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Keywords	Documentary Letter of Credit; Beneficiary's Rights; Bank Obligations; Irrevocable Credit; Revocable Credit; Documentary Compliance; Correspondent Banks; International Trade Law.	
<div>Abstract</div> <div>Documentary letters of credit represent one of the most important instruments in international commercial transactions, ensuring a balance between the interests of buyers, sellers, and banks. This legal mechanism is based on strict compliance with documentary requirements, whereby the issuing bank undertakes to pay the beneficiary upon the presentation of documents that conform precisely to the terms and conditions stipulated in the credit. The beneficiary, in turn, bears a fundamental obligation to submit complete, accurate, and compliant documents within the prescribed time limits. This study examines the legal nature of the beneficiary's rights vis-à-vis the bank and analyzes the scope of the bank's corresponding obligations in both irrevocable and revocable documentary credits. It highlights the principle of independence of the letter of credit from the underlying sales contract and clarifies the legal consequences arising from documentary discrepancies, defects, or contradictions. Particular attention is given to the legal position of the beneficiary in cases where banks refuse payment due to non-conforming documents and to the extent of the bank's discretionary power in examining and accepting such documents. Furthermore, the paper explores the various methods of implementing documentary credits, including immediate payment, deferred payment, acceptance, and discounting, while also addressing the complex issue of determining the bank legally bound to the beneficiary in transactions involving multiple intermediary or correspondent banks. The study adopts a doctrinal legal approach supported by comparative jurisprudence and established banking practice, emphasizing the necessity of legal certainty, documentary rigor, and good faith in the operation of documentary credits. The findings underscore the pivotal role of banks in safeguarding transactional security while maintaining strict adherence to documentary compliance standards, except in cases involving proven fraud.</div>		
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**Introduction:**

When the beneficiary delivers the documents required in the letter of credit to the bank responsible for implementing the credit and under the agreed upon conditions and within the period specified in the letter, the bank must in this case implement this credit and pay the amount specified in the letter and which was previously agreed upon.

If the beneficiary fails to fulfill his obligation and does not submit the required documents, he loses his right to claim the price before the bank responsible for implementation, but the problem that arises here is if the beneficiary submits documents that do not conform to the letter of credit or contain a defect or contradiction, which may lead the executing bank, the opening bank or the buyer to reject and challenge them? To answer this problem, we will determine the nature of the beneficiary's right towards the bank as the first element, as well as the beneficiary's obligation towards the bank as the second element.

**The first section: The nature of the beneficiary's right and the appointment of the obligated bank**

The nature of the beneficiary's right to obtain the advantage of the credit differs from one credit to another according to the form of the credit. If the credit is definitive, then the beneficiary's obtaining of his right stipulated in the credit is achieved. However, if it is not definitive, then the possibility of rejection by the bank exists. In the event that the bank accepts the implementation, then here it is necessary to clarify the manner of this implementation, and this will be addressed in the following elements of this section.

**The first requirement: The nature and extent of the beneficiary's right**

The beneficiary's receipt of the value and amount of the credit is naturally linked to his fulfillment of the obligations imposed on him according to the letter of credit. When the beneficiary fulfills what he is required to do, the other party must fulfill it, otherwise he will be liable

**The first section: The nature of the beneficiary's right from the credit**

As we mentioned previously, the nature of the beneficiary's right is linked to the form of the credit, whether it is definitive or non-definitive

**First: In the definitive credit**

With regard to the definitive credit, the bank is obligated to implement what is stated in the letter of credit, but it is linked to the beneficiary submitting the documents required in the letter of credit. However, the latter's right is not established unless an appropriate period has passed, and the purpose of granting this period of time is to enable the bank to examine the documents and confirm their integrity and conformity with the letter of credit. When this examination is completed successfully, the bank must fulfill its obligation, otherwise it is mistaken in its refusal. This acceptance may be explicit or implicit, if the bank remains silent for a period that allows for the assumption of this acceptance. (Awad, 1989, p. 277)

It is also called an irrevocable credit, which is a documentary credit in which the issuing bank is directly obligated to the beneficiary seller, and this obligation must result explicitly from the text of the letter of credit directed by the bank to the beneficiary. (Eid, 1968, p. 579)

**Second: In the non-revocable credit**

This is a revocable credit in which the bank can withdraw from it without notifying the beneficiary, so the latter must expect that the bank may withdraw from the credit when he presents the documents to him.

But if the bank's correspondent executes the credit before knowing that the issuing bank has withdrawn from this credit, the bank's correspondent's action is considered valid and binding on the issuing bank, all of this is to protect the bank's correspondent and not the issuing bank, so in the non-revocable credit, the beneficiary has no right against the bank, but it can be considered in this case as a mere expectation similar to the right of the future heir to the property of his inheritor before his death.

The credit is also called a revocable credit. In this case, the bank that opens the credit is limited to notifying the beneficiary seller that it has received instructions from its buyer client to act as an agent on his behalf to pay the bonds that the seller draws on him within the limits of a specific amount. Therefore, the bank does not have any obligation towards the latter. (Eid, 1968, p. 578)

The beneficiary's right before submitting the documents is a potential right that lacks an essential element, which is submitting the documents.

## Second Section: Methods of implementing the credit

The credit that the bank is committed to once the beneficiary grants and provides the documents, as well as the conditions included in the letter of credit, takes one of the following forms:

- If the credit stipulates immediate payment, that he pays or orders payment
- If the credit is implemented by deferred payment, that he pays or gives an order to pay on the dates specified according to the terms of the credit
- If the credit stipulates acceptance, that he accepts the bills of exchange drawn by the beneficiary if the credit stipulates that they be drawn on the issuing bank, or that he bears responsibility for accepting and paying them on the due date if the credit stipulates that they be drawn on the applicant for the credit or any other drawee stipulated in the credit.
- If the credit is executed by discount, by paying without recourse to the drawer or bona fide holders a bill of exchange or bills of exchange at sight or deferred, drawn by the beneficiary on the applicant for the credit (buyer) or any other drawee stipulated in the credit other than the issuing bank itself, or by preparing the discount through another bank and paying as stated above if this discount has not ended. (Awad, 1989, p. 279)

On the one hand, the seller is obligated to implement the conditions contained in the letter of credit, especially those related to sending the documents specified by the buyer as identical and complete.

On the other hand, the bank is directly committed to the beneficiary, as we have previously said, if the credit is final. The reason for the emergence of this direct commitment on the part of the bank is that the bank's commitment to the beneficiary is independent of the relationship of opening the credit that took place between the bank and the ordering customer. The bank may not retract its commitment to the beneficiary even if the ordering customer goes bankrupt or becomes insolvent. The bank may not amend the terms of the credit on the grounds that the terms of the credit opening contract have undergone some change. The reason for this is that the bank's commitment to the beneficiary is a final and conclusive commitment. However, this rule does not apply in the event of fraud on the part of the beneficiary, as will be explained below. (Muhammaddin, 1988, p. 106)

### **The second requirement: designating the bank that is indebted to the beneficiary (the bank responsible for implementation)**

The most common practice in implementing the credit is that it is done with a bank in the beneficiary's country, especially if it is stipulated that the credit be implemented by a bank in the beneficiary's country.

The problem arises here in the event of multiple intermediary banks in the process of completing and making the credit successful. What is the debtor bank that the seller has the right to discuss?

### **The first section: Multiple banks**

There were two images in which banks cooperate, in which the seller is in front of two banks, one in the buyer's country and the other in the seller's country

- The first image: Only one of the banks is obligated to the seller.
- The second picture: Both banks are obligated to it

Each of these two cases will be detailed below:

#### **The first picture:**

A- This picture is embodied in the buyer's bank assigning another bank in the seller's country, then this bank is the one to which the documents are submitted and it is the one that pays the beneficiary, so the relationship here is limited between the beneficiary and the other bank that was assigned to implement without the bank that opened the credit, in this case does the beneficiary have the right to follow up or discuss the bank that opened the credit even though the executor of the credit is another bank.

B- It is more appropriate if the credit is opened by a bank that is only assigned to notify the beneficiary without executing the credit, then here the relationship is between the bank that opened the credit and the beneficiary.

C- The role of the bank may be based on mere agency, i.e. submitting a request to the seller's bank to open the credit for the buyer's account, the opening bank, which is the seller's bank alone, is obligated, and the role of the buyer's bank

is limited to its agency on behalf of the buyer, and therefore the letter of credit is issued by the seller's bank, and the beneficiary does not have any direct relationship between it and the buyer's bank. (Awad, 1989, p. 284)

- The bank that opened the credit has the right to resort to a correspondent bank in the country where the seller resides and assign it to act on its behalf in accepting or fulfilling the documentary bill of exchange. In this case, the correspondent bank is considered an agent of the original bank that fulfills or does not fulfill according to the instructions issued to it. The original bank is responsible towards the buyer for errors made by the correspondent bank as if it accepted documents from the seller that were not agreed upon. The seller may also stipulate to the buyer in the sales contract that the correspondent bank endorse the irrevocable credit. In this case, the correspondent bank that endorsed the credit is personally and directly obligated towards the seller, just like the bank that opened the credit. The obligation of each of the two banks towards the seller is independent of the obligation of the other, and the bank that endorsed the credit has the right to recourse against the original bank for what it was obligated to pay to the seller. (Taha, 2006, p. 176)

### **The second picture: Multiple committed banks**

This is the case when the credit is definitive and confirmed, the buyer's bank opens the credit and the seller's bank supports it, so it is committed in turn and its commitment is in addition to the commitment of the opening bank, so here the buyer's bank opens the credit and sends the letter to the seller's bank, and the latter issues a new letter of credit in which it refers to the credit opened by the buyer's bank and announces that it supports it or that it sends the original letter in addition to the confirmation letter.

The correspondent bank may also be the notifier of the letter of credit to the beneficiary, as we mentioned previously, and in this case its responsibility stops at this point because it is not obligated to do more than notify, and if it fails to fulfill the duty of notifying, its responsibility is based on this error as a pillar of civil liability. The bank may also be a supporter and endorser of the obligation arising from the original credit, so its responsibility increases as it has added a new guarantee to the beneficiary's guarantee in the original credit by reinforcing or endorsing that credit. In this case, the confirming correspondent bank is obligated to have the same obligations as the opening bank in terms of the obligation to notify the beneficiary of the credit and inform him of its endorsement of it, and then accept the documents and pay their value after checking them. (Al-Kilani, 2006, p. 247)

The endorsement exists to enhance the seller's guarantee and reassurance that he has obtained his right. Here, the seller has the right to refer to both the opening bank or the confirming and endorsing bank. However, there is a detail in the process of referring to which bank first. If the credit and endorsement are included in one letter, here the letter includes a condition that requires the beneficiary to demand the confirming bank first, and then if the confirming bank does not respond, the opening bank is referred to. However, if the letter is issued in a document separate from the endorsement document, here the seller has the choice between the opening bank and the confirming bank. (Awad, 1989, p. 287)

The notifying bank may be the executor of the credit when it is appointed by the issuing bank and allowed to discount, pay or accept. In this case, the executing bank must, before carrying out the discount, payment or acceptance procedures, examine the documents to ensure that they appear to be in accordance with the texts and conditions of the credit. This bank shall be entitled to what the issuing bank paid for the credit, the "opener", on the basis that the issuing bank is responsible towards the paying, accepting or discounting bank, considering that it has become its creditor for what it has spent in implementation of the credit. The second section: The beneficiary's concern is the implementation by the bank assigned to implement, or authorized or authorized to implement. (Al-Kilani, 2006, p. 248)

The settlement that takes place with the implementing bank is the one that is considered valid in the beneficiary's view, meaning that the examination of the documents and the implementation of the credit are done by this bank even if it is not the one that opened the credit, and the acceptance of this implementing bank is considered final in favor of the beneficiary even if the opening bank or the buyer rejects the documents later. Therefore, Article 11/b, c, d, 16/a of international principles stipulates that the bank authorized to implement in exchange for documents that appear to be identical to the terms and details of the credit obliges the party that gave it that authorization to receive the documents and pay their value to the bank that carried out the implementation. It also adds procedures that this opening bank follows if it rejects the documents submitted by the implementing bank, but this rejection is not the concern of the beneficiary, unless the settlement that the implementing bank made for the beneficiary is conditional or accompanied by a reservation, as we will see below. (Awad, 1989, p. 289) - Submission of documents (the process itself): The beneficiary himself or through an agent submits the documents required in the letter of credit to the bank responsible for implementation. In most cases, the process of submitting documents is done through a bank acting on behalf of the beneficiary, which is responsible for submitting the documents and collecting their value. Here, the role of the bank is only as an agent or intermediary. Its role is outside the scope of the credit process itself, but its position may change if it

provides guarantees to the executing bank, so that the latter accepts them, under the responsibility of the bank authorized to submit the documents. If the beneficiary submits the documents to the issuing bank, not the confirming bank, he cannot claim the value of the credit from the confirming bank, because he has been stripped of the documents, although he can claim from the buyer because opening the credit is not considered a renewal. If the beneficiary submits the documents to a bank that is not authorized to accept them and the bank was not responsible for implementing the credit, but was only responsible for notifying the credit and the documents were lost during their transfer to the authorized bank or the opening bank, the beneficiary must return to this bank what he submitted as a presenter, unless he can arrange for alternative documents during the credit period and unless an error is attributed to him in sending the documents. The beneficiary may ask the intermediary bank, if it is just a sum, to act as the agent collecting on behalf of the beneficiary. In this case, it does not have the authority to examine the documents to judge their integrity, and it has no authority except to notify the credit. (Awad, 1989, p. 290)

## Section Two: Documents that violate the credit

The bank's control to verify documents is essentially a formal and literal control in which the bank is bound by the same documents specified in the credit application for the process, and the bank can suspend the implementation of its commitment to the customer's approval if it finds justification for that, such as if there is a simple difference between the documents requested from its customer and those submitted by the beneficiary, and as a result of the bank's reservation in such a case, if the customer imposes and does not approve the bank's approval, the beneficiary is obligated to return what he received from the bank as he previously agreed to the bank's reservation. (Al-Qalyubi, 1988, p. 412)

First requirement: The bank's position when there is a violation in the documents

The bank has the right to refuse to implement the credit if the beneficiary does not submit the documents or submits them outside the times specified in the credit or they do not conform to the credit, but the practice is that the bank always tries to find a way out for the beneficiary to settle the credit and make it successful, but within the limits of what is possible.

A- If the violation is fundamental, i.e. it cannot be corrected or overcome by the opener of the credit or the buyer, then the documents are rejected.

B- If it is possible to rectify the situation and submit the documents in good condition before the end of the credit period, then the beneficiary is asked to correct the documents and submit them before the end of the credit period and resubmit the documents.

C- The beneficiary may ask the bank that rejects the documents to take them from him and send them to the opener bank in order to give him an opinion on them, and also ask him to certify them if possible.

D- The bank may accept the violating documents and agree to implement the credit, but with reservations, i.e. this implementation is suspended on the condition of accepting these documents by the opener bank and the buyer.

E- The bank may set aside the settlement process within the framework of the credit stipulated in clause "T" and pay their value to the beneficiary by way of a conditional loan, so that the bank can collect the value of what it paid from the opener bank. (Awad, 1989, p. 193)

- There are some violations that occur regarding the documents that make them unacceptable by the bank, including:

- An unclean bill of lading.
- Bill of lading in implementation of a charter party
- No evidence that the goods were shipped on the ship
- Shipping took place from ports other than those mentioned in the credit
- The goods were shipped on deck
- Providing an insurance document other than what was required in the credit
- The risks covered by the insurance are not as stipulated in the credit
- The insurance amount is in a currency different from the currency of the credit
- The insurance amount is less than what was agreed upon.
- Insurance is not valid from the date stated on the bill of lading

- Discrepancy between documents
- Description of goods in the invoice differs from its description in the credit
- Weight does not match between documents
- The amount stated in the invoice differs from the amount stated in the bill of exchange
- Information and numbers differ in some documents from what is stated in others
- The credit amount is exceeded
- The credit validity period has expired
- Documents were not submitted at the correct time
- Shipping is late
- Shipping is incomplete
- Some documents are missing
- The bill of exchange is drawn on a person other than the one on whom it should be drawn
- The bill of exchange is due on an unspecified date that cannot be determined
- The bill of lading and the bill of exchange were not properly endorsed
- Failure to sign the documents when required
- The bill of lading does not indicate whether the fee has been paid. (Awad, 1989, pp. 294-295)

#### **Section One: Rejection of documents by the issuing bank (in case there is an intermediary bank)**

The practice is that the seller submits the documents to the bank in his country, and the latter sends the documents to the issuing bank to transfer them to the buyer. If the documents are rejected by either the issuing bank or the customer, they are returned to the executing or sending bank, which in turn returns them to the seller.

Article 16 of the new Documentary Credit Rules Regulations, ICC Bulletin No. 400, implemented as of October 1, 1984, states the following:

- 1- If the bank pays the value of the credit or undertakes to pay the deferred value or accepts or circulates documents that appear to conform to the terms and conditions of the credit, the person who commissioned the bank to do so is obligated to return what the bank paid and to receive the documents.
- 2- If it becomes clear to the issuing bank, upon receiving the documents, that they do not conform to the credit on their face, it must determine whether to receive these documents or reject them, deciding that they do not conform to the terms of the credit, and its investigation in these cases must be based on the appearance of the documents only.
- 3- The issuing bank has the right to obtain a reasonable period to examine the documents, to decide whether to receive them or reject them.
- 4- If the issuing bank decides to reject the documents, it must notify the bank that sent the documents or the beneficiary by telegram - if it has received the documents directly from the latter, and the notification may be by any other means, in the event that it is not possible to send a telegram. The bank must notify without delay, and explain the differences on which it relies in rejecting the documents, and whether it will keep the documents at the disposal of the sender or submitter, or return them to him, and the issuing bank has the right to demand that the correspondent return the value of what was paid to the latter bank.
- 5- If the issuing bank does not take the procedures stipulated in paragraphs 3 and 4 of this article, or keeps the documents at the disposal of the sender or does not return them to him, the issuing bank loses its right to reject the documents on the basis of their non-compliance with the terms and conditions of the credit.
- 6- If the correspondent bank draws the attention of the issuing bank to any discrepancies in the documents, or notifies it that it has paid the value, or committed to deferred payment, or accepted the credit or negotiated it under reservation, or against a guarantee as a result of defects in the documents, the issuing bank shall not be released from any of its obligations stipulated in any paragraph of this article.



This reservation or guarantee relates to the relationship between the correspondent bank and the party through which it was conducted or in whose favor the guarantee was obtained.

- The meaning of this text is that the issuing bank, i.e. the issuing bank that finds that the documents submitted by the sending bank are in violation of the credit and wants to reject them, must adhere with the utmost precision to the path outlined in Article 16, the summary of which is:

- As soon as the documents arrive at the bank, directly from the beneficiary or through his bank, it must examine them on their appearance, as stated in the texts of the rules and as the judiciary interprets them. If it finds them inconsistent, it must make its decision immediately, and the text gives it a reasonable period of time during which it examines the documents and makes the decision, either to accept or to reject. It does not have the right to request a period of time to consult its client, because the decision is its decision, even if the reality is that it consults the client before rejecting if it wants to reject.
- If he decides to reject the documents for not meeting the conditions of the credit, he must inform the bank to which he sent the documents, requesting that the credit be executed in return, and this notification or notice must be by telegram or any other urgent means, which excludes mail, even if it is air, even if the credit is opened by mail, and even if it is agreed that correspondence related to the credit is to be carried out by mail, and this is the meaning of the text and what the situation requires.
- The sent notice must include the reasons for the rejection, and the rejecting bank is not allowed to rely on reasons other than what it stated in this notice, as it is not consistent with this regulation to allow the opening bank to search for other reasons that would be a pretext for a new rejection, especially since the text gives the bank a reasonable period to examine the documents and assess the reasons for the rejection.
- The rejecting bank must return the rejected documents to the sending bank or keep them for its account and at its disposal, and the notice must include what indicates this, i.e. what indicates that the documents are at its disposal or that they are actually on their way to it.
- If the issuing bank follows this path as specified in the text, it is not responsible for what results from this behavior, but it may be asked if the refusal itself is not appropriate, as it remains possible to discuss this decision, based on the rules of credit. If it has returned the documents, its duty is over, and if it has kept them at the disposal and order of the sending bank, it must implement its orders regarding them.
- If the executing bank asks it to keep them with it and it accepts this request, then caution requires the issuing bank to state the truth of its position and its capacity with regard to these documents and that it is merely an agent for the executing bank in an attempt to obtain the buyer's approval to settle the situation, and that its doing so is outside the scope of the documentary credit.
- The executing bank may ask the issuing bank more than that, to receive the goods from the carrier upon their arrival and store them, and these operations are not related to the function of the documentary credit or the documents themselves. (Awad, 1989, pp. 298-300)

#### **- The penalty stipulated in Article 16:**

If the opening bank fails to fulfill one of the obligations stipulated in Article 16, it will have committed a grave error, which is the loss of its right to refuse to settle the credit, which is the bank's right to reject the documents. If it does not comply, it will lose its right to reject them and will have to settle the credit, so it will remain obligated to the sending bank that executed the credit to return to it what it paid. The Egyptian Court of Cassation has adopted this statement, which stated:

"The rulings of this court have been based on the fact that the irrevocable documentary credit system is independent of the sales contract between the seller and the buyer, whereby the bank that opened the credit is obligated to pay its value if the documents submitted to it are completely identical to what is included in the letter of credit without having the slightest authority to estimate, interpret or conclude. At the same time, the bank may not accept without the approval of its client to amend the terms of the credit, and if the shipping documents are submitted to it by the beneficiary, it must match them with what is stated in the letter of credit, so that if he does not object to them within a reasonable period sufficient to examine them, this will be considered acceptance of them." In the condition in which it was presented, which entails his obligation to fulfill the value of the credit. (Awad, 1989, p. 300)

- The application of this penalty was raised in a famous case decided by the Swiss courts in 1964, the gist of which was that the goods were a shipment of alcohol sent from India to a Swiss seller, and the credit was opened with a Swiss bank through an Indian bank that was tasked with merely notifying the credit without endorsing it, and the credit stated that when the Indian bank executed the credit, it could recover from a bank in London, and that the documents would be sent directly from the Indian bank after execution to the Swiss bank. The Indian bank paid the seller in exchange for invalid documents, and therefore the Swiss bank rejected the documents, but it appreciated the danger of leaving the goods exposed to rapid corruption due to the lack of prompt receipt, so it found it necessary to receive the goods in a port other than the port to which they were sent and store them in the name of the Indian bank. The Swiss judiciary, at all levels, considered the Swiss bank responsible for settling the credit, and deprived it of its right to reject the documents because its behavior was in violation of the provisions of international rules. (Awad, 1989, p. 301)

## **Section Two: Fraud by the beneficiary or forged documents**

The bank is not responsible for looking outside the documents and is not permitted to conclude, estimate or interpret with regard to the validity of the documents or not, and the bank in this regard must exercise reasonable care in accordance with the accepted international rules and practices in this regard, which is the care of a careful man with experience and knowledge.

No document must be incomplete, deficient or defective, and it cannot be claimed that other documents submitted with it can cover these deficiencies or shortcomings. Accordingly, the document must be submitted in the manner stipulated in the letter of credit and must include all the basic data established in custom, practical application and common current transactions so that the document can perform the function that required the text to submit it with the shipping documents. (Al-Shawarbi, 2002, p. 212)

The documents may be fraudulent, and the seller's fraud is achieved if the documents appear to be sound but in fact do not match reality due to the seller's will and fabrication or at least with his knowledge, and accordingly the bank has the right to reject the documents if this fraud is confirmed.

The bank may also refuse execution as a result of fraud by the seller regarding the non-conformity of the goods with what is stated in the documents, and here there is a contradiction between the principle of independence of contracts and the rejection of documents due to their non-conformity with the goods that are the subject of the sales contract, but the most likely in this regard is that the bank may reject the documents due to their non-conformity in the event of fraud by the seller because these documents represent the goods and are a guarantee for the bank in the event that the buyer does not fulfill the price paid by the bank to the beneficiary.

- Accordingly, if the fraud is discovered before execution, the bank must not execute, but if the fraud is discovered after execution, the bank in this case has the right to return to the seller what it paid.

### **The fraud of the beneficiary harms the bank in two ways:**

- If the fraud is directed at the goods themselves or their quantity, value or condition, the bank's mortgage on these goods is affected if it is unable to recover from the customer all or part of what he paid.
- Also, the bank is charged with the inspection process in a good manner, which leads to an increase in the costs of the process of opening the credit and completing it in the correct manner, which must satisfy the customer.

The Supreme Court of Canada has established three main points:

- Fraud extends to the underlying contract, making the request for execution of the credit fraudulent.
- Fraud means any act by the beneficiary intended to obtain the benefit of the credit by fraudulent means.
- Fraud must be limited to the act of the beneficiary himself, and does not include fraud committed by a third party, as the beneficiary is considered innocent of it. (Awad, 1989, pp. 307-311)

- The Dutch judiciary addressed this issue in a ruling by the Amsterdam Court of Appeal on May 16, 1963: The case is that a Frenchman bought potatoes from a Dutch seller and opened for him, through a French bank, a definitive credit executed by the Bank of Amsterdam. The French bank asked the Bank of Amsterdam to confirm the credit, and it confirmed it. The French bank also authorized the Bank of Amsterdam to recover what it paid to the beneficiary from another bank in Amsterdam. It was also agreed that the credit would be subject to the unified international rules. The seller shipped the goods and delivered them to the railway in Amsterdam and obtained a copy of the letter or transport ticket, then obtained a court order to seize these goods with the railway to ensure payment of the debt owed to him by



the buyer arising from another previous transaction, and then he managed to submit a copy of the shipping papers to the bank that supported the credit, and collected the price from it. During this period, the buyer suffered financial difficulties that ended in judicial liquidation, so the French bank rushed and asked the Dutch bank that supported the credit not to pay the seller, i.e. not to execute the credit, but this bank did not comply and paid, so the French bank sued it based on the following: that the documentary credit aims to guarantee the seller the collection of the price and avoid the risks of the buyer's insolvency or refusal to pay, and also guarantees the buyer the arrival of the goods and their delivery to him, and therefore the seller in the incident did not fulfill his obligation when he tried to collect a debt owed to him outside the transaction from the price of the goods after shipping them, because when he seizes the goods after collecting their price after submitting the documents, he strips these documents of all their value. Because it no longer enables its holder to dispose of the goods or receive them, the Dutch bank responded to that by saying that the documents presented to it were formally sound and complete and it had a definitive and unconditional obligation to pay when presented to it. It is true that the French bank offered it not to pay the seller on the condition that it guarantees him all damages resulting from that, but it did not accept this offer, which, if it happened, was due to an illegal reason. The Amsterdam court ruled that the seller has the right to seize the goods after he has fulfilled his obligation to ship and applied the provisions of Article 5 of the international rules, which stipulate that the terms of the credit may not be amended without the consent of the parties concerned. It said that it is the same whether the seizure is made by him or by a third party because the unified rules are not intended to obstruct or deprive any party from adhering to his rights recognized by law. Also, Article 1 of these rules stipulates the independence of the credit from the sale and other relationships. In the appeal, the French bank relied on two arguments: the first is that the documents no longer have any real value after the seizure, and the second is that the seller acted in a manner other than that required by the good faith required by the purpose of the documentary credit, which is to settle the sale. By paying the price and receiving the goods, the Court of Appeal decided to reject his claim and said that the seller had delivered the goods by submitting the documents representing them, and thus he was entitled to the price according to the open credit and the sales contract, and the documents cannot be considered worthless or that they do not match reality, as they indicate that the goods were delivered in implementation of the sales contract, and therefore they have entered the buyer's account and the unified rules do not deprive the seller from exercising his rights against the money of the buyer's debtor, including the seizure of his money, and the seller cannot be accused of bad faith as it has been proven that the seizure he made is to collect a real debt, and the bank that accepts the documents only accepts them because they represent possession of goods even if they are seized, and the buyer is obligated to receive them by paying the amount seized for him. (Awad, 1989, pp. 313-314)

### **Second requirement: Correcting the violation of the documents**

The seller can correct the documents submitted that are defective either by: not fully complying with the terms of the letter of credit, or due to the lack of a document required in the letter of credit or the non-compliance of some data in it. In this case, the seller has the right to correct these defects that affect these documents, but under the following conditions:

- There should be no contradiction between the correction, use or replacement of the documents and what is stated in the documents submitted first
- There should be a contradiction between the corrected documents
- The time at which the subsequent documents are submitted should be within the maximum mandatory deadlines (i.e. the correction should be within the validity period of the credit)

But if the violation cannot be corrected and is considered minor, it can be overlooked and the credit execution process can be completed.

If there are some apparent differences in the documents that can be corrected, the customer is contacted by phone to inform him about them and ask him to correct them, and if this is not possible, payment may be made under reservation in the event that the bank trusts the customer or in return for a bank guarantee or pledge, or the documents may be sent for collection, and in view of the difficulty of the bank's role at this stage, it may be deemed better to obtain the approval of the issuing bank by telegram on the differences, and in the event that the issuing bank is unable to approve the differences, the documents are sent for collection. (Shukri, 2004, p. 398)

Section One: Sending the documents for authentication by the opening bank

The danger that may threaten the executing bank is twofold:

- That the documents for which it paid are not valid

- That it does not recover what it paid from the opening bank

Accordingly, the documents must be valid. If they are not in conformity, this means that they are in violation of the conditions contained in the letter of credit, and this violation may be clear and beyond dispute.

In this case, the intermediary bank finds itself between the pressure of the beneficiary who is trying to convince the executing bank to accept the documents and his fears that the opening bank will reject them.

If the documents are not in conformity, the intermediary bank can either send the documents to the opening bank asking it to approve them, ignoring the violations in them, or send the documents to it to collect their value.

There is another method that is represented by keeping the documents in the possession of the executing bank and sending a telegram to the opening bank explaining the violations and requesting its approval to overlook them and implement the credit. This method is the fastest, but it is the least convincing for the opening bank because in this case it needs to review the documents and scrutinize them to come up with the correct opinion.

It is also noted in the confirmed credit that the rejection of the documents by the confirming bank gives the beneficiary the right to request that the documents be sent to the opening bank to express its opinion on them because it is the final authority to judge them. (Awad, 1989, p. 320)

## **Section Two: Conditional settlement and lending to the beneficiary**

The violations and defects affecting the goods can be bypassed by the bank, but by reservation and stipulation on the beneficiary, and the aim of this is to ensure that the rights of the parties are not lost due to these defects that affect the documents that are the basis of the documentary credit and that represent the goods.

### **First: Conditional settlement**

If the documents submitted by the beneficiary are incomplete or defective, here he convinces the bank that this defect or non-compliance with the terms of the credit is minor and does not affect the buyer's decision to accept these documents, but the bank does not implement the credit in this case unless the beneficiary signs a pledge that he will compensate the bank for what may happen to him in the event of the buyer's disapproval, and to guarantee this pledge, he provides a guarantee from another bank.

- But the question that arises here is, is the bank obligated to accept the documents and implement the credit in the face of this offer?

There are two opinions in this regard:

- The first opinion obligates the bank to do so for several considerations, the most important of which is facilitating commercial transactions, and that violations are often minor, but a case was excluded in which the bank is not obligated, which is if the violation affects the commercial value of the goods.
- The second opinion sees that the bank's commitment to accept documents that are in violation of the credit and are accompanied by a bank guarantee is a disregard for the independence of the commercial contract, i.e. the sales contract, from the letter of credit, and this statement (i.e. obligating the bank to accept and then implement) conflicts with the strict nature that controls the documentary credit. (Awad, 1989, p. 322)

- The beneficiary of the guarantee (guarantee) and the extent of the guarantee:

This guarantee is from the beneficiary to the bank that implements the credit, and the purpose of this is to complete the process of implementing the credit despite the lack of conformity of the documents, which is of a degree of simplicity, i.e. does not rise to the level of seriousness, and it is required in this regard that an agreement be reached on the guarantee and that this guarantee be provided before implementing the credit so that this guarantee is a condition for this implementation. If these documents are rejected by the buyer, in this case the guarantee is referred to or executed.

It is clear that the beneficiary of this guarantee is the executing bank, the opening bank, and the buyer. The comprehensiveness of this guarantee has a great positive effect because when this guarantee serves all three parties, it supports the process of accepting the credit, which leads to greater success of the process. (Awad, 1989, p. 324)

The gist of this statement is that the purpose of this guarantee is to compensate the intermediary bank, the opening bank, and the buyer for any damage that may befall them as a result of accepting and using these documents, but this compensation is within the limits of the guarantee amount and its terms.

- The buyer's position in the guarantee:

The buyer does not need the guarantee because he has the right to reject the documents, but he may be interested in purchasing the goods, which leads him to accept the documents in exchange for his adherence to the guarantee as a precaution and in anticipation of any damage that may befall him.

- How to make a conditional settlement:

In this case, the beneficiary submits the documents himself and asks the executing bank to settle the credit by check. Here, if the documents are defective, the bank grants the check to the beneficiary, but on condition that he signs a pledge that includes returning the amount specified in the check if the documents are rejected by the issuing bank or the buyer.

It is also possible to execute on behalf of the beneficiary by recording the amount in the beneficiary's account with the executing bank.

Or by paying into his account with another bank that receives the money for the benefit of the beneficiary.

- Position of the intermediary bank and the issuing bank:

The warranty period remains in favor of the intermediary bank for the duration of the credit or a reasonable period (based on the provisions of Article 16) and the buyer has the right to examine the goods themselves before expressing his opinion on the documents, so the warranty remains in effect for a reasonable period after the arrival of the goods in order to examine them.

In the event of silence, it is considered implicit acceptance by either the buyer or the issuing bank. The bank has no right to request a guarantee from the beneficiary if the documents submitted are valid and conform to the terms of the letter of credit. If it makes this request, it is mistaken and may be subject to a judgment against it for compensation for any damage that may befall the beneficiary as a result of this request. Accordingly, if the bank requests this guarantee and the beneficiary refuses to provide it and it is later proven that the documents are valid, the bank in this case will be subject to liability. (Awad, 1989, pp. 325-328)

## **Second: Lending the beneficiary the amount of the credit (document discounting)**

The bank executing the credit enjoys a banking method that provides it with security and reassurance when executing this credit, and also enables the beneficiary to obtain the amount of the credit and at the same time guarantees the bank to recover what it paid immediately and without problems if it is unable to recover what it paid from the buyer.

**This method is known as: document discounting or lending to guarantee documents.**

When the documents are not valid and the bank accepts them with reservations and the beneficiary is a client of it, the bank records the amount on the credit side of his account, minus the discount rate and commission.

The nature of this method is that it is a borrowing process secured by a right under collection, and it is similar to the loan that the bank advances to someone who presented it with a check or bill of exchange for collection. In this case, the executing bank lends the beneficiary an amount on condition that he recovers it through documents. If he is unable to do so, the loan is recovered from the borrowing seller. The process here is considered a loan secured by documents and not an implementation of the credit with reservation, because when the bank implements the credit, it does not have the right to claim what it paid against the beneficiary unless it is proven to have committed fraud. (Awad, 1989, pp. 331-332)

Conclusion:

From what has been explained, it becomes clear to us that the relationship between the beneficiary and the bank is based on each party doing what is required of it according to what is stated in the letter of credit, so that the beneficiary is responsible for providing the documents required in the letter of credit and in the form that matches and conforms to what was agreed upon between the seller and the buyer, as well as the necessity of these documents being free of any defect or flaw that may affect them, especially in terms of form. The beneficiary is also responsible for delivering these documents at the appropriate time specified in the letter of credit and to the bank designated and allocated to carry out the process of receiving these documents, whether this bank is the bank that opened the credit or another bank in the beneficiary's country that has been assigned to implement the credit process. The bank is also responsible, when the beneficiary delivers the documents required in the letter and at the specified time, to implement the credit by delivering the specified amount to the beneficiary. However, before implementation, the bank concerned must examine these documents in the manner practiced by banks, without negligence or laxity, such that the bank must carry out this examination in its capacity as a professional body with human and material capabilities.

When these documents are examined and it is found that they are free from any defect, deficiency or non-conformity with what is stated in the letter of credit, the bank responsible for implementing the credit for the benefit of the beneficiary must be held liable in the event of breach of this obligation.

### Ethical Considerations

This study adheres to established academic and legal research ethics. It is based exclusively on doctrinal legal analysis, statutory provisions, and previously published scholarly sources. No human participants, personal data, or confidential banking information were involved. All referenced works have been properly cited to ensure intellectual integrity and academic transparency.

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