2016 Year in Review
Top 10 Themes of 2016

1. TWO
2. SEVEN
3. THREE
4. FOUR
5. ONE
6. EIGHT
7. FIVE
8. SIX
9. NINE
10. TEN
Iran – In or Out of Bounds?

The Headline:
• US Lifts Nuclear-Related Sanctions on Iran ... Now What?

Why It Made News:
• Implementation Day in Jan 2016
• Secondary vs. Primary

Impact:
• A ripple, no splash
• Small regional banks, not int’l banks
• Mixed signals
• Derisked?
The Headline:
• SWIFT Asks Banks to be Vigilant Following Cyber Heist Incident

Why It Made News:
• Bangladesh Bank systems hacked Feb 2016
• USD 951m
• Internal operational fail, not SWIFT system

Impact:
• Other incidents
• SWIFT Customer Security Programme (May 2016)
Countering Expansion of the Fraud Exception

The Headline:
• Unconscionability Claims Excluded in Performance Bonds

Why It Made News:
• Singapore, Malaysia, Australia
• Singapore courts allowed removal of unconscionability claim as basis to enjoin payment
• The “Asplenium” Clause

Impact:
• Benes strike back!
• Positive stipulation a response to negative stipulation
Lessons from Legal Cases

The Headline:
• Impossibility: The Exxon Case

Why It Made News:
• Presentation requirement impossible to comply with prior to LC expiration.
• Exxon tried to draw twice after expiry.
• 1987 case, USD 19.5m standby.

Impact:
• Issuing badly worded LC for your Applicant is asking for trouble.
• Courts increasingly construe ambiguity against Issuer.
Sea Containers

The Headline:
• Sea Containers: A Primer for Today’s Trade Finance Banker

Why It Made News:
• More is expected of bankers
• What must / should / could bankers know about containers?

Impact:
• Container types, weights, and numbers could offer clues for fraud and compliance breaches
• Knowledge helpful in detecting red flags
Strict Compliance

The Headline:
• Strict Compliance: How Strict is Strict?

Why It Made News:
• UCP, ISBP, isbp, ICC Opinions
• Questions asked worldwide
• Objective decisions and subjective influences

Impact:
• ICC paper on Strict Compliance principle (May 2016)
• Responses worldwide, within regions inconsistent and hard to explain
• Benes will decide on future use of LCs
Nominated Banks – Role and Duties

**The Headline:**
- What is the relationship between a Nominated Bank and Issuing Bank?

**Why It Made News:**
- *Grains* case in Singapore
- Can agency relationship exist between NB & IB?
- What does the Nominated Bank certify to do and when?

**Impact:**
- Does ICC need to clarify this relationship?
Blockchain

The Headline:
• Can blockchain be the disruptive technology that competes with traditional trade?

Why It Made News:
• Hype vs. reality
• Its potential for trade finance
• Steps for issuing LC using it

Impact:
• Transparency, security, efficiency
• Harmonization, or hindrance among stakeholders
• Will it be different?
Sanctions & Compliance

The Headline:
- ICC Publication 900?

Why It Made News:
- Sanctions screening not part of traditional trade operations
- Are banks charging appropriately?
- ICC has tried issuing guidance papers and opinions

Impact:
- Biggest growth industry within banks
- Sanctions clauses cannot be prohibited
- Following law and using rules
UCP Revision

The Headline:
• UCP700 Wish List

Why It Made News:
• UCP600 rules still appropriate for practice? User-friendly?
• Standbys in or out?
• ISBP in or still separate doc?
• Improvement of other articles

Impact:
• ICC decision: No … maybe?
• Massive task. Can it be done right?
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