



***Recommendation of the ICC Banking Commission Executive Committee in respect of a revision of UCP 600***

## **Background**

Increasing comment has been observed on social media and within a few articles written by commentators speculating on the possibility of a revision of UCP 600, effective since 2007.

Key external movements in international trade practice have often triggered past revisions of UCP. The general objective of a revision is to address developments in the banking, transport and insurance industries. The question is whether or not we are now facing new developments that are transforming the way we handle documentary credits.

Whilst history reveals that there has been a revision on average every 10-14 years, this is not, and never has been, a hard and fast rule. At the outset of any revision it needs to be clearly demonstrated that the existing UCP is no longer benefiting the trade finance community and is proving to be a hindrance: simple passing of time is not sufficient rationale for a revision. If it is proved that a rule is wrong or there is a gap, this may contribute to supporting a possible revision. However, if a practice is wrong or is misinterpreted, this is an issue for a future revision of ISBP 745 and not UCP.

No set of 'living' rules can be perfect. Customs and practices develop, therefore it is always hoped that past drafters have been prescient (or fortunate) enough to ensure applicability of rules even through periods of change. The question is whether or not recent change has been persuasive enough to convince the ICC Banking Commission of the need for a UCP revision. Before such evaluation, it is a useful step to analyse ICC Opinions from 2012 to 2015 in order to understand where the real problems have been faced in recent times.

- *Function of document: 24%*
- *Signing of document: 13%*
- *Other transport document issues: 13%*
- *Description of goods: 12%*
- *Incomplete presentation: 6%*
- *Presentation & expiry: 6%*
- *Guarantee issues: 4%*
- *Collection payment: 4%*
- *Amendment: 3%*
- *Mailing of documents: 3%*
- *Charges: 3%*
- *Other issues: 9%*



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.

## **Process**

A strong business case is needed for any revision due to the need for not only a minimum 3-year commitment, but also a regular meeting schedule between Working Group participants. An effective Working Group will require 6-8 participants available for frequent meetings, travel, phone conferences and independent work outside the meetings and calls – this is a big investment in time for any individual or organisation.

Furthermore, physical meetings would be held every 2-3 months necessitating availability of a venue and surrounding infrastructure for a period of usually one week. In addition the Working Group will meet at every Banking Commission meeting for at least 2-3 days before the meeting and 2-3 days after. In today's environment it would be difficult to get this type of commitment from many banks.

The work does not end with a Working Group: in addition, there may be a prerequisite for a Consulting Group consisting of up to 20 members, with a similar infrastructure and time investment required. It would be expected that the Banking Commission Legal Committee would also be involved. And, to round it all off, ICC National Committees will be obliged to provide a strong contribution for the entirety of the revision project.

The significant cost and effort is not based purely upon the revision itself. Once a new version of UCP is approved, it generates an immediate need for education and learning within organisations utilising documentary credits and will additionally demand internal work practice and systems changes.

The combined cost of purchasing new publications, running staff workshops, hosting client awareness events and updating internal procedures will be very high.



It should also be noted that a UCP revision is not just restricted to the rules. In accompaniment, it will also necessitate:

1. Revision and update of ISBP 745.
2. Revision and update of CDCS® examination, question databank, textbook and associated training tools.
3. Revision and update of CITF® examination, question databank, textbook and associated training tools.
4. Revisions to other certifications such as the ICC Academy's GTC and CTFP and associated courses.
5. Revision of many online courses and programs by organisations outside the ICC.

Each of the above is a huge task in itself and must be borne in mind when considering a UCP revision. It is only through 'tradition' that UCP has been amended every 10-14 years: this is not an inevitability. Other sets of rules have not been amended so frequently and the fact remains that, in general, UCP 600 continues to work effectively.

## **Conclusion**

Having reviewed the various articles that have been published regarding topics for revision, as well as participating in numerous discussions, we believe there is insufficient justification for the significant time and cost of a revision. Accordingly, we do not consider a revision of UCP 600 to be appropriate at this time.

In the event that any National Committee is of the opinion that a revision is still warranted, we recommend that a request be sent to the ICC Banking Commission Executive Committee including a detailed business case and rationale that supports consideration of a revision. Kindly note that any business case based purely upon revenue is not sufficient.

This represents the position of the Executive Committee.

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