

Bills of lading: the sale contract and the letter of credit: Covid-19 and documentary performance



Professor Filippo Lorenzon

Institute of Maritime Law, Dalian Maritime University (PRC)

Training course on Implications of the COVID-19 Pandemic for Commercial Contracts

Table of Contents

1. Reminder: the crucial role of all documents
2. The bill of lading
3. A quality certificate
4. A policy of insurance

1. Reminder: the crucial role of documents

Always remember the 'dual mode performance'!

We will now be zooming into **three** documents to see how they have been affected by the pandemic and what implications Covid-19 has had:

- a. The bill of lading;
- b. A quality certificate; and
- c. A policy of insurance.

And **two** distinct methods of payment:

- (i) CAD; and
- (ii) Letter of credit (UCP 600).

2. The bill of lading

- Why does this document matter?
 - (CAD) A key to the goods giving the buyer access to them and the power of transfer them to on-buyers (document of title);
 - (CAD) A receipt giving evidence that goods were of the contract description when they were delivered (to the ship SOGA s. 32(1));
 - (CAD) A contract of carriage giving them title to sue the carrier in case the goods arrive damaged; and
 - (LC) Part of the key to trigger payment (strict compliance)
- How can Covid affect its issue and availability?
 - Delay in issuing the bill;
 - Delay in transmission.
- How can this be prevented?
 - Virtual key meeting;
 - Electronic bills of lading.

3. A quality certificate

- Why does this document matter?
 - (CAD/LC) Documentary evidence of physical performance;
 - (CAD/LC) Often key in the determination of price (index linking);
 - (LC) Part of the key to trigger payment (strict compliance).
- How can Covid affect its issue and availability?
 - Delay/impossibility of collecting shore/board samples;
 - Delay in issuance and transmission.
- How can this be prevented?
 - Adapting collection and sampling process (caution!);
 - Electronic certificates.

4. A policy of insurance

- Why does this document matter?
 - (CAD) Tender of a valid insurance certificate for the goods shipped is a key requirement under a CIF contract; and
 - (LC) Part of the key to trigger payment (strict compliance).
- How can Covid affect its issue and availability?
 - To my knowledge, Covid has affected the issue and availability of cargo insurance only in very minor ways with small problems in the timing of declarations of shipment under open policies and the usual delays in physical transmission.
- How can this be prevented?
 - Underwriters have been flexible and accommodating and this has allowed covers to be unaffected. As to the issue of delay in transmission, agreeing to tender of an electronic certificate is recommended.

Thank you!



UNITED NATIONS
UNCTAD