



top@doc

The newsletter for documentary business

March 2020

Instalment shipments – a risk for the beneficiary?

The reasons for agreeing shipment periods may be manifold, the interests of the buyer and the seller can diverge.

Buyers of raw materials or materials for further processing tend to use the price benefits resulting from large order quantities and, often due to limited storage facilities, agree shipment by instalment within given periods for the ordered goods (“successive shipments”). Some buyers require a certain predetermined quantity of goods within given periods, e.g. due to production requirements.

The seller, on the other side, wishes to have maximum flexibility for its shipments in dependence on its production capacities or the corresponding transport facilities. Therefore, the seller should generally accept successive shipments in the letter of credit only if he can be absolutely sure that these dates can actually be met.

Often, the beneficiary of a letter of credit stipulating successive shipments is unaware of the problems that may be associated with this situation with regard to the conformity of the documents.

A practical example:

WellDone Ltd. has received a letter of credit issued in its favour by Careful Bank. The terms and conditions of the letter of credit allow partial shipment, the description of the goods is as follows:

“30,000 FT. Steel Pipes

Delivery terms CIF Chittagong, Bangladesh (INCOTERMS 2020)”

With respect to the shipment period, the relevant field indicates:

Field 44D (Shipment Period):

10,000 FT. Steel Pipes in February 2020

10,000 FT. Steel Pipes in March 2020

10,000 FT. Steel Pipes in April 2020

WellDone Ltd. utilises the letter of credit by presenting the corresponding documents to its bank, Free and Easy Bank.

The first presentation concerning the shipment of 8,000 FT. Steel Pipes shipped on February 15, 2020, works without any problem. As the letter of credit is payable and available by sight payment with Free and Easy Bank, the documents are honoured.

After the second presentation for the shipment of 10,000 FT shipped on March 5, 2020, WellDone Ltd. is taken by surprise. Instead of receiving the expected payment, WellDone Ltd. is informed by its bank that the presented documents are not in compliance with the terms and conditions of the letter of credit. As reason, Free and Easy Bank claims, with reference to article 32 of the UCP 600, that the shipment periods stipulated in the letter of credit were not observed.

WellDone Ltd. takes a different view. The letter of credit allowed partial shipment and partial shipments, even within individual instalments, were not prohibited in the letter of credit. Therefore, the company is of the opinion that the effected shipments are in compliance with the shipment periods stipulated in the letter of credit.

So, who is right now? Do the shipment periods stipulated in the terms and conditions of the letter of credit allow shipment of only a part of an instalment or does the letter of credit cease to be available in this case for any subsequent instalment?

Article 32 of the UCP 600 states:

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

The conclusion to be drawn from this is that, if a shipment has not been made within a given period fully and in due time, the letter of credit ceases to be available for that and any subsequent instalment. The opinion expressed by Free and Easy Bank is correct.

The ISBP (“International Standard Banking Practice for the Examination of Documents under UCP 600”) clarify in paragraph C 15 a. ii.:

“When partial drawings or shipments are allowed, any number of drawings or shipments is permitted within each instalment.”

It would have been helpful to the beneficiary if the letter of credit had included a condition whereby the credit will remain valid even if the shipment of an instalment was not effected in full.

Do you have any questions or suggestions regarding top@doc?

- Your comments, opinions or queries are of utmost interest. Feel free to contact us any time by sending us an email to top.doc@commerzbank.com.
- Our specialists for Transaction Banking will be pleased to answer any questions you may have on this issue or other documentary business topics.
- In addition to the current issue, you will find all editions since 2015 downloadable in PDF format in our [top@doc archive](#).
- For more information on our foreign business services and products, please visit our website www.corporates.commerzbank.com.