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Uniform Customs & Practice for Documentary Credits (UCP600)

Editor's Overview

The 2007 Revision of the Uniform Customs and Practice for Documentary Credits (ICC Publication No. 600) (UCP600) is promulgated by the Commission on Banking Technique and Practice of the International Chamber of Commerce headquartered in Paris, France. It articulates standard international commercial letter of credit practice. UCP600 has an "effective" date of 1 July 2007. Prior versions were issued in 1933 (UCP82), 1951 (UCP151), 1962 (UCP222), 1974 (UCP290), 1983 (UCP400), and 1993 (UCP500).¹ Although UCP600 will be translated into many languages, the official version is in English.

UCP600 is applicable to credits made subject to it. It may also apply under local law to LCs that do not incorporate it as custom or international letter of credit practice. With few exceptions, courts have deferred to the UCP as a primary source of letter of credit practice and as an influential source of letter of credit law. Both statutory formulations of LC law, the UN LC Convention² and US Revised UCC Article 5,³ expressly defers to it as do the Chinese LC Rules promulgated by the Supreme People's Court of China.⁴

Although ISP98 is designed for standby letters of credit,⁵ UCP600, which is not, does expressly indicate that its rules include standbys "to the extent to which they may be applicable".

UCP600 departs from the drafting style of prior revisions of the UCP and follows the style and approach of ISP98 to a considerable extent. UCP600 is complemented by the 2013 Version of the International Standard Banking Practice (ISBP)⁶ and the ICC Decisions on Originals.⁷ In addition to the deleting of some provisions from UCP500⁸, UCP600 contains formal definitions (UCP600 Article 2) and interpretations (UCP600 Article 3). It also unbundles some articles from prior versions⁹ and introduces new terms and concepts such as "Second Advising Bank", "prepaid", and "purchase". The eUCP accommodates electronic presentations.¹⁰

Where its provisions are taken from the other sources, these sources may offer insight into their meaning. It is doubtful, however, that the drafts of UCP600 will be particularly helpful in its interpretation since no definitive reason is given for the

1. The text of prior versions of the UCP are contained in the appendices to Byrne et al, *UCP600: An Analytical Commentary* (Institute of International Banking Law & Practice, 2010). The Institute also offers other products to assist in undertaking and interpreting UCP600, including Byrne, *The Comparison of UCP600 & UCP500*, DVDs, various online replays of seminars for bankers, lawyers, and corporate user, and various live seminars. For information please see www.iiblp.org

2. The UN LC Convention appears in this volume at page 205. See Articles 13(1), 14(1), & 16(1).

3. Revised UCC Article 5 appears in this volume at page 225. See Section 5-108(c) & 5-116(c).

4. The PRC LC Rules appear in this volume at page 303.

5. The International Standby Practices (ISP98) appears in this volume at page 29.

6. The ISBP (2003) which was first drafted to complement UCP500 was revised in 2007 and again in 2013 to complement UCP600. ISBP (2013) is also referred to as ISBP 745. The ISBP (2013) appears in this volume at page 101, and ISBP (2007) at page 161.

7. ICC Decisions on Originals appears in this volume at page 191.

8. See e.g. UCP500 Articles 5 (Instructions to Issue/Amend Credits), 6 (Revocable v. Irrevocable Credits), 8 (Revocation of a Credit), 12 (Incomplete or Unclear Instructions), and 38 (Other Documents).

9. Most notably the treatment of the obligations of issuing banks in UCP600 Article 7, confirming banks in UCP600 Article 8, and amendments in UCP600 Article 10, all of which had been combined in UCP500 Article 9 (Liability of Issuing and Confirming Banks)

10. eUCP Version [2007] appears in this volume at page 23

drafting additions, deletions, or corrections. Byrne, The Comparison of UCP600 & UCP500 (250 pages, paperback, IIBLP 2007) is a comprehensive composition comparison of the two rules. While the Commentary by the Drafting Group provides insight into what the drafters intended, it is the text itself that will control. The Institute's UCP600: An Analytical Commentary (1,462 pages, hardcover, IIBLP 2010) attempts to identify issues and offer a comprehensive interpretation of the text in light of the LC practice.

Summary of Contents

<i>General Provisions</i>	<i>(Articles 1 - 5 and 34)</i>
<i>Obligations</i>	<i>(Articles 6 - 13 and 35-36)</i>
<i>Compliance, Examination, and Refusal</i>	<i>(Articles 14 - 17)</i>
<i>Documents, Other Disclaimers, Transfer & Assignment</i>	<i>(Articles 18 - 34 and 37-39)</i>

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ARTICLE 1

Application of UCP

The *Uniform Customs and Practice for Documentary Credits, 2007 Revision*, ICC Publication No. 600 (“UCP”) are rules that apply to any documentary credit (“credit”) (including, to the extent to which they may be applicable, any standby letter of credit) when the text of the credit expressly indicates that it is subject to these rules. They are binding on all parties thereto unless expressly modified or excluded by the credit.

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.