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A Critical Appraisal of the Law and Practice relating to the Examination and Rejection of Documents under Letters of Credit

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I, ZHAO YUNWEN, hereby declare that, I am the author of the above thesis and it is my original research work. This work has not been submitted anywhere else, either in part or whole, for a degree or other academic credits. I undertake the sole responsibility for any inaccuracy in this declaration.

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Abbreviation:

ICC--International Commerce Chamber

IIBLP-- International Institute Banking Law and Practice

LC--Letters of Credit

UCP--Uniform Customs and Practice (for Documentary Credit)

ISBP--International Standard Banking Practice for the Examination of Documents under Documentary Credits

DOCDEX--Documentary Instruments Dispute Resolution Expertise

eUCP-- Electronic presentation of documents in documentary credits

Chinese Judicial Interpretation on LC--Provision of the Supreme People's court on Certain Issues Concerning Trial of Cases Involving Letter of Credit Disputes

UCC Art.5—Uniform Commercial Code, Article 5)

ICC Publication NO.632--ICC Banking Commission Collected1995-2001 on UCP500, UCP400, URC522&URDG458 Quires and Responses

ISP98--International Standby Practices

URRC522--Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits 522

URRC725--Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits 725

URDG--1992 Uniform Rules for Demand Guarantees 458

Abstract

Under the financial circumstance, as far as present author is concerned, the LC was used to the instrument of refusal in a long time. ICC commission, therefore, took many actions with a view to reduce the rate of the refusal. One of the essential methods to handle this issue is the adjustment of the main rules regarding the examination and rejection of LC. Accordingly, new UCP modifies the compliance rule of examining documents. It transforms the "**Original Compliance Rule**" into the "**Flexible Compliance Rule**", it gives bankers more rights and freedom in the process of examining documents; additionally, it sets up much stricter standards of rejection for bankers; apart from that, bankers are obtained more options before determining rejection. Accompanying with the promulgation and implementation of the new version of the UCP and ISBP, the aim of ICC has been accomplished to some extent. However, from another angle, the current situation of LC does not mean the happy ending, since it is on the basis of losing some relevant parties' interest. Although the beneficiaries' rights can be more protected than before, the applicants' rights are in the brink of a cliff. Thus, If ICC dose not review this demanding rebalancing system, which is especially in the rules of examining and rejecting documents, it will go to another extreme as soon as possible.

For mainland china, the first alike legal Interpretation on LC has been implemented by Chinese Supreme People's Court since 2006, the announcement was one year earlier than UCP600s'. Meanwhile, this Interpretation has been drafted by more than plentifully experienced Judges and experts, who has not only give full considerations to the former version of the UCP500, but also comprehensively predicted the modifications and improvements in the forthcoming version, that are, UCP600 and ISBP600. But nevertheless, after implementing in practice about six years, this Interpretation undeniably has some improper and imperfect points to prove as well.

Therefore, this thesis mainly aims to check and explore the modified articles in

UCP600 and the content of newly coming out Chinese LC's Interpretation, which are relating to the examination and rejection of LC. Furthermore, it is the particular analysis of cases having occurred in recent years that deeply examines UCP600, ISBP2007, as well as the Chinese LC's Interpretation.

Key Words:

UCP600; ISBP2007; Chinese Judicial Interpretation on LC; UCC article5; Compliance Rule; Standard for rejecting notice; balance; different interests involved in LC;

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