

## Coming full circle

### - The “place of receipt case” part 2

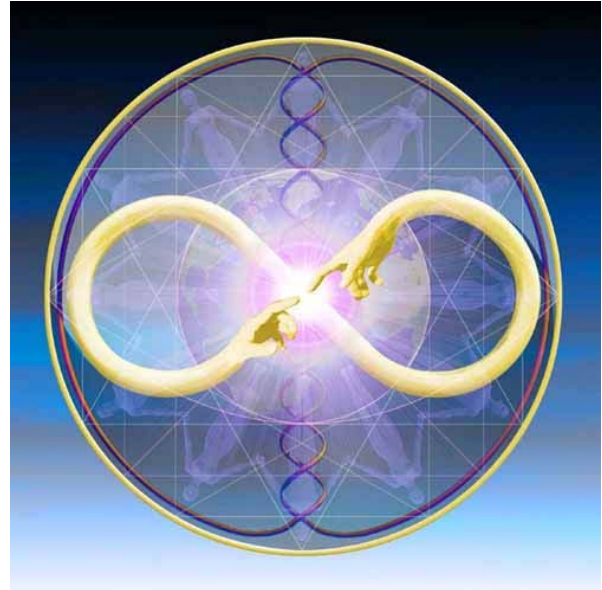
By Kim Christensen

## Introduction

Discussed extensively has been the situation where a bill of lading presented under an LC shows a “place of receipt” prior to the port of loading as required by the LC: What would be the requirements for the on-board notation in such case?

Although – a strict comparison between the UCP 500 and the UCP 600 as well as the ISBP (2003) and ISBP (2007) indicates major changes on this issue – it seems apparent that only minor – perhaps none – in practice is intended.

The purpose of the article is to dig one step deeper into this case in order to find out what practice exactly the drafting group had in mind when writing article 20 of the UCP 600.



## Locating and analyzing the sources

The starting point is UCP 500 sub-article 23(a)(ii) worded as follows:

*If the bill of lading indicates a place of receipt or taking in charge different from the port of loading, the on board notation must also include the port of loading stipulated in the Credit and the name of the vessel on which the goods have been loaded, even if they have been loaded on the vessel named in the bill of lading. This provision also applies whenever loading on board the vessel is indicated by pre-printed wording on the bill of lading*

This was in UCP 600 changed into the following (sub-article 20(a)(ii)):

*... indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit ...*

This was subsequently explained in two sources; one in the “*Commentary on UCP 600*” and one in “*ICC Opinion TA.635rev*”

The explanation in the “*Commentary on UCP 600*” reads:

*... sub-article 20 (a) (ii) reads: "indicate that the goods have been shipped on board a named vessel at the port of loading stated in the credit by:". The emphasis in this condition is that the document checker must be able to determine that the bill of lading appears to indicate that the shipped on board statement (pre-printed wording or by a separate notation) relates to loading on board the named vessel at the port of loading stated in the credit and not to any pre-carriage of the goods between a place of receipt or taking in charge and the port of loading. Unless it is evident from the bill of lading that the shipped on board statement applies to the vessel and the port of loading, the bill of lading will*

*require, as was the case in UCP 500, an on board notation showing the port of loading and the name of the vessel, even if the goods are loaded on the vessel named in the bill of lading*

The explanation in “ICC Opinion TA.635rev” reads:

*The emphasis in this condition is that the document checker must be able to determine that the bill of lading appears to indicate that the shipped on board statement (pre-printed wording or by a separate notation) relates to loading on board the named vessel at the port of loading stated in the credit and not to any pre-carriage of the goods between a place of receipt or taking in charge and the port of loading.*

*Unless it is evident from the bill of lading that the shipped on board statement applies to the vessel and the port of loading, the bill of lading will require an on board notation showing the port of loading and the name of the vessel, even if the goods are loaded on the vessel named in the bill of lading.*

The two above seems somewhat similar, but it must be expected that most weight should be put on the one from “ICC Opinion TA.635rev”. Partly because this one has been approved by the ICC Banking Commission (The “Commentary on UCP 600” has not) – and partly because the wording in the “Commentary on UCP 600” was written first – and the first version of TA.635 was identical to that text. This was later changed – which seems reasonable as at least the phrase “as was the case in UCP 500” seems to be wrong: The purpose of the UCP 500 rule simply is to add special requirements to the on board notation where the B/L shows a place of receipt prior to the port of loading required by the LC!

The below texts has been analysed heavily – and the sentence primarily being scrutinized has been the following: “Unless it is evident from the bill of lading that the shipped on board statement applies to the vessel and the port of loading..”  
What does the word “evident” imply? Here are the two main interpretations:

1. If the B/L shows that the goods were taken over at an inland place – clearly on a truck  
**AND**  
subsequently showing the name of the port required by the LC in the “port of loading” field  
**AND**  
the B/L contains a pre-printed wording to the effect that goods are “shipped on board”  
**THEN**  
such B/L would apply to the requirements set out in UCP 600 article 20  
**WHEREAS**  
The same document showing a port/vessel related to the “place of receipt” field would call for a specific on board notation.
2. The mere fact that there is a place mention prior to the port of loading creates “uncertainty” in this respect – i.e. that it is NOT in such cases altogether evident that the shipped on board statement applies to the port of loading.

(It should be mentioned that all the “transport people” that the author has discussed this with find this whole discussion absurd: Of course the shipped on board statements refers to the “port of loading” field!)



## A new source available

In any case: Just this week another “source” (of the semi-official kind) had a say on this matter:

The new Coastline solutions newsletter written by Gary Collyer (Issue 16, available here: <http://www.coastlinesolutions.com/News.htm>) made the following statement:

*A bill of lading is essentially a port-to-port document and the rule in article 20 reflects that. **Where a bill of lading indicates a place of receipt different from the port of loading, the bill of lading requires an on board notation which includes the port of loading stated in the credit and the named vessel on which the goods have been shipped.***

Try to take a close look at the last part – and compare it to the original wording in UCP 500 (Main phrases indicated in **bold** – above and below):

*If the bill of lading indicates a place of receipt or taking in charge **different from the port of loading**, the on board notation must also **include the port of loading stipulated in the Credit and the name of the vessel on which the goods have been loaded**, even if they have been loaded on the vessel named in the bill of lading. This provision also applies whenever loading on board the vessel is indicated by pre-printed wording on the bill of lading.*

So basically this case seems to have taken us back to exactly where we started! No more no less: The rule is EXCATLY as it was in UCP 500!

## Conclusion

If should be noted that the Coastline Solutions newsletters does not necessarily reflect the view of the ICC Banking Commission – so there is a risk that this will change route again.

In any case it seems that the following advice given on lviews.com :

*... While writing these lines we are not totally clear on how practice will change exactly - so the best advice at this point it time is to stick to the UCP 500 rule*

... was indeed “spot on”.

One may however ask the following:

If the Coastline Solutions newsletter in fact reflects the current practice then why:

- Change UCP 500 sub-article 23(a)(ii)  
From a very clear and specific rule into a general rule open to interpretations.
- Remove ISBP (2003) paragraph 82  
As the same obviously still applies
- Provide wordings in the “Commentary on UCP 600” and “ICC Opinion TA.635rev” that opens to unnecessary interpretations.

Had the “Commentary on UCP 600” and “ICC Opinion TA.635rev” said exactly the same as the latest newsletter from Coastline Solutions – then much fuzz could have been avoided. There have been extensive discussions with customers and shipping lines on this specific matter – and no doubt a more clear line at the outset would have been very fruitful in connection with those.

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