The ICC Uniform Rules for Demand Guarantees URDG 758

Advantages of a standardised approach in international business

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The essential characteristic of a demand guarantee is that it is independent of the underlying transaction between the applicant and the beneficiary that prompted the issuance of the guarantee. Further, a demand guarantee is also independent of the instruction relationship pursuant to the applicant having requested the guarantor to issue the guarantee in favor of the beneficiary.
A need for guarantee rules?

• The advantage of standardization in international trade

• Is there a need for guarantee rules?

• Case Study
URDG Revision Roadmap

- Approval of the business case for revision by the Banking Commission (Singapore)

- Approved by the ICC Executive Board

- UNCITRAL

- World Bank

- 25 April 2007
- 23-24 November 2009
- 3 December 2009
- 1 July 2010
- July 2011
- March 2012
- June 2012

- Brussels Banking Commission Meeting
- URDG 758 entered into force
- FIDIC

- World Bank
Used at all stages of a transaction between an exporter and an importer, international bank guarantees are a fundamental instrument of international trade. International guarantees enable secure business operations, to reassure foreign partners and more easily win new markets. The most used form today in international transactions is the first demand guarantee because it provides greater security to the beneficiary on the contract performance and ease of implementation.
Entered into force on 1 July 2010, new rules URDG 758 were developed by the International Chamber of Commerce (ICC) and replace old rules URDG-458 - which dated from 1992. The revision of these rules took nearly two and a half years of consultation in 52 countries. This review allows a regulatory framework that is both more accurate, more efficient and increase its use internationally.
The rules reflect a broad consensus among bankers, users and all members of the guarantee community. In fact, the present revision of the URDG does not merely update the existing rules (458); it is the result of an ambitious project to create a new set of rules for the twentyfirst century that is clearer, more precise and more comprehensive. As such, URDG 758 quickly became the standard text for demand guarantees worldwide.
The rules apply where they have been expressly incorporated by reference in a guarantee or counter-guarantee. Where this is the case the URDG 758 applies entirely unless specific articles are explicitly ruled out or amended. Also, the URDG 758 may apply even if they are not expressly incorporated by reference to the text of a guarantee or counter-guarantee: (i) in the event of indirect, asymmetrical guarantees and (ii) as a result of trade usage or a consistent course of dealing.

As with the URDG 458, the URDG 758 maintains the notion of the guarantee or counter-guarantee as independent of the underlying relationship and of the application, as well as its irrevocability upon issuance even where this is not expressly stated therein.
The new URDG 758 encourage the international usage of Uniform Rules for Demand Guarantees due to its more balanced approach to certain issues and the regulation of others that were not previously covered under URDG 458.

Each party to a demand guarantee or counter-guarantee finds numerous incentives to incorporate the URDG 758. The combination of these incentives results in a successful building of fair and clear guarantees and counter-guarantees.

This, in sum, results in a shorter negotiating process while allowing the applicant more opportunities to secure the beneficiary’s acceptance.
URDG should provide safety in international trade

Thank you!

Questions?

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