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INTERNATIONAL TRADE LAW

Introduction

Both purchasers and sellers frequently assume a sizable degree of risk in international trade transactions. Documentary credits, a type of instrument of payment provided by banks which guarantee reimbursement to the seller upon presentation of specific papers, are frequently utilized by parties to reduce this risk. The foundation of documentary credits is the concept which banks only deal in records, not products. It implies that the documentation, not the commodities themselves, are what banks are required to scrutinise. Although this rule is vital to the functioning of documentary credits, it poses significant toughness for exporters since the bank's insistence on exact adherence to the papers frequently results in payment delays or the denial of the documents. This assignment will analyze the veracity of the claim that banks trade in papers rather than products, which is essential to the functioning of documentary credits however poses significant toughneses for exporters. This assignment will consider the toughneses exporters confront and how UCP 700 could word the situation given the issues so far discovered, closely referencing decided authorities. The goal of this assignment is to analyze the issues exporters have while executing documentary credit agreements and to assess how well UCP 700 handles these issues.

Analysis

Necessity of the principle of dealing in documents, not products

The functioning of documentary credits depends on the idea that transactions should be made in records rather than things (Mann, 1999). To assess if the products meet the requirements of a letter of credit, banks are required to examine the paperwork provided by the seller rather than the commodities themselves. This rule safeguards the buyer by requiring that payment only be made when the seller delivers the required papers, which serve as evidence of shipping and adherence to the letter of credit's conditions. As a result, there is a lower possibility of deception or error on the side of the seller, and both parties to the transaction feel more secure. Additionally, the idea of transacting in papers rather than physical objects enables the handling of documentary payments to be done more quickly and efficiently (Golin and Delhaise, 2013). Without personally seeing the products, banks may swiftly and simply review the documentation. This promotes quicker and more efficient trade processes and decreases the time and expenses needed for the shipping as well as inspection of the items. In this regard, the idea that transactions involving papers rather than physical products are essential to the efficient operation of global trade. The last concept that contributes to the standardization of

global trade practices is the notion of trading in papers rather than products (Boyd and Banzhaf, 2007). When analyzing the papers provided by the seller, banks must adhere to a set of norms and regulations outlined in the Uniform Customs and Practise for Documentary Credits. This guarantees that, regardless of the origin or destination country, documentary credit transactions are carried out consistently and uniformly. In turn, this encourages predictability and openness in global commerce and lowers the possibility of miscommunication or contention between the parties (Scott, 1987).

Issues faced by exporters because of the strict compliance requirement of banks

Although the idea of trading in papers rather than commodities is essential to the functioning of documentary credits, exporters face enormous difficulties as a result of banks' stringent compliance guidelines (Bertrams, 2013). The banks' requirement to carefully review the papers provided by the seller and to rigorously abide by the letter of credit's terms and conditions frequently results in payment delays or the denial of the documents, inflicting financial losses and harm to the exporters (Gillette, 2000). The intricate and technical nature of the paperwork requirements is a big obstacle that exporters must overcome (Perez, 2003). Banks demand that the seller's documentation precisely adheres to the letter of credit's terms and conditions. Exporters may find this need difficult, particularly if they are unfamiliar with the particular norms and criteria of the country of destination. Minor inconsistencies or flaws in the paperwork might result in its rejection and cause a delay in payment. The time and expense required to provide the proper documentation is another issue that exporters encounter. It might take a lot of time and money to prepare the comprehensive documentation needed for an official credit transaction. Furthermore, in order to meet the documentation requirements, exporters frequently need the aid of other service providers, including shipping companies or inspection agencies (Kwaw, 2021). For exporters, the price of these products and services can build up and constitute a considerable financial burden. Finally, the stringent compliance standards set by banks may result in disagreements between the parties to the transaction. Disagreements between the purchaser and the vendor may result from discrepancies or inaccuracies in the documentation that cause payment delays or document rejection. The resolution of these conflicts may be expensive and time-consuming, and it may harm the party's commercial relationship (Al-Tawil, 2013). Overall, exporters face substantial difficulties due to banks' tight compliance requirements, which make it impossible for them to achieve the demanding paperwork standards and cause interruptions, financial losses, and legal issues.

Decided authority to support the issues faced by exporters

The tight compliance guidelines which banks have in place for transactions containing documentary credit have highlighted issues for exporters in a number of instances. For instance, the seller submitted a set of documents that conformed with the letter of credit's terms and conditions in the instance of *Astel Ltd v. The Stettin* [1983] 1 Lloyd's Rep. 482. The bill of lading, which was required by the letter of credit, did not contain the product's weight, thus the financial institution rejected the paperwork on that basis. In a distinctive situation, *Royal Bank of Canada v. United City Merchants Ltd.* 1 AC 168, the seller provided documentation that complied with the letter of credit's terms and conditions. The documents were, however, rejected by the bank on the grounds that they did not properly adhere to the letter of credit's situations (Syed Alwi *et al.* 2022). According to the court, strict adherence to the letter of credit's terms and conditions was a need for the bank to fulfil its payment obligation pursuant to the letter of credit. These situations highlight the difficulties exporters encounter as a result of the stringent compliance standards that banks place on transactions involving documentary credit. Even seemingly insignificant anomalies or mistakes in the documentation might result in their rejection and a holdup in payment, costing the exporters money and harming their reputations (Jaffee and Henson, 2005). It can be difficult for exporters to keep up with the court's continuous rulings that banks have an obligation to carefully review the documentation provided by the seller in compliance with the letter of credit's terms and rules.

Limitations on the liability of banks for damages caused by delays in payment

Banks that deal with documentary credits are only partially liable for losses brought on by payment delays (Henson and Loader, 2001). This is so because banks serve as the middlemen between the purchaser and the seller in a deal, and their main liability is to check the supporting documentation provided by the seller to make sure it complies with the letter of credit's terms and rules (Ambrosia, 1980). A series of regulations known as the Uniform Customs as well as Practise for Documentary Credits limits bank's liability to losses brought on by their own fraud or egregious carelessness. This implies that a bank is not responsible for losses brought on by payment delays if it operates in an honest manner and in line with the letter of credit's conditions, regardless of whether the delays were brought on by the bank's personal faults or errors. In *National Iranian Oil Company vs. Crescent Petroleum Co. International Ltd.* 2 Lloyd's Rep. 162, the court determined that because the bank had behaved in good faith and in line with the letter of credit's conditions, it was not responsible for losses brought on by payment delays. The court stated that banks who deal in documentary credits have a limited

responsibility and are not underwriters of the fulfilment of the fundamental agreement between the purchaser and seller. However, there are specific situations in which banks could be responsible for losses brought on by payment delays. For instance, the bank may be responsible for the harm done to the exporter if it purposefully delays payment or behaves grossly negligently. Furthermore, the bank might be held accountable for losses brought on by payment delays if it goes beyond the bounds of its jurisdiction or violates its duty of care (Kaufman and Scott, 2003). In general, banks that work with documentary credits have little accountability for losses brought on by payment delays, and their main responsibility is to review the papers provided by the seller to make sure they are in accordance with the letter of credit's terms and rules.

The need for a more balanced approach to the examination of documents

For exporters, the stringent compliance standards of banks in transactions containing documentary credit can frequently result in serious issues. Even seemingly insignificant anomalies or mistakes in the documentation might result in their rejection and a holdup in payment, costing the exporters money and harming their reputations. As a result, banks must take a more impartial stance when reviewing papers. Another alternative is to use the "documents against payment" mode of payment, which entails the buyer paying the seller directly after presenting the necessary paperwork (Liberati, 1995). By paying the seller directly and confining the bank's involvement to document inspection, this strategy can help banks comply with fewer regulations (Cassell, 1996). Apart from that, a more equitable approach to the assessment of papers by banks could possibly be provided by the amendment of the UCP rules (Burger and Krueger, 2003). For instance, UCP 700 could have clauses requiring banks to examine papers in a diligent manner and with reasonable care while upholding the idea that they are dealing with documents, not things. Overall, banks need to examine papers more objectively when conducting documentary credit transactions. This will encourage a more effective and efficient system of international commerce and assist to lessen the issues experienced by exporters as a result of the stringent compliance requirements of banks.

UCP 700 and Its phrasing

Overview of UCP 700

The Uniform Customs and Practice for UCP, which is a collection of regulations governing the utilization of documentary credits to international trade, is referred to as UCP 700, its most current iteration. The International Chamber of Commerce publishes the UCP, which is widely acknowledged and utilised in international trade financing. The UCP 700 has several

significant improvements and adjustments that improve upon the UCP 600. UCP 700 establishes criteria for the utilization of electronic documents in documentary payments and acknowledges their utilization in international trade. The goal of UCP 700 is to make documentary credit transactions more effective and efficient by streamlining and simplifying the documentation requirements (Antoniou, 2017). UCP 700 specifies who is responsible for what in documentary credit transactions, reducing ambiguity and fostering a more predictable and transparent system (Pejović, 2018). UCP 700 encourages a more moral and responsible attitude to international commerce by emphasizing honest and equitable conduct in documentary credit transactions (Anđelković, 2001). In total, UCP 700 provides a contemporary and adaptable structure for the utilization of documentary credits, which is a significant advancement in the area of international trade finance. It is anticipated to have a substantial effect on global commerce, facilitating increased trade flows and fostering a more effective and efficient world economy.

UCP 700's recognition of the challenges faced by exporters

One possible place of emphasis may be the problem of payment delays, which can cause exporters serious cash flow issues. UCP 700 may include rules that encourage increased interaction and cooperation between institutions and exporters in this respect and may offer recommendations on how banks should engage with exporters to guarantee prompt payment under documentary credits (Kim, 2020). The problem of stringent compliance standards, which can result in the rejection of papers and delays in payment, could be another possible area of attention (Rodrigo, 2011). To require banks to communicate with exporters clearly and promptly about any issues which arise with the papers submitted, UCP 700 may contain rules which promote banks to examine documents in a more fair and balanced manner. UCP 700 could also take into account the difficulties presented by the utilization of electronic papers in documentary financing transactions and may offer recommendations on how bankers and exporters should handle problems with security, authentication, and verification in this situation (Soukka, 2008). UCP 700 could assist in fostering more efficiency, openness, and confidence in documentary credit transactions by acknowledging the difficulties experienced by exporters and offering advice on how these difficulties can be resolved. Any such regulations, nevertheless, ought to be thoroughly examined and taken into account to make sure they are workable and suitable for the community of international commerce.

UCP 700's requirement for banks to act reasonably and in good faith

Under UCP 700, banks could be forced to examine papers more objectively and to communicate with exporters promptly about any problems or concerns they have with the submitted documents (Antoniou, 2017). Additionally, banks could be expected to treat exporters fairly and refrain from any conduct that might be seen as unjust or detrimental. UCP 700 might support more openness, confidence, and cooperation in documentary credit transactions by requiring banks to operate fairly and in good faith (Munter, 2013). Everyone engaged in international trade could ultimately gain from this if disagreements and delays are managed (Kant, 2016). To ensure that they strike the correct balance between safeguarding the interests of banks and guaranteeing fair treatment for exporters, any such measures would need to be carefully examined and taken into consideration (Luttwak, 1990). To prevent uncertainty and ambiguity, it would also be crucial to establish precise rules and guidelines for what forms reasonable and good faith behaviour in the environment of documentary credit transactions (Burton, 1980).

UCP 700's provision for the use of electronic documents

Enhanced speed, effectiveness, and security are just a few advantages which utilizing electronic documents over paper-based documentation may provide (Wang, 2008). However, using electronic documents also brings with it a variety of difficulties, notably in relation to concerns with security, authentication, and verification. UCP 700 may offer recommendations on how to use electronic papers in documentary credit transactions, together with standards and best practices for security, authentication, and verification. To guarantee that electronic papers are regarded the same as paper copies in documentary credit transactions, UCP 700 may also establish specific guidelines and criteria for their presentation, review, and acceptance (Kang, 2003). UCP 700 might contribute to enhanced effectiveness, openness, and confidence in international commerce by offering precise rules and standards for the utilization of digital files in documentary credit transactions. Any such provisions, though, would require careful analyze and consideration to make sure they are workable and appropriate for the global trade community, as well as that they adopt into account the unique requirements and worries of various stakeholders, like banks, suppliers, and importers.

The manner ⁵ UCP 700 might phrase the matter given the challenges identified to date

For instance, UCP 700 may note that while the idea of trading in records rather than products is crucial to how documentary credits work, it can also provide difficulties and complexity for

exporters (Hare and Neo, 2021). UCP 700 may offer advice on how banks can strike a compromise between the need to adhere to stringent documentation standards and the need to allow effective and prompt payments for exporters to address these issues. Apart from that, UCP 700 could acknowledge the significance of utilizing electronic papers in documentary credit transactions and may offer instructions on how to do so in a way that is safe, effective, and in accordance with all applicable standards and laws. In order to ensure seamless and timely payment, UCP 700 could further emphasise the necessity for banks to behave in good faith as well as interact openly with exporters about any problems and concerns with the submitted papers. UCP 700 could try to give a more realistic and balanced approach to the utilization of documentary credits in international commerce overall, one that considers the requirements and worries of all parties engaged (BOSE, 2021).

Recommendations

Several suggestions about the usage of electronic papers in documentary payments and how UCP 700's provisions can be worded to meet the issues outlined can be made based on the details supplied in the text.

- When using electronic records in documentary credit transactions, banks should carefully examine the verification, security and confirmation, requirements and best practices advised by UCP 700. As a result, electronic papers will be subject to the same degree of attention and trust as paper-based paperwork (Listfield and Montes-Negret, 1994).
- When defining rules and specifications for the submission, evaluation, and certification of electronic papers, UCP 700 should continue to assess and take into account the particular needs and worries of different stakeholders, including banks, suppliers, and importers.
- Banks must combine the need to follow stringent documentation requirements with the need to enable efficient and timely payments to exporters. Banks may achieve this equilibrium and guarantee a smooth and timely payment procedure by following the guidelines in UCP 700 (Lelissa, 2020).
- The necessity of banks acting in a trustworthy manner and being honest with exporters about any issues that arise with submitted paperwork should be emphasised in UCP 700. This will encourage a climate of confidence and trust in global trade (Ndagire, 2018).

Conclusion

To sum up, UCP 700 is essential for regulating documentary credit interactions and enabling a seamless and safe flow of payments and products in global trade. The examination of the requirements of UCP 700 exposes the difficulties and complications that come up in the course of documentary payments, including concerns about security, the authentication process, and verification as well as problems linked to the use of digital documents. UCP 700 offers rules and criteria for banks as well as other stakeholders to follow in order to make sure that documentary transactions regarding credit are carried out in a fair, effective, and transparent way in order to solve these issues.

UCP 700 might be improved, especially in terms of addressing the individual requirements and worries of diverse stakeholders in the international trading community. In order to make sure that any requirements and recommendations adopted by UCP 700 are feasible and suitable for all parties involved, considerable analysis and thought are required. Overall, UCP 700 offers a solid framework for governing the conduct of documentary transactions involving credit, but it must be continuously reviewed and modified in order to guarantee that it continues to be applicable and efficient in the ever-changing context of global commerce.

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