



ADOPTION OF ELECTRONIC DOCUMENTS IN DOCUMENTARY BUSINESS, June, 2024

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France has adopted MLETR following Singapore, Bahrain, Abu Dhabi Global Market and the United Kingdom. Germany and the US to follow as well soon.

Enabling digital original (title) documents such as drafts and bills of lading to replace paper documents is a major step forward. This opens, with no doubt, the way to very significant improvements in terms of efficiency, save of time, cost reduction and better access to financing.

However, enacting such laws at country level only delivers the first brick of the building as trade finance transactions involve several parties, most of the time in different geographies:

- Importer
- Exporter
- Bank of the importer
- Bank of the exporter
- Insurer
- Carrier
- Controller/auditor

A key next point of attention is to focus on a standard framework for digital documents in trade transactions. This already exists through ICC's e-UCP and e-URC respectively for documentary credits and documentary collections.

So, as both instruments involve closely (French) banks, these should encourage their correspondents (in the countries of the importers-example contemplated here) to systematically allow e-presentations in these transactions (so, to have such instruments governed by e-UCP & e-URC). This would, with no doubt, push ahead a wide adoption of digital documents to be presented in the frame of documentary credits/collections.

Where are bills of exchange and bills of lading ("title documents") used, among other documents?

1. In documentary credits available by acceptance and negotiation, this mainly happens with middle & far east countries as well as with Americas and some eastern African countries.
2. In documentary collections available by "payment against acceptance" (D/A) so, adopting e-UCP/e-URC for such instruments should immediately boost the use of digital original title documents and, more globally, e-presentations (so, including as well non-title documents such as invoices, packing lists, etc)



3. In medium-term supplier credits for machinery & equipment where sets of bills of exchange are used as instruments to process the (quarterly/bi-annual) instalments and are the enforceable receivables freely assignable (via endorsement) to insurers and financiers
4. In Public contracts where industrials are supplying public entities (cities, regions, countries, etc.). Such contracts foresee often commercial drafts that can be easily refinanced/discounted (bills of exchange and promissory notes)
5. In B2B transactions (open account) where the receivable from creditor(supplier) on the obligor (buyer) is instrumented via a draft (either a BoE or a PN) either with the intention to keep it until maturity/payment or to refinance/discount it in the market
6. In many other cases as collateral for creditors, these being financial institutions or not

Of course, in the above use cases (3 to 6), e-UCP/URC are not applicable and both parties must agree contractually to instrument the sale and the financing through digital documents (except if they are legally contracting in one of the countries having adopted MLETR yet) – thus, there's a potential issue here : incompatibility with the laws of the importer's (or exporter) country ? that are not considering e-documents as legally enforceable, hence practically rendering any local bank financing impossible and, above all, not recognizing the liability arising from the "e-obligation" as valid.

CONCLUSION

Apart from local transactions (in the same country or between parties from countries having already adopted MLETR), there's a long way to see a global adoption of digital original title documents.

However, in the frame of documentary business all could be quickly aligned:

- In view of the recently enacted French law, (French) banks, together with ICC, could be key enablers here: by encouraging their correspondent banks in the relevant countries to issue documentary credits/process documentary collections under e-UCP/URC
- In view of the substantial savings and improvements arising from such documentary digital process*, (French) banks, as incentive, could offer rebates to their correspondents to adopt widely e-UCP/URC
- Save of time and costs
- Direct control of the dispatch process (no need any more for express delivery mail providers)
- Substantial reduction of operational risk (loss of documents, fraud, etc)
- Easier access to financing (even for shorter durations/increase of financing period)
- Evidence of the central role played by banks in the trade finance ecosystem.

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