

## USCIB RESOLUTION IN SUPPORT OF THE UNITED NATIONS CONVENTION ON INDEPENDENT GUARANTEES AND STAND-BY LETTERS OF CREDIT

WHEREAS THE US COUNCIL ON INTERNATIONAL BANKING, INC. HAS WORKED ACTIVELY to promote the development of sound letter of credit practice, as is evident in Standard Banking Practice for the Examination of Letter of Credit Documents, documenting U.S. practice;

PLAYED A LEADING ROLE in the formulation of uniform international rules of letter of credit practice, as is evidenced by its active participation in the revisions of the Uniform Customs and Practice for Documentary Credits;

ENCOURAGED judicial recognition of sound letter of credit practice and its role in letter of credit law, as is evidenced by its intervention in numerous cases as *amicus curiae*;

PARTICIPATED IN AND SUPPORTED the development of sound domestic law for letters of credit, as is evidenced by its active role as Advisor to the National Conference of Commissioners on Uniform State Laws in the revision of Article 5 of the Uniform Commercial Code;

WORKED FOR the unification of international law in the field of letters of credit, as is evidenced by its role as Advisor to the United States Delegation to the Working Group which drafted the UN Convention on Independent Guarantees and Stand-by Letters of Credit; and

STRESSED the importance of harmonization of law and practice in all of these areas;

**be it RESOLVED that the Board of the US Council on International Banking, Inc. on behalf of the organization and its 320 member banks which represent the major banks (of which**

**approximately one half are US and one half are foreign) engaged in letter of credit activities in the US, endorses the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit and urges that it be signed and ratified by the United States of America as soon as possible.**

This action is taken in light of the following reasons:

1. It is the result of six years of intense effort on the part of all elements of the letter of credit community and represents a neutral formulation which preserves and protects the integrity of these instruments;
2. It recognizes and defers to sound practice especially with respect to the examination of documents;
3. It is consistent with the Uniform Customs and Practice and the emerging rules for standby practice;
4. It gives due deference to party autonomy, permitting parties to opt out of the Convention or to vary non-mandatory provisions;
5. It establishes international standards for fraudulent or abusive drawings which preserve the integrity of the institution as a payment mechanism;
6. It permits the integration of standby letters of credit and independent guarantees within an overall transaction;
7. It provides a legal regime by which either an independent guarantee or standby letter of credit can be used and recognized with assurance as to the legal consequences in countries in which the other instrument is solely used and understood;

8. It affords an international legal regime for these instruments which is compatible with that which obtains in the US and other major trading countries;

9. It reaffirms and establishes the legal independence of the letter of credit and independent guarantee;

10. It provides legal definitions which comport with the terminology used in international practice; and

11. It establishes the legal obligations of the various parties to the transaction;

12. It is consistent with and reinforces safe and sound banking practice, as evidenced in the interpretative rulings of the Comptroller of the Currency;

**Therefore, ratification of this multilateral treaty by the United States and other countries will promote international commerce by enhancing the use and value of such instruments and their critical role in the financing of trade and commerce.**

Adopted on 20 June 1997.