



قال تعالى:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

اللَّهُ لَا إِلَهَ إِلَّا هُوَ الْحَيُّ الْقَيُّومُ لَا تَأْخُذُهُ سِنَّةٌ وَلَا نَوْمٌ
لَهُ مَا فِي السَّمَوَاتِ وَمَا فِي الْأَرْضِ مَنْ ذَا الَّذِي يَشْفَعُ عِنْدَهُ
إِلَّا بِإِذْنِهِ يَعْلَمُ مَا بَيْنَ أَيْدِيهِمْ وَمَا خَلْفَهُمْ وَلَا يُحِيطُونَ
بِشَيْءٍ مِّنْ عِلْمِهِ إِلَّا بِمَا شَاءَ وَسِعَ كُرْسِيُّهُ السَّمَوَاتِ
وَالْأَرْضَ وَلَا يَئُودُهُ حِفْظُهُمَا وَهُوَ الْعَلِيُّ الْعَظِيمُ

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DEDICATED TO
MY LOVING FAMILY

ABSTRACT

This research has been conducted to explore critically the banking practice in respect of documents examination in search for settlement under the documentary letter of credit. Since this payment method provides a relative degree of protection for both sellers and buyers, this study has been conducted to investigate the ability of the documentary letter of credit under Uniform Customs and Practice (UCP 600) to improve the consumers' protection in respect of imported goods.

This research can be helpful to both academic field and practitioner bankers, so that the results of this work will not just be an extraction of facts, but will give them information with which they can better improve their practices and procedures in respect of shipping documents examination.

The research problem can be summarized as follows, despite the dramatic increase in the number of professional practitioner bankers during the current decade and the significant developments in respect of laws and rules governing the documentary letter of credit procedures and operations, consumer's Safety in respect of Imported Goods still is a questionable issue. This study aimed to find ways to reduce Discrepant Documents Waiver rates, in attempt to reduce the increased levels of Consumers' dangers due to in conforming goods.

The study adopted descriptive methodology where Structured Questionnaire Surveys which requires respondents to answer on a five point Likert Scale was adopted. The population frame has been defined as a listing of 90 Practitioner Bankers in the field of Documentary Letter of Credit at Khartoum City, from which the purposive judgment sample were drawn. The study main findings include:

- Approaching applicant by the virtue of article 16(b) was well stated, but has been misused and distorted by commercial or banking practices, which has obviously harm consumer's safety in respect of imported goods.
- The reputable theory is of the strict compliance of the UCP 600, contributes more to the consumers' safety and protection in respect of imported goods.
- Issuing bank undertaking is that: to honor only complying presentation Irrespective of what called for under Art.16 (b).

The study main recommendations include:

- Issuing Bank in order to restore the letter of credit effectiveness, it would be of great importance if it adopts the Strict Compliance Doctrine as standard documents examination practice as prescribed by article: (2).
- When the issuing bank determines that a presentation does not comply, it would be of significant proactive protective decision to refuse to honour discrepant presentation.
- It would be of great practical value to introduce consumers' protection legislations those obligate concerned bodies in respect of the letter of credit transaction to consider the element of consumers' safety and environmental issues.

المستخلص

أعدت هذه الدراسة لانتقاد الممارسات المصرفية فيما يتعلق بفحص المستندات بغرض الحصول على السداد في إطار خطاب الاعتماد المستندي. ولطالما كانت هذه الوسيلة للدفع توفر درجة الحماية المطلوبة لكل من البائع والمشتري، لذا تجيء هذه الدراسة لتبحث عن إمكانية خطاب الاعتماد في ظل القواعد والاعراف الدولية (600) على الإرتقاء بمستوى الحماية للمستهلك فيما يختص بالسلع المستوردة.

سنتكون هذه الدراسة معيناً للذين يعملون في الحقل الأكاديمي وكذلك المصرفيين الممارسين حتى تكون نتائج العمل ليس فقط لإبراز الحقائق ولكن لتوفير المعلومات التي ستمكنهم من العمل على تطوير الممارسات والإجراءات المصرفية فيما يختص بفحص مستندات الشحن.

تتلخص مشكلة البحث فيما يلي: بالرغم من الزيادة المقدره في أعداد المصرفيين الممارسين المحترفين خلال العقد الحالي، والتطورات الإيجابية فيما يختص بالقوانين والقواعد الحاكمة لإجراءات وعمليات خطاب الاعتماد المستندي، يظل موضوع حماية المستهلك فيما يختص بالسلع المستوردة موضعاً للتساؤل. تهدف الدراسة إلى إيجاد سبل للتقليل من معدل الإحالة للمستندات الغير مطابقة في محاولة لخفض المعدلات المتزايدة من مخاطر المستهلكين جراء السلع الغير مطابقة.

إتبعت الدراسة المنهج الوصفي حيث تم استخدام الإستبيان الذي يتطلب الإجابة على واحدة من نقاط مقياس ليكارد الخماسي. تمثل مجتمع البحث في عدد 90 من المصرفيين الممارسين في حقل الإعتمادات المستندية في مدينة الخرطوم، ومن ثم أخذت عينة عمدية غير عشوائية.

أما أهم نتائج الدراسة فتشمل الآتي:

- مبدأ إحالة المستندات الغير مستوفية التقديم إستناداً على قوة المادة 16(ب) من القواعد والأعراف الدولية أسئ استخداماً في إطار الممارسات المصرفية في السودان مما يؤدي لإلحاق الضرر بمستهلكي السلع المستوردة.
- مبدأ مطابقة المستندات الصارم وفقاً لشروط التقديم المستوفى يعزز من مستوى السلامة والحماية المطلوبة لمستهلك السلع المستوردة.
- تعهد المصرف المصدر لخطاب الاعتماد بالوفاء لقاء مستندات مستوفية التقديم بغض النظر عما ورد في نص المادة 16(ب) من القواعد والأعراف الدولية.

أما أهم التوصيات فتشمل الآتي:

- للحفاظ على فعالية خطاب الاعتماد، يكون من الأفضل للبنك المصدر له أن يتبنى مبدأ المطابقة الصارم الوارد في نص المادة (2) معياراً لفحص المستندات.
- عندما يقرر البنك المصدر لخطاب الاعتماد عدم مطابقة المستندات، فإنه يصبح كإجراء إحترازي ووقائي مهم أن يرفض أداء الوفاء لقاء التقديم الغير مستوفى.
- إنة لمن المفيد جداً من الناحية العملية أن يتم إصدار تشريعات لحماية المستهلك تعمل على إلزام جميع الجهات ذات الصلة بعمليات خطاب الاعتماد أن تأخذ بعين الإعتبار موضوع سلامة المستهلك وقضايا البيئة.

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