

SURVEY RESULTS

Responses to Specific ISBP 2013 Provisions

(The following information supplements “ISBP 745 One Year Later: LC Specialists Surveyed” by Kent Zimmerman, the featured article in Jul/Aug 2014 issue of *Documentary Credit World*.)

1. *ISBP 2013, ¶ A6 (a)*

- a. *When a credit requires the presentation of a copy of a transport document covered by UCP 600 articles 19-25, the relevant article is not applicable, as these articles only apply to original transport documents. A copy of a transport document is to be examined only to the extent expressly stated in the credit, otherwise according to UCP 600 sub-article 14 (f).*

Beneficial: 17

Neutral: 11

Troublesome: 10

Comments:

“If the document is "covered" by UCP Articles how can they be "not applicable".”
– Troublesome

“It should be applicable regardless LC calls for copy or original transport document”
– Troublesome

“My experience is that many people working in the trade business are not aware of the different approaches between original transport documents and copy documents.” – Troublesome

“ISBP 681 [¶] 20 covered this topic already and better. This [¶ A6(a)] and [¶ A6(b) and (c)] now conflict with standard banking practice from 2007 onward.” – Troublesome

2. *ISBP 2013, ¶ C5*

An invoice showing a description of the goods, services or performance that corresponds with that in the credit may also indicate additional data in respect of the goods, services or performance provided that they do not appear to refer to a different nature, classification or category of the goods, services or performance. For example, when a credit requires shipment of "Suede Shoes", but the invoice describes the goods as "Imitation Suede Shoes", or when the credit requires "Hydraulic Drilling Rig", but the

invoice describes the goods as "Second Hand Hydraulic Drilling Rig", these descriptions would represent a change in nature, classification or category of the goods.

Beneficial: 18

Neutral: 5

Troublesome: 15

Comments:

“The above examples, I treat as a different classification/nature of goods.” – Beneficial

“This reflects good practice by reasonable docs. examiners. The wording might need improvement (different nature, classification or category). It is simply an inferior good to the general description. I wish the examples given were not limited to goods, but extended to cover services or performances.” – Beneficial

“It is beneficial to the extent that the examiner may easily determine that there is no change in nature, classification or category of the goods, however, in some instances, it is difficult for examiners to judge due to lack of knowledge about some particular goods.” – Beneficial

“I think they should have also included an example of additional data that "does not appear to refer to a different nature...." as these examples are what is seen most often in actual documents.” – Neutral

“The poor document checker will have to make the assessment... Is "plastic" handbags a change in nature? A second hand drilling rig or other machine is quite normal, in contradiction with the opinion and C5.” – Troublesome

“As we are not the expertise for all kind of goods, it's not easy to determine if the nature was changed.” – Troublesome

“The suede jackets Opinion was wrong as the L/C required "suede fabric" not "suede leather" therefore it was imitation as stated on the invoice - a banker should not be required to make a judgment whether that was a conflict or not. The hydraulic drilling Opinion was wrong as that model had not been manufactured for about ten years, and it is customary in the mining industry to trade second-hand equipment - it should not be the responsibility of the banks to make a judgment call on this.” – Troublesome

“As a banker how can I determine if extra data is "different.....". What is data

anyway? Term has no meaning to me.” – Troublesome

3. *ISBP 2013, ¶ D1 (a)*

- a. *A requirement in a credit for the presentation of a transport document, however named, covering movement of goods utilizing at least two different modes of transport means that UCP 600 article 19 is to be applied in the examination of that document.*

Beneficial: 21

Neutral: 11

Troublesome: 5

Comments:

“Logical” – Beneficial

“This is what UCP600 Art 19 already says.” – Neutral

“As it overrules two approved official opinions and is also against the commentary to UCP 600.” – Troublesome

“Banks want to control the UCP Article by the title of the document in their L/C, not by the document the beneficiary presents. Beyond that, multimodal documents often do not clearly show that movement is by at least two different "modes" of transport. And in reality, many ocean B/Ls showing just a Port of Loading and Port of Discharge, cover more than one "mode" of transport.” – Troublesome

4. *ISBP 2013, ¶ D5 (d)*

- d. *When the master (captain) signs a multimodal transport document, the signature of the master (captain) is to be identified as the "master" ("captain"). The name of the master (captain) need not be stated.*

Beneficial: 16

Neutral: 14

Troublesome: 8

Comments:

“Since when does the master sign a MMD anyway?” – Beneficial

“How do you sign something without your name?” – Troublesome

5. ISBP 2013, ¶ D12 (a) and (b)

- a. *In a multimodal transport document, when a credit requires shipment to be effected to a port, the named port of discharge should appear in the port of discharge field.*
- b. *However, the named port of discharge may be stated in the field headed "Place of final destination" or words of similar effect provided there is a notation evidencing that the port of discharge is that stated under "Place of final destination" or words of similar effect. For example, when a credit requires shipment to be effected to Felixstowe, but Felixstowe is shown as the place of final destination instead of the port of discharge, this may be evidenced by a notation stating "Port of discharge Felixstowe".*

Beneficial: 21

Neutral: 6

Troublesome: 9

Comments:

“In a lot of cases, the means of transport for the first leg is not mentioned, since it is mostly effected before the on board event.” – Beneficial

“Makes things clearer.” – Beneficial

“This conflicts both with UCP Article iii but more importantly with SWIFT Fields 44A, 44E, 44F, and 44B. Furthermore, it seems like we continue ignoring the fact that most L/Cs ask for either a multimodal or an ocean B/L but that customers really need the flexibility to use either and the UCP and bank applications should allow for this.” – Troublesome

“In a MMD the port of discharge as a seaport is irrelevant and the place of discharge from the subsequent means of transport even if not named is more relevant. Example: LC from Bangkok, transshipped in Singapore to continue by sea to Rotterdam where then placed in a truck to go overland to Minsk, Belarus. What is the relevance of either Singapore or Rotterdam to the MMD?” – Troublesome

“ISBP 2013 article 12b should be removed. It creates confusion. I don't see the value of it.” – Troublesome

6. *ISBP 2013, ¶ D18 (b) (ii) and ISBP 2013, ¶ D20*

D18 b. ii. When a credit does not stipulate the details of a notify party, but the details of the applicant appear as notify party on a multi modal transport document, and these details include the applicant's address and contact details, they are not to conflict with those stated in the credit.

D20 When the address and contact details of the applicant appear as part of the consignee or notify party details, they are not to conflict with those stated in the credit.

Beneficial: 15

Neutral: 6

Troublesome: 16

Comments:

“I would hope these words would clarify the meaning of [UCP600] 14(j).” – Beneficial

“Logical” – Beneficial

“If one reads it correctly and considers the former official opinions on it, it is clear.” – Beneficial

“There is conflict only if the credit requires the 'applicant' as the notify party” – Troublesome

“Throughout the UCP and ISBP there are different requirements about addresses of parties in documents. Sometimes they have to be the same, sometimes not. Very confusing for a layman.” – Troublesome

“This is in direct conflict with UCP Article 14j. And if we're going to address that article, we should switch the requirement around so it's clear that if the L/C has this information then the transport document must also (instead of how the UCP oddly seems to refer to the transport document controlling whether the article applies or not).” – Troublesome

“Inconsistent” – Troublesome

“Apparent conflict between UCP and ISBP!” – Troublesome

7. *ISBP 2013, ¶ G2 (a) and (b)*

a. A transport document, however named, containing any indication that it is subject to, or any reference to, a charter party is deemed to be a charter party bill of lading.

b. A transport document, however named, indicating expressions such as "freight payable as per charter party dated (with or without mentioning a date)", or "freight payable as per charter party", will be an indication that it is subject to a charter party.

Beneficial: 28

Neutral: 4

Troublesome: 4

Comments:

“Logical” – Beneficial

“This is just clutter. making this document longer than it needs to be.” –
Troublesome

“(a) I can accept, but (b) no. I am old fashioned. I like a charter party b/l to so
state
what it is. I do not want to determine based upon the freight payable
clause” – Troublesome

8. *ISBP 2013, ¶ G27*

Unless UCP 600 sub-article 22 (b) is specifically excluded and the credit specifically indicates the data that are to be examined and to what extent, banks do not examine any content of a charter party contract, even when such contract is required as a stipulated document under the credit.

Beneficial: 23

Neutral: 6

Troublesome: 7

Comments:

“A banker's eyes would rotate in opposite directions if he/she had to examine some of the charter party agreements I have seen.” – Beneficial

“Wording should be improved instead of "banks do not examine any content of a charter party contract" to read like "banks are not required to examine any content of a charter party contract to determine whether the presentation is complying"” – Beneficial

“Hate the word data. If we do not exclude 22b and the credit does indicate data to be examined, then what? I have been taught if the LC states what wording the document must contain, applicant expects it to be examined.” – Troublesome

“This is just clutter, making this document longer than it needs to be. The addition, beyond UCP Article 22b language, simply covers the case of any L/C overriding the UCP and this applies to all articles already so there is no need to state that here.” – Troublesome

9. *ISBP 2013, ¶ J8 (b) and (c)*

- b. When a credit requires a road or rail transport document to evidence that goods are consigned "to order" without naming the entity to whose order the goods are to be consigned, it is to indicate that the goods are consigned either to the issuing bank or the applicant, without the need to mention the words "to order".*
- c. When a credit requires an inland waterway transport document, paragraphs J8 (a) and (b) will apply except when the document is issued in the form of a bill of lading. In such event, the consignee field is to be completed according to the requirements of the credit.*

Beneficial: 19

Neutral: 8

Troublesome: 7

Comments:

“In case of J8 (b), it counters bad drafting.” – Beneficial

“Makes no sense.” – Troublesome

“May be interpreted as Straight BL.” – Troublesome

“A road transport document should not be consigned to a bank unless they want the goods dumped on their doorstep.” – Troublesome

“To order should have been interpreted to mean to order of Applicant (i.e. not applicant or issuing bank)” – Troublesome

“This directly conflicts with the UCP requirements. If this is a problem for some banks and companies, they should address the problem correctly by altering their applications and/or issuing amendments. The ISBP should not serve to address applicant/issuing bank ineptitude.” – No answer

“That the consignee is to be the applicant or issuing bank has no base in the L/C or UCP.” – No answer

10. *ISBP 2013, ¶ K10 (c)*

- c. *An insurance document that indicates coverage has been effected from "warehouse-to-warehouse" or words of similar effect and is dated after the date of shipment does not indicate that coverage was effective from a date not later than the date of shipment.*

Beneficial: 20

Neutral: 3

Troublesome: 14

Comments:

“I learned from an insurance company that it's in line with their practice.” – Beneficial

“A banker cannot know if the cover was actually commenced after date of shipment. Example: seller ships three days ago, today takes out an annual insurance policy and tomorrow jumps on the underwriter's website and declares his first shipment, obtaining a lovely certificate of insurance. Underwriter may not have agreed to provide cover prior to issuing the policy. It is not the banker's role to guess but to work with the data on the documents presented.” – Beneficial

“Though different from a former official opinion, I agree with it as I was against the approval of the official opinion.” – Beneficial

“Clarity.” – Beneficial

“As I understand it, this was written to reflect insurance industry standards; as long as I know the rules of the game I am fine with this.” – Neutral

“Need a half bottle of Jack Daniels before I can comprehend what this means.” – Troublesome

“Understood since warehouse to warehouse.” – Troublesome

“Appears illogical despite the views of transport experts. Should that be the industry practice, then the wording should be clearer to alleviate the sense of being illogical.” – Troublesome

“Why has this been done with regard to the warehouse to warehouse clause? The rules were clear. I think that the trade rules are now conflicting with the rules in the insurance world.” – Troublesome

“It appears that this elaboration is contradictory to earlier ICC opinion, there are too many negative words "does not indicate that not later than....." which is confusing.” – Troublesome

“I'm not quite sure whether I understand the reasoning of the insurance industry that was consulted before the last draft version of the ISBP was issued. In any case, "International Standard Banking Practice" was to accept warehouse-to-warehouse as being effective from shipment date. And, to my knowledge, this has never caused a problem. The vision of the Insurance industry does not reflect general practice...” – Troublesome

“This conflicts with current international standard banking practice. If we're going to address terms on insurance documents, perhaps we should instead focus on whether L/C-required clauses added into the "marks" or "remarks" sections on an insurance document (which are not covered in the terms) actually apply to the coverage and therefore comply with the L/C requirements.” – Troublesome

For more information about this survey, contact: info@doccreditworld.com