

Resolution of the International Chamber of Commerce Concerning the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit

On the unanimous consent of its Commission on Banking Technique and Practice, the International Chamber of Commerce endorses the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit.

Since its earliest years, ICC has provided important international leadership in the field of international banking operations, particularly as a forum for developing rules of practice. Since 1933, the Uniform Customs and Practice for Documentary Credits (UCP), in its various revisions, has become a universally recognized standard, stating and establishing custom and practice for letters of credit.

In this process, the United Nations Commission on International Trade Law (UNCITRAL), by its endorsement of the subsequent UCP versions, provided an important bridge to those countries who were at the time unable to participate directly in the work of ICC. Other ICC rules, such as Incoterms, have also been endorsed by UNCITRAL, which has contributed to their international acceptance.

ICC rules cannot be fully effective in all countries without their being recognized under local law. In this respect, the recent work of UNCITRAL on the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit provides an important impetus to attain this objective. The Convention sets forth the basic principles of law for independent undertakings in a manner which fully assures their independent nature, which guarantees widest possible party autonomy and which establishes a uniform international legal standard for limits to the exception for fraudulent or abusive drawings.

ICC appreciates that the Convention was drafted in full recognition of the role of the various ICC rules in this field, that the UNCITRAL Working Group was directly and indirectly influenced by, and in turn influenced, the revision of the UCP, ICC's Uniform Rules for Demand Guarantees (URDG) and its recently adopted rules on International Standby Practices (ISP 98). ICC also notes that the UN Convention expressly defers to international banking practice as represented by ICC rules.

As a result, ICC is pleased to endorse the UN Convention as appropriate and complementary to its work in the harmonization and unification of international banking practice and urges its national committees and their members to promote the ratification of the Convention in their various countries.