

# PIT YOUR WITS AGAINST THE EXPERTS!

Every issue of *Trade Exchange* includes a brain-teaser, drawn from the real-life trials of a trade finance expert. Here is your chance to demonstrate your ability to disentangle the most involved, contentious or just plain weird combinations of documents and to solve a puzzle in the field of documentary operations.

## What's a month between friends?

Dear TFP Experts, can you please clarify the correct procedure to be taken in the following situation?

We issued a letter of credit available by acceptance with our bank as issuing bank at "90 DAYS SIGHT". Documents were presented on approval by the presenting bank with discrepancies in respect of conflict in data between documents. We issued a timely notice of refusal by way of SWIFT message MT 734 as is the normal practice and contacted the applicant for a waiver of the discrepancies.

Despite many follow-up communications the applicant did not provide the waiver of discrepancies until 28 days after the date we received the documents from the presenting bank.

Upon receipt of the waiver from the applicant our bank took up the documents on the same day and accepted the draft for payment at 90 days from the date of our acceptance.

When we advised the presenting bank that the discrepancies had been waived and informed them of the forthcoming fixed maturity date we were surprised to receive a message from them stating:

Drafts drawn at "90 DAYS SIGHT ON ISSUING BANK"  
Discrepant documents received: 2 Sept 2016  
Notice of refusal sent: 7 Sept 2016  
Applicant waiver received: 30 Sept 2016  
Draft accepted by issuing bank: 30 Sept 2016 (Presenting Bank Notified)  
Maturity date of accepted draft: 29 Dec 2016  
4 Oct 2016: message from presenting bank of "unreasonable and unfair"  
maturity date one month later than anticipated.  
Is this unreasonable?

"As the maturity date is now one month later than anticipated by the beneficiary this is unreasonable and unfair."

Can you please provide guidance as to whether our approach is correct?

We in the documentary operations department believe it is, but other colleagues in the commercial side of the bank disagree.

We await your expert reply.



Answer:

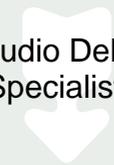
According to article 2 UCP 600 ICC, "Credit means any arrangement, however named or described, that is irrevocable and thereby constitutes a definite undertaking of the issuing bank to honour a complying presentation". The same article says that a "Complying presentation means a presentation that is in accordance with the terms and conditions of the credit, the applicable provisions of these rules and international standard banking practice." Therefore, complying presentation defines the basis and the standard to examine documents. The definition provides a three level of hierarchy.

The international standard banking practice is the practical interpretation of the rules, and is available from a number of a ICC sources as: ISBP (International standard banking practice for the examination of documents under UCP 600) Publication 745 ICC/ICC Opinions/ICC Decisions/DOCDEX Decisions.

In this case, as the drawee bank is the issuing bank and it has provided a notice of refusal, the maturity date will be at the latest 90 days after the date the issuing bank accepts the waiver of the applicant. - Ref. : Point B5) b. ii ISBP 745 ICC.

So, the maturity date of accepted draft: 29 Dec 2016 is not unreasonable!

Domenico Del Sorbo – Studio Del Sorbo - Italy  
Trade & Export Finance Specialist



ASH NEWS FLASH NEWS FLASH NEW



ANSWERS TO THE CROSSWORD WILL APPEAR IN THE NEXT ISSUE OF TRADE EXCHANGE



Send your answers to [TF-Expert@ebrd.com](mailto:TF-Expert@ebrd.com) Solutions and prize-winners will be announced in the next issue of *Trade Exchange*



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## “Letter of credit – indefinite undertaking of issuing bank”

**Dear Experts,**  
Please provide your opinion on the following situation.

Our customer, the beneficiary of a letter of credit subject to UCP 600, shipped the goods by road to the place of destination and presented the documents to our bank, which we remitted as a presentation of documents to the issuing bank. Our bank was only acting in the capacity of an advising bank, but we provided a support service to our customer by reviewing the documents before remitting to the issuing bank.

We considered that the documents on their face constituted a complying

presentation and our expectation was that the issuing bank would honour the complying presentation of documents without delay.

An extract of the letter of credit is included below for your guidance.

Unfortunately, the issuing bank refused the presentation and issued a “notice of refusal” stating the following two discrepancies:

“+ON CMR DELIVERY TERMS FCA TIRASPOL ON BASIS OF ‘INCOTERMS 2010’ MISSING +DISCRIPTION (QUANTITY) OF GOODS ON MOVEMENT CERTIFICATE EUR.1 DIFFERS FROM OTHER DOCUMENTS (ROLLS I/O CARGO PLACES)”

To clarify, the issuing bank rejected the documents and continues to withhold

payment, first because the CMR transport document does not indicate the words “INCOTERMS 2010” and second because documents other than the movement certificate describe the goods as “cargo places” whereas the movement certificate describes the goods as “rolls”, notwithstanding the fact that the description of the goods in the letter of credit makes no reference to either rolls or cargo places.

After some time the issuing bank returned the presented documents to our bank but the issuing bank did not make the payment under the letter of credit.

As we are all aware, the letter of credit is defined under UCP 600, article 2 as “a definite undertaking of the issuing bank”. In this current situation, the letter of credit has turned out to be quite the opposite.

We welcome the opinion of the panel of experts on this most unfortunate situation for our exporting customer who, as a small business, is striving to develop its international trade business. A loss such as this will be a major setback and shakes the customer’s confidence in trade finance instruments.

**:45A descr goods and/or services:**  
+GOODS AS COMMERCIAL INVOICE PROFORMA NO. 626-13 DTD 11.11.2016  
FABRIC, 295 CM PRINTED  
FCA TIRASPOL ON BASIS OF ‘INCOTERMS 2010’  
**:46A documents required:**  
1. SIGNED COMMERCIAL INVOICE IN TWO ORIGINALS  
2. PACKING LIST IN ONE ORIGINAL  
3. PHOTOCOPY OF CMR - INTERNATIONAL CONSIGNMENT NOTE-COPY FOR SENDER  
4. PHOTOCOPY OF MOVEMENT CERTIFICATE  
5. BENEFICIARY’S CERTIFICATE STATING THAT ORIGINAL OF CMR AND ORIGINAL OF MOVEMENT CERTIFICATE TRAVEL WITH THE GOODS.

## SOLUTION



### “What’s a month between friends?”

(Autumn-winter 2016 issue)

“DEAR TRADE FINANCE CLINIC, I know that by referring to the ISBP and copying and pasting we can come to the conclusion that the maturity date of 29 December 2016 is technically in order.

However, in our day-to day-business it is also important to use common sense and have the interests of our customers foremost on our minds.

When the letter of credit is available by acceptance at 90 days’ sight, despite the discrepancies and the subsequent waiver received from the applicant, it is common sense that the 90 days should be calculated from the date of presentation

of the documents and not from the date of waiver receipt and documents acceptance.

Therefore, the presenting bank’s message to the issuing bank is in my mind quite reasonable.

Perhaps the language used and the words “unreasonable and unfair” contained in their message are not appropriate for business correspondence by SWIFT. They should have asked the issuing bank to calculate the maturity date as the presentation date + 90 days, which would be in line with what the exporter and importer had agreed in their contract.

**Azhar Salikhova**  
Bank CenterCredit, Kazakhstan



## WITH RECOGNITION

The following readers were also recognised for their technical merit (alphabetical order):

### GOLD

**Innessa Amirbekyan**, Anelik Bank, Armenia

### SILVER

**Hoda Abd El Hameed Ezzat El Shimi**, QNB Alahli, Egypt

**Kareem Abdel-Rahman Abdel-Moneem Morsy**, QNB Alahli, Egypt

**Mohamed Samy Ahmed Mohamed**, QNB Alahli, Egypt

**Housam Al-Khoury**, Bank al Etihad, Jordan

**Eleonora Avetisyan**, Armeconombank, Armenia

**Domenico Del Sorbo**, Trade & Export Finance Specialist, Italy

**Andrej Eftimov**, NLB Banka, FYR Macedonia

**Mostafa El Toweiry**, Barclays, Egypt

**Jelena Gušav**, OTP Bank, Serbia

**Ahmed Yehia Ismail Ahmed**, QNB Alahli, Egypt

**Nelli Kocharyan**, Converse Bank, Armenia

**Sergey Kosyan**, Inecobank, Armenia

**Riabi Lamia**, Attijari Bank, Tunisia

**Mai Medhat Hanafy Osman**, QNB Alahli, Egypt

**Jasmina Milovska**, NLB Banka, FYR Macedonia

**Svitlana Piatak**, UKRSOTSBANK, Ukraine

**Pena Poladov**, Central Bank of Turkmenistan, Turkmenistan

**Sandra Prosnec**, Erste & Steiermärkische, Croatia

**Yasmine Raafat Abo Al Makarem Mohamed Eid**, QNB Alahli, Egypt

**Raghda Salah**, QNB Alahli, Egypt

**Amani Samih**, Bank al Etihad, Jordan

**Aneta Stojmanovska**, Komercijalna Banka, FYR Macedonia

**Irena Vaskov**, Komercijalna Banka, FYR Macedonia



### GRADUATE UPDATE

“It was such a pleasure to have the opportunity to complete all seven modules of the EBRD Trade Finance e-Learning Programme and to be recognised as a top performer. With my background in TFP and a few months of e-Learning experience, I am confident that the acquired skills will allow me to meet new challenges and achieve more in trade finance. It will draw on my experience in higher education. I am particularly enthusiastic to apply these skills to new initiatives.

Also please accept my gratitude for an internship opportunity at Banca Popolare di Sondrio. It is highly motivating and inspiring.”

*Liana Sabakyan, Araratbank, Armenia.*

