DEPENDENT AND INDEPENDENT GUARANTEES

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Guarantees play an important role in both domestic and international business contracts/agreements. They are frequently issued as security for default in connection with contracts for the supply of of good, construction and shipbuilding contracts, large scale service contracts, etc.

By issuing a guarantee, standby letter of credit, surety-ship guarantee, the Financial Institutions (generally banks, insurance/surety companies) act as the guarantor for an obligation owed by the applicant. What these instruments have in common is the Financial Institution's promise to standby for the payment of a debt or performance of a service should the applicant fail to fulfill its obligations. They replace the creditworthiness of the applicant with that of the guarantor.

While demand guarantees and standby letters of credit (both together hereinafter referred to as the "independent guarantees") constitute the primary obligations of the Financial Institutions, surety-ship guarantees constitute secondary obligations of the Financial Institutions (hereinafter referred to as the "guarantor").

1. NATURE OF GUARANTEES

Demand Guarantee:

A demand guarantee is an autonomous, independent, irrevocable undertaking issued by the guarantor to a beneficiary on behalf of the applicant to provide the beneficiary a warranty to pay sum of money up to the maximum amount of the guarantee, upon presentation by the beneficiary of a demand in documentary form that complies with the terms of the guarantee.

Demand guarantees are emerged in London started from the form of a traditional suretyship guarantees so It is widely used in the U.K. ,most widely used in Western Europe, and in places where Western European influence is high, particularly in parts of Eastern Europe and former English colonies[1].

Demand guarantees are seen in practice under a broad variety of titles such as '**unconditional guarantee**', '**first demand guarantee**', '**on demand guarantee**', '**letter of guarantee'** or '**bank guarantee**' **'simple demad guarantee'** but '**Demand Guarantee**' is the term used in the Uniform Rules for Demand Guarantees (URDG) rules published by the International Chamber of Commerce (ICC).

The legal nature of the guarantee does not lie in its title but rather in its terms. To avoid confusion or ambiguity, a demand guarantee should not contain terms that may cause the basic independence principle to be in doubt.

The main feature of a demand guarantee is that it is legally independent of the underlying relationship between the applicant and the beneficiary on which the guarantee is based. Any reference(s) to an underlying contract/agreement in a demand guarantee does not incorporate that contract's/agreement's terms into the demand guarantee, it operates strictly in accordance with its terms.

In order to make a demand under the guarantee, the beneficiary does not have to prove the applicant's default. The obligation of the guarantor to pay the beneficiary does not arise on the occurrence of the actual failure of the applicant or breach of the underlying relationship. Payment is made by the guarantor to the beneficiary only upon receipt of a timely simple demand and any other documents required by the guarantee that is in conformity with the terms of the guarantee. The Guarantor will not look beyond the information stated in the documents required for presentation to determine if payment is to be made.

The term **BOND** may also appear in the title of an instrument such as a '**performance bond**' or '**bid bond**'. There is no internationally accepted practice on the use of the term 'bond'. An instrument described titled as a 'bond' may be either a demand guarantee or a suretyship guarantee. In order to determine the type of guarantee, the text of the guarantee should be checked rather than just look at its title.

Standby Letter of Credit:

Letter of credit term is used for both commercial letters of credit and stanby letters of credit and whereas the commercial letter of credit is the primary payment mechanism, the standby letter of credit is a secondary payment mechanism.

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[1] Professor James E. Byrne, (2014). Standby & Demand Guarantee Practice: Understanding UCP600, ISP98 & URDG 758, First Edition, Institute of International Banking Law & Practice, Inc. (IIBLP), p. 32.

Commercial Letter of Credit is an independent and irrevocable undertaking, whereby the issuing bank (applicant's/buyer's bank) to pay the beneficiary (seller) against the presentation of stipulated documents (the documents representing the supplied goods/services such as invoice and bill of lading) that are in compliance with the letter of credit. Although all independent guarantees and letters of credit are also documentary, the commercial letter of credit is also known as Documentary Credit. They are principally used for the sales contracts/agreements to guarantee the payment of the purchase price of the goods and or services by the buyer.

The essential difference between a commercial letter of credit (documentary credit) and a standby letter of credit is that the commercial letter of credit is a payment mechanism used mostly in international trade, whereas the standby is protection against a default and retained as a "standby" instead of being the intended payment mechanism. In other words, Standby letter of credit is paid upon presentation of demand on after conditions have not been fulfilled. However, a Letter of Credit is the guarantee of payment when certain specifications are met and documents received from the beneficiary[2]. In this regard, it operates like a commercial letter of credit it is also payable against presentation of documents.

The standby emerged in New York, it has spread in regions influenced by U.S. banks and businesses. It dominates U.S. practice and has heavily influenced practice throughout North and South America and the Pacific basin. English banks also issue standbys and they have made inroads in the Middle East.[3]

There is a widespread belief that American stanby letters of guarantee are different from the European indedendent guarantee. This is a fallacy. Its fuction, i.e. furnising a security and its mechanics, notably the rule of independence and the documentary credit nature of the conditions of payment, are the same as those of the European independent guarantee[4].

In the same way that a demand guarantee is independent, a principal feature of a standby letter of credit is that it is independent of the underlying relationship between the applicant and the beneficiary. The obligation of the issuer to pay the beneficiary does not arise on the occurrence of an external event, such as a breach of the underlying relationship. The issuer must pay if the beneficiary makes a demand which complies with the terms of the standby letter of credit.

So we can say that a standby letter of credit ('Standby', 'SBLC', 'LOC' or 'SLOC') is also an autonomous, independent, irrevocable undertaking issued by the issuer to a beneficiary on behalf of the applicant to provide the beneficiary a warranty to pay sum of money up to the maximum amount of the standby letter of credit, upon presentation by the beneficiary of a demand in documentary form that complies with the terms of the standby.

Suretyship guarantee:

The principles of suretyship and of surety are not new to the world. The first successful corporate surety was was founded in the UK in 1840[5]. England proved its success in early years of surety companies than the United States did.

Many credit insurance companies are active in surety insurance. This is because of the suretyship guarantee was deemed as a type of insurance.

A surety bond is means a form of security issued for the applicant in favour of the beneficiary to compansate the beneficiary's losses and damages sustained as a result of breach of contructual obligations. Therefore surety bonds are guarantee rather than a contract insurance.

This term is used to describe a guarantee which creates a secondary liability on the part of the guarantor. The guarantor is obliged to pay only if the party on whose behalf the guarantee was issued is actually in default. It is important to distinguish a suretyship guarantee from a demand guarantee because the two types of guarantee operate differently. There are several legal defences available to the guarantor under a suretyship guarantee which are not available to a guarantor under a demand guarantee[6].

It is mostly known under the names of '**surety**', '**suretyship guarantee**', '**surety bond**'. But it is also seen with different titles such as '**accessory guarantee**', '**ancillary guarantee**', '**conditional guarantee**', '**dependent guarantee**', '**conditional guarantee**', and '**guarantees with joint and several liability**'.

Whatever term is used, **it is not an independent undertaking** if the Issuer/Guarantor may invoke:

- defenses against the Beneficiary that are available to 'Principal/Obligor', and

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[2] Roeland F. Bertrams, (2004). Bank Guarantees in International Trade, 3rd revision edition, ICC Publishing S.A. Paris-Newyork., p.7.
[3] Professor James E. Byrne, (2014). Standby & Demand Guarantee Practice: Understanding UCP600, ISP98 & URDG 758, First Edition, Institute of International Banking Law & Practice, Inc. (IIBLP), p. 32.
[4] Roeland F. Bertrams, (2004). Bank Guarantees in International Trade, 3rd revision edition, ICC Publishing S.A. Paris-Newyork., p.7.
[5] W. Schwartzkopf (2006). Practical Guide to Construction Contract Surety Claims, Second Edition, p.6.
[6] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.9.

- defenses of its own including fraudulent inducement, failure of consideration and other defenses that it has against the Principal/Obligor.

Although Banks may involve in a dispute between the parties under the underlying relationship, they don't prefer to issue suretyship guarantees because it is difficult to determine in which situations they should pay. These kind of undertakings are generally issued by the Insurance Companies (Surety Companies).

A suretyship guarantee serves a similar function to that of an independent undertaking in that it is a third party's assurance of performance. As indicated, however, it operates quite differently. The obligation of the Issuer/Guarantor of an independent undertaking is due only if the Applicant has failed to perform and is obligated to the Beneficiary. Also, the obligation is due if the Guarantor of the dependent undertaking has no defenses that it can assert against the Principal/obligor, whereas the obligation of the Issuer/Guarantor of an independent undertaking is due when complying documents are timely presented.[7].

Differences between two different categories of guarantee:

Although the differences between dependent and independent undertakings are stark, it is not always a simple matter to determine whether a given undertaking is dependent or independent.

However, it is vital for all parties concerned that the text of the guarantee provides absolute clarity as regards the nature of the security, namely an independent guarantee as distinct from an accessory suretyship.[8] In this regard, guarantees are routinely segregated into two categories as below:

- Independent undertakings, such as demand guarantees and standby letters of credit,
- Dependent or accessory undertakings such as suretyship guarantees and indemnities.

Understanding the distinction between the two categories of guarantee is a fundamental basis for good practice in handling demand guarantees and standby letters of credit. The failure of Banks, corporate customers and lawyers to recognise the differences often results in poor drafting and consequent disputes over the parties' respective rights and obligations. At first sight these two categories of guarantee may look similar, however, the legal basis and the practical operation of each category are very different. It is therefore important to understand the principal differences between them.

In many countries the traditional form of guarantee recognised by the local law will be the suretyship guarantee. Lawyers and judges will have studied this form of guarantee as part of their training and professional practice. However, they may not be familiar with a demand guarantee or a standby letter of credit and they may therefore think about a guarantee in terms of a suretyship guarantee, rather than a demand guarantee. This can present problems in the event of a dispute. Clear drafting is, therefore, very important in showing that the instrument in question is a demand guarantee or standby letter of credit[9].

An independent undertaking is an undertaking that is a written, signed, and definite promise to honour a timely documentary presentation that comply on their face with its terms and conditions on or before the expiration of the undertaking. The name "independent undertaking" is derived from the most important characteristic of this type of undertaking, namely its independence from the underlying transaction[10]. So the guarantor is obligated to pay whether or not there is a dispute between the applicant and the beneficiary about whether the obligation is due.

On the other hand, a suretyship guarantee (dependent undertaking) is not an undertaking to pay a specified sum or maximum sum on demand, the beneficiary must be able to prove its loss and the payment amount has to be ascertained on proof.

While an independent undertaking is similar functionally to a dependent undertaking, there are significant differences. The promise of the issuer of an independent undertaking turns not on proof of the occurrence of an event but rather on the presentation of documents which evidencing the failure event has occurred.

In that sense, it should be noted that;

[7] Professor James E. Byrne, (2014). Standby & Demand Guarantee Practice: Understanding UCP600, ISP98 & URDG 758, First Edition, Institute of International Banking Law & Practice, Inc. (IIBLP), p. 10-11.
[8] Roeland F. Bertrams, (2004). Bank Guarantees in International Trade, 3rd revision edition, ICC Publishing S.A. Paris-Newyork., p.91.
[9] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.29.
[10] Professor James E. Byrne, (2014). Standby & Demand Guarantee Practice: Understanding UCP600, ISP98 & URDG 758, First Edition, Institute of International Banking Law & Practice, Inc. (IIBLP), p.1.

- independent guarantee is a primary undertaking by the guarantor in favour of the beneficiary and the obligation of the guarantor or issuer does not depend on the actual liability of the applicant to the beneficiary under the underlying relationship[11],and
- Suretyship guarantee is a secondary obligation in that it arises only if the applicant has a legal liability to pay the beneficiary. The guarantor's liability is generally co-extensive with that of the applicant (principal debtor) so that the obligation of the guarantor is no greater than that of the applicant and if the applicant is not legally obliged to pay, the guarantor is not liable either[12].

It should finally be mentioned "unconditional" or "abstract" are used when describing independent guarantees. But this doesn't mean that they don't contain any condition in them. They contain documentary conditions for the payment and these terms are used to signal that they are not conditioned on performance of the underlying transaction.

Reference to the underlying relationship: Guarantees contain a description of the underlying relationship usually at the begining of the guarantee. This reference is only made to indicate in respect of which relationship the guarantee can be called. These kind of references do not turn an independent guarantee into a surety-ship guarantee.

Also guarantees are usually issued in respect of an underlying business agreement/contract between the applicant and the beneficiary but this is not always the case.

- Tender guarantees are issued as a preliminary deposit and issued before the contract and may be called in the event that the applicant (bidder) fails to sign the guarantee and or to furnish a performance guarantee etc.
- Customs guarantees are issued in favour of the local customs and excise agencies in the country of destination to cover the temporary import by the applicant of goods or equipment. It may be called if the goods are not cleared within a certain period of time so we can say that there is a legal relationship between the applicant and the customs authority/excise agencies.

Therefore, although one will often see references to the 'underlying contract' or the 'underlying transaction', it is usually more accurate to refer to the 'underlying relationship'.[13]

2. THE PARTIES OF GUARANTEE LETTERS:

Applicant/Principal: The party whose behalf the demand guarantee or standby letter of credit is issued and which has an underlying relationship with the beneficiary. Oftenly, it is also the instructing party. But there may be cases where the applicant may not have a credit-relationship and/or non-cash credit limit granted by the guarantor for the issuance of a guarantee. In such cases another party (i.e. the parent company) may use its own credit limit to obtain a guarantee in favour of the applicant.

Instructing party: This party is defined in the URDG758 as "the party 'who gives the instructions to issue the guarantee and is responsible for indemnifying the guarantor". The instructing party is generally the applicant, but the instructing party will be different from the applicant in cases where another party gives instructions to the Guarantor/Counterguarantor to issue a guarantee/counter-guarantee on behalf of different party.

In this case, while the party on whose behalf the guarantee is issued is the applicant, the instructing party is the party which gives its instruction to issue the guarantee or counterguarantee to the guarantor/counterguarantor and entitled to an indemnity for its outlay.

Beneficiary: ISP98 defines 'beneficiary' as the named person who is entitled to draw under the standby and URDG 758 defines 'beneficiary' as the party in whose favour the demand guarantee is issued.

Guarantor/Counter-guarantor: The "guarantor" is the party that issues a guarantee on behalf of the applicant and directly in favour of the ultimate beneficiary. In case of counter-guarantee issuance, the party issuing the counter-guarantee in favour of the guarantor or second counterguarantor (if there is any counterguarantee chain) is called a counterguarantor.

Issuer: The "issuer" is defined in the ISP98 as the party that issues a standby letter of credit. But this term is also used for the issuers of demand guarantees and surety-ship guarantees.

Surety: Also known as the guarantor. The surety is the organisation that assumes responsibility for the debt if the debtor, for example, if the contractor, defaults or cannot make the payments.

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[11] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.28.
[12] Trevor C. Hartley, (1974). The law of suretyship and indemnity in the United Kingdom of Great Britain and Northern Ireland and Ireland, Brussels, March 1974, P.4
[13] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.7.

3. TECHNICAL TERMS AND DEFINITIONS:

Counter-guarantee / Counter-undertaking: A definite undertaking issued by a counter-guarantor in favour of a guarantor or a second counterguarantor (if there is any counterguarantee chain) is a "counter undertaking".

It can be in the form of a standby LC or demand guarantee issued by a Counter-Guarantor or Counter Standby Issuer. If it is a form of a standby LC, it is called a 'counter-standby' and if it is a form of demand guarantee, it is called a "counter-guarantee".

It is often used when two or more Financial Institutions in different countries are involved in the provision of a guarantee. A structure using a counter-guarantee is sometimes referred to as an '**indirect guarantee**'.

Issuance: A demand guarantee must be in writing, either in paper form or in electronic form. If it is in paper form, it should be signed. If it is in electronic form, the identity of the issuer must be authenticated. SWIFT messages are often used for demand guarantees since they are automatically authenticated. A facsimile or pdf copy of a demand guarantee may not be sufficient without a signed original document.The demand guarantee can be issued by the guarantor as per the written instructions of the applicant or instructing party See below explanation of the terms 'applicant' and 'instructing party'.[14].

MT760 (Messagge Type 760) can be used for both demand guarantees and standby letters of credit but also MT700 can be used for the standby letters of credit. it is typically made subject to ISP98 or UCP600.

Confirmation: A definite undertaking of the confirming bank, in addition to that of the issuing bank, to honour or negotiate a complying presentation made under the commercial or standby letter of credit. A confirmation is a separate undertaking independent from the standby and not necessarily identical. It can, for example, be for a different amount or time frame. Of greater significance is how it is intended to operate with respect to the underlying transaction.

The role of the standby is closely related to the person to whom presentation is to be made. There are several options. Standbys can provide for presentation only to the Confirmer, only to the Issuer, or to both Issuer and Confirmer. One of the questions to be considered where presentation may be made to more than one bank is whether the presentation, e.g., from the Nominated Bank to the Issuer, must be before expiration[15].

Independent: A demand guarantee, a standby letter of credit and a commercial letter of credit are all 'independent'. This means that these instruments are independent of the underlying relationship between the applicant and the beneficiary. '**Autonomous**' also can be seen instead of 'independent' and **Autonomous** has same meaning as independent.

However in action on a surety-ship guarantee the beneficiary must prove the failure of the applicant and/or breach of contract and the guarantor has a right to use all defences available to the applicant.

Irrevocable: This means that the guarantee cannot be amended or revoked without the consent of the beneficiary. Therefore, the beneficiary has the protection of the guarantee until the designated expiry date or expiry event.

It should be noted that a demand guarantee or standby letter of credit incorporating ICC rules is 'irrevocable' but if a guarantee is not subject to any rule, it should expressly state that it is irrevocable.

Expiry date/expiration date: This is the date specified in the demand guarantee or standby letter of credit as the latest date on which a demand may be presented. While ISP98 uses the term '**expiration date'**, URDG 758 uses the term '**expiry date**'.

Demand/presentation/drawing/call: all these terms are often used interchangeably,depending on the context in which they appear. As a noun, 'demand' can mean either the act of making a presentation or the document in which that demand was made. In other wors, either the act of delivering documents or the documents actually delivered. URDG 758 and ISP98 have different definitions of 'demand' and 'presentation', which need to be understood. 'Drawing' is a term used in UCP 600 and ISP98. 'Call' is not defined, but may be used generically, such as to make a call on a guarantee. A '**complying presentation**' is a presentation which complies with the terms and conditions of the demand guarantee or standby letter of credit, including any rules applicable to the instrument.[16]

Comparing Confirmations and Counter Undertakings: In many aspects, standby letters of credit and demand guarantees are similar, This is one area in which demand guarantee practice differs significantly from standby letter of credit

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[14] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.3

[15] Georges Affaki, (2012). "URDG 758 - Two Years Later, The URDG Newsletter- An ICC Banking Commission publication Issued by the ICC Task Force on Guarantees, 1 July 2012, p.58.

[16] [16] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.11-12.

practice. The structure of a standby letter of credit is set out in **Figure 1**. The structure of a guarantee and counter-guarantee, which is often referred to as an indirect guarantee, is set out in **Figure 2**[17].

Figure 1: Standby Letter of Credit Structure:

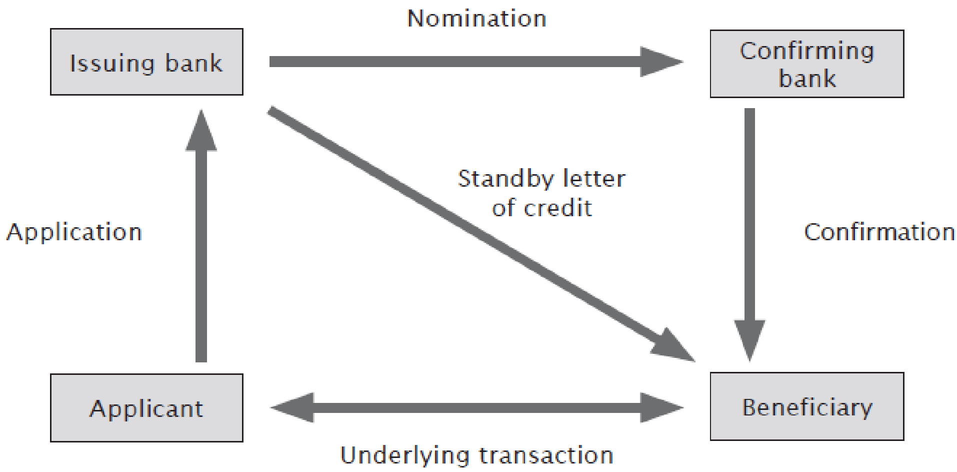
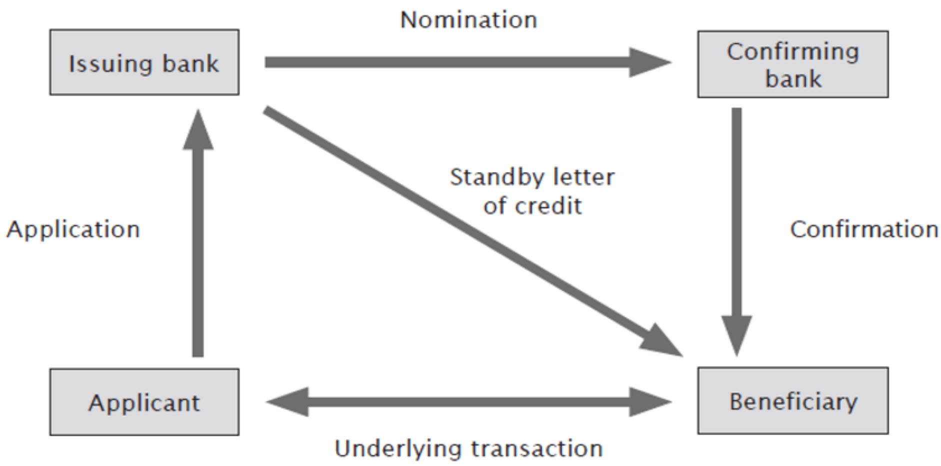


Figure 2: Guarantee and Counterguarantee Structure:



In **Figure 1** there is only one standby letter of credit. The issuing bank gives an undertaking to the beneficiary on the terms of the standby. That standby is then confirmed by the confirming bank in favour of the beneficiary. The terms of the confirming bank's obligation to the beneficiary are identical to the issuing bank's obligations to the beneficiary. In normal circumstances, the beneficiary will present a demand to the confirming bank, the confirming bank will check that the demand complies with the terms of the standby and, if it does comply, the confirming bank will pay the beneficiary. The confirming bank will then forward the beneficiary's demand to the issuing bank and will be entitled to be reimbursed by the issuing bank.

By contrast, in **Figure 2** there are two separate guarantees. The first is the counter-guarantee issued by the counter-guarantor in favour of the guarantor. The second is the demand guarantee issued by the guarantor in favour of the beneficiary. The demand guarantee and the counter-guarantee may have different terms and be subject to different laws and legal jurisdiction. In normal circumstances, the beneficiary will present a demand to the guarantor, who will then check that the demand complies with the terms of the demand guarantee. If it does comply, the guarantor will pay the beneficiary. However, the guarantor has no automatic right to reimbursement by the counter-guarantor. Instead the guarantor must present a demand under the counter-guarantee which complies with the terms of the counter-guarantee.

There is a further difference between the two structures. In the event that the confirming bank defaults and fails to pay a complying demand, the beneficiary of the standby letter of credit has the right to present a demand directly to the issuing bank and to be paid by the issuing bank. However, if the guarantor defaults, the beneficiary of the demand guarantee has no right to present a demand directly to the counter-guarantor[18].

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[17] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.3

[18] Stephen Tricks, (2017). A Practitioner's Guide to Demand Guarantees, The London Institute of Banking & Finance 2017, p.16.

One of the questions that will immediately occur to a person familiar with standby practice is why not use a confirmation instead of a counter undertaking. This question would not occur to persons exclusively familiar with demand guarantee practice simply because there historically has not been a confirmation under demand guarantees. The principal difficulty in counter-guarantee practice has been the possibility of misalignment between the counter undertaking and the Local Undertaking. A confirmation reduces this danger and provides the Local Beneficiary with two solvent entities to which it can turn.

On the other hand, as per the local legislations of some countries, such as in the Middle East and in North Africa, the beneficiaries must furnish the standard guarantees promulgated by the government authorites which must also be issued by the local banks. For these kind of transactions, confirmed standby letter of credit would not be appropriate.

While URDG 758 does not provide for confirmations, a demand guarantee subject to ISP98 or UCP600 could be confirmed. Under such a confirmation, the Local Beneficiary could claim against the Confirmer which would presumably be a Local Bank. The Confirmer would be entitled to reimbursement pursuant to its nomination as a Confirmer of the Issuer/Guarantor's undertaking. In addition, the Beneficiary could at its option claim directly against the Issuer/Guarantor, although it is unlikely that it would do so[19].

Vice versa, a counter-stanby subject to ISP98 could be issued for the issuance of a local demand guarantee. Under such local demand guarantee, the beneficary would send its demand to that local guarantor. But in that case, Beneficiary could not send its claim directly to the Issuer of the Counter-Stanby to the detriment of its interest and benefit.

International rules: There are several sets of rules which may be incorporated into demand guarantees and standby letters of credit, such as:

URCG

Uniform Rules for Contract Guarantees, 1978 edition (CC Publication No. 325), Apart from creating uniformity, the URCG aimed at encouraging more equitable practices in the area of guarantees, especially by reducing the opportunities for abuse. It was, therefore, considered desirable that the URCG should not provide for first demand guarantees payable without any evidence of default. Because of the strong bargaining position of importers, this explains why the URCG have largely remained unacceptable. Another factor which contributed to their ill fate is that the URCG are rather general, imprecise, fragmentary and conceptually fragile[20].

UC600

Uniform Customs and Practice for Documentary Credits, 2007 Revision (ICC publication No. 600), These rules are primarily designed for documentary credits. Although they can be used with standby letters of credit, it is not exactly suitable for a standby letter of credit or a guarantee.

ISP98

International Standby Practices, 1998 edition (ICC publication No. 590) These rules are designed for standby letters of credit. They are equally applicable to demand guarantees, but are not appropriate for documentary credits.

URDG758

Uniform Rules for Demand Guarantees, 2010 revision (ICC publication No. 758). These rules are designed for demand guarantees, but may be used for standby letters of credit. They are not appropriate for documentary credits.

So we can say that, functionally, a demand guarantee is identical to a standby letter of credit, if the demand guarantee is subject to ISP98:

[19] Georges Affaki, (2012). "URDG 758 - Two Years Later, The URDG Newsletter- An ICC Banking Commission publication Issued by the ICC Task Force on Guarantees, 1 July 2012, p.65.

[20] Roeland F. Bertrams, (2004). Bank Guarantees in International Trade, 3rd revision edition, ICC Publishing S.A. Paris-Newyork.,P.28.