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Evaluating the Legal Relations among the Parties in Electronic Letter of Credit

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ABSTRACT

Not only the electronic letters of credit retains all priority of letters of credit over other international payment methods, but also increases the security and assurance of letter of credit method. Commercial parties, who have the necessary equipment in the developed countries, are able to fully carry out the commercial transaction immaterially and electronically and this will enhance the accuracy and speed of international transactions. However, the legal barriers in some of the countries may delay the electronic commerce completely. By explaining these laws, an effective step can be taken in promoting and developing the electronic commerce. In this paper, the letter of credit has been studied as one of the ways of price payment. Given the extraordinary impact of electronics on all aspects of life including the legal relations and international trade, the role of electronic on the letter of credit and the legal relations between the natural and legal persons involved in that case were described and investigated.
KEYWORDS: Letters of credit, electronic system, legal relations, electronic commerce.

INTRODUCTION

Nowadays, the commerce is improved along with the technology and these changes require the new relations and law between two parties. In international trade, the seller and buyer are facing with different types of risks in the commercial transactions. The seller's most important risk occurs when he delivers the goods, but does not receive the money and the buyer's most important risk occurs when he gives the money and does not receive the goods and another risk is when the seller does not receive the money and the buyer dies not receive the goods on time. Nowadays, these types of transactions have been developed and improved by the expansion and development of banking system and mediation of banks between two contract parties and giving the guarantee to the parties. For instance, the seller, who sells the goods according to the letter of credit, demands the price of transaction of credit Issuing bank, not the importer, by complying the relevant rules and provisions. Therefore, according to this new approach the International Chamber of Commerce decided to establish and enforce the comprehensive and complete provisions about the letter of credit; thus developed the provisions entitled as the common terms for the first time about the letters of credit in the Seventh Congress of the International Chamber of Commerce in 1993 and published with the name UCP100; these provisions have been changed and improved during several stages (four stages) and revised for the last time in 1993 and since the early 1994 this version is enacted and implementing and is known as UCP500 because it has been published in the journal ICC 500. (Schmitthoff, 2008)

Furthermore, the electronic advances have included all sciences and enhanced the accuracy and speed. Trade is one of these areas and has been changed in line with this phenomenon. Given the importance of issue and the new legal relations, created as the result of electronic letters of credit, this paper seeks to evaluate the legal relations among the parties in electronic letter of credit.

1.2 Chapter one: General Definitions

1.2.1 Section One: Electronic Documents

The word "document" refers to something which can be trusted and as the Article "1284" C.C. states: "Document is any text which can be referred as a claim or defense". Article 1283 C.C. also defines the document specifically: "Document is any text which can be referred as a claim or defense". (Sadeghian, 2008, p. 5)

Since the computer writing is one of new methods of writing, the computer document will be included in the definition. Any other electronic writing will also enter the electronic document into the definition. Electronic documents are created through the electronics and Electronic intermediates. (Savadkouhifar, 2010, p. 2)

Moreover, the authenticity of transactions and contracts among the individuals is the basis of our law, unless there is the evidence of corruption. Since there is no reason for invalidity of absentees' contract, the absentees' contracts should be considered authentic. Therefore, the electronic contracts, which are among the absentees' contracts, are valid and authentic.

The time and place of signing the electronic contracts will be reviewed as follows in order to express some of the existing rules in the electronic documents.

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1.2.2 Section Two: Letters of Credit

When the exporter sells the goods to a customer in a foreign country, he expects the customer to pay its price. On this basis, different ways become common between the buyer and seller who are living in two different countries. (Samavati, 2000, p. 97)

Rules relating to payment in international agreements should protect the parties against the risks of international trade (HANS.VAN HOUTTE, p.313). In each contract for selling the goods to foreign country, payment of purchase price depends on the following four elements: time, method, place and money of payment. In the law, different methods of payment in the export indicate the changes and conversions of these four elements. (Akhlaghi, 1999, p. 579)

However, paying the price of goods can be done through the following ways in the international trade:

1. Open Account Trade
2. Prepayment
3. Proceeds
4. Letter of credit[1]

Letter of credit is the most common way of paying the price of goods in the export trade (Akhlaghi, 1999, p. 611). This payment method is used only when the international contract parties have agreed on it (PAUL DOBSON, p.452).

For further evaluation of letters of credit, its definition and position in the contracts and its legal features are expressed.

A) Definition and position:

Letter of credit is the document which a bank issues on behalf of the client and authorizes a person or business to write the negotiable instruments in that bank (or the agencies and for the bank account) under the conditions stipulated in the letter of credit. (Karimi, 1988)

According to Article 2 of Uniform Customs and Practice for Documentary Credits (UCP 500), which are called as the terms of "letter of credit" and "Standby Letter of Credit", refers to any arrangement with any name and description by which a bank (issuing bank) is obliged to do the following tasks according to a customer's (applicant) demand and order or on behalf of itself and only in the presence certain document(s) and complying the terms and conditions of credit:

1 – It should pay the third party or by his draft (beneficiary) or accept the negotiable instruments [draft(s)] issued by the beneficiary, or

2 – authorize the other bank to do this payments or accept or pay the mentioned negotiable instruments [draft(s)], or

3 - authorize the other bank to carry out the transaction; based on these rules the branches of a bank in various countries are considered as "the other bank". (Mohammadi et al, p. 69)

Letters of credit are not only a tool to make the payment and create the credit or a tool for credit of payment. (PAUL DOBSON, p.452)

In other words, four stages can usually be identified in a case in which the payment is due to be made:

1 - Exporter and foreign buyer agree in the sale contract and the payment should be based on the letter of credit.

2 - Foreign buyer orders a bank in its business location to provide a credit for exporter in the United Kingdom and the credit will be determined by the buyer and his orders to the issuing bank.

3 - Issuing bank coordinates with a bank located in the issuing location in order to transfer, accept or pay the issued draft by receiving the transportation documents from the seller.

4 - Advising bank informs the exporter that it is ready to transfer, accept or pay his draft by receiving the documents. Advising bank may do this action without including the obligation or approve a credit which has been issued by the issuing bank (Akhlaghi, 1999, p. 611).

These documents, as the legal documents, have the specific features which are expressed as follows.

B - Legal features:

The common feature of all types of letter of credit is that the buyer pays the purchase price through the bank in accordance with the agreement between the seller and buyer in the basic contract. (Akhlaghi, 1999, p. 611)

According to the review of UCP500, various features can be achieved; some of them are mentioned as follows:

1 - Formalism (Originality of shape and appearance):

The main focus in the letter of credit such as the trade documents is mainly on the appearance, shape, and formalities relating to the document and their nature or legal nature have been less considered and also their appearance conditions and features and predication and dogmatism are more taken into account.

[1] Mojtaba Farahani Zamani, 2000 – p. 47

2 - Location Ownership:

The following interesting discussion is raised in the letter of credit like other trade documents: Differentiation of objective and religious rights in a guided process leading to the acceptance of objective right for the beneficiary of credit on the one hand and for the document holders and proprietor on the other hand; the issued letter of credit is the collateral of achieved or mutual achieved obligations. As the mutual obligations of documents and guarantees are the easy-accessible collateral of committed ones such as banks and the primary and original obligation of credentials. These meanings express the category of proprietary right and location theory. (Mohammadi, 2003)

3 - Independence:

Letter of credit also has the prominent feature of independence. In other words, the credits are entirely separated from and independent on basic contract so that none of the errors and deficiencies in the basic contract create the smallest damage to the credit and none of the parties can question the problems of original contract of credit and the banks cannot refuse to pay the cost of credit according to the possible problems.

4 – Being Commercial:

Despite the fact that the letter of credit is among the bank documents, it has the commercial feature because there are the rules of commercial law in it and performed operation on them is commercial. (Sayad, 1990)

5 – Exchange Possibility:

According to the explicit text of UCP500, the letter of credit has the possibility of exchange in itself and the exchangeability is one of the features of credits.

6 – Being Abstract:

On the one hand, the abstract feature is manifested by considering the exchangeability principle of commercial documents, which causes that the horizontal document relations to be achieved as the following agents, and on the other hand because the multiple document relations can be created in line with each other based on one or more fundamental relations and are independent and separated from each other at the same time with distinction from the current relation(s) (vertically) and from each other (horizontally).

7 – Legal unity of international appearance alliance

Following the legal unity, the necessity for the work appearance, formulas and procedures required to complete the process of letter of credit from the beginning to end is automatically in a process of consistency and alignment as well as the items and number of documents required for exchanging and their formulas of appearance.

8 - Goodwill:

For better function of description of impunity and the principle of lack of entry and consideration of errors and exceptions, the document holder should have the goodwill. In other words, he should not be informed of the problems and errors or fraud such as adulteration and being false and compromise, etc indeed and does not know that the document, which has received or the accepted document operation, has the problem. (Abdoh, 1977)

9 - Compliance with conditions of letter of credit:

When a credit is created based on the bank customer order, the provided documents should be carefully considered banks in order to be consistent with the credit terms; however, it should be noted that this compliance is only nominal and has nothing to do with the content of documents and the bank take no responsibility for the validity of content documents. (Karimi, 1988)

C - Relevant Rules:

Performing and implementing the contractual obligations is undoubtedly among the most important objectives of each contract and the parties have been related to each other based on them and the contract. In the national and domestic contractual relations of a country, performing the contractual obligations is easier and the contracting parties' anxiety is less in terms of existence of judicial system and the forces required to carry out these decisions, but the contracting parties in the international relations seek the sufficient security since the beginning of the contract due to numerous barriers in order to do the business activities in a safe context away from any fear and anxiety. (Sayad, 1990)

Since any analysis should be done based on the principles and law of letters of credit, it is necessary to provide a summary of mentioned principles: (Abdoh, 1977)

Origin of letter of credit, negotiable instrument, is in its old ways. Nowadays, the authors of international law all agree that the letters of credit is partly similar to the negotiable instrument and has been affected by its major features and specifications. On this basis, they have mainly focused on two following principles in order to analyze the rules which administrate it: (Karimi, 1988)

- Principle of independence or description of letter of credit abstract
- Principle of careful compliance of documents

A- Principle of independence or description of letter of credit abstract

In the domain of civil rights, the documents including the official and normal, are considered as the reason and indicate the occurrence of an obligation or a legal matter. Therefore, when the invalidity of obligation or legal matter is proved due to a reason, the document resulted from that obligation of legal matter also loses its credibility; in other words, in the domain of civil rights, the documents have the way aspect. (Daji, 1988)

Civil documents are the reasons of proof and indicate a legal relation or matter or transferring the credit; and the creditor referred to the debtor based on that legal relation or matter, thus the debtor has the right to object to the document holder; the cause of creating the debt is revoked or the document expired and its credit is withdrawn according to the legal aspects, therefore, these legal interactions will be the document with no funds.

In the terms of commercial law, the commercial documents including the letters of credit pass another way.

In these types of documents, the obligation to pay resulting from the credit document is independent on the existence, value and validity of legal relation or matter and it usually create the cause of its occurrence. (Akhlaghi, 1979)

Like the commercial documents in the special meaning, the letters of credit are the tradable documents which ensure "the draft rights and obligations". Issuing these types of documents indicate the intent to pay. In other words, the letter of credit is an objective itself not the tool and has the subject not the way aspect.

Authors of commercial and international trade law all believe in the "principle of Independence" and the "abstract description" for the letter of credit. In other words, it is independent on and separated from the main contract of purchases and sales or other transactions. (Kamali, 1988)

The only exception which the bank should refuse to pay on credit, is when is proved for the bank that the documents are fake despite their good looks and the beneficiary (seller) has committed a kind of fraud. This case is often known as the "fraud exception". (Kamali, 1988)

The principles of independence or abstract description of letter of credit have been explicitly stated in Articles 3 and 4 of uniform provisions. (Samavati, 2003)

Article 3 of provisions indicates: The credits are naturally the transactions separated from the sales contracts or other contracts which these credits depend and the contracts with credit as the basis are never associated with the banks and make no commitment to them, even if these contracts are referred in the letter of credit; the Article 4 of the same provision adds: In the credit operation, all relevant parties transact the documents, not the goods, service or other functions which the documents are relevant to. (Jafari Langroudi, p. 420-421)

B - Principle or doctrine of careful compliance

Value and effect of obligation, caused by the letter of credit, is basically achieved by developing the credit document which has origin in the obligation. This rule has the clear reasons. Respecting the appearance and form of document and careful compliance of articles in the document is necessary for supporting the credit document issuer's intention and satisfaction and making him understood that his obligation has the "abstract description". (Sayad, 1990)

According to the international trade law authors' belief, the reason, which approves this rule and is not generally complied with the retailers, is that the advising or agent bank is the specific and exclusive representative of credit issuing bank and this bank is also considered as the specific and exclusive representative of buyer. Now, if such a representative (who is attorney in banking system) has the limited authorities and does not involve in matters out of his own permission and authority, the agent should takes the responsibility in the case of any damage and commercial risk of transaction. (Sayad, 1990)

Letters, which are inserted in the text of credit, should be exactly the same documents which the parties have agreed on the necessity for providing them and if the provided documents are exactly inconsistent with the conditions of letter of credit and the bank refused to accept them, the seller should immediately contact the buyer and ask him to order the bank to accept the documents as he had given the bank. (CliveT, 1986)

The bank refuse to deviate from the rules even in a small and seemingly unimportant problems, which have not been approved in the applicable cases according to uniform guidelines or rules, cause that if the claim is raised, it is approved by the court in most of the cases based on the bank directions.

In the field of letter of credit, the last revision of it uniform rules has been presented and published in the International Chamber of Commerce No. 500 and thus has been known as the UCP500[2] and includes 49 Articles which defines and explains the way of opening and other issues related to the paper letters of credit before which was the UCP400.

If the letter of credit is approved by another bank, this bank will be responsible for the issuing bank obligations as well as the payment obligation on behalf the beneficiary. (Zamani Farahani, 2007)

Letter of credit has various types which have been pointed out as follows: (Karimi, 1988, Akhlaghi, 1979, Kamali, 1988, Mohammadi, 2005)

1.2.2.1 Types of letters of credit

A: Transport Documents

[2] Uniform Custom and Practice for Documentary Credits

Transport documents contain different types of Bill Of Lading and Air Way Bill of Lading, CMR/TRUCK Way Bill of Lading, or Combined Transport Bill of Lading and they are presented in Articles 23, 24, 25, 26, 27, 28, 30, 32 and 33 of Uniform Rules of letter of credit and have a series of contents and features such as date of issue, transportation origin, transportation destination and ... which have been expressed in the mentioned cases; in general, the transport documents are classified into two groups:

1. Negotiable transport documents

Negotiable transport documents are the documents which the ownership of its subject goods can be transferred to the third party with its endorser. According to the provision of UCP500 bill of Lading, it has three main features which separate it from other transport documents. First: recording the transport contract, second: receipt of goods delivery to the person in charge of transporting the goods, third: Document of title to the goods. Credit beneficiary receives the credit cost by providing the bill of lading and other documents for the negotiating bank, while the buyer has not received the goods yet.

2. Non-negotiable transport documents

They include the Combined Transport, Air Way, CMR/TRUCK Way, Maritime, etc Bills of Lading which are non-negotiable and are not considered as the document of title to the goods unless it has been agreed upon another way in the letter of credit.

(B) Commercial invoice

It has been presented in the Article 37 of UCP500 and according to this article, the commercial invoice should be issued by the beneficiary and as the applicant and need no sign and the description of goods should be in the letter of credit. If the value of goods in the invoice is more than the value of goods in the letter of credit, the bank can choose to accept or reject the invoice, but the bank is maximally committed to the payment equal to the inserted amount in the letter of credit. Invoice indicates that the beneficiary (seller) has performed the sale contract and this document includes the detailed list of goods with the separated type and number of package, prices of each issued goods and detailed and accurate description of each goods and its type and the total price and the commercial invoice requires no date and according to the Circular no. 60.1087 dated 05.17.2004 by the Central Bank of Islamic Republic of Iran, the commercial invoice should be approved by the Chamber of Commerce of beneficiary country, transport origin or the production site.

C: Insurance Document

In Articles 34, 35 and 36, the uniform rules of letter of credit UCp500 have been expressed due to the risks which threaten the goods from the origin to destination. Given the provisions of UCp500, it can be stated that the insurance document should be signed like other documents and the summary form of document should indicate its authenticity and if the insurance policy is issued in several copies, all of it should be submitted to the bank and the insurance document and the payable amount based on it should be with the same currency which has been supposed in the letter of credit unless it is among the instances of non-conformity of document; moreover, the date of issue in the insurance policy should not be after the date of issued bill of lading or date of goods issue unless another arrangement has been made in the letter of credit or the insurance document suggests that the insurance coverage has been existed and valid at least from the date of loading or sending the goods for transportation.

If another arrangement is not made in the credit, the minimum insurance coverage should be equal to the price CIF or CIP of goods plus 10%. If the price of CIF or CIP cannot be guessed from the appearance of documents, the banks consider two factors, first the Gross Price of commercial invoice and then the maximum demanded price for payment in the commercial invoice. Each of these two, which is higher, will be acceptable plus 10% of insurance coverage.

D: Other documents

They are the documents which the provisions of letter of credit have not explained them and if the letter of credit applicant demands them with the specified format and contents of the credit Issuing bank in order to be inserted in the letter of credit, its provision become essential for the letter of credit beneficiary otherwise, the banks will have no task and responsibility for handling, controlling and complying these documents provided by the beneficiary according to the provisions of letter of credit; these documents include the Certificates of Origin, Inspection, year, Strength, Health, Packing list, etc ....

According to the explanation of different types of letter of credit, it should be stated that the use of letters of credit has the advantages which will be discussed as follows:

1.3 Chapter Two: Electronic letter of credit

The mechanism of letter of credit can operate electronically without any problems. Nowadays, most of the information and documents related to the commercial letter of credit are transmitted electronically. The contract is not the primary obstacle to move towards a fully electronic letter of credit system, but the lack of an electronic bill of lading is acceptable to all. (Khazaei, 2006)

A typical letter of credit agreement at least includes three contracts: 1) Contract between the credit applicant and the issuing bank for issuing the credit in favor of the seller or beneficiary, 2) Contract between the issuing

bank and introduced bank which is located in the issuing country and 3) Contract between the issuing bank and issuer bank.

Legal effects of each of these contracts can be effective in determining the rights and duties of involved parties.

For electronic function of letter of credit, creating, sending and exchanging the documents in these various contracts should have the ability to run and flow electronically.

Applicant's demand for issuing is in fact doing the current condition which has been created at the same time with the international sale contract. On the one hand, the beneficiary is the one, who the sales contract is in favor with him, and on the other hand, is the issued credit party as the recipient of credit amount. While paying the seller, the buyer fulfills the condition and does one of the pillars of sale contract or the consideration exchange. However, what is important is that none of these contracts have direct effect on other processes. If the corruption is detected in the basic contract, it has no direct effect on the beneficiary's right for receiving the amount of credit while providing the documents in issue process and in the case of detecting the corruption in each of two previous cases. The rights and obligations of each of them in this relation are important in the issues of letters of credit. (Shabestari, 2008)

Section 1 – Effect of transaction towards the beneficiary

After establishing the credit and beneficiary acceptance, the aforesaid one obtains the claim amount of credit provided the compliance of credit conditions. Based on the principle of credit independence and compliance of the conditions of credit, the letter of credit becomes independent of other basic contracts, the contracts between the issuing bank and the applicant, and also contract between the applicant and beneficiary as the transaction parties and the code base is the international sales. Therefore, the most important effect of letter of credit is on the rights related to demanding the credit amount of the issuing bank by the beneficiary, regardless of what happened in previous contracts. However, the beneficiary should have the goodwill. Despite the fact that there are no specific rules about it in the provisions of UCP, this case will be investigated in the case that the beneficiary is fraudulently trying to claim the credit fund. There are provisions in the Article 5 of uniform law of the United States and also in the convention of UNCITEAL about the issue of fraud. But performing the obligation is the condition for claiming the right by the beneficiary. Beneficiary should provide all documents contained in conditions of credit for the banks such as the insurance, transportation, etc documents, which have been specified in the letter of credit. In terms of the appearance of documents, the bank started to pay the beneficiary. It should be noted that after creating the credit, all things depend on the exchange of documents. It means providing the documents by the beneficiary and paying the amount by the credit issuing bank. Therefore, some of researchers have considered this section of letter of credit as the purchase and sale of documents because in the case that the seller has not performed all exact obligations of basic contract, he can receive the credit amount by providing the transport documents and other documents stipulated in the conditions of credit. Thus the consideration of documents is stipulated in the conditions of credit and amount of letter of credit. The intermediary contracted Bank may be the beneficiary and this contract has no effect on the rights of credit beneficiary. (Shahbazinia, 2003)

In most of the countries member in the legal system, common law, the contract for issuing the letter of credit depends on the "general rules of signing the contracts" and thus it can be signed verbally, electronically or on the paper. In most of the legal systems, the contract of issuing the credit, which has been signed electronically, has all legal effects and qualities of contract which is written on the paper.

However, providing these documents for fulfilling the conditions of letter of credit is what is raised from the issue of effect of issuing the credit associated with the subject enforcing the Iranian law of e-commerce on the letter of credit. Therefore, providing these documents and the process of created exchange of documents and credit amount electronically is included in the rules of e-commerce law. (Miri-Esfandabadi, 2006)

Section 2 - Effect of transaction towards the banks

After issuing the credit by the issuing bank and acceptance of beneficiary by the bank in his living place and returning the acceptance along with the special code to the issuing bank via the SWIFT system, the issuing bank will be committed to pay the credit amount in case of fulfilling the beneficiary's obligation within the credit. It can be seen that from the time of signing the contract and its stipulation about the payment or agreement in the form of a annexed contract, the credit applicant or the purchaser and the beneficiary or the seller are not in direct contact with each other. Here, all events among the banks occur. Now with this major role of banks, the effect of letter of credit towards them should be studied. There might be several banks involved in the letter of credit. Practically, the relations among the banks in the banking operation can be more complex than a single equation of letter of credit. Evaluating the relations among the banks in banking operation needs a specific and comprehensive survey. However, the relation among several banks is what is closer to the subject "letter of credit". This legal relation is created by issuing the credit. Although the agreements and contracts have been already signed among the banks about the mechanism of credit and money transfer, what the banks perform

about an issued credit can clarify the rights and obligations of mentioned bank based on a legal analysis in that special relation or the letters of credit. Banks entered the relations of letter of credit are mainly classified into the issuing, agent, advising, and confirming banks. However, it is possible to have several descriptions with each other in one of the banks and each bank may have one of the above cases. Therefore, we will evaluate the effect of transaction and rights and obligations of each of the banks. (Eftekhar Jahromi, 2003)

1. Issuing bank

In this case, the amount payment is subject to fulfilling the obligations by the beneficiary at the range of credit conditions. It means delivering the transport and insurance documents and other items which have been provided in the credit. Thus given that the issuing bank is committed to the payment for the beneficiary, the aforesaid one can take legal action against the bank and claim the amount of credit with the losses caused by the non-payment of credit amount without a legitimate excuse.

In cases, which the issuing bank has not paid the credits on time, the buyer may be faced with the irreversible damage. Assumpsit is possible by the buyer in terms of causation. However, about claiming the principal amount, it should be noted that whether the issuing bank is obliged to the purchaser or this obligation is created for the beneficiary? Given that the buyer's obligation pays the seller and despite the independence principles of letter of credit, claiming the lawsuit by the buyer is not inconsistent with the legal principles. Undoubtedly, the beneficiary can refer to the issuing bank and claim the amount of credit. The main obligation of issuing bank is the payment of determined amount in the letter of credit. Beneficiary should also do the terms of letter of credit which he has been accepted previously.

Issuing bank can refuse to fulfill the obligation due to non-compliance with the conditions of credit without notifying the beneficiary.

Bank is only is bound to pay the amount of credit in the specified date if the conditions of credit is complied. We should consider the collapse of bank obligation and dissolution of credit unless there is another condition between the applicant and bank in these cases. Obviously, in the existence of contrary condition, the condition with specific range will be fulfilled. (Samavati, 2003)

2. Agent Bank

Agent Bank does the actions in the beneficiary's living place on behalf of the issuing bank. Agent Bank may have the description of advising bank or the confirming bank. Advising bank advises the beneficiary on the credit and the payment of amount may be made by it or by another bank, but the advising bank has no obligation to pay the amount of credit to the beneficiary. Therefore, the beneficiary cannot claim the lawsuit against the advising bank. Advising bank usually has an open account with the name of issuing bank. The amount of credit is paid by that open account. Sometimes, the account cannot pay the amount of credit but the advising bank pays the amount of credit to the beneficiary, and in contrast, the issuing bank is debited. This case has caused that the relations between the issuing and advising banks to have the representative description. In other words, the agent bank pays the amount of credit on behalf of the issuing bank and referred to the issuing bank according to the contract between them and based on the general legal principles. Agent bank can refer to the issuing bank in the case of payment, but this case does not mean its obligation to the beneficiary. Therefore, the beneficiary cannot claim the amount of credit from the agent bank. (Zamani Farahani, 2005)

3. Confirming Bank

Due to the economic and political reasons, the confirming bank may confirm the credit issued by the issuing bank as previously was mentioned. This approval means the obligation of that bank to pay the amount of credit. However, the articles of contracts should be carefully interpreted for primary refer to the confirming bank. However, the beneficiary can basically claim the credit payment by referring to the confirming bank even if this bank has no description of reimbursing or issuing bank. Therefore, there is no doubt about the obligation of confirming bank towards the beneficiary. Confirming bank is like the drawee who has accepted the draft, thus it, is obliged to pay the amount of credit to the beneficiary. The confirming banks usually have the strong financial relation with the issuing bank. They obtain the reliable guarantees from the issuing bank before confirming the issued credits in order to get the amount of credit by in the case of lack of payment by the issuing bank. Confirming bank is considered as the agent of the issuing bank if the issuing bank complies its own obligation. If the confirming bank does the payment, it can be in the country different from the supplier's residential location. However, if the issuing bank does not pay the amount of credit, the obligation of confirming bank is a full and major obligation to the beneficiary, thus the amount of credit should be paid to him. (Mohammadi, 2005)

Contracts between the applicant and the issuing bank are usually inserted on the paper, but they can be verbal, electronic or on paper. Interbank transfers are about the credit, documents and information associated with the credit of duration and they are mainly performed by the Society for World Wide interbank Financial Telecommunication (s.w.i.f.t). Changing the letters of credit as the electronic messages due to the Swift network is the efficient and effective phenomenon which is now widely welcomed. (Zamani Farahani, 2007)

There are no clear legal obstacles in the way of electronic notification of credit to the beneficiary. About the contracts of issuing bank and credit beneficiary, the beneficiary should claim the bank the implemented credit if the credit should be provided for the bank although some individuals have consider it as a special mandatory

relation and others describe the contract between them. Issuing bank can issue the accurate and applicable proclamation electronically or on the paper to the beneficiary. On this basis, there is no legal prohibition, as the provisions of UCP have predicted sending the credit through the communication media. (Akhlaghi, 2008)

1.4 DISCUSSION AND CONCLUSION

According to what was provided, it becomes clear that how the electronic letters of credit can work with the same way as the paper letters of credit. On this basis, not only the electronic letters of credit retain all preferences of letters of credit to other methods of international payment, but also increase the assurance and security of letter of credit method. Commercial parties, who have the necessary equipment in the developed countries, are able to fully carry out the commercial transaction immaterially and electronically.

Nevertheless, the legal barriers in some of the countries may delay the electronic commerce completely. For instance, the laws, supervising the bills of lading and marine insurance is a number of countries still have considered developing the paper documents essential. If these kinds of law are not modified, they will prevent from the growth of electronic commerce.

Governments and businessmen around the world are seeking to remove the legal barriers to electronic commerce. International business community is fully aware of the numerous capabilities and talents of electronic commerce and knows that the negative impact of old provisions can prevent from the compliance and actualization of these capabilities and talents.

This study reviewed the legal relations of parties in electronic letters of credit and took an effective step in electronic commerce and facilitating it.

REFERENCES

1. Akhlaghi, Behrouz (1979) Discussion about the concept of commercial documents, Journal of Faculty of Law and Political Science, University of Tehran, No. 21

2. Akhlaghi, Behrouz (2008). International trade laws – Vol.2- The Organization for Researching and Composing University Textbooks in the Humanities (Samt), First Edition

3. Schmitthoff, Clive M. (2008). The Law of international trade, Vol. 2, translated by Dr. Behrouz Akhlaghi et al, SAMT publications

4. Eftekhar Jahromi, Goudarz; Tafreshi, Mohammad; Shahbazinia, Morteza (2003), Development of legal system of bank guarantee in terms of International Chamber of Commerce

5. Jafari-Langroudi, Mohammad Jafar, Encyclopedia of Civil Rights and Trade, Vol. 1

6. Khazaei, Hossein (2006). Methods of payment of price in international trade, Journal of Faculty of Law and Political Sciences, Allameh Tabatabai University

7. Deji Richard, Cole Driss (1984). Role of Guarantee letter of credit in the International Trade, Translated by Mohsen Mohebbi- quoted from journal of Virginia International law, No. 2, Year 1980, Released in the Legal journal of Office of International Legal Service, Islamic Republic of Iran, No. 1

8. Dr. Savadkouhifar, Sam, (2010) Article of Trial Claims Civil associated with context of electronic exchanges, Second Page

9. Zamani Farahani, Mojtaba (2000), Letters of credit and banking issues, Nevisandeh publication, First Edition

10. Zamani Farahani, Mojtaba (2007), International Banking, Vol.2, Termeh Publications, 2007, p. 8

11. Samavati, Heshmatollah (2003). Law of International transactions, Qoqnoos Publications, first edition

12. Shabestari, Seyyed-Ali (2008). Legal aspects of payment methods in the electronic commerce and traditional international trade, M.A thesis on international law

13. Shahbazinia, Morteza (2003). Evaluating the common provision of bank guarantees used in international trade

14. Shahidi, Mahdi (2006). Creating the contracts and obligations

15. Shiravi, Abdolhossein (2005). International Trade Law, First Edition, SAMT publications

16. Sadeghian, Nadali (2008), Article of electronic documents, the most surprising media in today era, p.5

17. Sayad, Linda (1990). Letters of credit, M.A Thesis on Private Law course, Faculty of Law and Political Science, University of Tehran

18. Abdoh, Jalal, Proceedings of "Generalities in the banking law", published in the Journal Kanoon Bank'ha, years 1976-77

19. Karimi, Asadollah (1988) Review of letters of credit and the latest uniform regulations of letters of credit, legal journal of office of international legal service, Islamic Republic of Iran, No. 9, p. 92

20. Kamali, Yasan (1988). Evaluating the Letter of credit in the form of reward contract, research of M.A course in the private law, Islamic Azad University

21. Katouzian, Naser (2005), Two-volume course of "proof and evidence of proof", vol 1, third edition, Mizan publications

22. Mohammadi, Habibollah et al (2005). A guide to complete the forms and principles of letter of credit, publication of Business Studies and Research Institute

23. Mohammadi, Habibollah; Milani, Seyed Mohammad; Ashrafzadeh, Hamidreza, (2003) Principles of letter of credit L/C - Chamber of Commerce, Third Edition

24. Mir-Ghaemmaghami, Abdolhamid (2008). Law of obligations, vol. 2, p. 238, Mizan publications, Tehran

25. Vesali Naseh, Morteza (2004), Electronic contract and its credit principles

26. Clive M. Schmitthoff (1986), The Law & practice of international trade. 8ed, London, P. 336th

27. HANS.V.AN HAUTTE. (1995) The Law of International trade-Sweet & Maxwel

28. PAUL DOBSON, Charles (1997) Worth's business law-sixteenth edition-Sweet & Maxwell at *www.equipment net/list/letter of credit*