



## 제8장 Documents



유 하상

## 3-1. Nature of Contract

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#### 1. Invoice

An Invoice is a detailed statement of the goods purchased, and sent by the seller to the buyer at the time the goods are shipped or forwarded. The word "invoice" is derived from a French word "envoi" (means sending).

An invoice (sometimes called a "bill" in the U. S. A.) is a written statement sent by the seller to the buyer, giving details of the goods sold, or of the charges for work done or services rendered, and by means of which the seller notifies the buyer of the amount for which the latter has become indebted.

Its purpose is thus to secure the adjustment of the accounts between the two parties in accordance with the transaction to which it refers and to enable the buyer, whether of goods or services, to check the accuracy of such adjustment.

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#### 2.2 Certificate of Origin

The products of the countries with which special commercial treaties have been signed enjoy the privileges of the conventional tariff which assesses duties at lower rates than the general tariff.

To receive the benefit of the lower rates, the exporter must prepare in his shipping papers a Certificate of Origin, a paper certifying that the goods to be exported are the product of Korea and of no other country.

This certificate is issued or verified by the consul stationed in this country, just as in the case of the consular invoice mentioned as above, or it is often attested by the chamber of commerce and industry in the locality of shipment.

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#### 3.1 Marine Insurance Policy

Marine insurance is one of the most important subjects of foreign commerce.

It is a contract which one party who is called the "Insurer" or "Underwriter," in consideration of being paid a stipulated sum or "Premium," undertakes to insure another who is called the "Insured" against risks, or "perils of the sea," to which the ship, merchandise or other interests such as freight may be exposed during a certain voyage or for a certain fixed period of time.

The instrument containing the contract to insure is called the "Policy."

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The "Marine Insurance Policy" is the written contract of insurance which the shipper (known as the "insured" or "assured") makes with the insurer.

In this policy are set forth in detail the rights and liabilities of both parties to the contract.

The policy may be defined as the legally binding agreement of an insurer to indemnify the insured against loss suffered in connection with a maritime adventure through a peril of the sea.

In order to meet the requirements of the law, the policy must specify the name of the insured, the subject-matter insured, the risk insured against, the sum insured, the voyage or period of time covered by the insurance, the name of the ship, the ports of loading and discharging, the amount of premium the place and the date of the contract, and the name of the insurer.

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#### 3.3 Certificate of Insurance

In an *Open Cover* contract, a *Certificate of Insurance* in the place of a regular policy is issued from the insurance company against "Provisional Declaration" made by the shipper.

Certificates of insurance are generally accepted as a satisfactory evidence of insurance and are considered as the same with regular marine insurance policies unless otherwise specified in the letter of credit.

It should, however, be noted that according to the custom of British Banks Certificates of Insurance was not recognized as the Policies, as has been prescribed in the note (d) of Article 34 of "Uniform Customs and Practice for Commercial Documentary Credits, 1993 Revision" in the following words: "Unless otherwise stipulated in the Credit, banks will accept an insurance certificate or a declaration under an open cover pre-signed by insurance companies or underwriters or their agents.

If a Credit specifically calls for an insurance certificate or a declaration under an open cover, banks will accept, in lieu thereof, an insurance policy.

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#### 4. Bill of Exchange

The legal definition of the "Bills of Exchange" as given in the English Bills of Exchange Act of 1882, is "An unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a certain sum in money to, or to the order of, a specific person, or to bearer." In common speech a bill of exchange is called a "draft".

The person signed the draft is known as the "drawer", the person on whom it is drawn as the "drawee," and the one to whom it is made payable as the "payee."

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#### 4.2 Sight and Time Bills

Bills of exchange are classified according to the method for determining the date on which payment is the from the drawee.

The date of payment is usually either "on demand" or "at a fixed of determinable future time."

A bill of exchange payable on demand is called a "sight" or "demand" bill, and a bill payable at a future time is termed a "time," "period," or "usance" bill. The sight bill is to be presented to the drawee as soon as it is received by the foreign bank, and payment is to made immediately upon presentation.

Very often documents arrive some days or weeks in advance of the goods, and no importer likes to pay for the goods until their arrival.



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In many countries, therefore, it has become the custom for the bank to defer presentation of sight draft pending arrival of the goods.

As regards the time bill, payment is made at a certain number of days or months after sight or after date.

A bill drawn at thirty days after sight (at 30 d/s) means that the drawee must pay the bill at thirty days after the date on which the bill has been presented.

A bill drawn at thirty days after date(at 30 d/s) means that the drawee must pay the bill at thirty days after the date on which the bill has been drawn, regardless of the time elapsed in presenting it.

In the case of a time bill, showing the bill to the drawee is not in itself sufficient to establish legal evidence that the bill has been presented.

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The drawee usually writes the word "Accepted" and the date across the face of the bill and signs his name underneath.

The bill that is accepted is the legal agreement of the drawee to pay it at maturity. Foreign bills of exchange are usually drawn at a certain number of days after sight, i.e. thirty, sixty or ninety days after sight; very seldom they are drawn at a certain number of days or months after date.

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#### 4.3 Clean and Documentary Bills

In financing foreign trade there are two types of drafts drawn by the shipper on his customer.

They are known as "clean" and "documentary" drafts.

A clean draft is one which is unaccompanied by any documents and is, as a rule, a draft drawn in accordance with previous arrangements as to the financing of the shipment of merchandise, or for any other amounts owed to the drawer by the drawee.

A documentary draft is one to which the shipping documents are attached, and is adopted in order to safeguard the interests of shippers.

It ensure that delivery of a shipment to the consignee will only be made after terms of the shipper have been met.

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By attaching bills of lading to a draft and presenting all to the consignee through a responsible third party (almost always a banker), the shipper makes certain that his draft, i.e. his terms of sale, will be satisfied before he parts with his goods.

The third party handling the draft and documents as an agent for the shipper will not otherwise surrender the bills of lading, the possession of which gives title to the goods they represent.

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