

Decision of the ICC in respect of a revision of UCP 600 following a comprehensive consultation

Background

An initial communication dated 6th October 2016 was sent to ICC National Committees, which included a '*Position of the Executive Committee of the ICC Banking Commission regarding a revision of the UCP*'.

Two meetings were subsequently held with ICC National Committee representatives (i) at the ICC National Committee Forum in Rome on 8th November 2016, and, (ii) the ICC National Committee 'Sharing Session' in Paris on 23rd November 2016. Whilst many National Committees were supportive of the Executive Committee recommendation not to proceed with a revision, there were a few counter-views, and comments were given supporting a UCP revision.

These comments were incorporated into an analysis of ICC Banking Commission Opinions / trade press / social media feedback and included within an email sent to National Committees on 19th December 2016. This stated that, in the view of the ICC Banking Commission Executive Committee, existing feedback still did not provide a compelling enough rationale to justify a revision of UCP 600. In order to ensure that all views were represented, National Committees were then asked to consult with their membership regarding the need, if any, for a revision and revert with their findings.

Results of the Consultation

The results were collated and subsequently presented by David Meynell, Senior Technical Advisor, and Dan Taylor, Executive Committee member, at the Banking Commission Annual Meeting in Jakarta on 6th April 2017.

The overwhelming response revealed that a revision of UCP 600 was not required. The prime objective of a revision is to address developments in the banking, transport and insurance industries. Significant feedback evidenced that **any problems lay not with the rules themselves, but with the application, i.e. practice** ("international standard banking practice"), of the rules. An analysis of the revision explanatory notes (which covered over 70 issues including comments received from National Committees) did not provide a compelling enough rationale, nor sufficient support, to justify a revision of UCP 600 at this stage.

Participants were reminded of the statement in the initial recommendation paper:

"As can be seen, 50% of the problems apply to the presented documents: it is a justifiable assumption that a greater understanding of ISBP 745 would help alleviate these problems and greatly reduce this percentage. As regards the remaining 50%, it is difficult to see how a revision of UCP would make much of a material difference as many of these causes are

outside the scope of correction by the beneficiary.”

The majority of problems are caused by:

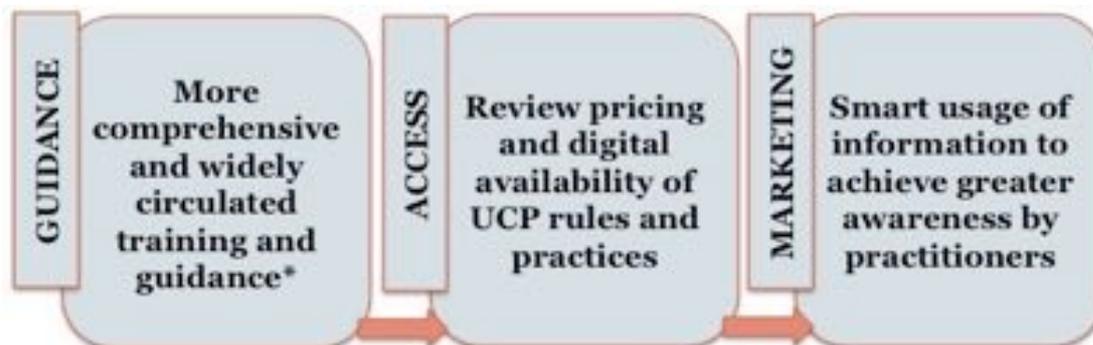
- *Poor drafting of the credit;*
- *Lack of understanding of documentary credit workflows and the principles of UCP 600;*
- *Lack of attention to detail and management of the production, shipment and document collation processes;*
- *Excessive and unnecessary data being added to documents;*
- *Restricted access to ISBP 745.*

Only a very limited number of the comments in the Revision explanatory notes contradicted the above assertion. In fact, only seven items were identified for possible inclusion in a revision of UCP and most of these were already an integral part of ISBP 745. No new problems were raised which would prove that existing rules are wrong or that there is a gap.

However, it was clearly apparent from responses that a lack of understanding did exist in respect of the application and practice of UCP 600 within both banks and corporates.

Executive Committee Decision

In line with the majority recommendation of National Committees, **it is not considered, at this stage, to be appropriate to undertake a revision of UCP 600.** However, there is a definitive viewpoint that a **greater understanding of practices** should be the way forward, rather than a revision of the rules. The next steps will be to elaborate and implement a three-prong facilitation approach:



** e.g. international standard banking practice/ISBP, discrepancy analysis, impact of rule exclusions, sanctions, fraud, drafting, Opinions/DOCDEX, etc.*

A process to address the above issues is being formulated by the Executive Committee.

In respect of a future UCP revision, there will be a continual monitoring of all queries, problems, issues, legal cases and significant / evolutionary changes in industry practice that may necessitate or prompt a revision.