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Examination of Documents in Irrevocable Documentary Credit in Accordance with the Unified Principles and Usages of Documentary Credit

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Abstract:

This article aims to examine the documents in the irrevocable documentary credit according to the unified principles and uses of the documentary credit, as the documents, by virtue of their vitality, left trade outside the scope of one country to move towards globalization, which was necessitated by the necessity of dealing between countries. Several factors contributed to the growth of internal and external trade, which is unimaginable, at least from a financial point of view. Where each of the two parties to the commercial process performs its obligations at the same time, it was better to find a way that would be able to provide guarantees for two people who are far apart in the place. From them to implement their commitment without fear of non-fulfillment of the other party, and for these reasons and regarding documents was invented documentary credit technology. The documents are very important for the bank, as it must check and comply with the terms of the credit opening contract, before paying the credit value to the seller. On the other hand, he is responsible to the seller if he rejects documents that are valid and in accordance with the terms of the letter of credit. Where the importance of this study comes from the importance of the documentary credit and the seriousness of the document examination process, as the bank bears responsibility for the error in examining the documents and bears the payment of those affected. In the absence of a legislative regulation on documentary credit, the study attempts to define general principles agreed upon in examining documents, and to be guided by the national judiciary with the rules of unified customs and foreign judiciary, and to determine the responsibility of banks for violating the rules of examining documents and the responsibility of the beneficiary for committing fraud when submitting documents.

Keywords: Documentary credit, an irrevocable documentary credit, globalization, internal and external trade, commercial law

1. Introduction

By virtue of its vitality, speed of development, and instability, trade exited from the scope of one country to move towards globalization, which was necessitated by the necessity of dealing between countries in terms of transactions. Several factors have contributed to the growth of both internal and external trade.¹ In the context of internal or external trade, it is impossible to imagine, at least financially, that each of the two parties to the commercial process will implement its obligations simultaneously, and this is due to the concerns of the two parties. Therefore, it was better to find a way that would be able to provide guarantees for two people who are far apart in the place of carrying out their commitment without fear of failure to fulfill the other party. For these reasons and in connection with the documents, the documentary credit technique was invented.²

¹These factors can be categorized into political, technical, and legal. As for political ones, it is possible to examine them through what has become prevailing in the world of the openness of countries to each other and the removal of some obstacles that prevented the easy movement of goods from one country to another. As for the technical ones, they are related to what the world is witnessing today: the development in the means of transportation that helped the movement of goods in a short time and in huge quantities between countries. As for the legal ones, it relates to the emergence of many international agreements on transport, whether by land, air, or sea, and the method of exchanging goods and determining the responsibilities of the contracting parties and the laws applicable to disputes that arise on the occasion of the implementation of the contract. Especially if it is international, see Saeed Abdel Aziz Othman, *Documentary Credits*, University House, Arab Republic of Egypt, Alexandria, 2003 AD, p. 55, as well as Tawfiq bin Nasr, *Tunisian Banking Law*, Maghreb House for Printing and Publishing, Tunisia, for the year 2009 AD. (In French) p. 174 Also Abdallah Khaled Ali Al-Soufani, the bank's return to the beneficiary after the implementation of the irrevocable documentary credit contract, 'a comparative study' research published in the *Journal of Sharia and Law*, United Arab Emirates University, Twenty-sixth Year, Issue 52, Section 2, Dhu al-Hajji 1433 October 2012, p. 156 Margin 1.

²In the Jordanian Trade Law No. 12 of 1966, the Jordanian legislator did not regulate the provisions of documentary credit but spoke about credit in general in Articles 118 to 122 of the Jordanian Trade Law, leaving this matter to commercial custom and the jurisprudence of the judiciary, as did the Egyptian legislator and most Arab legislators, except a few among them, such as the Iraqi, Kuwaiti, and Syrian legislators, who derive the provisions of the documentary credit contract from the bulletin issued by the International Chamber of Commerce under the name (Unified Principles and Customs for Documentary Credit). It is a translation of the English phrase: (Uniform Custom and Practice for Documentary Credits) (Incoterms) and abbreviated with

Unlike the cancelable loan of the buyer's order bank, which opens the loan to the seller and leaves the option to return to this loan at any time without facilitating any obligation to the bank against the consumer, an irrevocable loan represents the consumer's only opportunity to derive value from goods rather than the Bank accepts it for the originator but provides an almost guarantee that the price of the goods will be paid to him if he produces the required documents and offers honor all the conditions mentioned in the loan document.³

The documents are very important for the bank, as it must examine and conform to the terms of the credit opening contract before paying the value of the credit to the seller. On the other hand, he is liable to the seller if he rejects documents that are valid and conform to the terms of the letter of credit.⁴

This study's importance comes from the importance of documentary credit and the seriousness of the document examination process, as the bank bears responsibility for the error in examining the documents and bears the payment of the injured party. In light of the absence of a legislative regulation of documentary credit, the following questions have arisen:

- Are there general principles agreed upon in examining documents?
- Does the Rules of Uniform Customs (Bulletin 600) refer to a specific standard for examining predicates?
- Is the national judiciary guided by the rules of unified customs and the foreign judiciary?
- What is the responsibility of banks in violating the rules of document examination?
- What is the responsibility of the beneficiary for committing fraud while submitting documents?

In order to answer study questions, the study was divided as follows:

- First Topic: Documents Examination Provisions
- First Requirement :The general basis for examining documents.
- Second Requirement :Standard adopted for testing documents.
- Second Topic :Violations of the basics of document examination carry legal consequences.
- First Requirement: The liability of intervening banks when they violate the basics of examining documents.
- Second Requirement :The liability of the bank that opened the loan when it violates the principle of examining documents.
- First Topic: provisions for examining documents

The loan entails an obligation of the issuing bank or the confirming bank to examine the documents presented to it by the consumer to ensure that they meet the conditions stipulated in the loan. The manner in which documents are examined is governed by different standards, both by the judiciary and by statute. However, there are general principles and principles that banks should consider when examining documents.

1.1. First Requirement Is the General Basis for Examining Documents

While examining the documents submitted by the consumer of the documentary loan, the bank should take into account several bases, such as:

- Limit the examination to documents,
- Check the appearance of documents,
- Submit all the documents required in the letter of credit during the accreditation period, and
- Search for the validity of the documents, and we will deal with that successively

1.1.1. First: Limit The Examination to Documents.

The bank deals in the same documents without resorting to elements outside it. This principle was mentioned in Article (4) of the Standard Rules and Customs for documentary credit.⁵ This means that the bank considers the documents only without making sure that the goods conform to the documents, as the documentary credit contract is separated by its nature from the original sales contract and other contracts.⁶ And that the bank's dealings in documentary credit are limited to documents by matching them with the terms of the letter of credit.⁷

The bank's obligation does not provide for verifying the conformity of the goods with the descriptions contained in the credit, as the bank deals with the documents, which was confirmed by the French Court of Cassation in one of the cases whose facts are summed up that the buyer upon receiving the goods found that they were other things that were not agreed upon, and when the dispute was submitted to the judiciary He decided that the lack of conformity was in the goods, and not in the documents, and the banks deal with documents only, and that the dispute in the goods is due to the relationship between the buyer and the seller.⁸

(UCP), the latest of which was Bulletin No. 600 issued in 2007, which consists of 39 articles, and it is on which this study will be based, see Abdallah Khaled Al-Soufani in that, previous reference, pg. 157, footnote 4.

³ See Abdallah Khaled Al-Soufani, the previous reference, pg. 157, footnote 4.

⁴Review the study of Yasser Abu Hammour, the penalty for the bank's acceptance of non-conforming documents, research published in the Journal of Banks in Jordan, Volume Nineteen, Issues Four and Five, Association of Banks in Jordan, Amman for the year 2000 AD, p. 769.

⁽⁵⁾ Which states that 'accreditation is by its nature a process independent of the sales contract or other contracts on which it is based.'

⁽⁶⁾ see in it Article (5) of the Uniform Rules, and Customs states: 'Banks deal with documents and do not deal in goods, services or performance that the documents may relate to.

⁽⁷⁾Muhammad, Essam Fayed, Documentary Credit and the Bank's Responsibility for Examining Documents, Dar Al-Nahda Al-Arabiya, Cairo, 2015, p. 232

⁽⁸⁾cour de cass. (com.) 15 July 1992.

Referred to by Muhammad Essam Fayed, previous reference, p. 235.

The bank is only required to examine the documents stipulated in the credit and does not resort to other documents to complete the deficiency if the documents are self-sufficient.⁹ This is what is meant by virtual matching the submission of any document that is not required in the credit will be ignored, and it is not considered a substitute for any document that is required and not submitted.¹⁰

1.1.2. Second: Check the Appearance of Documents

Article (14/a): of the Uniform Rules and Customs states: 'The named bank acting on its designation, the confirming bank if any, and the issuing bank shall examine the presentation, based on the documents alone, to determine whether the documents appear to constitute a conforming presentation or not.'

With regard to the text mentioned in the above paragraph, the bank shall examine the documents recorded in the data apart from evaluation or interpretation and shall not be obliged to conduct any investigation to verify the accuracy of the documents credit.¹¹ Accordingly, examining the surface of the document is the final judgment on the extent to which the documents conform to the conditions agreed upon in the credit without a conclusion by the bank.¹²

1.1.3. Third: Submit All the Required Documents in the Letter of Credit

The beneficiary must submit all the documents stipulated in the letter of credit, and if the beneficiary fails to provide any document, the bank will refrain from implementing the credit; otherwise, it will be responsible for facing its customer.¹³

The judiciary in the United States decided in his case *Anglo-South American Trust co.v.uhefor* credit submission of documents, including an examination certificate, where the seller did not submit the examination certificate with the documents, and the bank accepted the submission, and the buyer refused to pay the bank, the New York Court of Appeals decided that the submission was defective.¹⁴

The seller must provide the same documents because each document has a specific purpose for the customer, and there is no room to accept documents similar to the terms of the loan, and accordingly, the loan is a test certificate and a health certificate; neither document instead of it others do not fall, and the bank must refuse to fill them.¹⁵ If the letter of credit requires the submission of several copies of the document, the bank must verify the number of copies required, in which case one original copy of the document is sufficient.¹⁶

1.1.4. Fourth: Submitting Documents during the Accreditation Period

The beneficiary must submit the documents to the bank within the validity period of the credit; otherwise, the bank is obliged to refuse the submission.¹⁷

The bank is obliged to reject the documents submitted after the end of the credit period, even if the reason is due to things outside the beneficiary's control because such a matter is outside the control of the bank.¹⁸ And he is also obligated to carry out the customer's orders. However, the bank, in agreement with the beneficiary, can keep the documents and tell the customer if he wants to amend the credit and give an additional period.¹⁹ But the shipping documents must be submitted by the beneficiary subject to Articles (19-24) of the rules of customs within a period of 21 normal days, not a bank, from the date of shipment.²⁰ In all cases, documents may not be submitted after the end of the credit period.

In fact, the date of issue of the overdue bond is in doubt as compared to the date of presentation to the bank.²¹ And in the event that the goods arrive before receiving the bonds, this leads to delay fees and penalties and misses the opportunity to dispose of the goods. For this reason, some banks reject the delayed bond.²²

As to the importance of the filing date, paragraph 6/d of its publication, Uniform Customs 600, states: 'The acknowledgment must set the date of completion, the said expiration date must be the last date for filling or circulation import.'²³

(⁹)Akram Ibrahim Al-Zoubi, Responsibility of the issuing bank in the documentary credit, Wael Publishing House, Amman, 2000 AD, p. 66. For more information on this rule in the context of commercial papers, see Fayadh Melfi al-Qudah, Explanation of the Jordanian Commercial Law (commercial papers), Dar Wael for Publishing and Distribution, Amman, the first edition of 2009 AD, p. 173, as well as Bassam Hamad al-Tarawneh, endorsement of commercial papers. (comparative study) Dar Wael for Publishing and Distribution, Amman, first edition For the year 2004 AD, p. 90.

(¹⁰) Look Article 14 of the Uniform Rules and Customs for Documentary Credits, which states, 'Any document submitted without being stipulated in the credit will be ignored and may be returned to its presenter.' Volume 11, Number 2, pg. 195,

(¹¹)Muhammad Essam Fayed, previous reference, p. 239

(¹²)Abdul Hadi Muhammad Al-Ghamdi, The Content, and Scope of the Obligation of the Bank Issuing the Documentary Credit to Examine Documents in accordance with the Uniform Rules and Customs (Bulletin 600), International Journal of Law, No. 1, 2017, p. 18

(¹³)Najwa Mohamed Kamal Abu al-Khair, previous reference, p. 119

(¹⁴)Najwa Muhammad Kamal Abu al-Khair, previous reference, pp. 119-120

(¹⁵)Akram Ibrahim Al-Zoubi, previous reference, p. 58.

(¹⁶)Article (17/a): of the unified customs.

(¹⁷)Article (1 6/ e): of the unified customs.

(¹⁸)Akram Ibrahim Al-Zoubi, previous reference, p. 61.

(¹⁹)Article 14/g of the Uniform Rules and Customs states that: 'Any document submitted without it being stated in the credit will be ignored and may be returned to its presenter'.

(²⁰)Muhammad Essam Fayed, previous reference, p. 251

(²¹)Ali Jamal Al-Din Awad, Documentary Credits, (A Study of Jurisprudence, Comparative Jurisprudence and International Rules (1983AD), Arab Renaissance House, Cairo, 1989 AD. p. 182.

(²²)Muhammad Essam Fayed, previous reference, p. 251.

(²³)Article 6/d of Bulletin No. 600 of the International Rules and Customs,

And it was stated in Article 36 of his publication, The Unified Customs 600UCP, that the bank does not bear the responsibility for the missed application period due to force majeure and is not obligated to pay the beneficiary, and in return, in Article 29 / A of its publication, the unified customs if the date of the end of presentation coincides with the bank being closed for reasons other than those mentioned in Article 36 (Force Majeure), then it is extended to first subsequent banking day.²⁴

The researchers believe that this paradox between the articles violates the rules of justice and unfairness to the beneficiary, so the text of Article 36 of its publication must be amended so that the application period for the first banking day is extended when force majeure circumstances occur.

It is worth noting that if the bonds are rejected, the beneficiary can resubmit after making the correction or completing the deficiency. It was stated in a lawsuit heard by the American courts that 'the beneficiary has the right to correct the violation and resubmit the documents before the end of the credit period.'²⁵

1.1.5. Fifth: Validity of Documents

The documents must be sound in the sense that they do not appear on their face to reveal their insincerity; otherwise, the presentation will be defective, and the bank must reject it.²⁶ And if the bank does not guarantee the safety of the documents, but it is obligated not to accept documents whose appearance reveals the beneficiary's violation of the obligations contained in the letter of guarantee.²⁷ The bank must ensure the extent to which the documents conform to what is stated in the letter of credit because the integrity of each document must derive from itself only and will not be completed from another document. The type of document, for example, the invoice, includes the characteristics of the goods, quantity, and price, and if the document is devoid of a statement, he will lose his job, and the bank must reject it.²⁸

1.2. The Second Requirement Is the Approved Standard for Examining Documents

One of the most important obligations of the bank is the examination of documents, and the bank's mistake is determined or not based on the criterion on which the examination is carried out. Bulletin 600 of the unified norms and the Jordanian judiciary from that?

1.2.1. First: The Standard Adopted in Accordance with Bulletin 600 of the Uniform Customs

The diligence required of the bank by its publication was 500.²⁹ This is the reasonable care assessed by the international standard of banking practice. This requires that the level of the bank's practice be comparable to the level of the major banks in terms of capabilities and performance, making the bank's responsibility tight and very careful in its work.³⁰ Therefore, the International Chamber of Commerce issued an explanatory brochure on the practice of banks in examining documents related to documentary credits (ISBP) and Uniform Customs Bulletin 600 Article 14/d of Bulletin 600 of the Standard Customs states as 'When matching the data in the document to the credit statement, the document itself and the international standard of banking practice, do not require that the data be exactly the same, but the data contained in the document must not conflict with the data contained in another document or in the credit.'³¹ It was stated in Article (2) Bulletin 600 of the Uniform Customs Conforming presentation means a presentation that conforms to the credit times and conditions, to the applicable provisions of these Rules, and to the International Standard on Banking Assets.³²

By extrapolating the previous text, we note that there are factors common to all documentary credits, namely international assets and norms and the international standard for banking assets, which is an international standard that banks should be familiar with. Regarding Document Examination, it deals with the requirements for the virtual examination of various documentary credit documents.³³

In fact, according to their content, various factors differ from one documentary credit to another, which are the terms of the credit contract and the documents under examination. So the standard and stopping for its publication are the unified norms that are completely virtual conformity, and this requires that the required document be sufficient and not deficient in reaching the desired and that it does not conflict with other documents in credit.³⁴

Full virtual conformity means that the bank verifies that the submitted documents accurately match the credit conditions and materially match.³⁵ And that the documents have a self-sufficiency element.³⁶ This places a heavy burden on the bank, as the principle of congruence allows sticking to any irregularity in the documents; even if it is facilitated by it, in the end, the bank is not an expert.³⁷

(²⁴)Article 36 of Bulletin No. 600 of the International Rules and Customs,

(²⁵)Najwa Abu al-Khair, previous reference, p. 330.

(²⁶)Najwa Abu al-Khair, previous reference, p. 124.

(²⁷)Muhammad, Issam Fayed, previous reference, p. 248.

(²⁸)Najwa Abu al-Khair, previous reference, p. 127.

(²⁹)Article 13/a of its publication, Uniform Customs 500. It states that 'Banks must examine all documents involved in the credit with reasonable care to ascertain whether they appear to be in conformity with the terms and conditions of the credit.'

(³⁰)Mahmoud Al-Ababneh, and Hazem Al-Nesour, previous reference, p. 208.

(³¹)Article 14/d of Bulletin 600 of the Uniform Customs.

(³²)Article (2) of Bulletin 600 of the Uniform Customs.

(³³)Abdul Hadi Al-Ghamdi, previous reference, p. 18.

(³⁴)Akram Al-Zoubi, previous reference, p. 68.

(³⁵)Muhammad Essam Fayed, previous reference, p. 204.

(³⁶)Akram Al-Zoubi, previous reference, p. 66

(³⁷)Muhammad Essam Fayed, previous reference, p. 205.

Moreover, sometimes typographical errors are grounds for rejection of documents submitted to the bank, as one US court ruled in his case. Beyene, confirmed the bank's position in rejecting the bill of lading due to a mistake in the name of the grantor of credit (Mohammed Soufan), where it was mentioned in the bill (soran), and the court established its decision that the mistake in the name of the recipient of the goods may not lead to the delivery of the goods.³⁸

1.2.2. Second: The Standard Adopted in Jordanian Legislation and the Jurisprudence of the Court of Cassation in This Regard

The Jordanian legislator for documentary credit referred to Article 121 of the Commercial Law, which stated, 'If the bank supports the credit, then it may not rescind or modify the credit, and the bank becomes obligated to accept papers that agree to the terms of the credit.'³⁹ According to some scholars,⁴⁰ that the Jordanian legislator adopted the standard of virtual conformity for the bonds that the bank is examining, based on Article 121 of the Trade Law, but the researchers believe, although it is true that the Jordanian judiciary adopted in its decisions the standard of exact virtual conformity, it relies in its judgments on the rules of unified customs and the provisions of the foreign judiciary.

It was stated in a decision of the Jordanian Court of Cassation in its capacity as a jurist, 'And since it is established from the case papers and evidence that the plaintiff had contracted with the Iraqi Ministry of Education, according to which the plaintiff supplies a quantity of school books for the benefit of the other party and that the defendant opened definitive documentary credits in favor of the plaintiff and that the latter It carried out its obligations and shipped the goods to the buyer, and Bank authorized by Rafidai examined the documents relating to the goods for acceptance of documents, as it found that they complied with the conditions for opening the loan which was done at the time of the loan, which Al-Rashid Bank made binding they are obliged to pay the value of the goods presented on the documents to the beneficiary (the plaintiff) without any limitation or condition A, unless the contrary is stated in the record of the case, and to the defendant, Al-Rashid Bank, may not cancel these facilities unilaterally, and since the Court of Appeal has reached this conclusion and applied the text of Article 121 of the Commercial Code in a sound application, it has been correct in that.'⁴¹

It is clear from this that the Jordanian Court of Cassation relies in its decisions on the criterion of exact apparent conformity in examining documents by the bank that opened the credit or the confirming (confirming) bank or authorized to examine and receive the documents, which is responsible to the bank that opened the credit, and that the bank corrects the material error in The accreditation does not constitute an amendment within the intended meaning, but rather it is a material error that does not have an effect, and it affirmed this in its Resolution no. the distinguishing party, when the sale agreement was concluded, was aware of the certainty, denying ignorance that the specific weight of the wheat is 58 lira, not 57 Libra, and this knowledge is provided by the privileged party and its contract on this basis with the discriminator against it. Before opening the credit, this was supported by the distinguished evidence and reached by the subject court that we approved of this on the one hand. On the other hand, assuming that correcting the error in the credit constitutes an amendment, this amendment was not approved by and satisfied with the seller (the beneficiary), which makes this amendment as if it had never existed and was null and void in a way that makes the documentary credit that was tainted by an error in mentioning the specific weight of wheat 57 lira instead of the existing and valid 58 Libra. On which it bases its claim to cancel the guarantees it is approved and accepted by the seller (the beneficiary), who makes this amendment as if it were not there and null and void in a way that makes the documentary credit that was mistaken by mentioning the specific weight of the wheat 57 lira instead of the existing and valid 58 lira. It has a basis in the law and in a way that the privileged person does not have the right to say that it is impossible to implement on which she based her claim to cancel the guarantees it is approved and accepted by the seller (the beneficiary), who makes this amendment as if it were not and null and void in a way that makes the documentary credit that was mistaken by mentioning the specific weight of the wheat 57 lira instead of the existing and valid 58 lira. It has a basis in the law and in a way that the privileged person does not have the right to say that it is impossible to implement on which she based her claim to cancel the guarantees.⁴² In this case, the bank has no discretionary or explanatory authority, as it was stated in a decision of the Jordanian Court of Cassation that the company's silence when the Ministry of Health opens the credit in its sterling currency despite the requirement to open the credit in US dollars is not considered an authorization to open the credit in sterling currency, as it is not attributed to the silent saying⁴³ accordingly, when the bank rejects the documents submitted by the beneficiary, it must return the documents to the beneficiary (seller) by notification; otherwise, the bank will be obligated to pay.⁴⁴ This is confirmed by Article 16 of the Uniform Rules of Customs, but what is the effect of the bank's violation (whether it was the opener or the endorser) of the conditions and foundations for examining documents?

(38) Muhammad Essam Fayed, previous reference, p. 205.

(39) Article 121 of the Commerce Law states: 'If the bank credit is allocated in fulfillment of the interest of others and the bank endorses this credit to the one who is entitled to it, then it may not be revoked or amended without the consent of that third party, and the bank becomes directly and finally obligated towards it to accept the intended papers and payments.'

(40) Among them are Mahmoud Al-Ababneh and Hazem Al-Nesour, previous reference, pg. 204.

(41) Court of Cassation Decision Rights No. 1733/2011/ dated 10/18/2011, published electronically in your decision program of the Jordanian Bar Association.

(42) Distinction of Rights 316/1980 issued on May 18, 1980, published electronically in the program of your decision of the Jordanian Bar Association.

(43) Distinction of Rights 152/1975 issued on 7/25/1975, published electronically in your decision program of the Jordanian Bar Association.

(44) See confirmation of it is issued fortis Bank SA/NV referred to by Al-Ghamdi, op. cit., p. 16,

1.3. The Second Topic: Legal Consequences of Violating the Foundations of Document Examination

The documentary credit entails the existence of several relationships with multiple parties to the documentary credit, and these relationships are characterized by independence.⁴⁵ And among the manifestations of the independence of these relations is the independence of the letter of credit directed from the intermediary bank, from the contract of credit between the buyer and the bank that opened the credit. His obligations, and therefore we will address this responsibility through two requirements, the first of which we address the responsibility of the intervening banks when violating the foundations of examining documents. As for the second, we assign liability to the bank that opened the loan when it violates the principle of examining documents.

The first requirement: The liability of intervening banks when they violate the basics of examining documents. From the banks involved in the documentary loan, the supporting (confirming) bank, and the issuing bank.

1.3.1. First: The Supporting Bank

It is the bank that increases its emphasis on the loan at the request or consent of the bank⁴⁶ there are considerations requiring the consumer to add an endorsement to the loan, including the consumer being of high credit value or the bank being a source of credit from unknown banks, thus making the consumer more confident and reassuring as additional collateral. If the bank accepts the credit confirmation under the letter of credit sent to it from the issuing bank, it shall notify the beneficiary of the letter of credit before the Loan is approved⁴⁷ but if the bank refuses to approve the loan, it must notify the issuing bank without delay.⁴⁸ It should be noted that the scope of the sponsoring bank's liability extends to its obligation to examine the documents specified under the letter of credit approving it, irrespective of the original loan agreement.⁴⁹ And in this promissory note supporting the bank is the promissory note of the lending bank itself in the face of the beneficiary since it cannot withdraw the approval without the consent of all parties.

After supplying the required bond, the beneficiary has two undertakings to pay the loan price and is entitled to return for either of them.⁵⁰ The judgment of the Court of Cassation explained, 'The bank supporting the credit is in solidarity with the bank that opened the credit.'⁵¹

If the approving bank is not ready to approve the loan, it must notify the originating bank without delay and may notify the loan without approval.⁵² And if he breaches this, he will be liable to the source bank on the basis of tort liability. However, what is the nature of the relationship between the supporting bank and the issuing bank in the context of document examination?

Some scholars go⁵³, this relationship is subject to the provisions of the agency agreement, and in his case, it is stated Melli Bank of Iran (VS), Barclays Bank. The relationship between the issuing bank and the backing bank is one of the agents, and because there is evidence that a bank Melli If authorized the bond offered, and for what he did, he must pay the value of the loan to Barclays bank as agent⁵⁴. Adapting the backing bank's relationship with the issuing bank on the basis of an agency contract is almost certainly a misconception, as the backing bank adds its support and commitment to the commitment of the loan-opening bank. Especially between a fan and a Fatih bank loan.

The backing bank is obliged to pay the loan price when the buyer presents documents consistent with the terms of the letter of credit, and if the bank rejects the valid documents, then the bank's tort liability is realized before the consumer. Where the bond is on a value of a class of goods different from that specified in the policy of insurance, there must be damage arising from the breach, as stated in the judgment of the Court of Cassation, 'There must be damage in order for this responsibility to result in the debtor's liability, and the creditor is the one who bears the burden of proving the damage, and no damage is assumed to exist simply because the debtor has not fulfilled his contractual obligation...'⁵⁵ But what is the amount of damage that may be judged against the supporting bank?

The Unified Customs Bulletin did not mention the details of the damages but referred to the general rules in support of the beneficiary's breach of bank, under Article 266 of the Civil Code, actual damages and loss of profits.⁵⁶ Unlike the scope of compensation in the contract, liability does not include compensation for lost earnings. It was also stated in the Court of Cassation judgment, 'If the relationship between the two parties is a contractual relationship and that the claim for damages liability is governed by contract, and given that the source of the obligation between them contracts and

(45)The truth is that the documentary credit is based on three pillars, namely: the presence of at least three parties: the first is the buyer, the second is the bank, and the third is the seller, and the existence of two legal relationships, the first linking the buyer and the bank, and the second that linking the bank to the seller or any other beneficiary of the credit, as well as the existence of documents that conform to the terms of the credit. The credit, which is presented to the bank that opened the credit with the independence of the documentary credit contract from the sales contract as stated in Article 4 of the Uniform Customs, 'Appropriations and Contracts A- Approval is by its nature a process independent of the sales contract or other contracts on which it may be based.'. For more details on this, see Saeed Abdul Aziz Othman, previous reference, p. 17.

(46)Article 2 of Bulletin 600 of the Uniform Customs

(47)georgette Qalini, The Principle of Independence in Documentary Credit, Dar Al-Nahda Beirut, for the year 1997, p. 97.

(48)Article 8/d of Bulletin 600 of the Uniform Customs

(49) georgette, Tell me the previous reference, p. 99.

(50)Nisreen Al-Assaf, Civil Liability of Banks, Dar Wael, Amman, 2018p. 103.

(51)Distinction of Rights 316/1988 dated 7/2/1989, published electronically in the program of your decision of the Jordanian Bar Association.

(52)Article 8 of Bulletin 600 of the Uniform Customs

(53) georgette, Tell me the previous reference, p. 127.

(54)AkramAl-Zoubi, previous reference, p. 183.

(55)Court of Cassation Decision No. 2764/2006 issued on 14/1/2007, published electronically in the 'Your Resolution' program of the Jordanian Bar Association.

(56)Article 266 of the Civil Code states: Jordanian as The guarantee is estimated in all cases to the extent of the damage sustained by the injured party and the loss of earnings, provided that this is a natural result of the harmful act.

not injurious conduct, that is why Articles (363 and 364) of the Civil Code must apply to facts and evidence. Warranty is accordingly limited to what amounts to actual damages and does not include lost profits and moral damages.⁵⁷ In addition to a claim for damages, if the contract or custom does not specify another date for its validity, the beneficiary may claim interest from the date of the jury claim.⁵⁸ Moreover, if the bank's breach is the acceptance of improper bonds, then it is not permissible for it to recourse to the buyer for what he paid to the beneficiary, as the American judiciary so proved in his case. South Gulf Bank and Trust. *cov In Holdan*, the bank that opened the loan does not have the right to refer the buyer for recovery of what was paid because it paid the loan price to the consumer based on documents that did not meet the terms of the loan.⁵⁹

1.3.2. Second: The Responsibility of the Bank

The issuing bank is the bank that notifies the credit at the request of the issuing bank.⁶⁰ The issuing bank may usually resort to assigning another bank to notify the beneficiary of the credit in the beneficiary's country, and the rule is that the issuing bank is not obligated to pay the value of the credit and is limited to mediation between the beneficiary and the bank initiating the credit, and its task is limited to verifying the validity of the issuance of the credit from the issuing bank, and receiving the documents that Provided by the beneficiary, ensuring that it is submitted on time and conforms to the terms of credit.⁶¹ And the position of the reporting bank, in this case, is that of the commission agent on behalf of the issuing bank, and it demands compensation when it is neglected by the beneficiary or the issuing bank, and in order of the foregoing, there is no legal link between the sending bank and the beneficiary, and the latter does not have to demand the bank of the amount to pay the value of the credit, but The beneficiary must appeal to the issuing bank.⁶² However, the correspondent bank must ostensibly verify the validity of the credit and documents before informing it to the beneficiary.⁶³

The decision of the Jordanian Court of Cassation stated, 'The correspondent bank is the mediator between the bank that issued the credit and the beneficiary. It transmits messages and their requests and is not obligated to implement the letter of credit or the documents submitted by the beneficiary, as it does not bear any responsibility towards the beneficiary.'⁶⁴

If the correspondent bank violates the implementation of the instructions issued to it by the issuing bank, then some jurists distinguish between the case of the customer's condition on the bank in contracting with another bank in the beneficiary's country to notify the credit in this case, the responsibility of the reporting bank is vis-à-vis the customer because the issuing bank is considered an agent. On the other hand, if the issuing bank spontaneously seeks the assistance of the correspondent bank, then the issuing bank is responsible for it, and there is no direct relationship between it and the ordering customer, but the ordering customer can file a tort liability lawsuit.⁶⁵

The Bulletin of Uniform Customs has indicated.⁶⁶ To not bear the responsibility of the issuing bank, the bank makes mistakes as long as it does not err or neglect in transmitting the buyer's instructions to it. However, the bank's role may not be limited to reporting but rather implements the credit without the support of its part (the executing bank) or the named one.

Moreover, he is charged with paying the beneficiary when he submits the documents required in the letter of credit after verifying their validity and conformity.⁶⁷ It was stated in the Unified Standards Bulletin,⁶⁸ the authorization of the named bank to pay does not constitute an obligation to fulfill it, except when the named bank expressly agrees and is notified to the beneficiary, and it may be authorized to examine the documents.

(57) Jordanian Court of Cassation Decision No. 2139/2018 issued on 7/6/2018 (public body) published electronically in your decision program of the Jordanian Bar Association.

⁵⁸ See Article 167 of the Jordanian Civil Procedure Code, which states:

1. If the debtor has pledged to pay an amount of money at a specific time and refrains from paying it when the term is due, he shall be charged with interest without assigning the creditor to prove that he was harmed by the non-payment.
2. If there is a condition in the contract regarding interest, it shall be judged according to the stipulation of the condition. If there is no condition regarding it, it shall be counted from the date of the forensic notification. Otherwise, from the date of claiming it in the statement of claim or the claim that occurred after submitting the said list.
3. The interest accrues from the compensation and guarantees that the court rules for one of the litigants, and the interest is calculated from the date of filing the lawsuit.
4. Taking into account what is stated in any special law, the legal interest is calculated at 9% annually, and it is not permissible to agree to exceed this percentage.
5. If the defendant recognizes that the plaintiff is entitled to any part of the amount claimed and has deposited that part in the court's fund, no legal interest shall be calculated on that part as of the date of its deposit.

(59) Nasreen Al-Assaf, *Ibid.*, p. 198.

(60) Article 2 of Bulletin 600 of the Uniform Customs

(61) Abdel Bari Mohamed Meshaal, *Documentary Credits, Legal and Technical Study*, Department of Economics, Economic Research, Imam Muhammad Bin Saud Islamic University, 2001, p. 44.

(62) Najwa Abu al-Khair, previous reference, p. 280.

(63) Article 9/b of its publication, Uniform Customs: 'By notification of the credit or amendment, the bank considers the informant convinced of the apparent correctness of the credit or amendment and that such notification accurately reflects the terms and times of the received credit or amendment.'

(64) Court of Cassation Decision No. 316/1988 dated 7/2/1989; and Resolution 1115/1993. Both are published electronically in your decision program of the Jordanian Bar Association.

(65) Ali Jamal Al-Din, Awad, *Documentary Credits*, previous reference, pp. 111-113.

(66) Article 37/b of Bulletin 600 of the Uniform Customs.

(67) Najwa, Abu al-Khair, previous reference, p. 234.

(68) Article 12 of Bulletin 600 of the Uniform Customs.

In summary, the researchers see that the task of the reporting bank is limited to notifying the credit and sending documents, and if it fails in its work, the issuing bank is not responsible for it, while the named bank fulfills the beneficiary on behalf of the issuing bank, but it is not personally responsible for the fulfillment, and its relationship with the issuing bank is He is his agent.

1.4. The Second Requirement: The Responsibility of the Bank Initiating the Credit and the Beneficiary of the Credit

To identify the responsibility of the bank that opened the credit in violation of the rules of document examination, it is necessary to identify the relationship of the issuing bank with the beneficiary and then indicate the responsibility of the beneficiary before the bank in submitting documents by means of deception and fraud.

1.4.1. First: The Responsibility of the Opening Credit Bank in Violation of the Rules for Examining Documents

To determine the obligations of the opening bank and its responsibility for examining the documents, the nature of the relationship between the beneficiary and the bank that opened the credit should be determined.⁶⁹

1.4.1.1. Requirements for the Benefit of Others

It is a legal act in which a person called (the conditional) requires another person called (the pledger) to perform a specific performance for the benefit of another person called (the beneficiary).⁷⁰ This stipulation entails that the third party acquires a direct right towards the contractor to implement the stipulation, and the contractor is able to confront the beneficiary with the defenses arising from the contract.⁷¹

Those who hold this view believe that the customer requires the bank to pledge to pay in favor of the beneficiary without going through the stipulated obligation if a certain condition is met, which is the beneficiary presenting bonds.⁷²

It is taken from this view that the beneficiary of the documentary credit gains his right from the letter of credit issued by the bank and not from the credit contract concluded between the bank and the customer.⁷³

Also, the idea of stipulating for the benefit of others grants the issuing bank to adhere to the buyer's defenses against the beneficiary, and this contradicts the independence of the relationship in credit, where the relationship of the beneficiary with the bank is independent of the relationship of the bank with the customer.⁷⁴ And in order of the foregoing, the bank may not use the defenses prescribed for the customer (the buyer) against the beneficiary, such as fraud, fraud, and others.

The researchers believe that this theory is not suitable for determining the legal nature of the beneficiary's relationship with the issuing bank. In addition to the aforementioned arguments, the stipulation for the benefit of others is an exception to the relativity of contracts, and the exception is reserved and not measured. In addition to that, it earns the beneficiary a right and does not impose an obligation on him, and this contradicts the letter of credit, which requires the beneficiary to submit documents that match the credit conditions.

1.4.1.1.1. Agency Theory

Some scholars go,⁷⁵ that the documentary loan is a documentary loan in favor of the seller in which the buyer has given power of attorney to the bank to pay the value of the goods to the seller. One of the main criticisms of this proposal is that it contravenes the principle of independence in documentary credit and letters of credit.⁷⁶

The two examiners believe that, according to agency rules, the agent is not obligated in his personal capacity for the conduct he performs on behalf of the principal. In contrast, the issuing bank is personally obligated to perform the sale. It is stated in the judgment of the Egyptian Court of Cassation: 'Bank suspends bank loan to pay an agreed price between two merchants in executing the loan price to the seller on behalf of the buyer is not considered, and the promise of the buyer following the buyer is considered a guarantor. Rather, his obligations, in this case, are presumed to be independent of the contract between the seller and the buyer.'⁷⁷

1.4.1.1.2. Singular Theory

Some scholars go,⁷⁸ based on the notion of unilateral interest, the bank unilaterally pursues what is stated in the letter of credit, namely, to establish the bank's commitment to the consumer to ensure that the bank's position in the loan document is as central to the award. Since the unilateral source is a separate source of duty, it is the law, not the unilateral will that is the source of duty.⁷⁹

(69) Mohi El-Din Ismail, *Encyclopedia of Banking Business*, without a publishing house, Cairo, 1987, p. 957.

(70) Anwar Sultan, *Sources of Obligation in the Jordanian Civil Law*, House of Culture, Amman, 2007, p. 188.

(71) Article 210 of the Civil Code states: A person may contract in his name on rights he requires for the benefit of others if he has a personal or material interest in their implementation. This stipulation entails that the third party acquires a direct right before the undertaking to implement the stipulation, and he can demand it to fulfill the stipulation unless otherwise agreed upon, and this undertaker has the right to hold before the beneficiary the defenses arising from the contract. The stipulator may also demand the implementation of what is stipulated in the interest of the beneficiary unless it appears from the contract that the beneficiary is the only one who has the right to do so.

(72) georgette, Tell me the previous reference, p. 129.

(73) Essam Mohamed Fayed, previous reference, p. 153

(74) Ali Jamal Al-Din Awad, previous reference, p. 207.

(75) Nasreen Al-Assaf, *Ibid.*, p. 31.

(76) georgette Tell me the previous reference, pg. 160.

(77) Decision of the Egyptian Court of Cassation No. 402 of February 20, 1978, referred to at, p. 137

(78) Ali Jamal Al-Din Awad, previous reference, p. 453.

(79) Nasreen Al-Assaf, previous reference, p. 39.

This criticism can be answered by saying that many legislations regulate the unilateral will as a source of obligation.⁸⁰ The legal source is not required to be a legislative base, but the commercial custom, along with the will of the bank, can be considered the basis of its commitment in the letter of credit.

The two researchers believe that the idea of unilateral will is the closest theory to explaining the bank's relationship with the beneficiary. In order of the above, the bank's responsibility toward the beneficiary is tortuous, where the beneficiary demands the bank for the amount of the damage actually incurred by him and the lost profit.⁸¹ However, if the bank rejects the documents submitted by the beneficiary despite their authenticity, the bank's responsibility towards the customer is his contractual responsibility, as the bank is associated with the customer under the credit contract.

The judiciary in England has gone into his case *Trans Trust SPRLV. Danuban* Until the bank's failure to meet the value of the credit has an effect beyond mere cash indebtedness, where the beneficiary has the right to require compensation that covers all the harmful consequences reasonably expected as a result of the breach of contract, and the bank is not obligated to compensate the damage resulting from special circumstances unless it is known He has or should be aware of when opening the credit.⁸² And in his case *United City Merchants* The court has decided the appropriate compensation is the expected damages as a result of lost earnings.⁸³

It was stated in the decision of the Egyptian Court of Cassation '... If the contested judgment concluded that the bill of lading submitted by the first respondent conforms to what was stated in the letter of credit, and this resulted in the appellant's bank not being entitled to refrain from paying the value of the credit based on its dispute in a fine delay and add it to the freight, then he has not made a mistake in applying the law.'⁸⁴

In Jordanian legislation, if the responsibility of the bank towards the customer is contractual under the credit contract, then the compensation includes the actual damage without the loss of profit, except in the case of fraud and serious error, in which case the tort liability arises.⁸⁵

The Jordanian Court of Cassation confirmed that if the bank fails to open the credit, the buyer has the right to open another credit, and he has the right to request the termination of the contract and to be compensated for the expenses of the second credit.⁸⁶

Generally, the liability of the bank that opened the loan when it fails to examine the loan documents in the document is a contractual liability to the customer, a negligence liability to the consumer.

1.5. Secondly: Responsibility of the Beneficiary of the Accreditation When Inadequate Document Integrity

The beneficiary may commit violating acts, the most important of which is fraud. It is an act contrary to the truth that attaches documents to their content (their subject).⁸⁷ The unified rules dealt with fraud as one of the reasons for exempting the bank from liability if the bank took the required care in examining the documents and the documents were ostensibly in conformity with the terms of credit, or the falsity or legal effect of any document that the bank has taken the required care in examining it.⁸⁸ The case of fraud on the part of the seller in the documentary credit is achieved if he submits documents that are complete and sound on the surface. However, they do not match the reality by the will or the fabrication of the seller in reality.⁸⁹ Fraud in the field of documentary credits takes many forms, such that the shipped goods are not the same as the goods described in the documents, or of poor quality contrary to the description contained in the documents, or a false description of the goods is mentioned.⁹⁰ The difference in the descriptions of the goods contained in the documents and the reality of the goods involves fraud, except for what is permitted by commercial custom regarding the inability of the way that occurs to the goods during the transportation process.⁹¹ Despite the principle of independence of relationships arising from documentary credit, fraud is an exception to this principle because fraud spoils everything.⁹²

The British judiciary *United City Merchants* in its case and decided to treat Fraud as an exception to the exemption principle, where the consumer was asking the bank to pay the loan price, and the bank refused because the date of the shipping document had changed related to the presentation and knew it was not true.⁹³ However, the bank may not refuse to pay the value of the credit unless it is proven that the beneficiary has been deceived, as revealed by the documents

⁽⁸⁰⁾ states Article 250 of the Civil Code stipulates that 'the disposition may be carried out by the unilateral will of the disposer without hindrance to acceptance unless there is an obligation for others to do something, and that is in accordance with the provisions of the law.'

⁽⁸¹⁾ See Article 266 of the Civil Code.

⁽⁸²⁾ Najwa Abu al-Khair, previous reference, pg. 407

⁽⁸³⁾ Najwa Abu al-Khair, previous reference, pg. 407

⁽⁸⁴⁾ Appeal No. 443/ for the year 45 referred to by Nasreen Al-Assaf, the previous reference, p. 183.

⁽⁸⁵⁾ Discrimination Rights 1677/2014 Issued on 10/11/2014 Published electronically in your decision program of the Jordanian Bar Association.

⁽⁸⁶⁾ Discrimination of Rights 3081/2008, dated 8/23/2019, published electronically in the program of your decision of the Jordanian Bar Association.

⁽⁸⁷⁾ For more details, see Abdallah Khaled Al-Soufani, the previous reference, pg. 159 and beyond, as well as Hamed Ghoneim, *Documentary Credit*, (Without a publishing house or a publishing capital) Fifth Edition, 1997, p. 59

⁽⁸⁸⁾ Circular 600 of the Uniform Customs, in Article 34 of it, refers to the term forgery by saying, 'The Bank assumes no obligation or responsibility for the form, sufficiency, accuracy, correctness, falseness or legal effect of any document...'

⁽⁸⁹⁾ Ahmed Ghoneim, previous reference, pg. 59

⁽⁹⁰⁾ See in it, Muhammad Hussein Ismail, the buyer's commitment to open the credit, without a publishing house, Amman, edition of the year 1992 AD, p. 99.

⁽⁹¹⁾ Article 213/5 of the Jordanian Maritime Trade Law adopted the maritime custom related to exempting the carrier from liability resulting from the decrease of the goods in terms of their volume or weight within the limits of the customary amount at the port of discharge. About that Abdul Rahman Dhiab Akl, *Legal Provisions for the Responsibility of the Maritime Carrier of Goods in the Jordanian Maritime Trade Law and the Hamburg Agreement*, University of Jordan Publications, Deanship of Scientific Research, 2001 AD, pp. 208 and 209.

⁽⁹²⁾ Ali Jamal Al-Din, previous reference, pg. 206

⁽⁹³⁾ *United City Merchants V. Royal of Canada (1963)* Referred to by Abdul Hadi Al-Ghamdi, *The Content, and Scope of the Bank's Obligation*, op. cit., p. 23.

submitted to it.⁹⁴ The principle is that the bank is not responsible for any forgery in the documents.⁹⁵ As long as they appear to be correct and identical, but ask the bank if fraud or forgery can be detected by careful examination of the documents.⁹⁶ The buyer may not refrain from paying the bank issuing the credit, alleging fraud, but the buyer has the right to object to the payment if the credit has not yet been implemented. In a case presented to the French Court of Cassation, the documents were in conformity with the terms of credit, and upon receipt of the goods, it was found that there was a significant shortage in quantity and on 4/10/1985, the court decided not to pay for the fraud that occurred and the bank must refrain from paying without adhering to the principle of independence between relations.⁹⁷

- But what are the legal solutions if fraud is detected after paying the value of the credit to the beneficiary?

One of the elements of a documentary loan is that it is not enforceable unless the documents fully conform to the terms of the loan. Therefore, while examining the documents, the bank is careful to follow the instructions of the person who ordered the opening of the loan.⁹⁸ To avoid any threat to its interest, it resorts to so-called conditional liquidation of loans or requests bank guarantees to complete the loan implementation. Therefore, the right of the bank to resort to the beneficiary remains in place as long as the opener or buyer accepts the documents expressly or impliedly and other than on the basis of the conditional settlement pursued by the bank. As a precaution, any defect not noticed by the bank at the time of making the loan may create a right for the latter to send it back to the beneficiary and, in doing so, constitute a so-called unconditional settlement. This view was supported by many jurists.⁹⁹ In the opinion of the researchers, it is necessary to take into account all the elements of a documentary credit, especially the obligations of the parties to it, and on this basis it can be said that when the credit is implemented, the relationship of the bank with the beneficiary has ended, and the bank in this way cannot apply for the refund of the amount of credit except in the event that it raises the non-conformity of the documents with the conditions. The documentary credit, and if it was not done initially and executed the credit, it has no right to recover the amount of the credit even if the credit was executed by way of conditional settlement, and if the opposite of this opinion would affect a basic principle in the irrevocable documentary credit, which is the right of the direct and irrevocable beneficiary. For cancellation and the receivable, as soon as he submits documents that appear to be in conformity with the terms of the accreditation, and in return for this right, he bears the consequences of his failure to examine the documents.

- But what is the position of the judiciary on that?

The French judicial authorities stated in the judgment of the French Court of Cassation of June 3, 1957, Commercial Department, in the framework of this judgment: when it comes to irrecoverable documentary debt, it will be done, following this principle after the presentation of documents, money to the beneficiary account by transfer and this amount. Return, even if in part will not be accepted. This provision obviously applies to all cases, i.e., the person who ordered the opening of the loan in the amount of his failure to pay for the loan or his refusal to accept the documents. Acknowledgment. The same principle applies to the bank responsible for executing the loan, as the latter is not directly obliged to the consumer but is entitled to refer the consumer to repay the loan, the amount of the loan based on its commission from the opening bank. However, if the beneficiary demands from a bank other than the bank that opened the loan or the person charged for executing it, the amount of the loan less or enabling from the promissory note, then this bank shall charge the beneficiary under the exchange rate rules.¹⁰⁰

As for the Jordanian judiciary, it came in a decision of the Jordanian Court of Cassation if the buyer found fraud through reports issued by the official authorities, and the buyer informed the bank to stop disbursing the payments, but the bank did not do so, then he shall be responsible for his mistake in an amount equal to the amount paid in accordance with reason, logic, and justice. And if the documentary credit and the sale are two independent contracts, the matter is different in the case of fraud because this spoils the relationship of the bank with the seller.¹⁰¹

⁹⁴And to do that, it is not enough here for the bank to insist on alleging fraud because there is no responsibility, but rather it is necessary to prove this fraud to invoke it in a timely manner. From the mere presence of inaccurate data, meaning to prove to the bank that the inaccurate data contained in the documents was made by the seller's will and fabrication, i.e., with the intention of misleading him and concealing the facts from him, or at least that the seller knows that they are fabricated and without his concern for that, then this behavior or omission on the part of the seller, if it is proven, is the only thing that raises the responsibility of the beneficiary of the documentary credit, and this is a breach of the requirements of the law, trust or trust that must prevail in the relationship between them. see about that Najwa Abu al-Khair, previous reference, pp. 272-274

⁹⁵Article 34 of the Uniform Customs Bulletin 600.

⁹⁶Issam Mohamed Fayed, previous reference, p. 569.

⁹⁷ this is the case Referred to it, Issam Muhammad Fayed, previous reference, p. 572.

⁹⁸See the criteria for examining documents contained in Article 14 of Bulletin 600 of the Uniform Rules.

Among them is Tawfiq bin Nasr, the previous reference, p. 218, and from French jurisprudence ⁹⁹

Eiscman (F.) Bontoux(C.) le credit documentaire dans le commerce exterieur

LGDJ Paris 1991.p.192

Stoufflet(j.) le credit documentaire Juris Classeur 1990 Fascicule 1080.p.28

¹⁰⁰What is meant by the exchange law is the law applicable to commercial papers, and it is part of the commercial law, and the French jurist Stoufflet sees the possibility of applying the rules of the exchange law with regard to the documentary bill of exchange.

CP 1990 op.cit, p.32. Stoufflet (j.)

¹⁰¹ The merits of this decision are as follows: The jurisprudence and the judiciary have concluded that it is required to consider the documentary credit as a strong guarantee for the beneficiary of it (the seller) that things go their normal course, that is, that the credit is a settlement of an honest commercial operation, that is, the seller's behavior does not involve fraud (review the documentary credits by Dr. Ali Jamal Al-Din Awad, p. 108). If the documents appear to be sound and, in fact, all of them do not match the reality with the will of the seller or with knowledge of it, then the bank must reject the documents, and it is also permissible for the bank to refrain from carrying out its pledge if the documents' data do not match the truth and that was fraud or with the knowledge of the seller. The judiciary concluded that although the documentary credit and the sale are two independent contracts, each of them creates different obligations and that the failure to implement one of them does not affect the other contract; the matter is different in the case of fraud because fraud spoils the ---relationship of the bank with the seller, and that the plaintiff, at the beginning of the fifth month of 2001, and

2. Conclusion

2.1. This Study Reached Several Results and Recommended Several Recommendations

- The Jordanian legislator did not regulate documentary credit despite its importance, and the judiciary resorts in its rulings to the unified rules of custom and judicial precedents.
- The most important obligation of the bank towards its client is to examine the documents submitted by the beneficiary, as it depends on the proper implementation of this commitment, the client's conviction, and reassurance that the bank has achieved the desired result of opening the credit. From the beneficiary, unless there is a complete agreement between them and the client's conditions, and his role here stops at the level of conformity of the documents without investigating their validity. He does not guarantee the validity of these documents but rather guarantees their apparent conformity with the terms of credit.
- In examining documents, banks are committed to general principles agreed upon in court and jurisprudence, the most important of which is limiting the examination to documents and examining the appearance of documents within the period stipulated in the Bulletin of Customs, which is five days from submission and submission of all required documents.
- The standard adopted in examining documents is the exact apparent conformity, and the human element plays an important role in the process of examining documents between acceptance and rejection.
- The bank's failure to examine the documents entails contractual liability vis-à-vis the customer (the buyer) and tort liability vis-à-vis the consumer, the source of which is the will of one party (the promisor).
- The law means that cheating corrupts everything. (fraus omnia corrumpit) The first principle is that the bank is obliged to examine documents according to unified legal and customs requirements. Cheating to oppose him.
- 7-The bank can refer to the beneficiary to recover the amount paid in addition to the damage if he commits fraud or submits forged papers, and the seller can refer to the beneficiary also under the basic contract, but compensation is based on tort liability for the presence of fraud or serious error.
- 8- A unified customs gives the bank a better position when there is a deficiency or force majeure on the extension of time, which does not allege the existence of the consumer whose force majeure prevents the submission of bulletin 600 (Articles 29, 36). It is different from what we can do with a unified culture.

3. Recommendations

- It is better for our Jordanian legislators to find a legal system for documentary credit in proportion to its importance in the field of international trade, deriving its provisions in particular from the unified principles and customs and international agreements regulating documentary credits, taking into account the constant development in the fields of international trade, especially in light of the tremendous technological development in the field of electronic commerce and the emergence of the document exchange system electronically.
- The loan opening customer should be accurate and clear in conveying his instructions to the bank regarding checking the documents to be true on the underlying agreement between the loan opening customer (buyer) and the beneficiary so that the bank, under liability, evade and take vague or vague instructions to put on the customer - in bad faith - not to complain, and the bank should make no effort to refer the customer for any ambiguity surrounding the documents submitted by the seller to avoid liability Emphasize the preference of all banks to have a unified framework for opening documentation of loan agreements to avoid any potential conflicts during implementation.
- Failure to allow the bank to return to the beneficiary after payment whenever it is found that the documents do not match leads to the banks being completely exempted from their responsibility for examining the documents. The burden of this responsibility is transferred to the beneficiary and thus cancels the most important obligation placed on the banks in the accreditation contract, which is the obligation to examine before paying the beneficiary. On the other hand, the beneficiary's position makes him anxious, depending on the client's will regarding the documents. The client's refusal of the documents collapsed, and the latter became an unenviable complex situation, which is the particular difficulty that created the irrevocable documentary credit system.
- The International Chamber of Commerce should include a mandatory requirement in Bulletin 600 of the Uniform Customs that leads to the inspection of the goods upon shipment by a specialized party to ensure that they are objectively consistent with the documents submitted to reduce the issue of fraud in documents by the seller.
- The International Chamber of Commerce should amend Article 36 of Bulletin 600 of the Uniform Customs to give a similar position to the beneficiary in extending the period if he encounters a force majeure.

after receiving the goods, informed the distinguished of fraud and fraud from the seller, and it was confirmed to her through technical reports issued by the official authorities in Iraq, which were later confirmed by the laboratories of the Royal Scientific Society. Moreover, since the due payment for the value of the credit was on June 13, 2001, the (privileged) bank had to stop disbursing the value of the credit, and when it did not do so, it would be responsible for its mistake in an amount equal to the amount paid, in line with the view of jurisprudence and the judiciary in such a case that is consistent with reason. Logic and justice. Failure to notify the appellant of the decision to stop the disbursement of the value of the credit issued by the Court of Appeal does not justify the appellant to pay the value of the credit, as long as he knew with certainty the incident of fraud and fraud about a month before the payment of the value of the credit. Discrimination of Rights 1215/2005 date 29/5/2005 published electronically in the program of your decision of the Jordanian Bar Association.

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