on the buyer. With the delivery at the named place of destination all the risks and responsibilities are transferred to the buyer and it is considered that the seller has completed his obligations*

**RULES FOR SEA AND INLAND WATERWAY TRANSPORT:****FAS Free Alongside Ship**

*FOB means that the seller pays for delivery of goods to the vessel including loading. The seller must also arrange for export clearance. The buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination. The buyer arranges for the vessel, and the shipper must load the goods onto the named vessel at the named port of shipment according to the dates stipulated in the contract of sale as informed by the buyer. Risk passes from the seller to the buyer when the goods are loaded aboard the vessel. This term has been greatly misused over the last three decades ever since Incoterms 1980 explained that FCA should be used for container shipments.*

**FOB Free On Board**

*FOB means that the seller pays for delivery of goods to the vessel including loading. The seller must also arrange for export clearance. The buyer pays cost of marine freight transportation, bill of lading fees, insurance, unloading and transportation cost from the arrival port to destination. The buyer arranges for the vessel, and the shipper must load the goods onto the named vessel at the named port of shipment according to the dates stipulated in the contract of sale as informed by the buyer. Risk passes from the seller to the buyer when the goods are loaded aboard the vessel. This term has been greatly misused over the last three decades ever since Incoterms 1980 explained that FCA should be used for container shipments.*

**CFR Cost And Freight**

*The seller pays for the carriage of the goods up to the named port of destination. Risk transfers to buyer when the goods have been loaded on board the ship in the country of Export. The Shipper is responsible for origin costs including export clearance and freight costs for carriage to named port. The shipper is not responsible for delivery to the final destination from the port (generally the buyer's facilities), or for buying insurance. If the buyer does require the seller to obtain insurance, the Incoterm CIF should be considered. CFR should only be used for non-containerized seafreight; for all other modes of transport it should be replaced with CPT.*

## CIF Cost, Insurance and Freight

*This term is broadly similar to the above CFR term, with the exception that the seller is required to obtain insurance for the goods while in transit to the named port of destination. CIF requires the seller to insure the goods for 110% of their value under at least the minimum cover of the Institute Cargo Clauses of the Institute of London Underwriters (which would be Institute Cargo Clauses (C)), or any similar set of clauses. The policy should be in the same currency as the contract. CIF should only be used for non-containerized seafreight; for all other modes of transport it should be replaced with CIP.*

### Allocations of costs to buyer/seller according to Incoterms 2010

Incoterm 2010	Export customs declaration	Carriage to port of export	Unloading of truck in port of export	Loading on vessel/ airplane in port of export	Carriage (Sea/ Air) to port of import	insurance	Unloading in port of import	Loading on truck in port in import	Carriage to place of destination	Import customs clearance	Import taxes
EXW	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer
FCA	Seller	Seller	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer
FAS	Seller	Seller	Seller	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer
FOB	Seller	Seller	Seller	Seller	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer
CPT	Seller	Seller	Seller	Seller	Seller	Buyer	Seller	Buyer	Seller	Buyer	Buyer
CFR(CNF)	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer
CIF	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer	Buyer	Buyer	Buyer
CIP	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Seller	Buyer	Buyer
DAT	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer	Buyer	Buyer
DAP	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer
DDP	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller

### Four groups of Incoterms

Group E (EXW)	lowest accomplishment of the exporter
Group F (FCA / FAS / FOB)	Exporter submits the goods to the carrier without paying the main transport
Group C (CFR / CIF / CPT / CIP)	Exporter bears the costs for main transport and minimum insurance. Risk transition take place at handing over the goods to the carrier
Group D (DAT / DAP / DDP)	Exporter takes all costs and risks until receipt of goods by Importer

## 2.7. ICC Rules

The International Chamber of Commerce ICC was established in 1919. It had as its primary objective facilitating the flow of international trade at a time when nationalism and protectionism posed serious threats to the world trading system.

There are two ways to become a member of ICC – either by affiliation with an ICC national committee or group or by direct membership when a national committee/group has not yet been established in the country.

The content of ICC's publications is based on the work of the ICC commissions, working groups and individual international experts.

### 2.7.1. UCP 600

The **Uniform Customs and Practice for Documentary Credits** (UCP) published by the ICC are a set of rules on the issuance and use of L/Cs. In 2007 the sixth revision has been published – being the UCP 600.

Below several of the most important articles are listed – extracted from ICC publication.

#### Article 2 - Definitions

*For the purpose of these rules:*

- **Advising bank** means the bank that advises the credit at the request of the issuing bank.
- **Applicant** means the party on whose request the credit is issued.
- **Banking day** means a day on which a bank is regularly open at the place at which an act subject to these rules is to be performed.
- **Beneficiary** means the party in whose favour a credit is issued.
- **Complying presentation** means a presentation that is in accordance with the terms and conditions of the credit, the applicable provisions of these rules and international standard banking practice.
- **Confirmation** means a definite undertaking of the confirming bank, in addition to that of the issuing bank, to honour or negotiate a complying presentation.
- **Confirming bank** means the bank that adds its confirmation to a credit upon the issuing bank's authorization or request.
- **Credit** means any arrangement, however named or described, that is irrevocable and thereby constitutes a definite undertaking of the issuing bank to honour a complying presentation.
- **Honour** means:
  1. to pay at sight if the credit is available by sight payment.
  2. to incur a deferred payment undertaking and pay at maturity if the credit is available by deferred payment.

*3.to accept a bill of exchange (draft) drawn by the beneficiary and pay at maturity if the credit is available by acceptance.*

■ **Issuing bank** means the bank that issues a credit at the request of an applicant or on its own behalf. Negotiation means the purchase by the nominated bank of drafts (drawn on a bank other than the nominated bank) and/or documents under a complying presentation, by advancing or agreeing to advance funds to the beneficiary on or before the banking day on which reimbursement is due to the nominated bank.

■ **Nominated Bank** means the bank with which the credit is available or any bank in the case of a credit available with any bank.

■ **Presentation** means either the delivery of documents under a credit to the issuing bank or nominated bank or the documents so delivered.

■ **Presenter** means a beneficiary, bank or other party that makes a presentation.

### Article 3 - Interpretations

*For the purpose of these rules:*

■ *Where applicable, words in the singular include the plural and in the plural include the singular.*

■ *A credit is irrevocable even if there is no indication to that effect.*

■ *A document may be signed by handwriting, facsimile signature, perforated signature, stamp, symbol or any other mechanical or electronic method of authentication.*

■ *A requirement for a document to be legalized, visaed, certified or similar will be satisfied by any signature, mark, stamp or label on the document which appears to satisfy that requirement.*

■ *Branches of a bank in different countries are considered to be separate banks.*

■ *Terms such as first class, well known, qualified, independent, official, competent or local used to describe the issuer of a document allow any issuer except the beneficiary to issue that document.*

■ *Unless required to be used in a document, words such as prompt, immediately or as soon as possible will be disregarded.*

■ *The expression on or about or similar will be interpreted as a stipulation that an event is to occur during a period of five calendar days before until five calendar days after the specified date, both start and end dates included.*

■ *The words to, until, till, from and between when used to determine a period of shipment include the date or dates mentioned, and the words before and after exclude the date mentioned.*

■ *The words from and after when used to determine a maturity date exclude the date mentioned.*

■ *The terms first half and second half of a month shall be construed respectively as the 1st to the 15th and the 16th to the last day of the month, all dates inclusive.*

■ *The terms beginning, middle and end of a month shall be construed respectively as the 1st to the 10th, the 11th to the 20th and the 21st to the last day of the month, all dates inclusive.*

## Article 4 - Credits v. Contracts

*1. A credit by its nature is a separate transaction from the sale or other contract on which it may be based. Banks are in no way concerned with or bound by such contract, even if any reference whatsoever to it is included in the credit. Consequently, the undertaking of a bank to honour, to negotiate or to fulfil any other obligation under the credit is not subject to claims or defences by the applicant resulting from its relationships with the issuing bank or the beneficiary. A beneficiary can in no case avail itself of the contractual relationships existing between banks or between the applicant and the issuing bank.*

*2. An issuing bank should discourage any attempt by the applicant to include, as an integral part of the credit, copies of the underlying contract, proforma invoice and the like.*

## Article 5 - Documents v. Goods, Services or Performance

*Banks deal with documents and not with goods, services or performance to which the documents may relate.*

## Article 7 - Issuing Bank Undertaking

*1. Provided that the stipulated documents are presented to the nominated bank or to the issuing bank and that they constitute a complying presentation, the issuing bank must honour if the credit is available by:*

- 1.sight payment, deferred payment or acceptance with the issuing bank;*
- 2.sight payment with a nominated bank and that nominated bank does not pay;*
- 3.deferred payment with a nominated bank and that nominated bank does not incur its deferred payment undertaking or; having incurred its deferred payment undertaking, does not pay at maturity;*
- 4.acceptance with a nominated bank and that nominated bank does not accept a draft drawn on it or; having accepted a draft drawn on it, does not pay at maturity;*
- 5.negotiation with another nominated bank and that nominated bank does not negotiate.*

*2. An issuing bank is irrevocably bound to honour as of the time it issues the credit.*

*3. An issuing bank undertakes to reimburse a nominated bank that has honoured or negotiated a complying presentation and forwarded the documents to the issuing bank. Reimbursement for the amount of a complying presentation under a credit available by acceptance or deferred payment is due at maturity, whether or not the nominated bank prepaid or purchased before maturity. An issuing bank's undertaking to reimburse a nominated bank is independent of the issuing bank's undertaking to the beneficiary.*

## Article 8 - Confirming Bank Undertaking

*1. Provided that the stipulated documents are presented to the confirming bank or to any other nominated bank and that they constitute a complying presentation, the confirming bank must:*

*1. honour, if the credit is available by*

*1.sight payment, deferred payment or acceptance with the confirming bank;*

*2.sight payment with another nominated bank and that nominated bank does not pay;*

*3.deferred payment with another nominated bank and that nominated bank does not incur its deferred payment undertaking or, having incurred its deferred payment undertaking, does not pay at maturity;*

*4.acceptance with another nominated bank and that nominated bank does not accept a draft drawn on it or, having accepted a draft drawn on it, does not pay at maturity;*

*5.negotiation with another nominated bank and that nominated bank does not negotiate.*

*2. negotiate, without recourse, if the credit is available by negotiation with the confirming bank.*

*2. A confirming bank is irrevocably bound to honour or negotiate as of the time it adds its confirmation to the credit.*

*3. A confirming bank undertakes to reimburse another nominated bank that has honoured or negotiated a complying presentation and forwarded the documents to the confirming bank. Reimbursement for the amount of a complying presentation under a credit available by acceptance or deferred payment is due at maturity, whether or not another nominated bank prepaid or purchased before maturity. A confirming bank's undertaking to reimburse another nominated bank is independent of the confirming bank's undertaking to the beneficiary.*

*4. If a bank is authorized or requested by the issuing bank to confirm a credit but is not prepared to do so, it must inform the issuing bank without delay and may advise the credit without confirmation.*

## Article 9 - Advising of Credits and Amendments

*1. A credit and any amendment may be advised to a beneficiary through an advising bank. An advising bank that is not a confirming bank advises the credit and any amendment without any undertaking to honour or negotiate.*

*2. By advising the credit or amendment, the advising bank signifies that it has satisfied itself as to the apparent authenticity of the credit or amendment and that the advice accurately reflects the terms and conditions of the credit or amendment received.*

*3. An advising bank may utilize the services of another bank (second advising bank) to advise the credit and any amendment to the beneficiary. By advising the credit or amendment, the*



*second advising bank signifies that it has satisfied itself as to the apparent authenticity of the advice it has received and that the advice accurately reflects the terms and conditions of the credit or amendment received.*

*4. A bank utilizing the services of an advising bank or second advising bank to advise a credit must use the same bank to advise any amendment thereto.*

*5. If a bank is requested to advise a credit or amendment but elects not to do so, it must so inform, without delay, the bank from which the credit, amendment or advice has been received.*

*6. If a bank is requested to advise a credit or amendment but cannot satisfy itself as to the apparent authenticity of the credit, the amendment or the advice, it must so inform, without delay, the bank from which the instructions appear to have been received. If the advising bank or second advising bank elects nonetheless to advise the credit or amendment, it must inform the beneficiary or second advising bank that it has not been able to satisfy itself as to the apparent authenticity of the credit, the amendment or the advice.*

## **Article 17 - Original Documents and Copies**

*1. At least one original of each document stipulated in the credit must be presented.*

*2. A bank shall treat as an original any document bearing an apparently original signature, mark, stamp, or label of the issuer of the document, unless the document itself indicates that it is not an original.*

*3. Unless a document indicates otherwise, a bank will also accept a document as original if it:*

- 1. appears to be written, typed, perforated or stamped by the document issuer's hand; or*
- 2. appears to be on the document issuer's original stationery; or*
- 3. states that it is original, unless the statement appears not to apply to the document presented.*

*4. If a credit requires presentation of copies of documents, presentation of either originals or copies is permitted.*

*5. If a credit requires presentation of multiple documents by using terms such as in duplicate, in two fold or in two copies, this will be satisfied by the presentation of at least one original and the remaining number in copies, except when the document itself indicates otherwise.*

## **Article 18 - Commercial Invoice**

*1. A commercial invoice:*

- ▶ *must appear to have been issued by the beneficiary (except as provided in article 38);*
- ▶ *must be made out in the name of the applicant (except as provided in sub-article 38 (g));*
- ▶ *must be made out in the same currency as the credit; and*
- ▶ *need not be signed.*

2. *A nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank may accept a commercial invoice issued for an amount in excess of the amount permitted by the credit, and its decision will be binding upon all parties, provided the bank in question has not honoured or negotiated for an amount in excess of that permitted by the credit.*
3. *The description of the goods, services or performance in a commercial invoice must correspond with that appearing in the credit.*

## **Article 19 - Transport Document Covering at Least Two Different Modes of Transport**

*1. A transport document covering at least two different modes of transport (multimodal or combined transport document), however named, must appear to:*

*1. indicate the name of the carrier and be signed by:*

- *the carrier or a named agent for or on behalf of the carrier, or*
- *the master or a named agent for or on behalf of the master.*

*Any signature by the carrier, master or agent must be identified as that of the carrier, master or agent. Any signature by an agent must indicate whether the agent has signed for or on behalf of the carrier or for or on behalf of the master.*

*2. indicate that the goods have been dispatched, taken in charge or shipped on board at the place stated in the credit, by:*

- *pre-printed wording, or*
- *a stamp or notation indicating the date on which the goods have been dispatched, taken in charge or shipped on board.*

*The date of issuance of the transport document will be deemed to be the date of dispatch, taking in charge or shipped on board, and the date of shipment. However, if the transport document indicates, by stamp or notation, a date of dispatch, taking in charge or shipped on board, this date will be deemed to be the date of shipment.*

*3. indicate the place of dispatch, taking in charge or shipment and the place of final destination stated in the credit, even if:*

- 1. the transport document states, in addition, a different place of dispatch, taking in charge or shipment or place of final destination, or*
- 2. the transport document contains the indication intended or similar qualification in relation to the vessel, port of loading or port of discharge.*

*4. be the sole original transport document or, if issued in more than one original, be the full set as indicated on the transport document.*

*5. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage (short form or blank back transport document). Contents of terms and conditions of carriage will not be examined.*

*6. contain no indication that it is subject to a charter party.*

*2. For the purpose of this article, transshipment means unloading from one means of conveyance and reloading to another means of conveyance (whether or not in different modes of transport) during the carriage from the place of dispatch, taking in charge or shipment to the place of final destination stated in the credit.*

3. *1.A transport document may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same transport document.*  
*2.A transport document indicating that transhipment will or may take place is acceptable, even if the credit prohibits transhipment.*

## **Article 20 - Bill of Lading**

*1. A bill of lading, however named, must appear to:*

*1.indicate the name of the carrier and be signed by:*

- *the carrier or a named agent for or on behalf of the carrier; or*
- *the master or a named agent for or on behalf of the master.*

*Any signature by the carrier, master or agent must be identified as that of the carrier, master or agent. Any signature by an agent must indicate whether the agent has signed for or on behalf of the carrier or for or on behalf of the master.*

*2.indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit by:*

- *pre-printed wording, or*
- *an on board notation indicating the date on which the goods have been shipped on board.*

*The date of issuance of the bill of lading will be deemed to be the date of shipment unless the bill of lading contains an on board notation indicating the date of shipment, in which case the date stated in the on board notation will be deemed to be the date of shipment.*

*If the bill of lading contains the indication intended vessel or similar qualification in relation to the name of the vessel, an on board notation indicating the date of shipment and the name of the actual vessel is required.*

*3.indicate shipment from the port of loading to the port of discharge stated in the credit.*

*If the bill of lading does not indicate the port of loading stated in the credit as the port of loading, or if it contains the indication intended or similar qualification in relation to the port of loading, an on board notation indicating the port of loading as stated in the credit, the date of shipment and the name of the vessel is required. This provision applies even when loading on board or shipment on a named vessel is indicated by pre-printed wording on the bill of lading.*

*4.be the sole original bill of lading or; if issued in more than one original, be the full set as indicated on the bill of lading.*

*5.contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage (short form or blank back bill of lading). Contents of terms and conditions of carriage will not be examined.*

*6.contain no indication that it is subject to a charter party.*

*2. For the purpose of this article, transhipment means unloading from one vessel and reloading to another vessel during the carriage from the port of loading to the port of discharge stated in the credit.*

3. *1.A bill of lading may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same bill of lading.  
2.A bill of lading indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment, if the goods have been shipped in a container, trailer or LASH barge as evidenced by the bill of lading.*
4. *Clauses in a bill of lading stating that the carrier reserves the right to tranship will be disregarded.*

### **Article 23 - Air Transport Document**

*1. An air transport document, however named, must appear to indicate the name of the carrier and be signed by:*

- the carrier, or*
- a named agent for or on behalf of the carrier.*

*Any signature by the carrier or agent must be identified as that of the carrier or agent.*

*Any signature by an agent must indicate that the agent has signed for or on behalf of the carrier.*

- 2. indicate that the goods have been accepted for carriage.*
- 3. indicate the date of issuance. This date will be deemed to be the date of shipment unless the air transport document contains a specific notation of the actual date of shipment, in which case the date stated in the notation will be deemed to be the date of shipment. Any other information appearing on the air transport document relative to the flight number and date will not be considered in determining the date of shipment.*
- 4. indicate the airport of departure and the airport of destination stated in the credit.*
- 5. be the original for consignor or shipper, even if the credit stipulates a full set of originals.*
- 6. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage. Contents of terms and conditions of carriage will not be examined.*
- 7. For the purpose of this article, transshipment means unloading from one aircraft and reloading to another aircraft during the carriage from the airport of departure to the airport of destination stated in the credit.*

*1. An air transport document may indicate that the goods will or may be transhipped, provided that the entire carriage is covered by one and the same air transport document.*

*2. An air transport document indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment.*

### **Article 24 - Road, Rail or Inland Waterway Transport Documents**

*1. A road, rail or inland waterway transport document, however named, must appear to:*

*1. i. indicate the name of the carrier and:*

- be signed by the carrier or a named agent for or on behalf of the carrier; or*
- indicate receipt of the goods by signature, stamp or notation by the carrier or a named agent for or on behalf of the carrier.*

*Any signature, stamp or notation of receipt of the goods by the carrier or agent must be identified as that of the carrier or agent.*

*Any signature, stamp or notation of receipt of the goods by the agent must indicate that the agent has signed or acted for or on behalf of the carrier.*

*If a rail transport document does not identify the carrier, any signature or stamp of the railway company will be accepted as evidence of the document being signed by the carrier.*

*2. indicate the date of shipment or the date the goods have been received for shipment, dispatch or carriage at the place stated in the credit. Unless the transport document contains a dated reception stamp, an indication of the date of receipt or a date of shipment, the date of issuance of the transport document will be deemed to be the date of shipment.*

*3. indicate the place of shipment and the place of destination stated in the credit.*

2.
  - 1. A road transport document must appear to be the original for consignor or shipper or bear no marking indicating for whom the document has been prepared.*
  - 2. A rail transport document marked duplicate will be accepted as an original.*
  - 3. A rail or inland waterway transport document will be accepted as an original whether marked as an original or not.*
- 3. In the absence of an indication on the transport document as to the number of originals issued, the number presented will be deemed to constitute a full set.*
- 4. For the purpose of this article, transshipment means unloading from one means of conveyance and reloading to another means of conveyance, within the same mode of transport, during the carriage from the place of shipment, dispatch or carriage to the place of destination stated in the credit.*
5.
  - 1. A road, rail or inland waterway transport document may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same transport document.*
  - 2. A road, rail or inland waterway transport document indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment.*

## **Article 27 - Clean Transport Document**

*A bank will only accept a clean transport document. A clean transport document is one bearing no clause or notation expressly declaring a defective condition of the goods or their packaging. The word clean need not appear on a transport document, even if a credit has a requirement for that transport document to be clean on board.*

## **Article 28 - Insurance Document and Coverage**

*1. An insurance document, such as an insurance policy, an insurance certificate or a declaration under an open cover, must appear to be issued and signed by an insurance company, an underwriter or their agents or their proxies.*

*Any signature by an agent or proxy must indicate whether the agent or proxy has signed for or on behalf of the insurance company or underwriter.*

- 2. When the insurance document indicates that it has been issued in more than one original, all originals must be presented.*
- 3. Cover notes will not be accepted.*
- 4. An insurance policy is acceptable in lieu of an insurance certificate or a declaration under an open cover.*
- 5. The date of the insurance document must be no later than the date of shipment, unless it appears from the insurance document that the cover is effective from a date not later than the date of shipment.*
- 6.     1. The insurance document must indicate the amount of insurance coverage and be in the same currency as the credit.*  
*2. A requirement in the credit for insurance coverage to be for a percentage of the value of the goods, of the invoice value or similar is deemed to be the minimum amount of coverage required.*  
*If there is no indication in the credit of the insurance coverage required, the amount of insurance coverage must be at least 110% of the CIF or CIP value of the goods. When the CIF or CIP value cannot be determined from the documents, the amount of insurance coverage must be calculated on the basis of the amount for which honour or negotiation is requested or the gross value of the goods as shown on the invoice, whichever is greater.*  
*3. The insurance document must indicate that risks are covered at least between the place of taking in charge or shipment and the place of discharge or final destination as stated in the credit.*
- 7. A credit should state the type of insurance required and, if any, the additional risks to be covered. An insurance document will be accepted without regard to any risks that are not covered if the credit uses imprecise terms such as usual risks or customary risks.*
- 8. When a credit requires insurance against all risks and an insurance document is presented containing any all risks notation or clause, whether or not bearing the heading all risks, the insurance document will be accepted without regard to any risks stated to be excluded.*
- 9. An insurance document may contain reference to any exclusion clause.*
- 10. An insurance document may indicate that the cover is subject to a franchise or excess (deductible).*

## **Article 29 - Expiry Date**

- 1. If the expiry date of a credit or the last day for presentation falls on a day when the bank to which presentation is to be made is closed for reasons other than those referred to in article 36, the expiry date or the last day for presentation, as the case may be, will be extended to the first following banking day.*

2. *If presentation is made on the first following banking day, a nominated bank must provide the issuing bank or confirming bank with a statement on its covering schedule that the presentation was made within the time limits extended in accordance with sub-article 29 (a).*
3. *The latest date for shipment will not be extended as a result of sub-article 29 (a).*

### **Article 30 - Tolerance in Credit Amount, Quantity and Unit Prices**

1. *The words about or approximately used in connection with the amount of the credit or the quantity or the unit price stated in the credit are to be construed as allowing a tolerance not to exceed 10% more or 10% less than the amount, the quantity or the unit price to which they refer.*
2. *A tolerance not to exceed 5% more or 5% less than the quantity of the goods is allowed, provided the credit does not state the quantity in terms of a stipulated number of packing units or individual items and the total amount of the drawings does not exceed the amount of the credit.*
3. *Even when partial shipments are not allowed, a tolerance not to exceed 5% less than the amount of the credit is allowed, provided that the quantity of the goods, if stated in the credit, is shipped in full and a unit price, if stated in the credit, is not reduced or that sub-article 30 (b) is not applicable. This tolerance does not apply when the credit stipulates a specific tolerance or uses the expressions referred to in sub-article 30 (a).*

### **Article 31 - Partial Drawings or Shipments**

1. *Partial drawings or shipments are allowed.*
2. *A presentation consisting of more than one set of transport documents evidencing shipment commencing on the same means of conveyance and for the same journey, provided they indicate the same destination, will not be regarded as covering a partial shipment, even if they indicate different dates of shipment or different ports of loading, places of taking in charge or dispatch. If the presentation consists of more than one set of transport documents, the latest date of shipment as evidenced on any of the sets of transport documents will be regarded as the date of shipment.*  
*A presentation consisting of one or more sets of transport documents evidencing shipment on more than one means of conveyance within the same mode of transport will be regarded as covering a partial shipment, even if the means of conveyance leave on the same day for the same destination.*
3. *A presentation consisting of more than one courier receipt, post receipt or certificate of posting will not be regarded as a partial shipment if the courier receipts, post receipts or certificates of posting appear to have been stamped or signed by the same courier or postal service at the same place and date and for the same destination.*

## Article 36 - Force Majeure

*A bank assumes no liability or responsibility for the consequences arising out of the interruption of its business by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, or by any strikes or lockouts or any other causes beyond its control.*

*A bank will not, upon resumption of its business, honour or negotiate under a credit that expired during such interruption of its business.*

## Article 38 - Transferable Credits

*1. A bank is under no obligation to transfer a credit except to the extent and in the manner expressly consented to by that bank.*

*2. For the purpose of this article:*

*Transferable credit means a credit that specifically states it is transferable. A transferable credit may be made available in whole or in part to another beneficiary (second beneficiary) at the request of the beneficiary (first beneficiary).*

*Transferring bank means a nominated bank that transfers the credit or, in a credit available with any bank, a bank that is specifically authorized by the issuing bank to transfer and that transfers the credit. An issuing bank may be a transferring bank.*

*Transferred credit means a credit that has been made available by the transferring bank to a second beneficiary.*

*3. Unless otherwise agreed at the time of transfer, all charges (such as commissions, fees, costs or expenses) incurred in respect of a transfer must be paid by the first beneficiary.*

*4. A credit may be transferred in part to more than one second beneficiary provided partial drawings or shipments are allowed.*

*A transferred credit cannot be transferred at the request of a second beneficiary to any subsequent beneficiary. The first beneficiary is not considered to be a subsequent beneficiary.*

*Any request for transfer must indicate if and under what conditions amendments may be advised to the second beneficiary. The transferred credit must clearly indicate those conditions.*

*5. If a credit is transferred to more than one second beneficiary, rejection of an amendment by one or more second beneficiary does not invalidate the acceptance by any other second beneficiary, with respect to which the transferred credit will be amended accordingly. For any second beneficiary that rejected the amendment, the transferred credit will remain unamended.*

*6. The transferred credit must accurately reflect the terms and conditions of the credit, including confirmation, if any, with the exception of:*

- ▶ *the amount of the credit,*
  - ▶ *any unit price stated therein,*
  - ▶ *the expiry date,*
  - ▶ *the period for presentation, or*
  - ▶ *the latest shipment date or given period for shipment,*
- any or all of which may be reduced or curtailed.*



*The percentage for which insurance cover must be effected may be increased to provide the amount of cover stipulated in the credit or these articles.*

*The name of the first beneficiary may be substituted for that of the applicant in the credit.*

*If the name of the applicant is specifically required by the credit to appear in any document other than the invoice, such requirement must be reflected in the transferred credit.*

*7. The first beneficiary has the right to substitute its own invoice and draft, if any, for those of a second beneficiary for an amount not in excess of that stipulated in the credit, and upon such substitution the first beneficiary can draw under the credit for the difference, if any, between its invoice and the invoice of a second beneficiary.*

*8. If the first beneficiary is to present its own invoice and draft, if any, but fails to do so on first demand, or if the invoices presented by the first beneficiary create discrepancies that did not exist in the presentation made by the second beneficiary and the first beneficiary fails to correct them on first demand, the transferring bank has the right to present the documents as received from the second beneficiary to the issuing bank, without further responsibility to the first beneficiary.*

*9. The first beneficiary may, in its request for transfer, indicate that honour or negotiation is to be effected to a second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the credit. This is without prejudice to the right of the first beneficiary in accordance with sub-article 38 (h).*

*10. Presentation of documents by or on behalf of a second beneficiary must be made to the transferring bank.*

## 2.7.2. ISBP 745

The ISBP 745 International Standard Banking Practice revision was approved in April 2013 by the ICC International Banking Commission in Lisbon

► The publication is to be read in conjunction with UCP 600 and not in isolation.”

► The practices described in this publication highlight how the articles of UCP 600 are to be interpreted and applied, to the extent that the terms and conditions of the credit, or any amendment thereto, do not expressly modify or exclude an applicable article in UCP 600.

Below several of the most important articles are listed – extracted from ICC publication.

### General Principles

■ *Copies of transport documents covered by UCP 600 articles 19 – 25*

A6) a. UCP 600 art. 19 – 25 refer only to **original** documents **not** to copies.

Copy documents to be examined **only** under UCP 600 art.14(f)

A6) b. Data shown on the copy need not to be identical but must not conflict

A6) c. **Copies** of transport documents are **not automatically subject** to the presentation period as per UCP 600 art. 14(c)

■ *Correction and alteration*

A7) b ii. *Correction of data in a document other than one issued by the beneficiary:*

- ▶ *Authentication by at least one of the entities that legalized*
- ▶ *By use of a stamp incorporation its name or name with signature or initials*

A7) c. *Copy document – corrections need not be authenticated*

■ *Courier and post receipt in respect of the sending of documents*

A10) *Such document is to be examined only to the extent expressly stated in the credit otherwise according to UCP 600 sub-article 14 (f) and not under UCP 600 art. 25*

■ *Documents and the need for completion of a box, field or space*

A17/ A37) *Data to appear in any box, field or space does not necessarily mean is to be completed*

*Example: Air waybill : “Accounting Information” or “Handling Information”*

■ *Expressions not defined in UCP 600*

A19) a. **“shipping documents”** – also include “Courier Receipts, postal Receipts or certificates of posting evidencing the sending of documents”

A19) b. **“stale documents acceptable”** – extended by: “This will also apply when the credit specifies a period for presentation together with the condition ”stale documents acceptable”

A19) c. **“third party documents acceptable”** – “all documents for which the credit or UCP 600 do not indicate an issuer, except drafts, may be issued by a named person or entity other than the beneficiary”

A19) d. **“third party documents not acceptable”** – “has no meaning and is to be disregarded”

■ *Language*

A21) a. *Credit stipulates the language of the documents – documents are to be in that language*

A21) b. *Credit is silent with respect to the language of the documents – Documents may be issued in any language*

A21) c. *Credit allows two or more acceptable languages – Confirming/nominated bank may restrict the number of acceptable languages*

A21) d. *Data additional to that required or allowed in the credit – banks do not examine*

A21) e. *Name of a person or entity, any stamps, legalization, endorsement or similar and pre-printed text shown on a document may be in a language other than that in the credit*

■ *Originals and Copies*

A 29) d. iv. **“photocopy of a signed invoice”**

- ▶ *presentation of a photocopy of the original invoice that was apparently signed*
- ▶ *if not prohibited – a signed original invoice*

A 31) a. *Must an original be signed?*

- ▶ *required by the credit*

- ▶ required by the document itself
- ▶ required as per UCP 600

■ *Shipping marks, title of documents and combined documents*

A32) *Credit specifies details of a shipping mark*

- ▶ documents mentioning shipping mark are to show those details
- ▶ need not to be in the same sequence

A41) *Credit: document is to cover more than one function:*

- ▶ as a single document or separate
- ▶ to be presented in the number of originals and copies as required
- ▶ fulfill its function"

*Example: Presentation of a Certificate of Quality and quantity:*

- ▶ presentation of one document
- or
- ▶ presentation of two separate documents

## Invoices

■ *Title and Issuer of an invoice*

C1) *Title:*

- ▶ all title are possible
- ▶ not "provisional", "pro-forma" or similar
- ▶ Credit: "commercial invoice" title "invoice" sufficient, even containing statement to be issued for tax purposes

C2) a. *Issuer = beneficiary see also UCP 600 art.18 a.i.*

b. *beneficiary/second beneficiary has changed its name and credit mentions the former name*  
 => *invoice may be issued in the name of the new entity provided indicates "formerly known as (name of the beneficiary or second beneficiary)" or similar*

■ *Description of the goods in invoices*

C5) *Additional data in respect of the goods, services or performances are not to refer to a different nature, classification or category of the goods, services or performance*

*Example: "Suede Shoes" but not "Imitation Suede Shoes"*

*"Hydraulic Drilling Rig" but not "Second Hand Hydraulic Drilling Rig"*

C8) *"trade terms" part of the goods description in the credit => invoice is to indicate that trade term*

*Example: "CIF Singapore Incoterms2010" not "CIF Singapore" not "CIF Singapore Incoterms"*

*But*

*"CIF Singapore" also possible "CIF Singapore Incoterms" or "CIF Singapore Incoterms 2010"*

## Transport documents

- “Multimodal or Combined Transport document” Application of UCP 600 art. 19

D1) c. Credit:

- ▶ not requires a presentation of a multimodal transport document however
- ▶ clear from routing of the goods that more than one mode of transport to be utilized  
=> presented document to be examined according to UCP 600 art.19

**Example:** Credit indicates a port of loading or discharge with a place which is an inland place and not a port

- Port of Loading - Port of Discharge

Applicable for multimodal or combined transport document, Bill of Lading, Non-negotiable Sea Waybill, Charter Party Bill of Lading

Transport document has to indicate the place stated in the credit not needed to indicate country nor geographical area

Example: Yangon sufficient „Myanmar“ and/or „Asia“ not necessary

E6) Bill of Lading indicates more than one port of loading

- => to evidence a dated on board notation for each port of loading regardless whether pre-printed “received for shipment” / “shipped on board”

**Example:** shipment effected from Brisbane and Adelaide => For both port of loading a dated on board notation necessary

- Corrections and alterations on a transport document according to UCP 600 art. 19 – 25

Correction on a transport document is to be authenticated by:

- ▶ **For multimodal or combined transport document, Bill of Lading and non-negotiable See Waybill:** carrier, master (captain) or any one of their named agents
- ▶ **For Charter Party Bill of Lading:** master (captain), owner, charterer
- ▶ **For Air transport document:** Carrier
- ▶ **For Road, Rail or Inland Waterway transport document:** Carrier

or

any one of its named agent who may be different from the agent that may have issued or signed the document provided they are identified as an agent of the carrier or master (captain) or owner or charterer (in case of Charter Party) as the case may be.

## Air Transport Document“

- Issuance

H5) c. Carrier: to be identified by its name instead of an IATA airline code not LH but Lufthansa, not SQ but Singapore Airlines

H13) b. Credit requires “to order” without further naming the entity: goods are to be consigned to: issuing bank or applicant without need to mention: „to order“

## Insurance Document and Coverage

### ■ Issuance Date

K10)

- ▶ not to indicate that cover is effective from a date later than the date of shipment
- ▶ in case date of issuance is later than the date of shipment: insurance document has to clearly indicate coverage is effective from a date not later than the date of shipment

K11)

- ▶ absence of issuance date or effective date: countersignature date to be deemed as evidence

### ■ Insurance Document

K20) a. Credit should indicate the name of an insured party and should not require to be issued „to bearer“ or „to order“

K 20) b. Credit: insurance document "to order of (named entity)"

"to order" – need not to be indicated mandatory but: named entity is shown as the insured party or claims payable to it and assignment by endorsement is not expressly prohibited.

K22) no examination of "general terms and conditions"

## Certificate of Origin

### ■ Issuance

L2) Credit requires presentation of a specific form of Certificate of Origin e.g. GSP Form A – means that only that specific form to be presented.

L3) c.i issued by the beneficiary/exporter/manufacture -> possible also issued by Chamber of Commerce/ Industry provided the beneficiary/exporter/manufacture is indicated

L3) c.ii. issued by a Chamber of Commerce: also possible issuance by Chamber of Industry, Association of Industry, Economic Chamber or the like

## Certificates

### ■ Issuance of Certificate, Packing List, Weight List etc

Every named document is possible as long as it fulfills its function by containing the data and certification required by the credit

**Example:** Information as of the packing, weight, outcome of the required action, for example results of the analysis, inspection

### ■ Contents of Analysis, Inspection and other certificates

Q6)

- ▶ only a sample of the required goods
- ▶ a quantity that is greater than that stated in the credit or any other document
- ▶ more hold, compartment or tank numbers than that stated on the Bill of Lading or Charter Party Bill of Lading

Q7)

- ▶ *specific requirements with respect to analysis, inspection etc.*
- ▶ *with or without stipulation of the document*
- ▶ *data on the certificate or on any other document -> not to conflict*

■ *Consignee and Consignor*

Q9) **Consignee information**

- ▶ *Not to conflict with the consignee information in the transport document*

*In case issued “to order”, “to the order of shipper”, “to order of issuing bank”, “to order of nominated bank (or negotiating bank)” or “consigned to issuing bank” as consignee: any entity named in the credit except beneficiary*

### 2.7.3. URDG 758

#### ICC Rules currently in place for Guarantees

- Uniform Rules for Contract Guarantees (“URCG”) - ICC- Publication no. 325 - 1978
- Uniform Rules for Demand Guarantees (“URDG”) - ICC Publication no. 458 - 1992
- Uniform Rules for Demand Guarantees (“URDG”) - ICC Publication no. 758 - 2010

**Note:** versions prior to ICC 758 were never set out of order, therefore they are still valid, even if not used anymore

Below several of the most important articles are listed – extracted from ICC publication.

**Articles 2- 3:** *Definitions and Interpretations (following the concept in UCP 600 articles 2-3)*

*Examples: Applicant, Authenticated, Beneficiary, Business Day, Complying Demand, Counter-Guarantee, Document, Expiry Date, Presentation, Signed, Supporting Statement*  
*Interpretations of terms, article 3 such as: From / Before / Within / First class / well-known /local*

**Article 6:** *Guarantor deals with documents and not with goods, services or performance to which the documents may relate (same position as UCP 600 article 6)*

**Article 7:** *Non - documentary conditions will be deemed as not stated and disregarded (comparable to UCP 600 article 14h)*

**Article 8:** *Content of the instructions to issue a guarantee or amendment must be clear and precise and without excessive details, (same position as UCP 600 article 8)*

*All instructions for the issue of guarantees and guarantees themselves should be clear and precise and should avoid excessive details. It is recommended that all guarantees specify:*

- a) the applicant;*
- b) the beneficiary;*
- c) the guarantor;*
- d) a reference number or other information identifying the underlying relationship;*
- e) a reference number or other information identifying the issued guarantee or, in the case of a counter-guarantee, the issued counter-guarantee;*
- f) the amount or maximum amount payable and the currency in which it is payable;*
- g) the expiry of the guarantee;*
- h) any terms for demanding payment;*
- i) whether a demand or other document shall be presented in paper and/or electronic form;*
- j) the language of any document specified in the guarantee;*
- k) the party liable for the payment of any charges*

#### **Articles 14 – 18: Rules for Presentations and Demands**

*Comprehensive paragraphs, which represent one major new block of URDG 758 stipulating i.a.*

- *The guarantee must state where it is available and the place for presentation*
- *A presentation consists on a demand and - if required – complying and accompanying documents*
- *The beneficiary is entitled to payment upon presentation of a complying demand without the need to seek the applicant's approval*
- *Must contain within itself or another document an indication of the respect in which the applicant is in breach ( similar to article 20 URDG 458)*
- *Information of instructing party about demand or extension of expiry of the guarantee to be given without delay*
- *Partial and multiple demands may be made. Supporting documents must be consistent with the demand*

#### **Articles 19 – 20: Rules for Examination of a presentation**

*If a presentation of a demand does not indicate that it is to be completed later, Guarantor within five days following the day of presentation, shall examine a demand and determine if it is a complying demand.*

- *Rule clarifies article 10a URDG 458 which stipulated “ Reasonable time” for examination, follows UCP 600 article 14 b*
- *Presentation will be examined and determined on the basis whether it appears compliant on its face. Similar to UCP 600 article 14a*
- *Data in documents presented need not to be identical but shall not conflict with each other*
- *A document that is not required will be disregarded*

**Article 23: Rule for Extend or pay**

*Where a complying demand includes, as an alternative, a request to extend the expiry, the guarantor may suspend payment for a period not exceeding 30 calendar days following its receipt of a demand*

- *Guarantor is not obliged to follow such a request*

**Article 24: Rule for Non-complying demand**

*Comprehensive paragraph stipulating i.a.*

- *when a guarantor rejects a demand, it shall give a single notice not later than 5 business days following the day of presentation to that effect to the presenter of the demand. The notice shall state:*
  - ▶ *that the guarantor is rejecting the demand, and*
  - ▶ *each discrepancy for which the guarantor rejects the demand*
- *Risk of conflict of interests for guarantor acting “between” applicant and beneficiary*
- *May help and assist beneficiary to make his demand “compliant”*

**Article 25: Rule for Reduction and Termination**

*Comprehensive paragraph stipulating i. a. in section c:*

- *“If the guarantee...states no expiry date or expiry event, the guarantee shall terminate after the lapse of three years from the date of issue...”*
- *Practical relevance yet to be proven in particular in business with public and / or state (owned) authorities, organization and entities*
- *Risk of collision with applicable and relevant local law*

**Article 26: Rule of Force Majeure**

*New and comprehensive paragraph stipulating i.a.:*

- *Cases of Force Majeure such as “acts of God, riots, civil commotions, war, act of terrorism or any causes beyond the control of the guarantor “*
- *Extension of guarantee for a period of 30 calendar days if the guarantee had expired at a time when presentation ... would have been prevented by Force Majeure*
- *The instructing party (and the guarantor) shall be bound by any extension*
- *Unlike in UCP 600 article 36 the risk and burden of Force Majeure is now put on instructing party and guaranteeing bank*
- *Higher credit risk for guaranteeing bank*
- *But no theoretical open-ended commitment as in ISP 98 3.14a*

**Articles 27 – 29: Rules of disclaimer**

*No liability of guarantor or responsibility for content, make up, genuineness, effectiveness of documents or signatures on documents*



- *No liability of guarantor or responsibility for content, make up, handling, loss, delay in transmitting or translating of documents*
- *No liability of guarantor or responsibility for acts or services of another party or person being instructed to use their service.*

**Article 33:** *Rule of Transfer of guarantee and assignment of proceed, New and comprehensive paragraph stipulating i.a.:*

- *Possibility of transfer of a guarantee to a “new beneficiary” as transferee*
- *with all rights and obligations out of the guarantee*
- *Rule clarifies URDG 458 article 4 and follows UCP 600 article 39 with regard to assignment of proceeds*

**Articles 34 – 35:** *Rules of Governing Law and Jurisdiction*  
*URDG 758 does not overrule local law and / or jurisdiction*

- *Unless otherwise provided the applicable law and jurisdiction is linked to the location of the guarantor’s branch or office*

#### **2.7.4. ISP98**

The International Standby Practices 1998 (ISP98) of the ICC (Publication 590), which are rules for Standby Letter of Credits, are effective since 1999.

ISP98 was designed to facilitate the domestic and international use of standby letters of credit

Below several of the most important articles are listed – extracted from ICC publication.

#### **Rule 1 – General Provisions – general provisions**

##### *Rule 1.06 – Nature of Standby*

- *A standby is an irrevocable, independent, documentary and binding undertaking when issued and need not so state.*
- *Because a standby is irrevocable, an issuer’s obligations under a standby cannot be amended or cancelled*

*By the issuer except as provided in the standby or as consented to by the person against whom the amendment or cancellation is asserted.*  
*irrevocable and need not so state.*

*An ISP 98 Standby need not state that it is irrevocable or that the issuer’s obligations are independent and not*

*Conditioned on payment by applicant or anyone else. ISP98 Rule 1.06 makes clear that these attributes are part of the nature of standby L/Cs*

## **Rule 1 – General Provisions – Terminology**

### *Rule 1.09*

#### *(a) Definitions:*

- **“Applicant”** is a person who applies for issuance of a standby or for whose account it is issued, and includes a person applying in its own name but for the account of another person or (ii) an issuer acting for its own account.
- **“Beneficiary”** is a named person who is entitled to draw under a standby.
- **“Business day”** means a day on which the place of business at which the relevant act is to be performed is regularly open; and
- **“Banking day”** means a day on which the relevant bank is regularly open at the place at which the relevant act is to be performed.
- **“Confirmer”** is a person who, upon an issuer’s nomination to do so, adds to the issuer’s undertaking its own undertaking to honour a standby.
- **“Demand”** means, depending on the context, either a request to honour a standby or a document that makes such request.
- **“Document”** means a draft, demand, document of title, investment security, invoice, certificate of default, or any other representation of fact, law, right, or opinion, that upon presentation (whether in a paper or electronic medium), is capable of being examined for compliance with the terms and conditions of a standby.
- **“Drawing”** means, depending on the context, either a demand presented or a demand honoured.
- **“Expiration date”** means the latest day for a complying presentation provided in a standby.
- **“Person”** includes a natural person, partnership, corporation, limited liability company, government agency, bank, trustee, and any other legal or commercial association or entity.
- **“Presentation”** means, depending on the context, either the act of delivering documents for examination under a standby or the documents so delivered.
- **“Presenter”** is a person who makes a presentation as or on behalf of a beneficiary or nominated person.
- **“Signature”** includes any symbol executed or adopted by a person with a present intent to authenticate a document.

### **Rule 1.10 - Redundant or otherwise undesirable terms**

- A standby should not or need not state that it is:
  - (i) unconditional or abstract (if it does, it signifies
  - (ii) absolute (if it does, it signifies merely that it is
  - (iii) primary (if it does, it signifies merely that it is the

- (iv) payable from the issuer's own funds (if it does, it signifies merely that payment under it does not depend on the availability of applicant funds and is made to satisfy the issuer's own independent obligation);
- (v) clean or payable on demand (if it does, it signifies merely that it is payable upon presentation of a written demand or other documents specified in the standby).

■ A standby should not use the term "and/or" (if it does it means either or both).

■ The following terms have no single accepted meaning:

- (i) and shall be disregarded: callable", "divisible", "fractionable", "indivisible", and "transmissible".
- (ii) and shall be disregarded unless their context gives them meaning: "assignable", "evergreen", "reinstate", and "revolving".

### **Rule 3 – Presentation**

#### **Rule 3.01 - Complying presentation under a standby**

A standby should indicate the time, place and location within that place, person to whom, and medium in which presentation should be made. If so, presentation must be so made in order to comply.

To the extent that a standby does not so indicate, presentation must be made in accordance with these Rules in order to be complying.

#### **Rule 3.05 - When timely presentation made ?**

- A presentation is timely if made at any time after issuance and before expiry on the expiration date.
- A presentation made after the close of business at the place of presentation is deemed to have been made on the next business day.

#### **Rule 3.07 – Separateness of each presentation**

■ Making a non-complying presentation, withdrawing a presentation, or failing to make any one of a number of scheduled or permitted presentations does not waive or otherwise prejudice the right to make another timely presentation or a timely re-presentation whether or not the standby prohibits partial or multiple drawings or presentations.

#### **Rule 3.08 – Partial drawing and multiple presentations; amount of drawings**

- A presentation may be made for less than the full amount available ("partial drawing").
- More than one presentation ("multiple presentations") may be made.
- The statement "partial drawings prohibited" or a similar expression means that a presentation must be for the full amount available.
- The statement "multiple drawings prohibited" or a similar expression means that only one

*presentation may be made and honoured but that it may be for less than the full amount available.*

- *If a demand exceeds the amount available under the standby, the drawing is discrepant. Any document other than the demand stating an amount in excess of the amount demanded is not discrepant for that reason.*
- *Use of “approximately”, “about”, “circa”, or a similar word permits a tolerance not to exceed 10 per cent more or 10 per cent less of the amount to which such word refers.*

#### *Rule 3.11 - Issuer waiver and applicant consent to waiver of presentation rules*

*In addition to other discretionary provisions in a standby or these Rules, an issuer may, in its sole discretion, without notice to or consent of the applicant and without effect on the applicant's obligations to the issuer, waive:*

- *the following Rules and any similar terms stated in the standby which are primarily for the issuer's benefit or operational convenience:*
  - (i) *treatment of documents received, at the request of the presenter, as having been presented at a later date (Rule 3.02);*
  - (ii) *identification of a presentation to the standby under which it is presented (Rule 3.03(a);*
  - (iii) *where and to whom presentation is made (Rule 3.04(b), (c), and (d)), except the country of presentation stated in the standby; or*
  - (iv) *treatment of a presentation made after the close of business as if it were made on the next business day (Rule 3.05(b)).*

#### *Rule -3.12 - Original standby lost, stolen, mutilated, or destroyed*

- *If an original standby is lost, stolen, mutilated, or destroyed, the issuer need not replace it or waive any requirement that the original be presented under the standby.*
- *If the issuer agrees to replace an original standby or to waive a requirement for its presentation, it may provide a replacement or copy to the beneficiary without affecting the applicant's obligations to the issuer to reimburse, but, if it does so, the issuer must mark the replacement or copy as such. The issuer may, in its sole discretion, require indemnities satisfactory to it from the beneficiary and assurances has been made.*

### **Rule 3 – Closure on expiry date**

#### *Rule 3.13 – Expiration date on a non-business day*

- (a) *If the last day for presentation stated in a standby (whether stated to be the expiration date or the date by which documents must be received) is not a business day of the issuer or nominated person where presentation is to be made, then presentation made there on the first following business day shall be deemed timely.*

*Rule 3.14 – Closure on a business day and authorization of another reasonable place for presentation*

*(a) If on the last business day for presentation the place for presentation stated in a standby is for any reason closed and presentation is not timely made because of the closure, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens business, unless the standby otherwise provides.*

## **Rule 4 – Examination**

*Rule 4.02 - Non-examination of extraneous documents*

*Documents presented which are not required by the standby need not be examined and, in any event, shall be disregarded for purposes of determining compliance of the presentation. They may without responsibility be returned to the presenter or passed on with the other documents presented.*

*Rule 4.03 - Examination for inconsistency*

*An issuer or nominated person is required to examine documents for inconsistency with each other only to the extent provided in the standby.*

*Rule 4.04 - Language of documents*

*The language of all documents issued by the beneficiary is to be that of the standby.*

*Rule 4.05 – Issuer of documents*

*Any required document must be issued by the beneficiary unless the standby indicates that the document is to be issued by a third person or the document is of a type that standard standby practice requires to be issued by a third person.*

*Rule 4.06 - Date of documents*

*The issuance date of a required document later than the date of its presentation.*

*Rule 4.07 - Required signature on a document*

■ *A required document need not be signed unless the standby indicates that the document must be signed or the document is of a type that standard standby practice requires be signed.*

■ *A required signature may be made in any manner that corresponds to the medium in which the signed document is presented.*

## ***Rule 5 – Notice, Preclusion and Disposition of Documents***

### ***Rule 5.01 - Timely notice of dishonor***

■ *Notice of dishonour must be given within a time after presentation of documents which is not unreasonable.*

*(i) Notice given within three business days is deemed to be not unreasonable and beyond seven business days is deemed to be unreasonable.*

*(ii) Whether the time within which notice is given is unreasonable does not depend upon an imminent deadline for presentation.*

*(iii) The time for calculating when notice of dishonor must be given begins on the business day following the business day of presentation.*

*(iv) Unless a standby otherwise expressly states a shortened time within which notice of dishonour must be given, the issuer has no obligation to accelerate its examination of a presentation.*

## ***Rule 7: Cancellation***

### ***Rule 7.01 - When an irrevocable standby is cancelled or terminated***

*A beneficiary's rights under a standby may not be cancelled without its consent. Consent may be evidenced in writing or by an action such as return of the original standby in a manner which implies that the beneficiary consents to cancellation. A beneficiary's consent to cancellation is irrevocable when communicated to the issuer.*

### ***Rule 7.02 - Issuer's discretion regarding a decision to cancel***

*Before acceding to a beneficiary's authorization to cancel and treating the standby as cancelled for all purposes, an issuer may require in a manner satisfactory as to form and substance:*

- *the original standby;*
- *verification of the signature of the person signing for the beneficiary;*
- *verification of the authorization of the person signing for the beneficiary;*
- *a legal opinion;*
- *an irrevocable authority signed by the beneficiary for cancellation that includes statements, covenants, indemnities, and similar provisions contained in a required form;*
- *satisfaction that the obligation of any confirmer has been cancelled;*
- *satisfaction that there has not been a transfer or payment by any nominated person; and*
- *any other reasonable measure.*

**Rule 9: Timing***Rule 9.01 - Duration of standby*

*A standby must:*

- *contain an expiry date; or*
- *permit the issuer to terminate the standby upon reasonable prior notice or payment.*

*Rule 9.02 - Effect of expiration on nominated person*

*The rights of a nominated person that acts within the scope of its nomination are not affected by the subsequent expiry of the standby.*

*Rule 9.03 - Calculation of time*

- *A period of time within which an action must be taken under these Rules begins to run on the first business day following the business day when the action could have been undertaken at the place where the action should have been undertaken.*
- *An extension period starts on the calendar day following the stated expiry date even if either day falls on a day when the issuer is closed.*

*Rule 9.04 - Time of day of expiration*

*If no time of day is stated for expiration, it occurs at the close of business at the place of presentation.*

*Rule 9.05 - Retention of standby*

*Retention of the original standby does not preserve any rights under the standby after the right to demand payment ceases.*

**2.7.5. URC522**

There is no legal framework for documentary collections, but all banks involved commit themselves to the Uniform Rules for Collections (URC) published by the ICC. The latest revision is valid since 19 96 – being the URC 522.

Below several of the most important articles are listed – extracted from ICC publication.

**General Provisions and Definitions****Article 1 – Application of URC 522**

*b) Banks shall have no obligation to handle either a collection or any collection instruction or subsequent related instructions.*

*c) If a bank elects, for any reason, not to handle a collection or any related instructions received by it, it must advise the party from whom it received the collection or the instructions by telecommunication or, if that is not possible, by other expeditious means, without delay.*

**Article 2 – Definition of Collection**

*For the purposes of these articles:*

*b) “Documents” means financial documents and/or commercial documents*

*i) “Financial documents” means bills of exchange, promissory notes, cheques, or other similar instruments used for obtaining the payment of money;*

*ii) “Commercial documents” means invoices, transport documents, documents of title or other similar documents, or any other documents whatsoever, not being financial documents.*

**Article 3 – Parties to a collection**

*a) For the purposes of these Articles the “parties thereto” are:*

*i: the “principal” who is the party entrusting the handling of a collection to a bank;*

*ii: the “remitting bank” which is the bank to which the principal has entrusted the handling of a collection;*

*iii: the “collecting bank” which is any bank, other than the remitting bank, involved in processing the collection;*

*iv: the “presenting bank” which is the collecting bank making presentation to the drawee.*

*b) The “drawee” is the one to whom presentation is to be made in accordance with the collection instruction.*

**Article 4 – Collection Instructions**

*a) i: All documents sent for collection must be accompanied by a collection instruction indicating that the collection is subject to URC 522 and giving complete and precise instructions. Banks are only permitted to act upon the instructions given in such collection instruction, and in accordance with these Rules.*

*ii: Banks will not examine documents in order to obtain instructions.*

*iii: Unless otherwise authorised in the collection instruction, banks will disregard any instructions from any party/bank other than the party/bank from whom they received the collection.*

**Form of Presentation****Article 5 – Presentation**

*b) The collection instruction should state the exact period of time within which any action is to be taken by the drawee. Expressions such as “first”, “prompt”, “immediate”, and the like should not be used in connection with presentation or with reference to any period of time within which documents have to be taken up or for any other action that is to be taken by the drawee. If such terms are used banks will disregard them.*

**Article 7 – Release of Commercial Documents**

*Documents Against Acceptance (D/A) vs. Documents Against Payment (D/P)*

*a) Collections should not contain bills of exchange payable at a future date with instructions that commercial documents are to be delivered against payment.*



*b) If a collection contains a bill of exchange payable at a future date, the collection instruction should state whether the commercial documents are to be released to the drawee against acceptance (D/A) or against payment (D/P). In the absence of such statement commercial documents will be released only against payment and the collecting bank will not be responsible for any consequences arising out of any delay in the delivery of documents.*

*c) If a collection contains a bill of exchange payable at a future date and the collection instruction indicates that commercial documents are to be released against payment, documents will be released only against such payment and the collecting bank will not be responsible for any consequences arising out of any delay in the delivery of documents.*

### **Article 8 – Creation of Documents**

*Where the remitting bank instructs that either the collecting bank or the drawee is to create documents (bills of exchange, promissory notes, trust receipts, letters of undertaking or other documents) that were not included in the collection, the form and wording of such documents shall be provided by the remitting bank, otherwise the collecting bank shall not be liable or responsible for the form and wording of any such document provided by the collecting bank and/or the drawee.*

### **Liabilities and Responsibilities**

#### **Article 10 – Documents vs. Goods, Services**

*a) Goods should not be despatched directly to the address of a bank or consigned to or to the order of a bank without prior agreement on the part of that bank.*

*Nevertheless, in the event that goods are despatched directly to the address of a bank or consigned to or to the order of a bank for release to a drawee against payment or acceptance or upon other terms and conditions without prior agreement on the part of that bank, such bank shall have no obligation to take delivery of the goods, which remain at the risk and responsibility of the party despatching the goods.*

#### **Article 15 – Force Majeure**

*Banks assume no liability or responsibility for consequences arising out of the interruption of their business by Acts of God, riots, civil commotions, insurrections, wars, or any other causes beyond their control or by strikes or lockouts.*

### **Payment**

#### **Article 16 - Payment without delay**

*a) Amounts collected (less charges and/or disbursements and/or expenses where applicable) must be made available without delay to the party from whom the collection instruction was received in accordance with the terms and conditions of the collection instruction.*

*b) Notwithstanding the provisions of sub-Article 1(c), and unless otherwise agreed, the collecting bank will effect payment of the amount collected in favour of the remitting bank only.*

**Article 17 – Payment in local currency**

*In the case of documents payable in the currency of the country of payment (local currency), the presenting bank must, unless otherwise instructed in the collection instruction, release the documents to the drawee against payment in local currency only if such currency is immediately available for disposal in the manner specified in the collection instruction.*

**Article 18 – Payment in foreign currency**

*In the case of documents payable in a currency other than that of the country of payment (foreign currency), the presenting bank must, unless otherwise instructed in the collection instruction, release the documents to the drawee against payment in the designated foreign currency only if such foreign currency can immediately be remitted in accordance with the instructions given in the collection instruction.*

**Article 19 – Partial Payments**

**a)** *In respect of clean collections, partial payments may be accepted if and to the extent to which and on the conditions on which partial payments are authorised by the law in force in the place of payment. The financial document(s) will be released to the drawee only when full payment thereof has been received.*

**b)** *In respect of documentary collections, partial payments will only be accepted if specifically authorised in the collection instruction. However, unless otherwise instructed, the presenting bank will release the documents to the drawee only after full payment has been received, and the presenting bank will not be responsible for any consequences arising out of any delay in the delivery of documents.*

**c)** *In all cases partial payments will be accepted only subject to compliance with the provisions of either Article 17 or Article 18 as appropriate. Partial payment, if accepted, will be dealt with in accordance with the provisions of Article 16.*

**Interest, Charges and Expenses****Article 21 – Charges and Expenses**

**a)** *If the collection instruction specifies that collection charges and/or expenses are to be for account of the drawee and the drawee refuses to pay them, the presenting bank may deliver the document(s) against payment or acceptance or on other terms and conditions as the case may be, without collecting charges and/or expenses, unless sub-Article 21(b) applies. Whenever collection charges and/or expenses are so waived they will be for the account of the party from whom the collection was received and may be deducted from the proceeds.*

**b)** *Where the collection instruction expressly states that charges and/or expenses may not be waived and the drawee refuses to pay such charges and/or expenses, the presenting bank will not deliver documents and will not be responsible for any consequences arising out of any delay in the delivery of the document(s). When payment of collection charges and/or expenses has been refused the presenting bank must inform by telecommunication or, if that is not possible, by other expeditious means without delay the bank from which the collection instruction was received.*

*c) In all cases where in the express terms of a collection instruction or under these Rules, disbursements and/or expenses and/or collection charges are to be borne by the principal, the collecting bank(s) shall be entitled to recover promptly outlays in respect of disbursements, expenses and charges from the bank from which the collection instruction was received, and the remitting bank shall be entitled to recover promptly from the principal any amount so paid out by it, together with its own disbursements, expenses and charges, regardless of the fate of the collection.*

*d) Banks reserve the right to demand payment of charges and/or expenses in advance from the party from whom the collection instruction was received, to cover costs in attempting to carry out any instructions, and pending receipt of such payment also reserve the right not to carry out such instructions.*

## **Other Provisions**

### ***Article 24 – Protest***

*The collection instruction should give specific instructions regarding protest (or other legal process in lieu thereof), in the event of non-payment or non-acceptance. In the absence of such specific instructions, the banks concerned with the collection have no obligation to have the document(s) protested (or subjected to other legal process in lieu thereof) for non-payment or non-acceptance. Any charges and/or expenses incurred by banks in connection with such protest, or other legal process, will be for the account of the party from whom the collection instruction was received.*



## 2.8. Correspondent Banking

If bank's customer wants to transfer (remit) money to his counterpart, who is located in another country this has to happen – irrespective of the currency - via the involvement of a correspondent bank in the country of beneficiary.

In the relationship between the bank and the correspondent bank you talk about Vostro accounts and Nostro accounts. Whether it is called Vostro or Nostro account depends on the view.

The account the bank holds with a correspondent bank in a foreign country and in the currency of that country is called Nostro account. Same account from the view of the correspondent bank is Vostro account. The account which a foreign bank holds with your bank in MMK is a Vostro account for you.

If the bank has correspondent relationship with the bank abroad, then the bank credits its NOSTRO account with the amount to be transferred. The remittance is usually done via SWIFT MT103. After receipt of the MT103 the correspondent bank withdraws the amount from his account and transfers it to beneficiary's account.

## Structure of MT 103

Status	Tag	Field Name
M	20	Sender's Reference
O	13C	Time Indication
M	23B	Bank Operation Code
O	23E	Instruction Code
O	26T	Transaction Type Code
M	32A	Value Date/Currency/Interbank Settled Amount
O	33B	Currency/Instructed Amount
O	36	Exchange Rate
M	50a	Ordering Customer
O	51A	Sending Institution
O	52a	Ordering Institution
O	53a	Sender's Correspondent
O	54a	Receiver's Correspondent
O	55a	Third Reimbursement Institution
O	56a	Intermediary Institution
O	57a	Account With Institution
M	59a	Beneficiary Customer
O	70	Remittance Information
M	71A	Details of Charges
O	71F	Sender's Charges
O	71G	Receiver's Charges
O	72	Sender to Receiver Information
O	77B	Regulatory Reporting

*M = mandatory*

*O = optional*

If the banks between which the funds have to be transferred do not have a NOSTRO/VOSTRO relationship a third bank needs to be involved. This is usually a bank who has an accounting relationship with both involved banks and acts as an intermediary between these two banks to transfer money.

In this scenario in addition to the MT103 and MT202 is sent to such intermediary bank requesting it to remit the cover for the MT103 to the recipient bank.

## Structure of MT 202

Status	Tag	Field Name
M	20	Transaction Reference Number
M	21	Related Reference
O	13C	Time Indication
M	32A	Value Date, Currency Code, Amount
O	52a	Ordering Institution
O	53a	Sender's Correspondent
O	54a	Receiver's Correspondent
O	56a	Intermediary
O	57a	Account With Institution
M	58a	Beneficiary Institution
O	72	Sender to Receiver Information
End of Sequence A General Information		
Mandatory Sequence B Underlying Customer Credit Transfer Details		
M	50a	Ordering Customer
O	52a	Ordering Institution
O	56a	Intermediary Institution
O	57a	Account With Institution
M	59a	Beneficiary Customer
O	70	Remittance Information
O	72	Sender to Receiver Information
O	33B	Currency/Instructed Amount
End of Sequence B Underlying Customer Credit Transfer Details		

*M = mandatory*

*O = optional*

## 2.9. Collateral

Collateral is usually property or other assets of a borrower that he offers to a lender to secure a loan. If the borrower cannot fulfil the required loan payments, the lender can utilize the collateral to recover his losses. Loans secured by collateral have usually lower interest rates than those without collateral, since the lender has a security in case the borrower fails to pay back the loan.

Typical forms of accepted collateral are:

- Cash
- Gold (and other precious metals)
- Real estate / Property / Land
- Commodities / warehouse receipts / cargo
- Equities / Covered Bonds / Corporate Bonds / Commercial Papers
- Mortgage-backed securities (MBSs)
- Government securities
- Letters of credit/guarantees

For Myanmar not all of the above types of collateral can be used for the time being. In Myanmar most loans are fully covered by collateral, oftentimes up to 200% of the loan value. The types of collateral accepted by the Central Bank are limited to land and buildings, cash, gold as well as some agricultural products.





SELL

BUY

GO

YES

GO

CSCO Equity GIP

H=23.25 I=22.85 V=7249

T=23.07 +0.05 +0.224 B=7



## 3. Trade Products

The subsequent chapters describe the different trade products and give an overview on the lifecycle of each product from processing point of view.

### 3.1. Collections

#### 3.1.1. Definition of Collections

A collection is a process, in which the Exporter instructs his bank to forward certain documents related to the export of goods (can be either payment papers plus commercial documents or only commercial documents) to the Importer's bank (Collecting Bank) with a request to present these documents to the Importer against one of the following conditions:

- Documents against payment (immediately "at sight" of the documents)
- Documents against acceptance (payment only at due date by accepting a draft)

**Note:** There is also an option of combining the two conditions above (e.g. 20% against payment and 80% against acceptance)

Two types of Collections:

**Clean Collections** – only payment papers like bill of exchange, cheques, receipts or similar payment papers are sent for collection, without accompanying commercial documents.

**Documentary Collections** – in addition to payment papers also commercial documents are sent for collection or only commercial documents are sent for collection.

The following chapter will focus on the documentary collections.

#### 3.1.2. Advantages and Disadvantages

##### Advantages for the Exporter:

- Low costs Payment – especially in case of Documents against Payment Collections – is received quicker compared to open account payments.

##### Disadvantage for the Exporter:

- Risk that the Importer does not honour the documents.

##### Advantages for the Importer:

- Lower costs than for L/C.
- He needs to effect payment only against documents which evidence that the goods are shipped.
- He has to possibility to sell the goods already on basis of the documents.

**Disadvantage for the Importer:**

- Shorter payment term and higher costs compared to open account payment.
- He has to pay prior to receipt of the goods.
- How is Documentary Collection different from an L/C or Open Account?

Unlike a letter of credit, the bank does not assume any liability to pay if the buyer does not want or is unable to pay. Compared to open account sales, the documentary collection offers more security to the seller, but less than a letter of credit.

**Terminology commonly used in documentary collections:**

**Remitting Bank:** In a documentary collection, the remitting bank is the bank that forwards the exporter's documents overseas to the buyer's bank (presenting bank) for collection. The remitting bank also receives the payments from collecting bank.

**Presenting Bank:** Any bank, other than the remitting bank, that is involved in processing a collection. In the terminology of documentary collection the collecting bank is the bank to which the importer has entrusted the handling of a collection, which is usually his bank of account. In a documentary collection the presenting bank is sometimes also called collecting bank.

**Exporter:** In a documentary collection, the exporter is the seller (sometimes also called drawer or principle)

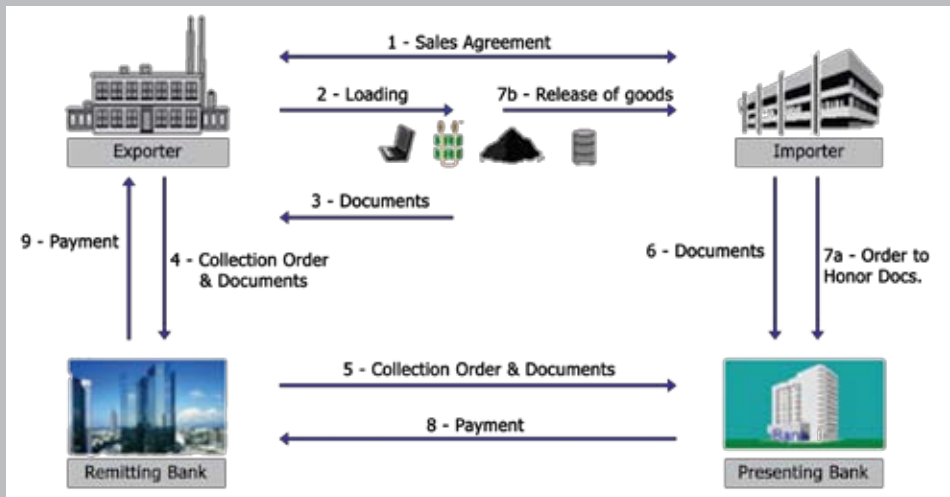
**Importer:** In a documentary collection, the importer is the buyer (sometimes also called drawee or payee)

**Draft:** A document signed by a drawer to a drawee requesting payment to a third party at a specified due date in the future.

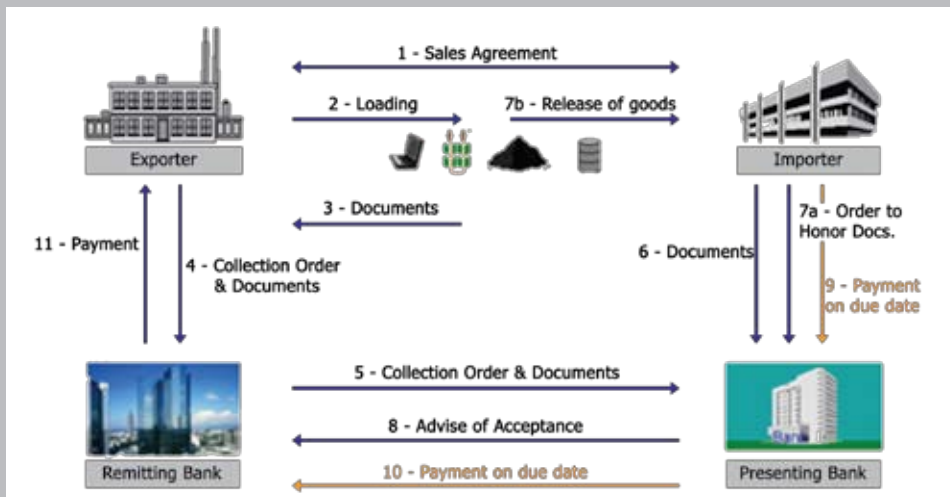
**Note:** The following description of the process flow of a documentary collection shows the involvement of both, remitting and presenting bank, since any bank, depending on the role of their customer within a trade, can be servicing their customers as either remitting or presenting bank.

### 3.1.3. Processing Steps

#### Process flow Documents against Payment:



#### Process flow Documents against Acceptance:



**Process description of both conditions by steps:**

- 1) The buyer and seller agree on the terms of sale, shipping dates, etc., and that payment will be made based on a documentary collection.
- 2) The exporter arranges for the shipping of goods (e.g. to the port/airport of departure).
- 3) The exporter receives the necessary documentation such as transport document, etc.
- 4) The exporter delivers the documents and application for collection to his bank (Remitting Bank).

The application form must be duly signed and contain the following:

- ▶ Full name and address of Importer
- ▶ Full name and address of Collecting Bank
- ▶ Currency & Amount
- ▶ Goods and shipment details
- ▶ Specification of documents and number of each
- ▶ Delivery against payment or acceptance
- ▶ How documents to be sent (courier, registered etc.)
- ▶ Reference to “Uniform Rules for Collections” issued by ICC

## Sample Bank

## Presentation of Documents for Collection

<b>To Sample Bank</b> <hr/> <hr/> <hr/> <hr/>	<b>Our ref.-number</b> <hr/> <b>Presenting party</b> <hr/> <hr/> <hr/> <b>Phone</b> <hr/> <b>Contact person</b> <hr/>
--	---

We enclose the following documents for collection as per below mentioned instructions:

<b>Amount</b> <hr/>	<b>Currency</b> <hr/>	<b>Amount</b> <hr/>	
	<b>Drawee</b> <b>01</b> <hr/>		<b>Collecting bank</b> <b>02</b> <hr/>
	<hr/>		<hr/>
	<hr/>		<hr/>

<b>Documents</b> <b>03</b> <hr/> <hr/> <hr/> <hr/>	<table border="0"> <tr> <td style="width: 50%;"> <b>Draft / receipt</b>  <b>Commercial Invoice</b>  <b>Bill of Lading</b>  <b>Airway Bill</b>  <b>Truck Way Bill</b>  <b>Multimodal Transport Document</b> </td> <td style="width: 50%;"> <b>Forwarders Certificate of Receipt</b>  <b>Certificate of Origin</b>  <b>Insurance Policy / Certificate</b>  <b>Packing List</b>  <b>Weight List</b> </td> </tr> </table>	<b>Draft / receipt</b> <b>Commercial Invoice</b> <b>Bill of Lading</b> <b>Airway Bill</b> <b>Truck Way Bill</b> <b>Multimodal Transport Document</b>	<b>Forwarders Certificate of Receipt</b> <b>Certificate of Origin</b> <b>Insurance Policy / Certificate</b> <b>Packing List</b> <b>Weight List</b>
<b>Draft / receipt</b> <b>Commercial Invoice</b> <b>Bill of Lading</b> <b>Airway Bill</b> <b>Truck Way Bill</b> <b>Multimodal Transport Document</b>	<b>Forwarders Certificate of Receipt</b> <b>Certificate of Origin</b> <b>Insurance Policy / Certificate</b> <b>Packing List</b> <b>Weight List</b>		
<b>Other documents</b> <hr/> <hr/> <hr/>			

<b>Covering shipment of</b> <b>04</b> <hr/> <hr/>	<table border="0"> <tr> <td style="width: 50%;"> <b>by</b> <b>05</b>  <b>on</b> <b>07</b> </td> <td style="width: 50%;"> <b>from</b> <b>06</b>  <b>to</b> <b>08</b> </td> </tr> </table>	<b>by</b> <b>05</b> <b>on</b> <b>07</b>	<b>from</b> <b>06</b> <b>to</b> <b>08</b>
<b>by</b> <b>05</b> <b>on</b> <b>07</b>	<b>from</b> <b>06</b> <b>to</b> <b>08</b>		
<b>Importer</b> <b>09</b> <hr/> <hr/>			

<b>To be send by</b> <b>10</b> <hr/> <hr/>	
---	--

<b>Charges</b> your charges will be borne foreign bank charges to be borne <input type="checkbox"/> The release of documents is subject to the payment of the charges	<table border="0"> <tr> <td><input type="checkbox"/> by us</td> <td><input type="checkbox"/> by the drawee</td> </tr> <tr> <td><input type="checkbox"/> by us</td> <td><input type="checkbox"/> by the drawee</td> </tr> </table>	<input type="checkbox"/> by us	<input type="checkbox"/> by the drawee	<input type="checkbox"/> by us	<input type="checkbox"/> by the drawee
<input type="checkbox"/> by us	<input type="checkbox"/> by the drawee				
<input type="checkbox"/> by us	<input type="checkbox"/> by the drawee				

Our ref.-number \_\_\_\_\_

The documents **11** against ☐ Payment ☐ Acceptance of a draft / drafts  
are to be delivered

on \_\_\_\_\_

☐ The taking up of documents can be postponed until arrival of goods. ☐ The accepted bill should be kept by the collecting bank until maturity. Please inform us of the due-date.

☐ The accepted bill is to be sent back to you for ☐ Other (please give details) \_\_\_\_\_  
☐ return to us ☐ discounting

Instructions of protest ☐ No protest ☐ Protest in case of non-payment  
☐ Protest in case of non-acceptance ☐ Protest according to the decision of our representative  
(only for bills of exchange) ☐ In case of difficulties please advise by S.W.I.F.T / airmail

Representative **12** \_\_\_\_\_ ☐ who in case of difficulties has to be informed, and who, however, ☐ is authorized ☐ is not authorized to dispose of the documents.

Further instructions \_\_\_\_\_  
(e.g. instructions in case of non acceptance of documents)

Please remit the proceeds to ☐ our current account with \_\_\_\_\_  
☐ our foreign currency account Acct. no. \_\_\_\_\_

This order is to be executed in accordance with the "Uniform Rules for Collections" issued by the International Chamber of Commerce, Paris, in its latest applicable version.

Place and date \_\_\_\_\_ Company and authorized signature \_\_\_\_\_

## Info:

<b>01</b>	Name and address of the importer
<b>02</b>	Name and address of the respective bank
<b>03</b>	List all documents and number of copies for each e.g. 3/3 Bill of Lading
<b>04</b>	Description of goods to be shipped
<b>05</b>	Means of transportation e.g. truck, ship
<b>06</b>	Place of loading
<b>07</b>	Date of loading
<b>08</b>	Place of destination
<b>09</b>	Name and address of recipient of goods / importer
<b>10</b>	Mode of dispatch e.g. by courier, by airmail
<b>11</b>	Tick payment term – either "payment" or "acceptance"
<b>12</b>	Name and address in case a representative is involved

Upon receiving the documents the remitting bank must check the application form as per the below:

- ▶ Verify customer's signature on application form
- ▶ Check completeness of application form and that all required accompanying documents are available (e.g. presentation of Export License)
- ▶ Embargo Check on all parties in the transaction
- ▶ Check plausibility of instructions

5) Based on the provided instructions of the exporter, the remitting bank sends the documents to the Presenting Bank.

<b>Export Documentary Collection Collection Order</b>	
<b>Our Reference:</b> 00690130088327B2	Sample Bank1 Sample Street 12345 Sample Town Sample Country
<b>By Courier:</b> Sample Bank2 Sample Street 12345 Sample Town Sample Country	<b>Contact Person:</b> Mrs. Sample <b>Tel.:</b> 1234-56789-00 <b>Fax:</b> 1234-56789-00 <b>SWIFT:</b> ABCDEF1A123 <b>Date:</b> 14 July 2015
<b>Buyer / Drawee:</b>	Sample Importer, Sample Street, 12345 Sample Town, Sample Country
<b>Currency / Amount:</b>	EUR 50 947.09
<b>Maturity:</b>	1 September 2015
Dear Sir or Madam,	
Please deliver the specified documents against acceptance of the enclosed draft due: 59 days after B/L date.	
Protest for non-acceptance.	
Keep the required payment instrument for collection at maturity and inform us of acceptance/maturity at your best convenience.	
Your charges are for drawee's account.	
In case of non-payment of the collection charges and/or expenses the documents must not be delivered.	
In case of dishonour please advise us by SWIFT.	
Please acknowledge receipt of the documents quoting our reference number	
Drawer's name and address: Sample Drawer, Sample Street, 12345 Sample Town, Sample Country	
Please authorize us to debit your account with Sample Bank1, 12345 Sample quoting the value and our reference number.	
Please let us have your respective payment authorization by Swift.	
Kind regards	
Sample Bank1	

Page 02 of 11

6) The presenting bank, on receipt of documents, has to do the following steps:

- ▶ Embargo Check on all parties in the transaction
- ▶ Check whether set of documents are complete and as stated in the collection order
- ▶ Inform customer about the receipt of collection order and its terms which can be either “Documents against payment” or “Documents against acceptance”
- ▶ Send Acknowledge to presenting bank via Swift message MT410 which is described below:

#### Structure MT410

Status	Tag	Field Name
M	20	Sending Bank's TRN
M	21	Related Reference
M	32a	Amount Acknowledged
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

Up to step 6 the process is exactly the same for both options “Documents against Payment” and “Documents against Acceptance”. On the next pages the different subsequent steps for both options will be described:

#### Option 1: “Documents against Payment”

7a) Client sends an Order to Honor Documents to Presenting Bank which triggers that the Presenting Bank will debit the importer and hand over the documents to him.

#### Structure MT400

Status	Tag	Field Name
M	20	Sending Bank's TRN
M	21	Related Reference
M	32a	Amount Collected
M	33A	Proceeds Remitted
O	52a	Ordering Bank
O	53a	Sender's Correspondent
O	54a	Receiver's Correspondent
O	57a	Account With Bank
O	58a	Beneficiary Bank



O	71B	Details of Charges
O	72	Sender to Receiver Information
O	73	Details of Amounts Added

*M = mandatory*

*O = optional*

7b) Upon receipt of documents the importer can subsequently utilize them to obtain the goods.

8) The Presenting Bank sends payment via MT400 to Remitting Bank.

9) The remitting bank will subsequently credit the funds to the exporter.

**Note:** Partial payment is possible, if allowed in the collection order. If collection order does not foresee partial payment and Remitting bank receives only partial amount, the bank must obtain the consent of the exporter that he accepts the partial payment.

### Option 2: “Documents again Acceptance”

7a) Client sends an Order to Honor Documents / Acceptance to Presenting Bank which triggers that the Presenting Bank will hand over the documents to the importer.

7b) Upon receipt of documents the importer can subsequently utilize them to obtain the goods.

8) The Presenting Bank will send an Advice of Acceptance via MT412 to Remitting Bank.

#### Structure of MT412

Status	Tag	Field Name
M	20	Sending Bank's TRN
M	21	Related Reference
M	32A	Maturity Date, Currency Code, Amount Accepted
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

9) On due date only the Presenting Bank debits the importer.

10) On due date only the Presenting Bank sends payment via MT400 to Remitting Bank (see structure of MT400 in example above).

11) The remitting bank will subsequently credit the funds to the exporter.

**Note:** Partial payment is possible, after advice of acceptance partial payments are always allowed. However may the draft only be handed out after payment of the complete amount.

Exception handling:

If the customer does not pay or does not take up the documents, the Remitting Bank is informed by the Presenting Bank via MT 416.

Structure MT416

Status	Tag	Field Name
M	20	Sender's Reference
M	21	Related Reference
O	23E	Advice Type
O	51A	Sending Institution
O	53a	Sender's Correspondent
O	71F	Sender's Charges
O	77A	Reason for Non-Payment/Non-Acceptance

M = mandatory

O = optional



## 3.2. Documentary Letters of Credit

### 3.2.1. Definition of a Letter of Credit (L/C)

A Letter of Credit is an instrument which secures the payment to the exporter if the conditions of the L/C are fulfilled and documents presented are in strict conformity with the L/C

As such, the purpose of a letter of credit is:

- To secure the payment of goods shipped by the exporter as they want to keep control and ownership of their goods until the full payment is received.
- To secure that the payment for goods will only be made after receipt of documents at the bank representing the shipment of the goods.

A Letter of Credit by its nature is an own transaction/contract separate from the sale or other contract on which it may be based on. In documentary credit operations all involved parties deal only in documents.

**Obligation of the issuing bank** to pay at sight, assume a deferred payment obligation or accept a bill of exchange

- ▶ up to a stated amount in a stated currency
- ▶ in favor of the beneficiary (importer)
- ▶ within a stated time (L/C validity)
- ▶ provided that certain documents are presented and all credit terms are complied with by the beneficiary

**A documentary credit is not...**

- ▶ A contract between an importer and exporter
- ▶ A guarantee that the exporter will definitely receive payment
- ▶ A guarantee that the importer will receive the goods he ordered

### 3.2.2. Advantages and Disadvantages

**Advantages for the exporter:**

■ **Bank liability:** the issuing and, in case of a confirmed L/C, the confirming bank is in an irrevocable undertaking to take up the documents provided that all terms and conditions of the L/C are fully complied with. Therefore, the exporter is not concerned with the importer's and (if the L/C is confirmed) the issuing bank's credit standing or ability to pay.

■ **Credit function:** Deferred payment claims can be discounted / forfeited before maturity.

**Disadvantage for the exporter:**

■ More expensive than clean payments or documentary collections (but represents the lowest risk).

**Advantage for the importer:**

- He has a proof that the goods are shipped.

**Disadvantage for the importer:**

- Issuance of the L/C consumes credit lines.

**3.2.3. Important Principles**

In order for the exporter and importer to fully profit from all of the advantages of the letter of credit, the following principles for the handling of letters of credit must be considered:

- For the parties of the L/C, only the terms and conditions of the letter of credit apply when handling L/C business.
- The handling of letters of credit are fully detached from the underlying contract or other underlying agreements.
- Side agreements cannot be taken into consideration in L/C business.
- Payment or acceptance is made only against presentation of documents in compliance with the terms and conditions of the L/C.
- The parties of the L/C deal only with documents (not with goods).
- The compliance of the terms and conditions of the letter of credit is determined only on the basis of checking the documents.
- Notices of defects of the goods are to be settled exclusively between the importer and exporter directly.
- The bank does not control whether the delivered goods correspond to the goods that are required in the letter of credit.
- The terms and conditions of the letter of credit should be complete and exact and should not contain too extensive details.
- Banks do not assume any liability for the authenticity, form or legal effectiveness of the documents presented under letters of credit.
- Banks do not assume any liability for the consequences arising out of delays and/or losses in transit of messages, letters or documents (mail transit risk).

**Basic Details:**

The basic details of the letter of credit should be fixed at the time of signing the contract in order to avoid discussions at a later time:

- Irrevocable letter of credit.
- Through which bank is the letter of credit to be advised and possibly confirmed.
- Until which date must the L/C be advised to the exporter.

- The date and place of expiry. (the validity for presentation of documents):
- The time period must be sufficient for issuance and presentation of documents after shipment of goods.
- The presentation period after the date of shipment:  
if there is no specification in the L/C = 21 days, but within the validity of the L/C.
- Latest date of shipment.
- Exact name and address of all of the parties, i.e. applicant and beneficiary.
- The L/C amount and currency, and if applicable including a specification of the amount, e.g. „up to“ or „+/- X %“ ...
- Available with ... (bank)  
“available with the advising bank” is advantageous for the exporter.
- Available by ... (payment, deferred payment, if applicable drafts at ..., drawn on ...)
- Partial shipments (allowed / not allowed)  
if there is no specification in the L/C = partial shipments are allowed.
- Transshipment (allowed / not allowed)  
if there is no specification in the L/C = transshipments are allowed.
- Shipment from ... to ...  
Places of shipment should leave as many options open as possible:  
e.g. “any European port”.
- The description of goods or services / INCOTERM  
should be as precise and clear as possible, and free from excessive details.
- Documents to be presented. (e.g. invoice, transport document)
- Payment of bank charges are for the account of (split/applicant/beneficiary)
- Any other special conditions.

### 3.2.4. Types of Documentary Letters of Credit

#### Irrevocable Letter of Credit

Commitment by an issuing bank to pay the accepting bank the specified amount in the specified currency, if the conditions from the L/C document are met in the required timeframe. The irrevocable L/C cannot be canceled and neither can its terms be amended without the beneficiary's written approval. The strong security of the irrevocable letter of credit is also the main reason why they are dominantly used on the market and the revocable L/C have no longer a relevance in the daily business.

#### Advised Letter of Credit (Unconfirmed L/C)

The bank advises the Letter of Credit without any own obligation.

### Confirmed Letter of Credit

For the beneficiary this means that he has two recognitions of liability: the issuing bank and the confirming bank.

A confirmed L/C

- is an undertaking of two banks to pay (the issuing bank and the confirming bank)
- takes over the bank and country risks from the beneficiary

However, before the confirming bank assumes such obligation the following criteria must be fulfilled:

- The L/C must clearly instruct or authorize “may add” the correspondent bank to add his confirmation.
- The L/C must be available at the confirming bank
- The contents of the L/C must be unambiguous and should not contain any conditions that allow the importer to prevent the terms of the L/C to be fulfilled.

### Silent Confirmation

- There is no confirmation request from the issuing bank, therefore, the usual responsibility of the issuing bank to the confirming bank is missing.
- Is a bilateral arrangement between the “confirming bank” and the beneficiary in which the “confirming bank” gives its conditional guarantee of payment to the beneficiary.
- L/C must be payable with the advising bank.
- It is not covered by UCP.

### 3.2.5. Differentiation of Letter of Credits by Payment Terms

#### ■ Sight L/C

Upon presentation of conform document payment is effected “at sight”.

#### ■ Usance L/C

Payment is not effected upon presentation of conform document but only at a later point of time as indicated in the letter of credit: e.g. 30 days after sight, 90 days after Bill of Lading date

##### ► Against acceptance

Documents are handed out against acceptance of a draft, which accompanies the documents. Payment is effected on due date.

##### ► By deferred payment

Payment is effected on a fixed date – no involvement of draft.

#### ■ By negotiation

The purchase by the nominated bank of drafts (drawn on a bank other than the nominated bank) and / or documents under a complying presentation, by advancing or agreeing

to advance funds to the beneficiary on or before the banking day on which reimbursement is due to the nominated bank. (= UCP600 art. 2 definition)

**Note:** Different interpretations exist all over the world which is why there is no general agreement available on the meaning of “by negotiation”.

### 3.2.6. Special Types of Letter of Credit

The subsequent chapter gives an overview about some common special L/C types.

**Standby Letter of Credit** see chapter Bank Guarantees

#### Revolving Letter of Credit

A revolving L/C is a single L/C that is used over multiple shipments of the same commodities (e.g. partial deliveries or repeated sales) over a longer period. By using a revolving L/C it can be avoided to arrange for a new L/C for each separate shipment. The importer issues a L/C that revolves in value in a way that a predefined fixed amount is automatically filled-up again when used. The bank is normally liable for the total value of all agreed partial deliveries, but subsequent partial payments will only be performed if the previous delivery has been paid. Frequently used in the past, the importance of revolving L/C has decreased over time since for well-established longtime business relationships with repeated transactions the risks and hence the need for L/Cs is considered lower.

#### Back-to-Back Letter of Credit

A letter of credit issued as a (buying) L/C by order of an intermediary or general contractor in favor of the producer or sub-supplier with the same conditions as the selling L/C which is issued in his favor.

Back-to-back L/C are normally used when an exporter (primarily a manufacturer) has to purchase raw materials or a component from a subcontractor to produce his product, but may not have the cash to do so.

With the original L/C from the importer's bank in place, the exporter goes to his own bank and has a second L/C issued, with the subcontractor as beneficiary. The subcontractor is thus ensured of payment upon fulfilling the terms of the contract.

Back-to-back letter of credits can be issued without the permission or informing the ultimate importer or the issuing bank of the original L/C. In fact it is often used by intermediaries to hide the identity of the actual supplier. Sometimes Back-to-back L/C are also called Counter Credit or Reciprocal L/C.

**Note:** While in most cases U.S. banks will not accept issuing back-to-back letters of credit, it is common practice in the Asian market.

### **Transferable Letter of Credit**

A transferable letter of credit may be made available/transferred to another beneficiary “second beneficiary” in whole or in part at the request of the beneficiary “first beneficiary”.

A transferable letter of credit can only be transferred once.

### **Red Clause Letter of Credit (L/C with advance payment)**

Contractual provision (traditionally written or typed in red ink) within a letter of credit which allows the exporter to request from the issuing bank an advance payment of an agreed amount (defined in the terms and conditions of the letter of credit) before they actually ship the goods to the importers. The advance payment is usually supposed to finance costs associated to the production, purchase or delivery of the goods.

The red clause letter of credit is normally used where the importer and exporter have a close working relationship since, in fact, the importer is extending an unsecured loan to the exporter (and bears the financial risk and currency risk related to it). The advance is normally paid against receipt and a written commitment from the importer to deliver the transportation documents before the credit expires.

As a mitigation for the risks related to the red clause letter of credit, the advance payment can also be performed against presentation of an advance payment guarantee issued by the bank of the exporter, guaranteeing a refund in the event of failure to ship under the credit.

Red Clause Letter of Credits are mainly used by beneficiaries who act as purchasing agents for importers in another country.

### **Green clause Letter of Credit (Anticipatory Credits)**

The Green Clause Letter of Credit is likewise the Red Clause Letter of Credit a letter of credit that allows the exporter to receive advance payments prior to shipment with the difference that for the Green Clause Letter of Credit the advance payment is not only paid against receipt and written commitment from the exporter to deliver but also against security mostly via collateral property in form of warehouse receipts but also against payment guarantees from a third party. In case the exporter fails to deliver the reimbursement obligations can be recovered through enforcement of the security.

Warehouse receipts will normally be issued by an authorized party (public warehousing company, bonded warehouse, collateral manager), and issued or endorsed in favor of the bank in question. Proof of adequate insurance cover, with the bank as beneficiary, may also have to be submitted.

### **Letter of Indemnity**

Letter of Indemnities (LOI) are very common especially in the oil and gas business. This type of goods are often sold several times during their journey since buyers and sellers are mostly brokers who have no interest in the oil as end users.



The buyer (Applicant 1) opens a L/C in favor of the seller (Beneficiary 1) and allows payment either against presentation of the original B/L or against a Lol. The L/C specifies the template of the Lol and normally foresees that the Lol is countersigned by seller's bank, if not issued directly by his bank.

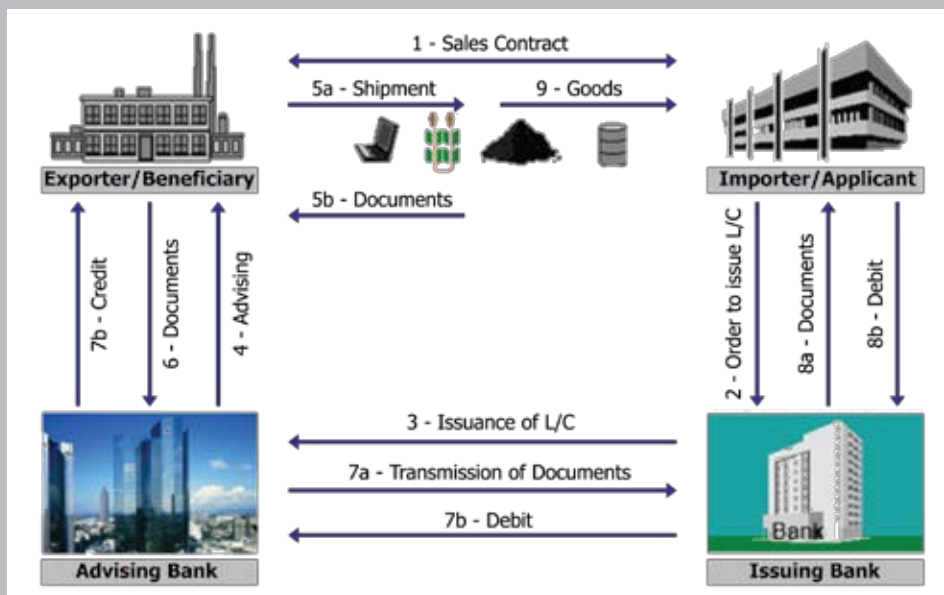
If the buyer (Applicant 1) sells the goods directly to another seller, in consequence the original buyer (Applicant 1) becomes Beneficiary 2 in a L/C opened by Applicant 2. This procedure can recur several times.

The Lol holds the recipient harmless regarding the absence of the Bill of Lading and against all consequences resulting from the sale in the absence of the Bill of Lading. Furthermore it documents the commitment to surrender the Bill of Lading as soon as it is received and holds the applicant harmless.

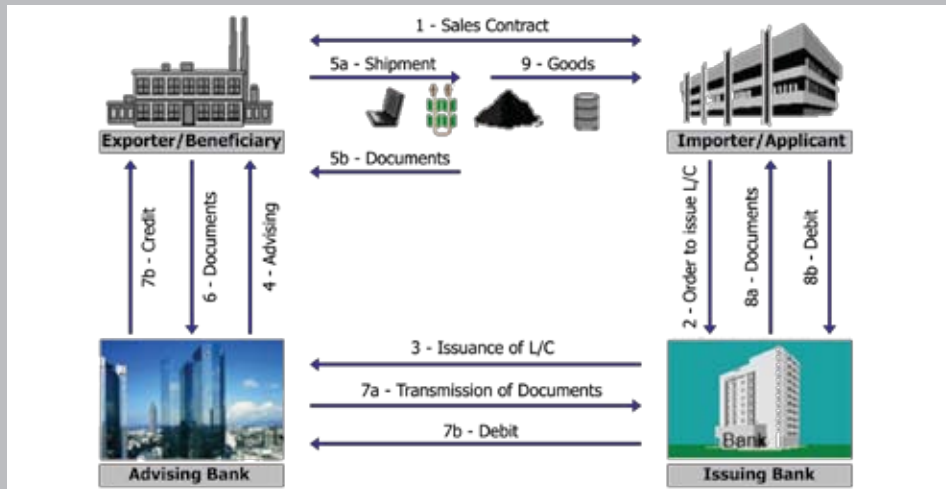
### 3.2.7. Processing Steps

**Note:** The following description of the process flow of a L/C shows the involvement of both, issuing bank and advising bank, since any bank, depending on the role of their customer within a trade, can be servicing their customers as either issuing or advising bank.

#### Process flow of a L/C payable at sight payable at advising bank



## Process flow of a L/C payable at sight payable at issuing bank



**Note:** There may be other/or more steps, depending on

- where the L/C is available (issuing bank, advising bank, nominated bank)
- how the L/C is available (by sight payment, deferred payment, acceptance, negotiation)
- whether there are any amendments
- whether the documents are L/C complying or not

### Process description of both conditions by steps:

1) The buyer and seller agree on the terms of sale, shipping dates, etc., and that payment will be made based on a Letter of Credit.

2) The importer delivers the application for Letter of Credit to his bank.

The application must be duly signed and contain the following:

- ▶ Full name and address of exporter
- ▶ Full name and address of exporter's Bank
- ▶ Currency & Amount
- ▶ Delivery against payment or acceptance
- ▶ Goods details
- ▶ Partial shipment allowed?
- ▶ Transshipment allowed?
- ▶ Latest date of shipment
- ▶ Period for document presentation
- ▶ Specification of documents and number of each
- ▶ How documents to be sent (courier, registered etc)

## Sample Bank

## Documentary Credit Application

To Sample Bank

01

Our ref.-number

02

We request you to issue the following documentary credit for our account:

Type of L/C	03	Date of expiry	Place of expiry
Type of confirmation	04	Credit available with	06
Delivery via	05		

Applicant	07	Beneficiary	08	Beneficiary's bank, if known <sup>1</sup>
				SWIFT address
				09

Amount	currency	amount	
	deviation factor	10	deviation type
		11	tolerance in credit amount
Shipment	from		
	to		
	via		
Partial shipment	<input type="checkbox"/> allowed	in	lots allowed <input type="checkbox"/> not allowed
Transshipment	<input type="checkbox"/> allowed		<input type="checkbox"/> not allowed
Date of shipment	not later than		
Delivery terms	<input type="checkbox"/> 12	place	Incoterms 2010 <input type="checkbox"/> 13

Presentation period	Documents to be presented within		days after
	<input type="checkbox"/> date of shipment	<input type="checkbox"/>	
	but within the validity of the credit.		
Goods (brief description)			14

Credit available	by		15	with	16
		days after	17	<input type="checkbox"/>	18
				<input type="checkbox"/>	19

<sup>1</sup> You are authorized to advise this credit to the beneficiary through a correspondent of your choice.

## Sample Bank

Our ref.-number \_\_\_\_\_

Documents to  
be presented  
by the beneficiary

- ☐ Commercial invoice  
☐ Packing list  
☐ Certificate of Origin issued by

number of originals \_\_\_\_\_

number of copies \_\_\_\_\_

☐ Chamber of Commerce (UMFCCI)  
 evidencing goods of

☐ Ministry of Trade

origin \_\_\_\_\_

- ☐ Transport documents

number of originals \_\_\_\_\_

number of copies \_\_\_\_\_

☐ Bill of Lading ☐ Multimodal Transport Document ☐ Charter Party Bill of Lading

issued \_\_\_\_\_

☐ to order, endorsed in blank☐ to \_\_\_\_\_☐ to the order of \_\_\_\_\_

☐ Airway Bill ☐ Truck Way Bill (CMR) ☐ Multimodal Transport Document

☐ Other (please specify) \_\_\_\_\_

addressed to \_\_\_\_\_

20

☐ Notify (name and address) \_\_\_\_\_

21

☐ Freight collect☐ Freight prepaid

- ☐ Insurance ☐ Policy ☐ Certificate for the CIF value plus \_\_\_\_\_ %, covering the following risk

- ☐ Other documents

22

All documents have to be issued in \_\_\_\_\_

language

23

Further  
instructions \_\_\_\_\_

Charges

Foreign bank charges to be borne

☐ by the beneficiary ☐ by us

Your charges will be borne

☐ by us ☐ by the beneficiary

Further information

Contact person for further information \_\_\_\_\_

Phone No. \_\_\_\_\_

You are  
authorized to  
debit as follows

\_\_\_\_\_ for the counter value of the documents

\_\_\_\_\_ for commission and expenses

This order is to be executed in accordance with the "Uniform Customs and Practice of Documentary Credits" issued by the International Chamber of Commerce, Paris, in its latest applicable version.

Place and date \_\_\_\_\_

Company and authorized signatures \_\_\_\_\_

## Info:

01	Name and address of the respective bank
02	Reference data for conclusive identification of the order/contract (order, invoice or contract number)
03	Enter either "irrevocable" or "irrevocable and transferable"
04	Enter "without confirmation", "without confirmation" or "confirmation only if requested by beneficiary"
05	Enter "S.W.I.F.T. / by telecommunications", "S.W.I.F.T. / by mail / airmail" or "by courier"
06	Enter "you", "your correspondent" or "any bank"
07	Fill in complete name of the company and full address of principle(s) of the documentary credit
08	Fill in complete name of the company and full address of beneficiary/beneficiaries
09	BIC code of the bank of the beneficiary
10	Enter "exactly", "up to" or "about/circa"
11	Fill in "+/-", "+*" or "-"
12	Fill in one of the 11 incoterms
13	In case other conditions for delivery were arranged, please specify them here
14	In case a tolerance in the amount was indicated, this should also be considered when filling in quantity details
15	Enter "sight payment", "deferred payment", "acceptance" or "negotiation"
16	Fill in "issuing bank", "nominated bank" or "any bank"
17	In case of deferred payment, please enter the days in here
18	Fill in "shipment", "invoice date" or "sight"
19	In case of mixed payment, please specify the details here
20	For the here mentioned documents, information is mandatory
21	In no notify address is status then please take a note (e.g. "no address") here
22	In case not all further documents can be mentioned here, please refer to included enclosure to this document
23	In case of multiple languages please specify this under "further instructions" or in enclosure to this document

Upon receipt of client's application the bank should do the below:

- ▶ Verify customer's signature on instructions
- ▶ Check that all relevant accompanying documents which are needed by the bank (e.g. import license) are presented together with the application
- ▶ Check credit risk and validate collateral
- ▶ Check details of L/C on plausibility
- ▶ Embargo check on all involved parties

3) If above is ok MT700 is sent to Advising Bank.

Structure of MT700

Status	Tag	Field Name
M	27	Sequence of Total
M	40A	Form of Documentary Credit
M	20	Documentary Credit Number
O	23	Reference to Pre-Advice
O	31C	Date of Issue
M	40E	Applicable Rules
M	31D	Date and Place of Expiry
O	51a	Applicant Bank
M	50	Applicant
M	59	Beneficiary
M	32B	Currency Code, Amount
O	39A	Percentage Credit Amount Tolerance
O	39B	Maximum Credit Amount
O	39C	Additional Amounts Covered
M	41a	Available With ... By ...
O	42C	Drafts at ...
O	42a	Drawee
O	42M	Mixed Payment Details
O	42P	Deferred Payment Details
O	43P	Partial Shipments
O	43T	Transshipment
O	44A	Place of Taking in Charge/Dispatch from .../Place of Receipt
O	44E	Port of Loading/Airport of Departure
O	44F	Port of Discharge/Airport of Destination

O	44B	Place of Final Destination/For Transportation to .../Place of Delivery
O	44C	Latest Date of Shipment
O	44D	Shipment Period
O	45A	Description of Goods and/or Services
O	46A	Documents Required
O	47A	Additional Conditions
O	71B	Charges
O	48	Period for Presentation
M	49	Confirmation Instructions
O	53a	Reimbursing Bank
O	78	Instructions to the Paying/Accepting/Negotiating Bank
O	57a	'Advise Through' Bank
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

**Note:** In case exporter's bank is no correspondent bank of importer's bank it will send the MT700 to its correspondent and quote the details of exporter's bank as "advice through bank" (tag 57a)

**Note:** Pre-advice of an Export Letter of Credit is possible. In the past, this was used to pre-advice the key data of the L/C e.g. via telex, while the original Letter of Credit was sent via mail. However, with the worldwide usage of SWIFT this is not very common any more. Anyhow a respective SWIFT type is available, being MT705.

4) Upon receipt of Letter of Credit from Issuing Bank the Advising Bank will:

- ▶ Check details of L/C on plausibility
- ▶ Execute Embargo check on all involved parties

Afterwards the bank will advise the Letter of Credit to its customer or add its confirmation, depending on the instructions.

5a) After having received the notification of the L/C the seller will arrange the shipping of goods and

5b) in consequence he will receive the respective documents.

6) Exporter presents document to his bank who needs to check them before sending them to issuing bank.

## Example form:

## Sample Bank

## Presentation of Documents under an Export Documentary Credit

To Sample Bank

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please insert the respective IB entity and its address.

Our ref.-number \_\_\_\_\_

Presenting party

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Contact person \_\_\_\_\_

We enclose the following documents for utilisation of the below mentioned Documentary Credit:

Your D/C No. \_\_\_\_\_

Validity \_\_\_\_\_

Amount **02** \_\_\_\_\_

Currency \_\_\_\_\_

Amount \_\_\_\_\_

☐ The Documentary Credit balance will not be utilised. **01**☐ It is a partial shipment.D / C No. of the  
issuing bank \_\_\_\_\_

Issuing bank \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Documents **03** \_\_\_\_\_

Draft / receipt \_\_\_\_\_

Commercial Invoice \_\_\_\_\_

Bill of Lading \_\_\_\_\_

Airway Bill \_\_\_\_\_

Truck Way Bill / CMR \_\_\_\_\_

Multimodal Transport Document \_\_\_\_\_

Forwarders Certificate of Receipt \_\_\_\_\_

Certificate of Origin \_\_\_\_\_

Insurance Policy / Certificate \_\_\_\_\_

Packing List \_\_\_\_\_

Weight List \_\_\_\_\_

Other documents \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Further instructions \_\_\_\_\_

(e.g. instructions in case of non acceptance of documents ) \_\_\_\_\_

Please remit the  
proceeds to \_\_\_\_\_☐ our current account \_\_\_\_\_☐ our foreign currency account \_\_\_\_\_

with \_\_\_\_\_

Acct. no. \_\_\_\_\_

This order is to be executed in accordance with the "Uniform Rules for Collections" issued by the International Chamber of Commerce, Paris, in its latest applicable version.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Place and date \_\_\_\_\_

Company and authorized signature of presenting party \_\_\_\_\_



**Info:**

01	To be ticked if L/C amount will not resp. will not completely be utilized
02	Amount of drawing – can be different from L/C amount, but not exceeding
03	List of all documents and numbers of copies – e.g. 3/3 Bill of Lading

**Basis for checking:**

- The individual terms and conditions of the Letter of Credit.
- The ICC Uniform Customs and Practice for Documentary Credits. (UCP 600)
- International Standard Banking Practice, as reflected in the UCP 600 and in the "ISBP". (ICC publication no. 645)

Banks must examine all documents stipulated in the Credit with reasonable care, to ascertain whether or not they appear, on their face, to be in compliance with the terms and conditions of the Credit. (see UCP 600, article 13 a)

Banks must check within a "reasonable time", not to exceed 5 banking days following the date of receipt of documents. (see UCP 600, article 13 b)

**Note:** more details on the checking of documents see Chapter "Documents".

**Up to step 6 the process is exactly the same for both "L/C available with Advising Bank" and "L/C available with Issuing Bank". On the next pages the different subsequent steps for both options will be described:**

**Option 1 - L/C available with Advising Bank**

In case the L/C is available with the advising bank, this means that the advising bank decides on the taking up of the documents.

7a) The advising bank will send the documents – if in conformity with the L/C conditions - to the issuing bank.

Furthermore an MT754 "Advice of Payment/Acceptance/Negotiation" is sent to the issuing bank to inform them that documents were presented in accordance with the credit terms and are being forwarded as instructed. The MT 754 may also be used for the settlement of the payment.

**Structure of MT 754**

Status	Tag	Field Name
M	20	Sender's Reference
M	21	Related Reference
M	32a	Principal Amount Paid/Accepted/Negotiated
O	33B	Additional Amounts
O	71B	Charges Deducted
O	73	Charges Added
O	34a	Total Amount Claimed
O	53a	Reimbursing Bank
O	57a	Account With Bank

O	58a	Beneficiary Bank
O	72	Sender to Receiver Information
O	77A	Narrative

*M = mandatory*

*O = optional*

7b) In consequence the Advising bank will debit the account of the issuing bank and credit the account of the beneficiary.

Upon receipt of the document the Issuing bank will

8a) forward them to the Importer and

8b) debit his account accordingly.

9) After having received the documents, the Importer can release the goods.

### **Option 2 - L/C available with Issuing Bank**

If the L/C is payable with the issuing bank, this means that issuing bank will only transfer funds after having received the documents, having checked them and found them to be in conformity with L/C terms.

7) The advising bank will send the documents – if in conformity with the L/C conditions - to the issuing bank.

8a) After having received the documents and found them to be in conformity with L/C terms the issuing bank will

8b) debit the Importer and send a MT756 “Advice of Reimbursement or Payment” to the bank from which it has received documents.

8c) It is used to advise the Receiver about payment to that bank.

Structure of MT 756

Status	Tag	Field Name
M	20	Sender's Reference
M	21	Presenting Bank's Reference
M	32B	Total Amount Claimed
M	33A	Amount Reimbursed or Paid
O	53a	Sender's Correspondent
O	54a	Receiver's Correspondent
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

9) In consequence Advising Bank will credit the account of his customer after having received funds from issuing bank.

10) After having received the documents, the Importer can release the goods.

**Note:** the above described processes are valid also for usance L/Cs. The only difference is that for usance L/Cs exporter's account is not credited immediately upon taking up of documents but only on due date.

### 3.2.8. Discrepancy handling

Common document discrepancies are:

- Letter of Credit expired
- Late Shipment
- Late Presentation
- Shipment from / to incorrect port
- Partial shipment effected when prohibited
- Inconsistent information on documents
- Goods description not as per Letter of Credit

If documents, which are issued by the exporter, bear discrepancies he might be in the position to correct these documents and present them in the given time. Documents issued by other parties (e.g. transport documents) which cannot be corrected must be taken as they are. Depending on the severity of the discrepancies the documents can only be sent on collection basis.

**Note:** In case of smaller discrepancies Exporter's bank might want to inform only his customer but refrain from communicating them to the issuing bank. This should be done only on basis of a good relationship with the customer.

If Advising Bank finds documents discrepant MT750 "Advice of Discrepancy" is sent to the issuing bank to inform that the documents which have been presented are not in accordance with the terms and conditions of the L/C.

Structure of MT750

Status	Tag	Field Name
M	20	Sender's Reference
M	21	Related Reference
M	32B	Principal Amount
O	33B	Additional Amount
O	71B	Charges to be Deducted

O	73	Charges to be Added
O	34B	Total Amount to be Paid
O	57a	Account With Bank
O	72	Sender to Receiver Information
M	77J	Discrepancies

*M = mandatory*

*O = optional*

Depending on the severity of the discrepancies, the Importer might want to take up the documents despite those discrepancies. In such case MT752 "Authorisation to Pay / Accept or Negotiate" is sent to exporter's bank.

#### Structure of MT752

Status	Tag	Field Name
M	20	Documentary Credit Number
M	21	Presenting Bank's Reference
M	23	Further Identification
M	30	Date of Advice of Discrepancy or Mailing
O	32B	Total Amount Advised
O	71B	Charges Deducted
O	33a	Net Amount
O	53a	Sender's Correspondent
O	54a	Receiver's Correspondent
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

Upon receipt of MT752 the Advising Bank will credit beneficiary's account with L/C amount.

**Note:** in case discrepant documents are not accepted they can only be sent on collection basis to issuing bank.

In case the L/C is available with issuing bank who finds documents as discrepant after having received them from advising bank it depends on the importer whether he

- takes up the documents despite these discrepancies
- refuses the taking up of documents.

a) If the importer takes up the documents his banks will send MT732 “Advice of Discharge” to exporter’s bank.

#### Structure of MT732

Status	Tag	Field Name
M	20	Sender's TRN
M	21	Presenting Bank's Reference
M	30	Date of Advice of Payment/Acceptance/Negotiation
M	32B	Amount of Utilisation
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

Upon receipt of the MT 732 advising bank will effect payment of L/C amount according to the payment terms of the L/C (sight or usance)

b) If he refuses to take up the documents his banks will send MT734 “Advice of Refusal” to exporter’s bank to advise them that the documents are considered not to be in accordance with the terms and conditions of the L/C and that, consequently, it refuses them for the discrepancies stated.

#### Structure of MT734

Status	Tag	Field Name
M	20	Sender's TRN
M	21	Presenting Bank's Reference
M	32A	Date and Amount of Utilisation
O	73	Charges Claimed
O	33a	Total Amount Claimed
O	57a	Account With Bank
O	72	Sender to Receiver Information
M	77J	Discrepancies
M	77B	Disposal of Documents

*M = mandatory*

*O = optional*

### 3.3. Bank Guarantees (Letter of Undertaking)

#### 3.3.1. Definition of a Guarantee (Letter of Undertaking)

A guarantee is issued by a bank on behalf of its customer as a financial assurance to the beneficiary which can be collected in the event that the business partner defaults on certain specified contractual obligations.

Guarantees are undertakings by the Bank to pay a specific amount of money during a specified period of time if the beneficiary makes a demand in accordance with the terms of the guarantee. Guarantees are abstract undertakings. That means they are in no way concerned with or bound by the underlying transaction.

Guarantees are payable on first demand and against negative statement. E.g. “against the written confirmation that the Exporter has not fulfilled his contractual obligations”.

**Note:** Although most guarantees are issued on behalf of an Exporter there are also some guarantee types like e.g. Payment Guarantee where bank's customer is the Importer. In the following paragraphs we will use the terminology “Exporter” as synonym for bank's customer.

Possible reasons for issuing Guarantees:

- Mistrust between or new contractual parties
- Risks of negative events
- General demand for being secured
- Requirements by law
- Condition of the contract
- Reduction of costs

#### 3.3.2. Advantages and Disadvantages

##### Advantages for the exporter

- The issuance of a guarantee closes possible gap of trust between him and the importer.

##### Disadvantages for the exporter

- Since a bank guarantee is always payable on first demand he bears the risk of an unjustified claim. Only after payment he can take steps to proof that he has fulfilled his contractual obligations.
- Importer might only open a L/C in favour of the exporter after having received a bank guarantee issued in his own favour.

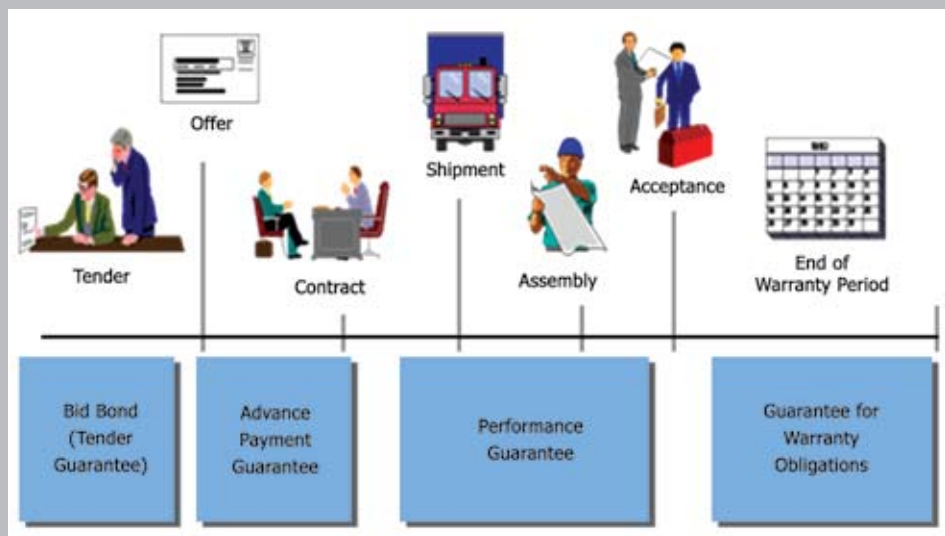
##### Advantages for the beneficiary

- Easy possibility for beneficiary to receive payment out of the guarantee in case the exporter has not fulfilled his contractual obligations.

### 3.3.3. Types of Guarantees

The subsequent chapter gives an overview about common guarantee types.

#### Most common types of guarantees



	Function	Typical Amounts	Validity
<b>Bid Bond (Tender Guarantee)</b>	Security for beneficiary that terms of tender will be fulfilled	1% – 5% of contract value	Until the end of tendering or contracting
<b>Advance Payment Guarantee</b>	Security for beneficiary that the down payment will be paid back if contract will not be fulfilled	Amount of down payment (sometimes including interest) – 10% – 30% of contract value	Date of expected delivery / performance + further claim period
<b>Performance Guarantee</b>	Secures payment of the guaranteed sum when the party whose performance is guaranteed by the guarantee fails to perform or discharge in full his contractual obligations	10% – 20% of contract value	Until expiry of contract or end of contractual obligations + further claim period
<b>Guarantee for Warranty Obligations</b>	Covers risk of buyer that goods are of bad quality or breach of warranty	5% – 10% of contract value	Until end of warranty period



### Additional types of guarantee

	Function	Typical Amounts	Validity
Delivery Guarantee	Security for beneficiary that delivery as per contract will be done	10% – 20% of contract value	Until delivery / performance + further claim period
Customs Guarantee	Security for customs authorities in the case of importer's violation of his customs duties	100% of the goods custom value	Open ended – depends on nature of goods and country of authorities
Payment Guarantee	Security for beneficiary in case the Buyer fails to pay	Contract value	Due date payment + further claim period
Bill of Lading Guarantee	Security for the beneficiary (carrier) to release goods without presentation of the original B/L	150% – 200% of contract value	Open ended – until arrival of original B/Ls or release

#### 3.3.4. Structure of Guarantees

A guarantee is always a separate, official bank document with the following structure:

##### ■ Preamble

The preamble serves for the allocation of guarantee to the underlying business transaction. It contains the major contract details and refers to the guarantee clause in the contract with regard to guarantee type.

##### ■ Tenor & payment clause

This section outlines the exact conditions of the guarantee and must always contain the clause “payable on first demand”.

##### ■ Expiry clause

The following types of expiry clauses are the most common ones:

- ▶ fixed expiry date
- ▶ presentation of documents
- ▶ unlimited in lifetime

##### ■ Special clauses:

“Coming into force clause” e.g. upon receipt of advance payment

“This guarantee shall enter into effect if and to the extend the advance payment of ..... is credited in full without reserve to beneficiary's account no. .... held with us with reference to this guarantee, at his free disposal.

“Reduction clause” e.g. pro rata delivery

“This guarantee shall be automatically reduced by ....% of the invoice value of each delivery, if evidenced by the taking up of documents which will be presented to you on a collection basis in due course with reference to this guarantee.

“Evergreen clause” Means the automatic extension of the guarantee validity if no written notification on the termination has been received by beneficiary by a certain date prior to expiry.

**Often used in Standby LCs. E.g.**

“This Standby Letter of Credit is deemed to be automatically extended without amendment for one year from the expiration date or any future expiration date, unless 90 (ninety) days prior to such expiration date we notify you by registered mail or Courier Service that this Standby Letter of Credit will not be renewed for any additional period.”

**Note:** Avoid so called “Effective clause”

Means, the guarantee must not contain a condition which the issuing bank cannot check on his own. E.g. “.... effect payment, if the beneficiary has not effected the agreed payment”.

### **Terminology commonly used in bank guarantees**

**Bank Guarantee:** sometimes also called Letter of Undertaking or Letter of Indemnity.

**Issuing Bank:** The issuing bank is the bank, which issues the guarantee. In case of a direct guarantee this is the bank of the exporter, in case of an indirect guarantee this is the bank of the beneficiary or a bank in the country of beneficiary.

**Exporter:** in most cases the party on whose behalf the guarantee is issued.

**Importer:** in most cases the beneficiary of a guarantee.

### **Direct Guarantee vs Indirect guarantee**

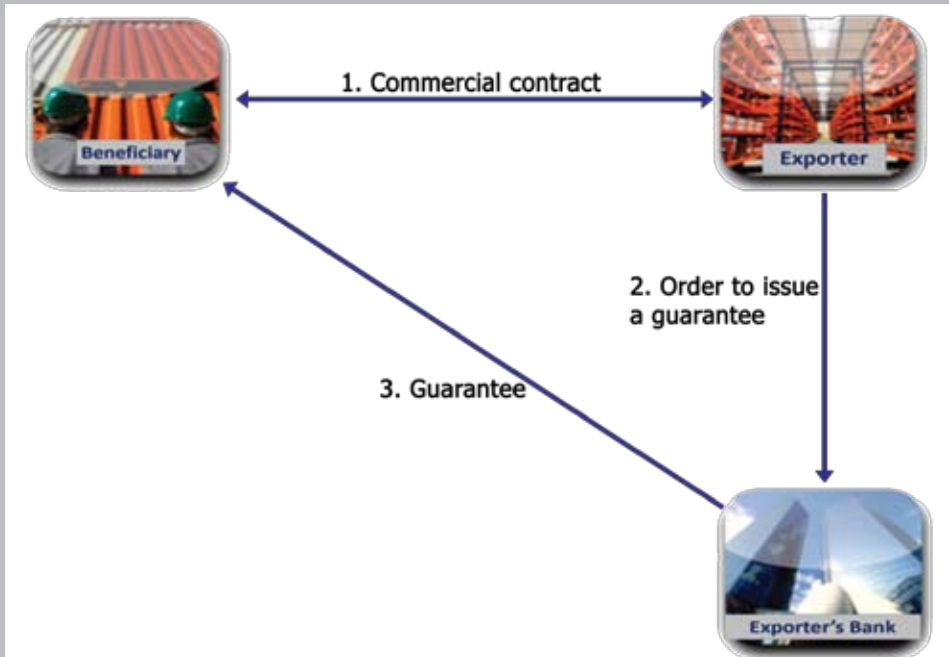
■ A direct guarantee is where the exporter’s bank issues the guarantee directly to the beneficiary.

■ Due to local regulations or commercial practice the beneficiary may insist that their own bank provides the guarantee. If this is the case, an indirect guarantee is issued. This means that the exporter arranges for his bank to instruct the local bank to issue a guarantee to the beneficiary. The exporter’s bank provides a counter-guarantee to the local bank for the issuance and the exporter provides their counter indemnity.

### 3.3.5. Direct Guarantees

#### ■ Advantages:

- ▶ Exporter can rely on the local law that they are familiar with.
- ▶ Possibility to cancel even after expiry date (depending on expiry clause).
- ▶ Only the commission of the issuing bank needs to be paid.



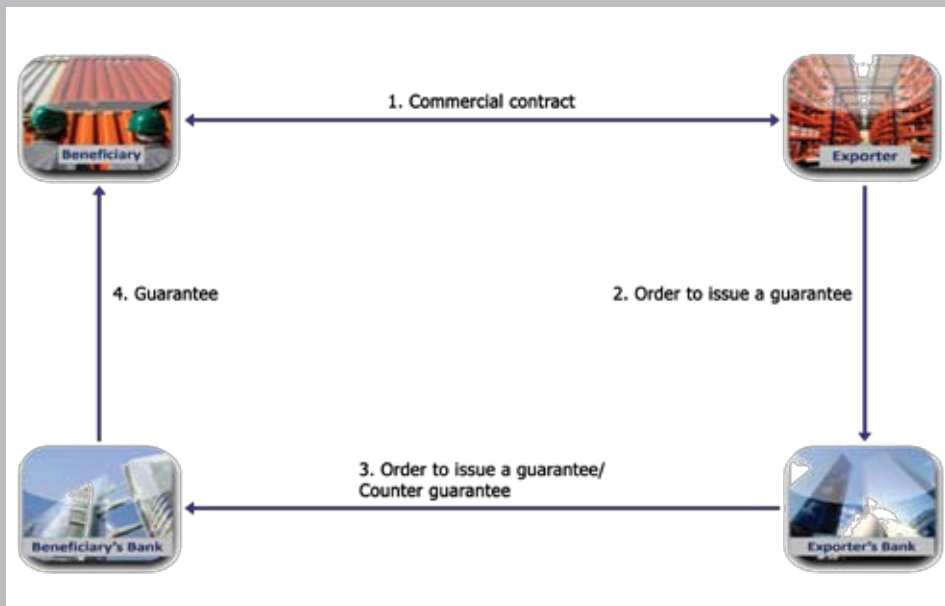
**Note:** An example of a direct guarantee can be found under the section “Examples”

### 3.3.6. Indirect Guarantees

#### ■ Issuance through foreign bank with counter guarantee of ordering bank:

- ▶ Foreign law of beneficiary
- ▶ Book off only after release of Issuing bank
- ▶ Commission of Issuing bank and Counter-Guarantee bank

**Note:** expiry date of counter-guarantee must be later than expiry of guarantee itself, to allow issuing bank to put a claim under the counter-guarantee even if beneficiary puts his claim on last day of validity of the guarantee.



**Note:** An example of an indirect guarantee can be found under the section “Examples”

### 3.3.7. Special types of Guarantees

#### Advising a Guarantee

Advising of a Guarantee means that the issuing bank sends the guarantee - either the document itself or via SWIFT MT760 - to a bank in beneficiary's country, which will “advise” it to the beneficiary without any obligations on their side. Often this happens, since the regulations in beneficiary's country do not allow that a guarantee is directly handed over and / or since all foreign guarantees must be registered.

#### Confirmation of a Guarantee

In case of guarantee confirmation the issuing bank will send the guarantee - either the document itself or via SWIFT MT760 - to a bank in beneficiary's country. Such bank will add his confirmation which allows the beneficiary in case of a claim to either claim payment by the confirming or the issuing bank.

Internationally not very common. In most cases Exporter's bank would request a bank in beneficiary's country to issue the guarantee under their counter-guarantee.

### Standby Letter of Credit (SBLC)

Until few years back in US no guarantees were allowed and still today they are not very common. Instead of this Standby Letters of Credit are used.

While a Letter of Credit is intended to always be drawn a Standby Letter of Credit – equal to a guarantee – will only be drawn in case of non-fulfillment of the underlying obligations.

For SBLCs it can be chosen whether governing rules UCP 600 or ISP 98 apply.

**Note:** An example of a Standby Letter of Credit can be found under the section “Examples”

#### 3.3.8. Processing Steps

1) Contract between importer and exporter contains the dedicated requirement for issuance of a guarantee.

2) Exporter instructs his bank to issue a guarantee. His instructions must be in writing, duly signed and contain at least the following details:

- ▶ Beneficiary (full name and address)
- ▶ Currency, Amount
- ▶ Expiry date
- ▶ Type of Guarantee
- ▶ Contract details (number, date, subject of underlying contract, total price) or Tender details (offer number and date, tender closing, subject of offer)
- ▶ Wording, special clauses
- ▶ Direct, indirect or advised. If indirect or advised: name of bank to be instructed (if available bank will choose one of its correspondent banks in beneficiary's country)
- ▶ Party to whom guarantee document is to be handed over / delivered

## Sample Bank

## Instructions for the issue of a guarantee

To Sample Bank		Our ref.-number	01
		Account No.	
		Person in charge / telephone number	

I / We hereby instruct you to issue upon my / our present instructions and for my / our account an undertaking as per the following details.

Currency, amount

Lifetime ☐ Expiry date 02 ☐ Open ended

Beneficiary (name and full address) 03

Type of undertaking

☐ Guarantee subject to URDG 758\* 04 ☐ Guarantee 06

☐ Standby Letter of Credit as per ISP 98 05 ☐ Standby Letter of Credit as per UCP 600

Type of Guarantee: 07

Tender closing date Tender No. / date Offer No. / date 08

Subject of offer / underlying contract (if applicable, in the interest of) 09

In the amount of % Contract No. / date Total price

Language of undertaking Further details

Wording of the undertaking 10

Issuing bank 11 ☐ Following bank (indirect) 12

Handing over / delivery of document to 13 ☐ Following address 14

Handing over / delivery of document by 15

Special remarks ☐ With coming into force clause ☐ With reduction clause

## Sample Bank

Our ref.-number	_____
Further instructions	<div style="border: 1px solid black; height: 150px; margin-top: 5px;"></div>
Place and date	Company and authorized signature of instructing party

## Info:

01	Reference data for conclusive identification of the order/contract (order, invoice or contract number)
02	Fix expiration date to be captured
03	Name of the company and entire address of the beneficiary/beneficiaries
04	To be ticked if the guarantee is supposed to be subject the "Uniformed Rules for Demand Guarantees"
05	"International Standby Practices" published by the International Chamber of Commerce in Paris in 1998
06	"Uniform Customs and Practices for Documentary Credits" by the International Chamber of Commerce
07	For example Bid-Bond, Payment, Advance Payment, etc.
08	Requested information to be provided in case of bid-bond
09	Information to be provided in the language of the Guarantee
10	Either "Your wording", "The wording of the correspondent bank" or "Wording as per enclosure"
11	Either "You in favor of beneficiary (direct)", "Correspondent bank of your choice (indirect)" or "You, as advising bank (direct)"
12	Indicate the bank abroad to issue a (direct) guarantee to the beneficiary
13	Either "Us", "The beneficiary" or "Following address (name and full address)"
14	Fill in the complete name of the company as well as the entire address
15	For example "Letter", "Pick-up at the counter", etc.

Upon receipt of client's application the bank must do the following:

- ▶ Verify customer's signature on application
- ▶ Check completeness of the application and that all accompanying documentation needed by the bank (e.g. copy of contract) has been presented
- ▶ Credit risk approval, taking into consideration diversification among Guarantee types and tenor structure of basket, and validate collateral
- ▶ check guarantee wording on risks (e.g. not being able to cancel guarantee upon expiry, effective clause) and advise client accordingly
- ▶ Embargo check on all involved parties.

3) Depending on customer instructions and / or specific regulations in beneficiary's country the bank will either issue the guarantee itself towards the beneficiary (direct guarantee) or instruct a bank in the country of beneficiary to issue the guarantee in favor of the beneficiary under the counter-guarantee of the bank (so called indirect guarantee).

To submit the guarantee details in case of an indirect guarantee to the issuing bank MT760 will be sent.

Structure of MT760 "Guarantee / Standby Letter of Credit"

Status	Tag	Field Name	Content/Options
M	27	Sequence of Total	1!n/1!n
M	20	Transaction Reference Number	16x
M	23	Further Identification *	16x
O	30	Date	6!n
M	40C	Applicable Rules	4!a[/35x]
M	77C	Details of Guarantee	150*65x
O	72	Sender to Receiver Information	6*35x

*M = mandatory*

*O = optional*

\*Tag 23 - depending on the value the MT760 is to be considered as request to issue a guarantee (REQUEST) or as issue of the guarantee (ISSUE).

4) In case of an indirect guarantee Beneficiary's Bank will issue the guarantee in favor of the beneficiary.

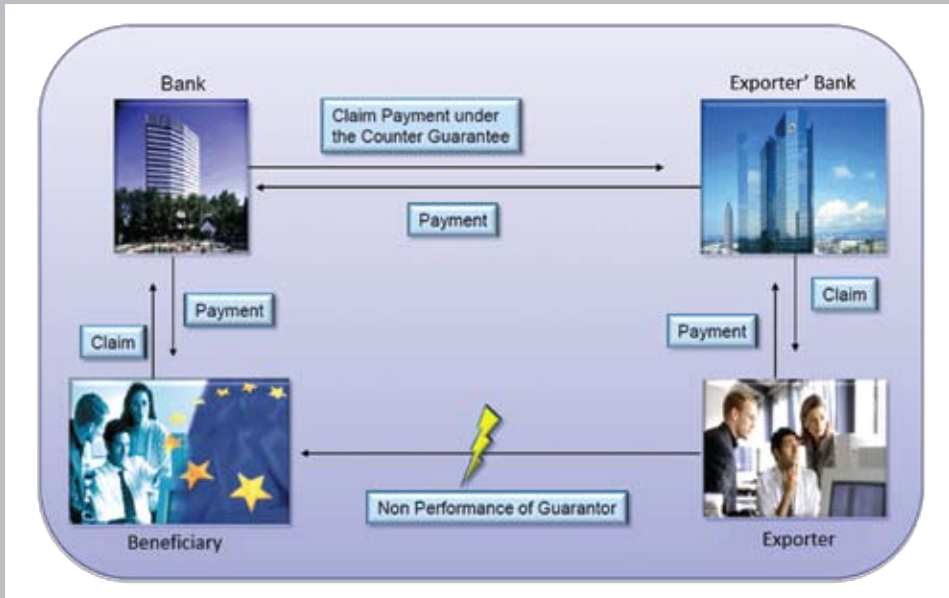
### 3.3.9. Claims under a Guarantee

In case the Exporter has failed to fulfil his contractual obligations the beneficiary of a guarantee can claim payment under a guarantee. Any claim needs to be done in accordance with the conditions of the guarantee which mostly stipulate that such claim



- Needs to be made in writing. It is important that the exact statement for a claim is provided. Slight deviation from the required statement might lead to a refusal of the claim.
- Must be signed by beneficiary
- Must be accompanied by any declarations / documents, required
- Must be made and received within the validity of the guarantee.

#### Process flow for a claim under a guarantee:



Upon receipt of a claim the bank must check that the claim is according to the conditions of the guarantee. If this is the case the bank needs to pay immediately to the beneficiary and respective SWIFT payment via MT103 will be initiated (see under correspondent banking section).

In the subsequent step the bank will debit his customer with the claimed amount.

If the claim presented is related to a guarantee, the bank issued under the counter-guarantee of Exporter's bank, the issuing bank needs to claim payment under that counter-guarantee.

**Note:** If bank's customer is beneficiary out of a guarantee and he claims demand under such guarantee the bank should check carefully before forwarding the claim to the issuing bank whether the conditions for claim as mentioned above are fulfilled. This is to avoid that the issuing bank rejects the claim which would lead to a delay or – in worst case – even make it impossible to re-send the claim in case expiry date has been reached in the meantime.

## Extend-or-Pay Demand

In some countries it is common practice that short before reaching the expiry date they claim “Extend-or-Pay” under a counter-guarantee. That means that bank – and in consequence the customer - needs to agree in an extension of guarantee validity to avoid that they have to pay.

### 3.3.10. Cancellation of a Guarantee

There can be different reasons for cancellation of a guarantee or counter-guarantee.

- **Expiry Date:** Reaching the expiry date is not a sufficient condition to allow cancellation of the guarantee on that date. Underlying law (since only several countries allow automatic cancellations) and exact wording of the expiry clause need to be taken into consideration. If the underlying law is not known (what most often will be the case) the guarantee cannot be cancelled despite a clear expiry clause.
- **Return of the document from beneficiary:** the guarantee document must be returned from beneficiary together with his confirmation that he will not place a claim under the guarantee. Otherwise there is no proof that the guarantee has been really returned by beneficiary but not by another person.
- **Drawing under the guarantee has been done and guarantee amount was paid.**

In case of indirect guarantees the issuing bank must explicitly release the bank from their obligations under their counter-guarantee. MT769 is sent for this purpose.

Structure of MT769 “Advice of Reduction or Release”

Status	Tag	Field Name
M	20	Transaction Reference Number
M	21	Related Reference
O	25	Account Identification
O	30	Date of Reduction or Release
O	32a	Amount of Charges
O	33B	Amount Reduced or Released
O	34B	Amount Outstanding
O	39C	Amount Specification
O	57a	Account With Bank
O	71B	Details of Charges
O	72	Sender to Receiver Information

*M = mandatory*

*O = optional*

### 3.4. Finance

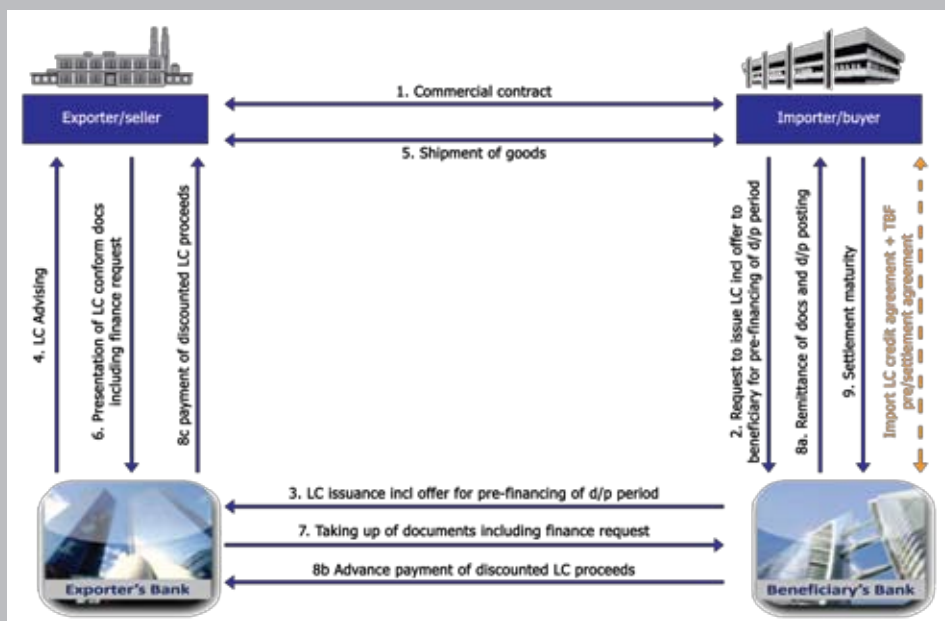
This chapter gives a basic overview about some common kinds of financing.

#### 3.4.1. Pre-settlement of Deferred Payment Import-L/Cs

The bank as the importer's bank issues an Import L/C at the request of his client and passes on the information via Swift to the advising bank to advise the L/C to the exporter.

The L/C issued in favour of the exporter includes an option to discount the documents value at time of documents presentation.

After presentation of LC-conform documents the bank discounts the documents value to the exporter before maturity of deferred payment period.



#### 3.4.2. Trust Receipt

If the importer, who has opened an Import L/C, needs a financing from the issuing bank on due date of the payment, he will issue a Trust Receipt towards the bank.

When the bank as issuing bank hands over the documents to the importer on maturity date, bank's customer will issue a Trust Receipt for the bank and ask for financing. In consequence the importer will assign all rights, titles and interests on the goods and on the documents as collateral security to the bank.

The customer acts so to say as trustee for the bank and will take over the goods and documents in his "trust" against issuance of a "Receipt".





### 3.4.3. Seller Pre-Finance (Packing Credit)

Seller Pre-Finance will be provided to the Exporter based on a specific purchase order concluded with the Importer supporting special financing needs during production time.

The financed underlying transaction must be based on one of the following payment instruments

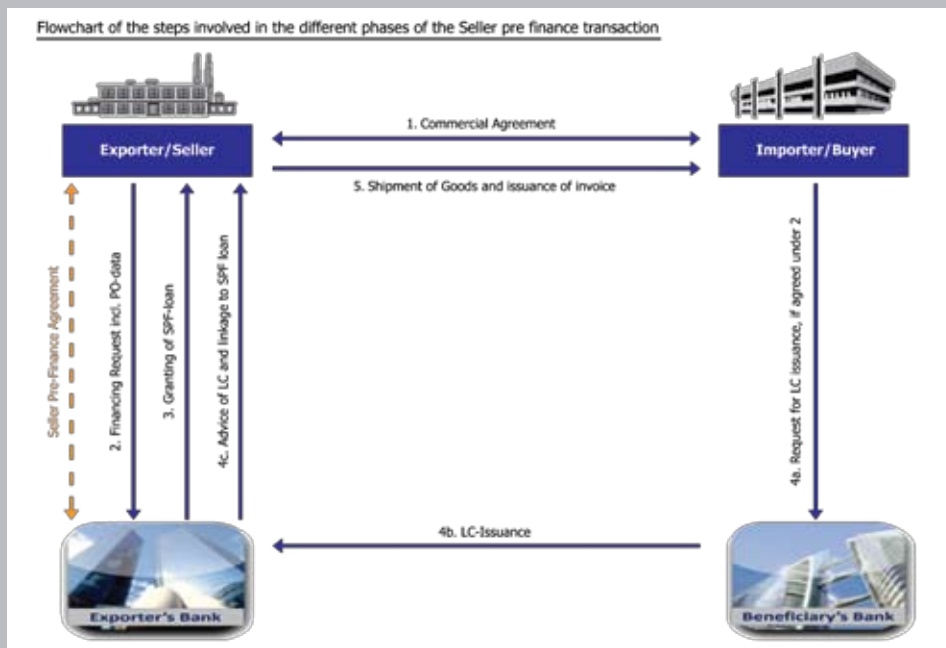
- ▶ Export Letter of Credit
- ▶ Export Collection.

The bank has a recourse on the seller and need information about the underlying transaction for a proper monitoring with regard to

- ▶ Agreed payment instrument
- ▶ Expected Shipment date
- ▶ Payment term/maturity of the invoice.

Generally the financed (future) Receivables need to be assigned or pledged to the bank at time of financing. Proceeds out of the underlying transaction need to be used to repay the Transaction Based Financing even before maturity.

Documents to be presented under documentary collection or documentary Letter of Credits must be routed through the bank for proper repayment of the transaction.



### 3.4.4. Account Receivables

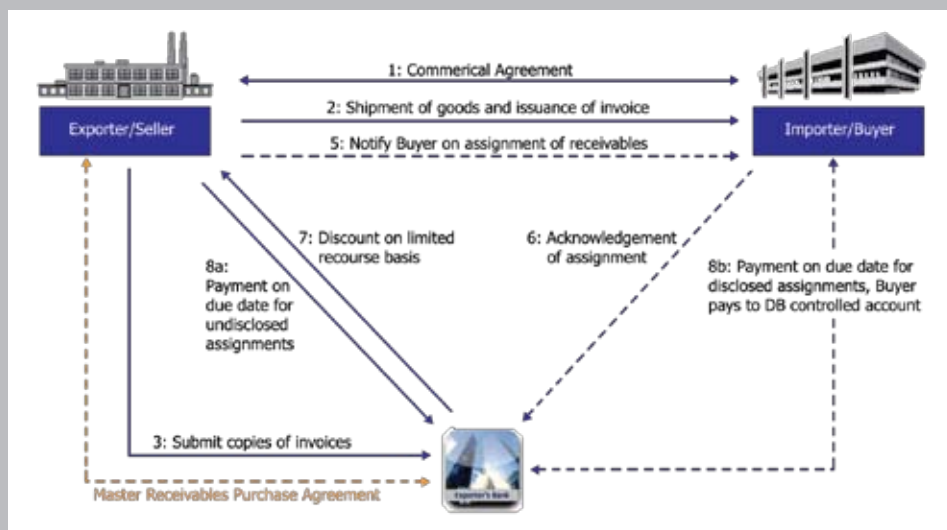
Account Receivables originated out of commercial invoices once shipment has been effected.

The bank purchases Account Receivables on a limited recourse basis by taking the payment risk of the Buyer.

Purchased Receivables need to be assigned to the bank, in case receivables are insured, insurance cover will also be assigned to Deutsche Bank.

Depending on jurisdiction of the receivables and the agreed conditions in the underlying contract the assignment will be disclosed to the buyer and the buyer will directly pay to the bank on due date.

If assignment has not been disclosed to the buyer, he acts as payment agent and is obliged to inform the bank once he has received the payment from.



## 4. Examples

### 4.1. Documents

#### 4.1.1. Commercial Invoice

COMMERCIAL INVOICE			
INVOICE NO.	:		DATE : 17.02.2015
	:		
TENOR	:	AT SIGHT	
LC NO.	:		DATE : 18.02.2015
DRAWEE	:	MMMYXXX	
		BANK LTD	
		YANGON MM	
BILL OF LADING NO.	:	1	DATE : 17.02.2015
OCEAN VESSEL	:	MT LONE	
PORT OF LOADING	:	SINGAPORE	
PORT OF DISCHARGE	:	YANGON, MYANMAR	
COUNTRY OF ORIGIN	:	SINGAPORE	

DESCRIPTION OF GOODS	QUANTITY BBL	AT A PRICE OF USD/BBL	TOTAL PRICE OF USD CLF YANGON
DIESEL OIL	11,118		
1,500.000 METRIC TON			
1,500.000 KG			
1,476.309 LONG TON			
TOTAL AMOUNT			

US DOLLARS

WE HEREBY CERTIFYING THAT :

GOODS SPECIFIED ON THE INVOICE ARE IN STRICT CONFORMITY WITH THE GOODS MENTIONED  
IN PROFORMA INVOICE NUMBER                      DATED                      INDICATING IMPORT LICENSE  
NUMBER                      DATED

FOR

\_\_\_\_\_  
AUTHORIZED SIGNATURE

#### 4.1.2. Packaging List

		DATE :	17.02.2015
<b>PACKING LIST</b>			
INVOICE NO.	:	DATED	: 17.02.2015
CONSIGNEE TO	:		
LC NO.	:	DATED	: 18.02.2015
BILL OF LADING NO.	: 1	DATED	: 17.02.2015
VESSEL	:	MT LONDON TRADER	
COUNTRY OF ORIGIN	:	SINGAPORE	
PORT OF LOADING	:	SINGAPORE	
PORT OF DISCHARGE	:	YANGON, MYANMAR	
DESCRIPTION OF GOODS	:	DIESEL OIL	
PACKING DETAILS	:	IN TANKS	
QUANTITY	:	1,500 METRIC TON 11,118 BBLs 1,500,000 KG 1,476.309 LONG TON	
<hr/> AUTHORISED SIGNATORY			



## 4.1.3. Certificate of Origin

DATED : 17.02.2015		
<b>CERTIFICATE OF SINGAPORE ORIGIN</b>		
GOODS CONSIGNED TO :		
MEANS OF TRANSPORT (As Far As Known)	: VESSEL FROM TO	MT LONDON TRADER SINGAPORE YANGON, MYANMAR
DESCRIPTION OF GOODS	: DIESEL OIL	
B/L NO.	: 1	
B/L DATE	: 17.02.2015	
LC NO.	:	DATE
BARREL	: 11,118.000	
METRIC TONS (TNE)	: 1,500.000	
KG	: 1,500,000.000	
LONG TON	: 1,476.309	
<p>WE HEREBY CERTIFY THAT THE ABOVE DETAILS AND STATEMENTS ARE CORRECT.</p> <p>WE HEREBY CERTIFY THAT GOODS ARE OF SINGAPORE ORIGIN.</p>		
<p>*****</p> <p>AUTHORISED SIGNATORY</p>		

#### 4.1.4. Bill of Lading

801 506

Shipper		<b>BILL OF LADING</b>		B/L No. Nationality of Ocean Vessel	
Consignee 'TO ORDER OF KANBAWZA BANK'		CARRIER: YUYH MARINE CO LIMITED			
Notify Address		<p>Shipped on board the vessel named herein in apparent good order and condition (unless otherwise indicated) the goods or packages specified herein and to be discharged at the above mentioned port of discharge or as near thereto as the vessel may safely get and be always afloat.</p> <p>The weight, measure, marks, numbers, quality, contents and value, being particulars furnished by the Shipper, are not checked by the Carrier on loading. The Shipper, Consignee and the Holder of this Bill of Lading hereby expressly accept and agree to all printed, written or stamped provisions, exceptions and conditions of this Bill of Lading, including those on the back hereof. One of the Bills of Lading duly endorsed must be surrendered in exchange for the goods or delivery order.</p> <p>In witness whereof, the Carrier or his Agents has signed Bills of Lading all of this tenor and date, one of which being accomplished, the others to stand void.</p> <p>Shippers are requested to note particularly the exceptions and conditions of this Bill of Lading with reference to the validity of the insurance upon their goods.</p>			
Pre-carriage by	* Place of Receipt by Pre-carrier	FIRST ORIGINAL			
Ocean Vessel BAOFENG V.CAM070	Port of Loading JIANGYIN, CHINA				
Port of Discharge YANGON, MYANMAR	* Final destination (if goods to be transhipped at port of discharge)	Freight payable at	Number of original B/L's <b>THREE</b>		
Marks & Nos./Container Nos. MARKING: MILL'S STANDARD EXPORT MARKING	Number and kind of packages, description of goods 4,774 BUNDLES  DEFORMED BAR (12 METER) AS PER PROFORMA INVOICE NO. DATED QUANTITY: 10,920.486MT NET WEIGHT: 10,920.486MT  CLEAN 'SHIPPED ON BOARD' JUL. 07, 2015 'FREIGHT PREPAID'	Gross weight kgs 10,920.486 MT	Measurement m³		
	TOTAL PACKAGES (IN WORDS)	SAY FOUR THOUSAND SEVEN HUNDRED AND SEVENTY FOUR BUNDLES ONLY.			
Freight and charges		Place of B/L issue SEOUL, KOREA		Date JUL. 07, 2015	
		Signed for the Carrier			

\*Applicable only when documents used as a Through Bill of Lading

(FORM 100) Revised in 1-1988

## 4.1.5. Air Waybill

11 AND 2017.08.60/133/0 R-AND 2017.08.60/133/0

Shipper's Name and Address		Shipper's Account Number		Not Negotiable <b>Air Waybill</b> Issued by	
Consignee's Name and Address		Consignee's Account Number		In a capacity as contracting carrier	
Issuing Carrier's Agent Name and City		Accounting Information		Copies 1, 2 and 3 of this Air Waybill are originals and have the same validity	
Agent's IATA Code 01-4 7989 8905		Account No.		It is agreed that the goods described herein are accepted in apparent good order and condition (except as noted for damage) SUBJECT TO THE CONDITIONS OF CONTRACT ON THE REVERSE HEREOF. ALL GOODS MAY BE CARRIED BY ANY OTHER MODE INCLUDING ROAD OR ANY OTHER CARRIER UNLESS SPECIFIC CARRIER INSTRUCTIONS ARE GIVEN HEREON BY THE SHIPPER, AND SHIPPER AGREES THAT THE SHIPMENT MAY BE CARRIED VIA INTERMEDIATE STOPPING PLACES WITHOUT THE CARRIER BEING APPROPRIATE. THE SHIPPER'S ATTENTION IS DRAWN TO THE NOTICE CONCERNING CARRIER'S LIMITATION OF LIABILITY. Shipper may increase such limitation of liability by declaring a higher value for carriage and paying a supplemental charge if required.	
Airport of Departure (State of First Carrier) and Requested Routing <b>MURICH AIRPORT</b>		Reference Number <b>618-7039 0703</b>		<b>'FREIGHT PREPAID'</b>	
By First Carrier <b>SIN SINGAPORE AIRLINE</b>		By Second Carrier <b>SGW SQ</b>		Declared Value for Carriage <b>USD 1000</b>	
By Third Carrier <b>YINCON</b>		By Fourth Carrier <b>SGW SQ</b>		Declared Value for Customs <b>USD 1000</b>	
Amount of Insurance <b>USD 1000</b>		Amount of Insurance <b>USD 1000</b>		Amount of Insurance <b>USD 1000</b>	
Handing Information					
DOCUMENTARY CREDIT NUMBER: DATE OF ISSUE: 30					
No of Pieces 15	Gross Weight 5820.0	Rate Class N	Chargeable Weight 5837.5	Rate AS AGREED	Total AS AGREED
ORDER CONFIRMATION NO 11/0036-70 DATED 21 MAY 2019 NOTIFY-A-					
DESCRIPTION OF GOODS &/OR SERVICES MEDICAL EQUIPMENT (BRAND NEW) STORE MEDICAL LITHOTRIPSY MACHINE WITH FULL ACCESSORIES 3 UNITS, UNIT PRICE USD 1000 TOTAL AMOUNT USD C.I.F. YINCON					
DIMS.: 3*227*126*135 / 3*228*126*160 / 3*78*62*145 / 3*230*120*150 / 3*99*67*138 /					
VOLUME: 35.025 CBM					
Prepaid Weight Charge Collect Other Charges					
AS AGREED					
Inland Charges					
Total Other Charges Due Agent					
Total Other Charges Due Carrier					
Shipper certifies that the particulars on the face hereof are correct and that he/she is the owner of the goods and that the goods are properly described by name and in proper condition for carriage by air according to the applicable Dangerous Goods Regulations.					
Signature of Shipper or its Agent					
Signature of Issuing Carrier or its Agent					
ORIGINAL 3 (FOR SHIPPER)					

#### 4.1.6. Insurance Document

**PICC 中国人民财产保险股份有限公司**  
**11001600017185**  
**货物运输保险保险单**  
**CARGO TRANSPORTATION INSURANCE POLICY**

单证日期: AEYTH2008Z51  
 保单号次: POLICY NO.

发票号 (INVOICE NO.)  
 合同号 (CONTRACT NO.)  
 信用证号 (L/C NO.)

被保险人:  
 Insured:  
 中国人民财产保险股份有限公司 (以下简称本公司) 根据投保人的要求, 由被保险人向本公司缴付约定的保险费, 按照本保险单承保  
 条件和背面所载条款及下列特款承保下述货物运输保险; 特立本保险单。 THIS POLICY OF INSURANCE WITNESSES THAT PICC PROPERTY AND CASUALTY COMPANY LIMITED (HEREINAFTER CALLED "THE COMPANY") AT  
 THE REQUEST OF THE INSURED AND IN CONSIDERATION OF THE AGREED PREMIUM PAID TO THE COMPANY BY THE INSURED, UNDERTAKES TO  
 INSURE THE UNMENTIONED GOODS IN TRANSPORTATION SUBJECT TO THE CONDITIONS OF THIS POLICY AS PER THE CLAUSES PRINTED  
 OVERLEAF AND OTHER SPECIAL CLAUSES ATTACHED HEREON.

MARKS & NOS.	QUANTITY	DESCRIPTION OF GOODS	AMOUNT INSURED
N/M	8900.000 BBL	MOGAS 92 RON / 2	

总保险金额: TOTAL AMOUNT INSURED: 8900.000 BBL

保费: AS ARRANGED  
 PREMIUM: 0.000000  
 自: SINGAPORE  
 至: YANGON, MYANMAR  
 日期: 07/06/2015  
 日期: 07/06/2015


承保范围: COVERAGE: ALL RISK OF MARINE AND WAR RISK INSURANCE POLICIES OR CERTIFICATES WITH CLAIMS PAYABLE IN  
 YANGON FOR THE C.V. VALUE PLUS 10 PERCENT COVERING W.A. INCLUDING G.R.O. THEFT, PILFERAGE,  
 NON-DELIVERY, WAREHOUSE TO WAREHOUSE, AND ADDITIONAL RISKS AGAINST RAIN OR FRESH WATER  
 DAMAGE, DAMAGE BY OTHER CAUSE RESPECTIVE OF PERCENTAGE, WAR CLAUSES AND ALL RISKS.

所保货物, 如发生保险单下可能引起索赔的损失或损坏; 应立即通知本公司下述代理人查勘; 如有索赔, 应向本公司提交保单正本  
 及下列文件: 如发生损失, 应立即通知本公司下述代理人查勘; 如有索赔, 应向本公司提交保单正本及下列文件:  
 IN THE EVENT OF LOSS OR DAMAGE WHICH MAY RESULT IN A CLAIM UNDER THIS POLICY, IMMEDIATE NOTICE MUST BE GIVEN TO THE  
 COMPANY'S AGENT AS MENTIONED HEREUNDER. CLAIMS, IF ANY, ONE OF THE ORIGINAL POLICY WHICH HAS BEEN ISSUED BY THE ORIGINAL  
 TOGETHER WITH THE RELEVANT DOCUMENTS SHALL BE SURRENDERED TO THE COMPANY, IF ONE OF THE ORIGINAL POLICY HAS BEEN  
 ACCOMPLISHED, THE OTHERS TO BE VOID.

PICC Property and Casualty Company Limited  
 International Business Department, Beijing Branch  
 Address: 19th Floor, No.1 Office Building, Shimo International  
 Century, Chaoyang, Beijing, China  
 TEL: 86-10-66122409  
 FAX: 86-10-66053529  
 Post Code: 100027

赔款付地点: YANGON, MYANMAR  
 出单日期: Jul. 21, 2015  
 地址: 北京市东城区朝内门北大街17号  
 ADD: NO.17 CHAOYANG MEN NORTH STREET, DONG CHENG, BEIJING, CHINA.  
 邮编 (POST CODE): 100010  
 尊敬的客户: 您可通过本公司网站 (www.e-picc.com.cn), 95518 客服电话或附近的营业网点查询保险单信息。若对查询结果有异议, 请通  
 过以上三种渠道联系本公司。

## 4.1.7. Import Licence


**16-15**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
 ကုသလိမ္မာဓိပတိဝန်ကြီးဌာန  
 သွင်းကုန်လိုင်စင်

49421  
 Original  
 မူရင်း

APPENDIX 4b

1. Importer (Name & Address)		2. Registration No/ Valid Date (20/09/2015)		3. Licence No. IL6 14-15 13/02/2015 Republic of the Union of Myanmar Ministry of Commerce Department of Commerce and Consumer Affairs	
3. Consignor (Name & Address)		IMPORT LICENCE <input type="checkbox"/> Please tick (✓) Where appropriate NO UNAUTHORIZED ADDITION/AMENDMENT MAY BE MADE ONCE IT IS ISSUED.			
4. Last Date of Import 10/05/2015		8. Country Whence Consigned SINGAPORE			
5. Mode of Transport <input checked="" type="checkbox"/> Sea <input type="checkbox"/> Road <input type="checkbox"/> Air		9. Country of Origin SINGAPORE			
6. Place/Port of Discharge Yangon, Myanmar		10. Method of Import Normal LC			
13. No.		14. Hscode		11. Value USD	
1		2710197200		<input checked="" type="checkbox"/> CIF <input type="checkbox"/> FOB <input type="checkbox"/> C&F <input type="checkbox"/> CIP <input type="checkbox"/> EXW	
Description of Goods		16. Unit Code		17. Unit Price	
AS PER ATTACHED INVOICE HIGH SPEED DIESEL (11250 LITERS) BBL 1 BBL = 35 (GALLON) 1 (GALLON) = 3.785411784 (LITER) 1 BBL = 126.11322 (LITER)		KG			
Total Value					
20. Remarks Send a copy of Bill of Lading after completion					
21. The particulars declared by me/ us are true and correct. Signature : Name : Designation : Date :			22. Conditions Port of Loading Singapore ( Singapore ) BCC (30/2015)		
23. Revenue Stamp			24. IMPORT LICENCE issued subject to condition 5 stated herein.  for DIRECTOR GENERAL Date of Issue: Stamp		

## 4.2. Export Letter of Credit

### 4.2.1. Payment instructions

For Export

INTERNATIONAL BANKING DIVISION  
SWIFT: KBZEMMYXXX

OUR REFERENCE NO.: \_\_\_\_\_ DATE: 02<sup>nd</sup> July 2014

TO :  
SUMITOMO MITSUBI BANKING CORPORATION  
OSAKA  
SWIFT : SMBCJPCT03A  
ATTENTION : EXPORT DEPARTMENT

DEAR SIR / MADAM,  
WE ARE PLEASED TO ENCLOSE THE DOCUMENTS DRAWN AGAINST YOUR REFERENCE NO.: \_\_\_\_\_ DATED \_\_\_\_\_

\* DRAWER \*

	BILL AMOUNT : USD
	UNDER L/C NO. :
	TENOR : 90 DAYS
	ISSUED BY : SUMITOMO MITSUBI
	BANKING CORPORATION
	OSAKA

DOCUMENTS LIST

DRAFT -  
COMM INVOICE -  
PACKING LIST -  
BILL OF LADING -  
INSURANCE POLICY -

WE HAVE DULY ENDORSED THE DRAFT AMOUNT ON THE REVERSE OF THE ORIGINAL CREDIT.

**\*\*PAYMENT INSTRUCTION\*\***

+ PLEASE CREDIT THE BILL AMOUNT TO OUR ACCOUNT NO. \_\_\_\_\_ WITH YOUR HEAD OFFICE  
QUOTING OUR REFERENCE No. \_\_\_\_\_

YOURS FAITHFULLY,

ASSISTANT GENERAL MANAGER  
KANBAWZA BANK LTD  
INTERNATIONAL BANKING DIVISION

## 4.2.2. Application form for Export L/C

## Export LC Bills Application Form

We have you drafts and/or documents as specified below for disposal in accordance with the instruction mentioned herein.

Drawer / Beneficiary (Name & Address):		Issuing Bank Name:	
Contact Person: Phone No.:		LC Reference No.:	Issue Date:
Applicant (Name & Address):		Transferring Bank Name:	
Description of Goods:		Transferring Reference No.:	Date:
Tenor of Bill of Exchange		Advising Reference No.:	
1. <input type="checkbox"/> At Sight		Bill of Exchange No. and Date:	
2. <input type="checkbox"/> _____ Days After Sight		Bill Currency & Amount:	
3. <input type="checkbox"/> Others: _____ (Please specify)			

Documents enclosed (please indicate the number of originals and copies)

	Bill of Exchange	Commercial Invoices	Packing List	Bill of Lading	Air Waybill	Insurance Policy/ Certificate	Certificate of Origin	Inspection Certificate	Beneficiary Certificate	Weight List	Delivery Order
Original											
Copies											
<input type="checkbox"/> Other Document(s) (Please specify):											

We hereby agree that all negotiations are subject to final payment from issuing bank and we request you to dispose the attached draft and relative documents by following instructions marked "X"

<input type="checkbox"/> Purchase and credit our account immediately
<input checked="" type="checkbox"/> After negotiation please credit our account upon receipt of funds (subject to final payment)
<input type="checkbox"/> Send on collection basis and credit our account upon receipt of funds (without checking documents)
<input checked="" type="checkbox"/> In case of need or discrepancy(ies) please contact our _____ at Telephone No. _____
<input type="checkbox"/> In case of discrepancies which cannot be amended, kindly forward documents to LC Issuing bank for payment/acceptance.
<input checked="" type="checkbox"/> Request restricted bank to forward documents to the issuing bank for acceptance / payment
<input type="checkbox"/> Other instructions (Please specify): _____

\*\* This documents should be handled with the Subject in accordance to the Uniform Customs and Practice for Documentary Credits (2007 Revision), 'UCP600'.

## Proceeds Disposal:

☐ Please credit our Account with you.☐ Other instruction (specify): \_\_\_\_\_

We instruct KIBZ Bank to negotiate the bills under the Terms and Conditions set forth on reverse page and to debit our account below for all your charges.

Account No.:

Signature &amp; Company Stamp:

Date:

### 4.3. Collections

#### 4.3.1. Arrival Notice

Transaction : Import Bill under Collection  
 Advice : Arrival Notice

#### ARRIVAL NOTICE

Date : 07 September, 2015  
 Our Ref No. :

Please be informed that we have received for Collection the under-mentioned bill drawn on you.

Presenting Bank : WESTPAC BANKING CORPORATION NZ  
 Their Ref No. :  
 Drawer :  
 Tenor : SIGHT  
 Collection Amount : SGD  
 Commodity : MULTI-PLY BAGS WHOLEMILK POWDER

Please note that the item has been accompanied by the following document:

	DRAFT	BL/AWS/C ARGO RECPT/TR UCK RECPT.	COMM. INV.	PKG. LIST	CERTI ORGI	INSP. CERT.	INSUR ANCE POL. / CERT.	BENEFS CERT.	FUMG. CERT	PHYT CERT	OTHER \$
ORIGINAL	1/1	3/3	1/1	1/1	1/1		1/1				2/2
COPIES		1									

#### [Instruction to Customer]

Please sign and return to us the Debit Authorization.

Kindly give us your instructions in respect of payment / acceptance upon receipt of documents.

This is a computer generated advice and does not require authorized signature.



## 4.3.2. Debit Authorization

---

---

**DEBIT AUTHORIZATION**

---

To: ????, Bank

Dear Sirs,

IN SETTLEMENT OF THE ABOVE-MENTIONED ITEM PLEASE FOLLOW OUR INSTRUCTION(S) AS INDICATED BY "X"

☒ We authorize you to debit our Account No. \_\_\_\_\_ for draft amount  
SGD \_\_\_\_\_ and charges.

\_\_\_\_\_  
Authorised Signature

7.9.15  
\_\_\_\_\_  
Date



## 4.4. SWIFT MESSAGES

## 4.4.1. MT700

```

IBDOut-
-----
Instance Type and Transmission -----
Notification (Transmission) of Original sent to SWIFT (ACK)
Network Delivery Status : Network Ack
Priority/Delivery : Normal
Message Input Reference : 150810.
-----
Swift Input : Message Header -----
Sender : KIBZMMMYXXX : FIN 700 Issue of a Documentary Credit
          KANBANKA BANK LTD
          YANGON MM
Receiver : DBSSSGSXXX
          DBS BANK LTD.
          SINGAPORE SG
MUR :
-----
FIN User Header -----
-----
Message Text -----
27: Sequence of Total
    1/1
40A: Form of Documentary Credit
    IRREVOCABLE
20: Documentary Credit Number
31C: Date of Issue
    150810
40E: Applicable Rules
    UCP LATEST VERSION
31D: Date and Place of Expiry
    151104SINGAPORE
50: Applicant

59: Beneficiary - Name & Address

32B: Currency Code, Amount
    Currency : USD (US DOLLAR)
    Amount : $ $
39B: Maximum Credit Amount
    NOT EXCEEDING
41D: Available With...By... - Name&Addr
    DBSSSGG
    BY NEGOTIATION
42C: Drafts at...
    AT SIGHT
42A: Uräwee - FI BIC
    KIBZMMMYXXX
    KANBANKA BANK LTD
    YANGON MM
43P: Partial Shipments
    ALLOWED
43T: Transshipment
    ALLOWED
44E: Port of Loading/Airport of Dep.
    ANY PORT IN PARAGUAY
44F: Port of Discharge/Airport of Dest
    YANGON, MYANMAR.
44C: Latest Date of Shipment
    151104
45A: Descriptn of Goods &/or Services
    PARAGUAYAN SOLVENT EXTRACTED TOASTED HIPRO SOYBEAN MEAL
    QUANTITY: 500000KG
    AT A PRICE OF: USD /KG
    +CIF YANGON, MYANMAR.
46A: Documents Required
    +

```

10/08/15-14:38:59

IRDOut-2501-002525

2

COMMERCIAL INVOICE 1 ORIGINAL PLUS 4 COPIES AND GOODS SPECIFIED  
ON THE INVOICE ARE IN STRICT CONFORMITY WITH THE GOODS MENTIONED  
IN PROFORMA INVOICE NUMBER DATED DATED  
INDICATING IMPORT LICENCE NUMBER DATED

\*  
COMPLETE SET OF CLEAN 'SHIPPED ON BOARD' OCEAN BILLS OF LADING  
MADE OUT 'TO ORDER OF KANBAWZA BANK' AND MARKED 'FREIGHT PREPAID'  
AND NOTIFY-A.KANBAWZA BANK LTD.,INTERNATIONAL BANKING DIVISION  
YANGON.B.AFFILIANT

\*  
FULL SET OF INSURANCE POLICIES OR CERTIFICATES WITH CLAIMS  
PAYABLE IN YANGON FOR THE INVOICE VALUE PLUS 10 PERCENT COVERING  
WPA, INCLUDING SRCC,THEFT PILFERAGE NON-DELIVERY PORT TO PORT AND  
ADDITIONAL RISKS AGAINST RAIN OR FRESH WATER DAMAGE, DAMAGE BY  
CARGO, IRRESPECTIVE OF PERCENTAGE WAR CLAUSES AND ALL RISKS.

\*  
CERTIFICATE OF PARAGUAY ORIGIN 1 ORIGINAL PLUS 2 COPIES.

\*  
PACKING LIST 1 ORIGINAL PLUS 2 COPIES.

47A: Additional Conditions

+LC NO. AND DATE MUST BE INDICATED ON ALL DOCUMENTS EXCEPT BILL  
OF LADING.  
+DISCREPANCY FEE OF USD 60 WILL BE DEDUCTED FROM THE PROCEEDS IF  
DOCUMENTS ARE PRESENTED WITH DISCREPANCY.  
+EACH DRAFTS MUST STATE THAT IT IS DRAWN 'UNDER KANBAWZA BANK  
LTD.,YANGON, LETTER OF CREDIT NO. AND DATED

+ALL DRAFTS AND DOCUMENTS MUST BE ISSUED IN ENGLISH LANGUAGE.

+TT REIMBURSEMENT IS PROHIBITED.

+EXTRA COPIES OF DOCUMENTS ARE REQUESTED TO BE PRESENTED FOR  
ISSUING BANK'S REFERENCE ONLY.

71B: Charges

ALL BANKING CHARGES OUTSIDE MYANMAR  
ARE FOR THE ACCOUNT OF BENEFICIARY.

48: Period for Presentation

DOCUMENTS MUST BE PRESENTED FOR  
NEGOTIATION NOT LATER THAN 21 DAYS  
AFTER BILL OF LADING DATE BUT  
WITHIN THE EXPIRY DATE.

49: Confirmation Instructions

WITHOUT

78: Instr to Payg/Acceptg/Negotg Bank

1) THE AMOUNT OF ANY DRAFT DRAWN UNDER THIS CREDIT MUST BE  
ENDORSED ON THE REVERSE OF THE CREDIT HEREON BY THE NEGOTIATING  
BANK AND THE PRESENTATION OF EACH DRAFT IF NEGOTIATED SHALL BE A  
WARRANTY BY THE NEGOTIATION BANK THAT SUCH ENDORSEMENT HAS BEEN  
MADE.+2) THE NEGOTIATION BANK MUST SEND ALL DOCUMENTS INCLUDING  
DRAFTS DIRECT TO KBE BANK LTD,TRADE FINANCE DEPT,INT'L BANKING  
DIVISION,NO.53,CORNER OF MERCHANT ROAD AND BO SOON FAT  
STREET,PADEGAN TSP,YANGON,MYANMAR BY COURIER SERVICES IN 1  
LOT.+3) UPON RECEIPT OF DOCUMENTS IN COMPLIANCE WITH THE TERMS  
AND CONDITIONS OF THE CREDIT,WE SHALL AUTHORIZE YOU TO DEBIT THE  
VALUE OF THE DRAWING FROM OUR ACCOUNT WITH YOURSELF.+4) PLEASE DO  
NOT COMBINE THE DOCUMENTS FOR DIFFERENT LC.

----- Message Trailer -----

PKI Signature: MAC-Equivalent

----- Interventions -----

Category : Network Report  
Creation Time : 10/08/15  
Application : SWIFT interface  
Operator : SYSTEM  
Text

## 4.4.2. MT730

**ORIGINAL**

03/09/15-17:43:19                      IBDIn-0786-000811                      1

---

----- Instance Type and Transmission -----

Original received from SWIFT  
 Priority : Normal  
 Message Output Reference : 150903  
 Correspondent Input Reference : 150903

----- Message Header -----

Swift Output : FIN 730 Acknowledgement  
 Sender : BIDVVNVXXXX  
 JOINT STOCK COMMERCIAL BANK FOR INVESTMENT AND DEV  
 (HEAD OFFICE)  
 HANOI VN  
 Receiver : KBZBMMYXXX  
 KANBANZA BANK LTD  
 YANGON MM

MUR :  
 (108:TF15090300000904)

----- FIN User Header -----

----- Message Text -----

20: Sender's Reference

21: Receiver's Reference

30: Date of Msg Being Acknowledged  
 150903

72: Sender to Receiver Information  
 THANKS FOR ADVISING LC THROUGH OUR  
 BANK

----- Message Trailer -----

## 4.4.3. MT734

for Swift

06/03/15-12:48:49 IBDOut-1808-001822

ORIGINAL

```

----- Instance Type and Transmission -----
Notification (Transmission) of Original sent to SWIFT (ACK)
Network Delivery Status : Network Ack
Priority/Delivery : Normal
Message Input Reference : 1248 150306
----- Message Header -----
Swift Input : FIN 734 Advice of Refusal
Sender : KKBZMM00XXXX
          KANBANKA BANK LTD
          YANGON MM
Receiver : DBSSSGSGXXXX
          DBS BANK LTD.
          SINGAPORE SG
MJR :
----- FIN User Header -----
(108: )
----- Message Text -----
20: Sender's TRN

21: Presenting Bank's Reference

32A: Date and Amount of Utilisation
Date : 06 March 2015
Currency : USD (US DOLLAR)
Amount : # ,#

33B: Total Amount Claimed
Currency : USD (US DOLLAR)
Amount : # ,#

77J: Discrepancies
+LC NO AND DATE ARE NOT INDICATED ON MARINE
INSURANCE POLICY.
+CONSIGNEE AND NOTIFY PARTY DIFFER FROM LC TERMS.

77B: Disposal of Documents
/NOTIFY/
----- Message Trailer -----
{CHK:EC0ADP67074E}
PKI Signature: MAC-Equivalent
----- Interventions -----
Category : Network Report
Creation Time : 06/03/15 12:48:25
Application : SWIFT Interface
Operator : SYSTEM
Text
[1:F21 0330021238]{4:{177:1503061248}{451:0}{108:
078}}

```

## 4.4.4. MT750

		ORIGINAL	
6-15-07-08		IBDm-0010-000011	
----- Instance Type and Transmission -----			
Original received from SWIFT			
Priority	:	Normal	
Message Output Reference	:	1508 130604	
Correspondent Input Reference	:	1638 130604	
----- Message Header -----			
Swift Output	:	FIN 750 Advice of Discrepancy	
Sender	:	UOVBSGSGXXX	
	:	UNITED OVERSEAS BANK LIMITED	
	:	SINGAPORE SG	
Receiver	:	KBZBMMYXXX	
	:	KANBAWZA BANK LTD	
	:	YANGON MM	
MUR :	:	----- FIN User Header -----	
{108:	:	}	
----- Message Text -----			
20: Sender's Reference			
21: Related Reference			
32B: Principal Amount			
Currency	:	USD (US DOLLAR)	
Amount	:	# #	
77J: Discrepancies			
WE HAVE RECEIVED DOCS ON			
WITH DISCREPANCIES. PLEASE REVERT			
BY AUTHENTICATED SWIFT			
WHETHER WE MAY NEGOTIATE QUOTING			
NO. . BL DATED			
DISCREPANCIES ARE AS FOLLOWS:			
LATE PRESENTATION			
----- Message Trailer -----			
{CHKA33F1D3C8D20}			
PKI Signature: MAC-Equivalent			

## 4.4.5. MT752

ORIGINAL

09/03/15-16:02:10                      IRDOut-1826-001840                      1

---

----- Instance Type and Transmission -----

Notification (Transmission) of Original sent to SWIFT (ACK)  
 Network Delivery Status : Network Ack  
 Priority/Delivery : Normal  
 Message Input Reference : 1602 150309

----- Message Header -----

Swift Input : FIN 752 Auth to Pay, Accept, Negotiate  
 Sender : KBBBMMYXXX  
          KANBANWA BANK LTD  
          YANGON MM  
 Receiver : DBSSSGSGXXX  
          DBS BANK LTD.  
          SINGAPORE SG

MUR :                      ----- FIN User Header -----

(108)                      ----- Message Text -----

20: Documentary Credit Number

21: Presenting Bank's Reference

23: Further Identification  
 DEBIT

30: Dt. of Adv of Discrepancy or Mail  
 150306

32B: Total Amount Advised  
      Currency : USD (US DOLLAR)  
      Amount :                      \$                      .#

71B: Charges Deducted  
      /COMM/USD60,

33B: Net Amount  
      Currency : USD (US DOLLAR)  
      Amount :                      \$                      .#

72: Sender to Receiver Information  
      /TELEBEN/

----- Message Trailer -----

(CHK:F30E87873A37)  
 PKI Signature: MAC-Equivalent

----- Interventions -----

Category : Network Report  
 Creation Time : 09/03/15 16:01:55  
 Application : SWIFT Interface  
 Operator : SYSTEM

Text  
 (1:F21                      0331021349){4:{177:1503091602}{451:0}{108:  
 OAS}})



## 4.5. Guarantees

### 4.5.1. Direct Guarantees

Standard text direct guarantees URDG 758 (example Performance Bond)

Performance Guarantee No. ....

Dear Sirs,

We have been informed that a contract, hereinafter "Underlying Relationship", has been concluded between you and ..... hereinafter "Applicant", on ..... **Error! Reference source not found.** (insert contract date) under ref. No. .... (insert contract number) for ..... (insert subject of contract) total price of .... (insert contract value) and that the Underlying Relationship stipulates that a Performance Guarantee be issued in the amount of **Error! Reference source not found.** % of the total price.

This being premised, we, ..... Bank, hereby irrevocably undertake to pay you without delay on your first written demand for payment an amount up to

Cur Amount  
(in words: currency & amount)

upon presentation of your complying demand in paper form, supported by your written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, indicating in what respect the Applicant is in breach of its obligations under the Underlying Relationship.

This guarantee shall expire, even if this document is not returned, on ..... (insert expiry date) and shall then be null and void, if and to the extent that no demand under this guarantee in accordance with its conditions has reached us in ..... (insert place of expiry) by the end of that day.

This guarantee is only transferable and the proceeds to which you may be or may become entitled under this guarantee are only assignable with our prior written consent.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758 (URDG), and ..... (insert underlying jurisdiction) law.

#### 4.5.2. Indirect Guarantees

##### Standard text indirect guarantees URDG 758

Under our counter-guarantee no. .... - as quoted herein below - please issue the following guarantee:

- Beneficiary (name and address):
- Applicant (name and address):
- Type of guarantee: (e.g. Performance Guarantee)
- Currency and Amount of guarantee in figures:
- Currency and Amount of guarantee in words:
- Expiry of guarantee:
- Underlying Relationship / Contractual obligation: No. .... dated .... for
- Any document required in support of the demand for payment, apart from the supporting statement that is explicitly required in the text below:
- Language of required documents:
- Form of presentation (paper or electronic format):
- Place for presentation:
- Party liable for payment of any charges:
- Additional remarks:

subject to ICC Publication No. 758 (URDG) { in case the conditions of article 15 URDG "Requirements for demand" will not or not completely be part of the guarantee wording, please insert: "except Article 15." }

Please deliver your Guarantee to ..... by on or before.

We look forward to receiving your notice of issuance together with copies of your Guarantee.

As counter guarantor we hereby irrevocably undertake to pay you any amount up to the counter-guaranteed amount of

Cur Amount

(in words: currency & amount .....)

upon presentation of your compliant demand in the form of presentation indicated below, supported by your statement whether in the demand itself or in a separate signed document accompanying or identifying the demand, indicating that you have received a complying demand under your guarantee. In addition, we hereby irrevocably undertake to pay you such further amounts as correspond to the agreed guarantee commission and any costs and expenses reasonably incurred by you in connection with your issuing your guarantee as above.

Please return this document or send us your letter of discharge as soon as your guarantee has terminated.

In the absence thereof, this counter-guarantee, however, shall expire at the latest on ..... (insert expiry date of counter-guarantee) being xxxx calendar days after the expiry date of your Guarantee as above), after which date our liability shall be null and void, unless your demand under this counter-guarantee in accordance with the above mentioned conditions has reached us in ..... (insert place of expiry of counter-guarantee) on or before such date.

This counter-guarantee, which sets out our entire agreement with you, is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758 URDG and is governed by ..... (insert underlying jurisdiction) law.

### 4.5.3. Standby Letter of Credit

#### Sample wording Standby Letter of Credit

Irrevocable Standby Letter of Credit No. ....

Beneficiary: (name and address)

Applicant: (name and address)

Amount: Not exceeding Cur / Amount in figures (in words .....)

Expiry Date ..... at our counters

At the request of ..... we here hereby open our irrevocable Standby Letter of Credit no. .... in your favour as security for applicant's (insert type of obligation; e.g. performance) obligations resulting from contract no. .... dated ..... for ..... (insert contract details).

This credit is available with ..... by payment of beneficiary's draft(s) at sight drawn on ..... The drafts must be accompanied by:

1. The original Letter of Credit and all amendments thereto, if any
2. A statement showing the date and being signed by an authorised signatory of the beneficiary on beneficiary's letterhead reading as follows:

#### QUOTE

Our draft and this statement are being presented to you since the applicant has not performed its ..... (insert type of obligation; e.g. performance) obligations in accordance with contract no. .... (insert contract no. as mentioned above). Therefore the undersigned hereby demands payment of ..... (insert claim amount) which does not exceed the full value of the Letter of credit.

#### UNQUOTE

Partial drawings: allowed

Draft(s) must state "drawn under .... (name of bank) Standby Letter of Credit No. .... dated.....".

Draft(s) and documents must be presented at our offices at.....

This Standby Letter of Credit is subject to the International Standby Practices (ISP98), International Chamber of Commerce Publication No. 590. (or "This Standby Letter of Credit is subject to Uniform Customs and Practice for Documentary Credits (UCP 600 of )International Chamber of Commerce.")



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Publication supported by

Deutsche Gesellschaft für  
Internationale Zusammenarbeit (GIZ) GmbH

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October, 2015