

The globalization of contemporary economic life, along with the great possibilities offered by new technologies, communications and financial flows, has led the international commerce import of large regional trading blocs or supranational and export has become a major phenomenon that characterizes our time with the increase of trade, new forms that are of commercial and creation.

International financial system played an important role, because it is the lubricant that facilitates the exchange by buying and selling goods in dollars, euros and other currencies and the exchange of one currency for another

***Payment and Financing of International Sales with Irrevocable and
Confirmed Letters of Credit and with Open Accounts Insured with
Export Insurance***

In the world of international commerce, sales of goods constitute daily practice between exporters and importers that belong to different regions worldwide. This commercial activity is possible, among other reasons, because there are a variety of payment and financing instruments that can be adapted to the different necessities. Some instruments can make the transaction more reliable and safe for the exporters and others can make it more flexible for the buyers but less safe for the exporters. For obvious reasons, the exporters of goods want to assure prompt payment and, on the other hand, the importers of those goods want to assure their prompt delivery as well as the best payment option available in the marketplace. As a result of these dissimilar interests, instruments such as letters of credit and sales on open accounts along with export insurance can help, each in its own way, to reduce risk and facilitate international sales, payment and finance.

Therefore, it is very important for companies which deal in international transactions to know the different benefits that can be obtained from each of these instruments.

Irrevocable and Confirmed Commercial Letters of Credit.

The most common type of commercial letters of credit is the irrevocable letter of credit issued by a bank at the buyer's place of business (the issuer) and confirmed by a bank at the beneficiary's place of business (the confirmer). Irrevocable and confirmed mean that it binds the issuer or confirmer in advance of the presentation of the beneficiary's draft or demand of payment.¹

Once the confirming bank honors complying presentation it forwards the documents to the issuing bank that has a duty to reimburse the confirming bank.

As a payment instrument in international sales, any delay in payment for goods, could mean an element of "involuntary" credit being extended by the seller and may cause liquidity problems for the seller. Therefore, time of payment is crucial for both parties.²

The beneficiary (seller or exporter) demands payment upon satisfaction of the conditions previously decided upon by the issuer and the applicant (buyer or importer).

There are also confirmed and irrevocable letters of credit that allow deferred payment options for buyers or importers. Moreover, the deferred payment credit may give the customer more time in which to pay the beneficiary without incurring in extra expense of acceptance financing. Therefore, the deferred payment credit works also as a kind of financing for the importer or buyer under a letter of credit.

The key of the commercial vitality of the letter of credit is its independence: it is wholly separate and distinct from the underlying contract. The letter of credit gives enough confidence to the seller that a financially viable trusted third party (and not the buyer) will be responsible for payment. Therefore, from the exporters' point of view, selecting letters of credit as a payment and financing instrument can be an advantageous method to satisfy the buyer's payment obligation.

¹ Thomas M. Gaa, *Foreign Accounts: Marketing Loves Them-- Financing and Collecting is the Problem*, N23-DBWB A.B.A. Legal Educ. G-33, G-66 (1998).

² Interview with Annette Fragoso, Personal Banker, Chase Bank, in Tucson, Az. (Nov 28, 2007).

As a Financing Instrument in International Sales, the assignment of proceeds is a mechanism used by the beneficiaries of letters of credit to guarantee short term loans³ by using the future proceeds to be drawn under the letter of credit as collateral.

The letter of credit involves proceeds that can be taken as collateral providing a financing facility in favor of exporters.

Cost of Issuance.

On average, the commercial cost of issuance of an irrevocable and confirmed letter of credit is of one percent of the contract amount covered by the letter of credit.⁴ But in some United States banks and the others countries, the cost can vary depending on the business-client relation.⁵ The Costs represent one of the reasons why an exporter might look for another option to finance and pay for its purchases.

In addition to the letter of credit, there are other payment instruments or mechanisms, such as the open accounts insured with export insurance, that are being used in international commerce. They have different characteristics and offer other forms of security and flexibility to the exporter.

International Sales on Open Account and Export Insurance

The increase of international sales during the last years turned the marketplace into an extremely competitive place for exporters. For these reason, exporters need to be very flexible in commercial contracting in order to offer the best alternatives for their buyers and therefore be able to find clients for their products. This pressure to provide favorable terms has caused many companies to rely more and more on open account sales terms. Selling on open account with deferred payment simply means that the seller provides an unsecured extension of credit to the buyer.

This method of payment entails no increase in cost, facilitates the opening of new markets to the exporter, and promotes sales.

Unfortunately for exporters, in order to compete against other suppliers, a great deal of flexibility is required. Consequently, some exporters avoid the use of safe payment instruments such as letters of credit and start using transactions in which they have to trust their buyers all over the world.

The export insurance can be an option to mitigate those risks and at the same time remain in business.⁶ It plays two important roles in international commercial transactions conducted on an open account basis. The first is that it insures the foreign account receivables against the buyers' non-payment of invoices. This insurance usually covers both commercial risk (losses and damages due to insolvency, bankruptcy, and default) and political risk (include non-payment due to war, revolution, cancellation of an import or export license), working as a kind of "back up" payment in case of default. The second advantage of export insurance is that it plays an important role in financing exports both for the importer as well as for the exporter.

The evaluation of the buyer's risk depends on the importer's trade references and financial information.

³ The short-term are according to "Organization for Economic Cooperation and Development Export Credit Financing Systems in OECD. Member and Non-member countries (head of Pub Serv. OECD, 1995).

⁴ <http://www.sio.org/pdf/SBvsLOC.pdf> (last visited Nov. 20, 2007).

⁵ Interview with Anette Frogoso, Personal Banker, Chas Bank in Tucson, Az (Nov 28, 2007).

⁶ Michael A. Carsella, *Payment Methods in International Trade*, in *Doing Business Worldwide*, 2, 15 (ABA Ctr. For Continuing Legal Educ., Section of Int'l Law & Prac. Corp. Couns. Comm., 1998).

The export insurance assures payment in case of default in a different way than the letters of credit. In case of default, the export insurance becomes the exporter's best option because it will pay the invoice.

Export credit insurance adds significant liquidity to international receivables and thus makes them more attractive for the bank or other lenders that may become practically immune from the risk of non-payment.

Cost of Issuance

Even though the exporters may export on open account supported by export insurance because it is cheaper than the issuance of letter of credit, it is still necessary to consider the price of insurance coverage. The cost of the export insurance, in most cases, is considerably less than the fees charged for letters of credit.

Finally, the letters of credit, as well as international sales on open account backed up with exports insurance, are just some of the payment methods available in the marketplace. These instruments can assist exporters and importers to structure their international transactions in different ways in order to respond to the different necessities

Our legislation, Law No. 7732 – The Regulating Securities Market in Costa Rica, article 1 and following, established how it should regulate the securities markets, natural persons or legal entities that directly involved or indirectly them, acts or contracts related to such markets and the securities traded in them.