

Essay on the principle of autonomy and the documents of credit

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The Principle of Autonomy and the Documents of Credit

Documentary credits are very vital documents in international trade.

Basically, they usually operate under two principles; the Principle of Autonomy and the Doctrine of Strict Compliance, (Garth 2007). The main function of the Principle of Autonomy is to offer a legal fortification between fundamental agreement and a documentary Credit between the beneficiary and the applicant. According to the Autonomy Principle, documentary credit is independent and separate from the contract on which it is based or precisely from a sale, (Garth 2007). Basically, this is based on the fact that the obligation of the bank to pay occurs when compliance documents are presented and not when goods are delivered. As such, banks are not in any way apprehensive with such agreement. Thus, the financial transaction is fundamentally sovereign from the primary transaction on sales. Moreover, banks do not deal with services or goods; rather, they deal with documents. Consequently, undertaking of the fundamental transaction is immaterial to imbursement of the credit. Hence, even if the buyer did not receive the goods payment may be effected and the buyer would be forced to try to find damages from the shipper later on. It should be noted that the whole inspiration following the Autonomy Principle is to guarantee that the responsibility of the bank would not be influenced by any irregularity as far as its primary obligations are concerned, (Garth 2007). It also implies that the seller should not be habituated to get imbursement exclusively by take legal action against the buyer.

Arguably, the Principle of Autonomy is very vital in the reliability of international trade in the context of documentary credit scheme. As a matter

of fact, it is this autonomy that gives the Documentary credits their appeal in international trade. It is true that, this principle acts as a guarantee of payment for the goods purchased extraneous of the execution of the fundamental transaction to which the document of credits relate, (Garth 2007). Additionally, the effectiveness of the Document of credits within the context of international trade is attributed to the Principle of Autonomy. Generally, this principle creates confidence in the parties that are involved in this trade as they are assured of achieving their objectives based on the Documents of Credit. This explains the reason why courts rarely swerve from this principle whenever conflicts arise. Finally, it also aims at shielding the parties of the Documentary Credit from any intrusion from being repaid by the issuer after the beneficiary gets the payment, at the same time allowing the seller to undertake other transactions. However, it is important to note that the Principle of Autonomy has an exception; in case of fraud, an appeal can be made in connection with this principle.

Finally, it Documents of Credits play a significant role in international trade. Based on the fact that the buyer and seller are geographically apart, the principle of Autonomy makes the Documents of Credit to be more effective. Indeed, this principle makes the Documents of Credit to be more appealing in the context of International trade. However, fraud is an exception on the applicability of the Principle of Autonomy.

Reference

Garth, C. W., 2007, Legal and Practice Perspectives on Documentary Credits under the UCP

600. Brisbane: Self-Published.