

Finance for Development

Banking Commission

UPDATE ON THE ROLLOUT & COMMERCIALISATION OF ICC DIGITAL RULES

Background

The 2018 ICC Global Survey (Securing Future Growth¹) revealed that whilst progress was being made towards digitalisation of documentary transactions, document verification was a notable laggard when it comes to removing the use of physical paper.

Over 60% of banks surveyed in the report reported having implemented, or being in the process of implementing, technology solutions to digitalise their trade finance operations. However, at this stage, only 9% of banks reported that the solutions implemented have so far led to a reduction of time and costs in trade finance transactions. In what the report describes as a “reality check”, 30% of respondents say their banks remain 1-2 years away from implementing technology solutions, while 7% say digitalisation is not on their agenda at all.

The report goes on to state that the multitude of documents and players (banks, customs authorities, shippers, and insurers, among others) involved in trade finance transactions make it difficult for the industry to digitalise quickly. In the findings, 65% of respondents highlighted that physical paper has to some extent been removed in the issuance/advising and settlement/financing of documentary transactions.

A notable exception is the document verification process, where 52% of respondents say that paper has not been removed at all.

A single trade finance transaction can require more than 100 pages of documents, with an estimated four billion pages of documents currently circulating in documentary trade. According to Boston Consulting Group (BCG) estimates included within the above ICC survey, digitalisation could cut trade finance costs by up to US\$6bn in three to five years and boost banks’ trade finance revenues by 10%. In their opinion, more than 90% of data field interactions could be simplified or eliminated all together, creating a process that is not only faster, but also less vulnerable to error and fraud.

In view of the above, it is no surprise that increasing attention and emphasis has been applied to digitalisation within trade finance. As remarked in an article on this subject², the increasing trade gap could be alleviated by the introduction of new technologies and the digitalisation of paperwork in the shipping and banking industry. Any such digitalisation of paper would be helped by a harmonised independent standard of rules.

Farooq Siddiqi, Global Head Trade Finance at Standard Chartered, has pointed out that digitising the information supply chain, not just the physical and financial supply chains, is invaluable. The information supply chain is all about leveraging data to make credit decisions faster and more efficient. On one hand the transparency of information helps banks to better understand the risks involved and on the other, helps SMEs to secure financing at a cheaper

¹ <https://iccwbo.org/publication/global-survey-2018-securing-future-growth/>

² <https://www.tradefinanceglobal.com/posts/2018-fintech-trends-in-trade-finance/>

cost.³

A similar comment has been made by Hari Janakiraman, Head of Core Trade Products at ANZ bank, in which he accentuates that trade finance transactions involve multiple parties, such as shipping companies, chambers of commerce, insurers, customs authorities and inspection companies, all of whom must also move to electronic documentation and channels.⁴

A paper entitled 'Digital Trade and Trade Financing'⁵ published by SWIFT & OPUS Advisory Services International Inc. emphasised that a key objective for many global trade practitioners is to remove excessive paper flows within trade processing.

As expanded in a separate commentary⁶, the digital exchange of documentation is key to reducing the costs associated with trade finance, giving banks the potential to offer trade finance at lower prices and to drastically reduce the time involved in processing transactions.

An article⁷ in the ICC Banking Commission 2017 report, 'Rethinking Trade & Finance', by Alexander Goulandris⁸, CEO essDOCS, and Michael Vrontamitis⁹, Global Head of Trade, Product Management, Standard Chartered, provided several pertinent observations:

- *When the cost of processing a Letter of Credit decreases, so too does the entire cost of trade finance – which enables financial inclusion. The ease of process also facilitates customs clearance procedures – allowing goods to move through supply chains more easily and reach consumers faster.*
- *Uncertainty around practice, rules and regulations are all barriers facing the digitalisation journey. In order to facilitate the shift to paperless trade, minimum standards and clearly defined rules will accelerate know-how and allow banks and corporates to more easily connect to digital platforms. The idea of a minimum set of standards ensures that all service providers are working to the same criteria.*
- *Clearly, guidelines are crucial to the evolution of digitalisation – allowing for shared past experiences and faster learning. These will also help certain players to analyse risk on platforms and understand the effects of digitalisation on the rest of their business. Similarly, enabling rules and ensuring enforceability around some of the documentation is crucial to encouraging companies to digitise processes faster. Providing guidance in one single rulebook, fully covering the electronic delivery of documentation, will provide the confidence needed for trade financiers. Overall, the more the information provided, the easier it will be for digitalisation to be adopted.*

This was further reflected in an International Banker article¹⁰ by David Meynell, ICC Banking Commission Senior Technical Advisor, and co-chair eRules Drafting Group, in which the barrier of uncertainty over practice and rules was emphasised:

- *In the shift to paperless trade, clearly defined rules will accelerate the spread of know-how and allow banks and corporates to more easily connect to digital platforms.*

³ https://www.sc.com/sibos/trade-beyond-borders_the-trouble-with-trade-finance-digitization.html

⁴ <https://www.americanexpress.com/uk/foreign-exchange/articles/digitalization-of-international-trade-finance/>

⁵ https://www.globaltradecorp.com/media/swift_trade_digitisation.pdf

⁶ <https://www.finextra.com/blogposting/14291/digitalising-trade-finance-the-time-to-act-is-now>

⁷ <https://www.essdocs.com/blog/digitalisation-trade-finance-accelerating-journey>

⁸ ICC Digitalisation Working Group co-chair

⁹ ICC Digitalisation Working Group co-chair

¹⁰ <https://internationalbanker.com/finance/digitalisation-trade-finance-whats-next/>

- *Enabling rules and ensuring enforceability around some of the documentation is crucial to encouraging companies to digitalise processes faster.*

This is precisely why the ICC Working Group on Digitalisation set out to evaluate and update ICC rules in order to ensure these are “e” compliant, thereby enabling banks to accept electronic records as well as paper documents.

During the Banking Commission meeting in Miami in 2018, Daniel Schmand¹¹, Global Head of Trade Finance at Deutsche Bank, and Banking Commission Chairman, made it clear that adaptation of rules and regulations to allow for digital innovation would be required, as well as standards to allow connectivity and interoperability between systems. David Hannah, Head of Trade & Supply Chain Finance at Intellect Design Arena Ltd, seconded this opinion stating that evolving technology will not succeed without digitalisation, digitalisation will not be possible without interoperability, and interoperability can only happen with common rules and common standards.

ICC Working Group on Digitalisation

ICC Secretary General John W.H. Denton stated, “Digitalisation in the trade finance sector will boost economic growth and sustainable development. Digitalisation will make trade more inclusive.”¹²

On 6th June 2017, the ICC Banking Commission delivered a press release announcing the launch of a Working Group to anticipate and accompany the digitalisation of trade finance. One core activity was to evaluate existing ICC rules in order to assess e-compatibility and ensure they are ‘e-compliant’, i.e. enabling banks to accept data in addition to paper. It was identified that this approach was essential in order to accommodate evolving practices and technologies.

As mentioned at the time by Olivier Paul, Head of Policy at ICC’s Banking Commission, “Adapting global trade finance rules to the digital era will play a pivotal role in enabling banks to capitalise on new technologies. ICC rules underpin over US\$1 trillion of transactions each year. Now, we are working to both ensure these rules are ‘e-compatible’ and establish a set of standards to enable digital connectivity for trade finance service providers.”

ICC eRules: eUCP & eURC

In June 2017, the ICC Banking Commission launched the “Digitalisation in Trade Finance Working Group”. The aim of the Group is to identify strategies to overcome the constraints of digitalising trade finance - such as a reliance on paper-based practices, a lack of recognition of the legal status of electronic documents, uncertainty over standards, and a general lack of clear legal and regulatory frameworks.

The Working Group will be the coordinating body on all work by the ICC Banking Commission related to digitalisation of Trade Finance with a mandate to identify ways to overcome the abovementioned obstacles.

It was recognised in the introduction to the ICC Guide to the eUCP (ICC Publication no. 639) that the likely end of the evolution to electronic presentations would be automated compliance checking systems in the documentary credit field. This is all too apparent when looking at evolving technology and digital trade finance, with the advent of the Internet of Things (IoT),

¹¹ <http://cib.db.com/insights-and-initiatives/flow/bank-shot.htm>

¹² <https://iccwbo.org/media-wall/news-speeches/new-icc-survey-shows-pace-trade-finance-digitalisation/>

Distributed Ledger Technology (DLT), Smart Contracts, Artificial Intelligence (AI), and Machine Learning (ML). Digital has been described as gaining an understanding of customer processes and their end-to-end needs, and then re-imagining what the banking provision should be, given these needs and the availability of new technological solutions.¹³

The publication of rules for processing electronic records under traditional trade products such as documentary credits is a key initiative and first step to alleviating uncertainty and lack of clarity. Such a move ensures improvement for banks, corporates and logistic providers, who all need to work together in order to obtain maximum benefit from these initiatives.

Enabling traditional and successful ICC rules to work in a digital environment helps invigorate the products, and acts as a catalyst towards the use of electronic records.

A drafting Group was established, co-chaired by David Meynell and Gary Collyer, with the initial aim of reviewing the e-compatibility of existing ICC rules. The initial gap analysis of existing ICC rules revealed the below:

UCP 600: no requirement to update for e-compatibility – the eUCP applies for electronic records.	ISBP 745: no standard practice and, therefore, no demand for a similar publication relating to eUCP. As practice evolves, this will, inevitably, lead to drafting of such a publication.
ISP98: e-compatible – documents and data acceptable. ISP98 provides basic definitions should a standby credit permit or require presentation of documents by electronic means.	URR 725: e-compatible (authenticated transmissions) – where applicable, both documents and data acceptable.
URDG 758: e-compatible (refers to paper and electronic) – where applicable, both documents and data acceptable.	
URF 800: e-compatible – where applicable, both documents and data acceptable.	eUCP 1.1: e-compatible, however an update of the existing content required in order to ensure compatibility with digital data and to ensure in line with current/evolving market practice.
URBPO 750: e-compatible – but only in bank-to-bank space. New sub-stream established under e-compatibility stream to address next steps.	URC 522: not e-compatible, paper-based only – only documents acceptable, not data. New e-rules to be produced.

This analysis further identified a number of initial areas that required increased focus, including:

- *Means of presentation with regard to the scope of eUCP*
- *Definition of the term ‘corruption’ when applied to an electronic record*
- *Definition of a ‘data processing system’*
- *Clarification of the process of ‘re-presentation’*
- *Highlight that banks do not deal with the underlying goods or services*
- *Period of time for examination*
- *Disclaimers*

¹³ <http://cib.db.com/insights-and-initiatives/flow/the-other-99-percent.htm>

- *Absence of a 'Force Majeure' article*

Subsequently, pursuant to initial comments from members of the drafting group, it became apparent that a number of 'knowledge gaps' existed in respect of existing eUCP wording. These included:

- *Minimum standards*
- *Authentication of Electronic Records*
- *Notice of Completeness*
- *Electronic Address*
- *Period for notice of refusal*
- *Originality*

As a result of this review, a mandate was received from the ICC Banking Commission Executive Committee to:

Update the existing version 1.1 of eUCP in order to ensure continued digital compatibility. Goal of this update will be version 2.0	Draft eURC in order to ensure continued digital compatibility for presentation of electronic records under Collections.
---	---

The eRules have been intentionally developed with version numbers in order that they can be updated regularly without impacting upon other existing ICC rules, thereby reducing the time required to develop any potential identified revision.

Both sets of rules were approved by ICC National Committees during March 2019, and enter into force on 1st July 2019. The content of the eRules will be continually monitored in order to ensure applicability.

The support of trade practitioners will be an essential element moving forward. Existing ICC rules, such as UCP 600 & URC 522, whilst being invaluable in a paper world, provide limited protection when applied to electronic transactions. It is inevitable that traditional trade instruments will, over time, inexorably move towards a mixed ecosystem of paper and digital, and, ultimately, to electronic records alone.

In this respect, it is important the market recognise that the new rules provide many benefits in advancing traditional trade solutions in a digital environment:

- ***Safeguarding applicability and guaranteeing relevance in a constantly evolving digital trade world***
- ***Extending the mitigation of risk from a paper environment to the electronic milieu***
- ***Explicitly and unambiguously supporting the usage of electronic records***
- ***Conformity and congruence as opposed to divergent local, national and regional practice***
- ***Shared understanding of terminologies and objectives***
- ***Confidence in a set of independent and trusted contractual rules***
- ***Uniformity, consistency and standardisation in customs and practice***
- ***Enabling and supporting trade finance between regions and countries regardless of underlying economic and judicial structures***

Uniform Rules for Digital Trade (URDT)

On 5th December 2018, the ICC Banking Commission Executive Committee approved a proposal for the drafting of a new set of rules with the working title “Uniform Rules for Digital Trade”. In this respect, the Drafting Group was given a mandate to begin the drafting process. Additionally, the establishment of a Consulting Group with the aim of advising and reviewing the work of the Drafting Group was agreed.

Rapid evolutions in new technology are changing trade and supply chain finance. Businesses are seeking solutions that will deliver greater control and visibility within their supply chain ecosystem. Financiers (banks and non-bank entities) are looking for tools that will support regulatory compliance and optimise the use of capital. A variety of technologies are being proactively introduced, ranging from Optical Character Recognition (OCR) and AI, to DLT and Smart Contracts. Such solutions encompass:

- *Digitalisation of the execution processes*
- *Continuous flow of data which can be split across a large number of transactions*
- *Creation of a network effect to capture the data flow among participants in the supply chain*

At this time, at least 8 consortia are developing proofs of concept in the traditional trade as well as the supply chain finance space. Each of these is data-driven and likely to require conditional and unconditional payment obligations. Rule books are being developed in each consortium to address how the participants engage, their roles and responsibilities and the junctures where a payment obligation may exist, be transferred and become confirmed as unconditional.

The objective of the URDT is to develop a high-level framework in which the above-referenced consortia can operate by referencing the rules in their establishment and execution of financial obligations within their own unique process and technology constructs.

The Drafting Group will be creating a framework of rules under which digital trade can be transacted. The objective is to codify those events in a commercial transaction that support the roles and obligations of the participants in digital trade transaction independent of the underlying technology supporting the transaction.

The Consulting Group’s mandate is to review the output of the Rules Drafting Group in order to provide feedback and recommend any changes to the rules prior to their distribution to the National Committees for their input.

A number of Drafting Group meetings have already been convened, resulting in the development of an initial basic framework of the rules being drafted. The aim is to expand this framework over the coming months, and share a first draft with the URDT Consulting Group for feedback.

The provisional intention is to have the first draft available to ICC National Committees before the October 2019 Banking Commission meeting in Paris. An update on progress and outline of next steps will be given during the Paris meeting.

Reference material has included existing ICC rules/eRules, and the UNCITRAL Model Laws on Electronic Commerce and Electronic Transferable Records.

As with all ICC rules, the rules are technology neutral and cover Digital Trade Transactions only.

Uniform Rules for Bank Payment Obligations (URBPO)

During 2018, consideration was given to a potential revision of URBPO in order to allow for direct corporate involvement whilst catering for emerging technology such as DLT. Digital data flows can include multiple trade and supply chain finance techniques.

The URBPO is not considered suitable to accommodate this new environment as it is limited solely to bank-to-bank interactions, is tied to a single technology platform (the Trade Services Utility (TSU) hosted by SWIFT) and can engage with, at most, four parties. Acknowledgement of this new reliance on data will shape emerging market convention, differentiating solutions that deal in data on a flow basis from traditional documentary and/or ad-hoc solutions.

Recognition of the increasing reliance on data flows as well as historic key obstacles to the adoption of BPO were identified. An analysis of the benefits associated with eliminating the obstacles provided prioritisation of the changes that should be incorporated.

Twelve relevant changes were identified together with recognition of the URBPO articles that would require revision. These changes incorporated the needs of not just the banking community, but also all of the participants in a supply chain. It was concluded a revision of URBPO to achieve technology independence in the current construct would be unworkable.

Since this analysis, it has been reported by SWIFT that they will no longer support the TSU platform. According to Marc Delbaere, SWIFT Global Head of Corporates and Trade, "TSU has been a very niche success, and important for banks and corporates using it. However, its adoption has been limited, and as a cooperative, we have to focus on solutions with wider adoption and application."¹⁴

The URBPO rules are unaffected by the SWIFT decision to shut down the TSU. Other industry solutions are being looked into for TSU replacement.

Conclusion

A key focus of the ICC Working Group on Digitalisation is to help the trade finance industry realise the many benefits of digitalisation – including transparency, time and cost savings, reduced errors, and reduced compliance and operational risk.

Work will continue on evaluating ICC rules, developing a set of minimum standards for the

¹⁴ <https://www.gtreview.com/news/global/exclusive-swift-calls-time-on-tsu/>

digital connectivity of service providers (particularly across legal, liability, information security and technology), and examining the legal and practical issues related to the validity and value of data and documents in digitised form.

ICC Digitalisation Working Group
May 2019