

# Commentary on UCP 600



**Article-by-Article Analysis  
by the UCP 600 Drafting Group**



International Chamber of Commerce

*The world business organization*

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**ICC Services**  
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## Introduction

During the revision of UCP 500, the UCP 600 Drafting Group provided regular feedback at ICC Banking Commission meetings concerning the issues currently under discussion. The feedback included areas of contention that had arisen from the comments received from ICC national committees, as well as the Drafting Group's thinking behind new concepts that were being incorporated into the text.

The contentious issues remaining to be decided led ICC to convene an extra meeting of the Banking Commission in Dublin in June 2005. This was particularly important, because with around 5000 comments received during the revision process, it was impossible for the Drafting Group to provide feedback on every issue that did or did not make it into the text of UCP 600.

These issues included, amongst others, the following items:

- Should the words “on its face” remain within the UCP?
- What was the value of the concept of “reasonable time” when there was no common standard for determining reasonableness globally?
- Should the UCP now reflect the growing practice of documentary credits being issued by non-banks, by substituting “issuer”, “confirmer”, etc., for the terms “issuing bank”, “confirming bank”, etc., that had been used in past UCPS?
- Was a majority of the Banking Commission in favour of including a rule covering the ability of a nominated bank to prepay or purchase a draft it accepted or a deferred payment it incurred?
- Was there a need for an equivalent of UCP 500 article 30 when the UCP transport document articles do not mention who is actually to “issue” the respective transport document?

All of the points were debated at some length by national committees tasked with providing input, so that the Drafting Group could gauge where their representatives on the Banking Commission wished an article to be positioned.

All of this is now history. The UCP 600 was unanimously approved by the Banking Commission in October 2006 and came into effect on 1 July 2007. But in keeping with other revisions of the UCP, the work of the Drafting Group did not cease with the approval of the rules or their implementation. Other UCP revisions have been followed by ICC publications comparing past versions of the rules with the new.

As experienced documentary credit practitioners know, UCP 600, whilst not containing many substantial changes in practice, does have a new style and structure. The introduction of new articles covering definitions and interpretations has brought together rules that existed in various sections of UCP 500. As examples, article 6 has combined wording from articles 9, 10 and 42 of UCP 500, whilst article 14 has wording from articles, 13, 14, 21, 22, 30, 31, 37 and 43 of UCP 500. With this in mind, the Drafting Group decided that a publication comparing one set of rules with another would be too unwieldy and that a Commentary on the rules themselves would prove to be more beneficial. The aim has been to provide a Commentary that enlightens practitioners to a number of the thought processes behind the changes in each article and to explain why a change was introduced, why no change was made, why some issues may appear new but are not, i.e., a clarification rather than a change, and to suggest the way the wording in UCP 600 should be understood and applied.

It is fair to say that writing this Commentary proved to be more difficult than drafting the rules themselves.

The Drafting Group must point out that the text of this Commentary reflects the views of the Drafting Group and not necessarily those of the ICC Banking Commission. Because the content contains information relating to the Drafting Group discussions and because there was a need for this publication to be in circulation as soon as possible after the implementation date of UCP 600, it was not passed through the Banking Commission for their approval.

Users of the Commentary should also be reminded that any decision to accept or reject documents should be based on the text of the underlying documentary credit and the applicable rules of UCP 600 and not the Commentary. As an accompaniment to the UCP 600, the ICC publication *International Standard Banking Practice for the Examination of Documents under Documentary Credits* (ISBP) has been updated (ICC Publication No. 681) for use with UCP 600. The ISBP, together with Opinions of the Banking Commission that will be approved and published from time to time, will additionally serve as valuable tools for parties to correctly apply the principles of UCP 600 and accurately interpret and clarify conditions appearing within documentary credits.

On behalf of the Drafting Group, I hope this publication will serve as a useful aid in your day-to-day transactions and will provide valuable insights into the thinking of the Drafting Group during the 3 <sup>1</sup>/<sub>2</sub> years of the revision process.



**Gary Collyer**

Technical Adviser, ICC Banking Commission  
Chair, UCP 600 Drafting Group