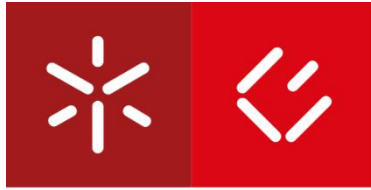


**Universidade do Minho**  
Escola de Economia e Gestão

Zan Zan Zhang

# Importance of Documentary Credit in International Trade: Analysis of Risk and prevention measures

July , 2020



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**Importance of Documentary Credit in International Trade: Analysis of  
Risk and prevention measures**

Master's dissertation

Master of International Business

Trabalho realizado sob orientação dos Professores  
**Professor Doutor Carlos Arriaga Costa e Professora Doutora Isabel Machado Correia**

July , 2020

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## STATEMENT OF INTEGRITY

I hereby declare having conducted this academic work with integrity. I confirm that I have not used plagiarism or any form of undue use of information or falsification of results along the process leading to its elaboration.

I further declare that I have fully acknowledged the Code of Ethical Conduct of the University of Minho.

## RESUMO

No comércio internacional, letras de crédito (crédito documentário), cobranças documentárias e remessas são os métodos de pagamento geralmente aceites. A letra de crédito assume a posição de liderança enquanto forma de pagamento no comércio internacional com as características do crédito bancário e os direitos e obrigações recíprocos do comprador e do vendedor. Tem a função de garantir a segurança a importadores e exportadores, sendo uma forma de liquidação relativamente segura, que garante a condução normal das transações internacionais. No entanto, pelas suas características, as letras de crédito não estão isentas de risco na sua aplicação prática. Portanto, o estudo do risco e das medidas preventivas do risco da carta de crédito tem uma forte relevância para a prática comercial internacional. Esta dissertação analisa principalmente o risco que o ordenador (comprador), os bancos (banco emitente e banco negociador) e o beneficiário (vendedor) podem enfrentar no processo de utilização das letras de crédito e discute as correspondentes medidas de prevenção de risco. Com base numa abordagem qualitativa, foi possível obter uma perspetiva prática sobre os riscos e as correspondentes medidas de prevenção de risco. Os resultados deste estudo exploratório sugerem que existe um consenso em considerar o princípio da independência da carta de crédito como uma das suas principais fontes de risco. Esse consenso sugere que o desenvolvimento futuro da letra de crédito deverá passar por reduzir a sua independência, mas sem perder completamente a sua essência de independência. A evolução também deverá incluir o desenvolvimento cooperativo das operações e o uso das plataformas digitais para facilitar a investigação da credibilidade dos parceiros de negócios.

### Palavras-chave

- Crédito Documentário
- Risco
- As medidas preventivas

## **ABSTRACT**

In international trade settlement, letters of credit (documentary credit), documentary collections, and remittances are generally accepted international settlement methods. Letters of credit take the leading position, with the characteristics of bank credit and the reciprocal rights and obligations of buyer and seller. It has the function of guaranteeing security to both exporters and importers; therefore, it is relatively safe means of settlement, which guarantees the adequate functioning of international transactions. However, due to their characteristics, letters of credit are not exempt from risks in their practical application. Therefore, the study of the risk and preventive measures of the letter of credit has a strong relevance to the practice of international trade.

This dissertation mainly analyzes the risk that the applicant, the bank (issuing bank and negotiating bank) and the beneficiary may face in the process of using the credit, and puts forward the corresponding risk prevention measures. Using a qualitative approach, we found a unique perspective and new findings on the risk and risk prevention measures. The results of this exploratory study suggest that there is a consensus in considering the principle of letter of credit independence as one of its main sources of risk. This consensus suggests that future development of the letter of credit involves reducing their independence, without completely losing its independence essence. The evolution of letters of credit may also include the cooperative development of operations and the use of digital platforms to facilitate the investigation of the credibility of business partners.

### **Key words**

- Documentary credit
- Risk
- Preventive measures

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## Chapter I - Introduction

### 1.1 Background and motivation

In international trade, there is a problem of distrust between the importer and the exporter. The exporter fears that the importer will not pay after the shipment, while the importer fears that the exporter will not ship after the payment. In addition, it is obviously not feasible for both importers and exporters to adopt the method of cash settlement in international trade, so with the participation of banks in international settlement, the method of credit settlement has gradually formed.

Compared with other settlement methods, as remittance and documentary collection, the biggest advantage of the letter of credit is that it transfers the obligation of the buyer to pay the goods to the bank, and the bank fulfills this obligation, thereby ensuring the payment to the exporter. This payment can be recovered quickly and safely, and the importer can also receive the shipping documents and collect the goods in time. Because it provides payment guarantee to exporters with bank credit, it is more reliable than ordinary commercial credit. The use of letters of credit in international trade is mainly because its credit characteristics have two core functions: (i) reduces the risk and (ii) is convenient for financing.

As a major international settlement method, the letter of credit has been widely used, and this system, built on the principles of independence, document transaction and strict consistency, has proven to be the most successful in current international trade practices. In the letter of credit business, the bank not only earns a discount fee but also facilitates the transaction between the applicant and the beneficiary. Practice has proved that the abstract principle of independence of letter of credit has its unique value function. Firstly, it establishes the obligation of the issuing bank to pay, providing the guarantee for the beneficiary to receive the payment after fulfilling the obligation, and thus realizes the basic function of the letter of credit. Secondly, it establishes the neutral and detached position of the bank in the international trading relationship, which is isolated from the underlying contract with potential

commercial risk. As long as the bank handles the letter of credit related documents carefully, the bank can obtain a stable and reliable income, so that the bank can actively participate in the opening, notification, confirmation, negotiation and payment of the letter of credit, so as to promote the smooth operation of the letter of credit mechanism. Thirdly, it has established that the basis for bank payment is whether the documents related to the letter of credit submitted by the beneficiary are consistent with the letter of credit requirements. The bank is not subject to the defense of breach of the basic contract, which makes the bill under the letter of credit highly negotiable, becoming a convenient and fast financing tool.

The letter of credit is the focus of the legal relationship of international payments, and is also an important document linking the legal relationships of international sales, international transportation, and the international legal relationship of insurance.

The significant practical relevance of letters of credit in the context of international business justifies its in-depth study. In particular, it is relevant to analyze the specific operating procedures for letters of credit in order to identify the procedures that importers, exporters and banks must follow to avoid the letter of credit risk.

## **1.2 Research objectives**

This dissertation is an exploratory study, mainly aimed to analyze the risk and countermeasures of the letter of credit. Through a deep analysis of the characteristics of the letter of credit, the legal relationship in the letter of credit process, and the sources of risk, it is intended to analyze the specific risks faced by the issuer, the bank, and the beneficiary and propose targeted and effective supervision measures for the specific risks faced by the three parties.

The study relies on qualitative research methods. The qualitative research method allows a deep understanding of the nature of the letter of credit and explores the following research questions:

- i. What is a letter of credit?
- ii. Why are there different risks?
- iii. How to mitigate risk?

Research method allows analyzing the importance of the letter of credit, risk characteristics and risk prevention measures of letters of credit in international trade from the perspective of three professionals, from different areas, who have experience in dealing with letters of credit.

### **1.3 Structure of the dissertation**

The dissertation is divided into 5 parts. Following this introduction, the second part presents the literature review. This part focuses on the essential characteristics of the letter of credit, its risks, and preventive measures aimed at mitigating the specific risks. The third part describes the research methodology. In the fourth part are presented the analysis and discussion of the results.

The fifth part concludes this work. This part is a logical overview of the dissertation subject content, and puts forward the future development trend and innovation possibilities of the letter of credit.

## Chapter II - Literature Review

### 2.1 Letter of Credit: Definition and Role

Definition of Letter of Credit: according to Min (2011:214), "A letter of credit is a written commitment issued by a bank to a beneficiary at the request of the applicant for the issuance of a letter of credit, guaranteeing that the bank will assume payment obligations under the conditions of meeting the letter of credit requirement".

A letter of credit has three characteristics. First, the letter of credit is a self-sufficient instrument: the letter of credit is not attached to the contract of sale and purchase, and the bank emphasizes the authentication of the letter of credit in writing, which is separated from the basic trade. Second, the letter of credit is a pure documentary transaction: the letter of credit is a voucher payment, not subject to goods. As long as the documents match, the issuing bank should pay unconditionally. Third, the issuing bank shall bear the primary liabilities for payment. (Cordeiro, 2007) A letter of credit is a kind of bank credit; it is a kind of guarantee document of the bank, as the issuing bank has the primary responsibility to pay.

The basic letter of credit transaction has two sides: the importer side (the buyer) and an exporter side (the seller). Both sides ordinarily have a bank, making four parties involved in the transaction. The bank of the importer (buyer) normally issues the letter of credit, which obligates the bank to pay the purchase price upon the receipt of specified documents (Article 10, International Chamber of Commerce "ICC"). Letter-of-credit rules typically describe the importer as the applicant and the applicant's bank as the issuing bank or the issuer of the letter of credit (Article 2, ICC & Article 2, Uniform Customs and Practice for Documentary Credits (UCP 600)). The fees differ significantly from market to market, and from customer to customer (with better customers typically paying much less). As a general matter, however, the total fees for the banks issuing and processing the letter of credit are likely to approximate  $\frac{1}{4}$  of one percent of the amount of the letter of credit. On a \$1,000,000 sale of goods, then, the use of a letter of credit would cost about \$2,500.

Central to the letter of credit system is the concept of independence: the bank's obligation in the letter of credit is completely separate from any of the contractual obligations of the underlying transaction, either the buyer's obligation to pay the seller according to ordinary principles that govern sales transactions, or any obligation that the buyer might have under an agreement or common-law principles to reimburse the bank for payments made on its behalf under the letter of credit. (Article 5, ICC & Article 3, UCP 600). The bank's obligation depends entirely on the beneficiary's presentation of documents that conform to the requirements of the letter of credit. Indeed, the rules governing letters of credit so thoroughly separate the bank's obligation to pay from ordinary principles of contract law. The bank on the exporter or seller's side plays a different role. The seller hopes to receive the funds offered by the letter of credit as payment for the shipment, and is thus identified as the "beneficiary" of the letter of credit (Article 2, UCP 600). Because the beneficiary and the applicant ordinarily are in different countries, the beneficiary often has its own bank to help process the letter of credit when it is issued by the applicant's bank overseas and then forwards the documents that seek payment from the issuer when the seller ships the goods. The beneficiary's bank ordinarily assumes one of two roles (Article 11, ICC). If it only "advises" the beneficiary of the issuance of the letter of credit, it just processes the documents and has no direct liability on the letter of credit (Article 7, UCP 600). Alternatively, it might "confirm" the letter of credit, in which case the beneficiary's bank directly obligates itself on the letter of credit, pays the beneficiary directly, and then forwards the documents to the issuer for reimbursement. (Mann 2000)

## **2.2 Letter of credit process**

### **2.2.1 Functions and process of the operation in letter of credit**

Article 2 of UCP (600) defines the parties to the letter of credit as following:

- Applicant: the party to whose request the credit is issued.
- Beneficiary: the party in whose favour the credit is issued.
- Issuing Bank: the bank that issues a credit at the request of an applicant or on its own behalf.

Basically, the process of issuing a Letter of Credit starts with the request of a buyer (applicant or account party) to his bank (issuing bank) in order to issue a credit in favour of a seller (beneficiary) based on the underlying contract of sales between parties. As a result, the issuing bank will contact the beneficiary in his country in order to inform him about the opening of the credit in his favour. Due to the geographical distance between the issuing bank and the beneficiary, the advice of the credit to beneficiary will generally take place via a correspondent of the issuing bank in beneficiaries' country (the advising bank). The advising bank is only responsible for informing the beneficiary about the issuance of credit in his favour, and has no obligation to pay the beneficiary (Article 9 UCP 600). As a result, the legal nature of the relation between the issuing bank and the advising bank is considered as a relation between agent and principal. The beneficiary (seller), at this stage, must compare terms and conditions of the letter of credit with the terms of the underlying contract. In case of any existing discrepancy at this stage, the beneficiary is entitled either to reject the credit or to require amendments. After the approval of the credit by the beneficiary, the issuing bank will sign a contract with the beneficiary to provide him with the payment, in return of complying documents required by the credit. As a result, any given credit will have at least three parties, but, in practice, the number of parties may be more than three. It might happen that the issuing bank asks the other bank in the country of seller to provide credit on it's counter, which is a very appreciated option for beneficiary who will be paid in his own country rather than in the country of the buyer. In this case, the bank that provides credit at the counter is the confirming bank (Article 2 UCP 600).

In some occasions, seller may ask for higher guarantee for payment. In this case, a confirming bank will add an irrevocable commitment for payment of the credit to beneficiary. As a result, any given documentary letter of credit will includes at least three independent contracts: (i) the contract between a beneficiary (the seller/exporter) and an applicant (the buyer/importer): the basis for opening a letter of credit; (ii) the contract between an applicant (the buyer/importer) and the issuing bank; and (iii) the contract between an issuing bank and a beneficiary. However, in most cases, the number of contracts will increase with the increase in the number of involved parties in the credit, after joining a confirming bank and a nominated bank to the three original parties involved in documentary credits.

Enonchong (2011) introduces four generic functions for the letter of credit. First, letter of credit reduces commercial risk, for both the importer and the exporter, by providing security of payment for exporter and security against the non-delivery of goods for importer. Second, the letter of credit provides finance for importer and helps him with cash flow while, at the same time, gives to the exporter the chance to get money before being paid by the issuing bank. Third, documentary credits can be used as security for other obligations such as in the case of Back-to-Back letter of credits<sup>1</sup>. Fourth, is the function of documentary credits as conditional payment method, offering the exporter a conditional payment guarantee from the importer's bank.

The function of documentary credit follows different steps of the letter of credits process (Figure 1). Process starts with the negotiation of the terms of contract by buyer and seller. They will agree to a contract of sales, including the opening of letter of credit. According the underlying contract, the exporter will undertake to supply the goods specified in the contract and the importer commits to pay the established amount via documentary credit. Further, information regarding the details of the credit will be also mentioned in the underlying contract.

Then, the buyer will require the issuing bank to open a credit in favour of the exporter. In case of issuing bank's agreement to issue the credit, the importer (account party) will pay for the goods he bought, upon delivery of documents stipulated in the credit confirmation. (Article 7 UCP 600). Although these three independent contracts are considered the basic framework for the documentary credit function, in practice, in most cases, the beneficiary will interact with a local bank in his own country, rather than directly engaging with an issuing bank abroad. If parties decide so, then the advising bank will contact the beneficiary in order to inform him about the issuing of the credit in his favour. When credit requires the involvement of a nominated bank and a confirming bank, there will be a separate contract between the beneficiary and the nominated or the confirming bank, and between the issuing bank and the nominated and the confirming bank. The advising bank might or might not accept to act as the

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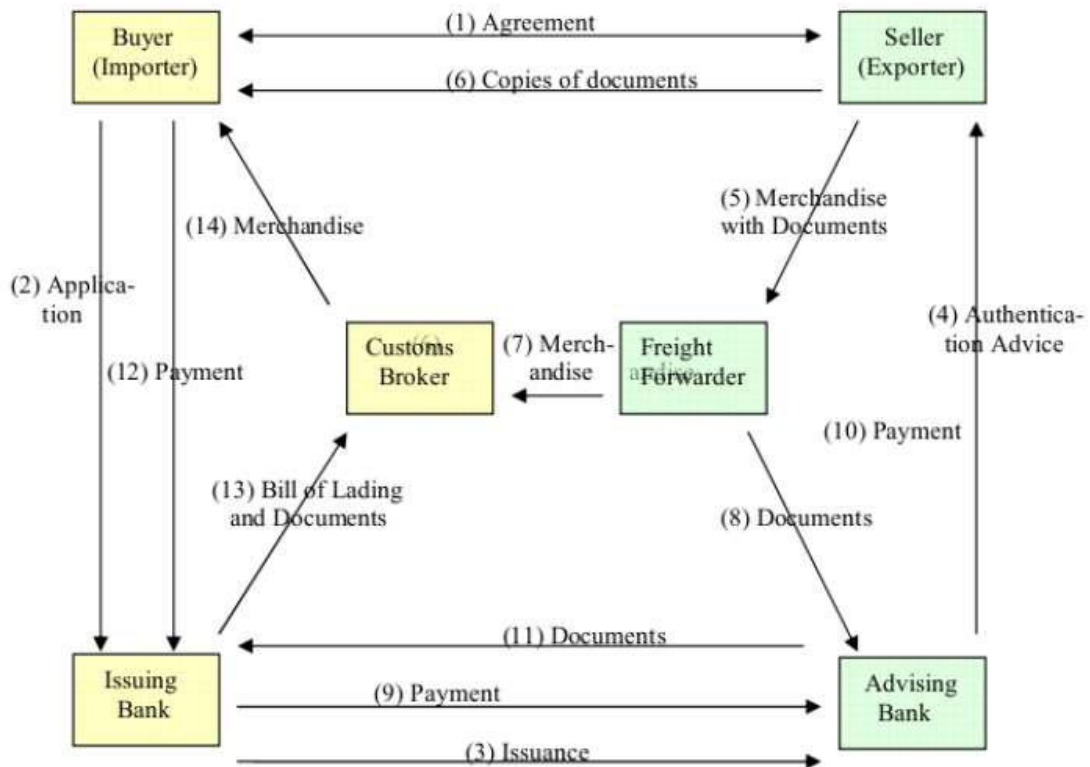
<sup>1</sup> Back-to-Back letter of credit is a negotiable instrument in which the seller gets a letter of credit from the buyer and the seller further transfers the letter of credit to its supplier. In simple words, the seller first gets the letter of credit from the buyer to ensure timely payment and further the same seller hands over the letter of credit to someone from whom he buys goods or material.



nominated and /or the confirming bank. Accordingly, the beneficiary ships goods for the importer and provides the documents specified in the in credit to the issuing bank, the nominated bank or the confirming bank. The nominated bank will check the documents submitted and, in case of conformity, pay the beneficiary based on the authorisation of the issuing bank, transfer the documents to the issuing bank and wait for reimbursement (Article 7 UCP 600). The issuing bank also check the documents and, in the case of conformity, will reimburse the nominated or the confirming bank, debit the applicant's account of and inform him to come and receive his documents. As previously mentioned, the credit will often require the involvement of a nominated bank and a confirming bank as the issuing bank is not located in country of the beneficiary, making it difficult to confirm the authenticity of signatures by the issuing bank (Alavi 2016).

This process is illustrated in Figure 1.

Figura 1 - Letter Of Credit Diagram



Source: Giovannuci (2007, P. 6)

Explanation:

- (1) Buyer and seller agree on a commercial transaction.
- (2) Buyer applies for a letter of credit.
- (3) Issuing bank issues the letter of credit (LC)
- (4) Advising bank advises seller than an LC has been opened in his or her favor.
- (5) Seller sends merchandise and documents to the freight forwarder.
- (6) Seller sends copies of documents to the buyer.
- (7) Freight forwarder sends merchandise to the buyer's agent (customs broker).
- (8) Freight forwarder sends documents to the advising bank.
- (9) Issuing bank arranges for advising bank to make payment.
- (10) Advising bank makes payment available to the seller.
- (11) Advising bank sends documents to the issuing bank.
- (12) Buyer pays or takes loan from the issuing bank.

(13) Issuing bank sends bill of lading and other documents to the customs broker.

(14) Customs broker forwards merchandise to the buyer.

In short, the process begins with the international sales contract, where the parties expressly agree to the payment by letter of credit. The buyer then applies the issuing bank to open a letter of credit in favour of the seller, making a deposit of the amount to be paid or providing another guarantee to the bank. Next, the beneficiary is notified that the issuing bank shall open the letter of credit in accordance with the application and send it to the seller's bank. After receiving the advice of opening of credit, if exporter agrees with the terms of credit and is in accordance with the contract of sale, proceeds to execute the export contract, shipping the goods and obtaining the shipping documents required by the letter of credit. In accordance with the provisions of the letter of credit the exporter presents the required documents to the designated bank in its location. After payment to the exporter, the designated bank sends the documents to the issuing bank for reimbursement and, if the documents are in order, reimburses the exporter. The process ends when the issuing bank notifies the buyer of the foreclosure.

### **2.2.2 Relations between the parties to the letter of credit**

Under the terms of payment of the letter of credit, typically, the issuing bank, in the country where the applicant is located, makes the payment to the beneficiary with the help of other banks in the country where the beneficiary is located. (Teixeira, 2010) The beneficiary makes and accepts the payment directly to the designated bank in the place where it is located, or submits the documents and accepts payment to the issuing bank through the bank in the place where it is located. In either case, the issuing bank is responsible for the final payment. If other banks pay the beneficiary under the letter of credit, the issuing bank is required to reimburse the banks for the payments made. (Buckley, 2002) Due to the different roles played by other banks, the legal relations between the parties involved is also different.

#### **(A) Relation between the applicant and the beneficiary**

The relationship between the applicant and the beneficiary is a contractual relationship. The applicant is the buyer and the beneficiary is the seller. The buyer shall open the letter of

credit in accordance with the contract, and the seller must deliver the goods in accordance with the contract and provide the agreed documents. The issuing bank is the bank that bears the obligation to pay the beneficiary. The issuing bank is irrevocably responsible for the payment from the moment the letter of credit is opened. ( Chuah, 2009) The liability of the issuing bank to pay the prescribed bank is independent of the liability of the issuing bank to the beneficiary. The issuing bank is usually the bank where the applicant is located or the bank he has an account. The relationship between the issuing bank and the applicant is adjusted by the application for issuing the certificate, and the relationship between the issuing bank and the beneficiary is adjusted by the letter of credit.

(B) Relation between the issuing bank and the applicant

The relationship between the issuing bank and the applicant is a contract of entrustment determined by the application and other documents. (Teles, 2004) In this contractual relationship, the issuing bank's primary obligation is to open a letter of credit in accordance with the application for the opening of the certificate and to carefully examine all documents to ensure that they are in conformity with the letter of credit. The applicant should make a deposit or give other guarantee, pay the fee and payment of ransom.

(C) Relation between the issuing bank and the beneficiary

The relation between the issuing bank and the beneficiary is adjusted by the letter of credit. When the letter of credit reaches the beneficiary, an independent contract binding on both parties is formed between the issuing bank and the beneficiary. The beneficiary is the person designated in the letter of credit to accept the letter of credit and that has the right to benefit from it (Masiá, 2015), generally the seller in the contract of sale and purchase. In the case of a negotiable letter of credit, in addition to the direct seller, the actual supplier of the goods (second beneficiary) is included.

(D) Relation between the advising bank and the issuing bank

Between the advising bank and the issuing bank there is a principal-agent relationship. The advising bank accepts the entrustment of the issuing bank, the issuing bank notifies the beneficiary of the letter of credit, and the issuing bank pays the commission to the notifying bank. (Caravaca, 2004)

#### (E) Relation between the notifying bank and the beneficiary

There is no contractual relationship between the notifying bank and the beneficiary. The notifying bank notifies the beneficiary because of its obligation to the issuing bank, not because of a contractual relationship between the notifying bank and the beneficiary. As reflected in UCP500, under article 7, a letter of credit may be notified to the beneficiary by the notifying bank without liability. (Patricio, 2004) However, in view of the risk of forgery of letters of credit in international trade, the article also states that, if the notifying bank decides to notify the letter of credit, the authenticity of the letter of credit notified shall be examined with reasonable care. (Ademola, 2008)

### 2.3 Main types of the letter of credit

Letters of credit may be classified differently depending on their nature, form, duration and purpose:

#### (A) Revocable versus irrevocable letters of credit

According to Botosh (2002), a letter of credit is revocable if the opening bank can amend or cancel the letter of credit at any time without prior notice to the beneficiary, during the validity period. The letter of credit is irrevocable if it cannot be modified or cancelled without the consent of the issuing bank, the confirming bank and the beneficiary.

#### (B) Confirmed *versus* non-confirmed letter of credit

A confirmed letter of credit is a letter of credit issued by the issuing bank and secured by another bank. (Pina, 2000) After confirming the letter of credit, the confirming bank shall bear the same responsibility as the issuing bank, and the confirming bank shall not cancel its confirmation unilaterally regardless of any change in the issuing bank. A non-confirmed letter of credit refers to a letter of credit that has not been secured by another bank.

#### (C) Sight letter of credit versus acceptance letter of credit

A sight letter of credit refers to type of documentary credit which is immediately payable to the beneficiary once the required documents are approved by the issuing bank or the designated bank backing the letter of credit. (Arkins, 2000) Acceptance letter of credit means that the beneficiary may only draw a forward draft, and the issuing bank or the

designated bank will accept the draft after checking the documents and pay the payment on the maturity date.

(D) Negotiable letter of credit *versus* non-negotiable letter of credit

A negotiable letter of credit allows the beneficiary to transfer part or all of the rights of the letter of credit to a third party. A negotiable letter of credit must state "transferable" on the letter of credit. (Enonchong, 2011) Non-negotiable letter of credit refers to a documentary credit in which the beneficiary cannot transfer the right of the letter of credit to others.

## 2.4 The contents of the letter of credit

The contents of the letter of credit may be divided into three parts: the natural clause part, the document clause part, and the promise payment part.

The natural clause part contains the description of the letter of credit itself, such as its type, nature, and data and place of expiry.

The document clause part contains:

- A description of the requirements of the goods, according to the sales contract.
- The requirements for transportation.
- Required documents, such as sale of goods documents (commercial invoice), transportation documents (bill of lading), packing list, insurance documents (insurance certificate) and other related documents.
- Special requirements, such as specific transportation process, insurance company chosen.

Finally, the promise payment part describes the issuing bank's responsibility statement for the beneficiary.

Note: "Unless otherwise specified, this letter of credit shall be processed in accordance with the UCP600).

Interbank remittance claim clause (t / t reimbursement clause) (The banks in the L/C process are the issuing bank, the notifying bank, the confirming bank and the negotiating bank. Of course, only the issuing bank and the negotiating bank are necessary subjects. The issuing bank is in the importer's place and the negotiating bank is in the exporter's place. Because the last part of the letter of credit is the bank's promised payment part, is the promised payment

part to the beneficiary. However, the issuing bank's promised payment to the beneficiary is passed through the negotiating bank and is not directly docked with the beneficiary. Thus, this expression is part of the terms of payment between the issuing bank and the negotiating bank's letter of credit operations.)

Box 1 illustrates an irrevocable letter of credit opened by Yunhang Arts and Crafts Co. Ltd (the applicant) to EFG Trading Co.LTD (the beneficiary). The credit amount is: USD 77,495.79. The issuing bank is the Bank of China, Zhejiang branch. There is a negotiating bank: the CITIBANK N.A.N.

The middle part of the letter of credit is the core clause of the letter of credit (that is, the document clause related to the letter of credit). The final part is the commitment of the issuing bank: the bank undertakes to pay if it meets the requirements of the letter of credit.

#### Box 1 - **Letter of Credit: an example**



TO: BANK OF CHINA, ZHEJIANG BRANCH

DATE : MAY 8, 2008

IRREVOCABLE DOCUMENTARY CREDIT APPLICATION

Date and place of issue:	Date and place of expiry	
MAY 10,2008	JULY 30,2008 IN COUNTRY OF BENEFICIARY	
Beneficiary	Applicant:	
EFG Trading Co. LTD	Yunhang Arts and Crafts Co. Ltd	
Meland Street No. 51 ,	Changqin Rd 55 , Hangzhou	
New York, U.S.	China	
TEL: 8215888/8215688	TEL:89676777	
Advising Bank:	Amount: USD77,495.79	
CITIBANK N.A. N.Y.	SAY: U.S.DOLLARS SEVENTY SEVEN THOUSAND FOUR HUNDRED NINETY FIVE AND CENTS SEVENTY NINE	
Partial shipments	Transshipment	Credit available with
( ) allowed	( ) allowed	ANY BANK:
(x ) not allowed	(x ) not allowed	( ) by payment at sight
		( ) by deferred payment
Shipment from: NEW YORK, N.A.		( ) by acceptance of drafts at:
for transportation to: HANG ZHOU, CHINA		( x ) by negotiation
Latest Shipment: JULY 15, 2008		against the documents detailed herein
		( x ) and of your drafts at sight for FULL invoice value drawn on us.
DOCUMENTS REQUIRED		



( × ) Signed commercial invoice in 4 copies indicating L/C No. and Contract No. Full set of clean on board marine bills of lading made out to order, endorsed in blank and marked FREIGHT AID.

( × ) Insurance policy or certificate in duplicate blank endorsed, for 110 per. of the CIF value showing claims payable at destination in the same currency as the draft and covering Institute Cargo Clauses(×), Institute War Clauses and Institute S.R.C.C. Clause.

( × ) Packing list/Weight memo in 4 copies.

( × ) Certificate of quality in 4 copies issued by THE MANUFACTURERS.

( × ) Certificate of origin in 3 copies issued by THE CHAMBER OF COMMERCE IN THE COUNTY OF ORIGIN.

( × ) BENEFICIARY'S CERTIFIED COPY OF CABLE TO THE ACCOUNTEES ADVISING SHIPMENT IMMEDIATELY AFTER SHIPMENT EFFECTED.

( ) CLEAN AIR WAYBILL CONSIGNED TO ORDER OF ISSUING BANK MARKED FREIGHT COLLECT SHOWING THE L/C NO ( ) , AND NOTIFY THE APPLICANT WITH FULL ADDRESS. Covering shipment of:

MACHINE EQUIPMENT OF CRAFTS: SC-155200

SHIPPING MARKS = 08EMHZHNCT02002

HANGZHOU CHINA

H.S.CODE: HG8878965

CIF HANG ZHOU

OTHER TERMS AND CONDITIONS:

All banking charges outside Hangzhou, China are for beneficiary's account.

Documents must to be presented within 15 days after the date of issuance of the shipping document(s) but within the validity of the Credit.

INSTRUCTIONS OF NEGOTIATING BANK:

1. Each presentation must be noted on the reverse of this advice.

2. All documents are to be dispatched in ONE lot by registered airmail to us at:

BANK OF CHINA INTERNATIONAL DEPARTMENT. 2/F, FINANCIAL BLDG, QING CHUN RD. NO. 432 HANG ZHOU, CHINA.

3. In reimbursement—We shall reimburse you in accordance with your instructions upon receipt of documents in compliance with credit terms.

We hereby issue the Irrevocable Documentary Credit in your favour :

It is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision, International Chamber of Commerce, Paris, France, Publication No.600) and engages us in accordance with the terms thereof. The number and the date of the Credit and the name of our bank must be quoted on all drafts required.

For BANK OF CHINA , ZHEJIANG BRANCH

HANG ZHOU

Authorized Signature(s)

Source: Min, 2011.(215-218)

## **2.5 Comparison of parties' risks in international payment methods**

Table 1 summarizes the risks of buyers and sellers under remittances, receipt and letters of credit. Although the analysis is not necessarily comprehensive, it can be seen that there is no absolutely safe settlement method.

**Table 1 - Risk comparison of Remittance, Receipt and Letter of credit**

Settlement method	The buyer risk	The Seller risk
<p>Money transfer</p> <p>(a) Advance payment</p> <p>(b) Credit transaction</p>	<p>(a) Seller does not deliver / Seller does not deliver on time / The goods do not comply with the contract.</p> <p>(b) The seller does not deliver according to the contract.</p>	<p>(a) Buyer does not send money on time.</p> <p>(b) The buyer does not accept the goods / the buyer does not pay after receiving the goods / the buyer delays the payment / the buyer finds an excuse to request a price reduction.</p>
<p>Documentary collection</p> <p>(a) Documents Against Payment</p> <p>(b) Document Against Acceptance</p>	<p>(a) The seller does not deliver / the seller fails to deliver on time / the documents do not comply with the contract provisions / the goods received do not conform to the documents.</p> <p>(b) The seller does not deliver / the seller does not deliver on time / the goods received do not match the documents.</p>	<p>(a) The buyer does not pay the ransom / the buyer requests the price to be reduced before paying the ransom / political risk of the importing country, etc.</p> <p>(b) The buyer does not accept / the buyer requires a price reduction before accepting, the receipt / the buyer accepts or accepts the goods without payment / the buyer accepts or receives the price, requires payment for the price reduction.</p>
<p>Documentary Credits</p>	<p>After paying the deposit, the issuing bank closed / the seller forged the document / the received goods did not match.</p>	<p>The buyer does not open the certificate or does not open the certificate on time / the issuing bank loses its solvency / stipulates the effective conditions, the letter of credit issuing bank with soft terms,</p>

		the issuer unreasonably refuses to pay the bill / forge the letter of credit.
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Source: (Min, 2011p.210)

As far as the seller is concerned, the remittance is the safest form of payment. The risk of documentary credit is low. The risk of Documents Against Payment (D / P) of Document Against Acceptance (D / A) is greater. When using remittances for credit transactions, for the seller, there is almost no guarantee, so the risk is the greatest; for the buyer, it is the safest. (Su Rong, 2005.)

The design of the letter of credit system, which converts commercial credit into bank credit, was originally intended to reduce the risk of transactions and improve transaction efficiency. However, this system itself also brings corresponding risks. There is no completely risk-free settlement system. ( Zhi, 2005) Therefore, we cannot deny the rationality of the letter of credit just because the letter of credit involves some risk. Below, the main risks of documentary credit for the three parties involved in the letter of credit are analyzed.

## 2.6 Letter of Credit: Risk Analysis

### 2.6.1 Risks faced by the applicant (importer)

The applicant faces the risk of inconsistency between the imported goods and the contract. Under the letter of credit settlement method, the bank's payment request the consistency of documents. As long as the documents submitted by the beneficiary fully meet the requirements of the letter of credit, the negotiating bank must pay the beneficiary, because the credit is a bank credit not a commercial one. That is, the bank must advance the funds in advance if the beneficiary provides the documents in accordance with the requirements of the letter of credit, instead of waiting for the importer to make payment before transferring the money. (Garcia, 2009) As the bank only formally audit the letter of credit related documents (apparent consistency), it does not audit the authenticity of the documents and does not audit the underlying sales contract. Since the independence of the letter of credit determines that the bank's examination of the documents of the letter of credit is only formal audit, this provides favorable conditions for exporters to commit fraud. (Long, 2015). Actually, in practice, although

the documents provided by some sellers may seem to meet the requirements of the letter of credit, they can send fakes, inferior goods, or a quantity and/or quality of the goods not conform to the contract. Box 2 illustrate a hypothetical case of fraud.

Box 2 – Example of risk of inconsistency between the imported goods and the sales contract

A Chinese company (Company A) imports a batch of goods from Company B of American and entrusts Bank C of China to issue an irrevocable letter of credit. After the company B shipped the document, it requested payment from Bank D designated by Bank C. When the Bank D examined the document, it found that the content of the document was inconsistent with the letter of credit. Supposing that company B state that Company A accepted the discrepancy, and Bank C communicate with Company A and confirm the statement, instructing Bank D to pay. Later, Company A finds that the goods sent by Company B were worthless, and apply to the Chinese court with jurisdiction to suspend the payment of the letter of credit.

Source:(Jun, 2013)

Company B's behavior constitutes a letter of credit fraud because the issuing applicant decides whether to accept the discrepancy, does not affect the issuing bank's final decision whether to accept the discrepancy. If the issuing bank clearly indicates to the beneficiary that the issuing bank accepts the discrepancy, it shall bear the responsibility for payment. The final decision on the acceptance of discrepancies rests with the issuing bank, Bank C, and not with Company A. In addition, after discovering that there are discrepancies under the letter of credit, Bank C can decide whether to contact the applicant to accept the discrepancies. This is a right of the issuing bank, not an obligation.(Hua ,2013)

On the other hand, importers may face the risk of fraud by exporters forging documents.

Because the condition for the beneficiary to obtain payment using a letter of credit is that the beneficiary submits the documents that meet the requirements of the letter of credit. That is, the bank does not ask the facts: as long as the documents submitted by the beneficiary meet the requirements of the letter of credit the bank can pay. ( Ping, 2011 ) If documents do not match with the actual goods, or even if the beneficiary makes a fake document with no goods at all, the payment can still be obtained. When the importer waits for the goods to arrive, he finds that the goods do not conform to the sales contract, so he can only negotiate with the exporter based on the sales contract. At this time, the importer becomes the victim of fraud.

## 2.6.2 Risks faced by the beneficiaries (exporters)

### **(A) Risk of refusal of payment by the negotiating bank due to inconsistencies between documents provided by beneficiary and letter of credit requirements**

Actually, there are many reasons that can lead to the rejection of the letter of credit, but there is only one reason for the bank to refuse to pay the letter of credit: documents and letter of credit requirements are inconsistent. In the course of specific business operations, the exporter fails to deliver the goods in accordance with the terms of the letter of credit. (Yong 2014) For example, if the quantity differs from the stated in the letter of credit, or if the delivery is overdue, the letter of credit loses its guarantee function and the exporter cannot receive the payment. Even if the exporter ships the goods completely in accordance with the provisions of the letter of credit, if the documents do not match, the payment will also be refused by the issuing bank. In the settlement of the letter of credit, the bank will fulfill the obligation of reviewing the payment in accordance with the requirements: consistency between documents and letter of credit requirements, and conduct a comprehensive review of the documents submitted by the exporter to determine whether the bank is responsible for payment. In accordance with the Uniform Customs and Practice for Documentary Credits (UCP600), the consistency of documents is very strict. This means that exporters should be very careful when preparing documents relating to letters of credit, because they must be strictly consistent with the terms of the letter of credit. If there is a slight difference, the documents may be rejected. (Cheng, 2016.) Therefore, the presentation of the correct documents is the basic requirement for the negotiation of the payment. If the exporter does not fulfill the requirement of consistency between the documents and the letter of credit, the payment will be denied by the the issuing bank. In addition, the exporter should correctly understand the relationship between the letter of credit and the sales contract. Although the letter of credit is opened based on a contract, it is not the same as a contract. Once the L/C is opened it becomes a separate document from the underlying trade contract. A letter of credit is an independent document, separate from the sale and purchase contract. A sales contract is a contract between a buyer and a seller, and it is only binding on the buyer and seller and not on the bank. (Sai Bo, 2012) The letter of credit is a legal document binding the bank, the buyer and the seller. The issuing bank and other banks and buyers and sellers involved in the letter of credit are bound by the letter of credit. If the

documents relating to the letter of credit provided by the exporter do not conform to the requirements of the letter of credit, the negotiating bank has the right to refuse payment even if the transaction is in full conformity with the contract.

Box 3 illustrates a situation where, although the beneficiary (exporter) actually sells to the importer a good with a higher quality than that specified in the trade contract, maintaining the price, this results in a rejection of payment by negotiating bank. The most fundamental reason is the principle of independence of letters of credit. Bank review of letter of credit related documents only requires formal consistency. For example, in the case illustrated in Box 2, the documents mention first grade rice, which is not consistent with the second grade rice required by the credit. Although this inconsistency is only a writing inconsistency, it resulted in the payment being refused to the beneficiary. This again illustrates the risk that the bank will refuse to pay the documents relating to the letter of credit submitted by the beneficiary, which are inconsistent with the letter of credit requirements.

### **Box 3 - Case of inconsistency between documents**

Let us suppose that Chinese Company A and German Company B signed a contract for exporting rice, stipulating that the quality is Grade 2 and the payment is done by letter of credit. Later, because the second-grade rice was out of stock, Company A replaced second-quality rice with higher-quality rice by itself. Although the invoice stated that the quality of the rice was first-grade, the price was still that of the second-quality rice, but was rejected when the bank settled the foreign payment.

Source:( Jun, 2013)

According to relevant conventions and international practice, Company A should bear the responsibility for non-conforming delivery, because the letter of credit exists independently of the sales contract. The bank should examine the documents submitted by the seller on their face only, not the substance, so it can refuse payment on the grounds of inconsistency between the invoice and the letter of credit.

### **(B) Risk of fraud**

Is possible for importers to forge letters of credit. One possible scenario is the importer deliberately forge or use the name of the bank to open the letter of credit. Another is when the importer use fraudulent letters of credit issued or advised by fictitious banks. Importers can also use blank bank letter of credit to send directly to the exporter without the notification bank, in order to lure the exporter to ship the goods. If this happens, the exporter does not receive

the payment, leading to significant losses.(Sai Bo & Jian. 2014)

### **(C) Risk associated with the “soft terms” of the letter of credit**

The so-called "soft terms" refers to the addition of some clauses in the letter of credit. These clauses make exporters unable to execute letter of credit or to obtain the documents required under the letter of credit, as specified by the issuing letter of credit. For example, the letter of credit does not take effect for the time being. It will not become effective until the issuing bank notifies the beneficiary. (Hong, 2006) The seller must wait for the buyer's notice, or the transportation means and the port of departure must be confirmed by the importer. These soft clauses limit the bank 's first payer 's liability to a certain extent, which greatly reduces the bank 's credit, prevents the beneficiary from receiving the foreign exchange protection it deserves, and makes the beneficiary bear huge risks.(Qing 2010)

Common soft terms are as follows: (a) Shipment information is subject to the importer's notice or consent. (b) The goods must be inspected by the issuer when they are ready for shipment. (c) Payment liability will not be fulfilled until the goods arrive at the destination and are inspected by the importer. (d) The letter of credit does not take effect temporarily, and will only take effect after the issuance of the import license. (e) The importer sets the terms of customer inspection: if the letter of credit states that "the goods must be inspected by the buyer and issued with a quality certificate" before shipment, it is commonly referred to as "customer inspection certificate". The reason for the buyer's doing this was to delay the certification process, and cause exporters delay delivery of documents. When the document is wrong, the modification becomes extremely inconvenient. (Jian Yu. 2002) When the revised document is handed over to the negotiating bank, the validity period of the letter of credit is often over, which causes the letter of credit to become invalid and affects the exporter's safe payment.

The use of soft terms (or soft clauses) in letters of credit is a common form of credit fraud. Soft terms provide for a number of restrictive clauses that enable the buyer to control the transaction as a whole, leaving the beneficiary (the seller) in a passive position subject to the buyer. If the access to the payment depends on the buyer issuing a specific certificate of payment, which some buyers do not issue at all, the beneficiary becomes unable to obtain payment . (Xian Shun & Liang, 2006)

### **2.6.3 Risks faced by banks (issuing banks, negotiating banks)**



Fraud can take place in different forms. Several times banks are victims of fraud.

**(A) Risks faced by the issuing bank**

The issuing bank accepts the importer's application for issuing the certificate. It is responsible for opening the letter of credit and paying against the matching documents, which is the guarantee made by the bank with its own credit, and the commercial credit of the importer is replaced by the bank credit. Therefore, the importer should pay a certain proportion of deposit or guarantee to the bank when applying for the opening of the license, which facilitates the bank to use the funds. In addition, in the letter of credit business, the bank can obtain a variety of benefits for each service, such as issuing fees, notification fees, negotiation fees and so on. Letters of credit are one of the commercial product of the financial institutions. The bank itself bears the responsibility for reviewing the documents, issuing a notice of non-conformance in a good time, and the first responsibility for payment. (Xi Nan, 2007) While undertaking corresponding obligations, the issuing bank inevitably encounters the risk of fraud in its business dealings with importers and exporters.

This kind of risk is mainly manifested in the following two situations:

The applicant does not pay the redemption order. When issuing a credit, the applicant does not need to make full payment to the issuing bank. Just pay a certain amount of margin, which often accounts for a small proportion of the opening amount. Thus, most of the funds are actually advanced by the bank. When the letter of credit expires, if the applicant is unable to pay or (does not pay for other reasons), it will be difficult for the bank To recover bank advances.

The applicant cooperates with the beneficiary in the fraud. With the seller's connivance, the applicant can use the channel of bank for the transfer of money without actual sale transactions, resulting in huge losses to the bank.(Mallaya,S. P.15). Documentary Credit Frauds Need For Regulation of Banking Sector In India.

**(B) The risks faced by the negotiating bank**

Package loan risk: a package loan, also known as a pre-shipment credit loan, refers to a kind of short-term financing applied by an exporter using the letter of credit settlement. Once the exporter needs working capital finance, he may use the original letter of credit opened in his favour by importer's bank as a repayment voucher and collateral. Package lending is one of the forms of trade finance related to letters of credit. From the point of view of the legal relationship, packaged loan is a kind of financing legal relationship. In essence, it is a kind of

credit loan, which is closely related with the letter of credit. The bank usually requires the applicant to provide the original letter of credit as collateral in the package lending business. Packaged lending involve several risks, including: (i) the creditworthiness risk of exporters; (ii) the risk of authenticity, legality and validity of the letter of credit; and (iii) the solvency risk of the issuing bank.

Its performance is as follows: (a) The issuer and the beneficiary maliciously collude, after opening a high-value letter of credit, swindle a packaged loan from the bank, divert the money for other purposes, and the loan cannot be returned on time. (b) If the negotiating bank did not require the exporter to provide a valid guarantee, the package loan is essentially an unsecured credit loan. If the bank ignores the effective guarantee, the importer will not comply with the document and the letter of credit will not be executed, and the packaged loan cannot be recovered after the due date. (c) Customer credit status can not be confirmed. Most of the packaged loans are handled by the Bank's International Department. (Hong et al., 2014) The client 's background is complex. The bank lacks customer credit investigations, allowing those insolvent customers can still obtain financing under the cover of the letter of credit.

Box 4 describes a hypothetical fraud arising with a package loan. The standby letter of credit for packaged loans is independent of the loan agreement between the lender C and the bank B. When the lender C refuse repayment by invalidating the loan agreement between the bank B and the lender's C, the bank has actually advanced funds to the lender. When the lender C refused to repay, the bank B only claim against the bank that opened the credit. If the issuing bank A has poor credit conditions, or the issuing bank and the lender jointly fraudulently obtain loans, then losses will only be incurred by negotiating bank (Bank B). This again illustrates the risk of negotiating banks in packaged loans. Therefore, it is necessary for the negotiating bank to carefully examine the actual credit conditions of the issuing bank and the lender in the package loan.

#### **Box 4 Example of risk for negotiating banks: package loan**

In an international loan, Bank A issued a standby letter of credit to Loan Bank B, and then Borrower C stated that the loan agreement was invalid and refused to perform. Bank B showed Bank A 's breach of contract to Bank A and demanded Bank A to pay.

According to the relevant rules, the standby letter of credit is independent of the international loan agreement between Bank B and Company C and even if the international loan agreement is invalid, Bank A must still bear the responsibility of guarantee.

Actually, in the case of payment by letter of credit, the bank only conducts formal examination of the documents, and is not obliged or entitled to examine the fact of breach of contract. Whether the basic contract is valid does not affect the payment responsibility of the issuing bank of the standby letter of credit. ( Dong Xiang. 2005 ) The common international practice applicable to ordinary letters of credit is Uniform Customs and Practice for Documentary Credits ,UCP600, and the international practice applicable to standby letters of credit is mainly "International Standby Letter of Credit Practice" (ISP98).

## **2.7 Risk prevention measures for letters of credit**

Letters of credit in international transactions are generally covered under the set of rules developed by UCP 600, there is no accepted legal regime to combat fraud risk. Based on the risks faced by importers, exporters and banks in documentary credit business, a vast literature has been proposing a set of risk prevention measures.

### **2.7.1 Risk prevention measures for the applicant (importer) of the issuance**

#### **(1) Investigate the exporter's credit standing and sign the contract carefully**

Choosing a trading partner carefully means knowing the exporter's credit standing before signing a sales contract using a credit as a payment method, and choose a trader with a good credit status as the trading partner. (Ming , 2005) Most of the credit fraud is caused by a poor investigation and understanding of the credit standing of the trading partners. The good credit situation has the following standards: (i) the ability to perform the contract; (ii) the ability to perform the contract honestly and faithfully. As both importers and exporters, they should do a good job of investigating each other's credit and carefully choose trading partners, especially customers introduced by intermediaries. (Feng, 2005)There are many ways to conduct credit investigations, such as through bank investigations, through investigations by specialized credit investigation agencies, etc.

#### **(2) Choose the payment terms of the letter of credit carefully**

Trade terms are also called price terms. Trade term refers to the setting of responsibilities of the buyer and the seller in a sale, including to the price composition of the goods, the division of costs and risk responsibilities.. (International Rules for the Interpretation

of Trade Terms 2010). The most widely used trade terms are "INCOTERMS 2010", published by the International Chamber of Commerce.

Incoterms 2010 divides eleven trade terms, which define costs, risks and obligations of buyers and sellers in international transactions, into four groups: E, F, C and D. Group E represents minimum liability on the part of the seller. In group F, the seller pays pre-transportation charges at the origin and main transport; the destination charges are borne by the buyer. In group C, the seller organizes and pays for the transport, but does not take on the risk. In group D, the seller assumes all or most of the risk and takes responsibility for delivery to the destination.

Rule: as the seller's liability increases and the buyer's liability decreases from group E to group D therefore, exporters should try to choose groups E or F set of terms of trade. Importers should try to choose C or D set of trade terms. (Daifu, 2009)

### **(3) Enhance risk prevention awareness**

The applicant for the issuance of the letter of credit should be familiar with the legal provisions related to the letter of credit, improve the legal literacy of the company's employees, and maintain a high degree of vigilance during the transaction. (Yu, 2007)

## **2.7.2 Risk prevention measures for beneficiaries (exporters)**

### **(1) Carefully review the credit of the issuing bank**

Letter of credit replaces commercial credit with bank credit. The issuing bank uses its own letter as a guarantee. Therefore, the credit standing of the issuing bank is important to the beneficiary. When the credit standing of the issuing bank is not good, it is very likely to cause the beneficiary to be unreasonably rejected by the issuing bank despite submitting a document consistent with the letter of credit requirements. In order to prevent this risk, exporters should know in advance the credit conditions of importer and issuing bank (Li, 2008) When the beneficiary signs the sales contract, he should specify the issuing bank of the letter of credit, and, as far as possible, require another bank, other than the issuing bank, to confirm the responsibility of the issuing bank. At the same time, the bank that opened the account must carefully examine the apparent authenticity of the letter of credit. (Lina, 2005)

### **(2) Strengthen the review of letters of credit documents**

Document review should focus aspects such as: (1) the background and credit status

of the issuing bank; (2) the beneficiary should cooperate with the bank to verify the authenticity of the letter of credit; (3) the careful review of the letter of credit according to the sales contract content. (Shi, 2007)

Uniform Customs Practice on Documentary Credit (UCP 600) states that the issuing bank makes the payment to the beneficiary, provided that the relevant documents of the credit provided by the beneficiary are consistent with the requirements of the credit. As long as the documents and letters of credit are consistent, the issuing bank has no reason to refuse payment. Due to compliance with the principle of consistency of appearance ( due to the principle of independence of letters of credit) when conducting a bank audit of documents relating to letters of credit, the key to avoiding discrepancies lies in the strict preparation of orders and in the examination of orders, which will ensure the security of settlement. (Shi& Jiajin, 2005)

Document review refers to the inspection and verification of the documents against the relevant contents of the letter of credit. If any problems are found, they will be corrected in time to achieve the purpose of security payment. (Yan 2002) The letter of credit review must strictly check whether the specified documents are complete, including the number of copies of the documents, and ensure that the details of each document are consistent with the letter of credit, and ensure the L/C related documents and L/C requirements are consistent.

### **(3) Try to avoid the soft terms in the letter of credit**

Because trade contracts are the basis for opening letters of credit, the premise of avoiding soft terms in letters of credit is that exporters should be careful examine the terms of the letter of credit documents concerning the goods. If soft terms appear in the letter of credit, the beneficiary's success in obtaining payment is restricted by the importer, which is very unfavorable to the beneficiary. If the foreign trade company discovers the soft clause during the review of letter of credit documents, it shall immediately notify the importer and ask the importer to cancel or modify the clause. (Li & Wang, 2003) For the "customer inspection certificate", the usual treatment is to try to get the customer to agree to the exporter's official inspection agency to carry out the inspection of the goods.

### **(4) Promptly investigate the voyage and whereabouts of freight**

Another part of preventing letter of credit fraud is to fully and timely know the status of transport of goods. Exporter should pay close attention to the condition of goods transportation. In particular, the exporter should try to avoid the goods were taken by the importer with a 1/3

original bill of lading without the importer providing security, because in the delivery of a 1/3 original bill of lading, although the goods have been transferred to the applicant, it does not constitute a legal handover of the goods. This is the problem of a third original bill of lading specifically for short-haul shipping<sup>2</sup>.

The commitment to the bill of lading in the delivery guarantee does not constitute an unconditionally accepted commitment when the documents do not match. If there is a problem of time difference between the bill of lading and the arrival of the goods to the importer in the short distance sea shipping, the bill of lading will be done in triplicate: to the importer, to the exporter, and to the carrier. For some perishable goods, such as fruit and other special goods, the importer takes the goods in advance only to reduce the loss, deal with the special goods in time, and finally resolve trade disputes with the exporter. Admit the importer uses 1/3 original bill of lading to pick up the goods in advance. If the importer ask the bank to stop the payment because the documents related to the letter of credit provided by the exporter were inconsistent with the letter of credit requirements, the exporter will lose the goods and payment will be rejected by the bank. Therefore, it is important for exporters to pay close attention to the condition of the carriage of goods, and avoid the risk of goods being withdrawn in advance. (Wang & Ma, 2001)

### **2.7.3 Risk prevention measures for banks**

#### **(A) Issuing bank should pay attention to credit investigation and strengthen credit risk management**

From a risk perspective, it is important to know the credibility of each party. Although the letter of credit business is independent of the actual trade, at the same time it is based on the sales contract. The issuing bank must therefore pay attention to the information on credit status and capital of the applicant, the beneficiary and the cooperative bank (advising bank, confirming bank, or negotiating bank). In particular, the issuer bank should carefully review the payment capacity of the applicants for the issuance, strictly control the credit limit, and compel applicants with poor credit standing to increase deposit amount. Banks should likewise establish customer information files, understand the background of the business, and regularly and objectively analyze the credit situation of customers. (Gu, 2001)

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<sup>2</sup> This is a matter of maritime law, not discussed in detail here.

**(B ) The negotiating bank (Bank where the exporter is located ) should know the credit standing of the issuing bank**

The issuing bank is preferably a bank with good credit standing, strong solvency and previous business cooperation with the negotiating bank. When receiving a letter of credit from a foreign country, the first thing to be concerned about is the credit of the issuing bank. In addition to collecting relevant information on a regular basis, the negotiating bank can also use the information published by the credit rating agencies to understand the credit information of the issuing bank.

**(C) Strengthening investigations into the financial conditions of importers**

Once the issuing bank issues a letter of credit, it must bear the first payment responsibility. If there is a problem with the importer's credit, the issuing bank will bear the risk of advancing funds. (Song, 2013) Therefore, in the case of unreliable creditworthiness of importers, requiring them to pay full deposits can effectively eliminate capital risks and prevent fraud.

**(D) Standardize operations and strictly review the documents**

Whether it is an issuing bank, a negotiating bank, or a confirming bank, bank staff should handle business in strict accordance with UCP600 rules. Banks should strictly review the documents submitted by the exporter to avoid discrepancies with the issuing bank, which may result in a refusal to pay. (Jun 2013)

**(E) Guard against confirmation risks**

When the designated bank provides confirmation services, it should also review the creditworthiness of the issuing bank and the political risk of the host country. In addition, when an issuing bank requires a bank to provide confirmation services, it often indicates that the issuing bank has an account with this bank and has a certain amount of funds. (Wang, 2013) If there is no such relationship, the designated bank should proceed with caution.

**(F) Apply the "fraud exception" principle to prevent fraud**

The principle of fraud exception means that the bank generally follows the principle of independence of letters of credit transactions, (Lixia & Fei., 2015) but if there is evidence to prove that the seller committed fraud, the bank can refuse payment, which is a supplement to the principle of independence of letters of credit or a special case. The fraudulent buyer may also request the bank not to pay or ask the court to issue a stop order prohibiting the bank from paying or accepting the letter of credit.

## Chapter III - Methodology

### 3.1. Research questions and propositions

This research is an exploratory study aimed to analyze the perceptions of parties regarding the risk and countermeasures one by one, of the letter of credit.

Specifically, this dissertation aims to answer the following research questions:

(1) Which are the main risks and risk prevention measures of the letter of credit perceived by the importer (applicant)?

(2) Which are the main risks and risk prevention measures of the letter of credit perceived by the exporter (beneficiary)?

(3) Which are the main risks and risk precautions faced by banks (Issuing bank and Negotiating bank)?

In order to pursue research aims and answer these questions, letters of credit were analyzed from three different practical perspectives: international economic law, banking and international business.

### 3.2 Main research methods

This dissertation relies on a qualitative research.

Qualitative research is a basic research paradigm in the field of social sciences. Qualitative research is based on in-depth analysis of the research object in order to gain keen insight by discovering problems, understanding phenomena, analyzing human behavior and opinions, and answering questions. The purpose of qualitative researchers is to gain a deeper understanding of human behavior and its reasons. Qualitative research methods investigate the reasons and methods of human decision-making, not just what decisions people make, when and where.

Qualitative research main advantages are reflected in the following aspects. First,



qualitative analysis a very detailed research framework and research process for each specific problem. Qualitative analysis can explore the logical relationship of key issues, including causes, connections, effects and processes, and explain the problems clearly through reason and narration. Second, in terms of cost and efficiency, qualitative analysis targets smaller groups of study cases and requires lower costs. The purpose of qualitative analysis is to carry out in-depth research on specific problems, not only to find evidence on known results, but to focus on the analysis and discussion of the causes and linkages that produce this result. Third, because of the existence of the second point advantage, it is easier and more efficient for qualitative research to add relevant content to the analysis when new evidence and findings emerge. Isabel Carvalho Guerra, «Pesquisa Qualitativa e Análise de Conteúdo»

Of course, qualitative research also has some disadvantages. The first is that the labor cost of the study is relatively high, because it is necessary to collect data through direct observation and/or interviews. Second, because the data collection is based on the individual observation of the researcher, it is difficult to generalize the conclusions to the wider situation, and the objectivity of the conclusions will be limited.

The empirical part of this dissertation explores the perceptions about risks and risk prevention measures from three professionals used to dealing with letters of credit in three distinct labor contexts: international law, banking, and the international trade.

The purpose of this approach is to capture different practical perspectives from the same problem.

### **3.3 Data collection**

Data collection instruments were the theoretical analysis and in-depth interviews.

(a) Theoretical analysis: Essential feature analysis method.

Only by studying the essential characteristics of the letter of credit we can analyze its risks more accurately and to propose more effective risk prevention measures. What is the basic logic of the letter of credit? Why is there a risk of fraud? How to effectively deal with the letter of credit risk?

(b) In-depth interviews aimed to get information on the practical perspectives about risks and risk prevention measures faced by the three parties to the letter of credit.

I interviewed three people from different professional backgrounds: one expert in the field of international economic law, a bank clerk and a professional with entrepreneurial experience in the field of international trade.

I previously wrote the outline and interview questions in the form of an interview guide. The conversation was free and each interviewee lasted more than an hour. All the interview questions were effectively answered and allowed to get three different perspectives based on different professional experiences.

In-depth interviews are unstructured, direct, one-to-one interview. According to the way of access, it can be divided into direct access and indirect access. Direct interview is also known as face-to-face interview. Indirect access mainly includes telephone access and internet access. In-depth interviews, contrary to structured interviews, are not based entirely on pre-designed questionnaires and on fixed procedures. Instead, there is only one subject or scope of the interview, and the interviewer and the respondent have free conversations around that subject or scope. In-depth interview requires the researcher to design the interview outline according to the research objectives before the interview. During the interview, the interviewer can deal with the questions in a flexible way, according to the actual situation, not being limited to the outline interview sequence, keeping in mind the specific object and progress of the interview. At the same time, the interviewee can also take the initiative to control the progress and direction of the conversation during the interview, allowing the interviewer to ask more questions about the topic and making the interview environment more free, relaxed and interesting. Interviewers can thus understand the topic more comprehensively.

Table 1 summarizes the interview outline and Tables 2, 3 and 4 describe the interview guides.

Table 1 - Interview outline

<b>Purpose of the interview</b>	Obtain information on perceptions about risks and risk prevention measures in letters of credit from people from different professional backgrounds
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<b>Interviewees</b>	a lawyer , a bank clerk and an employee (technical staff) of an international trading company
<b>Way of interview</b>	Interview by chat (“WeChat”)
<b>Interview date</b>	Between the 2 <sup>th</sup> and 25 <sup>th</sup> march

The first person interviewed is a lawyer that has been engaged in international economic and legal affairs for 20 years. I think his experience and knowledge can pass comprehensive information about the legal aspects of letters of credit. The second interviewee is engaged in the bank letter of credit business, able to provide an informed perspective from her work experience about the bank audit to documents related to the letter of credit. The third person interviewed has business experience in international trade. Thanks to her extensive working experience in import- export firms, she is able to describe relevant details on specific operations involving letters of credit.

These three interviewees were chosen to collect information about the letter of credit from the practical perspective of international economic law, economic and financial perspective, and international trade perspective. Their three different professional backgrounds allow achieving the purpose of the interviews.

Interview 1 – Academic, expert in International Economic Law

- Characterization: Male, 45 years old, 20 years of work experience
- Interview date: 25/02/2020
- Interview duration: 61minutes
- Mode of data collection: WeChat voice chat function. Transcribed
- Interview guide: International Economic Law Perspective

Table 2 - Interview Guide - International Economic Law Perspective

<b>Information to be collected</b>	<b>Questions</b>
The legal nature of a letter of credit is bank credit.	Could you explain what the business credit is? What is the bank credit?
	Is there any situation where the beneficiary directly asks the issuing bank for

Letters of credit operation	payment?
	Please explain the nature of the "soft clause" of the L / C.
Where does the risk come from?	What is the effect of the letter of credit fraud exception on the principle of letter of credit independence?
	Are revocable letters of credit no longer used?
	When a bank examines a document and finds a discrepancy, it can contact the issuing applicant. Is this a bank's right, not an obligation?
	When issuing applicants use the letter of credit fraud exception, does it need to provide guarantees when it applies to a bank to stop payment?
How effective is the available regulation?	Does UCP600 not adjust the validity of letters of credit?
	Does UCP600 not adjust letter of credit fraud?
	Is the nature of UCP600 an international convention?

Interview 2: Bank clerk engaged in the letter of credit business at Bank of China

- Characterization: Female, 25 years old, 3 years of work experience
- Interview date: 02/03/2020
- Interview duration: 67 minutes
- Mode of data collection: WeChat video chat function, Transcribed
- Interview guide: Economic and financial perspective

Table 3 -Interview Guide - Economic and financial perspective

Information to collect	Questions
How do banks operate letters of credit?	Do banks pass electronic letters of credit through the electronic information system Swift?
	Is the advising bank and the negotiating bank the same bank in practice?
	Do UCP600 require the bank to review the L/C related documents for no more than 5 working days?

	How often do banks contact the issuing applicant when the bank finds a discrepancy?
	Is it common for a beneficiary to ask for a confirming bank?
	Will the bank waive the deposit for applicants with good credit standing?
Bank review of L/C related documents	Is the bank review document just a surface review?
Fees	What about the bank's charge for issuing an application?
	What are the discount fees charged by negotiation banks?
Current status of bank credit business.	What recent changes have occurred in the bank credit business?

Interview 3 –An employee of an international trading company

- Characterization: Female, 26 years old, 5 years of work experience
- Interview date:12/03/2020
- Interview duration: 78 minutes
- Mode of data collection: WeChat video chat function, Transcribed
- Interview guide: International trade perspective

Table 4 - Interview Guide - International trade perspective

Information to be collected	Questions
The importance of letters of credit as a financing instrument and as a means of promoting international.	How does L / C relate to International Insurance in international trade?
	What is the relationship between letter of credit and international transportation in international trade?
	Who should claim for damage to the goods under the letter of credit?
L/C fraud in international trade	What is the frequency and severity of cases of fraud in the use of L / C?
International insurance in letters of credit	Suppose I am harmed under a letter of credit. Should I look at trade terms if I make a claim against an insurance company?.

Using L/C in international trade	What do you think are the advantages of a letter of credit in international trade?
	What do you think are the disadvantages of letters of credit in international trade?
	What should exporters pay attention to when reviewing letters of credit?
	What do you think of the letter of credit risk in international trade?
	How do you think the risks of letters of credit should be prevented?

The interviews were transcribed verbatim. Qualitative data analysis involved the careful reading of the transcripts and subsequent coding. This coding process was informed by the research questions and the literature.

### 3.4 Macro and Micro Perspectives

The complexity and comprehensiveness of social phenomena in the social sciences determines that research from a single discipline is often incomplete. The research topics need to be comprehensively studied, from the perspective of multiple disciplines. Moreover, economics and law are linked.

From a macro perspective, my approach draws from three perspectives (breadth): the international economic law perspective, the economic and financial perspective, and the international trade perspective, to a wide understanding of letters of credit. For example, international economic law mainly understands the legal relationship between the relevant subjects of letters of credit, international finance mainly understand the business of bank letters of credit, and international trade mainly understands the specific operation process of letters of credit.

As an international trade settlement tool, a letter of credit is important. Because the letter of credit settlement connects international trade, international transportation, international insurance, international payment and many other links, international economic law has specialized research on it. International economic law is divided into private

international trade law and public international trade law. The subject of private international trade law is individuals or enterprises. There are four branches of private international trade law: international trade in goods, international transport, international insurance and international payment. Letters of credit belong to international payment branch. The letter of credit is, in fact, closely related to sale, transportation and insurance. For example, an international contract of sale provides for payment by letter of credit. Letter of credit related documents include shipping documents and insurance documents, as appropriate. International economic law mainly studies the legal relationship between the various subjects. First, only by clarifying the process of the entire commercial link can we understand the rights and obligations between the different parties and then determine the legal relationship between them.

Micro perspective aims to understand the letter of credit from a single disciplinary perspective (depth). For example, the international economic law perspective understands letters of credit from the links between international contracts of sale, international transport, international insurance and international payments.

## **Chapter IV - Findings and Analysis**

### **4.1 The theoretical perspective**

Why did I choose international economic law, international economic finance and international business to study the risk and risk prevention measures of letters of credit? Because international economic law explains the essence of the letter of credit and the characteristics of the letter of credit from a theoretical point of view. In addition, the importance of letters of credit is experienced in the international trade practices, which comprise international trade, international transport, international insurance and international payments. Moreover, International Economic law provides also a theoretical basis for the study of letters of credit risk and risk prevention measures, while international business mainly provide evidence about the use and the specific operation flow of letters of credit. This dissertation also analyzes the risk and risk prevention measures of letters of credit from the perspective of banks.

Firms engaged in international business and banks can provide practical experience in studying risk and risk prevention measures of letters of credit. Therefore, from the perspective of integrating theory with practice, the interviewees' contribution is to allow the theory to be compared with the perceptions of professionals who usually deal with letters of credit.

#### **4.1.1 Perspective of the International economic law**

Legal issues in letter of credit relations:

(1) First and foremost, there is the contractual relationship between the buyer and the seller, which is a basis for the issuance of a letter of credit. The independence of the letter of credit implies that, once it is issued, it has its independent effect and is not subject to the contractual relationship between the buyer and the seller. However, its relevance is manifested in the basis of the issuance of a letter of credit that is the contract between the buyer and the seller.



(2) Another contractual relationship exists between the issuing applicant (importer) and the issuing bank. The contractual relationship between the applicant and the issuing bank is also a basic relationship, and the evidence for the establishment of this contractual relationship is the issuance application of the issuing applicant. In the application, the issuing applicant acknowledges the issuing bank's status of independent document reviewer, under the conditions of the Unified Practice for Documentary Credits (UPC600), agrees that the issuing bank pays the price in accordance with the above practices and relevant bank regulations, and promises to obtain the documents as stipulated in the application. This is also the basis for the issuance of letters of credit.

(3) The third relationship is the relationship between the negotiation bank and the beneficiary (exporter). This relationship is determined by the letter of credit. If the beneficiary has objections to the obligations or responsibilities stipulated in the letter of credit, the beneficiary can not directly consult the negotiating bank. The beneficiary can only communicate with the issuing applicant, and the issuing applicant proposes amendments to the issuing bank. This relationship is an important link in the entire letter of credit process, and the key business of the letter of credit is concentrated on that link.

The independence of a letter of credit is reflected in the fact that once the letter of credit is opened, it is separated from the basic relationship on which it is opened. This basic relationship refers to the relationship between the contract of sale and the application for issuance of the letter of credit. The conditional payment commitment of the bank takes effect when the condition is established, whether the rights, obligations and responsibilities stipulated in the contract and application for issuance have been fulfilled.

#### **4.1.2 Economic and financial aspects**

As the letter of credit is guaranteed by bank credit, after more than 100 years of development, the letter of credit has become not only an important trade settlement tool, but also an important financing tool. The negotiating bank can receive a discount fee from the beneficiary (about 2% of the credit amount) for facilitating the transaction between the applicant and the beneficiary. In addition, because of the independence principle of the letter of

credit, the bank audit the form of the letter of credit related documents , but do not audit the authenticity of the letter of credit related documents. Therefore, the audit time of the bank letter of credit is very short, the verification of letter of credit related documents not exceed five days ( Provisions , UCP 500 ). For banks, this reduces the burden on their businesses, and avoid the trade dispute between buyer and seller.

#### **4.1.3 International business perspective**

Letter of credit is directly related to the payment in international trade. Because the ultimate goal of international trade is to make profit, whether the payment can be successfully completed and the security of settlement are important issues.

The letter of credit payment method requires the "single document compliance, document compliance" and "strict compliance". If the documents provided by the beneficiary do not meet the requirements of the credit, not only will it result in additional costs, but it will also be rejected by the issuing bank. It brings great risks for the safe and timely collection of foreign payment. Therefore, the strict examination of letters of credit in international trade is very critical. Examining letters of credit is a task shared by banks and exporting enterprises, but banks and exporting companies have different focuses on this task. Among them, negotiation bank focus on examining the creditworthiness and payment responsibilities of issuing bank. The sales contract has nothing to do with it. The export company is based on the contract for the sale of goods, carefully comparing the terms of the letter of credit with the sale contract terms, and checking whether the contents of the letter of credit are consistent with the terms of the sales contract. The following is the specific operation method for the export company (beneficiary) to review the letter of credit:

(1) Examination against contract terms signed by both parties. The letter of credit is issued in accordance with the contract, but once issued, it is a self-sufficient document, so it must be strictly reviewed according to the terms of the contract before it becomes effective. The following issues should deserve particular attention:

(a) Whether the letter of credit nature is "irrevocable", that is, whether it contains the

word "IRREVOCABLE".

(b) Whether the name and address of the applicant and of the beneficiary of the issuance are correct.

(c) Whether the product name, specifications and packaging are consistent with the contract.

(d) Whether the quantity and quality of goods are consistent with the sale contract.

(e) Whether the payment period is reasonable.

(2) Concerning the transportation terms, the following issues should be paid attention:

(a) Whether the place of departure and destination are consistent with the sales contract.

(b) Whether there are special requirements concerning transportation means.

(3) Review of shipping period and validity period. The validity period of the letter of credit should generally be a reasonable interval (10-15 days) from the shipment period, so that the beneficiary has sufficient time to process the settlement of documents after the shipment of the goods.

(4) The document clause is the basis for beneficiary's presentation of documents and bank's examination of documents, which is very important for both buyers and sellers. Therefore, exporters should pay attention to the type and number of documents, and especially pay attention to whether the terms of the documents are correct and reasonable. If there are document requirements that the beneficiaries cannot meet, they must be modified in time, otherwise the issuing bank and the applicant will refuse to pay.

(5) Examination of liability for payment of bank fees. The bank fees include the issuance fee, notification fee, and negotiation fee, among others. Generally, the costs incurred by the issuing bank shall be borne by the buyer, and the costs incurred by the beneficiary shall be borne by the beneficiary.

(6) Examination of the soft clauses of the letter of credit. Soft clauses generally appear in letter of credit documents and in additional clauses. Some of these clauses may be not acceptable. The exporters must pay attention to this issue when reviewing.

After a comprehensive review of the letter of credit, if any problems are found, they should be dealt with separately in a timely manner. Concerning the terms of the letter of credit

that affect the safe collection of foreign payment and are difficult to accept or comply with, the importer, that is, the applicant for the issuance of the letter of credit, must request its modification in due time.

The choice of the INCOTERMS is also very important for both exporters and importers. Moreover, the choice of INCOTERMS is closely related to the production of documents by exporters. For example, the CIF trade term includes international insurance - FPA. Therefore, exporters must not forget the insurance documents when making documents related to letters of credit. This also requires exporters and importers to be familiar with the specific meaning of the trade terms.

Banking is very important in letter of credit business. The bank actively facilitates the transaction between the applicant and the beneficiary through the bank credit (that is, the bank must advance the funds under certain conditions). And the bank also makes a discount through the letter of credit. This way, banks can promote both international trade and financing. In the international economic law perspective, the rights and obligations of the parties are determined by studying the legal relationship between the parties to the letter of credit. Law is an important way to resolve disputes. Letter of credit risks enhance dispute between the applicant, the beneficiary and the bank. Therefore, international economic law is the final guarantee of the business dispute of letter of credit.

## 4.2. Qualitative research findings and analysis

### 4.2.1 – Interview 1

The first interviewed was a lawyer. Through the interview, I obtained more comprehensive information about the legal aspects of letters of credit. Table 1 summarizes some relevant quotes from the answers.

**Table 1: the jurist's perspective**

Information collected	Quotes
The legal nature of a letter of credit is bank credit.	«Bank credit refers to the need for banks to advance funds» [to companies].

Letters of credit operation	«When the negotiating bank can not pay, the beneficiary can find the issuing bank to pay».
	«A letter of credit soft clause means that the applicant for issuing a letter of credit has set up some terms to enable the successful negotiation of the letter of credit to be decided by the applicant.»
The risk root of the letter of credit is the essential characteristic of the letter of credit: the principle of independence of the letter of credit.	«The (credit) fraud exception principle weakens the credit independence».
	«Because the irrevocable letter of credit undermines the stability of the letter of credit, it is almost always irrevocable at present.»
	«When the bank finds that the document is inconsistent, it may ask the applicant whether to accept the "discrepancy ". It's a bank right, not an obligation.»
	«The issuing applicant must provide security when using the fraud exception principle.»
UCP600 do not adjust all aspects of the letter of credit.	«UCP600 do not adjust the validity of the credit.»
	«UCP600 do not adjust credit fraud.»
	«UCP600 is an international practice.»

The table above leads us to the following data analysis:

**Main findings 1: The credit fraud exception principle is important to avoid letter of credit fraud**

Under the credit fraud exception principle, when there is fraud in the credit transaction, the bank may refuse payment, and the applicant may also apply to the court to issue a restraining order prohibiting the bank from paying. The application of this principle is, in fact, the link between the letter of credit transaction and the underlying contract transaction to deal with disputes. Banks can refuse to pay in order to preserve their own interests, if they are informed, before payment is made, of a fraudulent clause in a letter of credit. The court considers not only the letter of credit transaction, but also other legal relations related to the

letter of credit, when dealing with the dispute over the letter of credit. Therefore, it is an exception to the principle of independent letter of credit. It is a court action against a bank for effective legal relief. The principle of independence is the cornerstone of the letter of credit. The exception principle of letter of credit fraud can make up for the defect of independent principle of letter of credit and is an important measure against credit fraud. Its implementation is not to undermine the principle of credit independence, but to maintain the normal order of credit operation mechanism under the principle of independence in order to promote the development of international trade. The principle of independence and the principle of exception to fraud complement each other and jointly maintain the efficient and safe operation of the letter of credit. However, the correct application of these two principles is not easy in practice. Too much emphasis on the principle of independence of letters of credit will inevitably contribute to the spread of illegal fraud, harming the legitimate interests of applicants and banks, and the good international trade environment. However, too much emphasis on the application of the principle of exceptions to credit fraud will go to the other extreme, seriously undermining the financial credit of a country and the financial circulation system of the international community as a whole. Therefore, the application standard of the principle of exceptions to credit fraud has become the focus of judicial practice and legal research.

**Main findings 2: The essence of the soft terms of letter of credit is that the issuing applicant decides whether the beneficiary can receive the payment smoothly. The beneficiary is in a passive position.**

The letter of credit facilitates payments in the international trading system. The core clause of the letter of credit is the letter of credit document clause. Documents preparation should deserve great attention. Furthermore, exporters should be familiar with the meaning of commonly used trade terms when preparing the documents. If the exporter discovers any soft clause, he should contact the importer in time to ask amendment of the letter of credit. This is because letter of credit soft clauses allow the importer (applicant) to decide whether the exporter (beneficiary) can get the payment smoothly. Instead of the exporter (beneficiary) submitting the letter of credit -related documents consistent with the letter of credit

requirements to determine whether the exporter (beneficiary) receives the payment. If the exporter does not identify the "soft terms" of the letter of credit, this will potentially bring huge losses to the exporter.

### **Main findings 3: The impact of "UCP 600 brought important changes to UCP 500" with regard to the risk of letter of credit.**

After the implementation of the UCP500, some banks misinterpreted and misapplied some of their provisions, giving rise to many disputes in the banking practice. Therefore, the International Chamber of Commerce revised the UCP500, and on 1 July 2007, UCP600 entered into force. The UCP600 introduced new rules on the bank's standards of review. Because the bank review is the most important link in the circulation of letters of credit and must follow the review standard, the UCP600 introduced significant changes:

**Change 1:** cancelled the content of the revocable letter of credit.

**Change 2:** made it clear that negotiation is the act of buying documents.

**Change 3:** made it clear that the deadline for the bank to process the documents is 5 working days from the second day of receipt of the documents related to the letter of credit submitted by the beneficiary.

**Change 4:** it is clear that when the bank refuses to pay, it will be able to contact the applicant for issuing the certificate on their own. If the applicant notifies the discrepancy, the bank may release the documents and negotiate with the beneficiary.

### **Important reflections 1: The influence of "up to 5 working days" on the rights and obligations of the parties**

(1) Impact on the beneficiary:

The reduction of the review period means that the beneficiary can obtain payment two days in advance in the case of documents conformity. In the case of discrepancies in the documents submitted, the beneficiary may have more time to amend the discrepancies and

resubmit the documents within the time period specified in the L/C. This further protects the interests of the beneficiaries.

(2) The impact on bank rights and obligations:

With UCP600, the double judgment standard of document processing time is simplified to the single day standard, which simplifies the judgment basis, eliminates the trouble caused by the uncertainty of UCPS00 regulations for the bank, and also eliminates the hidden danger that the court can easily interfere with the banking business on the grounds of "unreasonable ". Decreasing the time of examination of the bill increases the legal risk of the bank exceeding the term.

(3) The obligation to apply for a licence.

A reduction in the time of review means that the applicant has to pay two days in advance, and overall, the applicant's original interests are impaired. However, when the goods are hot-selling products and have arrived at the destination, the shortening of the period of bank review means that the applicant can pay the bill quickly, obtain the documents under the letter of credit to withdraw the goods, and grasp the good business opportunities.

## **Important reflection 2 : How to make good use of the differences between UCP600 and UCP500?**

Firstly, the distinction between practice and law must be clearly recognized. Under the legal perspective, the UCP is practice rather than law, and it is necessary for the parties to explicitly accept the provisions of the letter of credit regarding the applicable UCP, so that the terms of the UCP bind the parties to the letter of credit.

Secondly, when the exporter receives the letter of credit, he must immediately identify whether the letter of credit is based on UCP500 or UCP600. UCP500 is not been fully modified by UCP600, it is still in effect. When a letter of credit is opened on the basis of UCP500, you must judge the letter of credit in accordance with UCP500 regulations and operating ideas. For example, the UCP600 does not allow the existence of an irrevocable letter of credit, but in UCP500 it is allowed.



#### 4.2.2 – Interview 2

The second interviewed was a bank clerk. Through the interview, I obtained more specific information about the bank in the specific examination of the letter of credit related documents. Table 2 summarizes some relevant quotes of the answers.

**Table 2 :The bank clerk's perspective**

Information collected	Quotes
The issuing bank notifies the beneficiary through the negotiating bank (located in the country where the beneficiary is located) to submit the relevant documents of the letter of credit and collect the payment for the goods.	«Currently, electronic letters of credit are transmitted between international banks using SWIFT systems.»
	«The notifying bank and the negotiating bank may be the same bank».
	«At present, the bank only needs 5 working days to audit the L/C.»
	«When the bank finds the discrepancy, it can contact the applicant immediately.»
	«The beneficiary's request for the addition of a confirming bank may protect the beneficiary's interests. This is very common.»
	«The issuing bank may waive the deposit for the applicant with good credit standing.»
Bank review of L/C related documents.	«Bank review L/C is only the formal appearance review.»
Fees	«The fees charged by the negotiating bank include discount charges, mail charges.»
	«The issuing bank will charge the application fee, deposit, notification fee, service charge, etc.»
Current status of bank credit business.	«Take the Bank of China, for example, since the use of the credit fraud exception principle when the applicant must provide security, the letter of credit business has increased a lot.»

The table above, leads us to the following data analysis:

### **Main findings 1 - How banks operate letters of credit:**

The issuing bank is located in the place where the importer is located while the notifying bank, the confirming bank and the negotiating banks are located in the exporter's place. Importers and exporters are located in different countries. Only the issuing bank and the negotiating bank are necessary parties in the bank credit business. Sometimes the notice bank and the negotiation bank can be the same international bank. Sometimes the notifying bank and the negotiating bank can be different banks. In the letter of credit business, there will be a confirming bank only if the beneficiary explicitly requests a confirming bank. A confirming bank is not a necessary party in the business of a letter of credit. After the applicant has opened the letter of credit, the issuing bank will notify the negotiating bank (where the exporter is located) and transmit the letter of credit. Electronic letters of credit are usually transmitted through SWIFT systems between banks. Then, the negotiating bank notify the beneficiary to submit the relevant documents. When the beneficiary submits the relevant documents consistent with the requirements of the letter of credit, the negotiating bank shall pay the beneficiary. It can be found that in the letter of credit business, the application fee earned by the issuing bank is paid by the issuing applicant and the discount fee earned by the negotiating bank is paid by the beneficiary. Both the issuing bank and the negotiating bank make profits in the letter of credit business and promote international trade.

### **Main findings 2 – Fees**

The negotiating bank can earn from the beneficiary a discount fee about 2% of the credit amount. For example, suppose the amount of the letter of credit is 1 million euros. The negotiating bank will replace the letter of credit documents in accordance with the letter of credit requirements with the beneficiary's equivalent of EUR 980,000. The discount of 20,000 euros is paid by the beneficiary to the negotiating bank. The issuing bank then bought back the letter of credit related documents from the negotiating bank in the amount of 1 million euros, consistent with the letter of credit requirements. Finally, the issuing bank sold the letter of

credit -related documents consistent with the letter of credit requirements to the issuing applicant in the amount of 1 million Euros. The applicant will use these documents to withdraw the goods. In addition, an application fee will be charged by the issuing bank when a letter of credit is opened.

### **Main findings 3 – “bank review”**

Practice suggests that the abstract principle of the independence of letter of credit has valuable functions. First, it establishes the obligation of the issuing bank to pay and provides the guarantee for the beneficiary to receive the payment after fulfilling their obligations, realizing the basic function of the letter of credit. Second, it establishes the neutral and detached position of the bank in the international trading relationship, which is isolated from the underlying contract with potential commercial risk. As long as the bank carefully handles the letter of credit related documents, it can obtain the stable and reliable income, so that it can actively participate in the opening, notification, confirmation, negotiation and payment of the letter of credit. Third, it has established that the basis for bank payment is whether the documents submitted by the beneficiary are consistent with the letter of credit requirements. The bank do not review the basic contract, which makes the letter of credit a convenient and fast financing tool, that promotes international trade and bank financing.

### **Main findings 4: How can banks stop paying on the principle of fraud exception ?**

The bank must pay if the beneficiary submits the relevant documents that meet the requirements of the letter of credit. The exception to fraud principle allows the applicant to ask the court to compel the bank to stop payment if he discovers that the beneficiary has committed fraud. If the issuing applicant abuses the fraud exception principle, this will affect the bank's credit business. Therefore, the use of the credit fraud exception principle is conditional to:

(1) Substantive elements:

a. credit fraud exists.

b. there must be an injunction (irreparable loss): the injunction must be issued with the need to maintain the status quo, otherwise it will lose its original purpose.

(2) Procedural elements:

a. banks and courts can not voluntarily use the "fraud exception ". The court, in accordance with the principle of non-lawsuit in civil cases, can not voluntarily issue a " Prohibition Order " : there must be a plaintiff<sup>3</sup>. Only if the applicant brings an action in court, the courts can issue the "Prohibition Order ".

b. Deadline for issuing a prohibition order: a prohibition order shall be issued prior to the actual payment or acceptance by the issuing bank.

The bank is only responsible for the documents "ostensibly in accordance with the terms of the letter of credit ", does not examine the status of the goods, and is not responsible for the seller's compliance of the basic contract obligations, creating the opportunity to the appearance of fraud. Because it only enables the seller the guarantee of obtaining the payment is not to enable the buyer to obtain the guarantee of the true and qualified goods. In order to make up for the defects of the operating mechanism of the letter of credit, the principle of fraud exception is established. The credit fraud exception principle allows that, if there is evidence of fraud, the bank has the right to refuse to pay, and the fraudulent buyer may also request the bank not to pay or ask the court to issue a stop order prohibiting the bank from paying or accepting the letter of credit. The termination of the letter of credit is used as a means to apply the principle of fraud exception. The court, on the grounds of fraud, may order that banks to be prohibited from paying beneficiaries under the terms of the letter of credit, which to some extent, linked the letter of credit to the underlying contract. The abuse of the fraud exception principle by the issuing applicant damage the bank's credit. Therefore, in China, the article 100, paragraph 1, of China's Civil Procedure Law provides that if an applicant for a license applies to a court for a restraining order, he or she requests the court to prohibit a bank from paying the beneficiary by providing security or evidence of fraud by the beneficiary.

### 4.2.3 – Interview 3

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<sup>3</sup> The plaintiff in the credit fraud exception principle is the issuing applicant.

The third interviewed was an international trade clerk. Through the interview, I obtained more information about the practical use of letters of credit in international trade. Table 3 summarizes some relevant quotes of the answers.

**Table 3, International trade clerk's perspective**

Information collected	Quotes
<p>letters of credit are important both as financing instrument and means of promoting trade.</p>	<p>«International trade includes trading relations, transportation relations, insurance relations, payment relations. The letter of credit belongs to the research object of international payment relationship. International insurance belongs to the research object of insurance relationship. Insurance relationship and payment relationship are important links in international trade.»</p>
	<p>«There must be a clause in the letter of credit concerning the international carriage of goods.»</p>
	<p>«First consider whether there is international insurance, second consider whether the carrier is responsible, and finally consider the responsibility of the buyer and seller.»</p>
<p>L/C fraud in international trade</p>	<p>«The root cause of credit fraud is the principle of independent audit of credit. Document audit has nothing to do with the goods.»</p>
<p>International insurance in letters of credit</p>	<p>«International trade term CIF is a common term that contains international insurance.»</p>
<p>Using L/C in international trade</p>	<p>«The biggest advantage of L/C in international trade is to reduce the transaction risk.»</p>
	<p>«The disadvantages of letters of credit in international trade are document audit and separation of goods, which increases the risk of credit fraud.»</p>
	<p>«Exporters should strictly review the terms of the letter of credit to prevent the letter of credit "soft terms ".»</p>

	«The parties to the letter of credit have different risks. The source of credit risk is the principle of credit independence.»
	«Defeating credit independence should reduce credit risk.and do you know the Alibaba's "super letter of credit "? It mainly through professional team review L/C related documents to reduce risk»

**Main findings 1: In international trade, the risk of letter of credit can be checked one by one from the trading, transportation, insurance and payment links.**

There are four links in the private international trade law system: international trading, international transportation, international insurance and international payments. Letter of credit documents encompasses the choice of trade terms, international transport documents, international insurance documents, etc. It is necessary for exporters and importers to examine these documents. Therefore, for exporters and importers with professional experience, they will check the letter of credit risk sequentially from all aspects of international trade.

- Step 1: Check basic trade contracts and trade terms.
- Step 2: Check the risks involved in transportation (sea, land, air).
- Step 3: Check the international insurance link. Risks (FPA-free from particular average, WPA-with particular average, All Risks) and specific risks.
- Step 4: Re-check the risk according to the procedure of the letter of credit.

This logical sequential risk-by-risk approach can effectively reduce the risk of letters of credit faced by importers and exporters.

**Main findings 2: "Super letter of credit" reduces the audit risk of the letter of credit in international trade**

Referring the risk of reducing review documents for letters of credit in international trade, interviewee 3 mentioned the 2017 Alibaba “Super letter of credit”, as an example of innovative direction of payment mode in international trade. Super letter of credit is relying on

Alibaba Yida Tong foreign trade integrated service platform. The “super letter of credit” helps export enterprises to solve the risks and financial problems faced in international transactions. It aims to provide basic letter of credit and financing services, including certificate review, document preparation, document review and delivery.

Applicable object:

It is applicable to export enterprises which are not familiar with the operation of the letter of credit and have difficulties in capital turnover.

“Super letter of credit” used: (1) submit draft; (2) risk prompt; (3) receive original letter of credit; (4) produce and ship; (5) prepare letter of credit related documents (6) collect payment. Enterprises only need to submit information in the early stage.. Alibaba Yida Tong development is mainly to help enterprises solve the problem of settlement, let them use rest assured, promote the flow of enterprise funds, increase the competitiveness of enterprises.

Whether we can find the soft clauses in the letter of credit is necessary to have a legal background. Therefore, it is very professional for the exporter to examine the letter of credit opened by the importer. Alibaba's super letter of credit uses its own professional team to help exporters review the letter of credit related documents, preventing exporters from facing the risk of letter of credit due to lack of expertise.

Summary: “super letter of credit” reduces the risk of reviewing letter of credit related documents, "Super L/C Professional people should be responsible for professional matters. One should not make mistakes that could have been avoided.

### 4.3 Discussion

**Interviews summary:** crossing the perspectives of the three interviewees with different professional background on the letter of credit risk and risk prevention measures in practice the theoretical analysis, summed up the following common understanding:

(1) The risk of letter of credit mainly comes from the principle of independence of letter of credit.

(2) It is very important to examine documents for the necessary parties of letter of

credit. Moreover, the necessary parties of letter of credit need to strictly examine the related documents. Strict audit of documents is also one of the measures to reduce risk.

(3) checking the risk one by one according to the trade link of the letter of credit is an effective measure to prevent the risk.

(4) It is also important to set up risk tips based on practical experience.

#### **4.3.1 Everything has two sides. We should look at the risk of letter of credit correctly**

Seeing the nature of things is one way to avoid risk. We cannot deny the rationality of the letter of credit system because of their risks. We should maintain a correct attitude towards the positive effects of letters of credit and the risks of letters of credit. We should affirm their rationality and importance while we carefully analyze their risks and try to avoid them. In the literature review, I have specifically analyzed the risks that letter-issuing applicants, banks, and beneficiaries will face under the letter of credit payment method. Moreover, the dissertation also analyzes the effective risk prevention measures that should be taken to deal with the different risks faced by applicants, banks, and beneficiaries. Only by studying the essential characteristics of letters of credit we can analyze its risks more accurately and propose more effective risk prevention measures. In the empirical part of the dissertation, the qualitative allowed me to explore the essential characteristics of the letter of credit, the letter of credit operation process, and the source of risk of the letter of credit. Using this approach it is possible to cross the theoretical analysis with the perspective of those who have practical experience in dealing with letters of credit.

Concerning the question «What is a letter of credit?» I could see that the essence of the letter of credit is the issuing bank responding to the applicant's request and issuing the beneficiary's written proof of conditional payment. The essential characteristic of letters of credit is its independence.

Concerning the question «Why is there a risk of letters of credit?» interviewees agree that risk results from the principle of the independence of the letter of credit, because the audit of the letter of credit has nothing to do with the basic goods contract.

Regarding the issue «How to prevent the risk of letters of credit?», respondents



highlighted the importance of a careful examination of letter of credit. The principle of credit fraud exception is also viewed as a special legal precaution against the risk of fraud arising from the principle of independent letter of credit.

#### **4.3.2 Weakness of letter of credit independence (Improvement recommendation)**

It is necessary to look at the letter of credit from a development perspective. It is necessary to analyze the development trends and their innovation possibilities.

The independence of a letter of credit makes it separate from its basic relationship, the contract of sale and purchase. This independence is continuously weakened by the stakeholders of the letter of credit: the issuer may require the bank to refuse payment according to the execution of the sales contract; the court can notify the bank to stop paying according to the parties' claims; and the bank can also ask the issuing applicant whether it accepts documents with discrepancies. If the applicant accepts the discrepancy and then pays them. Such acts have reduced and weakened the independence of the letter of credit to some extent. The letter of credit is not as independent as possible. The letter of credit system takes into account all relevant factors and balances the interests of the stakeholders. The letter of credit operates in a system that is both closed and open, and its comprehensive functions can be effectively exerted.

(1) Banks will flexibly review letters of credit and documents. (For example, banks can also review basic trade contracts)——Weakness of letter of credit independence.

The operation of banks will tend to be more professional and comprehensive. The flexibility in the use of letters of credit is imperative to the improvement of the letter of credit banking business. The bank's business of handling letters of credit will be based on specific regulations. This change benefits letter of credit stakeholders. At present, the definition of the independence of letters of credit by international trade participants is mainly guided by the international practice UCP600. The definition of the specific circumstances of the letters of credit independence is still vague. Due to the rapid development of the letter of credit business and the rise of cases of fraud, a clear definition of the specific circumstances of the use of the

letter of credit independence is conducive to maintaining convenient economic and security functions of the letter of credit.

(2) The letter of credit fraud exception principle will be effectively applied. — —  
Weakness of letter of credit independence.

There is a classic case of the letter of credit fraud exception principle (United States). In this case, the subject matter agreed in the sales contract did not match the actual goods provided by the seller. In the case where the documents produced and submitted by the seller were inconsistent with the requirements of the letter of credit, the plaintiff (the applicant for the issuance) requested the court to issue an injunction to prevent the bank from making the payment under the letter of credit. The court ruled that the principle of independence of the bank's payment obligations under the letter of credit could not be extended to protect malicious sellers, and ruled that the bank was prohibited from making payments. The case was the first to waive the bank's promise of payment under a letter of credit because of fraud, and it was considered the principle of the letter of credit fraud exception. This case has far-reaching consequences. If the international practice of the letter of credit fraud exception principle is formed, it will mean that the principle of letter of credit independence operates on the new letter of credit system. The closed operation of the letter of credit was weakened, but the overall function was strengthened.

#### **4.3.3 Innovation possibilities**

Since its creation, letters of credit have played a great role in international trade. For a long time, the letter of credit, as a payment method that uses bank credit as a guarantee of payment has played a key role. From the perspective of global economic integration requirements and trends in information technology development we can highlight:

(1) The emergence of international commercial investigation agencies has made it easier for buyers and sellers to obtain information about credit status of each other when conducting transactions. In order to increase the security of the transaction and receive the payment in due time, the exporter may rely on a professional international commercial

investigation agency to know the credit status of the importer. International business investigation agencies, such as professionals in accounting, law, and auditing, can provide clients with truthful, accurate, and comprehensive information about business partners. The exporter can evaluate the credit status of the importer based on the survey results to decide whether to trade with them, thereby reducing and avoiding transaction risks.

(2) The advancement of science and technology and the development of information technology have made the communications industry more and more developed. The development of the communications technology offers importers and exporters more opportunities and ways of mutual understanding. Great confidence favors closing deals. In addition, the development of e-commerce has significantly accelerated the transaction speed and increased the number of transactions. The exchange of written documents is gradually being replaced by the electronic exchange of data. The combination of international commercial investigation agencies and the letters of credit business should reduce the credit risk of letters of credit. The development of letters of credit, combined with electronic information technology, can increase the speed of circulation of letters of credit and improve their efficient use.

## Chapter V - Conclusion

### 5.1 The central idea of this dissertation is: knowing the nature of things is one way to avoid risks

This dissertation focuses on the essential characteristics and main types of letters of credit. In addition, the concrete operation of letters of credit, their role in international exchanges and as a source of financing for companies, are presented on both from a theoretical perspective and from a practical perspective.

The main purpose of this analysis was to give a valid contribute to identify shortcomings in the use of letters of credit and better guide the future.

This exploratory research allowed the collection of important insights about is letters of credit risk and risk prevention measures faced by the applicant, beneficiary, banks (the issuing bank and the negotiating bank):

(1) Fraud risk is one of the major risks in the letter of credit business. Because credit fraud involves a large amount of money, the three interviewees also agreed that the risk of fraud is one of the main risks of credit. From the legal point of view, the exception principle of letter of credit fraud can effectively control the risk of letter of credit fraud. The root of the risk of credit fraud is the principle of independence of credit. Legal exceptions to credit fraud (exceptions are for independence). The root of the risk of credit fraud is the principle of independence of credit. Credit fraud exception principle (fraud exception is the exception against the principle of independence, when fraud does not fully apply the principle of credit independence).

(2) One of the ways to prevent the risk of letters of credit for beneficiaries and banks is to strictly examine the letter of credit related documents. Special attention should also be paid to the criteria for examining letters of credit based on UCP600 or UCP500. In particular, parties should pay close attention to the key changes made to the UCP600 in relation to the UCP500. When an exporter receives a letter of credit, for example, he must identify whether the letter of credit is based on UCP500 or on UCP600as, in practice, the UCP500 is still in

effect. When a letter of credit is opened on the basis of UCP500, it must be judged in accordance with the provisions of the UCP500. For example, the UCP600 does not allow the existence of a revocable letter of credit, but under UCP500 it is permitted.

(3) Letter of credit is a payment link in the private international trade law system, closely related to trading, transportation and insurance. Letter of credit related documents also involve international transport documents, insurance documents, etc. It is an effective measure to prevent the risk by checking the risk one by one according to the trade link of the letter of credit.

(4) How to assess if all the necessary parties of the letter of credit have successfully avoided the risk of letter of credit? That is, the beneficiary received the payment smoothly from the negotiating bank, and the issuing applicant obtained the relevant documents consistent with the requirements of the letter of credit from the issuing bank and successfully extracted the goods consistent with the requirements. It is very important for the beneficiary, the applicant and the bank to review the relevant documents of the letter of credit. Because the bank will pay the beneficiary only if the documents relating to the letter of credit that submitted by the beneficiary are consistent with the letter of credit requirements. In addition, the issuing applicant can obtain the goods successfully only by obtaining documents consistent with the requirements of the letter of credit. For the letter of credit related documents audit risk, its preventive measures is to establish a professional team to review the letter of credit related documents.

(5) It is very important for the beneficiary to avoid the risk of "soft clause". For the beneficiary, the measure to prevent the risk of soft clause of credit is to grasp the essence of "soft clause" of the letter of credit. The essence of "soft clause" of the letter of credit is that the issuing applicant controls whether the beneficiary can obtain the payment from the negotiating bank smoothly.

(6) Practice is constantly changing. The letter of credit business needs to adapt to the changes in the business environment in order to better adapt and improve its long-term performance. The essential characteristic of letter of credit is independence.

All the interviewed agree on considering the principle of letter of credit independence

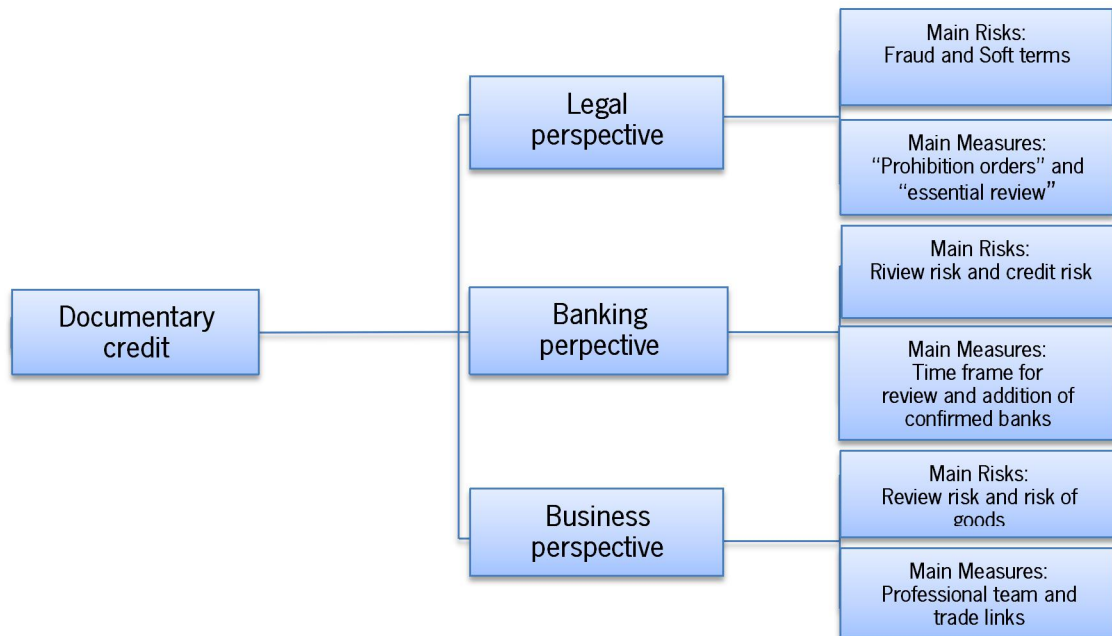
as one of its sources of risk. This consensus suggests that future development of letter of credit business involves reducing their independence, without completely losing its independence essence. Furthermore, In the Age of Artificial Intelligence, the innovation of letters of credit is also inevitable. The cooperative development of letter of credit business, international investigation business and electronic information technology may be the future direction.

## 5.2 Main contributions and shortcomings of the dissertation

### Main contributions of the dissertation

The dissertation has two main axes of analysis: (1) analyzing the theoretical perspective about risk and risk prevention measures of letter of credit faced by the necessary parties; and (2) comparing this theoretical perspective with the perceptions of professionals with practical experience in dealing with letters of credit.

From this analysis, the following contributes emerged to the discussion:



(1) Legal perspective of letter of credit risk and legal aspects of risk prevention measures.

Risk: fraud risk—Risk prevention measure: credit fraud exception principle (“Prohibition Order”)

Risk: Risk of soft terms - Risk prevention measure: Identify the nature of the soft terms of the letter of credit (the applicant controls the transaction, the applicant decides whether the beneficiary can receive the payment smoothly)

Risk: letter of credit opened according to different provisions—Risk prevention measure: The main basis for opening a letter of credit is UCP600 and UCP500 (grasp the important change points for UCP500)

(2) Risk and risk prevention measures for letters of credit from the bank perspective

Risk: Review risk of letter of credit related documents — Risk prevention measure: deadline of 5 working days to the review period, audit principle (document appearance form review)

Risk: Credit risk for issuing and negotiating banks —Risk prevention measure: Addition of confirmation banks

(3) letter of credit risk and risk prevention measures from the perspective of international business

Risk: Document review risk — Risk prevention measure: May hand over the credit document review work to a professional team.

Risk: Quality risk of goods— Risk prevention measure: check the risk of each of the four main commercial links, one by one.

In short, By interviewing three interviewees with different professional background on the letter of credit risk and risk prevention measures in practice, summed up the some common understandings and different understandings. The three interviewees were aware of the risk of letter of credit fraud, the risk of soft terms of letter of credit, and the risk of checking relevant documents of letter of credit. But the biggest difference is that they have different levels of awareness of these risks. Moreover, they take different precautions against these risks. For example, lawyers understand the root causes of letter of credit fraud. He believes that the root of credit fraud lies in the principle of independence of the letter of credit. Therefore, he will adopt the legal credit fraud exception principle to the letter of credit fraud risk, apply the legal way to avoid the letter of credit fraud risk. Interviewed International trade clerk, for the letter of

credit fraud risk, she take from the trade link (trading, transportation, insurance) to check the risk one by one. and to examine risks with practical experience. Therefore, based on the three interviewees on the letter of credit risk have different degrees of awareness and take different risk prevention measures. Analysis from three different perspectives will be more profound understanding of the risk of letters of credit, will make risk prevention measures more accurate and effective.

#### **Main shortcomings of the dissertation**

(1) The main limitation of this dissertation is the short sample of interviewees, which determines its lack of representativeness and, consequently, the impossibility of making generalizations. In addition, the actual operation process of letter of credit is very complicated and involves many issues. This dissertation analyzes the main risks and risk prevention measures faced by the necessary parties. There is other risks and risk prevention measures faced by other parties involved in letters of credit.

(2) Letters of credit involve international trade, international transport, international insurance and other links. This dissertation does not explain these other theoretical backgrounds more deeply. It just provides a risk involved link. From the view of the private international trade system, there are four main trade links: international trading, international transportation, international insurance and international payment. Every trade link has a profound theoretical background. For example, the international trading link will involve thirteen International trade terms, each of which has a rich meaning. In addition, international insurance covers different types of insurance. This dissertation does not discuss the theoretical background of each trade link in detail. Only provide a kind of basic idea that checks risk in trade link.



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# 《跟单信用证统一惯例（UCP600）》

## Article 1 Application of UCP

### 第一条 统一惯例的适用范围

The Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication no. 600 (“UCP”) are rules that apply to any documentary credit (“credit”) (including, to the extent to which they may be applicable, any standby letter of credit) when the text of the credit expressly indicates that it is subject to these rules. They are binding on all parties thereto unless expressly modified or excluded by the credit.

跟单信用证统一惯例，2007年修订本，国际商会第600号出版物，适用于所有在正文中标明按本惯例办理的跟单信用证（包括本惯例适用范围内的备用信用证）。除非信用证中另有规定，本惯例对一切有关当事人均具有约束力。

## Article 2 Definitions

### 第二条 定义（关键性的修改）

For the purpose of these rules:

就本惯例而言：

Advising bank means the bank that advises the credit at the request of the issuing bank.

**通知行**意指应开证行要求通知信用证的银行。

Applicant means the party on whose request the credit is issued.

**申请人**意指发出开立信用证申请的一方。

Banking day means a day on which a bank is regularly open at the place at which an act subject to these rules is to be performed.

**银行日**意指银行在其营业地正常营业，按照本惯例行事的行为得以在银行履行的日子。

Beneficiary means the party in whose favour a credit is issued.

**受益人**意指信用证中受益的一方。

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.

**相符提示**意指与信用证中的条款及条件、本惯例中所适用的规定及国际标准银行实务相一致的提示。

Confirmation means a definite undertaking of the confirming bank, in addition to that of the issuing bank, to honour or negotiate a complying presentation.

**保兑**意指保兑行在开证行之外对于相符提示做出兑付或议付的确定承诺。

Confirming bank means the bank that adds its confirmation to a credit upon the issuing bank's authorization or request.

**保兑行**意指应开证行的授权或请求对信用证加具保兑的银行。

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.

**信用证**意指一项约定，无论其如何命名或描述，该约定不可撤销并因此构成开证行对于相符提示予以兑付的确定承诺。

Honour means:

- a. to pay at sight if the credit is available by sight payment.
- b. to incur a deferred payment undertaking and pay at maturity if the credit is available by deferred payment.
- c. to accept a bill of exchange (“draft”) drawn by the beneficiary and pay at maturity if the credit is available by acceptance.

**兑付**意指：

- a. 对于即期付款信用证即期付款。
- b. 对于延期付款信用证发出延期付款承诺并到期付款。
- c. 对于承兑信用证承兑由受益人出具的汇票并到期付款。

Issuing bank means the bank that issues a credit at the request of an applicant or on its own behalf.

**开证行**意指应申请人要求或代表其自身开立信用证的银行。

Negotiation means the purchase by the nominated bank of drafts (drawn on a bank other than the nominated bank) and/or documents under a complying presentation, by advancing or agreeing to advance funds to the beneficiary on or before the banking day on which reimbursement is due to (to be paid the nominated bank).

**议付**意指被指定银行在其应获得偿付的银行日或在此之前，通过向受益人预付或者同意向受益人预付款项的方式购买相符提示项下的汇票（汇票付款人为被指定银行以外的银行）及/或单据。

Nominated bank means the bank with which the credit is available or any bank in the case of a credit available with any bank.

**被指定银行**意指有权使用信用证的银行，对于可供任何银行使用的信用证而言，任何银



行均为被指定银行。

Presentation means either the delivery of documents under a credit to the issuing bank or nominated bank or the documents so delivered.

**提示**意指信用证项下单据被提交至开证行或被指定银行，抑或按此方式提交的单据。

Presenter means a beneficiary, bank or other party that makes a presentation.

**提示人**意指做出提示的受益人、银行或其他一方。

### **Article 3 Interpretations**

#### **第三条 释义（关键性的修改）**

For the purpose of these rules:

就本惯例而言：

Where applicable, words in the singular include the plural and in the plural include the singular

**在适用的条款中，词汇的单复数同义。**

A credit is irrevocable even if there is no indication to that effect.

**信用证是不可撤销的，即使信用证中对此未作指示也是如此。**

A document may be signed by handwriting, facsimile signature, perforated signature, stamp, symbol or any other mechanical or electronic method of authentication.

单据可以通过手签、签样印制、穿孔签字、盖章、符号表示的方式签署，也可以通过其它任何机械或电子证实的方法签署。

A requirement for a document to be legalized, visaed, certified or similar will be satisfied by any signature, mark, stamp or label on the document which appears to satisfy that requirement.

当信用证含有要求使单据合法、签证、证实或对单据有类似要求的条件时，这些条件可由在单据上签字、标注、盖章或标签来满足，只要单据表面已满足上述条件即可。

Branches of a bank in different countries are considered to be separate banks.

一家银行在不同国家设立的分支机构均视为另一家银行。

Terms such as "first class", "well known", "qualified", "independent", "official", "competent" or "local" used to describe the issuer of a document allow any issuer except the beneficiary to sue that document.

诸如"第一流"、"著名"、"合格"、"独立"、"正式"、"有资格"、"当地"等用语用于描述单据出单人的身份时，单据的出单人可以是除受益人以外的任何人。

Unless required to be used in a document, words such as "prompt", "immediately" or "as soon

as possible" will be disregarded.

除非确需在单据中使用，银行对诸如"迅速"、"立即"、"尽快"之类词语将不予置理。

The expression "on or about" or similar will be interpreted as a stipulation that an event is to occur during a period of five calendar days before until five calendar days after the specified date, both start and end dates included.

"于或约于"或类似措辞将被理解为一项约定，按此约定，某项事件将在所述日期前后各五天内发生，起迄日均包括在内。

The words "to", "until", "till", "from" and "between" when used to determine a period of shipment include the date or dates mentioned, and the words "before" and "after" exclude the date mentioned.

词语"×月×日止" (to)、"至×月×日" (until)、"直至×月×日"(till)、"从×月×日" (from) 及"在X月X日至X月X日之间" (between) 用于确定装运期限时，包括所述日期。词语"X月X日之前" (before) 及"X月X日之后" (after) 不包括所述日期。

The words "from" and "after" when used to determine a maturity date exclude the date mentioned.

词语"从X月X日" (from) 以及"X月X日之后" (after) 用于确定到期日时不包括所述日期。

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

术语"上半月"和"下半月"应分别理解为自每月"1日至15日"和"16日至月末最后一天"，包括起迄日期。

The terms "beginning", "middle" and "end" of a month shall be construed respectively as the 1st to the 10th, the 11th to the 20th and the 21st to the last day of the month, all dates inclusive.

术语"月初"、"月中"和"月末"应分别理解为每月1日至10日、11日至20日和21日至月末最后一天，包括起迄日期。

#### **Article 4 Credits v. Contracts**

#### **第四条 信用证与合同 (关键性的修改)**

a. A credit by its nature is a separate transaction from the sale or other contract on which it may be based. Banks are in no way concerned with or bound by such contract, even if any reference whatsoever to it is included in the credit. Consequently, the undertaking of a bank to honour, to negotiate or to fulfil any other obligation under the credit is not subject to claims or defenc

es by the applicant resulting from its relationships with the issuing bank or the beneficiary.

A beneficiary can in no case avail itself of the contractual relationships existing between banks or between the applicant and the issuing bank.

a. 就性质而言，信用证与可能作为其依据的销售合同或其它合同，是相互独立的交易。即使信用证中提及该合同，银行亦与该合同完全无关，且不受其约束。因此，一家银行作出兑付、议付或履行信用证项下其它义务的承诺，并不受申请人与开证行之间或与受益人之间在已有关系下产生的索偿或抗辩的制约。

受益人在任何情况下，不得利用银行之间或申请人与开证行之间的契约关系。

b. An issuing bank should discourage any attempt by the applicant to include, as an integral part of the credit, copies of the underlying contract, proforma invoice and the like.

b. 开证行应劝阻申请人将基础合同、形式发票或其它类似文件的副本作为信用证整体组成部分的作法。

#### **Article 5 Documents v. Goods, Services or Performance**

##### **第五条 单据与货物 / 服务 / 行为**

Banks deal with documents and not with goods, services or performance to which the documents may relate .

银行处理的是单据，而不是单据所涉及的货物、服务或其它行为。

#### **Article 6 Availability, Expiry Date and Place for Presentation**

##### **第六条 有效性、有效期限及提示地点**

a. A credit must state the bank with which it is available or whether it is available with any bank.

k. A credit available with a nominated bank is also available with the issuing bank.

a. 信用证必须规定可以有效使用信用证的银行，或者信用证是否对任何银行均为有效。对于被指定银行有效的信用证同样也对开证行有效。

b. A credit must state whether it is available by sight payment, deferred payment, acceptance or negotiation.

b. 信用证必须规定它是否适用于即期付款、延期付款、承兑抑或议付。

c. A credit must not be issued available by a draft drawn on the applicant.

c. 不得开立包含有以申请人为汇票付款人条款的信用证。

d. i. A credit must state an expiry date for presentation. An expiry date stated for honour or negotiation will be deemed to be an expiry date for presentation.

d. i 信用证必须规定提示单据的有效期限。规定的用于兑付或者议付的有效期限将被认

为是提示单据的有效期限。

ii. The place of the bank with which the credit is available is the place for presentation. The place for presentation under a credit available with any bank is that of any bank. A place for presentation other than that of the issuing bank is in addition to the place of the issuing bank.

ii. 可以有效使用信用证的银行所在的地点是提示单据的地点。对任何银行均为有效的信用证项下单据提示的地点是任何银行所在的地点。不同于开证行地点的提示单据的地点是开证行地点之外提交单据的地点。

e. Except as provided in sub-article 29 (a), a presentation by or on behalf of the beneficiary must be made on or before the expiry date.

e. 除非如29(a)中规定，由受益人或代表受益人提示的单据必须在到期日当日或在此之前提交。

#### **Article 7 Issuing Bank Undertaking**

#### **第七条 开证行的承诺（关键性的修改）**

a. Provided that the stipulated documents are presented to the nominated bank or to the issuing bank and that they constitute a complying presentation, the issuing bank must honour if the credit is available by:

倘若规定的单据被提交至被指定银行或开证行并构成相符提示，开证行必须按下述信用证所适用的情形予以兑付：

i. sight payment, deferred payment or acceptance with the issuing bank;

i. 由开证行即期付款、延期付款或者承兑；

ii. sight payment with a nominated bank and that nominated bank does not pay;

ii. 由被指定银行即期付款而该被指定银行未予付款；

iii. deferred payment with a nominated bank and that nominated bank does not incur its deferred payment undertaking or, having incurred its deferred payment undertaking, does not pay at maturity;

iii. 由被指定银行延期付款而该被指定银行未承担其延期付款承诺，或者虽已承担延期付款承诺但到期未予付款；

iv. acceptance with a nominated bank and that nominated bank does not accept a draft drawn on it or, having accepted a draft drawn on it, does not pay at maturity;

iv. 由被指定银行承兑而该被指定银行未予承兑以其为付款人的汇票，或者虽已承兑以其为付款人的汇票但到期未予付款；

v. negotiation with a nominated bank and that nominated bank does not negotiate.

v. 由被指定银行议付而该被指定银行未予议付。

b. An issuing bank is irrevocably bound to honour as of the time it issues the credit.

b. 自信用证开立之时起，开证行即不可撤销地受到兑付责任的约束。

c. An issuing bank undertakes to reimburse a nominated bank that has honoured or negotiated a complying presentation and forwarded the documents to the issuing bank. Reimbursement for the amount of a complying presentation under a credit available by acceptance or deferred payment is due at maturity, whether or not the nominated bank prepaid or purchased before maturity. An issuing bank's undertaking to reimburse a nominated bank is independent of the issuing bank's undertaking to the beneficiary.

c. 开证行保证向对于相符提示已经予以兑付或者议付并将单据寄往开证行的被指定银行进行偿付。无论被指定银行是否于到期日前已经对相符提示予以预付或者购买，对于承兑或延期付款信用证项下相符提示的金额的偿付于到期日进行。开证行偿付被指定银行的承诺独立于开证行对于受益人的承诺。

#### **Article 8 Confirming Bank Undertaking**

#### **第八条 保兑行的承诺（关键性的修改）**

a. Provided that the stipulated documents are presented to the confirming bank or to any other nominated bank and that they constitute a complying presentation, the confirming bank must:

a. 倘若规定的单据被提交至保兑行或者任何其他被指定银行并构成相符提示，保兑行必须：

i. honour, if the credit is available by:

i. 兑付，如果信用证适用于：

a. sight payment, deferred payment or acceptance with the confirming bank;

a. 由保兑行即期付款、延期付款或者承兑；

b. sight payment with another nominated bank and that nominated bank does not pay;

b. 由另一家被指定银行即期付款而该被指定银行未予付款；

c. deferred payment with another nominated bank and that nominated bank does not incur its deferred payment undertaking or, having incurred its deferred payment undertaking, does not pay at maturity;

c. 由另一家被指定银行延期付款而该被指定银行未承担其延期付款承诺，或者虽已承担延期付款承诺但到期未予付款；

d. acceptance with another nominated bank and that nominated bank does not accept a draft drawn on it or, having accepted a draft drawn on it, does not pay at maturity;

d. 由另一家被指定银行承兑而该被指定银行未予承兑以其为付款人的汇票，或者虽已承兑以其为付款人的汇票但到期未予付款；

e. negotiation with another nominated bank and that nominated bank does not negotiate.

e. 由另一家被指定银行议付而该被指定银行未予议付。

ii. negotiate, without recourse 无追索权, if the credit is available by negotiation with the confirming bank.

ii. 若信用证由保兑行议付，无追索权地议付。

b. A confirming bank is irrevocably bound to honour or negotiate as of the time it adds its confirmation to the credit.

b. 自为信用证加具保兑之时起，保兑行即不可撤销地受到兑付或者议付责任的约束。

c. A confirming bank undertakes to reimburse another nominated bank that has honoured or negotiated a complying presentation and forwarded the documents to the confirming bank. Reimbursement for the amount of a complying presentation under a credit available by acceptance or deferred payment is due at maturity, whether or not another nominated bank prepaid or purchased before maturity. A confirming bank's undertaking to reimburse another nominated bank is independent of the confirming bank's undertaking to the beneficiary.

c. 保兑行保证向对于相符提示已经予以兑付或者议付并将单据寄往开证行的另一家被指定银行进行偿付。无论另一家被指定银行是否于到期日前已经对相符提示予以预付或者购买，对于承兑或延期付款信用证项下相符提示的金额的偿付于到期日进行。保兑行偿付另一家被指定银行的承诺独立于保兑行对于受益人的承诺。

d. If a bank is authorized or requested by the issuing bank to confirm a credit but is not prepared to do so, it must inform the issuing bank without delay and may advise the credit without confirmation.

d. 如开证行授权或要求另一家银行对信用证加具保兑，而该银行不准备照办时，它必须不延误地告知开证行并仍可通知此份未经加具保兑的信用证。

#### **Article 9 Advising of Credits and Amendments**

#### **第九条 信用证及修改的通知** （关键性的修改）

a. A credit and any amendment may be advised to a beneficiary through an advising bank. An advising bank that is not a confirming bank advises the credit and any amendment without any

undertaking to honour or negotiate. a. 信用证及其修改可以通过通知行通知受益人。除非已对信用证加具保兑，通知行通知信用证不构成兑付或议付的承诺。

b. By advising the credit or amendment, the advising bank signifies that it has satisfied itself as to the apparent authenticity of the credit or amendment and that the advice accurately reflects the terms and conditions of the credit or amendment received.

b. 通过通知信用证或修改，通知行即表明其认为信用证或修改的表面真实性得到满足，且通知准确地反映了所收到的信用证或修改的条款及条件。

c. An advising bank may utilize the services of another bank (“second advising bank”) to advise the credit and any amendment to the beneficiary. By advising the credit or amendment, the second advising bank signifies that it has satisfied itself as to the apparent authenticity of the advice it has received and that the advice accurately reflects the terms and conditions of the credit or amendment received.

c. **通知行可以利用另一家银行的服务（“第二通知行”）向受益人通知信用证及其修改。**通过通知信用证或修改，第二通知行即表明其认为所收到的通知的表面真实性得到满足，且通知准确地反映了所收到的信用证或修改的条款及条件。

d. A bank utilizing the services of an advising bank or second advising bank to advise a credit must use the same bank to advise any amendment thereto.

d. 如一家银行利用另一家通知行或第二通知行的服务将信用证通知给受益人，它也必须利用同一家银行的服务通知修改书。

e. If a bank is requested to advise a credit or amendment but elects not to do so, it must so inform, without delay, the bank from which the credit, amendment or advice has been received.

e. 如果一家银行被要求通知信用证或修改但决定不予通知，它必须不延误通知向其发送信用证、修改或通知的银行。

f. If a bank is requested to advise a credit or amendment but cannot satisfy itself as to the apparent authenticity of the credit, the amendment or the advice, it must so inform, without delay, the bank from which the instructions appear to have been received. If the advising bank or second advising bank elects nonetheless to advise the credit or amendment, it must inform the beneficiary or second advising bank that it has not been able to satisfy itself as to the apparent authenticity of the credit, the amendment or the advice.

f. 如果一家被要求通知信用证或修改，但不能确定信用证、修改或通知的表面真实性，就必须不延误地告知向其发出该指示的银行。如果通知行或第二通知行仍决定通知信用

证或修改，则必须告知受益人或第二通知行其未能核实信用证、修改或通知的表面真实性。

## **Article 10 Amendments**

### **第十条 修改（关键性的修改）**

a. Except as otherwise provided by article 38, a credit can neither be amended nor cancelled without the agreement of the issuing bank, the confirming bank, if any, and the beneficiary.

a. 除本惯例第38条另有规定外，凡未经开证行、保兑行（如有）以及受益人同意，信用证既不能修改也不能撤销。

b. An issuing bank is irrevocably bound by an amendment as of the time it issues the amendment. A confirming bank may extend its confirmation to an amendment and will be irrevocably bound as of the time it advises the amendment. A confirming bank may, however, choose to advise an amendment without extending its confirmation and, if so, it must inform the issuing bank without delay and inform the beneficiary in its advice.

b. 自发出信用证修改书之时起，开证行就不可撤销地受其发出修改的约束。保兑行可将其保兑承诺扩展至修改内容，且自其通知该修改之时起，即不可撤销地受到该修改的约束。然而，保兑行可选择仅将修改通知受益人而不对其加具保兑，但必须不延误地将此情况通知开证行和受益人。

c. The terms and conditions of the original credit (or a credit incorporating previously accepted amendments) will remain in force for the beneficiary until the beneficiary communicates its acceptance of the amendment to the bank that advised such amendment. The beneficiary should give notification of acceptance or rejection of an amendment. If the beneficiary fails to give such notification, a presentation that complies with the credit and to any not yet accepted amendment will be deemed to be notification of acceptance by the beneficiary of such amendment. As of that moment the credit will be amended.

c. 在受益人向通知修改的银行表示接受该修改内容之前，原信用证（或包含先前已被接受修改的信用证）的条款和条件对受益人仍然有效。受益人应发出接受或拒绝接受修改的通知。如受益人未提供上述通知，当其提交至被指定银行或开证行的单据与信用证以及尚未表示接受的修改的要求一致时，则该事实即视为受益人已作出接受修改的通知，并从此时起，该信用证已被修改。

d. A bank that advises an amendment should inform the bank from which it received the amendment of any notification of acceptance or rejection.



d. 通知修改的银行应当通知向其发出修改书的银行任何有关接受或拒绝接受修改的通知。

e. Partial acceptance of an amendment is not allowed and will be deemed to be notification of rejection of the amendment.

e. 不允许部分接受修改，部分接受修改将被视为拒绝接受修改的通知。

f. A provision in an amendment to the effect that the amendment shall enter into force unless rejected by the beneficiary within a certain time shall be disregarded.

f. 修改书中作出的除非受益人在某一时间内拒绝接受修改，否则修改将开始生效的条款将被不予置理。

### **Article 11 Teletransmitted and Pre-Advised Credits and Amendments**

#### **第十一条 电讯传递与预先通知的信用证和修改**

a. An authenticated teletransmission of a credit or amendment will be deemed to be the operative credit or amendment, and any subsequent mail confirmation shall be disregarded.

If a teletransmission states "full details to follow" (or words of similar effect), or states that the mail confirmation is to be the operative credit or amendment, then the teletransmission will not be deemed to be the operative credit or amendment. The issuing bank must then issue the operative credit or amendment without delay in terms not inconsistent with the teletransmission.

a. 经证实的信用证或修改的电讯文件将被视为有效的信用证或修改，任何随后的邮寄证实书将被不予置理。

若该电讯文件声明“详情后告”（或类似词语）或声明随后寄出的邮寄证实书将是有效的信用证或修改，则该电讯文件将被视为无效的信用证或修改。开证行必须随即不延误地开出有效的信用证或修改，且条款不能与与电讯文件相矛盾。

b. A preliminary advice of the issuance of a credit or amendment (“pre-advice”) shall only be sent if the issuing bank is prepared to issue the operative credit or amendment. An issuing bank that sends a pre-advice is irrevocably committed to issue the operative credit or amendment, without delay, in terms not inconsistent with the pre-advice.

b. 只有准备开立有效信用证或修改的开证行，才可以发出开立信用证或修改预先通知书。发出预先通知的开证行应不可撤销地承诺将不延误地开出有效的信用证或修改，且条款不能与预先通知书相矛盾。

### **Article 12 Nomination**

#### **第十二条 指定（关键性的修改）**

a. Unless a nominated bank is the confirming bank, an authorization to honour or negotiate does not impose any obligation on that nominated bank to honour or negotiate, except when expressly agreed to by that nominated bank and so communicated to the beneficiary.

a. 除非一家被指定银行是保兑行，对被指定银行进行兑付或议付的授权并不构成其必须兑付或议付的义务，被指定银行明确同意并照此通知受益人的情形除外。

b. By nominating a bank to accept a draft or incur a deferred payment undertaking, an issuing bank authorizes that nominated bank to prepay or purchase a draft accepted or a deferred payment undertaking incurred by that nominated bank.

b. 通过指定一家银行承兑汇票或承担延期付款承诺，开证行即授权该被指定银行预付或购买经其承兑的汇票或由其承担延期付款的承诺。

c. Receipt or examination and forwarding of documents by a nominated bank that is not a confirming bank does not make that nominated bank liable to honour or negotiate, nor does it constitute honour or negotiation.

c. 非保兑行身份的被指定银行接受、审核并寄送单据的行为既不使得该被指定银行具有兑付或议付的义务，也不构成兑付或议付。

### **Article 13 Bank-to-Bank Reimbursement Arrangements**

#### **第十三条 银行间偿付约定**

a. If a credit states that reimbursement is to be obtained by a nominated bank ("claiming bank") claiming on another party ("reimbursing bank"), the credit must state if the reimbursement is subject to the ICC rules for bank-to-bank reimbursements in effect on the date of issuance of the credit.

a. 如果信用证规定被指定银行（“索偿行”）须通过向另一方银行（“偿付行”）索偿获得偿付，则信用证中必须声明是否按照信用证开立日正在生效的国际商会《银行间偿付规则》办理。

b. If a credit does not state that reimbursement is subject to the ICC rules for bank-to-bank reimbursements, the following apply:

b. 如果信用证中未声明是否按照国际商会《银行间偿付规则》办理，则适用于下列条款：

i. An issuing bank must provide a reimbursing bank with a reimbursement authorization that conforms with the availability stated in the credit. The reimbursement authorization should not be subject to an expiry date.

i. 开证行必须向偿付行提供偿付授权书，该授权书须与信用证中声明的有效性一致。偿付授权书不应规定有效日期。

ii. A claiming bank shall not be required to supply a reimbursing bank with a certificate of compliance with the terms and conditions of the credit.

ii. 不应要求索偿行向偿付行提供证实单据与信用证条款及条件相符的证明。

iii. An issuing bank will be responsible for any loss of interest, together with any expenses incurred, if reimbursement is not provided on first demand by a reimbursing bank in accordance with the terms and conditions of the credit.

iii. 如果偿付行未能按照信用证的条款及条件在首次索偿时即行偿付，则开证行应对索偿行的利息损失以及产生的费用负责。

iv. A reimbursing bank's charges are for the account of the issuing bank. However, if the charges are for the account of the beneficiary, it is the responsibility of an issuing bank to so indicate in the credit and in the reimbursement authorization. If a reimbursing bank's charges are for the account of the beneficiary, they shall be deducted from the amount due to a claiming bank when reimbursement is made. If no reimbursement is made, the reimbursing bank's charges remain the obligation of the issuing bank.

iv. 偿付行的费用应由开证行承担。然而，如果费用系由受益人承担，则开证行有责任在信用证和偿付授权书中予以注明。如偿付行的费用系由受益人承担，则该费用应在偿付时从支付索偿行的金额中扣除。如果未发生偿付，开证行仍有义务承担偿付行的费用。

c. An issuing bank is not relieved of any of its obligations to provide reimbursement if reimbursement is not made by a reimbursing bank on first demand.

c. 如果偿付行未能于首次索偿时即行偿付，则开证行不能解除其自身的偿付责任。

#### **Article 14 Standard for Examination of Documents**

#### **第十四条 审核单据的标准（关键性的修改）**

a. A nominated bank acting on its nomination, a confirming bank, if any, and the issuing bank must examine a presentation to determine, on the basis of the documents alone, whether or not the documents appear on their face to constitute a complying presentation.

a. 按照指定行事的被指定银行、保兑行（如有）以及开证行必须对提示的单据进行审核，并仅以单据为基础，以决定单据在表面上看来是否构成相符提示。

b. A nominated bank acting on its nomination, a confirming bank, if any, and the issuing bank

shall each have a maximum of five banking days following the day of presentation to determine if a presentation is complying. This period is not curtailed or otherwise affected by the occurrence on or after the date of presentation of any expiry date or last day for presentation.

**b. 按照指定行事的被指定银行、保兑行（如有）以及开证行，自其收到提示单据的翌日起算，应各自拥有最多不超过五个银行工作日的的时间以决定提示是否相符。该期限不因单据提示日适逢信用证有效期或最迟提示期或在其之后而被缩减或受到其它影响。**

c. A presentation including one or more original transport documents subject to articles 19, 20, 21, 22, 23, 24 or 25 must be made by or on behalf of the beneficiary not later than 21 calendar days after the date of shipment as described in these rules, but in any event not later than the expiry date of the credit.

c. 提示若包含一份或多份按照本惯例第19条、20条、21条、22条、23条、24条或25条出具的正本运输单据，则必须由受益人或其代表按照相关条款在不迟于装运日后的二十一个公历日内提交，但无论如何不得迟于信用证的到期日。

d. Data in a document, when read in context with the credit, the document itself and international standard banking practice, need not be identical to, but must not conflict with, data in that document, any other stipulated document or the credit.

d. 单据中内容的描述不必与信用证、信用证对该项单据的描述以及国际标准银行实务完全一致，但不得与该项单据中的内容、其它规定的单据或信用证相冲突。

e. In documents other than the commercial invoice, the description of the goods, services or performance, if stated, may be in general terms not conflicting with their description in the credit.

**e. 除商业发票外，其它单据中的货物、服务或行为描述若须规定，可使用统称，但不得与信用证规定的描述相矛盾。**

f. If a credit requires presentation of a document other than a transport document, insurance document or commercial invoice, without stipulating by whom the document is to be issued or its data content, banks will accept the document as presented if its content appears to fulfil the function of the required document and otherwise complies with sub-article 14 (d).

f. 如果信用证要求提示运输单据、保险单据和商业发票以外的单据，但未规定该单据由何人出具或单据的内容。如信用证对此未做规定，只要所提交单据的内容看来满足其功能需要且其它方面与十四条（d）款相符，银行将对提示的单据予以接受。

g. A document presented but not required by the credit will be disregarded and may be returned to the presenter.

g. 提示信用证中未要求提交的单据，银行将不予置理。如果收到此类单据，可以退还提示人。

h. If a credit contains a condition without stipulating the document to indicate compliance with the condition, banks will deem such condition as not stated and will disregard it.

h. 如果信用证中包含某项条件而未规定需提交与之相符的单据，银行将认为未列明此条件，并对此不予置理。

i. A document may be dated prior to the issuance date of the credit, but must not be dated later than its date of presentation.

i. 单据的出单日期可以早于信用证开立日期，但不得迟于信用证规定的提示日期。

j. When the addresses of the beneficiary and the applicant appear in any stipulated document, they need not be the same as those stated in the credit or in any other stipulated document, but must be within the same country as the respective addresses mentioned in the credit. Contact details (telefax, telephone, email and the like) stated as part of the beneficiary's and the applicant's address will be disregarded. However, when the address and contact details of the applicant appear as part of the consignee or notify party details on a transport document subject to articles 19, 20, 21, 22, 23, 24 or 25, they must be as stated in the credit.

j. 当受益人和申请人的地址显示在任何规定的单据上时，不必与信用证或其它规定单据中显示的地址相同，但必须与信用证中述及的各自地址处于同一国家内。用于联系的资料（电传、电话、电子邮箱及类似方式）如作为受益人和申请人地址的组成部分将不予置理。然而，当申请人的地址及联系信息作为按照19条、20条、21条、22条、23条、24条或25条出具的运输单据中收货人或通知方详址的组成部分时，则必须按照信用证规定予以显示。

k. The shipper or consignor of the goods indicated on any document need not be the beneficiary of the credit.

k. 显示在任何单据中的货物的托运人或发货人不一定是信用证的受益人。

l. A transport document may be issued by any party other than a carrier, owner, master or charterer provided that the transport document meets the requirements of articles 19, 20, 21, 22, 23 or 24 of these rules.

假如运输单据能够满足本惯例第19条、20条、21条、22条、23条或24条的要求，则运输单据可以由承运人、船东、船长或租船人以外的任何一方出具。

#### **Article 15 Complying Presentation**

### **第十五条 相符提示**

- a. When an issuing bank determines that a presentation is complying, it must honour.
- a. 当开证行确定提示相符时，就必须予以兑付。
- b. When a confirming bank determines that a presentation is complying, it must honour or negotiate and forward the documents to the issuing bank.
- b. 当保兑行确定提示相符时，就必须予以兑付或议付并将单据寄往开证行。
- c. When a nominated bank determines that a presentation is complying and honours or negotiates, it must forward the documents to the confirming bank or issuing bank.
- c. 当被指定银行确定提示相符并予以兑付或议付时，必须将单据寄往保兑行或开证行。

### **Article 16 Discrepant Documents, Waiver and Notice**

#### **第十六条 不符单据及不符点的放弃与通知**（关键性的修改）

- a. When a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank determines that a presentation does not comply, it may refuse to honour or negotiate.
- a. 当按照指定行事的被指定银行、保兑行（如有）或开证行确定提示不符时，可以拒绝兑付或议付。
- b. When an issuing bank determines that a presentation does not comply, it may in its sole judgment approach the applicant for a waiver of the discrepancies. This does not, however, extend the period mentioned in sub-article 14 (b).
- b. 当开证行确定提示不符时，可以依据其独立的判断联系申请人放弃有关不符点。然而，这并不因此延长14条（b）款中提及的期限。
- c. When a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank decides to refuse to honour or negotiate, it must give a single notice to that effect to the presenter.
- c. 当按照指定行事的被指定银行、保兑行（如有）或开证行决定拒绝兑付或议付时，必须一次性通知提示人。

The notice must state:

通知必须声明：

- i. that the bank is refusing to honour or negotiate; and
- i. 银行拒绝兑付或议付；及
- ii. each discrepancy in respect of which the bank refuses to honour or negotiate; and
- ii. 银行凭以拒绝兑付或议付的各个不符点；及

- iii. a) that the bank is holding the documents pending further instructions from the presenter; or  
iii. a) 银行持有单据等候提示人进一步指示；或
- b) that the issuing bank is holding the documents until it receives a waiver from the applicant and agrees to accept it, or receives further instructions from the presenter prior to agreeing to accept a waiver; or  
b) 开证行持有单据直至收到申请人通知弃权并同意接受该弃权，或在同意接受弃权前从提示人处收到进一步指示；或
- c) that the bank is returning the documents; or  
c) 银行退回单据；或
- d) that the bank is acting in accordance with instructions previously received from the presenter.  
d) 银行按照先前从提示人处收到的指示行事。
- d. The notice required in sub-article 16 (c) must be given by telecommunication or, if that is not possible, by other expeditious means no later than the close of the fifth banking day following the day of presentation.  
d. 第十六条（c）款中要求的通知必须以电讯方式发出，或者，如果不可能以电讯方式通知时，则以其它快捷方式通知，但不得迟于提示单据日期翌日起第五个银行工作日終了。
- e. A nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank may, after providing notice required by sub-article 16 (c) (iii) (a) or (b), return the documents to the presenter at any time.  
e. 按照指定行事的被指定银行、保兑行（如有）或开证行可以在提供第十六条（c）款（iii）、（a）款或（b）款要求提供的通知后，于任何时间将单据退还提示人。
- f. If an issuing bank or a confirming bank fails to act in accordance with the provisions of this article, it shall be precluded from claiming that the documents do not constitute a complying presentation.  
f. 如果开证行或保兑行未能按照本条款的规定行事，将无权宣称单据未能构成相符提示。
- g. When an issuing bank refuses to honour or a confirming bank refuses to honour or negotiate and has given notice to that effect in accordance with this article, it shall then be entitled to claim a refund, with interest, of any reimbursement made.

g. 当开证行拒绝兑付或保兑行拒绝兑付或议付，并已经按照本条款发出通知时，该银行将有权就已经履行的偿付索取退款及其利息。

## **Article 17 Original Documents and Copies**

### **第十七条 正本单据和副本单据**

a. At least one original of each document stipulated in the credit must be presented.

a. 信用证中规定的各种单据必须至少提供一份正本。

b. A bank shall treat as an original any document bearing an apparently original signature, mark, stamp, or label of the issuer of the document, unless the document itself indicates that it is not an original.

b. 除非单据本身表明其不是正本，银行将视任何单据表面上具有单据出具人正本签字、标志、图章或标签的单据为正本单据。

c. Unless a document indicates otherwise另外的, a bank will also accept a document as original if it:

c. 除非单据另有显示，银行将接受单据作为正本单据如果该单据：

i. appears to be written, typed, perforated or stamped by the document issuer's hand; or

i. 表面看来由单据出具人手工书写、打字、穿孔签字或盖章；或

ii. appears to be on the document issuer's original stationery; or

ii. 表面看来使用单据出具人的正本信笺；或

iii. states that it is original, unless the statement appears not to apply to the document presented

.

iii. 声明单据为正本，除非该项声明表面看来与所提示的单据不符。

d. If a credit requires presentation of copies of documents, presentation of either originals or copies is permitted.

d. 如果信用证要求提交副本单据，则提交正本单据或副本单据均可。

e. If a credit requires presentation of multiple documents by using terms such as "in duplicate", "in two fold" or "in two copies", this will be satisfied by the presentation of at least one original and the remaining number in copies, except when the document itself indicates otherwise.

e. 如果信用证使用诸如“一式两份”、“两张”、“两份”等术语要求提交多份单据，则可以提交至少一份正本，其余份数以副本来满足。但单据本身另有相反指示者除外。

## **Article 18 Commercial Invoice**

### **第十八条 商业发票**



a. A commercial invoice:

a. 商业发票:

i. must appear to have been issued by the beneficiary (except as provided in article 38);

i. 必须在表面上看来系由受益人出具（第三十八条另有规定者除外）；

ii. must be made out in the name of the applicant (except as provided in sub-article 38 (g));

ii. 必须做成以申请人的名称为抬头（第三十八条（g）款另有规定者除外）

iii. must be made out in the same currency as the credit; and

iii. 必须将发票币别作成与信用证相同币种。

iv. need not be signed.

iv. 无须签字。

b. A nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank may accept a commercial invoice issued for an amount in excess of the amount permitted by the credit, and its decision will be binding upon all parties, provided the bank in question has not honoured or negotiated for an amount in excess of that permitted by the credit.

b. 按照指定行事的被指定银行、保兑行（如有）或开证行可以接受金额超过信用证所允许金额的商业发票，倘若有关银行已兑付或已议付的金额没有超过信用证所允许的金额，则该银行的决定对各有关方均具有约束力。

c. The description of the goods, services or performance in a commercial invoice must correspond with that appearing in the credit.

c. 商业发票中货物、服务或行为的描述必须与信用证中显示的内容相符。

#### **Article 19 Transport Document Covering at Least Two Different Modes of Transport**

#### **第十九条 至少包括两种不同运输方式的运输单据（关键性的修改）**

a. A transport document covering at least two different modes of transport (multimodal or combined transport document), however named, must appear to:

a. 至少包括两种不同运输方式的运输单据（即多式运输单据或联合运输单据），不论其称谓如何，必须在表明上看来:

i. indicate the name of the carrier and be signed by:

i. 显示承运人名称并由下列人员签署:

• the carrier or a named agent for or on behalf of the carrier, or

□ 承运人或承运人的具名代理或代表，或

- the master or a named agent for or on behalf of the master.

□ 船长或船长的具名代理或代表。

Any signature by the carrier, master or agent must be identified as that of the carrier, master or agent.

承运人、船长或代理的任何签字必须分别表明承运人、船长或代理的身份。

Any signature by an agent must indicate whether the agent has signed for or on behalf of the carrier or for or on behalf of the master.

代理的签字必须显示其是否作为承运人或船长的代理或代表签署提单。

ii. indicate that the goods have been dispatched, taken in charge or shipped on board at the place stated in the credit, by:

ii. 通过下述方式表明货物已在信用证规定的地点发运、接受监管或装载

- pre-printed wording, or

预先印就的措词，或

- a stamp or notation indicating the date on which the goods have been dispatched, taken in charge or shipped on board.

注明货物已发运、接受监管或装载日期的图章或批注。

The date of issuance of the transport document will be deemed to be the date of dispatch, taking in charge or shipped on board, and the date of shipment. However, if the transport document indicates, by stamp or notation, a date of dispatch, taking in charge or shipped on board, this date will be deemed to be the date of shipment.

运输单据的出具日期将被视为发运、接受监管或装载以及装运日期。然而，如果运输单据以盖章或批注方式标明发运、接受监管或装载日期，则此日期将被视为装运日期。

iii. indicate the place of dispatch, taking in charge or shipment and the place of final destination stated in the credit, even if:

iii. 显示信用证中规定的发运、接受监管或装载地点以及最终目的地的地点，即使：

a. the transport document states, in addition, a different place of dispatch, taking in charge or shipment or place of final destination, or

a. 运输单据另外显示了不同的发运、接受监管或装载地点或最终目的地的地点，或

b. the transport document contains the indication "intended" or similar qualification in relation to the vessel, port of loading or port of discharge.

b. 运输单据包含“预期”或类似限定有关船只、装货港或卸货港的指示。

iv. be the sole original transport document or, if issued in more than one original, be the full set as indicated on the transport document.

iv. 系仅有的一份正本运输单据，或者，如果出具了多份正本运输单据，应是运输单据中显示的全套正本份数。

v. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage (short form or blank back transport document). Contents of terms and conditions of carriage will not be examined.

v. 包含承运条件须参阅包含承运条件条款及条件的某一出处（简式或背面空白的运输单据）者，银行对此类承运条件的条款及条件内容不予审核。

vi. contain no indication that it is subject to a charter party.

vi. 未注明运输单据受租船合约约束。

b. For the purpose of this article, transshipment means unloading from one means of conveyance and reloading to another means of conveyance (whether or not in different modes of transport) during the carriage from the place of dispatch, taking in charge or shipment to the place of final destination stated in the credit.

b. 就本条款而言，转运意指货物在信用证中规定的发运、接受监管或装载地点到最终目的地的运输过程中，从一个运输工具卸下并重新装载到另一个运输工具上（无论是否为不同运输方式）的运输。

c. i. A transport document may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same transport document.

c. i. 只要同一运输单据包括运输全程，则运输单据可以注明货物将被转运或可被转运。

ii. A transport document indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment.

ii. 即使信用证禁止转运，银行也将接受注明转运将发生或可能发生的运输单据。

### **Article 20 Bill of Lading**

#### **第二十条 提单**

a. A bill of lading, however named, must appear to:

a. 无论其称谓如何，提单必须表面上看来：

i. indicate the name of the carrier and be signed by:

i. 显示承运人名称并由下列人员签署：

- the carrier or a named agent for or on behalf of the carrier, or

□ 承运人或承运人的具名代理或代表，或

- the master or a named agent for or on behalf of the master.

□ 船长或船长的具名代理或代表。

Any signature by the carrier, master or agent must be identified as that of the carrier, master or agent.

承运人、船长或代理的任何签字必须分别表明其承运人、船长或代理的身份。

Any signature by an agent must indicate whether the agent has signed for or on behalf of the carrier or for or on behalf of the master.

代理的签字必须显示其是否作为承运人或船长的代理或代表签署提单。

ii. indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit by:

ii. 通过下述方式表明货物已在信用证规定的装运港装载上具名船只：

- pre-printed wording, or

预先印就的措词，或

- an on board notation indicating the date on which the goods have been shipped on board.

注明货物已装船日期的装船批注。

The date of issuance of the bill of lading will be deemed to be the date of shipment unless the bill of lading contains an on board notation indicating the date of shipment, in which case the date stated in the on board notation will be deemed to be the date of shipment.

提单的出具日期将被视为装运日期，除非提单包含注明装运日期的装船批注，在此情况下，装船批注中显示的日期将被视为装运日期。

If the bill of lading contains the indication "intended vessel" or similar qualification in relation to the name of the vessel, an on board notation indicating the date of shipment and the name of the actual vessel is required.

如果提单包含"预期船"字样或类似有关限定船只的词语时，装上具名船只必须由注明装运日期以及实际装运船只名称的装船批注来证实。

iii. indicate shipment from the port of loading to the port of discharge stated in the credit.

iii. 注明装运从信用证中规定的装货港至卸货港。

If the bill of lading does not indicate the port of loading stated in the credit as the port of loading, or if it contains the indication "intended" or similar qualification in relation to the port of loading, an on board notation indicating the port of loading as stated in the credit, the date of ship

ment and the name of the vessel is required. This provision applies even when loading on board or shipment on a named vessel is indicated by pre-printed wording on the bill of lading.

如果提单未注明以信用证中规定的装货港作为装货港，或包含“预期”或类似有关限定装货港的标注者，则需要提供注明信用证中规定的装货港、装运日期以及船名的装船批注。即使提单上已注明印就的“已装船”或“已装具名船只”措词，本规定仍然适用。

iv. be the sole original bill of lading or, if issued in more than one original, be the full set as indicated on the bill of lading.

iv. 系仅有的一份正本提单，或者，如果出具了多份正本，应是提单中显示的全套正本份数。

iv. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage (short form or blank back bill of lading). Contents of terms and conditions of carriage will not be examined.

Iv. 包含承运条件须参阅包含承运条件条款及条件的某一出处（简式或背面空白的提单）者，银行对此类承运条件的条款及条件内容不予审核。

vi. contain no indication that it is subject to a charter party.

vi. 未注明运输单据受租船合约约束。

b. For the purpose of this article, transshipment means unloading from one vessel and reloading to another vessel during the carriage from the port of loading to the port of discharge stated in the credit.

b. 就本条款而言，转运意指在信用证规定的装货港到卸货港之间的海运过程中，将货物由一艘船卸下再装上另一艘船运输。

c. i. A bill of lading may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same bill of lading.

c. i. 只要同一提单包括运输全程，则提单可以注明货物将被转运或可被转运。

ii. A bill of lading indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment, if the goods have been shipped in a container, trailer or LASH barge as evidenced by the bill of lading.

ii. 银行可以接受注明将要发生或可能发生转运的提单。即使信用证禁止转运，只要提单上证实有关货物已由集装箱、拖车或子母船运输，银行仍可接受注明将要发生或可能发生转运的提单。

d. Clauses in a bill of lading stating that the carrier reserves the right to tranship will be disrega

rded.

d. 对于提单中包含的声明承运人保留转运权利的条款，银行将不予置理。

### **Article 21 Non-Negotiable Sea Waybill**

#### **第二十一条 非转让海运单**

a. A non-negotiable sea waybill, however named, must appear to:

a. 无论其称谓如何，非转让海运单必须表面上看来：

i. indicate the name of the carrier and be signed by:

i. 显示承运人名称并由下列人员签署：

- the carrier or a named agent for or on behalf of the carrier, or

承运人或承运人的具名代理或代表，或

- the master or a named agent for or on behalf of the master.

船长或船长的具名代理或代表。

Any signature by the carrier, master or agent must be identified as that of the carrier, master or agent.

承运人、船长或代理的任何签字必须分别表明其承运人、船长或代理的身份。

Any signature by an agent must indicate whether the agent has signed for or on behalf of the carrier or for or on behalf of the master.

代理的签字必须显示其是否作为承运人或船长的代理或代表签署提单。

ii. indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit by:

ii. 通过下述方式表明货物已在信用证规定的装运港装载上具名船只：

- pre-printed wording, or

预先印就的措词，或

- an on board notation indicating the date on which the goods have been shipped on board.

注明货物已装船日期的装船批注。

The date of issuance of the non-negotiable sea waybill will be deemed to be the date of shipment unless the non-negotiable sea waybill contains an on board notation indicating the date of shipment, in which case the date stated in the on board notation will be deemed to be the date of shipment.

非转让海运单的出具日期将被视为装运日期，除非非转让海运单包含注明装运日期的装船批注，在此情况下，装船批注中显示的日期将被视为装运日期。

If the non-negotiable sea waybill contains the indication "intended vessel" or similar qualification in relation to the name of the vessel, an on board notation indicating the date of shipment and the name of the actual vessel is required.

如果非转让海运单包含"预期船"字样或类似有关限定船只的词语时，装上具名船只必须由注明装运日期以及实际装运船只名称的装船批注来证实。

iii. indicate shipment from the port of loading to the port of discharge stated in the credit.

iii. 注明装运从信用证中规定的装货港至卸货港。

If the non-negotiable sea waybill does not indicate the port of loading stated in the credit as the port of loading, or if it contains the indication "intended" or similar qualification in relation to the port of loading, an on board notation indicating the port of loading as stated in the credit, the date of shipment and the name of the vessel is required. This provision applies even when loading on board or shipment on a named vessel is indicated by pre-printed wording on the non-negotiable sea waybill.

如果非转让海运单未注明以信用证中规定的装货港作为装货港，或包含“预期”或类似有关限定装货港的标注者，则需要提供注明信用证中规定的装货港、装运日期以及船名的装船批注。即使非转让海运单上已注明印就的“已装船”或“已装具名船只”措词，本规定仍然适用。

iv. be the sole original non-negotiable sea waybill or, if issued in more than one original, be the full set as indicated on the non-negotiable sea waybill.

iv. 系仅有的一份正本非转让海运单，或者，如果出具了多份正本，应是非转让海运单中显示的全套正本份数。

v. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage (short form or blank back non-negotiable sea waybill). Contents of terms and conditions of carriage will not be examined.

v. 包含承运条件须参阅包含承运条件条款及条件的某一出处（简式或背面空白的提单）者，银行对此类承运条件的条款及条件内容不予审核。

vi. contain no indication that it is subject to a charter party.

vi. 未注明运输单据受租船合约约束。

b. For the purpose of this article, transshipment means unloading from one vessel and reloading to another vessel during the carriage from the port of loading to the port of discharge stated in the credit.

b. 就本条款而言，转运意指在信用证规定的装货港到卸货港之间的海运过程中，将货物由一艘船卸下再装上另一艘船运输。

c. i. A non-negotiable sea waybill may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same non-negotiable sea waybill.

c. i. 只要同一非转让海运单包括运输全程，则非转让海运单可以注明货物将被转运或可被转运。

ii. A non-negotiable sea waybill indicating that transhipment will or may take place is acceptable, even if the credit prohibits transhipment, if the goods have been shipped in a container, trailer or LASH barge 子母船 as evidenced by the non-negotiable sea waybill.

ii. 银行可以接受注明将要发生或可能发生转运的非转让海运单。即使信用证禁止转运，只要非转让海运单上证实有关货物已由集装箱、拖车或子母船运输，银行仍可接受注明将要发生或可能发生转运的非转让海运单。

d. Clauses in a non-negotiable sea waybill stating that the carrier reserves the right to tranship will be disregarded.

d. 对于非转让海运单中包含的声明承运人保留转运权利的条款，银行将不予置理。

## **Article 22 Charter Party Bill of Lading**

### **第二十二条 租船合约提单**

a. A bill of lading, however named, containing an indication that it is subject to a charter party (charter party bill of lading), must appear to:

a. 无论其称谓如何，倘若提单包含有关受租船合约约束的指示（即租船合约提单），则必须在表面上看来：

i. be signed by:

i. 由下列当事方签署：

- the master or a named agent for or on behalf of the master, or  
船长或船长的具名代理或代表，或

- the owner or a named agent for or on behalf of the owner, or  
船东或船东的具名代理或代表，或

- the charterer or a named agent for or on behalf of the charterer.

租船主或租船主的具名代理或代表。

Any signature by the master, owner, charterer or agent must be identified as that of the master, owner, charterer or agent.



船长、船东、租船主或代理的任何签字必须分别表明其船长、船东、租船主或代理的身份。

Any signature by an agent must indicate whether the agent has signed for or on behalf of the master, owner or charterer.

代理的签字必须显示其是否作为船长、船东或租船主的代理或代表签署提单。

An agent signing for or on behalf of the owner or charterer must indicate the name of the owner or charterer.

代理人代理或代表船东或租船主签署提单时必须注明船东或租船主的名称。

ii. indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit by:

ii. 通过下述方式表明货物已在信用证规定的装运港装载上具名船只：

- pre-printed wording, or

预先印就的措词，或

- an on board notation indicating the date on which the goods have been shipped on board.

注明货物已装船日期的装船批注。

The date of issuance of the charter party bill of lading will be deemed to be the date of shipment unless the charter party bill of lading contains an on board notation indicating the date of shipment, in which case the date stated in the on board notation will be deemed to be the date of shipment.

租船合约提单的出具日期将被视为装运日期，除非租船合约提单包含注明装运日期的装船批注，在此情况下，装船批注中显示的日期将被视为装运日期。

iii. indicate shipment from the port of loading to the port of discharge stated in the credit. The port of discharge may also be shown as a range of ports or a geographical area, as stated in the credit.

iii. 注明货物由信用证中规定的装货港运输至卸货港。卸货港可以按信用证中的规定显示为一组港口或某个地理区域。

iv. be the sole original charter party bill of lading or, if issued in more than one original, be the full set as indicated on the charter party bill of lading.

iv. 系仅有的一份正本租船合约提单，或者，如果出具了多份正本，应是租船合约提单中显示的全套正本份数。

b. A bank will not examine charter party contracts, even if they are required to be presented by

the terms of the credit.

b. 即使信用证中的条款要求提交租船合约，银行也将对该租船合约不予审核。

### **Article 23 Air Transport Document**

#### **第二十三条 空运单据（关键性的修改）**

a. An air transport document, however named, must appear to:

a. 无论其称谓如何，空运单据必须在表面上看来：

i. indicate the name of the carrier and be signed by:

i. 注明承运人名称并由下列当事方签署：

- the carrier, or

承运人，或

- a named agent for or on behalf of the carrier.

承运人的具名代理或代表。

Any signature by the carrier or agent must be identified as that of the carrier or agent.

承运人或代理的任何签字必须分别表明其承运人或代理的身份。

Any signature by an agent must indicate that the agent has signed for or on behalf of the carrier

.

代理的签字必须显示其是否作为承运人的代理或代表签署空运单据。

ii. indicate that the goods have been accepted for carriage.

ii. 注明货物已收妥待运。

iii. indicate the date of issuance. This date will be deemed to be the date of shipment unless the air transport document contains a specific notation of the actual date of shipment, in which case the date stated in the notation will be deemed to be the date of shipment.

iii. 注明出具日期。这一日期将被视为装运日期，除非空运单据包含注有实际装运日期的专项批注，在此种情况下，批注中显示的日期将被视为装运日期。

Any other information appearing on the air transport document relative to the flight number and date will not be considered in determining the date of shipment.

空运单据显示的其它任何与航班号和起飞日期有关的信息不能被视为装运日期。

iv. indicate the airport of departure and the airport of destination stated in the credit.

Iv. 表明信用证规定的起飞机场和目的地机场

v. be the original for consignor or shipper, even if the credit stipulates a full set of originals.

v. 为开给发货人或拖运人的正本，即使信用证规定提交全套正本。

vi. contain terms and conditions of carriage or make reference to another source containing the terms and conditions of carriage. Contents of terms and conditions of carriage will not be examined.

Vi.载有承运条款和条件，或提示条款和条件参见别处。银行将不审核承运条款和条件的内容

b. For the purpose of this article, transshipment means unloading from one aircraft and reloading to another aircraft during the carriage from the airport of departure to the airport of destination stated in the credit.

b.就本条而言，转运是指在信用证规定的起飞机场到目的地机场的运输过程中，将货物从一飞机卸下再装上另一飞机的行为。

c. i. An air transport document may indicate that the goods will or may be transhipped, provided that the entire carriage is covered by one and the same air transport document.

c.i.空运单据可以注明货物将要或可能转运，只要全程运输由同一空运单据涵盖。

ii. An air transport document indicating that transshipment will or may take place is acceptable, even if the credit prohibits transshipment.

ii.即使信用证禁止转运，注明将要或可能发生转运的空运单据仍可接受。

#### **Article 24 Road, Rail or Inland Waterway Transport Documents**

#### **第二十四条公路、铁路或内陆水运单据**

a. A road, rail or inland waterway transport document, however named, must appear to:

a.公路、铁路或内陆水运单据，无论名称如何，必须看似：

i. indicate the name of the carrier and:

i. 表明承运人名称，并且

- be signed by the carrier or a named agent for or on behalf of the carrier, or

。由承运人或其具名代理人签署，或者

- indicate receipt of the goods by signature, stamp or notation by the carrier or a named agent for or on behalf of the carrier.

。由承运人或其具名代理人以签字、印戳或批注表明货物收讫。

Any signature, stamp or notation of receipt of the goods by the carrier or agent must be identified as that of the carrier or agent.

承运人或其具名代理人的售货签字、印戳或批注必须标明其承运人或代理人的身份。

Any signature, stamp or notation of receipt of the goods by the agent must indicate that the age

nt has signed or acted for or on behalf of the carrier.

代理人的收获签字、印戳或批注必须标明代理人系代表承运人签字或行事。

If a rail transport document does not identify the carrier, any signature or stamp of the railway company will be accepted as evidence of the document being signed by the carrier.

如果铁路运输单据没有指明承运人，可以接受铁路运输公司的任何签字或印戳作为承运人签署单据的证据。

ii. indicate the date of shipment or the date the goods have been received for shipment, dispatch or carriage at the place stated in the credit. Unless the transport document contains a dated reception, stamp, an indication of the date of receipt or a date of shipment, the date of issuance of the transport document will be deemed to be the date of shipment.

ii. 表明货物在信用证规定地点的发运日期，或者收讫代运或代发送的日期。运输单据的出具日期将被视为发运日期，除非运输单据上盖有带日期的收货印戳，或注明了收货日期或发运日期。

iii. indicate the place of shipment and the place of destination stated in the credit.

Iii. 表明信用证规定的发运地及目的地。

b. i. A road transport document must appear to be the original for consignor or shipper or bear no marking indicating for whom the document has been prepared.

b.i. 公路运输单据必须看似为开给发货人或托运人的正本，或没有认可标记表明单据开给何人。

ii. A rail transport document marked “duplicate” will be accepted as an original.

ii. 注明“第二联”的铁路运输单据将被作为正本接受。

iii. A rail or inland waterway transport document will be accepted as an original whether marked as an original or not.

iii. 无论是否注明正本字样，铁路或内陆水运单据都被作为正本接受。

c. In the absence of an indication on the transport document as to the number of originals issued, the number presented will be deemed to constitute a full set.

c. 如运输单据上未注明出具的正本数量，提交的分数即视为全套正本。

d. For the purpose of this article, transshipment means unloading from one means of conveyance and reloading to another means of conveyance, within the same mode of transport, during the carriage from the place of shipment, dispatch or carriage to the place of destination stated in the credit.

d.就本条而言，转运是指在信用证规定的发运、发送或运送的地点到目的地之间的运输过程中，在同一运输方式中从一运输工具卸下再装上另一运输工具的行为。

e. i. A road, rail or inland waterway transport document may indicate that the goods will or may be transhipped provided that the entire carriage is covered by one and the same transport document.

e.i.只要全程运输由同一运输单据涵盖，公路、铁路或内陆水运单据可以注明货物将要或可能被转运。

ii. A road, rail or inland waterway transport document indicating that transhipment will or may take place is acceptable, even if the credit prohibits transhipment.

ii.即使信用证禁止转运，注明将要或可能发生转运的公路、铁路或内陆水运单据仍可接受。

#### **Article 25 Courier Receipt, Post Receipt or Certificate of Posting**

#### **第二十五条 快递收据、邮政收据或投邮证明**

a. A courier receipt, however named, evidencing receipt of goods for transport, must appear to:

a.证明货物收讫待运的快递收据，无论名称如何，必须看似：

i. indicate the name of the courier service and be stamped or signed by the named courier service at the place from which the credit states the goods are to be shipped; and

i.表明快递机构的名称，并在信用证规定的货物发运地点由该具名快递机构盖章或签字；并且

ii. indicate a date of pick-up or of receipt or wording to this effect. This date will be deemed to be the date of shipment.

ii.表明取件或收件日期或类似词语。该日期将被视为发运日期。

b. A requirement that courier charges are to be paid or prepaid may be satisfied by a transport document issued by a courier service evidencing that courier charges are for the account of a party other than the consignee.

b.如果要求显示快递费用付讫或预付，快递机构出具的表明快递费由收货人以外的一方支付的运输单据可以满足该项要求。

c. A post receipt or certificate of posting, however named, evidencing receipt of goods for transport, must appear to be stamped or signed and dated at the place from which the credit states the goods are to be shipped. This date will be deemed to be the date of shipment.

c.证明货物收讫待运的邮政收据或投邮证明，无论名称如何，必须看似在信用证规定的

货物发运地点盖章或签署并注明日期。该日期将被视为发运日期。

#### **Article 26 "On Deck", "Shipper's Load and Count", "Said by Shipper to Contain" and Charges Additional to Freight**

#### **第二十六条 “货装舱面”、“托运人装载和计数”、“内容据托运人报称”及运费之外的费用**

a. A transport document must not indicate that the goods are or will be loaded on deck. A clause on a transport document stating that the goods may be loaded on deck is acceptable.

a. 运输单据不得表明货物装于或者将装于舱面。声明货物可能被装于舱面的运输单据条款可以接受。

b. A transport document bearing a clause such as "shipper's load and count" and "said by shipper to contain" is acceptable.

b. 载有诸如“托运人装载和计数”或“内容据托运人报称”条款的运输单据可以接受。

c. A transport document may bear a reference, by stamp or otherwise, to charges additional to the freight.

c. 运输单据上可以以印戳或其他方式提及运费之外的费用。

#### **Article 27 Clean Transport Document**

#### **第二十七条 清洁运输单据**

A bank will only accept a clean transport document. A clean transport document is one bearing no clause or notation expressly declaring a defective condition of the goods or their packaging. The word "clean" need not appear on a transport document, even if a credit has a requirement for that transport document to be "clean on board".

银行只接受清洁运输单据。清洁运输单据指未载有明确宣称货物或包装有缺陷的条款或批注的运输单据。“清洁”一词并不需要在运输单据上出现，即使信用证要求运输单据为“清洁已装船”的。

#### **Article 28 Insurance Document and Coverage**

#### **第二十八条 保险单据及保险范围**

a. An insurance document, such as an insurance policy, an insurance certificate or a declaration under an open cover, must appear to be issued and signed by an insurance company, an underwriter or their agents or their proxies.

a. 保险单据，例如保险单或预约保险项下的保险证明书或者声明书，必须看似由保险公司或承保人或其代理人或代表出具并签署。

Any signature by an agent or proxy must indicate whether the agent or proxy has signed for or on behalf of the insurance company or underwriter.

代理人或代表的签字必须标明其系代表保险公司或承保人签字。

b. When the insurance document indicates that it has been issued in more than one original, all originals must be presented.

b.如果保险单据表明其以多份正本出具，所有正本均须提交。

c. Cover notes will not be accepted.

c.暂保单将不被接受。

d. An insurance policy is acceptable in lieu of an insurance certificate or a declaration under an open cover.

d.可以接受保险单代替预约保险项下的保险证明书或声明书。

e. The date of the insurance document must be no later than the date of shipment, unless it appears from the insurance document that the cover is effective from a date not later than the date of shipment.

e.保险单据日期不得晚于发运日期，除非保险单据表明保险责任不迟于发运日生效。

f. i. The insurance document must indicate the amount of insurance coverage and be in the same currency as the credit.

f.i.保险单据必须表明投保金额并以与信用证相同的货币表示。

ii. A requirement in the credit for insurance coverage to be for a percentage of the value of the goods, of the invoice value or similar is deemed to be the minimum amount of coverage required.

ii. 信用证对于投保金额为货物价值、发票金额或类似金额的某一比例的要求，将被视为对最低保额的要求。

If there is no indication in the credit of the insurance coverage required, the amount of insurance coverage must be at least 110% of the CIF or CIP value of the goods.

如果信用证对投保金额未作规定，投保金额须至少为货物的CIF或CIP价格的110%。

When the CIF or CIP value cannot be determined from the documents, the amount of insurance coverage must be calculated on the basis of the amount for which honour or negotiation is requested or the gross value of the goods as shown on the invoice, whichever is greater.

如果从单据中不能确定CIF或者CIP价格，投保金额必须基于要求承付或议付的金额，或者基于发票上显示的货物总值来计算，两者之中取金额较高者。

iii. The insurance document must indicate that risks are covered at least between the place of taking in charge or shipment and the place of discharge or final destination as stated in the credit

iii. 保险单据须标明承包的风险区间至少涵盖从信用证规定的货物监管地或发运地开始到卸货地或最终目的地为止。

g. A credit should state the type of insurance required and, if any, the additional risks to be covered. An insurance document will be accepted without regard to any risks that are not covered if the credit uses imprecise terms such as “usual risks” or “customary risks”.

g. 信用证应规定所需投保的险别及附加险（如有的话）。如果信用证使用诸如“通常风险”或“惯常风险”等含义不确切的用语，则无论是否有漏保之风险，保险单据将被照样接受。

h. When a credit requires insurance against “all risks” and an insurance document is presented containing any “all risks” notation or clause, whether or not bearing the heading “all risks”, the insurance document will be accepted without regard to any risks stated to be excluded.

h. 当信用证规定投保“一切险”时，如保险单据载有任何“一切险”批注或条款，无论是否有“一切险”标题，均将被接受，即使其声明任何风险除外。

i. An insurance document may contain reference to any exclusion clause.

i. 保险单据可以援引任何除外责任条款。

j. An insurance document may indicate that the cover is subject to a franchise or excess (deductible).

j. 保险单据可以注明受免赔率或免赔额（减除额）约束。

### **Article 29 Extension of Expiry Date or Last Day for Presentation**

#### **第二十九条 截止日或最迟交单日的顺延**

a. If the expiry date of a credit or the last day for presentation falls on a day when the bank to which presentation is to be made is closed for reasons other than those referred to in article 36, the expiry date or the last day for presentation, as the case may be, will be extended to the first following banking day.

a. 如果信用证的截至日或最迟交单日适逢接受交单的银行非因第三十六条所述原因而歇业，则截止日或最迟交单日，视何者适用，将顺延至其重新开业的第一个银行工作日。

b. If presentation is made on the first following banking day, a nominated bank must provide the issuing bank or confirming bank with a statement on its covering schedule that the presentat



ion was made within the time limits extended in accordance with sub-article 29 (a).

b. 如果在顺延后的第一个银行工作日交单，指定银行必须在其致开证行或保兑行的面函中声明交单是在根据第二十九条a款顺延的期限内提交的。

c. The latest date for shipment will not be extended as a result of sub-article 29 (a).

c. 最迟发运日不因第二十九条a款规定的原因而顺延。

### **Article 30 Tolerance in Credit Amount, Quantity and Unit Prices**

#### **第三十条 信用证金额、数量与单价的增减幅度**

a. The words "about" or "approximately" used in connection with the amount of the credit or the quantity or the unit price stated in the credit are to be construed as allowing a tolerance not to exceed 10% more or 10% less than the amount, the quantity or the unit price to which they refer.

a. “约”或“大约”用语信用证金额或信用证规定的数量或单价时，应解释为允许有关金额或数量或单价有不超过10%的增减幅度。

b. A tolerance not to exceed 5% more or 5% less than the quantity of the goods is allowed, provided the credit does not state the quantity in terms of a stipulated number of packing units or individual items and the total amount of the drawings does not exceed the amount of the credit.

b. 在信用证未以包装单位件数或货物自身件数的方式规定货物数量时，货物数量允许有5%的增减幅度，只要总支取金额不超过信用证金额。

c. Even when partial shipments are not allowed, a tolerance not to exceed 5% less than the amount of the credit is allowed, provided that the quantity of the goods, if stated in the credit, is shipped in full and a unit price, if stated in the credit, is not reduced or that sub-article 30 (b) is not applicable. This tolerance does not apply when the credit stipulates a specific tolerance or uses the expressions referred to in sub-article 30 (a).

c. 如果信用证规定了货物数量，而该数量已全部发运，及如果信用证规定了单价，而该单价又未降低，或当第三十条b款不适用时，则即使不允许部分装运，也允许支取的金额有5%的减幅。若信用证规定有特定的增减幅度或使用第三十条a款提到的用语限定数量，则该减幅不适用。

### **Article 31 Partial Drawings or Shipments**

#### **第三十一条 分批支款或分批装运**

a. Partial drawings or shipments are allowed.

a. 允许分批支款或分批装运

b. A presentation consisting of more than one set of transport documents evidencing shipment commencing on the same means of conveyance and for the same journey, provided they indicate the same destination, will not be regarded as covering a partial shipment, even if they indicate different dates of shipment or different ports of loading, places of taking in charge or dispatch.

h. If the presentation consists of more than one set of transport documents, the latest date of shipment as evidenced on any of the sets of transport documents will be regarded as the date of shipment.

b. 表明使用同一运输工具并经由同次航程运输的数套运输单据在同一次提交时，只要显示相同目的地，将不视为部分发运，即使运输单据上标明的发运日期不同或装卸港、接管地或发送地点不同。如果交单由数套运输单据构成，其中最晚的一个发运日将被视为发运日。

A presentation consisting of one or more sets of transport documents evidencing shipment on more than one means of conveyance within the same mode of transport will be regarded as covering a partial shipment, even if the means of conveyance leave on the same day for the same destination.

含有一套或数套运输单据的交单，如果表明在同一种运输方式下经由数件运输工具运输，即使运输工具在同一天出发运往同一目的地，仍将被视为部分发运。

c. A presentation consisting of more than one courier receipt, post receipt or certificate of posting will not be regarded as a partial shipment if the courier receipts, post receipts or certificates of posting appear to have been stamped or signed by the same courier or postal service at the same place and date and for the same destination.

c. 含有一份以上快递收据、邮政收据或投邮证明的交单，如果单据看似由同一快递或邮政机构在同一地点和日期加盖印戳或签字并且表明同一目的地，将不视为部分发运。

### **Article 32 Instalment Drawings or Shipments**

#### **第三十二条 分期支款或分期装运**

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

如信用证规定在指定的时间段内分期支款或分期发运，任何一期未按信用证规定期限支取或发运时，信用证对该期及以后各期均告失效。

### **Article 33 Hours of Presentation**

### **第三十三条 交单时间**

A bank has no obligation to accept a presentation outside of its banking hours.

银行在其营业时间外无接受交单的义务。

### **Article 34 Disclaimer on Effectiveness of Documents**

#### **第三十四条 关于单据有效性的免责**

A bank assumes no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any document, or for the general or particular conditions stipulated in a document or superimposed thereon; nor does it assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance represented by any document, or for the good faith or acts or omissions, solvency, performance or standing of the consignor, the carrier, the forwarder, the consignee or the insurer of the goods or any other person.

银行对任何单据的形式、充分性、准确性、内容真实性、虚假性或法律效力，或对单据中规定或添加的一般或特殊条件，概不负责；银行对任何单据所代表的货物、服务或其他履约行为的描述、数量、重量、品质、状况、包装、交付、价值或其存在与否，或对发货人、承运人、货运代理人、收货人、货物的保险人或其他任何人的诚信与否，作为或不作为、清偿能力、履约或资信状况，也概不负责。

### **Article 35 Disclaimer on Transmission and Translation**

#### **第三十五条 关于信息传递和翻译的免责（关键性的修改）**

A bank assumes no liability or responsibility for the consequences arising out of delay, loss in transit, mutilation or other errors arising in the transmission of any messages or delivery of letters or documents, when such messages, letters or documents are transmitted or sent according to the requirements stated in the credit, or when the bank may have taken the initiative in the choice of the delivery service in the absence of such instructions in the credit.

当报文、信件或单据按照信用证的要求传输或发送时，或当信用证未作指示，银行自行选择传送服务时，银行对报文传输或信件或单据的递送过程中发生的延误、中途遗失、残缺或其他错误产生的后果，概不负责。

If a nominated bank determines that a presentation is complying and forwards the documents to the issuing bank or confirming bank, whether or not the nominated bank has honoured or negotiated, an issuing bank or confirming bank must honour or negotiate, or reimburse that nominated bank, even when the documents have been lost in transit between the nominated bank and

the issuing bank or confirming bank, or between the confirming bank and the issuing bank.

如果指定银行确定交单相符并将单据发往开证行或保兑行。无论指定的银行是否已经承付或议付，开证行或保兑行必须承付或议付，或偿付指定银行，即使单据在指定银行送往开证行或保兑行的途中，或保兑行送往开证行的途中丢失。

A bank assumes no liability or responsibility for errors in translation or interpretation of technical terms and may transmit credit terms without translating them.

银行对技术术语的翻译或解释上的错误，不负责任，并可不加翻译地传送信用证条款。

### **Article 36 Force Majeure**

#### **第三十六条 不可抗力**

A bank assumes no liability or responsibility for the consequences arising out of the interruption of its business by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, or by any strikes or lockouts or any other causes beyond its control.

银行对由于天灾、暴动、骚乱、叛乱、战争、恐怖主义行为或任何罢工、停工或其无法控制的任何其他原因导致的营业中断的后果，概不负责。

A bank will not, upon resumption of its business, honour or negotiate under a credit that expired during such interruption of its business.

银行恢复营业时，对于在营业中断期间已逾期的信用证，不再进行承付或议付。

### **Article 37 Disclaimer for Acts of an Instructed Party**

#### **第三十七条 关于被指示方行为的免责**

a. A bank utilizing the services of another bank for the purpose of giving effect to the instructions of the applicant does so for the account and at the risk of the applicant.

a.为了执行申请人的指示，银行利用其他银行的服务，其费用和 risk 由申请人承担。

b. An issuing bank or advising bank assumes no liability or responsibility should the instructions it transmits to another bank not be carried out, even if it has taken the initiative in the choice of that other bank.

b.即使银行自行选择了其他银行，如果发出指示未被执行，开证行或通知行对此亦不负责任。

c. A bank instructing another bank to perform services is liable for any commissions, fees, costs or expenses (“charges”) incurred by that bank in connection with its instructions.

c.指示另一银行提供服务的银行有责任负担被执释放因执行指示而发生的任何佣金、手续费、成本或开支（“费用”）。

If a credit states that charges are for the account of the beneficiary and charges cannot be collected or deducted from proceeds, the issuing bank remains liable for payment of charges.

如果信用证规定费用由受益人负担，而该费用未能收取或从信用证款项中扣除，开证行依然承担支付此费用的责任。

A credit or amendment should not stipulate that the advising to a beneficiary is conditional upon the receipt by the advising bank or second advising bank of its charges.

信用证或其修改不应规定向受益人的通知以通知行或第二通知行收到其费用为条件。

d. The applicant shall be bound by and liable to indemnify a bank against all obligations and responsibilities imposed by foreign laws and usages.

d. 外国法律和惯例加诸于银行的一切义务和责任，申请人应受其约束，并就此对银行负补偿之责。

### **Article 38 Transferable Credits**

#### **第三十八条 可转让信用证**

a. A bank is under no obligation to transfer a credit except to the extent and in the manner expressly consented to by that bank.

a. 银行无办理转让信用证的义务，除非该银行明确同意其转让范围和转让方式。

b. For the purpose of this article:

b. 就本条款而言：

Transferable credit means a credit that specifically states it is “transferable”. A transferable credit may be made available in whole or in part to another beneficiary (“second beneficiary”) at the request of the beneficiary (“first beneficiary”).

转让信用证意指明确表明其“可以转让”的信用证。根据受益人（“第一受益人”）的请求，转让信用证可以被全部或部分地转让给其他受益人（“第二受益人”）。

Transferring bank means a nominated bank that transfers the credit or, in a credit available with any bank, a bank that is specifically authorized by the issuing bank to transfer and that transfers the credit. An issuing bank may be a transferring bank.

转让银行意指办理信用证转让的被指定银行，或者，在适用于任何银行的信用证中，转让银行是由开证行特别授权并办理转让信用证的银行。开证行也可担任转让银行。

Transferred credit means a credit that has been made available by the transferring bank to a second beneficiary.

转让信用证意指经转让银行办理转让后可供第二受益人使用的信用证。

c. Unless otherwise agreed at the time of transfer, all charges (such as commissions, fees, costs or expenses) incurred in respect of a transfer must be paid by the first beneficiary.

c. 除非转让时另有约定，所有因办理转让而产生的费用（诸如佣金、手续费、成本或开支）必须由第一受益人支付。

d. A credit may be transferred in part to more than one second beneficiary provided partial drawings or shipments are allowed.

d. 倘若信用证允许分批支款或分批装运，信用证可以被部分地转让给一个以上的第二受益人。

A transferred credit cannot be transferred at the request of a second beneficiary to any subsequent beneficiary. The first beneficiary is not considered to be a subsequent beneficiary.

第二受益人不得要求将信用证转让给任何次序位居其后的其他受益人。第一受益人不属于此类其他受益人之列。

e. Any request for transfer must indicate if and under what conditions amendments may be advised to the second beneficiary. The transferred credit must clearly indicate those conditions.

e. 任何有关转让的申请必须指明是否以及在何种条件下可以将修改通知第二受益人。转让信用证必须明确指明这些条件。

f. If a credit is transferred to more than one second beneficiary, rejection of an amendment by one or more second beneficiary does not invalidate the acceptance by any other second beneficiary, with respect to which the transferred credit will be amended accordingly. For any second beneficiary that rejected the amendment, the transferred credit will remain unamended.

f. 如果信用证被转让给一个以上的第二受益人，其中一个或多个第二受益人拒绝接受某个信用证修改并不影响其他第二受益人接受修改。对于接受修改的第二受益人而言，信用证已做相应的修改；对于拒绝接受修改的第二受益人而言，该转让信用证仍未被修改。

g. The transferred credit must accurately reflect the terms and conditions of the credit, including confirmation, if any, with the exception of:

g. 转让信用证必须准确转载原证的条款及条件，包括保兑（如有），但下列项目除外：

- the amount of the credit,

-信用证金额，

- any unit price stated therein,

-信用证规定的任何单价，

- the expiry date,

-到期日，

- the period for presentation, or

-单据提示期限

- the latest shipment date or given period for shipment,

-最迟装运日期或规定的装运期间。

any or all of which may be reduced or curtailed.

以上任何一项或全部均可减少或缩短。

The percentage for which insurance cover must be effected may be increased to provide the amount of cover stipulated in the credit or these articles.

必须投保的保险金额的投保比例可以增加，以满足原信用证或本惯例规定的投保金额。

The name of the first beneficiary may be substituted for that of the applicant in the credit.

可以用第一受益人的名称替换原信用证中申请人的名称。

If the name of the applicant is specifically required by the credit to appear in any document other than the invoice, such requirement must be reflected in the transferred credit.

如果原信用证特别要求开证申请人名称应在除发票以外的任何单据中出现时，则转让信用证必须反映出该项要求。

h. The first beneficiary has the right to substitute its own invoice and draft, if any, for those of a second beneficiary for an amount not in excess of that stipulated in the credit, and upon such substitution the first beneficiary can draw under the credit for the difference, if any, between its invoice and the invoice of a second beneficiary.

h. 第一受益人有权以自己的发票和汇票（如有），替换第二受益人的发票和汇票（如有），其金额不得超过原信用证的金额。在如此办理单据替换时，第一受益人可在原信用证项下支取自己发票与第二受益人发票之间产生的差额（如有）。

i. If the first beneficiary is to present its own invoice and draft, if any, but fails to do so on first demand, or if the invoices presented by the first beneficiary create discrepancies that did not exist in the presentation made by the second beneficiary and the first beneficiary fails to correct them on first demand, the transferring bank has the right to present the documents as received from the second beneficiary to the issuing bank, without further responsibility to the first beneficiary.

i. 如果第一受益人应当提交其自己的发票和汇票（如有），但却未能在收到第一次要求

时照办；或第一受益人提交的发票导致了第二受益人提示的单据中本不存在的不符点，而其未能在收到第一次要求时予以修正，则转让银行有权将其从第二受益人处收到的单据向开证行提示，并不再对第一受益人负责。

j. The first beneficiary may, in its request for transfer, indicate that honour or negotiation is to be effected to a second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the credit. This is without prejudice to the right of the first beneficiary in accordance with sub-article 38 (h).

j. 第一受益人可以在其提出转让申请时，表明可在信用证被转让的地点，在原信用证的到期日之前（包括到期日）向第二受益人予以兑付或议付。本条款并不损害第一受益人在第三十八条（h）款下的权利。

k. Presentation of documents by or on behalf of a second beneficiary must be made to the transferring bank.

k. 由第二受益人或代表第二受益人提交的单据必须向转让银行提示。

### **Article 39 Assignment of Proceeds**

#### **第三十九条 款项让渡**

The fact that a credit is not stated to be transferable shall not affect the right of the beneficiary to assign any proceeds to which it may be or may become entitled under the credit, in accordance with the provisions of applicable law. This article relates only to the assignment of proceeds and not to the assignment of the right to perform under the credit.

信用证未表明可转让，并不影响受益人根据所适用的法律规定，将其在该信用证项下有权获得的款项让渡与他人的权利。本条款所涉及的仅是款项的让渡，而不是信用证项下执行权力的让渡。