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The newsletter for documentary business

March 2019

Partial shipment

What can a correct description of goods look like in the commercial invoice and on the other documents?

In the case of a partial drawing of a letter of credit, the documents presented usually contain a reference to the fact that only a part of the goods covered by the credit has been delivered. However, the question arises as to whether a notation such as “partial shipment” is actually compulsory. In the current issue of top@doc, we use a case study to explain the point of view which Commerzbank holds on this matter – and what reasons it gives for this point of view.

WellDone Ltd. receives a letter of credit issued in its favour by Careful Bank. The credit conditions permit partial shipment; the description of goods is as follows:

*“Equipment for telecommunication DEF as per contract IOE87HK
Delivery terms CIF Karachi, Pakistan (INCOTERMS 2010)”*

Scenario 1

To draw upon the credit, WellDone Ltd. presents to its principal banker, Free and Easy Bank, which is acting as nominated bank, documents concerning the first of four planned partial shipments.

The commercial invoice contains the following description of goods:

*“First part shipment of Equipment for telecommunication DEF as per contract IOE87HK
Delivery terms CIF Karachi, Pakistan (INCOTERMS 2010)”*

In the other documents, including the transport document, certificate of origin and packing list, the goods are stated as follows:

*“Equipment for telecommunication DEF as per contract IOE87HK
Delivery terms CIF Karachi, Pakistan (INCOTERMS 2010)”*

Free and Easy Bank acknowledges receipt of the documents to WellDone Ltd., at the same time informing the latter that it refuses to take up the documents because of a discrepancy:

“bill of lading, certificate of origin and packing list do not mention partial shipment”.

WellDone Ltd. cannot understand this reason for rejection. In its view, the absence of a reference to partial shipment in the specified documents is not a discrepancy.

So who is right? May the full description of goods according to the credit be specified in the transport document, the certificate of origin and the packing list, or must these documents also contain a reference to partial shipment?

Commerzbank takes the view that the opinion of WellDone Ltd. is correct. For article 14 e of the "Uniform Customs and Practice for Documentary Credits UCP 600" states that the description of goods can be kept general in all documents other than the commercial invoice, unless such description conflicts with the credit. In addition, article 14 d of the UCP 600 regulates that the data in a document, when read in context with the credit – and this is what we are concerned with here – need not be identical to the data in any other document.

Scenario 2

On the basis of the above-mentioned credit conditions, WellDone Ltd. presents documents concerning the first of four planned partial shipments, all containing the same description of goods:

"Equipment for telecommunication DEF as per contract IOE87HK.

Delivery terms CIF Karachi, Pakistan (INCOTERMS 2010)"

In this case too, Free and Easy Bank refuses to take up the documents. This time, the reason is the absence of an express notation evidencing partial shipment on the commercial invoice.

At WellDone Ltd. they disagree with the rejection of the documents and ask Free and Easy Bank for a more

detailed explanation. The bank thereupon declares that its rejection of the documents is based on paragraph C 4 of the "International Standard Banking Practice for the Examination of Documents under UCP 600" (ISBP). According to this, the description of the goods in the commercial invoice has to reflect what was actually delivered. In the case of partial delivery, an invoice can thus evidence a smaller quantity of goods than described in the letter of credit.

WellDone Ltd. refuses to accept this argument. It maintains its position that the invoice is correctly drawn up, invoking the UCP 600, article 18 c: "The description of the goods, services or performance in a commercial invoice must correspond with that appearing in the credit."

Who is right in this case? In the event of partial shipment, is it compulsory for the commercial invoice to contain a reference such as "part shipment", for example, or can it be left out?

Commerzbank's point of view on this is as follows: Although it appears logical that, in the case of partial shipment, the commercial invoice should contain a corresponding reference, the absence of a notation such as "partial shipment", "first part of ..." or words to that effect is no reason to reject documents. For the UCP 600, which together with the respective credit conditions form the basis for examination of the documents, do not state that a corresponding reference is compulsory. If the letter of credit in question does not expressly demand that the commercial invoice – or any other document – contain a notation concerning partial shipment, the commercial invoice presented by WellDone Ltd. is acceptable.

Our attitude therefore deviates from the ISBP in this point.

However, in order to avoid discussions and thus any related delays in settlement and payment, it is advisable to include a reference to partial shipment in the commercial invoice.

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