UNIVERSITY OF MODENA AND REGGIO EMILIA
Department of Studies on Language and Culture

DEGREE PROGRAMME

LANGUAGES FOR COMMUNICATION IN

INTERNATIONAL ENTERPRISES AND ORGANISATIONS

Documentary Credits as a Payment Method in International Trade: Rules, Documents, and Digital Developments

Supervisor:

Prof. Giuseppe De Marinis

Co-Supervisor:

Prof. Francesco Pighi

Thesis of:

Beatrice Sernia

203231

Academic Year 2025 - 2026

Abstract

International trade transactions involve a wide range of payment methods, which offer a different balance between risks and trust between the parties. This dissertation examines the main international payment methods used in international trade, including clean payments, documentary collections, bank transfers and cheques, in order to evaluate their advantages, limitations and risk allocation. Among these payment methods, documentary credits represent one of the most widely used instruments in international trade, as they combine elements of the banking system together with the sales contract established between buyer and seller. The main objective of documentary credits is to provide a higher degree of protection to both exporters and importers by ensuring that payment is made upon the presentation of the relevant documents to the bank. This study aims to evaluate the extent to which documentary credits are capable of mitigating the risks associated with cross-border transactions, and to assess their relevance in modern international trade. In order to achieve this objective, this dissertation explores the legal foundations of documentary credits, and analyses the roles performed by the parties involved, with particular attention to the banking institutions. It also investigates the main risks associated with documentary credit operations, including credit risk, country risk and political risk. Through the analysis of the risk spectrum and of country risk assessments, this dissertation demonstrates that documentary credits provide a higher level of protection compared to other payment methods, mainly in transactions involving high commercial or political risk. The present study also explores the digital transformation of trade finance through a comparative analysis of the Uniform Customs and Practice for Documentary Credits (UP 600) and its Electronic Supplement (eUCP 2.1). By comparing more traditional practices with the electronic presentation of records introduced by the eUCP, this dissertation evaluates both the opportunities and the challenges associated with the process of digitalisation. The findings indicate that, although documentary credits continue to be one of the most effective instruments to reduce uncertainty in international trade, they do not eliminate risk entirely. Rather than completely removing risks, they shift part of the risk from the commercial sphere to the documentary sphere, making the phases of preparation, presentation and examination of documents essential. Furthermore, this study suggests that digitalisation is not replacing documentary credits, but is instead reshaping the way they operate. As a result, documentary credits continue to play a significant role in international trade, and they are adapting to the needs of an increasingly digital and interconnected global marketplace.

Riassunto

Le transazioni commerciali internazionali prevedono un'ampia gamma di metodi di pagamento, che offrono un diverso equilibrio tra rischi e fiducia tra le parti. La presente tesi esamina i principali metodi di pagamento internazionali utilizzati nel commercio internazionale, tra cui i pagamenti a vista, gli incassi documentari, i bonifici bancari e gli assegni, al fine di valutarne i vantaggi, i limiti e la ripartizione dei rischi. Tra questi metodi di pagamento, i crediti documentari rappresentano uno degli strumenti più diffusi, in quanto combinano elementi del sistema bancario con il contratto di vendita stipulato tra acquirente e venditore. L'obiettivo principale dei crediti documentari è quello di fornire un maggiore grado di protezione sia agli esportatori che agli importatori, garantendo che il pagamento avvenga al momento della presentazione dei documenti pertinenti alla banca. Il presente studio mira quindi a valutare in che misura i crediti documentari siano in grado di mitigare i rischi associati alle transazioni internazionali, e a valutarne la rilevanza nel commercio internazionale moderno. Per raggiungere tale obiettivo, la presente tesi esplora i fondamenti giuridici dei crediti documentari e analizza i ruoli svolti dalle parti coinvolte, con particolare attenzione agli istituti bancari. Vengono inoltre esaminati i principali rischi associati alle operazioni di credito documentario, tra cui il rischio di credito, il rischio paese e il rischio politico. Attraverso l'analisi dello spettro dei rischi e delle valutazioni del rischio paese, la presente tesi dimostra che i crediti documentari offrono un livello di protezione più elevato rispetto ad altri metodi di pagamento, soprattutto nelle transazioni che comportano un elevato rischio commerciale o politico. Il presente studio esplora inoltre la trasformazione digitale in atto nel settore della finanza commerciale attraverso un'analisi comparativa delle Norme e prassi uniformi relative ai crediti documentari (NUU 600) e del relativo Supplemento elettronico (eNUU 2.1). Confrontando le pratiche più tradizionali con la presentazione elettronica dei documenti introdotta dall'eNUU, questa tesi valuta sia le opportunità che le sfide associate al processo di digitalizzazione. I risultati indicano che, sebbene i crediti documentari continuino a essere uno degli strumenti più efficaci per ridurre l'incertezza nel commercio internazionale, essi non eliminano completamente il rischio. Anziché eliminare i rischi, trasferiscono parte del rischio dalla sfera commerciale a quella documentale, rendendo essenziali le fasi di preparazione, presentazione ed esame dei documenti. Inoltre, questo studio suggerisce che la digitalizzazione non sta sostituendo i crediti documentari, ma sta piuttosto ridefinendo il loro funzionamento. Di conseguenza, i crediti documentari continuano a svolgere un ruolo significativo nel commercio internazionale e si stanno adattando alle esigenze di un mercato globale sempre più digitale e interconnesso.

Résumé

Les transactions commerciales internationales font appel à un large éventail de modes de paiement, qui offrent un équilibre différent entre les risques et la confiance entre les parties. Cette thèse examine les principaux modes de paiement internationaux utilisés dans le commerce international, notamment les paiements nets, les encaissements documentaires, les virements bancaires et les chèques, afin d'évaluer leurs avantages, leurs limites et la répartition des risques. Parmi ces modes de paiement, les crédits documentaires constituent l'un des instruments les plus utilisés, car ils combinent des éléments du système bancaire avec le contrat de vente conclu entre l'acheteur et le vendeur. L'objectif principal des crédits documentaires est d'offrir un niveau de protection accru tant aux exportateurs qu'aux importateurs, en garantissant que le paiement soit effectué dès la présentation des documents requis à la banque. Cette étude vise à évaluer dans quelle mesure les crédits documentaires sont capables d'atténuer les risques liés aux transactions internationales, et à évaluer leur pertinence dans le commerce international moderne. Pour atteindre cet objectif, cette thèse explore les fondements juridiques des crédits documentaires et analyse les rôles joués par les parties concernées, en accordant une attention particulière aux établissements bancaires. Elle examine également les principaux risques associés aux opérations de crédit documentaire, notamment le risque de crédit, le risque pays et le risque politique. Grâce à l'analyse du spectre des risques et aux évaluations du risque pays, cette thèse démontre que les crédits documentaires offrent un niveau de protection plus élevé que les autres modes de paiement, notamment dans les transactions présentant un risque commercial ou politique élevé. La présente étude explore également la transformation numérique en cours du financement du commerce international à travers une analyse comparative des Règles et usances uniformes relatives aux crédits documentaires (RUU 600) et de leur supplément électronique (eRUU 2.1). En comparant les pratiques plus traditionnelles à la présentation électronique des documents introduite par l'eRUU, cette thèse évalue à la fois les opportunités et les défis liés au processus de numérisation. Les résultats indiquent que, bien que les crédits documentaires restent l'un des instruments les plus efficaces pour réduire l'incertitude dans le commerce international, ils n'éliminent pas entièrement le risque. Plutôt que de supprimer les risques, ils transfèrent une partie du risque de la sphère commerciale vers la sphère documentaire, rendant ainsi essentielles les phases de préparation, de présentation et d'examen des documents. En outre, cette étude suggère que la numérisation ne remplace pas les crédits documentaires, mais qu'elle remodèle plutôt leur mode de fonctionnement. En conséquence, les crédits documentaires continuent de jouer un rôle significatif dans le commerce international et s'adaptent aux besoins d'un marché mondial de plus en plus numérique et interconnecté.

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Introduction

International trade plays a fundamental role in the global economy as it enables the exchange of goods and services between parties which are situated in different countries. However, cross-border transactions are characterised by a number of challenges that are generally avoided in domestic trade. These risks include geographical distance together with some main differences in the legal systems of the parties, which automatically lead to political and economic uncertainties. In this context, the choice of an appropriate payment method becomes a crucial element in order to ensure the successful outcome of international transactions. Therefore, over time, several international payment methods have been developed to address the interests of both exporters and importers. On the one hand, exporters try to minimise the risk of non-payment after having shipped the goods, while, on the other hand, importers wish to avoid the risk of paying before receiving the goods.

Each payment method such as clean payments, documentary collections, and documentary credits allocates risks differently between the parties, and offers different degrees of protection to the parties. Among these instruments, documentary credits have gained an important role in international trade because of their balance between the interests of both parties through the intervention of banks as independent institutions from the sales contract. The documentary credit process is based on the principle that payment is made against the presentation of the relevant documents to the bank rather than the physical inspection of the goods to verify their conformity. Moreover, their effectiveness is established by the Uniform Customs and Practice for Documentary Credits (UCP 600), a publication issued by the International Chamber of Commerce, which provides a uniform legal framework for documentary credit transactions which is considered to be valid worldwide. Through its principles, the UCP 600 norms contribute to ensure uniformity and predictability in international trade finance operations. At the same time, the increasing digitalisation which has developed in the recent years, it has created the need to adapt more traditional credit operations to the developing digital environment. Because of this increasing need, the International Chamber of Commerce has introduced the Electronic Supplement to the UCP, which is known as eUCP. This publication, in its most recent version, establishes specific rules governing the presentation and the examination of electronic records. In this regard, the version 2.1 of the eUCP represents a significant step towards the digital transformation of trade finance and the reduction of paper-based documents. Therefore, this dissertation aims to examine the main international payment methods, with particular attention to documentary credits and their evolution in the digital era.

In particular, this dissertation seeks to answer to the following research questions:

i. Why are documentary credits considered one of the most secure payment methods in international trade?

ii. How do the UCP 600 contribute to ensure uniformity and legal security in documentary credit operations?

iii. To what extent can the eUCP 2.1 support the digitalisation of documentary credits and influence the future of international trade finance?

In order to address these research questions, the present dissertation adopts an approach based on the analysis of academic literature, international banking rules, and legal sources.

Moreover, the present dissertation is divided into four chapters. The first chapter provides an overview of the different international payment methods, and it examines their role in international trade transactions. The second chapter analyses documentary credits more in depth by taking into consideration their functioning and the roles of all the parties involved in a credit transaction. Through a comparative analysis of the articles, the third chapter explores the legal framework of documentary credits under the UCP 600, together with their evolution in the digital environment through an examination of the eUCP Version 2.1. Finally, the fourth chapter presents an analysis which takes into account all of the payment methods previously described by positioning them along the risk spectrum, and by analysing the main concepts of credit risk and country risk.

1 International payment methods

1.1 Payment as a contractual clause

According to the definitions of Smits (2021, p.15) on contract law «in any given jurisdiction, contracts are defined as legally binding agreements that must meet certain requirements». The rules and principles that govern transactions between parties are embodied into the broader concept of contract law, which ensures that contracts are binding for both the parties involved, and can be enforced in the relevant courts in case of non-performance. Because of their importance, contracts become even more relevant in international operations, where parties from different countries need to interact efficiently.

As a matter of fact, international trade operates in a scenario characterised by different legal system, and a careful formulation of contractual clauses is essential to ensure clarity even in international operations. Therefore, when concluding international agreements, it is crucial to consider the different laws and situations that regulate the agreement. In this regard, the different legal systems of the world can be classified in some categories in order to understand the different paradigms that each legal system offers for contract stipulation and conclusion. On the one hand, civil law systems derive from the ancient Roman law, and are prevalent across many European jurisdictions such as Italy, France, and Germany. These countries rely on a well-established set of rules which governs all the steps of the formation, interpretation, and performance of the contracts. Furthermore, in civil law systems the role of judges is to apply the law made by the Parliament or the Government. On the other hand, common law systems are typical of Anglo-American jurisdictions, such as the United States of America and Australia. These systems do not rely on a single codified set of norms, because, as stated by David and Brierley (1978, p. 23) common law is based on case law «the Common law legal rule is one which seeks to provide a solution to a trial rather than formulate a general rule of conduct for the future». Here, judges play a crucial role because they interpret the law and their decisions can create new legal principles which may become valid for future cases. Taking into consideration this enormous difference of approach, it is of outmost importance to understand the governing legal regime of the contract to help parties determine the most appropriate clauses to insert in the contract. These include clauses concerning payment arrangements, but also the instruments that should be adopted to mitigate the risks of non-payment, late payment, and non-conformity of the goods.

In this background of legal diversity, one of the main challenges involved in international commerce is to find the safest way to obtain payment. Because of the importance of the matter, every contract must include a provision relating to the payment terms with a high degree of precision. Price-related clauses require particular attention during their drafting. First of all, even if the exact price to be paid cannot be immediately specified, every contract must include criteria to determine the price. For instance, in some contracts there may be a change in the final price because of an increase in the price of some product components or raw materials. Therefore, even if the final price is not specified, there should be provisions that determine how the final price will be calculated once the product is ready. However, even well written clauses may be considered as problematic when external events alter the economic balance already established in the sales contract. Consequently, in order to address any imbalances that may arise between the parties because of unpredictable events, there is a clause designated for this purpose, which is known as the hardship clause. An example of a hardship clause is provided by the Centro Estero Camere di Commercio Piemontesi (1997):

> If owing to changed circumstances such as changes in monetary values or discriminatory Governamental actions or regulations or differential customs duties unduly discriminating against the origin from which X is then supplying to Y, the continued operation of which is causing undue hardship to either party, that party shall have the right to require the other party to participate in a joint examination of the position with a view to determining whether revision or modification of the provisions hereof is required and if so what revision or modification would be appropriate and equitable in the circumstances (p. 4).

The above hardship clause represents an example of a clause aimed at preserving the stability of the contract in case of changes of some conditions caused by external and non-predictable events. The aim of hardship clauses is to give the opportunity to the parties involved in a sales contract to adapt their agreement, without immediately face litigation in the competent courts. Furthermore, hardship clauses are of extreme importance because rather than providing for an automatic termination of the contract, they give the possibility to the disadvantaged party to start a renegotiation process. Finally, the hardship clause does not impose a universal adjustment of price mechanism, but it leaves space for the parties to negotiate a suitable modification according to the specific circumstances of each contract.

1.1.1 Buyer's and Seller's obligations under Vienna Convention

In order to regulate the most important aspects of international sales contracts, including the most sensitive clauses of the sales agreement, for instance those concerning the method of payment, parties may choose to rely on some international conventions. These international conventions have the objective of facilitating the procedures by giving a universal response rather than relying on the rules of each country. In particular, international sales agreements lack of a single uniform international norm which governs the conclusion of contracts, mainly because each country follows its own rules. Therefore, when dealing internationally there was the urgent need of uniform rules to be followed. In order to address this issue, in 1980 most countries ratified the Vienna Convention on the International Sale of Goods, which still represents an effective compromise between civil law and common law systems, with the aim of providing a legal framework applicable to international sales transactions worldwide.

One fundamental aspect to consider is already evident in Article 1 of the Vienna Convention provided by the Uncitral secretariat (2010, p. 1) «This Convention applies to contracts of sale of goods between parties whose places of business are in different States: (a) when the States are Contracting States; or (b) when the rules of private international law lead to the application». In other words, in order for the provisions of the Vienna Convention to apply, there must be internationality. Therefore, the contracts regulated by this convention are contracts for the sale of goods between parties whose places of businesses are located in different countries.

The Convention is structured in four parts, which cover all the steps of the formation and conclusion of an international sales contract. In particular, the Vienna Convention aimed at creating a balance between the rights of the seller and of the buyer by examining the rights and the obligations of each of the parties involved. This is evident in the analysis of Part III of the Convention, which is entitled Sales of Goods, and which analyses the obligations of both parties involved in the international transaction. In international sales agreements, in consideration of the sales of goods the buyer is required to pay the price to the seller, while the seller must, on his part, deliver conforming goods which must be properly packed on time. In this context, the concept of consideration is an essential aspect of sales agreement and of the broader concept of contract law. Consideration concerns the responsibility of both parties involved in a sales contract to perform their reciprocal obligations properly and on time. On the one hand, the seller is required to produce goods that are conform to the contract, pack them appropriately, and deliver them on time. On the other hand, the buyer in consideration of the production of the goods, must pay the agreed amount following the manner and the timing agreed in the contract (Eisenberg, 1982).

The third part of the Convention opens up with some general provisions on the sales of goods, and in Chapter II the first obligations analysed are the ones of the seller. In particular, Article 30 of the examines his general obligations: «The seller must deliver the goods, return any documents relating to them and transfer the property in the goods as required by the contract and this Convention» (Uncitral secretariat, 2010, p. 9). Under the provisions of the Vienna Convention, the seller must deliver the goods, provide any documentation relating to them and transfer the property in the goods, which is not regulated by the Convention but is rather governed by domestic law.

In the following articles, the Convention provides additional rules as to when, where, and how the seller must perform his obligations correctly. These terms are of outmost importance mainly because they do not only serve the business purpose, but they are also relevant to determine other aspects, such as the passage of risk and the conformity of goods. Article 31 of the Vienna Convention provided by the Uncitral secretariat (ibid.) states that:

> If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists: (a) if the contract of sale involves carriage of the goods—in handing the goods over to the first carrier for transmission to the buyer; (b) if, in cases not within the preceding subparagraph, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place—in placing the goods at the buyer's disposal at that place; (c) in other cases—in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

This article applies only if the parties have not already agreed for delivery of goods. In such cases, if the contract of sales involves carriage of the goods, delivery can be considered complete when the goods are handed over to the first independent carrier for later transmission to the buyer. If there are no specific goods, this article provides that the seller has the obligation to place the goods at the buyer's disposal at his place of business. In all other cases, the seller's obligation is completed when the goods are placed at buyer's disposal at the seller's place of business. Article 32 (ivi, pp. 9-10) is strictly related to Article 31 when the international sale involves carriage of goods:

(1) If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.
(2) If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.
(3) If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

According to the above article, there must be identification of the goods by using labels if the goods are not clearly identified by markings or shipping documents. Moreover, if the seller arranges the transportation of goods, he must make the contracts that are necessary for carriage, and should also choose an appropriate means of transportation for the circumstances according to the usual terms normally used for a similar transportation.

The time for delivery of the goods is of outmost importance under the Vienna Convention, because normally the buyer is obliged to pay for the goods upon delivery. In this regard, Article 33 (ivi, p. 10) provides for three circumstances for the understanding of the rulings of the convention for the time of delivery:

The seller must deliver the goods:
(a) if a date is fixed by or determinable from the contract, on that date;
(b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or
(c) in any other case, within a reasonable time after the conclusion of the contract.

In order to receive payment upon delivery, the seller is required to deliver the goods on a fixed date if it is determined by the contract. Conversely, if the contract indicates a period of time, the seller must deliver the goods on any date within the fixed period. Ultimately, if a date is not determined under the sales contract, the seller has the obligation to deliver the goods within a reasonable time. It will then be the courts to determine whether the seller delivered the goods within a reasonable time after the conclusion of the contract or not. Even if the seller's obligations are not directly involved with the payment's terms, they are of outmost importance because they set the situation in which the seller has accomplished his duties, and therefore is not exposed to major risks concerning the shipment and the delivery of the goods.

In the following articles of the Convention, precisely in Chapter III of Part III, the buyer's obligations are examined. Article 53 (ivi, p. 16) analyses the general obligations of the buyer «The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention». Under the Vienna Convention, the primary obligations of the buyer are to pay the purchase price of the goods delivered and also to take delivery of the goods. The payment of the price should be automatic, that is to say without any need for a request from the seller, as explained in Article 59 (ivi, p. 18) of the Convention «The buyer must pay the price on the date fixed by or determinable from the contract and this Convention without the need for any request or compliance with any formality on the part of the seller». Together with the main obligation of paying the price, in Article 60 (ibid.) a second major obligation is expressed «The buyer's obligation to take delivery consists: (a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and (b) in taking over the goods». Not only is the buyer obliged on his part to accomplish the payment of the price to the seller upon delivery, but the buyer should also guarantee an active role of cooperation in the transaction, for instance by taking delivery of the goods. In addition to these fundamental norms which exemplify the main obligations of the buyer, according to Article 38 a buyer should also examine the goods upon delivery to verify their conformity once they have reached the buyer's place. In case of non-conformity, the buyer should notify the seller within a reasonable period of time following the provisions in Article 39 of the Convention.

The Convention provides supplementary rules related to the topic of payment in the following articles of Part III in a specific section, which is specifically entitled "Payment of the Price". In particular, this section provides norms as to how the price will be determined and where and when the buyer should perform the obligation to pay if there is no contractual agreement covering these topics. According to Article 54, the buyer's obligation to pay the price of the goods also includes complying with the formalities required under the sales contract, as well as respecting any laws and regulations that allow the correct flow of payment. In the following article (ivi, p. 17), measures as to how determine the price are taken into consideration

> Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary,

> to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

It addresses situations in which a valid contract is concluded, but there is no specific reference to the exact price to be paid. According to the Convention such contracts are still valid, because it presumes that the parties have implicitly referred to the price generally charged for similar goods under comparable circumstances at the time of the conclusion of the contract. Finally, the place and time of payment are analysed in Articles 57 and 58. Article 57 (ibid.) states that

> (1) If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:
> (a) at the seller's place of business; or
> (b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.
> (2) The seller must bear any increase in the expenses incidental to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

If the contract does not specifically indicate a place to conclude the payment, then it must be made at the seller's place of business. However, if payment is to be made together with the exchange of goods, then it must occur at the place of the handing over of goods or documents. As for the time of payment, Article 58 (ivi, pp. 17-18) explains when the buyer must pay the price by illustrating three different cases

> (1) If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.
> (2) If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.
> 3) The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

As a general rule, the buyer must pay the price at the moment on which the seller places the goods or documents at buyer's disposal. By contrast, in contracts involving the carriage of goods, the seller can control the handing over of the goods, so that the buyer does not receive the goods before having paid the amount. At the same time, also the buyer is protected because he is not required to pay the amount until the examination of the goods. By doing so, the buyer is not forced to pay without having seen the goods and therefore excludes the potential risk of non-conformity of the goods.

1.1.2 Incoterms and their role in international sales

In addition to the legal framework provided by the United Nations Convention on Contracts for the International Sale of Goods, known as the Vienna Convention, international commercial practices also rely on the International Commercial Terms, usually referred to as Incoterms. Incoterms were first developed by the International Chamber of Commerce in 1936, and are periodically updated with the latest version which is still valid nowadays published in 2020. These terms are not part of an international convention, and therefore their incorporation into international contracts is voluntary and depends entirely on the willingness of the parties. Because of their nature, Incoterms are considered to be valid into an international sales agreement when the chosen term is inserted in a contract followed by the expression *Incoterms 2020*.

Incoterms can be defined as internationally recognised rules that provide clarity and uniformity in international transactions by defining the roles and obligations of the parties involved in international trade. The total amount of terms is thirteen, which are divided into four groups, and each term provides different rights, responsibilities and risks for the parties involved. Therefore, the choice of Incoterms is extremely important, as it controls the amount of risk exposure that each party has to possibly face. In particular, together with the provisions of the Vienna Convention, Incoterms define three fundamental aspects of the sales contracts: the place and time of delivery, the passage of risk from seller to buyer, and the allocation of the costs of transportation, insurance, and customs duties. Even if some of these aspects are already regulated under the provisions of the Vienna Convention, the role of Incoterms is to complement these rules by specifying more technical details of the international transactions (Tagliavini, Poletti, & Ronchini, 2022).

While Incoterms primarily regulate the delivery of goods, the transfer of risks, and the allocation of costs, they also play an indirect role in the determining the payment. Incoterms do not directly govern the obligation of the buyer to pay, but they influence the timing and the conditions that guarantee the correct flow of payment. For instance, Incoterms define when and how the seller fulfils his obligation to deliver goods properly, and this may determine when the buyer is expected to make payment. Moreover, Incoterms play a key role in documentary transactions, as they specify which documents the seller must provide to the buyer and vice versa. This aspect is particularly relevant in some payment methods such as documentary credits and documentary collections, because the flow of payment is strictly related to the presentation of documents (Favaro M., Assicurazione trasporti e Incoterms 2010, 2012).

1.2 International payment methods

The choice of the payment methods in international trade is one of the most critical aspects of contract negotiation. International operations are characterised by a higher level of risk and uncertainty compared to domestic transactions, mainly because of the difficulties involved with the negotiation with a foreign counter part such as the geographical distance, but also the major differences in the legal systems of the world. Because of these difficulties, the seller and the buyer, also named as the exporter and the importer, have opposite priorities. The seller tends to prefer clauses that ensure immediate payment, possibly even before delivery is completed, because he has previously paid for materials, components and for the final development of the product. By contrast, the buyer tries to postpone the payment deadline until the proper delivery of the goods is completed. The balance between the opposite interests of the parties involved in an international transaction determines the choice of the payment method. For the above reasons, the choice of the payment method under an international contract is influenced by several factors, which also include the risks involved in these transactions. In order to mitigate some of these risks, in some international payment methods such as documentary collections and letters of credit, banks play a key role of intermediaries, as they contribute to mitigate the commercial and the financial risks by guaranteeing both payment and documents flows (Di Meo A. , Il credito documentario. Le NUU 600 e la nuova Prassi Bancaria Internazionale Uniforme (PBIU), 2007).

Regardless of the payment method chosen by the parties under the international sales contract, in most cases the transfer of funds between banks is carried out through the SWIFT system. This acronym stands for Society for Worldwide Interbank Financial Telecommunication, and it is a global network with the objective of facilitating secure communication between financial institutions. More specifically, this society provides an online platform on which banks can easily exchange payment instructions and financial information. Thanks to the advent of digital communication, the SWIFT system has increasingly become a safer platform for international financial transactions, which offers many possible operations, which are listed below (Bellante, et al., 2011).

MT 1 XX	CustomerTransfers & Cheques (Ordini di pagamento clienti)
MT 2 XX	Financial Institution Transfers (Giri banche)
MT 3 XX	Treausury Markets, Foreign Exchange, Money Markets & Derivatives (Cambi, depositi e derivati)
MT 4 XX	Collections & Cash Letters (Rimesse documentarie)
MT 5 XX	Securities Markets (Titoli)
MT 6 XX	Metals & Syndications (Metalli Preziosi)
MT 7 XX	Documentary Credits & Guarantees (Crediti documentari e garanzie)
MT 8 XX	Traveller's Cheques (Assegni turistici)
MT 9 XX	Balance Reporting (Estratto conto/conferma credito)

Figure 1: Categories of possible operations with SWIFT system. Adapted from Bellante, P. et al. (2011), p. 867.

On this basis, international payment methods can be classified into four main categories: payment in advance, open account, documentary collections, and letters of credit. Each of these methods presents a different approach towards the allocation of risks, and responsibilities of the parties involved.

1.2.1 Payment in advance & Open Account

With regard to the timing of payment, parties may choose that payment is to be sent before delivery is completed, at the same time of delivery, or even after the goods have been correctly delivered. Clean payments represent a category of payment methods which include on the one hand payment in advance, and on the other hand open account payments. Although these two payment methods present opposite advantages, disadvantages and allocation of risks for the parties involved in the transaction, they are both characterised by trust. Either the exporter delivers the goods and trusts the importer to pay the amount, or the importer trusts the exporter to deliver the goods once payment is correctly received. It is therefore evident that these two types of payment methods follow the same scheme, and they only vary in the order in which the two main events of the transaction take place.

Payment in advance, also known as cash in advance, refers to a situation in which the exporter requests payment from the importer before the shipment of the goods. This represents the most favourable situation for the exporter because the delivery of the goods starts only after payment has been correctly sent. By doing so, the exporter is not exposed to major risks, while the importer may face all of the risks of the transaction, such as the risk of non-delivery of the goods or of non-performance of the service. Nevertheless, in the case in which the goods are delivered late or with a different quality compared to the conditions already established in the contract, the importer can start a legal action against the exporter on the basis of the clauses of the sales contract. Moreover, to mitigate all the risks that importers may face in this type of transaction, the importer may ask the exporter to have an advance payment guarantee, which ensures that payment in advance will be reimbursed if the goods are not shipped (Bellante, et al., 2011). This payment method is normally used in specific cases, for instance when the contract provides a partial payment corresponding to a percentage of the total value of the goods, with the remaining amount to be paid upon delivery or at a later date agreed between the parties; or even in transactions involving the shipment of goods to high-risk countries in order to reduce the risk of non-payment. Overall, payment in advance is definitely not chosen and not required from importers and it is rarely used in international transactions (Di Meo, I pagamenti internazionali, 2018).

Conversely, in an open account transaction, the importer is trusted to pay the exporter after receiving the goods or the provision of the service as agreed in the sales contract. In open account transactions, the exporter ships the goods and the documents relevant to the contract to the importer, and waits for the importer to send payment once delivery is completed. This payment method reverses the previous situation: the exporter now bears all the risks of the transaction, because the delivery of the goods is to be considered the first step of the transaction. As for the payment in advance, if the importer does not comply with his obligations, the exporter can start a legal action following the clauses of the sales contract. This payment method is commonly used in domestic transactions, while in international trade it represents a far less common practice, as it is generally preferred in situations in which there is a high degree of trust between the parties. In other words, in order for this payment method to be chosen in international trade transactions, the exporter must have a high degree of trust in the importer's willingness to accomplish his obligation to pay, otherwise parties will choose another payment method to govern their transaction (Hinkelman, 2003).

Together with payment in advance and open account transactions, another opportunity available for parties which offers a partial mitigation of risks is represented by the so called cash on delivery. Under this payment method, payment is made simultaneously with the delivery of the goods. It is mainly used in European road transportations, where the exporter is able to manage the transportation process by having the control over both the logistics and the transaction process. Despite its literal meaning, cash on delivery operations do not usually involve the physical exchange of cash. By contrast, these operations often rely on documents confirming that payment has been correctly made. This method of payment is particularly effective not only because it represents a compromise between payment in advance and open account, but mainly because it allows parties to avoid the banking system and the delays associated with the transmission of documents between banks which are situated in different countries (Bellante, et al., 2011).

1.2.2 Documentary collections

A documentary collection is a more complex method of payment which involves a partial role of banks. The role of banks is considered to be partial compared to documentary credit operations, as the banks involved in documentary collections do not provide any guarantee of payment, and they only act as collectors of payment. According to Hinkelman (2003, p. 15) a documentary collection can be defined as «an order by the seller to his bank to collect payment from the buyer in exchange for the transfer of documents that enable the holder to take possession of the goods». Normally, this payment method is suitable in international transactions which involve long distance destinations, for instance in situations in which goods are shipped by sea.

In particular, documentary collections may be carried out in two different ways: documents against payment (D/P), and documents against acceptance (D/A). In documents against payment, the importer must send payment before entering in possession of the documents that enables him to obtain the goods. Therefore, documents are released to the importer only against payment, and for this reason, it is more used in international trade. By contrast, in documents against acceptance, documents are released to the importer only against the acceptance of a draught. In other words, in documents against acceptance the importer obtains documents in exchange for a written acceptance of the obligation to pay at a specified future date (Tagliavini, Poletti, & Ronchini, 2022).

In order to create common norms to govern the obligations and responsibilities of parties in documentary collection practices, the International Chamber of Commerce published in 1996 the Uniform Rules for Collections, also known with the acronym of URC 522. These rules are applicable to the contracts only if and when the parties make explicit reference to the URC 522, and establish that the norms provided in this publication can be applicable to their transaction. In particular, the parties involved in documentary collections are examined in Article 3 (International Chamber of Commerce, 1996) of this publication:

> For the purpose of these Articles the “parties thereto” are:
>
> 1) The ‘principal’ who is the party entrusting the handling of a collection to a bank;
> 2) The ‘remitting bank’ which is the bank to which the principal has entrusted the handling of a collection;
> 3) The ‘collecting bank’ which is any bank, other than the remitting bank, involved in processing the collection
> 4) The ‘presenting bank’ which is the collecting bank making presentation to the drawee.
>
> The drawee is the one to whom presentation is to be made in accordance with the collection instruction.

Article 3 of the Uniform Rules for Collection is of outmost importance because it defines the roles and responsibilities of each of the parties involved in a documentary collection process. According to this article, there are five main parties to take into consideration in documentary collections: the principal, the remitting bank, the collecting bank, the presenting bank and the drawee. Although five parties are mentioned in the article, there may be only four because the collecting and the presenting bank may not be separate. In order to understand the role of each party, the mechanisms of a documentary collection can be separated into three fundamental steps: the flow of goods, followed by the flow of documents and finally by the flow of payment.

Once the importer and the exporter have agreed on a documentary collection as the method of payment for their sales contract, the exporter ships the goods. After the goods have been shipped, the exporter must forward the relevant documents, such as the commercial invoice and the bill of lading to the remitting bank. Together with these documents, the remitting bank should also send a collection instruction to the importer’s bank, which is called the collecting bank. The collection instruction can be defined as a document which gives precise information to both the importer and his bank, that is the collecting bank, on how to complete the transaction successfully (Cowdell, McGregor, Ibrahim, Chantry, & Hennah, 2014). In particular, the role of the collection instruction is examined in Article 4 (ibid.) of URC 522:

All documents sent for collection must be accompanied by a collection instruction indicating that the collection is subject to URC 522 and giving complete and precise instructions. Banks are only permitted to act upon the instructions given in such collection instruction, and in accordance with these Rules.

After having received the collection instruction, the collecting bank works to ensure that payment or acceptance is obtained from the importer. Moreover, Article 3 takes into consideration another bank, which is known as the presenting bank. The presenting bank is a specific type of collecting bank that must not to transfer the documents to the importer until payment is made (D/P) or upon an acceptance that payment will be made within a specified period of time (D/A), following the instructions given in the collection instruction. In the case of documents against payment, the buyer can obtain the relevant documents once payment is made to the bank, while in case of document against acceptance, the buyer accepts a bill of exchange and therefore accepts to pay at a future specified date. Lastly, once in possession of the documents, the importer can present the documents to the carrier and can finally enter in possession of the goods (United Nations, Trade Finance Infrastructure Development Handbook for Economies in Transition, 2005).

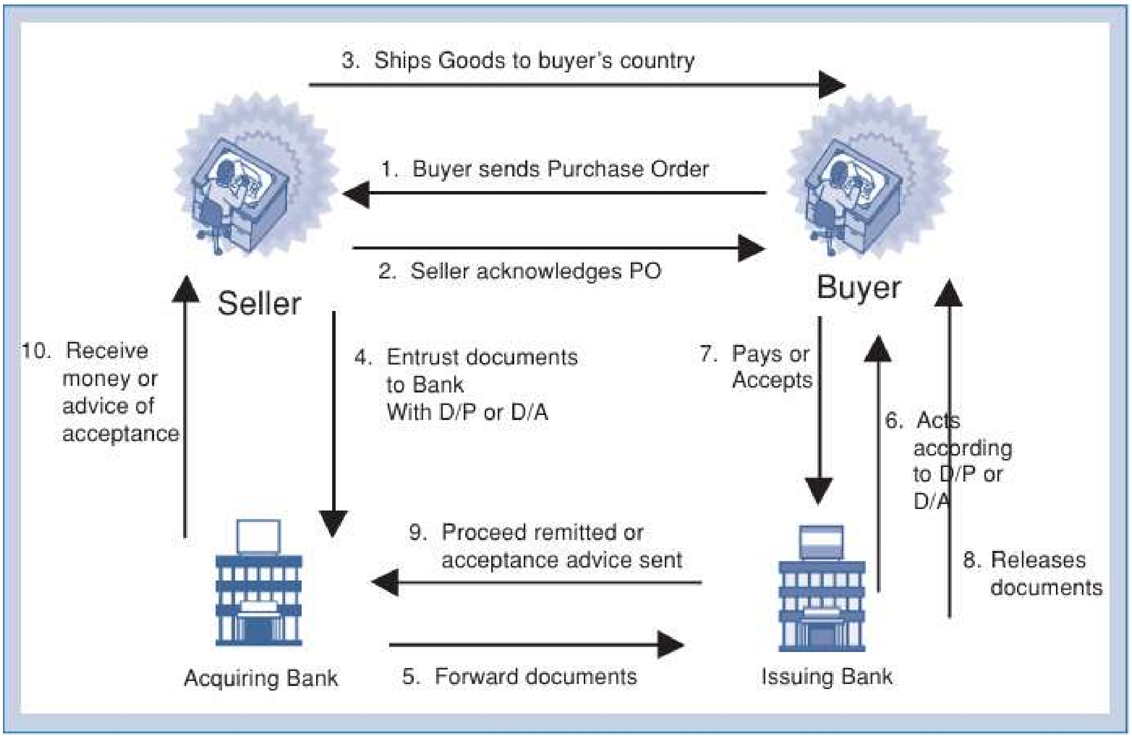


Figure 2: Documentary collection process. Adapted from United Nations (2005), p. 19.

At first, it may seem that documentary collections completely protect the exporter on payment. However, this method of payment involves significant risks, mainly because banks do not assume any kind of responsibility in the transaction, and they do not have the obligation to send payment to the counterparty. In documentary collections banks act only as intermediaries, as they carry out the collection instruction in accordance with the exporter's needs, and they act as collectors of payment.

As previously discussed, documentary collections may be carried out in two different ways, and these two methods of payment carry different risks for both importers and exporters. In the case of documents against payment, the exporter can somewhat control the transaction as the documents, and the goods, are only released to the importer once payment has been correctly made. However, the exporter can face the risk of non-payment: in the case in which the importer refuses to pay and declines to collect the documents, the exporter will not obtain payment for the goods. Conversely, documents against acceptance shift a portion of risks to the exporter. Under this method, the importer obtains the documents and can have access to the goods upon the acceptance of a bill of exchange, which obliges the importer to pay at a future fixed date. This solution is a major advantage to consider for the importer, as it allows for a later payment, but it increases the risks for the exporter, as he does not receive payment immediately (Tagliavini, Poletti, & Ronchini, 2022).

1.2.3 Other means of payment

In addition to the main international payment methods discussed above, other payments instruments are also commonly used in international trade. Among these, bank transfers represent the simplest and most widely adopted method, especially in Western European transactions. In a bank transfer, the debtor's bank starts a payment order and involves a bank in the beneficiary's country to transfer a certain amount of money following the conditions established in the sales contract. In order to facilitate the transactions through bank transfers, the European Central Bank has introduced the use of the IBAN which stands for International Bank Account Number. Together with the IBAN, it is also important to consider the BIC, known as the Bank Identifier Code. These two terms are part of a system that ensures an even more secure processing of international transactions. Moreover, the inclusion of these codes in bank transfers makes it possible for banks using the SWIFT system to message directly, and to avoid any sort of delay (Cowdell, McGregor, Ibrahim, Chantry, & Hennah, 2014).

The articulation of a bank transfer follows a precise process: after the conclusion of the international sales contract, the buyer, who is the debtor, instructs his bank to send the agreed amount to the seller. The bank receiving the payment order requires that all relevant details of the operation such as its purpose and reference information are clearly indicated in the payment instructions. Once the buyer's bank has verified the availability of funds in the buyer's account, the amount is transferred to the seller's bank. Ultimately, these funds are credited to the seller's account. Bank transfers are normally considered to be an easy and immediate solution for payments mainly because of the small costs both for the debtor and the beneficiary, but they involve some risks that must be taken into account. Given that in bank transfers the initiative of payment starts from the debtor, the exporter must have a high degree of trust in the importer's willingness to accomplish his main obligation of payment. For this reason, bank transfers are used in cases in which the exporter has already established a solid commercial relationship with the counterparty, or in situations in which the risk is considered to be acceptable (Bellante, et al., 2011).

An additional means of payment that is relevant to take into consideration even in international trade is the bank cheque. Nowadays, despite the digitalisation process which is also affecting the sphere of financial transactions, cheques are occasionally used in international trade. A cheque can be defined as a written order from a debtor asking his bank to transfer a certain amount of money from his bank account to the beneficiary's account. In particular, a cheque involves four main parties: the drawer, who is the debtor and who issues the cheque; the drawee bank, which has to send payment to the beneficiary; the issuing bank, which is the drawer's bank; and the beneficiary, who is entitled to receive the money. Moreover, cheques can take different forms according to who requests the payment. Generally, a cheque is issued directly by the drawer's bank account: the drawer instructs his bank to pay a certain amount to a beneficiary using the money available in his bank account. This is a basic type of cheque, which relies on the drawer's funds and on his reliability. A second possible option is a cheque issued by a bank on behalf of the drawer, who has previously deposited the necessary funds. In this case, the bank has the obligation to pay the amount of money indicated on the cheque from the drawer to the beneficiary. Since the bank guarantees the payment to the beneficiary, this type of cheque is considered to be more secure compared to normal cheques. A third and final option, which is more commonly used in international trade, is known as the banker's draft. Banker's drafts involve a bank which issues a cheque based on funds held in an account with a foreign correspondent bank. In other words, the bank follows the drawer's instructions and issues a cheque in favour of the beneficiary, relying on its own bank account abroad. Lastly, the cheque may either be sent directly to the beneficiary or delivered to the customer, who will then forward it to the final recipient (Borroni & Oriani, 2020).

Unlike bank transfers, the availability of funds to the beneficiary's account is not immediate because the amount of money is not immediately credited. Therefore, payment is not secured until the cheque has been effectively sent by the issuing bank. Furthermore, the use of cheques in international trade may include some other risks, including potential non-payment and delays due to the transmission of cheques from one bank to another, or from the drawer to the banks. For these reasons, cheques are generally considered a less secure and a less efficient payment method compared to more electronic and more structured instruments of payment (Bellante, et al., 2011).

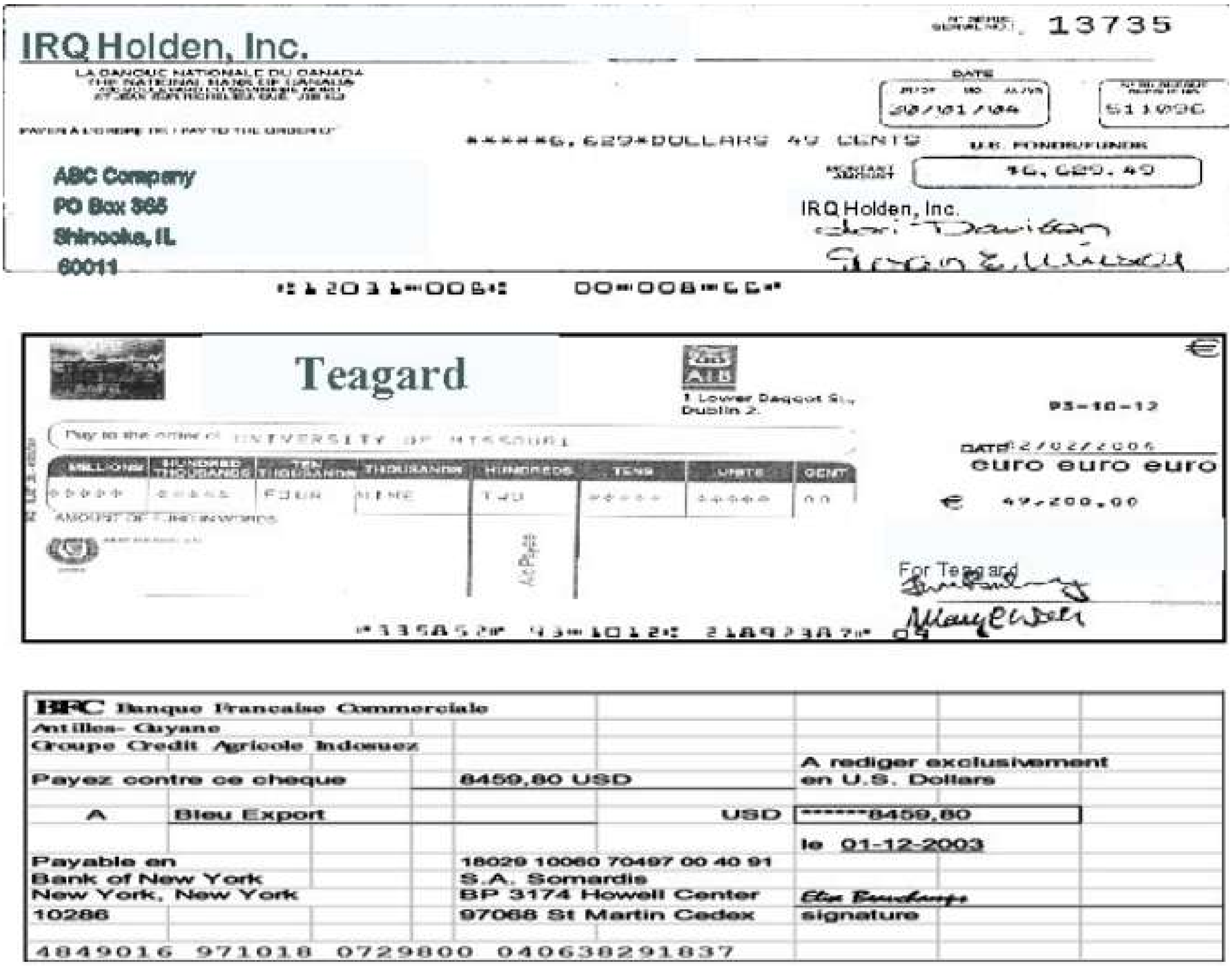


Figure 3: Examples of bank cheques. Retrieved from: https://present5.com/international-methods-of-payment-avv-alessandro-russo-trade/.

2 The documentary credit

2.1 Letter of credit: definition and role

A letter of credit, also known as documentary credit, is one of the most widely used payment methods in international trade, in particular when the transaction involves one of the parties which is located outside Western Europe. According to Deak (1981, p. 229) a letter of credit can be defined as «an instrument issued by a bank at the request of its customer to pay an indicated amount to the beneficiary against certain documents in accordance with some specific terms». Normally, a transaction regulated by a letter of credit involves two sides: the applicant's side and the beneficiary's side, and both sides have a bank making four parties involved in the transaction. This method of payment can therefore be understood as an obligation that the applicant's bank undertakes to pay the due amount to the beneficiary, only upon presentation of the relevant documents, provided that they comply with the terms of both the credit and the sales contract (Tagliavini, Poletti, & Ronchini, 2022).

Due to the different roles played by the parties and by the banks involved in a documentary credit operation, there are several legal relations that arise between the parties, and not one single contract. For instance, the relationship between the applicant and the beneficiary is regulated by the underlying sales contract. The buyer opens the letter of credit and agrees to pay the due amount in accordance with the sales contract, while the seller must deliver the goods in accordance with the sales contract. Another important relationship is the one established between the issuing bank and the applicant. This contractual relation can be defined as a contract of entrustment: the buyer asks the issuing bank to act on his behalf to open the letter of credit in accordance with the credit terms and the sales contract, and to carefully examine all documents in order to ensure that they are conform. Furthermore, the relation between the issuing bank and the beneficiary is adjusted by the letter of credit. Once the credit is issued and communicated to the seller, the bank takes on an independent commitment to send payment: as long as the seller presents the relevant documents, and they result to be in conformity, the issuing bank is obliged to pay. Finally, the commercial relation between the advising bank and the issuing bank is a principal-agent relationship. The issuing bank asks the advising bank to inform the seller that the credit has been opened. The advising bank's main obligation is to verify that the notification of the opening of the credit is authentic before forwarding it to the seller (Banks, 1984).

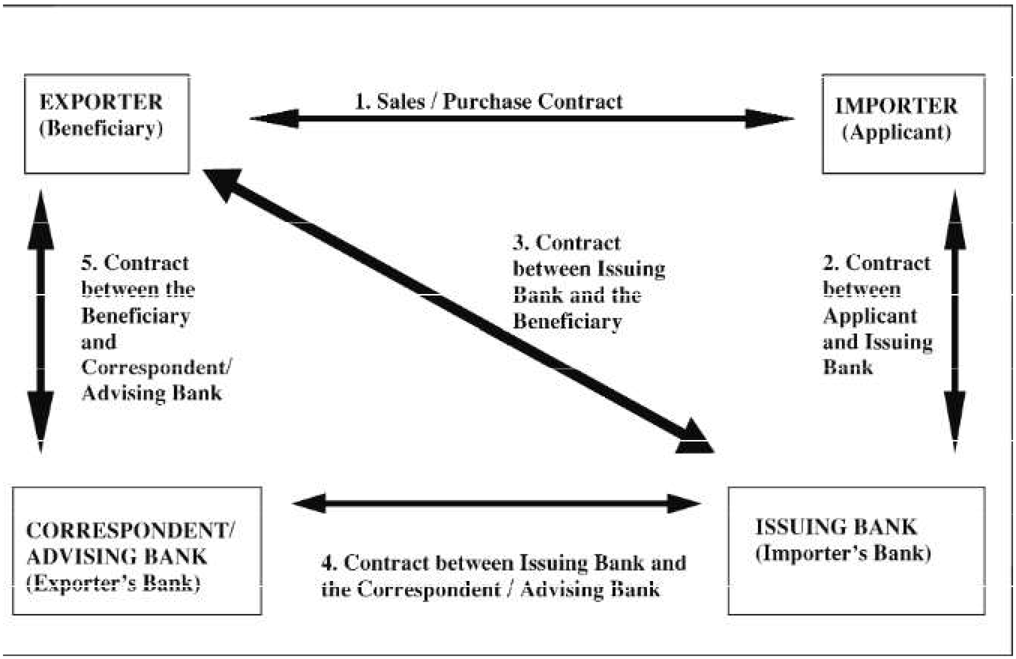


Figure 4: Typical contracts arising from a letter of credit operation. Adapted from Bergami (2006), p. 415.

Gradually, this payment method has become particularly relevant in international transactions, especially when dealing with parties located in countries with high levels of economic, political and credit risk, enabling international transactions with any country in the world. Moreover, its frequent use in international trade can also be explained by the fact that letters of credit try to address the interests and the needs of both parties.

The seller's main concern is to avoid the risk of non-payment after the goods have been shipped. In addition to this, the seller wants protection against possible delays and refusals by the buyer, and prefers to rely on the financial reliability of a bank. Therefore, the involvement of banks provides to the seller reassurance that payment will be made provided that the agreed terms are respected and fulfilled. On the other hand, the letters of credit offer to the buyer the advantage of avoiding payment in advance, because payment will only be released once the relevant documents are presented and are conform with the agreed terms and the sales contract. Furthermore, the buyer may also benefit from the financial support provided by his bank. In particular, in documentary credits the bank's obligation to pay is independent from the sales contract because it only depends on the compliance of documents with the credit terms. Finally, since a neutral party is involved in the transaction and undertakes the obligation to pay, the involvement of banks provide reassurance to both the buyer and the seller. Banks make sure that payment flows correctly, by sending payment to the seller when all the conditions established in the credit terms are met (Tagliavini, Poletti, & Ronchini, 2022).

The operation of letters of credit has evolved over time: the invention of money and of the means of transport made it possible for the development of new methods of payment. This practice originated in the 18th century in the Anglo-Saxon banking systems, where it used to rely on the physical exchange of original documents, and the credit was sent by post or through intermediary banks whose role was limited to transmitting documents. However, this system presented several difficulties, for instance slow communication and the risk of loss of documents. For this reason, with the development of technology and with the increasing digitalisation of banking processes, more efficient methods such as the telex and the SWIFT system have replaced the more traditional practices. As a matter of fact, nowadays, the letter of credit is document based, and payment is sent together with the presentation of relevant documents, rather than verifying the quality and quantity of the goods involved in the international transaction. In documentary credits, the bank is required to make payment in favour of the seller as long as the documents submitted meet the conditions specified in the credit terms. Therefore, the seller can only receive payment from the buyer's bank once he has provided all the required documents correctly, respecting the procedures and deadlines set out in the credit terms. By doing so, the bank assumes the primary obligation of payment, replacing the buyer and offering the seller a more reliable guarantee of payment. By doing so, the letter of credit shifts the obligation of payment from the buyer to the bank, which is generally considered to be a more reliable party in financial terms. Because the bank takes on a significant level of risk, it must carefully checks the documents provided by the exporter. These documents must fully meet the requirements of the letter of credit, as they are the only element on which the transaction relies and is evaluated. For this reason, it is quite common for issues and delays in the bank's approval to occur, especially when discrepancies are found (Di Meo, Pagamenti internazionali e crediti documentari, 2004).

2.1.1 Functions and process of the letter of credit operation

In order to understand how a documentary credit operation works, it is important to analyse its flow of operations. In particular, documentary credits operate through a series of steps which involve the buyer, the seller and the banking system. It is not a single action, but it is a complex process in which each party plays a specific role at different moments of the credit operation.

The table below illustrates in a simplified way, an overview of all the steps that lead to the conclusion of a documentary credit operation.

1) Conclusion of the contract between buyer and seller
2) The buyer asks his bank to open a letter of credit
3) The buyer provides the necessary funds
4) The buyer's bank issues the letter of credit
5) The seller's bank receives the letter of credit, checks it and informs the seller
6) The credit may be confirmed by another bank
7) The seller checks the terms of the credit
8) If needed, the seller asks for changes
9) The seller prepares and ships the goods
10) The seller gives the relevant documents to the bank
11) The banks checks that documents meet all the conditions of the credit
12) If documents are relevant, the bank issues the payment
13) The buyer checks the documents again
14) If documents are compliant, the buyer received the documents and pays the bank
15) The buyer collects the goods

Table 1: Stages of the documentary credit. Retrieved from Di Meo, A. (2012), pp. 101-102.

From the table, it is possible to highlight the fact that all the steps of a documentary credit operation are interconnected, as they rely on a number of actions that must take place in a specific order. A documentary credit operation follows some precise phases that will now be analysed more in depth, starting from the initial agreement between the buyer and the seller.

2.1.1.1 The agreement between buyer and seller

The whole process begins with the agreement between the buyer and the seller, which lays the foundation for the entire documentary credit operation. Once a documentary credit is chosen as the method of payment, it is essential for the parties to define all of the main aspects of their agreement from the very beginning. Unlike other payment methods, a letter of credit involves more complex procedures, which require a higher level of coordination between the parties.

In particular, the buyer and the seller should clearly identify the banks involved in the transaction: the issuing bank, the advising bank, and in some cases the confirming bank (Langerich, 2009). Moreover, it is possible for the parties to choose between a confirmed and a not confirmed letter of credit. The choice of a confirmed or not confirmed letter of credit depends on some factors such as the evaluation of the political, economic and credit risks. Under a non-confirmed letter of credit, the issuing bank is the only bank responsible for payment, while in a confirmed letter of credit an additional bank, known as the confirming bank, guarantees payment. If parties wish to have an additional bank that further guarantees the flow of payment, they need to agree on a confirmed letter of credit. This means that a confirming bank needs to be contacted to check its willingness to add its confirmation to the documentary credit transaction.

Furthermore, in this preliminary phase, all the essential elements of the credit must be specified and agreed between the parties. For instance, these include the precise identification of the applicant and the beneficiary, the exact amount of money to be paid, the delivery terms, the expiry date of the credit, and all the details related to the shipment of the goods. Some of these aspects can be further defined by inserting a clause making reference to Incoterms 2020, which provide specific rules for the international delivery of goods.

Another crucial aspect to be considered concerns the documents required under the credit terms. These documents must be defined carefully to ensure that the seller is able to present them to the bank easily, while giving the buyer sufficient reassurance that the goods will be correctly delivered as agreed. To facilitate this first stage of the transaction, and even the following ones, parties often rely on some standard forms or templates, which can be attached to documents to ensure that all the relevant details are clearly established from the very beginning of the procedure (Di Meo A. , 2019).

2.1.1.2 Buyer's instruction to his bank to issue the documentary credit

Once the agreement between the buyer and the seller is clearly defined with the main terms of the documentary credit, the buyer requests his bank, known as the issuing bank, to open the credit in favour of the seller. In order to open the credit, the issuing bank requires the buyer some documents which must prove the existence of the transaction. In particular, the buyer has to complete an application form with all the details and information related to the agreement, and submit it to the issuing bank in order for a credit operation to start. By submitting the formal request to open the credit, the issuing bank acts on the buyer's behalf, while the buyer undertakes the obligation to provide to the bank the funds needed for the transaction. At the same time, the bank issues the credit only if the buyer is considered to be financially reliable and able to cover the total amount of the payment. After having verified the buyer's financial reliability, the bank must also check whether there are any legal restrictions at a national or international level that could affect the correct flow of the credit transaction, especially in relation to the country where the seller is based (Tagliavini, Poletti, & Ronchini, 2022).

2.1.1.3 Issuance of the documentary credit

The issuance of a documentary credit represents the moment in which the issuing bank opens the credit in favour of the seller. In particular, the credit is transmitted to a bank situated in the seller's country, known as the advising bank, which will notify the seller of the opening of the credit operation.

Once the credit is issued, the issuing bank undertakes an independent obligation towards the seller: it agrees to send payment either immediately, at a future fixed date, or through some other agreed methods, provided that the relevant documents are presented in full compliance with the credit terms. Therefore, the bank will fulfil its obligation to pay only if the seller presents all the relevant documents required according to the credit terms, and these documents must comply with all the terms specified in the credit (Collyer, 2007).

2.1.1.4 Notification of the documentary credit

The notification stage refers to the moment in which the opening of the documentary credit operation is communicated to the seller. The main role of the advising bank is to inform the seller that the credit has been opened. However, before doing so, the advising bank must verify the authenticity of the message received, which typically occurs through the SWIFT system. Furthermore, the advising bank must also verify that the message that has been received from the issuing bank can be considered a valid and operative credit. Only at this point the advising bank can proceed with the official notification to the beneficiary by sending a copy of the credit together with a formal notice of the issuance of the credit. Once received, the seller must examine the credit in order to verify if it respects all the terms previously established. When the seller has examined the credit and has accepted all of the conditions, he can start arranging the shipment of the goods to the importer (Langerich, 2009).

2.1.1.5 Confirmation of the credit

The confirmation of a documentary credit occurs when a bank, different from the issuing bank, adds its commitment to guarantee that payment will be correctly made in favour of the beneficiary. This means that the confirming bank undertakes the obligation to pay once the required documents are presented. As a result, when the relevant documents are submitted, the confirming bank will send the payment either immediately, at a later date, or through other agreed methods according to the conditions of the credit. The main advantage of a confirmed letter of credit is represented by the additional level of security provided to the seller. By relying on a second bank, the beneficiary is protected not only against the risk associated with the issuing bank, but also against the country risk and the potential issues related to document handling. In other words, once the confirming bank accepts the relevant documents and considers them as compliant, it is obliged to pay, independently of any problems related to the issuing bank or to the buyer (Di Meo A. , 2019).

2.1.1.6 Amendments to the documentary credit's terms

An amendment refers to a change made to the original terms of the credit. These changes may be required when either the buyer or the seller realise that they cannot comply with certain conditions, or when there is the need to modify previously agreed elements. In particular, it is common practice that amendments concern some key aspects of the credit terms such as the expiry date of the credit, the place of shipment or delivery, and the relevant documents required. An amendment only becomes effective if all parties including the issuing bank, the beneficiary and the confirming bank agree to it. Without their consent, the proposed changes have no legal effect. The procedure of amendments follows the structure of documentary credits: once the credit is issued, the bank assumes a commitment based on specific terms specified in the credit. As a result, these terms cannot be changed unilaterally, because any modification must be accepted by all parties involved in a credit operation. For these reasons, this phase is particularly sensitive when it affects the validity period of the credit. In such cases, the issuing bank must extend the validity of its obligation to pay. The issuing bank will also reassess the buyer's financial position to determine whether the level of reliability and the availability of funds still apply, or whether new circumstances may prevent it from extending the period of validity of the credit (ibid.).

2.1.1.7 Use of the documentary credit

The use of the documentary credit refers to the phase in which the seller presents the relevant documents to the bank in order to obtain payment, and this must be done within the validity period and at the place indicated in the credit terms (Langerich, 2009).

In particular, the expiry date and place of presentation of the documents are two crucial aspects, as they indicate the deadline and the location in which the documents must be handed over for examination. The expiry date is fundamental because after the date indicated in the credit terms, the bank is no longer required to accomplish its obligation to pay. At the same time, the credit terms always specify the bank through which the credit can be used: in some cases, it is a specific bank such as the issuing or confirming bank, while in other cases it may be available in any bank. At this stage, the bank examines all the relevant documents to decide whether they comply or not with the terms of the credit. If the documents do not conform with the credit terms, the bank can refuse them; by contrast, if the documents comply with the credit terms, the bank can send payment to the seller (ibid.).

2.1.1.8 Examination of the documents

The examination of documents is one of the most critical stages of a documentary credit operation. The bank's decision to accept or reject the documents determines whether payment will be sent to the seller or not. For this reason, the beneficiary must ensure that all the relevant documents are submitted, and are fully compliant with the terms of the credit: this is because even a minor mistake may affect the correct outcome of the transaction. A key feature of this process is that banks do not evaluate the actual performance of the sales contract, but only verify whether the documents match the terms of the credit. As a result, the stage of the examination of documents represents a delicate moment for both the seller and the bank. The seller relies on the documents to secure payment, while the bank must carefully verify that every detail is correct before fulfilling its obligation to send payment. Once the examination phase is completed, documents may be considered either compliant or non-compliant. If they are compliant, the bank proceeds with the agreed form of payment, such as immediate or deferred payment. By contrast, if some discrepancies are found, the bank may refuse the documents, and the seller risks not receiving the expected payment (Collyer, 2007).

This strict approach towards documentary compliance and the examination of documents is also confirmed by empirical evidence. According to Mann (2000), after an examination of data from files held by banks located in the USA, discrepancy rates were reported to be high. In particular, Mann (2000, p. 2502) states that «the presentations conformed to the letters of credit in only 135 (27%) of the 500 files. Although the rates did differ from bank to bank […] conforming presentations provided the exception to a general pattern of discrepancy». In other words, it is evident that the discrepancies in the examination of documents reaches 73% of the transactions, highlighting how non-compliant documents are more common than compliant ones. A relevant factor for the understanding of the reasons behind these common discrepancies is represented by the geographical location of the parties involved. Mann (2000) suggests that documents are less likely to conform if the applicant is located in the industrial West (USA, Canada, Switzerland, European Union), while documents are more likely to conform if the applicant is situated in the industrial Asia (Japan, New Zealand, Singapore, Hong Kong). The study shows that discrepancy rates tend to be:

- higher in transactions involving parties located in the industrial West (79%),
- lower in those involving industrial Asia (around 60%),
- intermediate in non-industrialised nations (72%)

	NUMBER OF TRANSACTIONS	PERCENTAGE W/ DISCREPANCIES
Industrial West	280	79%
Industrial Asia	123	59%
Nonindustrialized	97	72%

Figure 5: Discrepancy rates by region. Adapted from Mann (2000), p. 2507.

One may expect that transactions involving more developed economies would show less discrepancies compared to non-industrialised countries, but the data shown in the table does not support this assumption as no single factor can explain why discrepancies are more frequent in some regions than in others. One possible explanation can be related to the different levels of trust and of perceived risk in international transactions. Exporters dealing with more reliable markets, such as the United States, may feel less pressure to present documents which are in perfect compliance with the terms of the credit, as they are less concerned about the buyer's behaviour.

By contrast, exporters selling products to less stable markets, may be more cautious and pay more attention to document accuracy in order to obtain payment. Overall, it is difficult to identify a single clear explanation for these differences, but data suggest that local business practices, banking standards, and attitudes towards risk may play an important role (Mann, 2000).

2.1.1.9 Acceptance and/or refusal of the documents

If, after the examination, the documents are fully compliant with the terms of the credit, the bank will proceed with payment following the agreed method. The phase of the acceptance of documents represents a crucial moment in the documentary credit operation, as it transforms the bank's commitment into a binding obligation to send payment in accordance with the credit terms. Conversely, if the documents do not comply with the requirements of the credit, the banks involved may refuse to honour the credit, and the seller can possibly face the risk of non-payment. In such cases, the beneficiary is formally informed of the refusal, and the message must include a clear list of the discrepancies identified, which prevent the execution of the bank's obligation. The most common irregularities include, for example, late presentation of documents beyond the expiry date of the credit, incomplete documents, discrepancies in shipment details, or inconsistencies between documents. In all these cases, even minor inconsistencies may lead to rejection, since banks operate on the principle of documentary compliance rather than performance of the underlying sales contract (Collyer, 2007).

Documents received	22 Mar 20xx	10.40am	(examiner's initial)
Presenter ABC Ltd	TLX TEL	Contact	Mr Export Manager
Presenter's Ref	Exp ABC	19982	
Credit No. 123456	Issuing Bank	CIB	validity 30 Apr 20xx discrepancy?
Amount of credit	GBP 100000		
Amount available	GBP 22500	Amount of presentation	GBP 22495
Shipment expiry	15 Apr 20xx	No. of days for presentation 15 days discrepancy?	
Date of shipment			
BL/~~AWB~~	14 Mar 20xx		

List of discrepancies
Description of goods not as per credit (does not show NEW)
Insurance policy does not specifically indicate coverage for WAR risk
BL shows goods transhipped at Dubai

Rejection notified to
Mr Export Manager by telephone on 24 Mar 20xx at PM
Confirmed by ~~telex / letter~~ / fax (strike through 2 options) on 24 Mar xx

Discussions with Mr xxxx who advises
'sending amended invoices for (i)' since rcvd 27 Mar 20xx
'requests we contact issuing bank for authority for (ii)' sent 27 Mar 20xx
'amendment coming for (iii)' rcvd 27 Mar 20xx

Settlement terms and charges
Pay UK Clearing Bank Ltd at …………………….
A/c ABC Ltd Ref EXP ABC 19982
Deduct charges ADV

Special instruction

		YES	NO
Other details	TRANSFERABLE		X
	REVOLVING		X
	BACK-TO-BACK		X

Figure 6: Document examination record. Adapted from Collyer (2007), p. 230.

2.1.1.10 Final settlement of the documentary credit

The settlement stage represents the final step of a documentary credit operation. Once the documents presented by the beneficiary have been verified and found to be compliant with the terms of the credit, payment is sent in accordance with the agreed conditions. At the same time, the issuing bank releases the documents to the applicant for the collection of the goods and debits the corresponding amount to the buyer. The documentary credit process is completed once the seller receives payment and the buyer obtains the necessary documents to take possession of the goods (ibid.).

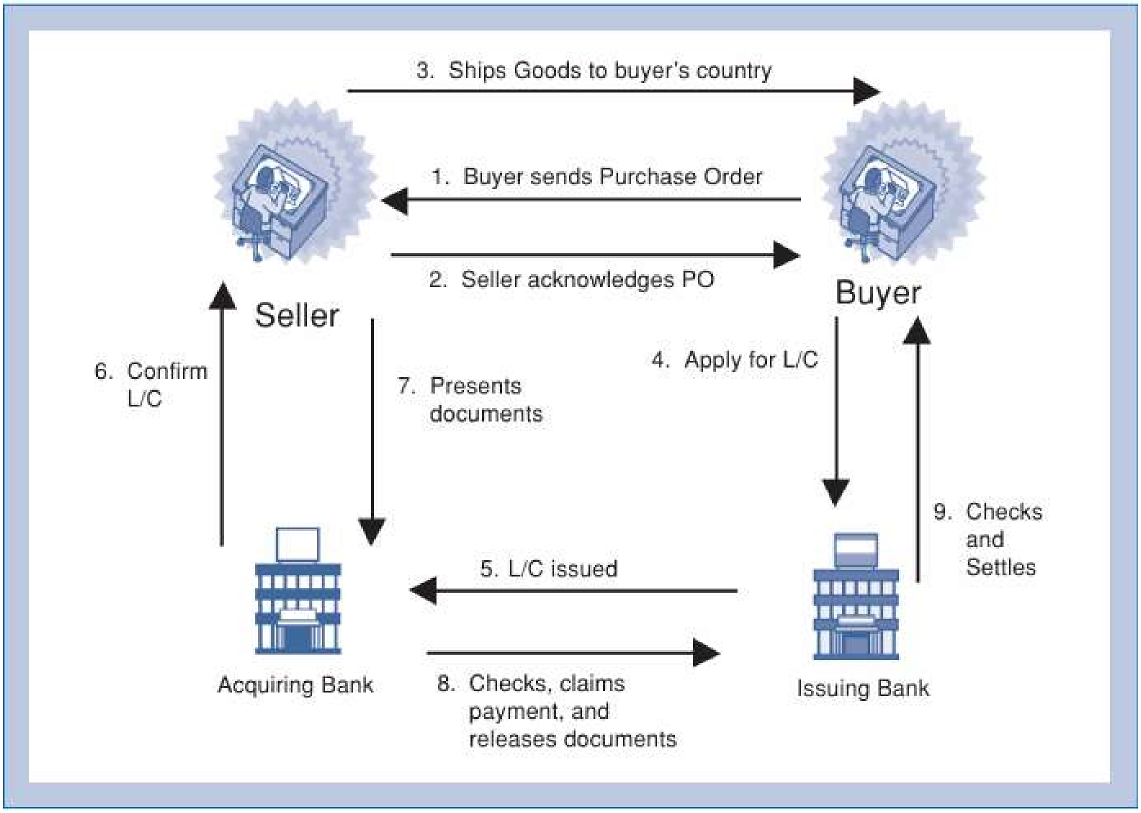


Figure 7: Letters of credit process. Adapted from United Nations (2005), p. 19.

Having examined the main phases of a documentary credit operation, it is also important to consider its implications for the parties involved, in terms of the advantages it offers to both buyer and seller. From the buyer's perspective, using a documentary credit avoids the risks linked to advance payment. The buyer does not have to give the necessary funds to his bank until the documents presented by the seller are examined by the bank. This system gives the buyer a high level of protection, since payment is only made if the seller complies with all the conditions set out in the credit. If inconsistencies are found, the bank will refuse to make the payment, protecting the buyer from non-performance or eventual delays. In addition, the documentary credit can also offer financial advantages to the buyer, as it may help the buyer manage money more effectively.

For the seller, documentary credit operations are even more relevant, which explains why it is one of the most used payment methods in international trade. Its main advantage lies in the fact that payment is guaranteed by a bank rather than by the buyer. The bank undertakes an independent obligation to pay, as long as the seller presents documents that fully comply with the terms of the credit. In all cases, once the documents are compliant, the seller benefits from a strong level of security, since the bank's obligation is separate from the underlying commercial contract and cannot be influenced by disputes with the buyer. This significantly reduces the risk of non-payment, as the seller is no longer dependent on the financial reliability of the buyer, but instead relies on the banking system. This is particularly important in international transactions involving unknown partners or geographically distant markets. Overall, the documentary credit facilitates international trade by allowing transactions between parties who may not know each other, relying instead on the trustworthiness of banks. Finally, the seller is also protected against any refusal of payment by the buyer, since the buyer has already given an irrevocable mandate to the bank, which is independently bound to honour the credit once compliant documents are presented, according to international banking rules (Di Meo A. , Il credito documentario. Le NUU 600 e la nuova Prassi Bancaria Internazionale Uniforme (PBIU), 2007).

2.1.2 The contents of a sample letter of credit

Once the main phases of a documentary credit have been described, in order to better understand how a documentary credit operation functions in practice, it is of outmost importance to examine the content and the structure of a credit operation, especially by analysing the key sections of a standard letter of credit issued via SWIFT.

Normally, a documentary credit is irrevocable, even when this is not explicitly stated in the text of the letter of credit. Nevertheless, it is to verify the nature of the credit by examining Field 40A, which is known as the form of documentary credit to make sure that the term irrevocable appears. Another key aspect to consider, concerns whether the credit has been confirmed or not. This can be determined by looking at Field 49 of the SWIFT message, which contains the confirmation instructions. When the wording "confirm" or "with" appears, it means that confirmation has been requested, and the confirming bank takes on the commitment in the transaction together with the issuing bank. If instead the field states "may add," the nominated bank is given the option to add its confirmation, only if the beneficiary asks for confirmation once the credit has been notified to him. On the other hand, when the indication in the field is "without", no confirmation is involved and the obligation to pay is entirely based on the issuing bank.

Fields 41A or 41D express where the credit can be used. If the issuing bank is named, then it is responsible for examining the documents and making payment towards the beneficiary. By contrast, if another bank is indicated, this institution must handle the presentation of documents and takes on the obligation to honour the credit. In cases in which the expression “any bank” is used, the credit becomes freely negotiable, and the beneficiary can present documents through any bank of his choice. Furthermore, the expiry date and place are shown in Field 31D, and they define both the deadline for the validity of the credit, and the location in which the documents must be presented. This is crucial because the beneficiary must hand over all the relevant documents in the place specified in the credit, and within the fixed timeframe. When the place of performance is located in the beneficiary’s country, it is sufficient to present the documents to the nominated bank before the deadline. However, if the place is situated in the country of the applicant, and is therefore represented by the issuing bank, the beneficiary must verify that the documents physically arrive there in time. Closely linked to this aspect is the period for presentation of documents to the bank, normally found in Field 48. If no specific timeframe is mentioned, the rules provide 21 days from the date of shipment. However, this timing can be shortened or extended depending on the needs of the parties involved.

Field 44C indicates the latest shipment date and therefore sets the deadline by which the goods must be dispatched. Banks will verify the timing of the shipment of the goods by checking the date shown on the transportation documents. In this regard, particular attention must also be paid to the list of documents required, which can be found in Field 46A. It is a relevant procedure that requires attention, as the success of the transaction entirely depends on the compliance of documents with respect to the terms set out in the credit. The beneficiary must be certain that every document presented to the bank is produced exactly as requested, in the correct number of originals and copies, and in accordance with the terms of the credit. Finally, the applicable rules to the credit operation are indicated in Field 40E. This piece of information must be carefully checked to confirm that the credit is subject to the latest version of the UCP, nowadays referred to as UCP 600 (Di Meo A. , 2019).

In order to better understand all of these observations, the following sample letter of credit provides an illustration of how these fields are structured and how they are applied in a real credit transaction.

{1: F01IBSPITTMD8965861668656}{2: O7001318190618DEETE-TAAAXXX87690525721906181219N}
{4:
: 27: 1/1
: 40A: IRREVOCABLE
: 20: xxxxxxxxxxx
: 31C: DD/MM/YY
: 40E: UCPURR LATEST VERSION
: 31D: DD/MM/YY ITALY
: 50: xxxxxxxxxxxxxxx
: 59: xxxxxxxxxxxxxxx
: 32B: EUR2551,11
: 41A: IBSPITTM
BY *PAYMENT*
: 43P: ALLOWED
: 43T: ALLOWED
: 44E: ANY ITALY AIR PORT
: 44F: ADDIS ABABA BOLE INTERNATIONAL AIR PORT, ETHIOPIA
: 44C: DD/MM/YY
: 45A: +SPARE PARTS FOR TEXTILE MACHINERY AND OTHER DETAILS AS PER P/I NO. xxxxxxxxxxx DATED DD/MM/YY.
+DELIVERY TERMS: FCA ANY ITALY AIR PORT, INCOTERMS® 2010.
: 46A: +SIGNED COMMERCIAL INVOICE IN 4 ORIGINAL AND ALL OF THEM MUST BE CHAMBERIZED BY THE CHAMBER OF COMMERCE OR ANY COMPETENT *AUTHORITY* INDICATING OUR IMPORT PERMIT NO. xxxxxxxxxxx
+SIGNED PACKING LIST IN 3 ORIGINAL INDICATING PACKAGE MARKED AS xxxxxxxxxx
+ORIGINAL AIR WAY BILL MARKED FREIGHT PAYABLE AT DESTINATION `MADE OUT TO THE ORDER OF DEVELOPMENT BANK OF ETHIOPIA,*SUB* CITY: KIRKOS,P.O.BOX: 1900,ADDIS ABABA,ETHIOPIA.
TEL.: + xxxxxxxxx,ANDAND NOTIFY PARTY xxxxxxxxxxx.
+ONE ORIGINAL AND 2 COPIES OF CERTIFICATE OF ORIGIN ISSUED AND CERTIFIED BY THE CHAMBER OF COMMERCE OR ANY COMPETENT *AUTHORITY* SHOWING ORIGIN OF GOODS EUROPEAN UNION.
+BENEFICIARY CERTIFICATE WHICH CERTIFY THAT COPIES OF NON

Figure 8: Sample letter of credit. Adapted from Di Meo, A. (2019), p. 340.

NEGOTIABLE SHIPPING DOCUMENTS HAVE BEEN SENT DIRECTLY TO THE APPLICANT 7 DAYS BEFORE LODGING DOCUMENTS TO THE NEGOTIATING BANK BUT WITHIN 21 DAYS FROM THE DATE OF SHIPMENT.
: 47A: +ALL DOCUMENTS MUST BE WRITTEN IN ENGLISH LANGUAGE
+INSURANCE COVERED LOCALLY BY THE APPLICANT.
+IF ANY DISCREPANCY BE THERE IN THE DOCUMENTS,USD150.00 OR EQUIVALENT WILL BE DEDUCTED FROM THE PROCEEDS.
+WE HERE BY ENGAGE WITH THE DRAWEE (S) AND/OR BONA FIDE HOLDER (S) THAT THE DRAFT (S) DRAWN,NEGOTIATED AND PRESENTED IN CONFORMITY WITH TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONOURED ON PRESENTATION.
+ALL DOCUMENTS REQUIRED *UNDER* THIS CREDIT SHOULD INDICATE OUR ABOVE L/C NO AND TIN NO. xxxxxxxxxxx
+ALL REQUIRED DOCUMENT'S DATE MUST BE LATER THAN ISSUANCE OF THIS LETTER OF CREDIT.
+EXTENSION OF VALIDITY OF LC IS ALLOWED BEFORE SHIPMENT OF GOODS.
+HS CODE OF THE ITEM MUST BE INDICATED ON COMMERCIAL INVOICE.
: 71D: ALL CHARGES OUTSIDE ETHIOPIA ARE FOR THE BENEFICIARY'S ACCOUNT.
: 48: 21
: 49: CONFIRM
: 53A: COBADEFF
: 78: +INTESA SANPAOLO SPA (BCITITMM) MUST SEND COMPLIED DOCUMENTS DIRECTLY TO DEVELOPMENT BANK OF ETHIOPIA,P.O.BOX: 1900,ADDIS ABABA,ETHIOPIA IN TWO LOTS THE FIRST LOT BY SPECIAL COURIER SERVICES AND THE SECOND LOT BY REGISTERED EXPRESS AIR MAIL.
+INTESA SANPAOLO SPA (BCITITMM) IS REQUESTED TO ADD ITS

CONFIRMAION WHILE ADVISING THE L/C AND UPON RECEIPT OF COMPLIED DOCUMENTS AS PER THE L/C TERMS.
+COMMERZBANK HEREBY AUTHORIZED TO DEBIT OUR ACCOUNT AND EFFECT THE *PAYMENT* FOR THE DOCUMENT VALUE ONLY UPON RECEIPT OF *AN* AUTHENTICATED CONFIRMATION MESSAGE FROM INTESA SANPAOLO SPA (BCITITMM) STATING THAT ALL SHIPPING DOCUMENTS ARE COMPLIED WITH THE LC TERMS. (SUBJECT TO ICC URR LATEST
: 57A: IBSPITTM896
: 72Z: /REC/KINDLY ACKNOWLEDGE THE
//RECEIPT AND ADVICE OF THE LC IN
//DUE TIME.

Figure 9: Sample letter of credit. Adapted from Di Meo, A. (2019), p. 341.

For ease of reference, before analysing the above letter of credit from a legal and linguistic point of view, the main SWIFT fields used in a documentary credit are summarised in the table below.

Field 40A: Form of the documentary credit
Field 40E: Applicable rules
Field 31D: Date and place of expiry
Field 50: Applicant
Field 59: Beneficiary
Field 32B: Currency and amount
Field 41A: Available with … by …
Field 44E: Place of loading
Field 44F: Place of destination
Field 44C: Latest date of shipment
Field 46A: Documents required
Field 47A: Additional conditions
Field 48: Period for presentation
Field 49: Confirmation

Table 2: Main SWIFT fields in a documentary credit

The documentary credit above was issued by an Ethiopian bank, the Development Bank of Ethiopia, in favour of Intesa Sanpaolo. The credit is defined as irrevocable: the Field 40A clearly expresses this concept with the wording *irrevocable*. This means that the issuing bank undertakes an independent obligation that cannot be modified without the consent of all parties involved in the credit transaction. The document also states, in Field 40E, that this credit is governed by the latest norms of the Uniform Customs and Practice for Documentary Credits, indicated by the expression *UCP latest version*, which refers to UCP 600 published in 2007. The application of these rules to the credit is of outmost importance as it provides a legal framework valid internationally, which governs the rights and the obligations of the parties involved in the credit operation.

Another key aspect concerns confirmation in Field 49. It contains the indication *confirm*, which means that the credit is confirmed. Therefore, together with the issuing bank, also the confirming bank adds its commitment to the transaction and undertakes the obligation to honour the credit upon presentation of the relevant documents. In this specific case, Intesa San Paolo bank acts not only as the advising bank, but also as the confirming bank offering an additional guarantee of payment to the Italian beneficiary. Overall, the documentary credit presented above follows the standard structure of a SWIFT message and it organises the information into codified fields (see Table 2). It specifies the parties involved in the credit transactions in Fields 50 and 59, the amount of the transaction *€2551,11* in Field 32B, and the expiry date and place in Field 31D. The place of expiry of the credit is Italy, therefore the beneficiary must present the relevant documents to the nominated bank within the timeframe established under the credit terms. Moreover, thanks to the information provided in Fields 44E and 44F it is possible to understand the place of shipment and the final destination of the goods. The goods must be shipped from any airport in Italy and must be destined to the Addis Ababa Bole International Airport in Ethiopia.

In Field 45A the credit makes reference to delivery terms, which, in this specific case, are governed by Incoterms. Even if Incoterms and documentary credits regulate different aspects of an international trade transaction, they are somewhat closely connected. As previously discussed, Incoterms are a set of international commercial terms used to determine some specific aspects of an international trade operation, such as: the allocation of both risks and costs, transport obligations, and delivery responsibilities between buyer and seller. By contrast, documentary credits transactions regulate the mechanism of banks through which payment is made upon the presentation of the relevant documents. If the parties choose to make explicit reference to Incoterms, the chosen term has an impact on the documents that the beneficiary must present to the banks in order to obtain payment as agreed under the credit terms. The relationship between Incoterms and documentary credit is particularly relevant because the role of banks is to examine only the documents presented and not the physical goods. For this reason, the documents required by the documentary credit must correspond to the type of transport operation and of delivery established by the selected Incoterm.

In the documentary credit analysed above, Field 45A expressly refers to the Incoterms FCA, as it is stated: "FCA any Italy airport, Incoterms 2010". The acronym FCA stands for Free Carrier, and according to this term, the seller fulfils its delivery obligation once the goods are handed over to the carrier designated by the buyer at the agreed place for delivery. In this specific case, the agreed place for delivery is represented by any airport in Italy. Consequently, the passage of risk from the seller to the buyer occurs in Italy at the moment in which the goods are delivered to the carrier, even if the final destination of the goods is Ethiopia, as indicated in Fields 44E and 44F.

Moreover, the relation between Incoterms and documentary credits becomes even more evident during the examination of transport documents. Under the FCA term, the seller must provide to the bank documents showing that the goods have been delivered to the carrier following the terms established in the credit. In the above documentary credit, this function is performed by the air waybill required in Field 46A. This transport document represents the main proof that the seller has fulfilled the delivery obligations established both by the Incoterm and by the documentary credit. Furthermore, under FCA terms insurance is normally arranged by the buyer, which is consistent with Field 47A of the analysed credit, where it is specified that insurance is covered by the applicant. One of the main difficulties traditionally associated with FCA transactions concerned the issuance of transport documents. Under FCA, delivery takes place when the goods are handed over to the carrier, often before the goods are physically loaded onto the vessel or aircraft to reach the final destination. However, many documentary credits require transport documents, capable of giving proof of shipment. This created many problems because the seller, after having delivered the goods to the nominated carrier, was unable to obtain the transport document required by the bank. In order to try and solve this issue, Incoterms 2020 introduced a new provision which allows the buyer to instruct the carrier to issue an on-board bill of lading to the seller after loading. This amendment was specifically intended to improve the compatibility between FCA transactions and documentary credit requirements. It is therefore essential that documentary credits are drafted in accordance with the Incoterm chosen in the underlying sales contract. All of the documents such as the transport document and the possible insurance documents must all correspond to the obligations imposed by the selected Incoterm. Otherwise, it is possible that some discrepancies may arise during the examination phase, leading to the refusal of payment (Bergami, The Link Between Incoterms 2000 and Letter of Credit Documentation Requirement and Payment Risk, 2006). More generally, since documentary credit transactions leave a certain degree of flexibility and of freedom to the exporter, importers often prefer to include in the sales contract an Incoterm from Group F. These terms are normally preferred in credit operations, as they allow the importer to have greater control over the transport process (Tagliavini, Poletti, & Ronchini, 2022).

In this regard, another relevant section linked to the concept of Incoterms is represented by the list of documents required, which can be found in Field 46A. In this field, not only there is the list of the relevant documents required for the transaction, but also the number of original copies is expressed. In particular, these documents include:

- a signed commercial invoice in four originals,
- a signed packing list in three originals

- an original air waybill made out to the order of the Ethiopian bank
- a certificate of origin issued and certified by a competent authority
- a certificate from the beneficiary confirming that copies of the shipping documents have been sent directly to the applicant, before presentation of the documents

It is of outmost importance that all of these documents must comply with the credit terms in order for the transaction to be completed. Additional obligations concerning the documents are contained in Field 47A: all documents must be written in English and must indicate the credit number. If discrepancies are found in the documents, a sum of money will be deducted from the proceeds. Therefore, even minor inconsistencies in the presentation of documents may lead to financial consequences.

From a linguistic point of view, the documentary credit can be analysed as an instance of legal discourse. In particular, it is a professional and highly technical genre which is shaped by the needs of the specific professional communities of lawyers and financiers. The documentary credit follows a rigid structure established by the SWIFT fields together with specialised vocabulary. Because legal English is characterised by a high degree of standardisation, precision and technical terms, the main purpose of this specialised language is not communicative, but rather normative and directive.

The main function of the English legal language and legal texts is to regulate behaviour by imposing obligations and rights, rather than to convey information for communicative purposes. In this sense, Austin (1962) theorised the concept of performativity. According to this theory, parties commit to the obligations specified in the legal texts through the wording of the text itself. The legal utterances contained in the texts do not simply describe reality, but they create legal effects on the parties involved. For instance, in the documentary credit under analysis the clause *if any discrepancy be there in the documents, USD 150,00 will be deducted* is a clear example of a performative statement which produces legal and financial consequences on the parties involved. This clause concerning discrepancies in the documents is relevant even because it links the irregularities of documents to a financial sanction which demonstrates the performativity of the text. Similarly, statements such as *must be written*, and *must be indicated* create obligations on both the applicant and the beneficiary. In legal English, obligations are expressed through the use of modal verbs such as must and shall. In the analysed letter of credit, obligation is mainly conveyed through the use of *must* (5 instances) rather than through the modal *shall* (0 instances) as it imposes requirements that leave no place for interpretation. This preference may also derive from the standardised communication imposed by the SWIFT message, which prioritises clarity over a more formal legislative tone. Nevertheless, the credit analysed also includes some forms of permission and authorised actions. For instance, the clause *extension of validity is allowed before shipment of goods* authorises a possible extension of the credit if all the parties involved agree to it.

Syntactically, the documentary credit presents a high degree of complexity and density. For instance, the sentence *beneficiary certificate which certify that copies of non-negotiable shipping documents have been sent 7 days before but within 21 days from the date of shipment* combines multiple actions and conditions. This accumulation of both temporal and procedural information within a single sentence increases the effort required for interpretation and raises the risk of possible partial understanding or misunderstanding. Another key feature linked to the syntax sphere of legal English is impersonality. The text always avoids personal pronouns and prefers to rely on abstract subjects such as *beneficiary and applicant*, and on passive constructions with modal verbs like *will be deducted, must be indicated*. This structure creates an objective tone without the need of directly expressing the subject of the action. Even if this impersonal style contributes to the authority and neutrality of the text, it may reduce its transparency for non-expert readers.

At the lexical level, the document relies on a specialised and technical vocabulary typical of the domains of banking and commercial law. The specialised vocabulary such as *beneficiary*, *applicant*, *certificate of origin*, and *air waybill* are used with precise meanings in this specific context. On the one hand this specialised vocabulary contributes to legal certainty because each term refers to a well-defined legal function. However, the use of specialised terminology reduces accessibility for non-expert readers, who are not familiar with the international trade finance language. Another important feature of legal English is represented by the use of Latinisms which reflect the connection with the legal tradition. The use of Latin expressions is a further element that helps increase the formal tone of the legal texts, while it also increases the complexity of understanding for non-expert readers. In the analysed documentary credit, there is an instance of Latinism, which is represented by the expression *bona fide holder(s)*. This Latin phrase can be translated into the concept of good faith, which means that parties must act honestly and without bad faith. Furthermore, the credit also presents some ordinary words that acquire a specialised legal meaning within this specific context of documentary credits. This shift occurs frequently in legal English, where a common term of the ordinary vocabulary is given a technical value which is different from the original one. For instance, in the credit analysed the verb *to honour* usually means to respect, while in documentary credit operations it has a precise legal meaning. In legal English to honour a credit represents the bank's obligation to accept the presentation of documents and to send payment to the beneficiary. Likewise, the term *discrepancy* normally refers to a generic difference, while in documentary credit language it refers to the documents irregularities that may lead to the refusal of payment. This procedure could seem to contribute to the understanding of the text for non-specialists, but the resemantisation can create lexical ambiguity and can lead to a misinterpretation of words and concepts.

The combination of all of these legal and linguistic features can generate significant problems in terms of readability and accessibility. Therefore, this type of legal text is extremely effective within its professional context of use, but can be problematic for non-specialist users.

2.2 Main types of letters of credit

Over time different types of documentary credits have developed in order to meet the different needs and interests of the operators worldwide. The main types of documentary credit include:

- Transferable documentary credit
- Back-to-back credit
- Revolving credit
- Red clause/green clause
- Standby letter of credit

2.2.1 Transferable documentary credit

The transferable credit represents a specific type of documentary credit in which the beneficiary can transfer either the total sum or a part of the credit received to other beneficiaries. For this to happen, the documentary credit must be issued from the issuing bank in a transferable way, which means that the expression "irrevocable and transferable credit" must appear in the text of the letter of credit. By doing so, the issuing bank authorises the first beneficiary to transfer the credit received to other beneficiaries. Therefore, this specific type of documentary credit is mainly used in situations in which the first beneficiary acts as an intermediary between the buyer and the supplier of the goods. In other words, the first beneficiary is not the real producer of the goods and services, but only acts as an intermediary. Therefore, the goods or services must be sourced from other suppliers, who will then become the second beneficiaries of the transferable letter of credit. It is important to underline that a transferable documentary credit can only be transferred once: once the credit is transferred from the first to the second beneficiary, it cannot be further transferred from the second beneficiary to others. The first beneficiary may choose to separate the credit and transfer some portions of it separately to different beneficiaries, but once these transfers are completed, no further transfers are possible.

Within this process, a bank known as the transferring bank is involved. The main role of this institution is to transfer the credit and to make the credit available to the second beneficiary. In particular, in a transferable documentary credit operation, the first beneficiary enters into a sales contract agreeing that an irrevocable and transferable documentary credit operation is opened. Once this first beneficiary receives notification from his bank that the credit is issued, he instructs his bank to transfer the credit in favour of the second beneficiary (Collyer, 2007).

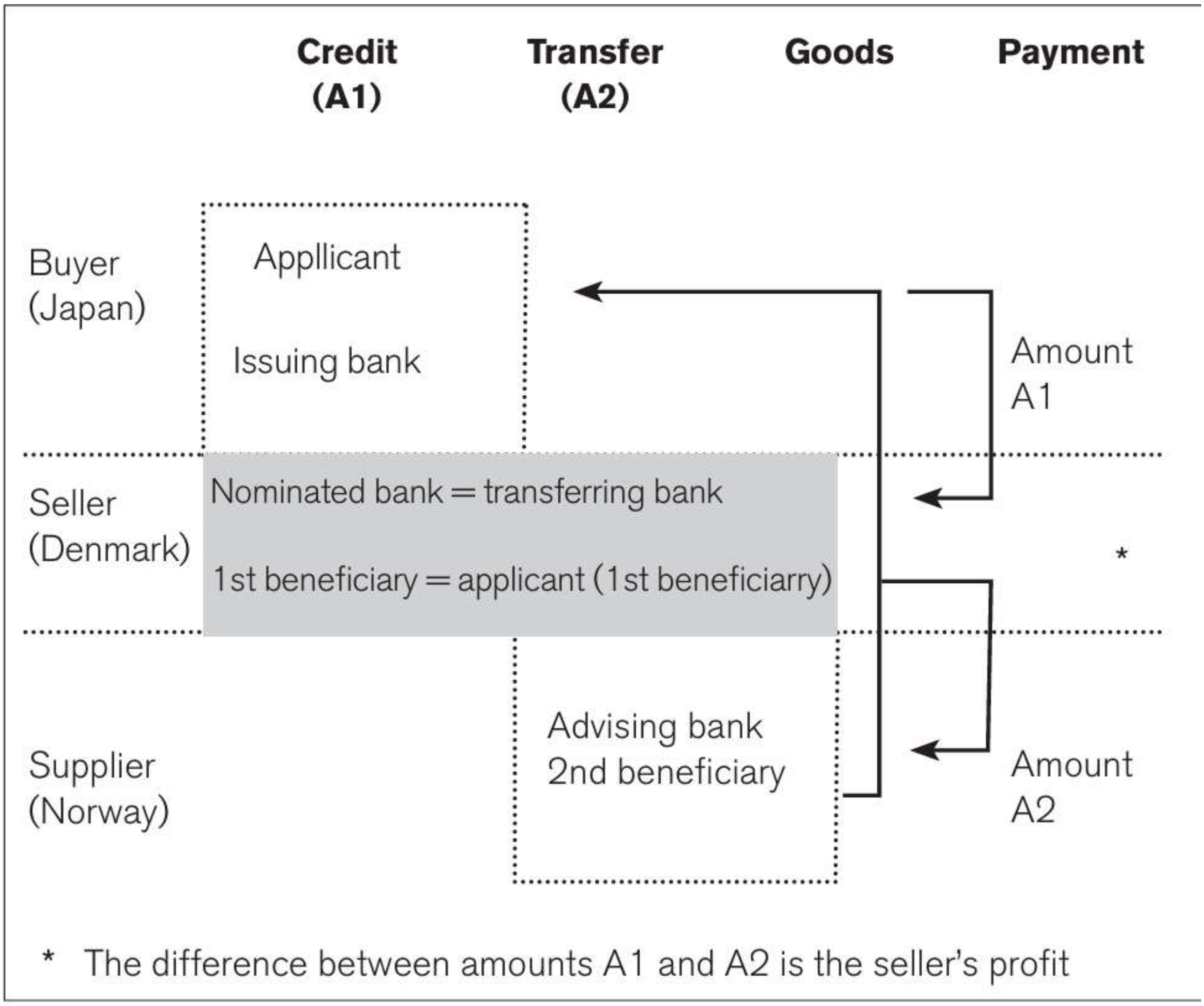


Figure 10: Process of a transferable documentary credit. Adapted from Längerich (2009), p. 257.

2.2.2 Back-to-back credit

In a back-to-back credit operation, a second credit is issued in favour of a second beneficiary at the request of the beneficiary of the original credit. In other words, a new documentary credit is opened for a second beneficiary, based on the original existing credit. Although these two credits are connected from an economic point of view, they are independent legally. Even though the second credit is generated by the first, these two instruments are separate, because each credit operates on its own terms and creates separate obligations for the parties involved. More specifically, the beneficiary of the documentary credit may ask his bank to issue a second credit, which is the back-to-back credit, in favour of a third party usually represented by the supplier of goods and services. It is therefore evident that two distinct credits exist: the first credit is opened by the applicant in favour of the first beneficiary, and the second credit which is opened by the bank of the first beneficiary in favour of the supplier. By doing so, the first beneficiary acts as an intermediary as he uses the original credit issued by the applicant to arrange the purchase of goods from the supplier without revealing the supplier's identity to the buyer.

This type of documentary credit is often used as an alternative to transferable credit in situations in which confidentiality is required. Unlike transferable credit operations, the back-to-back credit prevents the buyer from identifying the original supplier of goods or services. Furthermore, if in a transferable credit operation, the same original credit is passed from the first beneficiary to one or more second beneficiaries; in a back-to-back credit a completely new credit is created. Another key difference concerns financing: in a back-to-back transaction, the beneficiary of the original credit requests the issuance of a new and separate credit to his bank. Therefore, the use of a back-to-back credit is subject to the availability of sufficient funds on the party of the original beneficiary (Cowdell, McGregor, Ibrahim, Chantry, & Hennah, 2014).

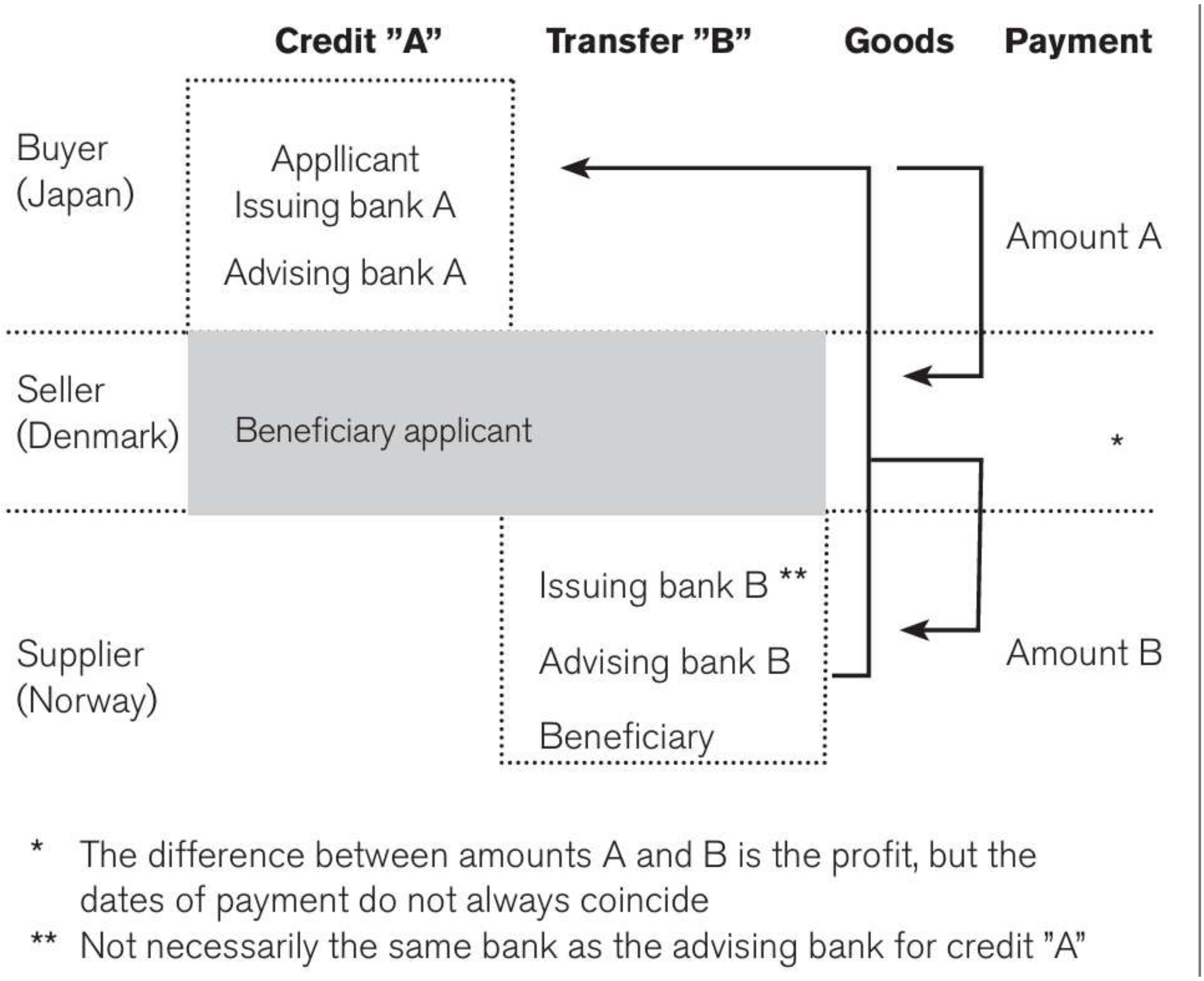


Figure 11: Process of a back-to-back credit. Adapted from Längerich (2009), p. 263.

2.2.3 Revolving credit

A revolving credit is a type of documentary credit that automatically brings back its original amount after each use. Once the beneficiary uses the credit, the same amount becomes available again for a specified number of times. This implies that the issuing bank, and the confirming bank undertake the obligation to renew their obligation to pay each time the credit is used up to the maximum number of times allowed. The revolving credit is commonly used in commercial contracts which require multiple deliveries over time. Therefore, instead of issuing a new credit for each shipment, the buyer can request a single revolving credit covering the value of each shipment, which will be reused several times according to the number of deliveries. This credit operation is suitable in commercial relationships in which goods are delivered over time. It can be used both when each shipment has the same value, but also in cases in which the value of each delivery changes, provided that the total amount corresponds to the agreed maximum limit (Di Meo A. , 2019).

2.2.4 Red clause/green clause

A red clause or green clause credit, also known as advance payment credit, is a type of documentary credit that allows the beneficiary to receive a part of the funds before presenting the shipping documents to the bank. The sum to be paid in advance is granted up to a certain amount specified in the credit terms and it is usually given in exchange for a signed receipt, where the beneficiary promises to use the money received in advance to purchase the goods needed for the transaction.

This type of operation derives from an old tradition born in Australia: the name red clause comes from when credits were issued on paper, the clause allowing the advance was written in red ink to highlight its importance. It was used in wool trade, where intermediaries needed immediate funds to pay for the goods purchased. Over time, this practice has been extended to other sectors with similar financial needs. Nowadays, because a part of the funds is provided before shipment, this type of credit requires a higher degree of trust between the applicant and the beneficiary. If the beneficiary fails to ship the goods on time, or presents documents which are not in conformity with the terms of the credit, the bank that granted the advance payment can claim reimbursement form the issuing bank. Therefore, the issuing bank bears the risks of this type of credit transaction. This advance payment credit exists in international trade in two main forms: in a clean red clause the advance is granted simply against a receipt and a written commitment by the beneficiary, whereas in a green clause the advance is granted to the beneficiary only once he provides an additional proof, known as a trust receipt, showing that the goods have already been stored (Cowdell, McGregor, Ibrahim, Chantry, & Hennah, 2014).

2.2.5 Standby letter of credit

The category of letters of credit can be divided into two main areas: commercial letters of credit and standby letters of credit. Commercial letters of credit are mostly used in transactions that involve the sales of goods. By contrast, according to Banks (1984, p. 73-74) «a standby letter of credit is used to secure the performance of contracts or other obligations». Even if these two forms of documentary credit may often seem similar, the outcomes for the parties involved in the transaction are completely different. One the one hand, the commercial letter of credit is used as a type of payment and is intended to be used during the credit transaction. On the other hand, the standby letter of credit acts as a guarantee that becomes effective only in case of non-payment or default of payment by the applicant. In other words, a standby letter of credit can be defined as a commitment made by a bank to pay the beneficiary, if the applicant fails to accomplish his contractual obligation of payment. In a standby letter of credit process, the bank is not expected to pay the beneficiary as in the process of a normal credit transaction. By contrast, in a standby transaction payment only happens if something goes wrong and typically, if the buyer does not pay on time or fails to pay. Even though it serves a different function compared to a traditional documentary credit, standby letters of credit are mentioned in Article 1 of the Uniform Customs and Practice for Documentary Credit, which states that these rules may also apply to standby letters of credit when the credit make explicit reference to it. Therefore, standby letters of credit can be governed either by the norms of the UCP 600 or by a specific set of rules known as the International Standby Practices. Since UCP rules were originally drafted exclusively for commercial letters of credit, the need for a specific regulation concerning standby letters of credit emerged. For this reason, the International Standby Practices were introduced to provide a more detailed legal framework specifically made for standby letters of credit. Nowadays both sets of rules are available, and it is important for the parties to specify which one of them applies, because they can lead to different interpretations and consequences.

Although a standby letter of credit is considered to be similar to a bank guarantee, there are important differences between the two. A bank guarantee depends entirely on the sales contract existing between the buyer and the seller. In other words, the bank intervenes and has to pay only if the buyer has failed to respect the terms of the contract. Therefore, in most cases in bank guarantees it is necessary to give proof that a breach of contract occurred. Conversely, in a standby letter of credit the bank's obligation does not depend on the commercial contract between the applicant and the beneficiary. By doing so, the standby letter of credit is an independent obligation between the issuing bank and the beneficiary: the bank does not check if the buyer really breached the contract. Instead, the bank must honour payment if the documents presented comply with the terms of the standby letter of credit, regardless of whether the sales contract has been correctly performed or not. In a standby letter of credit, what matters is only whether the documents required have been presented correctly. In most cases, the beneficiary needs to provide a written statement declaring that the buyer has failed to pay or to perform as agreed, together with some copies of the commercial documents such as an invoice or a transport document (Banks, 1984).

Because of these similarities between commercial letters of credit, standby letters of credit and bank guarantees, it is important to draft a standby letter of credit carefully, so that it is clearly treated, as in the example below presented by Di Meo (2019), as a standby transaction:

> We hereby establish our *irrevocable stand by Letter of credit* no. 00000 in your favour which is available with Bank of America by payment at sight against presentation of your drafts at sight drawn on us and accompanied by the following documents: Beneficiary's signed statement reading as follows: "The amount of our draft represents funds payable to us for unpaid invoices due 60 days after shipment" (p. 148).

Originally, this instrument developed in the United States, where banks were not allowed to issue traditional bank guarantees like the ones used in civil law countries. In order to avoid this limitation, the American banking system adapted the documentary credit structure into a guarantee mechanism. Over time, this instrument became widely accepted even outside the borders of the United States, and started to spread in other jurisdictions, mainly in common law systems. One of the key features that remained stable through time is the concept of autonomy. As in documentary credits, the bank's obligation to pay is separate from the sales contract, and payment depends only on the compliance of documents compared to the credit terms. However, unlike a documentary credit, the standby letter of credit is not meant to be used in normal circumstances, but it can only be used in case of non-performance or late performance of payment from the applicant (Tagliavini, Poletti, & Ronchini, 2022).

Another important aspect to consider is that standby letters of credit can be used in many different situations: from the sale of goods, to services, and in situations in which one party wants protection against the other party's possible default. This feature, which is known as flexibility, makes standby letters of credit particularly useful in repeated transactions, where using a documentary credit for each shipment would require a complex procedure and would also be expensive. If everything goes smoothly, and the buyer performs his obligations, the standby letter of credit is never activated, and parties avoid all the expenses related to document examination and payment, which are typical of commercial documentary credits.

However, it is also true that the structure provided by standby letters of credit creates an imbalance between the parties. On the one hand the beneficiary is fully protected, as he can receive payment by providing a simple declaration stating the non-performance of payment. On the other hand, the applicant has less advantages, as he has much less control on the standby credit operation compared to a commercial letter of credit (Bertrams, 2004).

3 Rules governing documentary credit operations

3.1 UCP 600

The origins of documentary credits can be traced back to the first half of the nineteenth century. In particular, this payment method fully developed once international trade became a common practice between Asian, European and American countries. As international trade started to increase and to develop, both businesses and banks asked for more secure payment instruments, capable of reducing the commercial risks in transactions involving parties from all over the world. The first banks involved in documentary credit operations were mainly located in London and in the United States of America. Here, buyers from all over the world were required to pay for the goods through irrevocable documentary credit operations.

In 1920, in order to draft an initial set of norms for credit transactions, some bank representatives gathered in New York and developed the first rules to be followed by the American banking system. This initiative was then followed by many other bank representatives in other countries, mainly in Europe. For instance, in Italy the "Rules concerning documentary credits" were drafted in 1925 and were adopted by the Italian banking system. These proposals that developed following the American model confirm the growing importance that documentary credit operations were gaining in international trade. However, these models were still partial, as they did not provide universal rules that could apply at an international level. For this reason, in the industrialised countries some associations started to cooperate with the aim of creating working commissions. The main objective of these commissions was to create a legal framework capable of giving uniform rules on documentary credit operations in international trade practices. A first version of uniform norms was drafted in 1929 in Amsterdam. A few years later, in 1933, a more significant achievement was reached thanks to the International Chamber of Commerce, which adopted for the first time the Uniform Customs and Practice for Documentary Credits during the Vienna Conference. Nowadays, these rules are also known as Vienna Rules and were progressively adopted by European and non-European countries. In this context, the main aim of the International Chamber of Commerce was to establish a set of uniform rules capable of overcoming the problems that generated because of the different national regulations that developed following the American model in the 1920s.

By the end of the Second World War, most parts of Europe were economically and politically devastated. For instance, European countries faced an enormous challenge, as they had to rebuild their economies, while dealing with financial instability caused by the debts of war. Consequently, this critical situation transformed both international trade practices together with the economic and political relations between the different countries. Because of these political and economic transformations, a revision of the Vienna Rules was necessary. Therefore, in 1951 the International Chamber of Commerce approved a new version of these norms during the Lisbon Conference, known as the Lisbon Rules. Through the years, as international trade instruments continued to evolve, further revisions were necessary in order to adapt the rules to the new commercial and banking practices. This process led to a further revision, which was drafted and published in Paris in 1974. After a decade, more precisely in 1983, additional amendments were approved by the International Chamber of Commerce, resulting in the Uniform Customs and Practice for Documentary Credits with the publication number 400 (Di Meo A. , Il credito documentario. Le NUU 600 e la nuova Prassi Bancaria Internazionale Uniforme (PBIU), 2007).

In the end of the 20th century, international trade brought major developments in transportation processes and in the documents required for such transportations. For this reason, in 1989 a revision process started and was made available thanks to the International Chamber of Commerce in 1994 with the publication 500 of the Uniform Customs and Practice for Documentary Credit, commonly known with the acronym of UCP 500. This revision is particularly relevant, as the working group responsible for this revision aimed at simplifying the provisions of the former publications in order to reduce the percentage of the rejected examination of documents. Another main objective of this important revision was to incorporate the international banking practices into the norms of the UCP in order to assure a much greater level of standardisation. Therefore, the main purpose of this achievement obtain with the publication of the UCP 500 was to establish uniform principles capable of governing the legal and commercial relationships which use documentary credits to settle their transactions.

In support of the UCP 500, the International Chamber of Commerce published in 2001 the Electronic Uniform Customs and Practice, known with the acronym eUCP. This publication was intended to supplement the provisions that were already contained in UCP 500, and provides some rules that are applicable to transactions in which the required documents can be transmitted electronically to the bank. However, these rules have not yet achieved full implementation in documentary credit operations, mainly because of issues related to compatibility among the different systems (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credit. Publication No. 500, 1993).

Edition	Year	Where	Publication number
First	1933	Wien	82
Second	1951	Lisbon	151
Third	1962	City of Mexico	222
Fourth	1974	Paris	290
Fifth	1984	Paris	400
Sixth	1994	Paris	500
Seventh	2007	Paris	600

Table 3: Revisions of the Uniform Customs and Practice for Documentary Credit. Retrieved from Di Meo, A. (2007), pp. 61-62.

In this regard, before taking into account the latest version of the Uniform Customs and Practice for Documentary Credit, it is important to specify the role of the International Chamber of Commerce within this context. The International Chamber of Commerce is a private international organisation which operates in a wide range of sectors such as: trade, industry, agriculture, transport, and finance. In other words, it represents a representative body that acts on behalf of enterprises from all the sectors listed above worldwide. The International Chamber of Commerce was founded in 1919 by a small group of entrepreneurs, and it gradually expanded until it became the main international organisation representing the interests of the business community worldwide. Nowadays, it comprises 6 million companies, business and chambers of commerce in almost 130 countries. Its main objective is to develop and promote international trade, but also to help the business face all the risks and opportunities of globalisation. In order to promote international trade, the International Chamber of Commerce provides guidelines and solutions to the most important issues related to international economic relations. In order to achieve these important aims, it established specialised commissions related to different commercial sectors. These commissions are responsible for drafting the official publications, in order to try and harmonise the international commercial practices and policies (Langerich, 2009).

The International Chamber of Commerce is located in Paris, where it develops proposals to be presented and further discussed to some international institutions such as the United Nations, the World Trade Organization, and the European Union (Cowdell, McGregor, Ibrahim, Chantry, & Hennah, 2014).

Within this framework, the Uniform Customs and Practice for Documentary Credits represent one of its most important regulatory publications applicable in the whole world. In particular, through the years, the UCP has been adopted by the majority of countries in order to ensure greater uniformity in documentary credit practice and to assure a universal interpretation of the documents presented to the banks in documentary credit operations. It is worth specifying that the UCP were never intended to be considered as law, they rather constitute standard rules that may be incorporated into the text of the letters of credit according to the will of the parties involved. Consequently, these norms become binding on the parties only because they expressly choose to add a reference to the UCP in the documentary credit. Furthermore, the UCP can be applicable and are binding on the parties of the documentary credit transaction only if and when they are not in conflict with any national, international or supranational law (Collyer, 2007).

In particular, in order to upgrade the norms compared to the previous publications, in the latest version of the UCP, observations from both national committees and the banking commission were taken into consideration. On the basis of these observations, the ICC started drafting the publication that replaced the 1994 rules with a new regulation that was approved in Paris under the publication number 600. Therefore, the new rules are the result of a work that started in 2003 by the International Chamber of Commerce, and concluded with the approval of the publication which entered into force in 2007. The main reason behind this latest revision was the urgent need to keep at pace with the developments that are characterising the transportation sector still nowadays. In the last decades, transport is becoming increasingly central in international trade practices and is gaining growing importance. This is because transportation procedures are strictly linked with the presentation of documents and of insurance procedures. Therefore, this role played by the transport sector caused major changes in the banking practice and in documentary credit operations, mainly because of the generation of problems both in the presentation and in the examination phase (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits, 2007).

Together with the need to adapt the rules in relation to transport documents and transport insurance, there was also the necessity to modify the language and the style used. The language used in the previous publications created misunderstandings, and the wording of the previous UCP versions were reformulated with the aim of reducing the most common discrepancies arising during the document examination process. In particular, the main changes introduced by the UCP 600 may be summarised as follows:

- Reduction of the number of articles: from 49 in UCP 500, to 39 articles in UCP 600
- Revision of the articles concerning the topic of transport and transport documents
- Redefinition of criteria for document acceptance
- Introduction of new concepts such as definitions and interpretation of terms

Thanks to this list, it is evident that the latest revision of the UCP norms was intended to update the existing rules contained in UCP 500. It was mainly considered necessary to reduce the number of discrepancies caused by the examination of documents. This objective was pursued by eliminating elements related to the presentation and to the examination of documentation that could be considered as ambiguous or unclear. In particular, this was achieved thanks to a complete revision of the wording and of the drafting style used in previous publications (Bergami, UCP 600 rules - changing letter of credit business for international traders?, 2009)

In addition to the new publication of the UCP, the International Chamber of Commerce established a banking commission to identify the most used international banking practices on the topic of the examination of documents presented under documentary credit operations. The work of this commission concluded in 2002 with the approval of the "International Standard Banking Practice for the examination of documents under documentary credit" (ISBP 745IE). This document represents the first worldwide survey of the criteria adopted by banks when examining documents used in documentary credit transactions. This document has recently been updated in its latest version published in 2023, which is known with the acronym of ISBP 821E (Di Meo A. , Il credito documentario. Le NUU 600 e la nuova Prassi Bancaria Internazionale Uniforme (PBIU), 2007).

3.1.2 Analysis of UCP 600

To provide a clearer understanding of all the aspects previously discussed in relation to documentary credit operations, it is essential to examine the provisions of the UCP 600 in detail. These rules are the main international rules governing documentary credit operations by defining the rights, obligations, and responsibilities of the parties involved in such transaction. In particular, the main objective of the UCP is to provide uniform criteria for the examination of documents, and the interpretation of the obligations of each party involved in an international context.

3.1.2.1 Sphere of application and definitions

The first article of the Uniform Customs and Practice for Documentary Credit (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits, 2007) defines how and when the rules provided in the UCP 600 can be applicable, in other words it defines its sphere of application.

> 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 (p. 18).

More specifically, the provisions of this publication apply to credit operations only if and when the parties involved in the credit transaction make explicit reference to them. For this reason, it is possible to affirm that UCP 600 norms do not apply automatically, but can apply only when parties choose to. Moreover, in order for these norms to be applicable, the issuing bank must make sure that the text of the credit makes reference to UCP 600. For instance, as previously discussed, in SWIFT messages there is a specific field dedicated to the applicable rules to the credit operation: Field 40E, is usually completed with expressions such as “UCP 600” or “UCPURR latest version”.

Moreover, Article 1 states that UCP 600 can also be used in situations in which a standby letter of credit is chosen as the means of payment to govern the credit transaction. The article clarifies that this publication may apply to standby letters of credit only if it is compatible with the national legislation. For example, in some Islamic countries, the application of UCP 600 to standby letters of credit may be prohibited. This is mainly because in these countries, standby letters of credit are considered as guarantee instruments rather than payment methods. Consequently, in these legal systems standby letters of credit are regulated by domestic law rather than by international rules such as UCP (Di Meo A. , 2019).

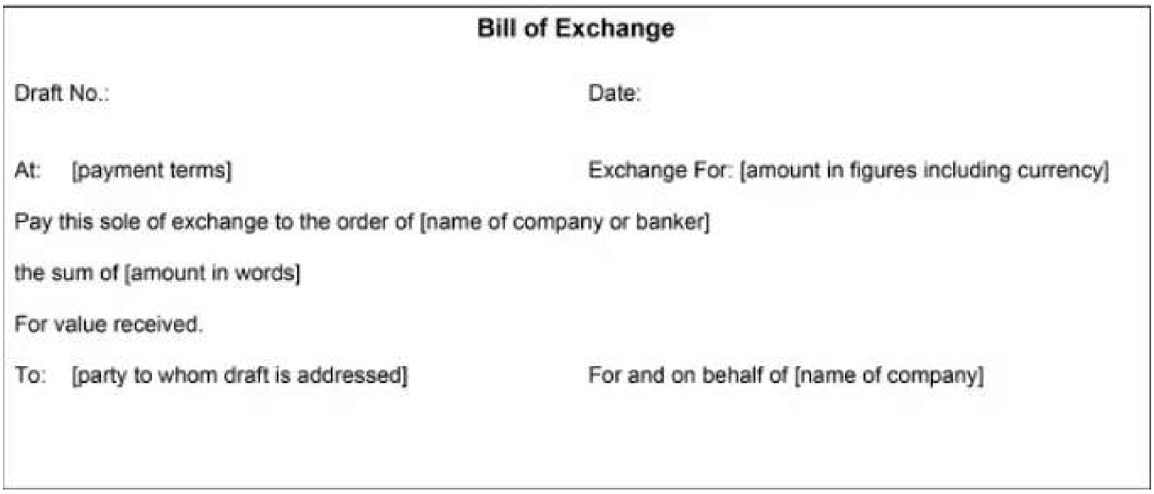
In order to further define the whole process of a documentary credit operation, Article 2 (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits, 2007) provides many definitions not only of the parties and of the banks involved in a credit operation, but it also defines some specific terms which are recurring. For instance, particular attention is paid to the definition of the expression “to honour a credit.” According to the rulings of UCP 600, in the specialised legal language, the verb “to honour” has three different meanings:

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 (p. 18).

If the documents presented are in conformity with the credit terms, the issuing bank can honour the credit directly, or authorise another bank to do so. This process may take three different forms: the payment can occur immediately, or payment can also be sent at a future fixed date. Lastly, it is also possible to honour a credit by accepting a draft, known as the bill of exchange, which is issued by the beneficiary and which establishes that payment is to be made at a future date.



Bill of Exchange

Draft No.: Date:

At: [payment terms] Exchange For: [amount in figures including currency]

Pay this sole of exchange to the order of [name of company or banker]

the sum of [amount in words]

For value received.

To: [party to whom draft is addressed] For and on behalf of [name of company]

Figure 12: Example of a bill of exchange. Adapted from Collyer (2007), p. 39.

Another important definition to take into consideration is the one related to the term credit itself. This concept is relevant because the International Chamber of Commerce (2007) recalls all the essential elements of a credit operation «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». In order to better define the concept of credit, Article 3 states that (ivi, p. 19) «a credit is irrevocable even if there is no indication to that effect». This is a relevant article, as this provision indicates a great change between UCP 500 and UCP 600. Under UCP 500, commercial letters of credit could be irrevocable or revocable. A revocable credit is a letter of credit that may be changed without the permission of the beneficiary. By contrast, the irrevocable credit, is a letter of credit that once issued requires that all the parties must agree on the changes to be made. In particular, even if under UCP 500 letters of credit were normally considered to be irrevocable, parties had the opportunity to indicate explicitly the use of a revocable credit. On this matter, Bergami (2009, p. 200) argues that «revocable credits, not surprisingly, have lost their appeal in modern day L/C transactions and the UCP 600 reflects this through Article 3». The shift proposed by the UCP 600 represents a positive opportunity for both the parties involved because it grants more stability in the transaction for both the buyer and the seller (Bergami, 2009).

Together with the provisions of Article 3, Article 4 (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits, 2007) is one of the most relevant of this publication, as it clearly defines the fundamental principles of a documentary credit operation: the autonomy and the nature of the credit in relation to the underlying contract of sales.

> a. <u>*A credit by its nature is a separate transaction from the sale or other contract*</u> *on which it may be based*. <u>*Banks are in no way concerned with or bound by such contract*</u>, 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 defences by the applicant resulting from its relationships with the issuing bank or the beneficiary. <u>*A beneficiary can in no case avail itself of the contractual relationships existing between banks or between the applicant and the issuing bank*</u>.
>
> b. *An issuing bank should* <u>*discourage any attempt by the applicant to include, as an integral part of the credit, copies of the underlying contract*</u>, proforma invoice and the like (p. 19).

On the one hand, to avoid that disputes related to the sales contract may affect the credit operation, the documentary credit must be independent from the sales contract. In other words, once the issuing bank takes on the obligation of payment towards the beneficiary, an irrevocable obligation is automatically created. It is therefore evident that the contractual relation established between the buyer and the seller cannot be taken into consideration by the banks involved in the credit transaction. On the other hand, the underlying sales agreement cannot affect the independence of the obligations assumed by the parties in a documentary credit operation. This implies that banks are not required to verify if the goods conform or not to the sales contract in terms of quality and quantity. For instance, even if the buyer finds defects in the goods received, the bank must honour the credit, provided that the documents presented comply with the terms of the credit. This highlights that documentary credits must be treated as a separate transaction from the relation between buyer and seller under the sales contract. Moreover, in order to preserve the principles of autonomy and abstractness of the credit, the issuing banks should verify that the documents relating to the sales contract, such as copies of the contract or similar documents are not included in the credit itself.

In this respect, Article 5 further underlines the importance of the autonomy and the abstract nature of documentary credit operations. As expressly stated in Article 5 (ivi, p. 20) «Banks deal with documents and not with goods, services or performance to which the documents may relate». This provision clearly underlines the fact that banks are only concerned in the examination of documents, and cannot take into account the contractual obligations of the sales contract (Bergami, 2007).

3.1.2.2 Role of banks

Once the main principles and characteristics of documentary credit operations have been defined and examined, the UCP 600 publication analyses the obligations of the banks involved in a credit transaction. Particularly, Articles 7 and 8 define the roles and responsibilities of both the issuing and the confirming banks. According to the provisions of Article 7 (ivi, p. 22), once the beneficiary presents the relevant documents to the bank, and they comply with the credit terms, the issuing or the confirming bank must honour the credit.

> 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:
> i. sight payment, deferred payment or acceptance with the issuing bank;
> ii. sight payment with a nominated bank and that nominated bank does not pay;
> 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;
> 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;
> v. negotiation with a nominated bank and that nominated bank does not negotiate.
> b. *An issuing bank is irrevocably bound to honour as of the time it issues the credit*.
> 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.

From the moment in which the credit is issued, the issuing bank undertakes the irrevocable obligation of payment towards the beneficiary. The issuing bank may authorise another bank to complete the payment obligation. However, if the nominated bank fails to fulfil this obligation, the payment undertaking remains on the issuing bank. The final part of the article defines the obligations of the issuing bank towards the nominated bank, when it is authorised to honour the credit towards the beneficiary. If a nominated bank is chosen, the issuing bank must reimburse it once the complying documents have been forwarded to the issuing bank. In this specific case, once the documentary credit is issued, the issuing bank assumes two separate obligations: the first one towards the beneficiary to honour the credit upon presentation of complying documents, and the second towards the nominated bank to reimburse the amount paid to the beneficiary.

If the above provision takes into consideration the obligation of the issuing banks, Article 8 (ivi, p. 24) analyses the undertakings of the confirming banks. Similarly to Article 7, this article states that if the documents presented by the beneficiary to the confirming bank comply with the terms of the credit, the confirming bank is required to honour the credit.

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:
i. honour, if the credit is available by
a. sight payment, deferred payment or acceptance with the confirming bank;
b. sight payment with another nominated bank and that nominated bank does not pay;
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;
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;
e. negotiation with another nominated bank and that nominated bank does not negotiate.
ii. negotiate, without recourse, if the credit is available by negotiation with the confirming bank.
b. *A confirming bank is irrevocably bound to honour or negotiate as of the time it adds its confirmation to the credit*.
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.
>
> 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.

More specifically, a confirming bank assumes its irrevocable undertaking towards the beneficiary from the moment it agrees to add its confirmation to the documentary credit operation. It is important to underline that, once a request to add confirmation has been received, the confirming bank is not obliged to accept it. However, if it decides not to add its confirmation, it must promptly inform the issuing bank of its refusal.

As in the previous article, once the credit has been issued and confirmation has been added, the confirming bank assumes an obligation to honour the credit, provided that the documents presented are compliant with the terms of the credit. The undertaking of the confirming bank therefore exists in addition to that of the issuing bank, offering the beneficiary an extra level of security. Furthermore, if another nominated bank is involved in the credit transaction, the confirming bank must reimburse the nominated bank at maturity rather than in advance.

To conclude the provisions related to the banks and their responsibilities, Article 15 (ivi, p. 27) provides a clear and concise overview of the obligations assumed by the banks involved in a documentary credit transaction.

> a. When an issuing bank determines that a presentation is complying, it must honour.
>
> b. When a confirming bank determines that a presentation is complying, it must honour or negotiate and forward the documents to the issuing bank.
>
> 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.

The first paragraph recalls a principle already introduced in Article 7: the issuing bank must honour the credit once the documents comply with the terms of the credit. The second paragraph focuses on the role of the confirming bank, following the principles established in Article 8. By adding its confirmation to the credit operation, the confirming bank accepts an additional irrevocable undertaking together with the issuing bank. If the documents are considered compliant after examination, the confirming bank is also required to honour the credit. The final paragraph concerns the nominated bank, which may honour the credit and must forward the documents presented by the beneficiary to the issuing bank.

3.1.2.3 Examination of documents

The following section of UCP 600, which comprises Articles 14 to 25, focus on one of the most crucial aspects of documentary credit operations: the examination of documents and the transport documents required in this type of transaction.

Article 14 is one of the most detailed provisions of the Uniform Customs and Practice for Documentary Credits. This is because the phases of the presentation and examination of documents represent the most critical stages of a documentary credit transaction. Article 14 (International Chamber of Commerce, Uniform Customs and Practice for Documentary Credits, 2007) recalls the principles already provided in Article 5, as it defines the abstract nature of credit operations. Banks must only deal with documents and must not make any reference to the underlying sales contract.

> a. A nominated bank acting on its nomination, a confirming bank, if any, and the issuing bank must *examine a presentation to determine,* <u>on the basis of the documents alone</u>, *whether or not the documents appear on their face to constitute a complying presentation.*
> b. A nominated bank acting on its nomination, a confirming bank, if any, and the issuing bank shall each *have a maximum of* <u>*five banking days following the day of presentation*</u> *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.
> 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* <u>*not later than 21 calendar days after the date of shipment*</u> as described in these rules, *but in any event not later than the expiry date of the credit*. […]
> e. *In documents* <u>*other than the commercial invoice*</u>*, the description of the goods, services or performance, if stated, may be in general terms not conflicting with their description in the credit*. […]
> g. <u>*A document presented but not required by the credit will be disregarded and may be returned to the presenter*</u>. […] (p. 27).

Moreover, the article establishes that banks must examine the documents and determine whether they comply with the terms of the credit within a fixed time period of five banking days after their presentation. It is important to specify that this deadline cannot be extended, even if the examination period ends after the expiry date of the credit. For this reason, the beneficiary is responsible of managing the timing of the presentation of the documents to the bank at the most appropriate moment. Furthermore, the beneficiary must present the transport documents to the bank within 21 days from the date of shipment of the goods. Unlike the period of five banking days for document examination, the deadline related to the presentation of the documents may be modified, only if it does not exceed the expiry date of the credit. The expiry date of the credit is of outmost importance because once the credit has expired, banks are no longer obliged to honour the credit. The provisions of Article 14 also underline that the examination phase must take into account both the context of the document and the provisions contained in the credit. Documents are frequently rejected when the information is inconsistent with the terms of the credit. In this respect, Article 14 provides that if the beneficiary submits to the bank a document that is not required by the credit terms, banks will not take it into consideration. Another key aspect in the examination of the documents is the description of the goods, which must be included in the text of the credit. More specifically, the description of the goods in the commercial invoice must be extremely precise and must correspond exactly to the description of the goods indicated in the documentary credit. However, in all the other transport documents the description of the goods may be expressed in more general terms, provided that the information does not conflict with the description contained in the credit.

Once the norms concerning the presentation and examination of documents have been analysed, the publication addresses the situations in which documents are found to be non-compliant. In this regard, Article 16 (ivi, p. 29) regulates the role of banks when the presentation of the documents made by the beneficiary does not comply with the credit terms.

> a. When a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank determines that <u>*a presentation does not comply, it may refuse to honour or negotiate*</u>.
> b. When an issuing bank determines that a presentation does not comply, it may in its sole judgement approach the applicant for a waiver of the discrepancies. *This does not, however, extend the period mentioned in sub-article 14 (b).* […]
> 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.
> 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.

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.

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.

When the documents show some discrepancies compared to the credit terms, the banks involved in the payment process can refuse to honour the credit. This is because documentary credit operations exist when the beneficiary presents to the bank complying documents to receive payment. Consequently, the presentation of documents which are not compliant may lead to the refusal of the payment obligation by the bank.

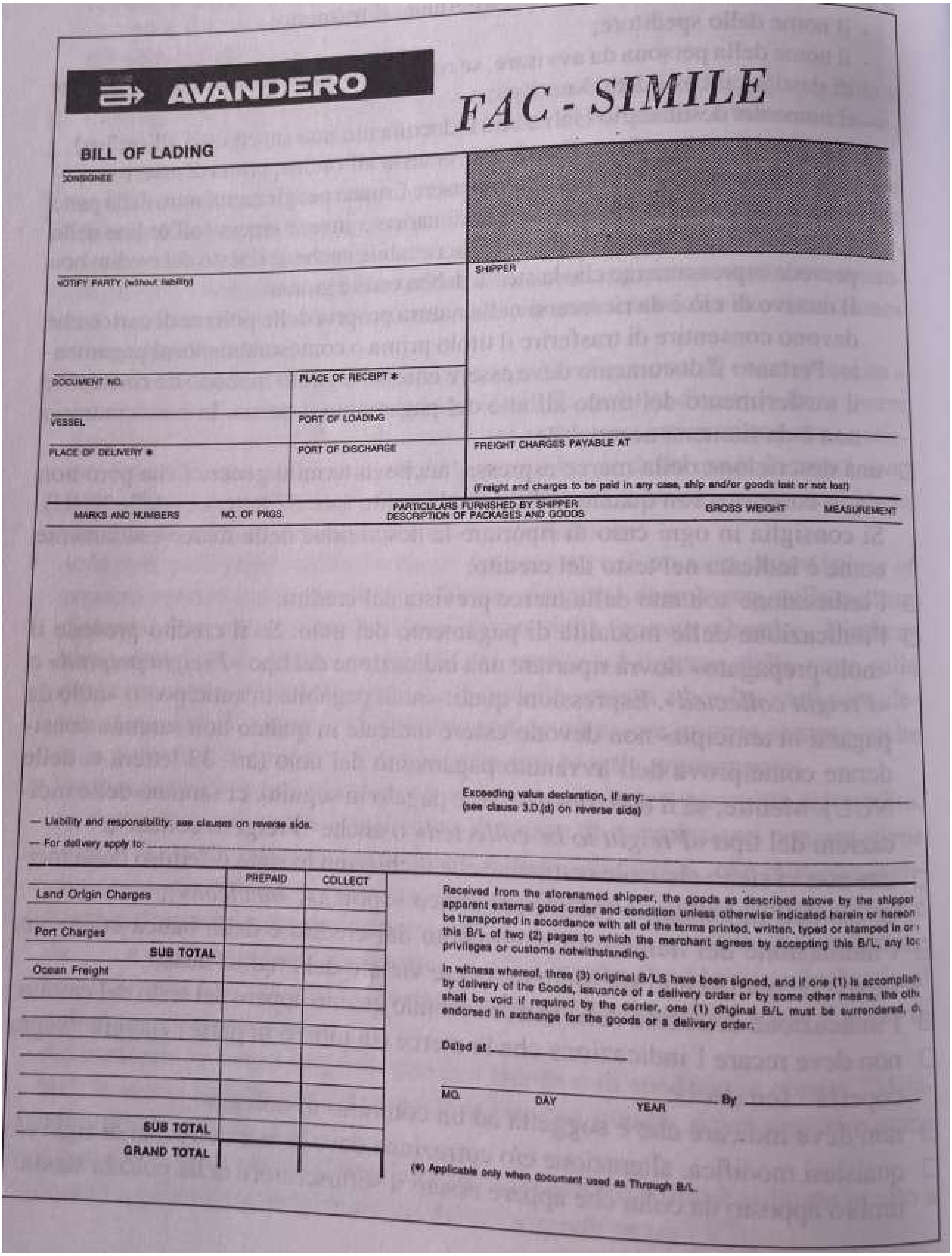
3.1.2.4 Transport documents

The following section, which includes Articles from 18 to 25, examines the transport documents required under a documentary credit transaction. In particular, each of these provisions analyses the main characteristics and the requirements of the transport documents that can be presented during the examination phase.

Article 18 analyses the commercial invoice, which represents one of the most important documents in international trade as it provides important information on the goods, such as their description, their quantity, their identification codes, and their price. The objective of this article is to establish the conditions under which a commercial invoice can be accepted, and can be considered as a compliant document. In general terms, the commercial invoice must be issued by the beneficiary and made out in the name of the applicant. In addition, the currency indicated in the invoice must correspond to the one specified in the credit. The final part of the article emphasises another particularly important requirement: "the description of the goods, services or performance in a commercial invoice must correspond with that appearing in the credit". This means that the description of the goods or services included in the invoice must strictly match the description contained in the documentary credit, especially the one indicated in Field 45A of the SWIFT message. Consequently, the use of alternative wording or expressions that differ from those contained in the credit terms may lead to discrepancies during the examination process.

According to the provisions of Article 19, even multimodal transport documents are covered under the UCP 600 publication. Multimodal transport documents cover transports which are carried out through two or more different modes of transport. It is important that these documents indicate the name of the carrier, and they must be signed either by the carrier itself or by an authorised person. In any case, the person signing the document is responsible for the whole transport operation. Furthermore, the multimodal transport document must specify the place of dispatch, the place of taking in charge, and the final destination as required by the credit terms. Unlike the commercial invoice, in the case of a multimodal transport document the description of the goods may be expressed in more general terms, but it must be consistent with the information of the documentary credit and of the credit terms.

In Articles 20 and 21, UCP 600 examines the documents used for maritime transport, which mainly consist of the bill of lading and of the non-negotiable sea waybill. Even if the provisions of these two articles are very similar, the main difference is represented by their different legal function. On the one hand, Article 20 takes into consideration the bill of lading, which is one of the most commonly used transport documents in documentary credit operations. This document is particularly relevant, not only because it proves that the goods have been shipped, but it also allows the buyer to collect the goods at the port of destination, only in possession of the original document. The article specifies that the bill of lading must indicate that the goods have been loaded on board of a named vessel at the port of shipment established in the credit. Moreover, the bill of lading must also include the ports of loading and of discharge required by the credit and, as for any transport document, it must be signed by the carrier, or even by an authorised agent. On the other hand, Article 21 regulates a document that has been recently introduced into the UCP publication: the non-negotiable sea waybill. Probably, the late introduction into these norms is due to the fact that the non-negotiable sea waybill covers almost the same functions of the bill of lading. The sea waybill must indicate that the goods were loaded on board a named vessel at the port specified in the credit, and it must also include shipment and destination details. However, unlike the bill of lading, it is not a document of title, and therefore the difference between these two documents concerns their legal nature. In the case of the bill of lading, the buyer can receive the goods only upon presentation of the original copy of the document. By contrast, in a non-negotiable sea waybill, the buyer can take possession of the goods even without presenting the original document. As a result, the bill of lading is usually preferred in documentary credit transactions, because it offers greater control over the goods in international trade.



AVANDERO

FAC - SIMILE

BILL OF LADING

CONSIGNEE

SHIPPER

NOTIFY PARTY (without liability)

DOCUMENT NO.	PLACE OF RECEIPT *
VESSEL	PORT OF LOADING
PLACE OF DELIVERY *	PORT OF DISCHARGE

FREIGHT CHARGES PAYABLE AT

(Freight and charges to be paid in any case, ship and/or goods lost or not lost)

MARKS AND NUMBERS	NO. OF PKGS.	PARTICULARS FURNISHED BY SHIPPER DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT

Exceeding value declaration, if any: ________
(see clause 3.D.(d) on reverse side)

— Liability and responsibility: see clauses on reverse side.

— For delivery apply to: ________

	PREPAID	COLLECT
Land Origin Charges		
Port Charges		
SUB TOTAL		
Ocean Freight		
SUB TOTAL		
GRAND TOTAL		

Received from the aforenamed shipper, the goods as described above by the shipper apparent external good order and condition unless otherwise indicated herein or hereon be transported in accordance with all of the terms printed, written, typed or stamped in or this B/L of two (2) pages to which the merchant agrees by accepting this B/L, any loc privileges or customs notwithstanding.

In witness whereof, three (3) original B/LS have been signed, and if one (1) is accomplish by delivery of the Goods, issuance of a delivery order or by some other means, the oth shall be void if required by the carrier, one (1) original B/L must be surrendered, d endorsed in exchange for the goods or a delivery order.

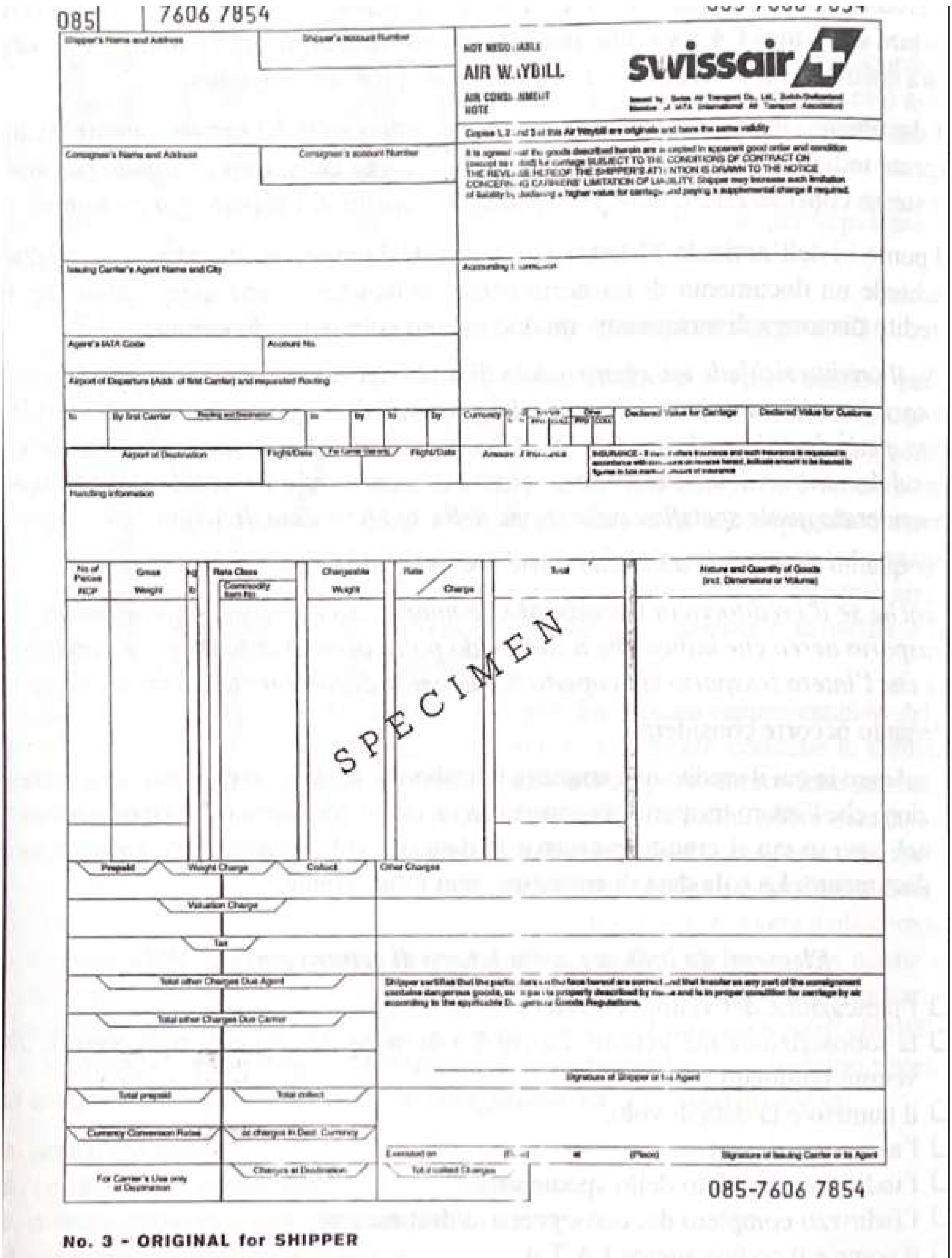
Dated at ________

MO. DAY YEAR By ________

(*) Applicable only when document used as Through B/L.

Figure 13: Example of a bill of lading. Adapted from Di Meo (2004), p. 348.

After examining multimodal transport documents and maritime transport documents, Article 23 focuses on air transport documents, commonly known as the air waybill. Similarly to the previous articles, it specifies all the requirements that the document must meet to be considered compliant during the examination phase. As for the previous provisions, the article highlights the importance of the identification of the party signing the document. In the case of air transport, the document may only be signed by the carrier or by an authorised agent. Unlike maritime transport documents, the air waybill does not prove that the goods have been loaded on a specific aircraft specified in the credit terms. For this specific type of transport document, it is sufficient if it indicates that the goods have been accepted for carriage by the airline. The document must also indicate the airport of departure and the airport of destination required by the credit, as in the sample letter of credit analysed above. Another important aspect to consider is that the air waybill is not considered as a document of title, and is non-negotiable. For this reason, only one original copy is required for the shipper, even if the credit asks for a full set of originals.



085 | 7606 7854

Shipper's Name and Address | Shipper's account Number

NOT NEGOTIABLE
AIR WAYBILL
AIR CONSIGNMENT NOTE

swissair

Copies 1, 2 and 3 of this Air Waybill are originals and have the same validity

It is agreed that the goods described herein are accepted in apparent good order and condition (except as noted) for carriage SUBJECT TO THE CONDITIONS OF CONTRACT ON THE REVERSE HEREOF. THE SHIPPER'S ATTENTION IS DRAWN TO THE NOTICE CONCERNING CARRIERS' LIMITATION OF LIABILITY. Shipper may increase such limitation of liability by declaring a higher value for carriage and paying a supplemental charge if required.

Consignee's Name and Address | Consignee's account Number

Issuing Carrier's Agent Name and City | Accounting Information

Agent's IATA Code | Account No.

Airport of Departure (Addr. of first Carrier) and requested Routing

to | By first Carrier | to | by | to | by | Currency | Declared Value for Carriage | Declared Value for Customs

Airport of Destination | Flight/Date | Flight/Date | Amount of Insurance | INSURANCE

Handling Information

No. of Pieces RCP | Gross Weight | kg lb | Rate Class | Commodity Item No. | Chargeable Weight | Rate / Charge | Total | Nature and Quantity of Goods (incl. Dimensions or Volume)

SPECIMEN

Prepaid | Weight Charge | Collect | Other Charges

Valuation Charge

Tax

Total other Charges Due Agent

Total other Charges Due Carrier

Shipper certifies that the particulars on the face hereof are correct and that insofar as any part of the consignment contains dangerous goods, such part is properly described by name and is in proper condition for carriage by air according to the applicable Dangerous Goods Regulations.

Signature of Shipper or his Agent

Total prepaid | Total collect

Currency Conversion Rates | cc charges in Dest. Currency

Executed on (Date) at (Place) | Signature of Issuing Carrier or its Agent

For Carrier's Use only at Destination | Charges at Destination | Total collect Charges

085-7606 7854

No. 3 - ORIGINAL for SHIPPER

Figure 14: Example of an airway bill. Adapted from Di Meo (2004), p. 356.

Lastly, Article 24 regulates transport documents used for carriage by road, rail, or inland waterways within documentary credit transactions. The article first highlights the importance of the signature and of the correct identification of the carrier or agent, who is issuing the document. In the case of these transport documents, the indication that the goods have been received for transport may already be considered as a proof of shipment. This confirms that these documents serve as evidence that the seller has fulfilled the obligation to dispatch the goods. Article 24 further clarifies which date should be considered the shipment date: in most cases, the date of issuance of the transport document is considered the date of dispatch or receipt of the goods. Finally, the article reflects actual commercial practice by recognising that, at least in Italian documentary credit operations, the most frequently used document among those regulated by Article 24 is the road transport document (CMR), while rail and inland waterway transport documents are used far less frequently.

3.1.2.4 Final provisions

One of the final provisions of the UCP 600 addresses a fundamental principle in international trade, known as force majeure. As defined by Burkhart & Bode (2025, p. 1) «Force majeure refers to an event that can neither be anticipated nor controlled, encompassing acts of nature, such as natural disasters, as well as human actions, such as wars». In line with this definition, Article 36 establishes that banks shall have no liability if the performance of their operations is interrupted by events of force majeure.

> *A bank assumes <u>no liability or responsibility</u> 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 <u>causes beyond its control</u>.* A bank will not, upon resumption of its business, honour or negotiate under a credit that expired during such interruption of its business.

According to this provision, banks are not responsible for any consequences arising from the suspension of their activities due to force majeure events, which include: natural disasters, riots, civil disturbances, uprisings, wars, acts of terrorism, as well as strikes, lockouts, or any other circumstances beyond their control. Furthermore, once normal operations resume, banks are not obliged to honour or negotiate any credits that expired during the period in which their activities were suspended due to force majeure.

3.2 eUCP

The latest version of the UCP includes 14 articles of the eUCP, known as the Electronic Uniform Customs and Practice, which regulate the electronic presentation of documents in a documentary credit operation. These rules apply when documents are presented electronically, either entirely digital or together with some traditional paper documents. As argued by Bergami (2004) the reason behind the introduction of the eUCP can be found in the increasing use of technology even in international trade finance «Innovative solutions that will improve processing times, reduce errors and automate repetitive functions may well deliver such efficiencies, particularly if integrated systems can be built across organisations» (p. 25). Therefore, technological advances have made it possible to present electronic documents in order to shorten the processes and the phases of credit transactions. Nevertheless, the International Chamber of Commerce (2023, p.1) specifies that since electronic documentary credits had already been used for many years before the introduction of these rules, «the eUCP focuses on the presentation of electronic records, alone or in combination with paper documents, and not on the issuance of an eUCP credit». The purpose of the eUCP is not to regulate the issuance of documentary credits in their electronic form, because banks were already issuing documentary credits electronically for many years before these provisions by using telegrams and telexes. Conversely, the eUCP was drafted to address the presentation and examination of electronic records, either entirely in their digital form, or together with traditional documents. In this regard, the eUCP norms are based on the same principles of the UCP 600, but they introduce some specific requirements for electronic records. It is of outmost importance that, before using an eUCP credit, the parties must agree on an electronic presentation of documents, and on which documents can be submitted in a digital form. Moreover, even the banks involved in the credit transaction must make sure that they are able to correctly receive and examine the electronic documents received. All of the eUCP publications listed below share the same objective: to complement the rules of the UCP by providing additional provisions on how documents required under a letter of credit can be transmitted in a digital form to the banks. However, as claimed by Di Meo (2019), the application of the eUCP is still limited because of several technical and legal difficulties. For instance, the compatibility of digital systems between different banks and the legal recognition of electronic and digital signatures. Furthermore, the difficulties may also concern the sphere of the transport documents. For example, the bill of lading which is a document of title, is difficult to manage in its electronic form, and it has still not the same legal value as in its traditional form «Its electronic equivalent, by and large, does not enjoy the same status at law and is not something which can be seen or held, but may be displayed on a screen or printed as many times as one likes via a computer link» (Bergami, 2004, p. 25). As highlighted by Bergami, the main issue related to transport document in their digital format, is related to their possibility to be reproduced without any type of control.

The Uniform Customs and Practice for Documentary Credits Supplement for Electronic Presentation was first published in 2002 to support the publication of the UCP 500. A few years later, it was updated in 2007 in the version 1.1 to supplement the publication of UCP 600, and was further revised in 2019 in the version 2.0 in order to meet the technological developments. Lastly, the version 2.1 published in 2023, was updated to reflect the recent developments in electronic trade documents. In particular, this version was aligned with the UNCITRAL Model Law on Electronic Transferable Records (MLETR) proposed in 2017 by the United Nations (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023). The Model Law on Electronic Transferable Record is an international framework created by the United Nations to support the legal use of electronic documents in international trade practices. In particular, its main objective is to give electronic documents the same legal value as traditional paper documents. The reason behind this proposal is in line with the intentions provided by the eUCP: to facilitate transactions, and to reduce the amount of paper documentation. Moreover, according to this model and to the eUCP, electronic records would make it possible to automate some processes, especially in sectors such as international trade and transport (United Nations, UNCITRAL Model Law on Electronic Transferable Records, 2017).

3.2.1 Analysis of eUCP 600 version 2.1

In order to better understand the changes and the updates introduced from the UCP 600 and the latest version 2.1 of the eUCP, it is therefore necessary to carry out a comparative analysis of the relevant provisions and articles. This approach is important, as it makes it possible to identify the key differences between the two set of rules. In order to clearly distinguish the provisions of the eUCP from those of the UCP 600, each article of the eUCP is identified by the letter “e”. Therefore, the results of these provisions are Article e1, e2, and so forth. This little difference makes it easier to differentiate the rules governing electronic presentations, from those which are applicable to traditional credit operations only.

Article e1 (International Chamber of Commerce, 2023) presents the scope and defines the sphere of application of the eUCP.

> a. The eUCP supplements the Uniform Customs and Practice for Documentary Credits (2007 Revision, ICC Publication No. 600) ("UCP") in order to *accommodate presentation of electronic records alone or in combination with paper documents*.
> b. *The eUCP shall apply where the credit indicates that it is subject to the eUCP* ("eUCP credit").
> c. This version is Version 2.1. *An eUCP credit must indicate the applicable version of the eUCP. If not indicated, it is subject to the latest version in effect on the date the eUCP* credit is issued or, if made subject to the eUCP by an amendment accepted by the beneficiary, the date of that amendment.
> d. *An eUCP credit must indicate the physical location of the issuing bank. In addition, it must also indicate the physical location of any nominated bank and, if different to the nominated bank, the physical location of the confirming bank, if any, when such location is known to the issuing bank at the time of issuance*. If the physical location of any nominated bank and/or confirming bank is not indicated in the credit, such bank must indicate its physical location to the beneficiary no later than the time of advising or confirming the credit or, in the case of a credit available with any bank, and where another bank willing to act on the nomination to honour or negotiate is not the advising or confirming bank, at the time of agreeing to act on its nomination (p. 4).

Similarly to Article 1 of UCP 600, the eUCP applies only when the documentary credit expressly indicates the desire of the parties to be subject to these rules. This confirms the nature of both UCP 600 and eUCP: neither of them applies automatically to the international sales contracts that are settled through documentary credit, unless the parties make explicit reference to one of these set of rules into the text of the credit. However, unlike UCP 600, Article e1 also introduces new requirements that are linked to its electronic nature. For instance, the electronic norms are updated periodically, and the credit must indicate the version of the eUCP that applies. Furthermore, eUCP introduce additional requirements concerning the physical location of all the banks involved in the credit transaction: the issuing, nominated and confirming banks. This aspect becomes particularly relevant in electronic documentary credit operations, because documents are transmitted digitally, and the exact location of the parties is important to be established, mainly for legal purposes.

Because eUCP recalls and supplements all of the provisions already established in the UCP, Article e2 (ibid.) defines the relationship between UCP 600 and eUCP.

a. An eUCP credit is also subject to the UCP without express incorporation of the UCP.

b. *Where the eUCP applies, its provisions shall prevail to the extent that they would produce a result different from the application of the UCP*.

c. If an eUCP credit allows the beneficiary to choose between presentation of paper documents or electronic records and it chooses to present only paper documents, the UCP alone shall apply to that presentation. *If only paper documents are permitted under an eUCP credit, the UCP alone shall apply*.

The article stated that an eUCP credit is always subject to the provisions of UCP 600, unless the eUCP provide a different outcome. In other words, the provisions of the eUCP can only prevail in cases in which the electronic presentation of documents creates solutions that are different from traditional credit operations. In the final part of this article, it is specified that, if the beneficiary decides to present to the banks only paper documents, then the transaction will be governed solely by UCP 600. Therefore, all digital documents are subject to the provisions of the eUCP, while all traditional paper documents are governed by UCP rules (Byrne & Taylor, 2002).

Article e3 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 4-5) has a similar function compared to Article 2 of UCP 600, as it introduces specific definitions related to the field of the electronic presentation of documents. While UCP 600 defines more traditional banking and documentary concepts, the eUCP introduces new specific terminology, which is linked to the area of digital trade finance.

a. *Where the following terms are used in the UCP, for the purpose of applying the UCP to an electronic record presented under an eUCP credit*, the term: […]

ii. *Document shall include an electronic record*.

iii. Place for presentation of an electronic record means an electronic address of a data processing system.

iv. Presenter means the beneficiary, or any party acting on behalf of the beneficiary who makes a presentation to a nominated bank, confirming bank, if any, or to the issuing bank directly.

v. *Sign and the like shall include an electronic signature*. […]

b. The following terms used in the eUCP shall have the following meaning:

i. *Data corruption* means any distortion or loss of data that renders the electronic record, as it was presented, unreadable in whole or in part.

iii. *Data processing system* means a computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages or performances in whole or in part.

iii. *Electronic record*, including an electronic transferable record, means data created, generated, sent, communicated, received or stored by electronic means, including, where appropriate, all information logically associated with or otherwise linked together so as to become part of the record, whether generated contemporaneously or not, that is:

a) capable of being authenticated as to the apparent identity of a sender and the apparent source of the data contained in it, and as to whether it has remained complete and unaltered, and

b) capable of being examined for compliance with the terms and conditions of the eUCP credit.

iv. *Electronic signature* means a data process attached to or logically associated with an electronic record and executed or adopted by a person in order to identify that person and to indicate that person's authentication of the electronic record.

v. *Electronic transferable record* means an electronic record that contains the information that would be required in the equivalent paper document, such as a negotiable bill of lading or an assignable insurance document.

vi. *Format* means the data organisation in which the electronic record is expressed or to which it refers.

vii. Paper document means a document in a paper form.

viii. *Received* means when an electronic record enters a data processing system, at the place for presentation indicated in the eUCP credit, in a format capable of being accepted by that system. Any acknowledgement of receipt generated by that system does not imply that the electronic record has been viewed, examined, accepted or refused under an eUCP credit.

ix. Re-present or re-presented means to substitute or replace an electronic record already presented.

The article clarifies that some terms which were traditionally used in paper-based documents, such as document and signature must also be interpreted in the digital context. For instance, a document can consist of both an electronic record and a paper-based document. Similarly, under eUCP, the term signature can also take the meaning of an electronic signature used on digital devices. Moreover, Article e3 introduces several new concepts specifically related to the digital field, that have no specific equivalent in the traditional UCP publications. Among the most important are "electronic record", "electronic signature", "electronic transferable record", and "data corruption". These definitions are necessary because electronic presentation of documents require new concepts that did not exist in the traditional paper-based operations.

Article e4 (ivi, p. 5) recalls one of the fundamental principles of credit transactions, which was already established under Articles 4 and 5 of UCP 600. This is represented by the autonomy principle of documentary credit operations according to which «Banks do not deal with the goods, services or performance to which an electronic record or paper document may relate». As in UCP 600, banks must only deal with documents or electronic records, rather than with goods and services. Therefore, even in electronic documentary credit operations, banks are never concerned with the sales contract between buyer and seller. This is because the role of banks in credit operations is limited to the examination of documents, and their main role is to determine if they comply or not with the credit terms.

Unlike UCP 600, which was drafted for paper documents and did not need to regulate digital formats, Article e5 (ibid.) introduces rules concerning the format in which electronic records must be presented «An eUCP credit must indicate the format of each electronic record. If the format of an electronic record is not indicated, it may be presented in any format». The article establishes that the credit must specify the format required for each electronic record. If no format is indicated, the beneficiary may present documents in the format preferred. This provision underlines the need for compatibility between the systems used by banks and beneficiaries, and the indication of a specific format is relevant in order to avoid discrepancies in the following phases.

Another innovative aspect introduced by the eUCP is related to the presentation of electronic records in Article e6 (ivi, p.6). If UCP 600 focus only on the presentation of paper documents, the eUCP specify that electronic records may be transmitted at different moments and in separate messages.

> a. i. *An eUCP credit must indicate a place for presentation of electronic records*.
> ii. An eUCP credit requiring or allowing presentation of both electronic records and paper documents must, in addition to the place for presentation of the electronic records, also indicate a place for presentation of the paper documents.
> b. *Electronic records may be presented separately and need not be presented at the same time*.
> c. i. When one or more electronic records are presented alone or in combination with paper documents, the presenter is responsible for providing a notice of completeness to the nominated bank, confirming bank, if any, or to the issuing bank, where a presentation is made directly. The receipt of the notice of completeness will act as notification that the presentation is complete and that the period for examination of the presentation is to commence.

ii. *The notice of completeness may be given as an electronic record or paper document and must identify the eUCP credit to which it relates*.
iii. Presentation is deemed not to have been made if the notice of completeness is not received.
iv. When a nominated bank, whether acting on its nomination or not, forwards or makes available electronic records to a confirming bank or issuing bank, a notice of completeness need not be sent.
d. i. *Each presentation of an electronic record under an eUCP credit must identify the eUCP credit under which it is presented*. This may be by specific reference thereto in the electronic record itself, or in metadata attached or superimposed thereto, or by identification in the covering letter or schedule that accompanies the presentation.
ii. Any presentation of an electronic record not so identified may be treated as not received.
e. i. *If the bank to which presentation is to be made is open but its system is unable to receive a transmitted electronic record on the stipulated expiry date and/or the last day for presentation, as the case may be, the bank will be deemed to be closed and the expiry date and/or last day for presentation shall be extended to the next banking day on which such bank is able to receive an electronic record*.
ii. In this event, the nominated bank must provide the confirming bank or issuing bank, if any, with a statement on its covering schedule that the presentation of electronic records was made within the time limits extended in accordance with sub-article e6 (e) (i) […].

The article introduces the expression of notice of completeness: this notice is relevant in the eUCP, as it informs the bank that the presentation of the documents is complete and that the examination phase may start. The notice of completeness is particularly relevant under the eUCP, as without this notice the presentation cannot be considered as completed (Byrne & Taylor, 2002). Moreover, the article also regulates technical problems that do not exist in paper-based transactions. For example, if the bank's electronic system is unable to receive the electronic documents on the expiry date, the presentation deadline is automatically extended until the system becomes operational again. This provision is one of the most innovative because it presents a main difference compared to the UCP 600 norms, where the presentation of documents is linked to the physical opening hours of the banks. By contrast, under eUCP the presentation of electronic records depends entirely on the functioning of the digital system (Bergami, 2004).

In this regard, even the following phase of the examination of the documents is analysed under the eUCP provisions. In particular, Article e7 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 7) corresponds to Article 14 of UCP 600, where the same principle applies: banks must examine whether the relevant documents presented from the beneficiary comply with the credit terms or not.

a. i. The period for the examination of documents commences on the banking day following the day on which the notice of completeness is received by the nominated bank, confirming bank, if any, or by the issuing bank, where a presentation is made directly.

ii. If the time for presentation of documents or the notice of completeness is extended, as provided in sub-article e6 (e) (i), the time for the examination of documents commences on the next banking day following the day on which the bank to which presentation is to be made is able to receive the notice of completeness, at the place for presentation.

b. i. If an electronic record contains a hyperlink to an external system or a presentation indicates that the electronic record may be examined by reference to an external system, the electronic record at the hyperlink or the external system shall be deemed to constitute an integral part of the electronic record to be examined.

ii. *The failure of the external system to provide access to the required electronic record at the time of examination shall constitute a discrepancy*, except as provided in sub-article e7 (d) (ii).

c. The inability of a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank, to examine an electronic record in a format required by an eUCP credit or, if no format is required, to examine it in the format presented is not a basis for refusal.

d. i. The forwarding of electronic records by a nominated bank, whether or not it is acting on its nomination to honour or negotiate, signifies that it has satisfied itself as to the apparent authenticity of the electronic records.

ii. In the event that a nominated bank determines that a presentation is complying and forwards or makes available those electronic records to the confirming bank or issuing 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 a specified hyperlink or external system does not allow the issuing bank or confirming bank to examine one or more electronic records that have been made available between the nominated bank and the issuing bank or confirming bank, or between the confirming bank and the issuing bank.

Unlike paper-based documents, electronic presentations can possibly create additional issues. For instance, electronic records may present situations involving hyperlinks, external systems, and electronic access to records. In the situations in which banks have to access documents externally via hyperlinks, the bank's obligation is to check if the data contained externally comply with the credit terms (Byrne & Taylor, 2002). On this matter, Bergami (2004, p. 32) provides an example «if an internet address is given, then it would be of outmost importance that the complete and accurate address be provided». The use of both technology and of digital formats requires a higher degree of attention even to the syntax of external sources «dots, underscores, and file extensions are all items that, if incorrect, will simply fail to reach the pinpointed electronic target» (ibid.).

In this regard, similarly to the norms provided in the UCP 600, the date of issuance of the credit is still essential in determining the compliance of the documents. Therefore, Article e10 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 8) establishes that every electronic record must give proof of its date of issuance «An electronic record must provide evidence of its date of issuance». This requirement is particularly relevant because electronic documents can easily be modified or duplicated, and dates are important under letter of credit transactions. To conclude the topic of the relevant documents, Article e8 (ivi, p. 7) complements the provisions of Article 16 of UCP 600 analysing the possible phase of the refusal of the documents.

> If a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank, provides a *notice of refusal of a presentation which includes electronic records and does not receive instructions from the party to which notice of refusal is given* for the disposition of the electronic records <u>*within 30 calendar days from the date the notice of refusal is given*</u>*, the bank shall return any paper documents not previously returned to that party*, but may dispose of the electronic records in any manner deemed appropriate without any responsibility.

In traditional credit transactions, paper documents that are considered non-compliant with the credit terms, can be simply be returned physically to the beneficiary, who presented the documents to the bank. By contrast, in the case of an electronic presentation, the situation becomes more complex because electronic records cannot be physically returned as for paper documents. Because of these difficulties linked to electronic records, the eUCP establishes that if a bank refuses the presentation of the documents, and the beneficiary does not give instructions on how to handle the electronic records withing 30 days, the bank can delete or archive these records freely. Since the refusal of documents is already governed by UCP, the main purpose of the eUCP provision is to establish how electronic records should be treated after their refusal (Byrne & Taylor, 2002).

Article e11 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 8) examines the topic of the transport documents, previously analysed in Articles 19–24 of UCP 600 publication.

> *If an electronic record evidencing transport does not indicate a date of shipment or dispatch or taking in charge or a date the goods were accepted for carriage, the date of issuance of the electronic record will be deemed to be the date of shipment or dispatch or taking in charge or the date the goods were accepted for carriage*. However, if the electronic record bears a notation that evidences the date of shipment or dispatch or taking in charge or the date the goods were accepted for carriage, the date of the notation will be deemed to be the date of shipment or dispatch or taking in charge or the date the goods were accepted for carriage. Such a notation showing additional data content need not be separately signed or otherwise authenticated.

As for the UCP 600, shipment dates are still crucial to determine if the beneficiary respected the deadlines already established in the credit terms. If the electronic transport record does not indicate a shipment date, the issuance date will be considered the date on which the electronic record is issued. The article also specifies that, unlike paper documents, electronic records do not require separate signatures or authentication. This represents a main difference from the traditional practice of paper documents, where signatures play a key role to identify and verify the authenticity of the parties (Bergami, 2004). On the topic of transport documents, Article e9 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 8) introduces an important simplification compared to UCP 600. In traditional documentary credit transactions, credits often require a fixed number of originals and copies depending on the type of transport document involved. By contrast, under eUCP «Any requirement for presentation of one or more originals or copies of an electronic record is satisfied by the presentation of one electronic record». It is therefore evident that according the eUCP provisions, the presentation of a single electronic record is enough, as there is no specific requirement for a number of originals and copies.

Another major innovation introduced by the eUCP concerns data corruption presented in Article e12 (ibid.), a problem that obviously did not exist under UCP 600.

> a. If an electronic record that has been received by a nominated bank acting on its nomination or not, confirming bank, if any, or the issuing bank, *appears to have been affected by a data corruption, the bank may inform the presenter and may request it to be re-presented*.
>
> b. If a bank makes such a request:
>
> i. *the time for examination is suspended and resumes when the electronic record is re-presented*; and
>
> ii. if the nominated bank is not a confirming bank, it must provide any confirming bank and the issuing bank with notice of the request for the electronic record to be re-presented and inform it of the suspension; but

iii. *if the same electronic record is* *not re-presented within 30 calendar days, or on or before the expiry date and/or last day for presentation, whichever occurs first,* *the bank may treat the electronic record as not presented*.

If an electronic record becomes unreadable or incomplete because of technical problems, banks may request that the document be re-presented. During this period, the examination process is suspended. This provision demonstrates how electronic documentary credit operations introduce technological risks that are absent in traditional paper-based transactions.

This article makes reference to the corruption of electronic records once they have received from the bank. A clear definition of corruption is not provided, but it is possible to assume that corruption makes reference to an electronic record which is presented as incomplete, or unreadable (Byrne & Taylor, 2002). In such cases, the bank may request the beneficiary to send the document affected by corruption again. The period for the replacement of the electronic document can last up to thirty calendar days, and during this period, the examination phase is suspended until the new electronic record is received by the bank. However, if the electronic record is not represented within the deadline, the bank may not consider it.

To conclude the comparative analysis between the two publications, Article e14 (International Chamber of Commerce, ICC Uniform Customs and Practice for Documentary Credits for Electronic Presentation, 2023, p. 10) updates the force majeure rule provided in Article 36 of the UCP 600. Both set of provisions share the same principle: they exclude the responsibility of the banks involved in a credit transaction for events that take place beyond their control.

A bank assumes no liability or responsibility for the consequences arising out of the interruption of its business, including but not limited to its *inability to access a data processing system*, or a failure of equipment, *software or communications network*, caused by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, *cyberattacks*, or by any strikes or lockouts or any other causes, including *failure of equipment, software or communications networks*, beyond its control.

However, unlike the traditional provisions of the UCP, the eUCP expands this concept of force majeure to include more technological issues such as: cyberattacks, software failures, communication network interruptions, and the inability to access data processing systems. This provision clearly demonstrates how the transition from a system based on paper-based documents only, to a possible presentation of electronic records can create new risks that required a specific regulation.

3.2.2 Comments on the eUCP

Overall, the version 2.1 of the eUCP has preserved all of the main principles proposed under the UCP 600. However, because of the new digital dimension introduced by the publication of the eUCP, a significant number of modifications were made. This is because the eUCP introduced new concepts and new terms that correspond to the growing importance of digitalisation, even in the field of international trade finance.

These rules were specifically drafted to give to the beneficiaries involved in a credit transaction the possibility to present the documents not only through paper documents, but also electronically. Nevertheless, these rules made it evident that a number of significant changes were necessary, which do not concern the beneficiary alone. The use of the eUCP requires some time to achieve, as both the banks and the parties need time to shift from a more traditional documentation to a digital banking communication.

On this matter, between 2002 and 2003, Roberto Bergami (2004) conducted an analysis to «try to determine what the eUCP take-up rate had been internationally» (p. 34). In order to do, Bergami started seeking some feedbacks from the banking system. Therefore, he sent an informal email to some banks situated in various parts of the world. According to the results of his analysis, even if the proposal of the eUCP is generally considered to be an important step towards a more electronic system for the presentation of documents, most countries did not implement this publication in their practices. More specifically, all of the Australian banks together with some banks situated in China, New Zealand, and Malaysia did not start to use the eUCP. Moreover, one bank situated in the UK answered that «we do not foresee the use of electronic documents in general world trade for some years to come. I believe you will find that is the view of most of the UK banks» (ivi, p.34). This is mainly due to the fact that, as previously stated, not all banks and not all parties are capable of having the correct digital systems and resources required for an electronic presentation of documents (Bergami, 2004).

4 Credit risk and use of documentary credit in global trade

4.1 Risk spectrum analysis

Each of the four payment methods previously described carries some risks and offers a different level of protection to either the importer and the exporter. For example, a payment method that is considered to be free from all risks from the exporter's side, such as the payment in advance, is considered extremely risky for the importer. By contrast, a payment settled through an open account transaction is preferred by the importer, while it is considered extremely risky for the exporter.

Therefore, once that all the international payment methods have been examined, it is possible to position them along the so-called risk spectrum. The risk spectrum is a particularly useful instrument used by international traders, as it summarises in a table the main risks associated with each payment method in relation to both the exporter and the importer. In order to better understand the functioning of the risk spectrum, Figure 15 ranks the payment methods based on their level of risk from the importer's and exporter's points of view.

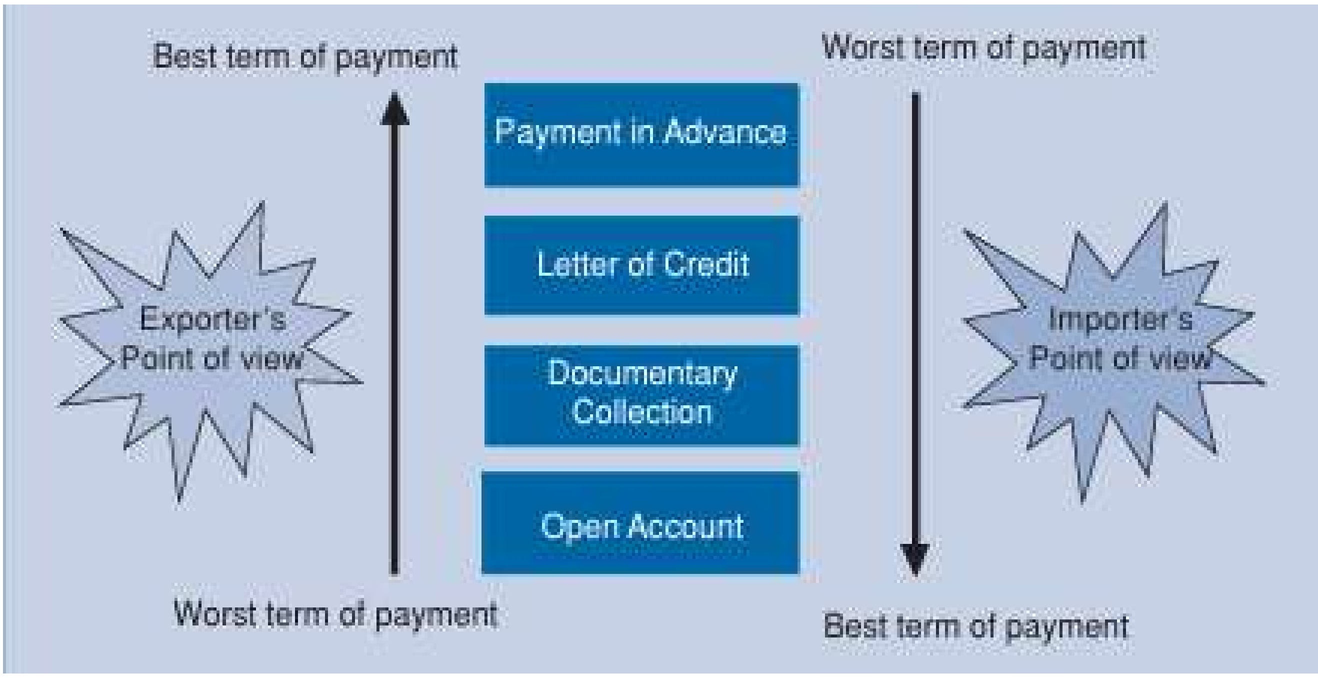


Figure 15: Comparison between the various international methods of payment. Adapted from United Nations (2005).

At the one end of the risk spectrum are positioned the payment methods that fully protect the exporter, while at the opposite end are place those that favour the importer. In other words, open account and payment in advance represent the two opposite ends of the risk spectrum. These two methods of payment involve directly the commercial relation between buyer and seller established by the sales contract, and they are not governed by the banking system. In open account transactions, the exporter assumes all risks, whereas the importer faces no major risks. Because of this reason, in most cases the sale of goods is accomplished under an open account if there is an already existing high degree of trust between the parties. Conversely, in a payment in advance operation the importer bears all the risks, while the exporter assumes no risks and enjoys protection. In particular, the buyer completely depends on the seller's reliability, as the whole transaction depends on the integrity of the seller. Even if this specific method of payment involves a significant number of risks for the importer, it is still used in some occasions. For instance, payment in advance is used in order to mitigate all of the formal procedures and related costs involved in more complex payment operations (Bose, 2020).

However, between these two extremes, there are some more balanced solutions that distribute risks more equally between the two parties. For example, documentary collections offer more of a compromise considering the risks between importer and exporter compared to the category of clean payments as illustrated in the figure above. It is a more secure payment method than shipping the goods on an open account operation, as the buyer cannot have access to the goods before sending payment (D/P) or before submitting a written acceptance of payment to be made at a future date (D/A). By doing so, documentary collections create a closer connection between the obligation of the parties, and the main obligations to pay and to deliver the goods take place almost simultaneously. However, it is also true that the level of protection for the exporter may change depending on the type of documentary collection chosen by the parties. Under a document against payment transaction (D/P), payment is received before the documents are released, which gives a high level of security to the seller. By contrast, under a document against acceptance operation (D/A), the exporter has to rely on the acceptance of a draft proving that payment will be made at a future date, which means that the payment obligation may not be fulfilled as promised. Another important risk for the exporter arises when the importer refuses to take delivery of the goods. In such circumstances, the exporter may be forced to arrange the return of the goods from the buyer's place to his place of business, and must also deal with all the additional transportation costs. At this point, it is possible for the seller to try and identify another possible purchaser to resell the goods to. Alternatively, the goods may also be sold through an auction, often at a lower price compared to the original value. For this reason, in some occasions, buyers intentionally refuse to collect the goods in the hope of purchasing them at a future date at a reduced price during a public auction.

A further risk involved in documentary collections for the exporter concerns the possibility that the buyer may enter in possession of the goods without making payment (D/P) or accepting the draft (D/A). This situation may occur in transport operations that do not involve documents of title: transport documents involving air transport, but also rail and road transportation do not have the same value as documents of title. As a result, the buyer may be able to collect the goods directly at the place of delivery without having first obtained the necessary documents from the bank. By contrast, if the transport document is a document of title such as the bill of lading, only the person holding the original document can take possession of the goods. Therefore, in order to reduce this risk, exporters often indicate the buyer's bank as the final destination of the shipment. In this way, the goods are delivered under the control of the bank and can only be released to the importer after the bank has received either payment or the acceptance of the draft. This mechanism represents a great advantage for the seller, as it prevents that the buyer can have access to the goods before having accomplished his contractual obligation of payment. These risks arise in documentary collection transactions because banks do not provide any payment guarantee. As opposed to documentary credit operations, in documentary collections the role of banks is much more limited: banks have to follow the collection instruction and to facilitate the payment flow. Moreover, in documentary collections banks hold the documents and release them to the importer only upon payment or acceptance of the draft, but they do not undertake any obligation of payment towards the parties involved. For this reason, since banks do not assume any guarantee of payment, even the costs associated with a documentary collection operation are normally lower compared to documentary credit transactions.

As previously discussed, the main advantage of documentary collections is that they create a sort of exchange between the delivery of the documents and the payment obligation. Nevertheless, documentary collections do not offer complete protection to the exporter, and are more suitable in situations in which the country risk is limited and a certain degree of trust already exists between the two parties. This is because the obligation of payment remains with the importer rather than with a banking institution. Therefore, documentary collections may be particularly appropriate when the exporter considers the buyer as reliable, but still wishes to obtain a higher level of protection compared to the one offered by an open account transaction. Furthermore, in order to mitigate the risk of a possible refusal of the collection of the goods, exporters should use documentary collection operations for goods that can be easily resold to alternative buyers.

Finally, in order to further reduce the risks associated with documentary collections exporters should also try to have control over the transport process, and this is possible by choosing Incoterms belonging to Group C or Group D, under which the seller arranges transportation. However, the complete control over the transportation depends also on the transport documents used (Tagliavini, Poletti, & Ronchini, 2022).

Among the international payment methods examined so far, documentary credits are positioned in middle of the risk spectrum, as they generally offer the highest level of protection to both exporters and importers. One of the main reasons why documentary credits have become a widely used payment method in international trade is the protection they offer against the uncertainty that characterises transactions between parties located in different countries. Because of this geographical distance, it is possible that exporters and importers have no previous commercial relationship, and it is difficult to rely on mutual trust. Therefore, the introduction of banks into the credit transaction reduces this uncertainty mainly because the exporter does not depend on the buyer's willingness to pay, but on the reliability of an institution. Unlike other instruments of payment, the obligation of payment is assumed by a bank, which undertakes to honour the credit provided that the presentation of the relevant documents from the beneficiary complies with the credit terms. The level of security may be even higher through the use of a confirmed letter of credit. In this case, another bank adds its own independent commitment to the one of the issuing bank, giving additional protection against the risks that may affect the buyer's country. For this reason, confirmed credits are frequently used in transactions involving countries characterised by a higher level of uncertainty and risk (Langerich, 2009).

As stated before, documentary credits represent a balanced method of payment, as they offer important advantages to both the importer and the exporter. In particular, the buyer by opening a request for a documentary credit can specify and stipulate the terms of the letters of credit together with the issuing bank. In other words, the importer decides the terms of payment and the different types of documents that must be presented from the beneficiary. The possibility for the buyer to specify the documents and their content represents an important opportunity and an advantage, mainly because by doing so the importer can have control over the shipment. This is particularly relevant in international trade because in most cases it is not possible for the buyer to be physically present to verify the compliance of the shipment. However, by deciding the types of documents to present to the banks, the buyer can retain a certain control over the shipment and over the transaction.

Consequently, thanks to the mechanisms of credit operations, the buyer must fulfil his obligation of payment towards the seller only if and when the documents presented from the beneficiary to the bank comply with the credit terms.

On the other hand, even if documentary credits are created by the issuing bank together with the importer, they also provide some major advantages to the seller. First of all, the beneficiary can be certain that payment will be received, provided that the relevant documents comply with the credit terms. This is because the counterpart of the seller is not the buyer himself, but a bank that assumes the obligation of payment. By doing so, the risk involved with the importer is significantly reduced, as the obligation of payment shifts from the buyer to an institution. By doing so, the letter of credit reduces the need for investigations on the buyer's reliability and reputation, as the risks are placed on the issuing bank. Moreover, documentary credit operations provide transparent terms to both the exporter and the importer involved in the transaction. On the seller's side transparency means that the credit is received before the date of shipment, so that the beneficiary can verify and approve the terms established in the credit. It represents a major advantage because if some credit terms are found to be potentially dangerous for the seller, it is possible to ask for an amendment of these terms. If not satisfied from the amendments, the seller can refuse to ship the goods. In other words, once the credit has been accepted by the beneficiary, he has two main protections: the credit terms cannot be modified without his explicit consent, and payment will be made from the bank upon presentation of the relevant documents (Bose, 2020).

Despite their advantages, documentary credits are not completely free from drawbacks. From the importer's perspective, once the presentation of documents has been made and has been considered to be compliant, payment cannot be refused in any situation. In addition, in order to obtain a documentary credit, the buyer has often to demonstrate to have sufficient creditworthiness to the issuing bank. Furthermore, another possible downside is connected to the shipment of the goods and their status. As previously discussed, in credit operations banks deal exclusively with documents and not with the goods shipped from the seller. Therefore, the seller may present the relevant documents that are considered to be compliant, but the buyer may worry about receiving goods that do not correspond to their expectations and to the contract. It represents a major problem for the importer because banks deal only with documents, but a compliant presentation does not automatically guarantee that the goods correspond to the sales contract. In order to reduce this risk, importers may have greater control over the transport process, mainly by requiring inspection certificates which confirm the quality and quantity of the goods (Tagliavini, Poletti, & Ronchini, 2022).

From the exporter's point of view, since the documents must comply with the requirements established in the credit, credit operations involve a number of costs and complex administrative processes. Therefore, the major risk faced by the beneficiary is represented by the risk of non-payment because the presentation of the relevant documents is considered to be non-compliant. Moreover, the nominated or the confirming bank may choose not to honour the credit, and to leave the final decision to the issuing bank. Even if this procedure does not automatically lead to the risk of non-payment, it represents a long process that usually causes delays in the credit transaction and in the flow of payment. The effectiveness of a documentary credit ultimately depends on the reliability of the institutions involved. For this reason, exporters may request confirmation by another bank when concerns exist regarding the issuing bank or the political and economic stability of the buyer's country. Despite the protection offered by documentary credits, exporters cannot overlook the importance of carefully reviewing the terms of the credit. Since banks examine documents exclusively on the basis of the conditions stated in the credit, any discrepancy may result in refusal of payment, even when the seller has correctly fulfilled the underlying sales contract. Consequently, before shipping the goods, exporters should verify that the documentary requirements contained in the credit reflect the terms agreed with the buyer. As for documentary collections, another possible issue concerns transport documents that do not give control over the goods, such as those used in road, rail, or air transport. In these circumstances, there is a risk that the buyer may gain access to the goods without the involvement of the banking system. This risk can be reduced by structuring the transaction in a way that prevents the importer from obtaining possession of the goods before complying with the conditions established in the credit (ibid.).

As with any international commercial transaction, a careful risk assessment together with an accurate selection of business partners across the world is essential even in credit operations. Although documentary credits are designed to protect exporters against the risk of non-payment, importers also need a certain degree of protection against the potential misconducts by the seller. Overall, documentary credits are still one of the most effective payment instruments capable of managing the majority of risks in international trade. Nevertheless, their effectiveness ultimately depends not only on the payment obligation of banks, but also on the ability of the parties to structure the credit transaction in the most suitable way, and to comply with all the documentary requirements which govern the credit operation (Langerich, 2009).

Together with the analysis of the risk spectrum, Figure 16 examines the most commonly used payment methods in international trade from the exporter's side.

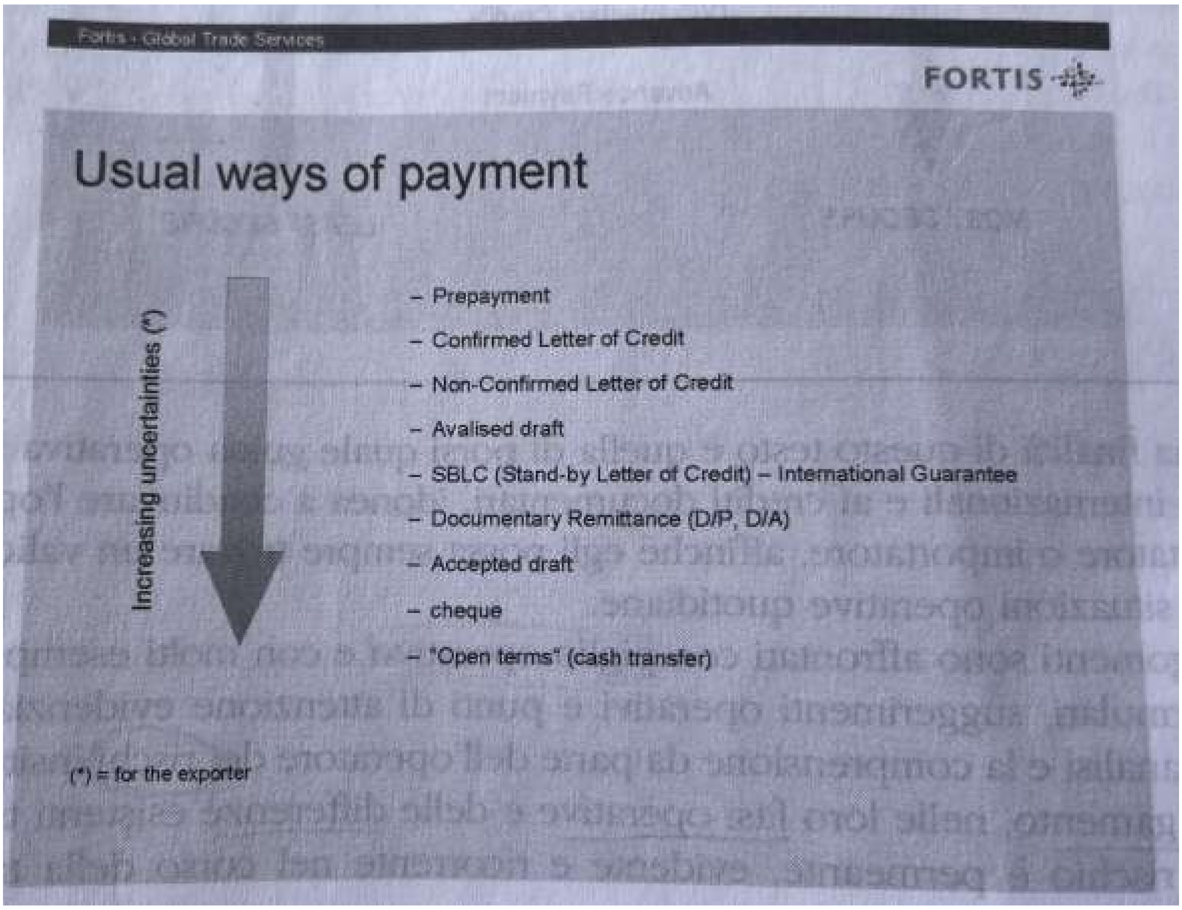


Figure 16: Usual ways of payment in international trade. Adapted from Di Meo. (2007), p. X.

While the risk spectrum focuses on the allocation of risks between exporters and importers, Figure 16 provides an additional perspective on the various payment methods, by ranking the most commonly used instruments according to the level of risk faced by the exporter. As for the risk spectrum, the figure above shows a transition from more secure payment methods, such as prepayment and confirmed letters of credit, to other payment instruments that offer lower levels of protection, such as open account transactions. This classification clearly reflects the relationship between the commercial risk and the final choice of the payment method. When the exporter has limited information about the buyer, and it operates in an unfamiliar market where it is possible to face political and economic risks, the payment methods which provide stronger guarantees to the exporter are preferred. In these circumstances, payment in advance and confirmed letters of credit represent the safest alternatives for the exporter, as they reduce the risk of non-payment.

In particular, confirmed letters of credit offer an additional layer of security to the exporter because the payment obligation is confirmed and supported not only by the issuing bank, but also by the confirming bank.

By contrast, as the uncertainty decreases and the level of confidence between the parties increases, exporters may accept alternative payment methods that provide lower levels of protection. This explains the intermediate position occupied by documentary collections and standby letters of credit, which balance security and commercial flexibility. At the opposite end of the spectrum are open account transactions, where the exporter ships the goods before receiving payment and therefore assumes most of the commercial risk. The figure clearly highlights that the choice of a payment method is not determined solely by the allocation of risks between buyer and seller, as some other factors are taken into consideration. For instance, the duration of the commercial relationship, and the level of trust established between the parties play an equally important role compared to the assessment of the level of risk.

4.2 Country risk and political risk

Companies involved in international trade are exposed to a wider range of risks compared to those operating in domestic markets only. This is because international trade transactions are more complex compared to domestic transactions, and the parties involved are exposed to a wider range of risks. While some of these risks are common to both domestic and international operations, they tend to become even more evident in transactions involving two or more countries, mainly because of the greater distance between the parties and the differences in their legal systems and commercial practices. One of the main difficulties in international trade derives from the fact that the two main obligations of payment and delivery of goods rarely take place at the same time. In most cases, either the buyer or the seller is required to perform its obligation before receiving the corresponding performance from the other party. Even if this issue may also occur in domestic transactions, it is amplified in international trade because of the greater distance and the limited information available on the other party. In this context, distance should be understood both in geographical terms, but also in terms of economic distance. In particular, economic distance exists if and when the parties operate in different business markets or have no previous commercial relationship. In such circumstances, it is more challenging to understand the reliability and the reputation of the other party, and this whole process increases the level of risk associated with the transaction.

For this reason, risk management plays a crucial role in international trade operations, and Bose (2020) defines it as «the process that attempts to manage uncertainties that are likely to influence the achievement of stated objectives». Therefore, in international trade and mainly in credit operations, financial institutions together with exporters and importers must evaluate a wide range of possible risks before entering into a commercial transaction. In particular, as analysed above, the management of risks is central to the performance of the banking system under documentary credit operations. Since the risks that a bank has to manage are different from one another, the literature proposes several classifications in order to better define the different types of risks parties may face (Beccalli, 2022). For instance, Garofalo (2009) identifies the main categories of risk that may occur in international trade transactions as follows:

- Country risk is defined by the Cambridge Business English Dictionary as «the level of risk connected with doing business with another country, relating to whether that country will be able to pay back loans or pay for imports» (Cambridge University Press, s.d.);
- Commercial counterparty risk, namely the risk that one of the parties fails to accomplish its obligation as established under the sales contract;
- Transport risk, also known as shipment or delivery risk is related to the possibility that the goods may be damaged, lost or even delayed during the transportation process
- Financial risk, including exchange rate and interest rate fluctuations;
- Legal risk is linked to the difference in the laws and their interpretations.

More specifically, the commercial counterparty risk represents a broader category which includes the risk of non-performance from both the buyer and the seller. On the one hand, the counterparty risk that an exporter may face is the risk of non-payment or even the risk of delay in the flow of payment. On the other hand, the risks that the buyer may face are mainly linked to delays or failure in the process of delivery. Moreover, the exporter must ensure to its counterparty a safe delivery of goods; however, the risks involved in the transportation of goods from the seller's business place to the final destination may be several. For instance, the safety during the shipment and the transportation process depends on several different factors such as: the type of packaging which must be appropriate according to the type of goods, the distance to be covered during transportation, and the availability of an appropriate means of transport in order to avoid causing damage to the goods while loading. This risk in particular is extremely relevant to take into consideration in documentary credit operations, especially for the importer: banks deal with documents only. Therefore, it is possible for the buyer to find defects in the goods, as they are not subject to any type of inspection from the banking system (Bose, 2020).

Among all of these categories, country risk is usually considered as one of the most relevant factors which influence international trade operations. Country risk refers to the possibility that events occurring within a specific country may negatively affect the outcome of an international transaction. Although according to Gioia et al. (2012) country risk was initially associated with the concept of political instability. However, over the years it has evolved into a broader concept that now includes many different dimensions, such as: political, economic, and financial elements. Nowadays, country risk is commonly known as the level of uncertainty which arises from the conditions of a foreign country and its potential negative impact on international activities. A useful framework in order to better understand this concept is provided by SACE SpA. SACE is one of Italy's leading export credit and insurance institutions, which identifies four key components of country risk:

1. Credit risk refers to the possibility that a foreign institution may be unable to accomplish its obligation of payment;
2. Regulatory risk refers to losses that may occur because of some government actions that may affect foreign economic and financial operations;
3. Political violence risk concerns the possibility that political events such as terrorism and armed conflicts may cause damage to commercial activities;
4. Market risk makes reference to changes in the economic foundations of a country. For instance, inflation and interest rates may affect negatively the financial stability of the country.

Before analysing credit risk in greater detail, it is important to highlight that regulatory risk together with political violence risk form the broader category of political risk. Unlike credit risk, which focuses on the financial reliability of the counterparty, political risk originates from events that are beyond the control of the parties. For instance, some factors that may be considered as political risk include changes in the government and in its political regime or policies (Bose, 2020). By contrast, credit risk has been defined by Tagliavini, Poletti, & Ronchini (2022) as the inability or the unwillingness of a counterparty to fulfil the payment obligation, as previously agreed under the sales contract. Similarly, Beccalli (2022) states that credit risk is the most important risk related to operations involving banks and defines it as the risk of default from specific borrower, or to the risk of delay in accomplishing the payment. Despite the various definitions proposed by the literature, the basic concept remains the same: credit risk is directly linked to the possibility that the contractual obligation of payment may not be honoured. In the context of international trade, this risk generally arises when the importer is unable or unwilling to send payment in accordance with the terms agreed in the sales contract. For exporters, credit risk represents one of the most important risks to possibly face, as a successful transaction heavily depends on the receipt of payment. Similarly, for banks involved in trade finance, in operations such as credit transactions, credit risk remains a key element to consider as it may affect the reliability of the counter party (Beccalli, 2022).

The importance of the concepts of country risk, credit risk and political risk has increased in the recent years because of the growing geopolitical tensions and economic uncertainty. As a result, institutions such as SACE and Coface regularly monitor the risk of countries around the world, providing exporters and financial institutions with precise information in order to better evaluate international business opportunities in the safest way possible. While both SACE and Coface provide country risk assessments, they differ in their institutional nature and objectives. SACE operates as the Italian Export Credit Agency and focuses on supporting the internationalisation of Italian firms, while Coface is a French private company specialised in credit insurance and business risk assessment. In this regard, Figure 17 and Figure 18 illustrates a global country risk assessment published by SACE and Coface, which are based on both credit and country risk indicators (Tagliavini, Poletti, & Ronchini, 2022).

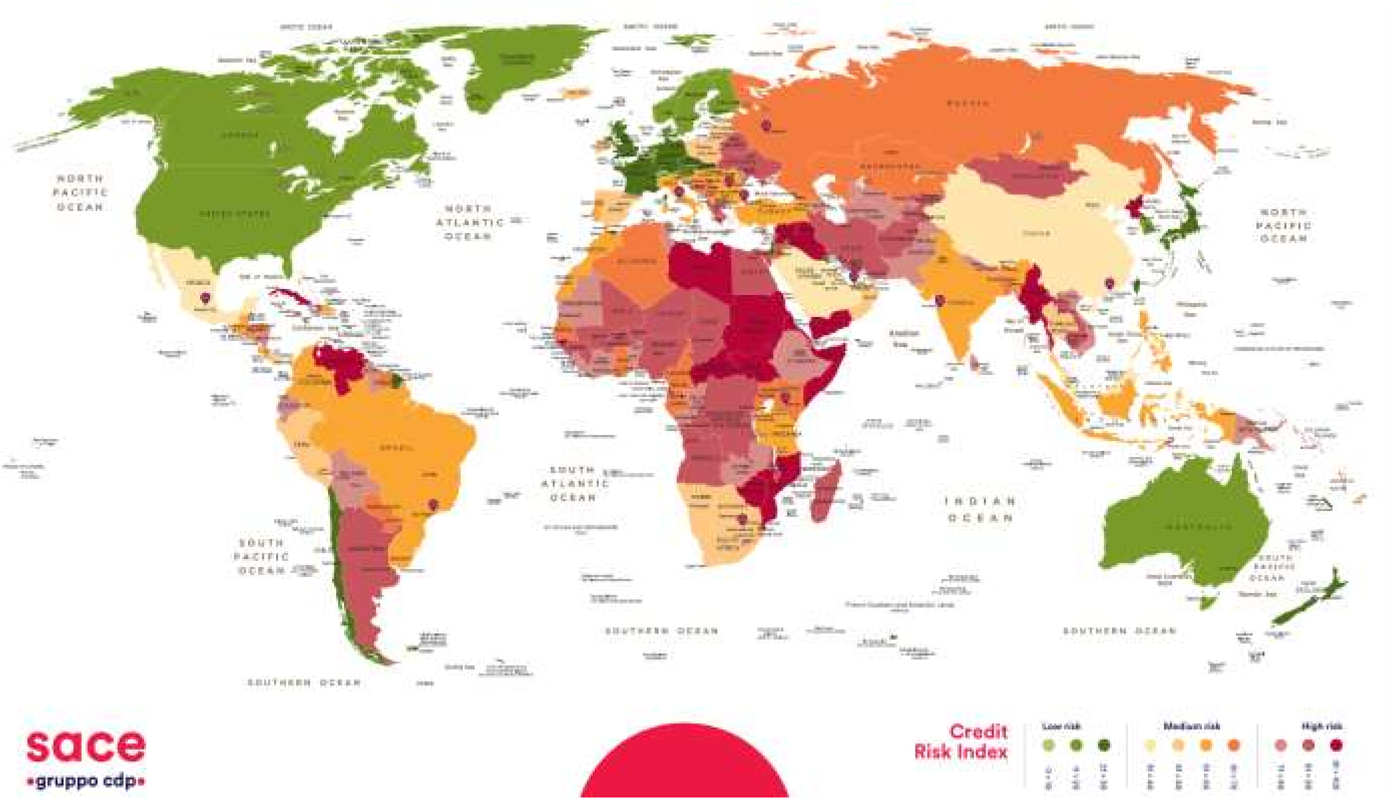


Figure 17: Credit risk index map. Retrieved from https://www.sace.it/docs/default-source/ufficio-studi/sace-country-risk-map-2017.pdf?sfvrsn=8.

Figure 17 presents SACE's Credit Risk Map published in 2017, which evaluates the different levels of credit risk associated with all the foreign markets in the world from low-risk environments, which are represented in green, to high-risk countries, which are represented in red. SACE's risk assessment is based on a system which gives scores from 0 to 100 to each country: lower values indicate lower levels of risk, while higher values indicate a greater probability that a banking institution, or a counterparty may be unable to fulfil the obligation of payment.

According to this map, it is possible to note that credit risk is distributed unevenly across the various countries of the world. The lowest levels of credit risk are concentrated in some specific geographical areas, such as: North America, Western Europe, Australia, New Zealand, and Japan. It is probable that these countries have the lowest credit risk scores, as they all benefit from stable political institutions, and well-developed financial systems. All of these characteristics surely contribute to reduce the probability that banking institutions or counterparties may fail to fulfil their financial obligation. By contrast, higher levels of credit risk are concentrated in several parts of Africa, in the Middle East, in some regions of Latin America, and in Asia. The prevalence of medium and high-risk countries in these areas suggests that exporters may face greater uncertainty and risks in the willingness of foreign counterparties to honour the obligation of payment. In many cases, these high-risk assessments are mainly influenced by factors such as political instability, weaker institutional frameworks, or high levels of public debt.

Furthermore, the map also highlights important regional differences in the same geographical areas. For instance, considering Europe, Western Europe appears characterised by almost all low-risk ratings, while an increase in risk levels can be observed moving towards Eastern Europe. Similarly, Asia presents a diversified scenario: low-risk economies such as Japan and South Korea coexist with countries showing significantly higher levels of risk such as North Korea and Myanmar.

Overall, the map demonstrates that credit risk remains a highly relevant element to take into consideration in international trade. The significant differences observed across different countries and regions indicate that the probability that payment will not be received as agreed cannot be assessed at the level of the individual buyer only. For this reason, it is important to take into account the whole economic and institutional environment of the country in which the counterparty operates.

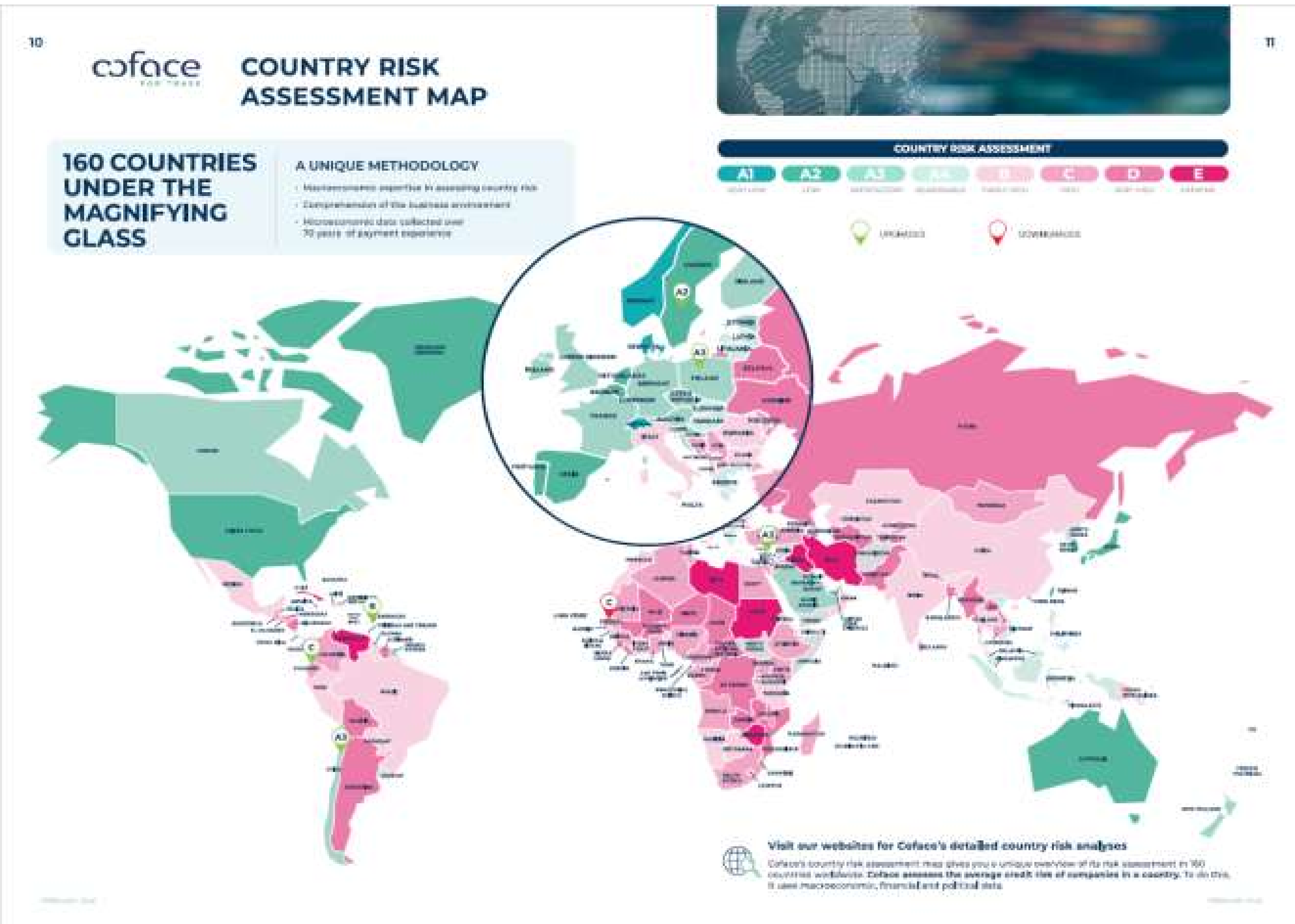


Figure 18: Country risk assessment map. Retrieved from https://www.coface.com/news-economy-and-insights/business-risk-dashboard/country-risk-map.

While the SACE map focuses specifically on credit risk, Figure 18 presents the country risk assessment map developed by Coface, which was last updated in February 2026. Unlike SACE's methodology, Coface provides a broader assessment of overall country risk by combining economic, financial and political elements into a single classification. The Coface map confirms several of the trends already identified through the previous SACE's credit risk analysis. Western Europe is still characterised by relatively low levels of country risk, whereas higher levels of risk can be observed in some geographical areas of Africa, Latin America, and even in certain emerging economies.

As the map is more recent, Coface's assessment also highlights more precisely the growing importance of geopolitical tensions which shape the risk profile of international transactions. For instance, particular attention should be given to the consequences of the Russia-Ukraine conflict, which has significantly increased uncertainty and risks across Eastern Europe regions.

In this regard, both Coface and SACE's websites provide different assessments that lead to the same conclusion: following the outbreak of the Russia-Ukraine conflict, the level of risk associated with Russia has significantly increased.

Figure 19: Russia's indicators. Retreived from https://www.sace.it/mappe/dettaglio/russia.

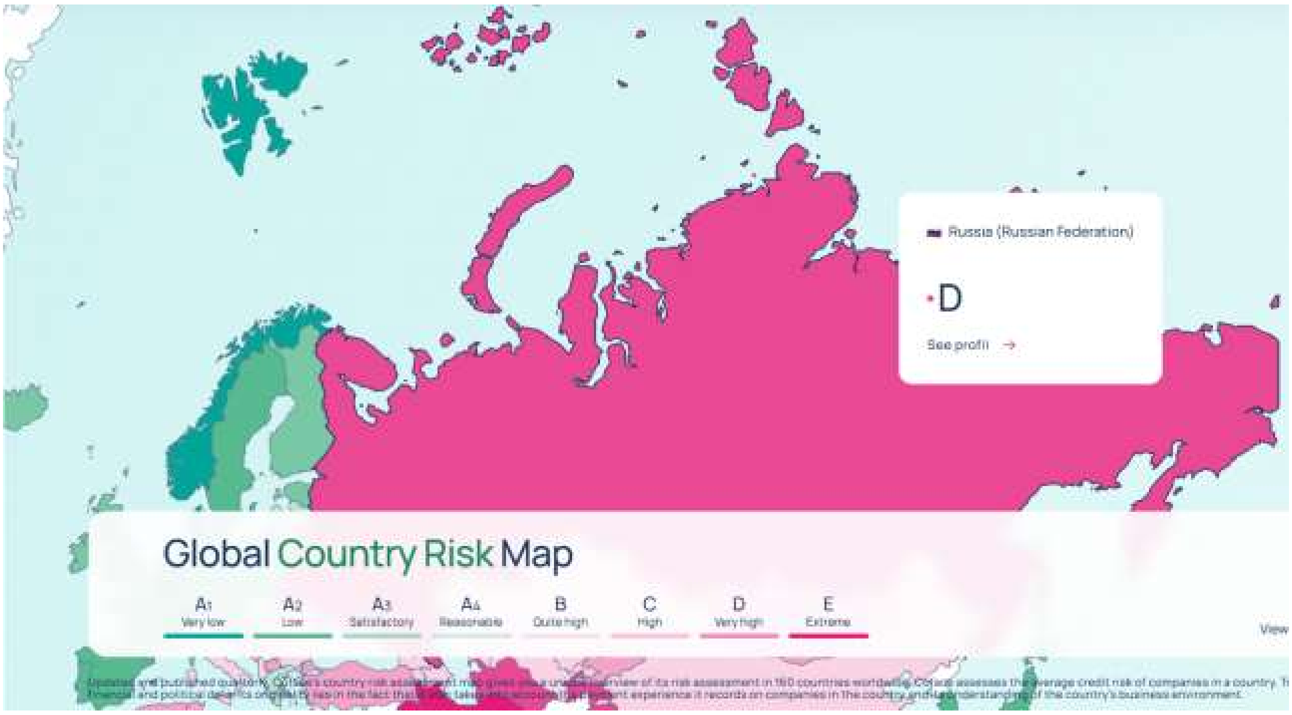


Figure 20: Russia's country risk map. Retreived from https://www.coface.com/news-economy-and-insights/business-risk-dashboard/country-risk-map.

On the one hand, Figure 19, retrieved from SACE's Export Map, highlights extremely high levels across almost all risk categories including political risk, war risk, non-payment risk, and credit risk. Similarly, Coface's country risk assessment in Figure 20 classifies Russia as a high-risk country (Category D), confirming the extremely negative country's overall risk profile. Despite relying on different indicators, both assessments underline the significant impact that geopolitical events can have on international trade and consequently on the choice of the payment method.

Overall, the comparison between SACE and Coface’s assessments demonstrates that country risk cannot be understood solely through the analysis of financial indicators. The ability of a foreign counterparty to honour its obligations is often influenced not only by its own financial condition, but also by political stability, geopolitical tensions, and economic developments. Consequently, exporters and financial institutions must evaluate both the creditworthiness and the wider country environment when entering into international transactions. In this regard, the choice of the payment method becomes particularly important when transactions involve countries characterised by elevated levels of country risk. In these circumstances, the payment methods that reduce uncertainty and provide additional protection assume greater relevance.

4.2 World mapping

The global use of documentary credits is closely linked to the level of risk perceived in international transactions. As previously discussed, country risk, political risk, and credit risk play a significant role in order to determine the level of protection to both exporters and importers. For this reason, the geographical distribution of documentary credit transactions worldwide is not uniform. In other words, the use of documentary credits varies across different regions of the world, and the geographical distribution of risks illustrated in the figures above explains why the use of documentary credits is not uniform across the world. In countries characterised by higher levels of credit risk, exporters generally require stronger payment guarantees, whereas in low-risk regions alternative payment methods, which provide a lower degree of security are considered to be sufficient.

Letters of credit remain widely used in transactions involving parts of Asia, the Middle East, Africa, Eastern Europe, and Latin America, while their use in Western European countries is more limited. Interestingly, Asia, the Middle East, Eastern Europe and Latin America are also the regions that have shown higher levels of country risk, political risk, and credit risk according to the assessments provided by institutions such as SACE and Coface in the figures above. This correlation highlights the fundamental function of documentary credits as risk-mitigation instruments in international trade. In markets characterised by greater economic and political uncertainty, exporters often require stronger payment guarantees before entering into commercial transactions. By replacing part of the commercial risk associated with the buyer with the undertaking of a banking institution, documentary credits provide a higher degree of security. Their widespread use in higher-risk regions therefore demonstrates their importance in facilitating international trade where trust alone may not be sufficient to support cross-border transactions.

By contrast, there are also some factors that explain why documentary credits are not commonly used in more stable commercial environments such as Wester Europe. From the buyer's perspective, the use of a documentary credit may involve additional costs including banking fees, and commissions. Therefore, over the last few decades, international trade has witnessed a gradual shift from traditional trade finance instruments such as credit operations towards less complex and secure transactions, such as open account. This recent shift demonstrates that commercial relationships have become more established, and for this reason some businesses favour payment methods that are faster, and less expensive. Consequently, even if the overall use of documentary credits has continued to grow together with the expansion of international trade, their importance has declined in the low-risk environments compared to other payment methods, such as open account operations. However, as stated before, this trend is not uniform worldwide: trade between European countries is predominantly conducted on an open account basis, while documentary credits continue to play an important role in countries in which commercial and political risks are more evident. In particular, the use of the letters of credit remains essential in some areas of Asia and of the Middle East, where they continue to provide an effective mechanism to reduce uncertainty and to facilitate cross-border transactions.

Therefore, the geographical distribution of documentary credits reflects the global distribution of commercial and country risks. Their widespread use in regions characterised by higher levels of political instability, weaker legal systems, or greater uncertainty demonstrates that documentary credits continue to perform the function for which they were originally designed: reducing uncertainty and facilitating international trade where trust is not sufficient. Conversely, in markets characterised by stable institutions and well-established commercial relationships, the parties rely on less expensive payment methods such as open account transactions. This confirms that the choice of payment method largely depends on the level of risk associated with each international transaction (Di Meo A. , Il credito documentario. Le NUU 600 e la nuova Prassi Bancaria Internazionale Uniforme (PBIU), 2007).

Conclusion

The analysis conducted throughout this dissertation has highlighted the fundamental role played by the different types of payment methods in international trade transactions. In a commercial environment characterised by geographical distance, legal diversity, and limited trust between the parties, the choice of the appropriate payment method becomes a crucial element to consider in order to manage risk appropriately. As demonstrated by the risk spectrum analysis, there is no payment method which is capable of providing the ideal solution for both importers and exporters, as each method distributes risks differently. While payment in advance and open account transactions represent the two opposite ends of the spectrum, documentary collections and documentary credits offer more intermediate solutions that balance the interests of both parties more effectively.

Among all the payment methods examined, documentary credits emerge as one of the most effective instruments in order to mitigate all the risks involved in international trade. The research also confirms the growing importance of country risk and political risk in today's international trading environment. The comparative analysis of the country risk assessments published by SACE and Coface illustrates how geopolitical situations have become increasingly relevant in order to determine the level of risk associated with international transactions. Although the two institutions adopt different methodologies, they both identify similar areas of high-risk exposure, particularly in regions affected by armed conflicts, or political instability. For instance, the consequences of the Russia-Ukraine conflict clearly demonstrate how geopolitical events can influence international trade. In this regard, even the geographical distribution of the use of documentary credits reinforces these findings. Their widespread use in parts of Asia, the Middle East, Africa, Eastern Europe, and Latin America reflects the areas in which country risk and political risk are generally higher. By contrast, documentary credits are used less frequently in Western Europe, where lower levels of country risk allow businesses to rely more and more on open account transactions.

One of the main findings emerging from the present research is that the effectiveness of documentary credits depends on their legal structure. The principles of autonomy and strict compliance, together with the independent undertaking assumed by the issuing bank, create a mechanism capable of balancing the interests of both exporters and importers. In credit operations, instead of relying on the buyer's willingness to pay, the exporter can benefit from the commitment of a banking institution, which reduces the uncertainty of payment that often characterises international trade. At the same time, this dissertation demonstrates that documentary credits should not be considered as instruments capable of avoiding all risks, as country risk, political instability, operational failures, and documentary discrepancies may still affect the successful outcome of a credit transaction. In this context, an interesting paradox emerged: documentary credits were originally developed to reduce uncertainty in international trade by replacing the commercial risk associated with the buyer with the undertaking of a bank. However, the effectiveness of a credit transaction depends entirely on the correct preparation, presentation, and examination of documents. Consequently, one of the most interesting findings of the study is that documentary credits were designed to reduce uncertainty, but they create a different form of risk. Since payment depends entirely on the presentation of documents that must comply with the terms of the credit, commercial uncertainty is replaced by documentary uncertainty. In other words, the successful outcome of a documentary credit transaction depends not only on the financial reliability of the parties involved, but mainly on the accurate preparation, presentation, and examination of documents.

In this context, another important aspect examined in this dissertation is the ongoing digital transformation of trade finance. The comparison between the UCP 600 and the eUCP Version 2.1 demonstrates that digitalisation should not replace the principles of documentary credits. Instead, this transformation represents the natural evolution of an instrument, whose legal foundations remain unchanged. This is confirmed by the analysis of the articles, which highlighted that the transition from paper based documents to electronic records does not alter the main principles governing documentary credits, but it modernises the way documents are created, transmitted, and examined.

Despite the findings presented in this dissertation, some limitations should also be considered. The analysis is primarily based on legal sources, academic literature, and institutional reports rather than on evidence collected directly from banks or companies involved in documentary credit operations. Furthermore, country risk assessments are dynamic and may change rapidly in response to the various geopolitical events, and economic developments. For this reason, the risk profiles discussed throughout the dissertation reflect a specific period, rather than stable characteristics of individual countries. Therefore, future research could complement the present analysis through empirical studies involving financial institutions, exporters, and importers, as well as by examining how the implementation of electronic documentary credits and digital trade continues to evolve.

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