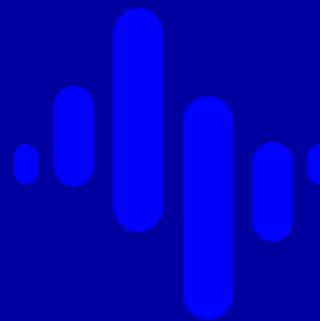


What is a “non-documentary credit condition”?



There are situations where a condition in the documentary credit does not state the document to indicate compliance with that condition. Such a condition is often referred to as a “non-documentary condition”. The question is how to relate to such a condition?



To obtain payment under a documentary credit, the beneficiary (often the seller) must make a complying presentation. This means to present the documents required by the documentary credit. In addition to the documents required, the documentary credit will include conditions. These conditions are usually stated as part of the document requirements. For example:

“Certificate of origin showing goods of Chinese origin”

This of course means that a Certificate of origin must be presented (the document required) and in addition to that the document must indicate that the goods are of Chinese origin (the condition).

There are however situations where a condition in the documentary credit does not state the document to indicate compliance with that condition. Such a condition is often referred to as a “non-documentary condition”. UCP 600 sub-article 14(h) addresses “non-documentary conditions”:

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

In other words, the main rule is that “non-documentary conditions” can be disregarded. However, this rule is qualified by ISBP 745 paragraph A26 which reads:

When a credit contains a condition without stipulating a document to indicate compliance therewith (“non-documentary condition”), compliance with such a condition need not be evidenced on any stipulated document. However, data contained in a stipulated document are not to be in conflict with the non-documentary condition. For example, when a credit indicates “packing in wooden cases” without indicating that such data is to appear on any stipulated document, a statement in any stipulated document indicating a different type of packing is considered to be a conflict of data.

The consequence of the ISBP 745 paragraph quoted above, is that there are some “non-documentary conditions” that will be part of the examination of the presented documents. This is – as an example – the situation where the documentary credit, under additional conditions, includes the condition “Goods Origin: China”.

If the documents presented do not mention the origin of the goods, the condition that the origin of the goods must be China can be disregarded.

However, if a document presented does mention the origin of the goods, this must not conflict with “China”. Elaborating on the last situation; if the documentary credit calls for a Certificate of Origin, this must (according to ISBP 745 paragraph L1), appear and relate to the invoiced goods to certify their origin. This means that it is required that a Certificate of Origin indicates the origin of the goods, and if the origin is required by the documentary credit (under “additional conditions”), the origin mentioned in the Certificate of Origin must not conflict with that. I.e. it must indicate that the origin of the goods is China.

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