



top@doc

The newsletter for documentary business

September 2020

Unambiguous wording of letter of credit conditions

What is the meaning of the expression “last shipment”?

The wording of letter of credit conditions has already been a topic in earlier issues of top@doc. Based on practical examples, we demonstrated what difficulties may arise due to imprecise wording and emphasised the importance of clear and unambiguous letter of credit conditions.

All parties involved in a letter of credit must be able to understand the requirements for the individual documents from the wording of the letter of credit alone. The conditions of the letter of credit must clearly specify by what date documents are to be presented and when (partial) payments are due. Expressions that are ambiguous and not defined in the UCP 600 should not be used in a letter of credit without further explanation.

Contractual agreements or other arrangements between the buyer and the seller are without relevance in this regard (see article 4 a of the UCP 600).

The current top@doc deals with another example illustrating what questions may arise in case of imprecise wording.

A letter of credit issued in favour of WellDone Ltd. contains the following conditions, among others:

Field 32B (Currency Code, Amount)

EUR 500.000,00

Field 43P (Partial Shipments):

ALLOWED

Field 45A (Description of Goods and/or Services):

production line for paper manufacturing
FOB any European port

With respect to the required documents, the letter of credit stipulates the following:

part A for 10 pct of L/C value:

1. invoice
2. advance payment guarantee

part B for 70 pct of L/C value:

1. invoice
2. full set of clean on board ocean bills of lading made out to order and blank endorsed
3. packing list

part C for 20 pct of L/C value:

1. invoice
 2. final acceptance certificate signed by applicant
- or
1. invoice
 2. certificate of the beneficiary stating that the delay in the progress of the project is not in its responsibility

*The documents mentioned in the second option of part C (invoice, certificate of the beneficiary) must be presented at the earliest 6 months after the date of the **last shipment** and within the validity of the L/C.*

After receipt of the letter of credit advice, the responsible employee of WellDone Ltd. examines the letter of credit conditions. They appear on their face to be logical and as agreed with the applicant.

During the production progress, it becomes apparent that, due to unforeseeable reasons outside the responsibility of WellDone Ltd., a small part of the machine cannot be shipped under the letter of credit.

The employee of WellDone Ltd. then starts to question the wording of the letter of credit. He asks himself what will happen if he presents the certificate listed under part C stating that the delay in the progress of the project is not in his responsibility along with the invoice for utilisation of the letter of credit, despite complete shipment not having been made.

Would these documents be considered compliant? Does the expression “after the date of the **last shipment**” mean

- calculation from the shipment date of the most recent partial shipment, notwithstanding the fact that the goods have not yet been shipped completely

or

- calculation from the date of shipment with which the goods were shipped completely?

Fortunately, the situation takes a positive turn. Production, shipment, installation and acceptance of the goods by the applicant of the letter of credit take place as agreed, the processing of the letter of credit and the payments thereunder are handled without any problem. The second scenario of the documents to be presented under part C does not materialise.

But what would have happened if...?

What the issuing bank wanted to express with the wording cannot be unequivocally determined from the letter of credit conditions. In the opinion of Commerzbank, the “date of the last shipment” is to be understood as the date of shipment of the transport document which evidences that the goods to be shipped have been completely shipped. Due to the fact that (possibly essential) components of the machine are missing, an incomplete shipment is of no use to the applicant. We would have consequently considered the documents presented by WellDone Ltd. to be non-compliant.

In order to avoid different interpretations, the wording in the letter of credit could have been phrased as follows, for instance:

*The documents mentioned in the second option of part C (invoice, certificate of the beneficiary) must be presented at the earliest 6 months after the date of the **final (partial) shipment evidencing complete shipment of goods** and within the validity of the L/C.*

Do you have any questions or suggestions regarding top@doc?

- Your comments, opinions or queries are of utmost interest. Feel free to contact us any time by sending us an email to top.doc@commerzbank.com.
- Our specialists for Transaction Banking will be pleased to answer any questions you may have on this issue or other documentary business topics.
- In addition to the current issue, you will find all editions since 2015 downloadable in PDF format in our [top@doc archive](#).
- For more information on our foreign business services and products, please visit our website www.corporates.commerzbank.com.