

3. Note by the Secretary-General: bankers' commercial credits and bank guarantees (A/CN.9/101)*

I. BANKERS' COMMERCIAL CREDITS

1. This subject is concerned with the revision by the International Chamber of Commerce (ICC) of "Uniform Customs and Practice for Documentary Credits", drawn up by ICC in 1933 and subsequently revised by it in 1951 and 1962. At previous sessions,¹ the Commission stressed the importance of commercial letters of credit in ensuring payment for international trade transactions and expressed the opinion that it would be in the interest of international trade if the views of countries not represented in ICC were taken into account by ICC in its work of revision. Accordingly, the Commission, at its third session, requested the Secretary-General to invite Governments and interested banking and trade institutions to communicate to him, for transmission to ICC, their observations on the operations of "Uniform Customs and Practice for Documentary Credits", so that these observations could be taken into account by ICC. Forty-two replies from Governments and nine replies from banking and trade institutions were received and transmitted to ICC for consideration.

2. At its seventh session, the Commission invited ICC "to transmit to it the revised text of 'Uniform Customs and Practice for Documentary Credits' upon the adoption thereof by ICC".² By a letter dated 21 February 1975, the Secretary-General of ICC transmitted the revised text of "Uniform Customs" which was approved by the ICC Commission on Banking Technique and Practice on 14 October 1974 and adopted by the Executive Committee of ICC at its 102nd session on 3 December 1974.

3. The observations of ICC in respect of its work on "Uniform Customs" are set forth in annex I to this note. The text of "Uniform Customs and Practice for Documentary Credits (1974)" is set forth in annex II.³

4. By the decision taken at its seventh session, the Commission also requested the Secretary-General "to prepare an analysis of the observations received in respect of 'Uniform Customs and Practice for Documentary Credits' and to submit this analysis to the Commission at its eighth session". The analysis of these observations is set forth in document A/CN.9/101/Add.1.**

* 28 February 1975.

** Reproduced in this volume, part two, II, 4.

¹ *Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216)*, paras. 23 and 28 (UNCITRAL Yearbook, vol. I: 1968-1970, part two, I); *ibid.*, *Twenty-fourth Session, Supplement No. 18 (A/7618)*, paras. 90-95 (UNCITRAL Yearbook, vol. I: 1968-1970, part two, II); *ibid.*, *Twenty-fifth Session, Supplement No. 17 (A/8017)*, paras. 119-126 (UNCITRAL Yearbook, vol. I: 1968-1970, part two, III); *ibid.*, *Twenty-sixth Session, Supplement No. 17 (A/8417)*, paras. 36-43 (UNCITRAL Yearbook, vol. II: 1971, part one, II, A); and *ibid.*, *Twenty-seventh Session, Supplement No. 17 (A/8717)*, paras. 65 and 66 (UNCITRAL Yearbook, vol. III: 1972, part one, II).

² Report of the United Nations Commission on International Trade Law on the work of its seventh session (1974), *Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 17 (A/9617)*, para. 35. (UNCITRAL Yearbook, vol. V: 1974, part one, II, A).

³ The text of the "Uniform Customs" is reproduced only in the original versions, i.e. English and French.

II. BANK GUARANTEES

5. At its seventh session, the Commission took note of the progress made by ICC in respect of the preparation of uniform rules on contract guarantees and payment guarantees.⁴ The Commission also requested its Study Group on International Payments, composed of experts provided by interested international organizations and banking and trade institutions, to consider the work of ICC on bank guarantees with representatives of that organization, and to invite to the meetings convened for that purpose interested representatives on the Commission.

6. The Secretariat consulted with representatives of ICC on appropriate procedures and working methods that would allow for closer collaboration between, on the one hand, representatives of the Commission and the Commission's secretariat and, on the other hand, the competent commissions of ICC. It is expected that suitable working methods will be agreed upon shortly. In the course of these consultations, which took place at a meeting of the UNCITRAL Study Group on International Payments in October 1974, several other international organizations represented at that meeting expressed their interest in the subject of bank guarantees. An attempt will therefore be made to co-ordinate the work, now being carried out at various levels, in the UNCITRAL Study Group. A report on the progress made in this respect will in due course be submitted to the Commission.

7. The observations of ICC in respect of its work on contract guarantees and payment guarantees are set forth in annex I to this note.

ANNEX I

Note submitted by the International Chamber of Commerce at the eighth session of the United Nations Commission on International Trade Law (UNCITRAL)

In accordance with the wishes expressed by the United Nations Commission on International Trade Law at its seventh session, the International Chamber of Commerce is happy to be able to transmit to the Commission the revised text of "Uniform Customs and Practice for Documentary Credits" and to submit to it a progress report on its work on contract guarantees and payment guarantees.

I. REVISION OF "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS"

1. The International Chamber of Commerce is now in a position to transmit to the United Nations Commission on International Trade Law (UNCITRAL) the revised text of its "Uniform Customs and Practice for Documentary Credits", which was adopted by its Executive Committee on 3 December 1974. As was stated in the note submitted by ICC at the seventh session of UNCITRAL, this revised text was prepared on the basis of comments not only from National Committees of ICC but also, through the United Nations, from countries not represented in ICC, and from chambers of commerce of socialist countries through the *Ad Hoc* "Banking Technique" Working Group of the ICC Committee for Liaison with Chambers of Commerce of Socialist Countries.

2. The revised text enclosed with this note will apply to documentary credits issued on or after 1 October 1975. The practical arrangements for putting it into effect are explained

⁴ *Ibid.*, para. 37.

in document No. 470/251, also enclosed, which is intended, in addition, to draw the attention of commercial parties to documentary credits to the changes introduced by the revised text as compared with the 1962 text.

3. These changes fall mainly into two categories. Some are intended to clear up certain misunderstandings arising from the interpretation of the 1962 text and are aimed at setting out already existing solutions or clarifying their scope. Others reflect the changes in banking, commercial and transport practices resulting from the introduction of containerization and other modern methods of moving goods and from the increasing use of computers in data transmission.

4. When ICC undertook its 1962 revision of "Uniform Customs and Practice for Documentary Credits", the latter were being applied by banks in 175 countries and territories. Co-operation from UNCITRAL enabled ICC to carry out this revision on a world-wide scale, and ICC wishes to express its warmest gratitude to UNCITRAL in that regard.

II. CONTRACT GUARANTEES AND PAYMENT GUARANTEES

1. As was mentioned in the note submitted by the International Chamber of Commerce at the seventh session of UNCITRAL (document No. 460/165-470/241), the draft uniform rules on contract guarantees that ICC is preparing are intended primarily to establish a just equilibrium between the interests of the parties involved in guarantees—namely the tenderer, the beneficiary and the guarantor—in accordance with the task entrusted to ICC by UNCITRAL. The need to ensure such a just equilibrium was emphasized at the seventh session of UNCITRAL (document A/CN.9/VII/CRP.1/Add.5, para. 7).^a

2. The ICC Commission on International Commercial Practice and Commission on Banking Technique and Practice, which set up a Joint Working Group to complete this draft, stressed, at a joint meeting on 29 March 1974, that the institution of procedures for implementing guarantees that were both fair and practical would be the step most conducive to the desired equilibrium. The guidelines laid down by the Commissions for their Joint Working Group were communicated to UNCITRAL in document No. 460/165-470/241. On that basis the Joint Working Group formulated two new proposals, which were considered by both Commissions in autumn 1974. However, neither of them could entirely agree with the proposals, and the work will therefore have to be continued.

3. ICC wishes to point out that in this field, as in that of documentary credits, it has had the benefit not only of comments from its National Committees, but also of a United Nations survey which acquainted it with the practice of countries not represented in ICC, as well as comments by chambers of commerce of socialist countries through the *Ad Hoc* "Banking Technique" Working Group of the ICC Liaison Committee. ICC attaches the greatest value to its continued collaboration with UNCITRAL regarding contract guarantees, particularly in order to obtain the views of those beneficiaries of guarantees who are not represented in ICC.

4. The limits within which a unification of payment guarantees might be undertaken was outlined in the note submitted by ICC at the seventh session of UNCITRAL (document No. 460/165-470/241), which emphasized that, apart from guarantees given in respect of payment against a documentary credit, the varied nature of guarantees given in respect of other liabilities would make any attempt at unification particularly difficult. However, the question merits careful study, and UNCITRAL collaboration in this respect will be most valuable to ICC.

CONCLUSIONS

The close co-operation relations between the International Chamber of Commerce and the United Nations Commission

^a *Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 17 (A/9617)*, para. 36 (UNCITRAL Yearbook, vol. V: 1974, part one, II, A).

on International Trade Law with regard to the standardization of commercial and banking practice has been most fruitful, as is borne out by the 1974 revision of "Uniform Customs and Practice for Documentary Credits". ICC reaffirms its interest in this co-operation and hopes that it will further increase, to the greater benefit of those involved in international trade.

ANNEX II

Uniform customs and practice for documentary credits (1974)

GENERAL PROVISIONS AND DEFINITIONS

(a) These provisions and definitions and the following articles apply to all documentary credits and are binding upon all parties thereto unless otherwise expressly agreed.

(b) For the purposes of such provisions, definitions and articles the expressions "documentary credit(s)" and "credit(s)" used therein mean any arrangement, however named or described, whereby a bank (the issuing bank), acting at the request and in accordance with the instructions of a customer (the applicant for the credit),

(i) Is to make payment to or to the order of a third party (the beneficiary), or is to pay, accept or negotiate bills of exchange (drafts) drawn by the beneficiary, or

(ii) Authorizes such payments to be made or such drafts to be paid, accepted or negotiated by another bank, against stipulated documents, provided that the terms and conditions of the credit are complied with.

(c) Credits, by their nature, are separate transactions from the sales or other contracts on which they may be based and banks are in no way concerned with or bound by such contracts.

(d) Credit instructions and the credits themselves must be complete and precise.

In order to guard against confusion and misunderstanding, issuing banks should discourage any attempt by the applicant for the credit to include excessive detail.

(e) The bank first entitled to exercise the option available under article 32 (b) shall be the bank authorized to pay, accept or negotiate under a credit. The decision of such bank shall bind all parties concerned.

A bank is authorized to pay or accept under a credit by being specifically nominated in the credit.

A bank is authorized to negotiate under a credit either

(i) By being specifically nominated in the credit, or

(ii) By the credit being freely negotiable by any bank.

(f) A beneficiary can in no case avail himself of the contractual relationships existing between banks or between the applicant for the credit and the issuing bank.

A. FORM AND NOTIFICATION OF CREDITS

Article 1

(a) Credits may be either

(i) Revocable, or

(ii) Irrevocable.

(b) All credits, therefore, should clearly indicate whether they are revocable or irrevocable.

(c) In the absence of such indication the credit shall be deemed to be revocable.

Article 2

A revocable credit may be amended or cancelled at any moment without prior notice to the beneficiary. However, the issuing bank is bound to reimburse a branch or other bank to which such a credit has been transmitted and made available for payment, acceptance or negotiation, for any payment, acceptance or negotiation complying with the terms and conditions of the credit and any amendments received up to the time of payment, acceptance or negotiation made by such

branch or other bank prior to receipt by it of notice of amendment or of cancellation.

Article 3

(a) An irrevocable credit constitutes a definite undertaking of the issuing bank, provided that the terms and conditions of the credit are complied with:

- (i) To pay, or that payment will be made, if the credit provides for payment, whether against a draft or not;
- (ii) To accept drafts if the credit provides for acceptance by the issuing bank or to be responsible for their acceptance and payment at maturity if the credit provides for the acceptance of drafts drawn on the applicant for the credit or any other drawee specified in the credit;
- (iii) To purchase/negotiate, without recourse to drawers and/or *bona fide* holders, drafts drawn by the beneficiary, at sight or at a tenor, on the applicant for the credit or on any other drawee specified in the credit or to provide for purchase/negotiation by another bank, if the credit provides for purchase/negotiation.

(b) An irrevocable credit may be advised to a beneficiary through another bank (the advising bank) without engagement on the part of that bank, but when an issuing bank authorizes or requests another bank to confirm its irrevocable credit and the latter does so, such confirmation constitutes a definite undertaking of the confirming bank in addition to the undertaking of the issuing bank, provided that the terms and conditions of the credit are complied with:

- (i) To pay, if the credit is payable at its own counters, whether against a draft or not, or that payment will be made if the credit provides for payment elsewhere;
- (ii) To accept drafts if the credit provides for acceptance by the confirming bank, at its own counters, or to be responsible for their acceptance and payment at maturity if the credit provides for the acceptance of drafts drawn on the applicant for the credit or any other drawee specified in the credit;
- (iii) To purchase/negotiate, without recourse to drawers and/or *bona fide* holders, drafts drawn by the beneficiary, at sight or at a tenor, on the issuing bank, or on the applicant for the credit or on any other drawee specified in the credit, if the credit provides for purchase/negotiation.

(c) Such undertakings can neither be amended nor cancelled without the agreement of all parties thereto. Partial acceptance of amendments is not effective without the agreement of all parties thereto.

Article 4

(a) When an issuing bank instructs a bank by cable, telegram or telex to advise a credit, and intends the mail confirmation to be the operative credit instrument, the cable, telegram or telex must state that the credit will only be effective on receipt of such mail confirmation. In this event, the issuing bank must send the operative credit instrument (mail confirmation) and any subsequent amendments to the credit to the beneficiary through the advising bank.

(b) The issuing bank will be responsible for any consequences arising from its failure to follow the procedure set out in the preceding paragraph.

(c) Unless a cable, telegram or telex states "details to follow" (or words of similar effect), or states that the mail confirmation is to be the operative credit instrument, the cable, telegram or telex will be deemed to be the operative credit instrument and the issuing bank need not send the mail confirmation to the advising bank.

Article 5

When a bank is instructed by cable, telegram or telex to issue, confirm or advise a credit similar in terms to one previously established and which has been the subject of amend-

ments, it shall be understood that the details of the credit being issued, confirmed or advised will be transmitted to the beneficiary excluding the amendments, unless the instructions specify clearly any amendments which are to apply.

Article 6

If incomplete or unclear instructions are received to issue, confirm or advise a credit, the bank requested to act on such instructions may give preliminary notification of the credit to the beneficiary for information only and without responsibility; in this event the credit will be issued, confirmed or advised only when the necessary information has been received.

B. LIABILITIES AND RESPONSIBILITIES

Article 7

Banks must examine all documents with reasonable care to ascertain that they appear on their face to be in accordance with the terms and conditions of the credit. Documents which appear on their face to be inconsistent with one another will be considered as not appearing on their face to be in accordance with the terms and condition of the credit.

Article 8

(a) In documentary credit operations all parties concerned deal in documents and not in goods.

(b) Payment, acceptance or negotiation against documents which appear on their face to be in accordance with the terms and conditions of a credit by a bank authorized to do so, binds the party giving the authorization to take up the documents and reimburse the bank which has effected the payment, acceptance or negotiation.

(c) If, upon receipt of the documents, the issuing bank considers that they appear on their face not to be in accordance with the terms and conditions of the credit, that bank must determine, on the basis of the documents alone, whether to claim that payment, acceptance or negotiation was not effected in accordance with the terms and conditions of the credit.

(d) The issuing bank shall have a reasonable time to examine the documents and to determine as above whether to make such a claim.

(e) If such claim is to be made, notice to that effect, stating the reasons therefor, must, without delay, be given by cable or other expeditious means to the bank from which the documents have been received (the remitting bank) and such notice must state that the documents are being held at the disposal of such bank or are being returned thereto.

(f) If the issuing bank fails to hold the documents at the disposal of the remitting bank, or fails to return the documents to such bank, the issuing bank shall be precluded from claiming that the relative payment, acceptance or negotiation was not effected in accordance with the terms and conditions of the credit.

(g) If the remitting bank draws the attention of the issuing bank to any irregularities in the documents or advises such bank that it has paid, accepted or negotiated under reserve or against a guarantee in respect of such irregularities, the issuing bank shall not thereby be relieved from any of its obligations under this article. Such guarantee or reserve concerns only the relations between the remitting bank and the beneficiary.

Article 9

Banks assume no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any documents, or for the general and/or particular conditions stipulated in the documents or superimposed thereon; nor do they assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods represented thereby, or for the good faith or acts and/or omissions, solvency, per-

formance or standing of the consignor, the carriers or the insurers of the goods or any other person whomsoever.

Article 10

Banks assume no liability or responsibility for the consequences arising out of delay and/or loss in transit of any messages, letters or documents, or for delay, mutilation or other errors arising in the transmission of cables, telegrams or telex. Banks assume no liability or responsibility for errors in translation or interpretation of technical terms, and reserve the right to transmit credit terms without translating them.

Article 11

Banks assume no liability or responsibility for consequences arising out of the interruption of their business by Acts of God, riots, civil commotions, insurrections, wars or any other causes beyond their control or by any strikes or lock-outs. Unless specifically authorized, banks will not effect payment, acceptance or negotiation after expiration under credits expiring during such interruption of business.

Article 12

(a) Banks utilizing the services of another bank for the purpose of giving effect to the instructions of the applicant for the credit do so for the account and at the risk of the latter.

(b) Banks assume no liability or responsibility should the instructions they transmit not be carried out, even if they have themselves taken the initiative in the choice of such other bank.

(c) The applicant for the credit shall be bound by and liable to indemnify the banks against all obligations and responsibilities imposed by foreign laws and usages.

Article 13

A paying or negotiating bank which has been authorized to claim reimbursement from a third bank nominated by the issuing bank and which has effected such payment or negotiation shall not be required to confirm to the third bank that it has done so in accordance with the terms and conditions of the credit.

C. DOCUMENTS

Article 14

(a) All instructions to issue, confirm or advise a credit must state precisely the documents against which payment, acceptance or negotiation is to be made.

(b) Terms such as "first class", "well known", "qualified" and the like shall not be used to describe the issuers of any documents called for under credits and if they are incorporated in the credit terms banks will accept documents as tendered.

C.1 DOCUMENTS EVIDENCING SHIPMENT OR DISPATCH OR TAKING IN CHARGE (SHIPPING DOCUMENTS)

Article 15

Except as stated in article 20, the date of the bill of lading, or the date of any other document evidencing shipment or dispatch or taking in charge, or the date indicated in the reception stamp or by notation on any such document, will be taken in each case to be the date of shipment or dispatch or taking in charge of the goods.

Article 16

(a) If words clearly indicating payment or prepayment of freight, however named or described, appear by stamp or otherwise on documents evidencing shipment or dispatch or taking in charge they will be accepted as constituting evidence of payment of freight.

(b) If the words "freight pre-payable" or "freight to be prepaid" or words of similar effect appear by stamp or otherwise on such documents they will not be accepted as constituting evidence of the payment of freight.

(c) Unless otherwise specified in the credit or inconsistent with any of the documents presented under the credit, banks will accept documents stating that freight or transportation charges are payable on delivery.

(d) Banks will accept shipping documents bearing reference by stamp or otherwise to costs additional to the freight charges, such as costs of, or disbursements incurred in connexion with, loading, unloading or similar operations, unless the conditions of the credit specifically prohibit such reference.

Article 17

Shipping documents which bear a clause on the face thereof such as "shipper's load and count" or "said by shipper to contain" or words of similar effect, will be accepted unless otherwise specified in the credit.

Article 18

(a) A clean shipping document is one which bears no superimposed clause or notation which expressly declares a defective condition of the goods and/or the packaging.

(b) Banks will refuse shipping documents bearing such clauses or notations unless the credit expressly states the clauses or notations which may be accepted.

C.1.1 MARINE BILLS OF LADING

Article 19

(a) Unless specifically authorized in the credit, bills of lading of the following nature will be rejected:

- (i) Bills of lading issued by forwarding agents.
- (ii) Bills of lading which are issued under and are subject to the conditions of a charter-party.
- (iii) Bills of lading covering shipment by sailing vessels.

(b) However, subject to the above and unless otherwise specified in the credit, bills of lading of the following nature will be accepted:

- (i) "Through" bills of lading issued by shipping companies or their agents even though they cover several modes of transport.
- (ii) Short form bills of lading (i.e. bills of lading issued by shipping companies or their agents which indicate some or all of the conditions of carriage by reference to a source or document other than the bill of lading).
- (iii) Bills of lading issued by shipping companies or their agents covering unitized cargoes, such as those on pallets or in containers.

Article 20

(a) Unless otherwise specified in the credit, bills of lading must show that the goods are loaded on board a named vessel or shipped on a named vessel.

(b) Loading on board a named vessel or shipment on a named vessel may be evidenced either by a bill of lading bearing wording indicating loading on board a named vessel or shipment on a named vessel, or by means of a notation to that effect on the bill of lading signed or initialled and dated by the carrier or his agent, and the date of this notation shall be regarded as the date of loading on board the named vessel or shipment on the named vessel.

Article 21

(a) Unless trans-shipment is prohibited by the terms of the credit, bills of lading will be accepted which indicate that the goods will be trans-shipped en route, provided the entire voyage is covered by one and the same bill of lading.

(b) Bills of lading incorporating printed clauses stating that the carriers have the right to trans-ship will be accepted notwithstanding the fact that the credit prohibits trans-shipment.

Article 22

(a) Banks will refuse a bill of lading stating that the goods are loaded on deck, unless specifically authorized in the credit.

(b) Banks will not refuse a bill of lading which contains a provision that the goods may be carried on deck, provided it does not specifically state that they are loaded on deck.

C.1.2. COMBINED TRANSPORT DOCUMENTS

Article 23

(a) If the credit calls for a combined transport document, i.e. one which provides for a combined transport by at least two different modes of transport, from a place at which the goods are taken in charge to a place designated for delivery, or if the credit provides for a combined transport, but in either case does not specify the form of document required and/or the issuer of such document, banks will accept such documents as tendered.

(b) If the combined transport includes transport by sea the document will be accepted although it does not indicate that the goods are on board a named vessel, and although it contains a provision that the goods, if packed in a container, may be carried on deck, provided it does not specifically state that they are loaded on deck.

C.1.3. OTHER SHIPPING DOCUMENTS, ETC.

Article 24

Banks will consider a Railway or Inland Waterway Bill of Lading or Consignment Note, Counterfoil Waybill, Postal Receipt, Certificate of Mailing, Air Mail Receipt, Air Waybill, Air Consignment Note or Air Receipt, Trucking Company Bill of Lading or any other similar document as regular when such document bears the reception stamp of the carrier or his agent, or when it bears a signature purporting to be that of the carrier or his agent.

Article 25

Where a credit calls for an attestation or certification of weight in the case of transport other than by sea, banks will accept a weight stamp or declaration of weight superimposed by the carrier on the shipping document unless the credit calls for a separate or independent certificate of weight.

C.2. INSURANCE DOCUMENTS

Article 26

(a) Insurance documents must be as specified in the credit, and must be issued and/or signed by insurance companies or their agents or by underwriters.

(b) Cover notes issued by brokers will not be accepted, unless specifically authorized in the credit.

Article 27

Unless otherwise specified in the credit, or unless the insurance documents presented establish that the cover is effective at the latest from the date of shipment or dispatch or, in the case of combined transport, the date of taking the goods in charge, banks will refuse insurance documents presented which bear a date later than the date of shipment or dispatch or, in the case of combined transport, the date of taking the goods in charge, as evidenced by the shipping documents.

Article 28

(a) Unless otherwise specified in the credit, the insurance document must be expressed in the same currency as the credit.

(b) The minimum amount for which insurance must be effected is the CIF value of the goods concerned. However, when the CIF value of the goods cannot be determined from the documents on their face, banks will accept as such minimum amount the amount of the drawing under the credit or the amount of the relative commercial invoice, whichever is the greater.

Article 29

(a) Credits should expressly state the type of insurance required and, if any, the additional risks which are to be

covered. Imprecise terms such as "usual risks" or "customary risks" should not be used; however, if such imprecise terms are used, banks will accept insurance documents as tendered.

(b) Failing specific instructions, banks will accept insurance cover as tendered.

Article 30

Where a credit stipulates "insurance against all risks", banks will accept an insurance document which contains any "all risks" notation or clause, and will assume no responsibility if any particular risk is not covered.

Article 31

Banks will accept an insurance document which indicates that the cover is subject to a franchise or an excess (deductible), unless it is specifically stated in the credit that the insurance must be issued irrespective of percentage.

C.3. COMMERCIAL INVOICES

Article 32

(a) Unless otherwise specified in the credit, commercial invoices must be made out in the name of the applicant for the credit.

(b) Unless otherwise specified in the credit, banks may refuse commercial invoices issued for amounts in excess of the amount permitted by the credit.

(c) The description of the goods in the commercial invoice must correspond with the description in the credit. In all other documents the goods may be described in general terms not inconsistent with the description of the goods in the credit.

C.4. OTHER DOCUMENTS

Article 33

When other documents are required, such as Warehouse Receipts, Delivery Orders, Consular Invoices, Certificates of Origin, of Weight, of Quality or of Analysis, etc. and when no further definition is given, banks will accept such documents as tendered.

D. MISCELLANEOUS PROVISIONS

QUANTITY AND AMOUNT

Article 34

(a) The words "about", "circa" or similar expressions used in connexion with the amount of the credit or the quantity or the unit price of the goods are to be construed as allowing a difference not to exceed 10 per cent more or 10 per cent less.

(b) Unless a credit stipulates that the quantity of the goods specified must not be exceeded or reduced a tolerance of 3 per cent more or 3 per cent less will be permissible, always provided that the total amount of the drawings does not exceed the amount of the credit. This tolerance does not apply when the credit specifies quantity in terms of a stated number of packing units or individual items.

PARTIAL SHIPMENTS

Article 35

(a) Partial shipments are allowed, unless the credit specifically states otherwise.

(b) Shipments made on the same ship and for the same voyage, even if the Bills of Lading evidencing shipment "on board" bear different dates and/or indicate different ports of shipment, will not be regarded as partial shipments.

Article 36

If shipment by instalments within given periods is stipulated and any instalment is not shipped within the period allowed for that instalment, the credit ceases to be available for that or any subsequent instalments, unless otherwise specified in the credit.

EXPIRY DATE

Article 37

All credits, whether revocable or irrevocable, must stipulate an expiry date for presentation of documents for payment,

acceptance or negotiation, notwithstanding the stipulation of a latest date for shipment.

Article 38

The words "too", "until", "till" and words of similar import applying to the stipulated expiry date for presentation of documents for payment, acceptance or negotiation, or to the stipulated latest date for shipment, will be understood to include the date mentioned.

Article 39

(a) When the stipulated expiry date falls on a day on which banks are closed for reasons other than those mentioned in article 11, the expiry date will be extended until the first following business day.

(b) The latest date for shipment shall not be extended by reason of the extension of the expiry date in accordance with this article. Where the credit stipulates a latest date for shipment, shipping documents dated later than such stipulated date will not be accepted. If no latest date for shipment is stipulated in the credit, shipping documents dated later than the expiry date stipulated in the credit or amendments thereto will not be accepted. Documents other than the shipping documents may, however, be dated up to and including the extended expiry date.

(c) Banks paying, accepting or negotiating on such extended expiry date must add to the documents their certification in the following wording:

"Presented for payment (or acceptance or negotiation as the case may be) within the expiry date extended in accordance with article 39 of the Uniform Customs".

SHIPMENT, LOADING OR DISPATCH

Article 40

(a) Unless the terms of the credit indicate otherwise, the words "departure", "dispatch", "loading" or "sailing" used in stipulating the latest date for shipment of the goods will be understood to be synonymous with "shipment".

(b) Expressions such as "prompt", "immediately", "as soon as possible", and the like should not be used. If they are used, banks will interpret them as a request for shipment within 30 days from the date on the advice of the credit to the beneficiary by the issuing bank or by an advising bank, as the case may be.

(c) The expression "on or about" and similar expressions will be interpreted as a request for shipment during the period from five days before to five days after the specified date, both end days included.

PRESENTATION

Article 41

Notwithstanding the requirement of article 37 that every credit must stipulate an expiry date for presentation of documents, credits must also stipulate a specified period of time after the date of issuance of the bills of lading or other shipping documents during which presentation of documents for payment, acceptance or negotiation must be made. If no such period of time is stipulated in the credit, banks will refuse documents presented to them later than 21 days after the date of issuance of the Bills of Lading or other shipping documents.

Article 42

Banks are under no obligation to accept presentation of documents outside their banking hours.

DATE TERMS

Article 43

The terms "first half", "second half" of a month shall be construed respectively as from the 1st to the 15th, and the 16th to the last day of each month, inclusive.

Article 44

The terms "beginning", "middle", or "end" of a month shall be construed respectively as from the 1st to the 10th, the 11th

to the 20th, and the 21st to the last day of each month, inclusive.

Article 45

When a bank issuing a credit instructs that the credit be confirmed or advise as available "for one month", "for six months" or the like, but does not specify the date for which the time is to run, the confirming or advising bank will confirm or advise the credit as expiring at the end of such indicated period from the date of its confirmation or advice.

E. TRANSFER

Article 46

(a) A transferable credit is a credit under which the beneficiary has the right to give instructions to the bank called upon to effect payment or acceptance or to any bank entitled to effect negotiation to make the credit available in whole or in part to one or more third parties (second beneficiaries).

(b) The bank requested to effect the transfer, whether it has confirmed the credit or not, shall be under no obligation to effect such transfer except to the extent and in the manner expressly consented to by such bank, and until such bank's charges in respect of transfer are paid.

(c) Bank charges in respect of transfers are payable by the first beneficiary unless otherwise specified.

(d) A credit can be transferred only if it is expressly designated as "transferable" by the issuing bank. Terms such as "divisible", "fractionable", "assignable", and "transmissible" add nothing to the meaning of the term "transferable" and shall not be used.

(e) A transferable credit can be transferred once only. Fractions of a transferable credit (not exceeding in the aggregate the amount of the credit) can be transferred separately, provided partial shipments are not prohibited, and the aggregate of such transfers will be considered as constituting only one transfer of the credit. The credit can be transferred only on the terms and conditions specified in the original credit, with the exception of the amount of the credit, of any unit prices stated therein, and of the period of validity or period for shipment, any or all of which may be reduced or curtailed. Additionally, the name of the first beneficiary can be substituted for that of the applicant for the credit, but if the name of the applicant for the credit is specifically required by the original credit to appear in any document other than the invoice, such requirement must be fulfilled.

(f) The first beneficiary has the right to substitute his own invoices for those of the second beneficiary, for amounts not in excess of the original amount stipulated in the credit and for the original prices if stipulated in the credit, and upon such substitution of invoices the first beneficiary can draw under the credit for the difference, if any, between his invoices and the second beneficiary's invoices. When a credit has been transferred and the first beneficiary is to supply his own invoices in exchange for the second beneficiary's invoices but fails to do so on first demand, the paying, accepting or negotiating bank has the right to deliver to the issuing bank the documents received under the credit, including the second beneficiary's invoices, without further responsibility to the first beneficiary.

(g) The first beneficiary of a transferable credit can transfer the credit to a second beneficiary in the same country or in another country unless the credit specifically states otherwise. The first beneficiary shall have the right to request that payment or negotiation be effected to the second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the original credit, and without prejudice to the first beneficiary's right subsequently to substitute his own invoices for those of the second beneficiary and to claim any difference due to him.

Article 47

The fact that a credit is not stated to be transferable shall not affect the beneficiary's rights to assign the proceeds of such credit in accordance with the provisions of the applicable law.