



International Chamber of Commerce

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**Policy and Business Practices**

## **Commission on Banking Technique and Practice**

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Meeting on Tuesday 22 March and Wednesday 23 March 2011, Zurich  
Marriott Hotel, Neumuehlequai 42, Zurich 8001 Switzerland

### **Executive summary**

Tuesday, 22 March 2011

#### **1. Introductory remarks**

The Chair, Kah Chye Tan welcomed all participants to the meeting. He thanked delegates for their presence and presented the missions that the Banking Commission would embark under his leadership. This would include maintaining ICC's traditional work, while also commencing a new era of trade, such as the Basel discussions.

**Kunihiko Minakuchi**, from Bank of Tokyo Mitsubishi UFJ thanked the ICC Banking community for their support and read a letter from the Bank of Tokyo Mitsubishi UFJ Chairman on behalf of ICC Japan. The letter explained Japan's disarray after the earthquake that struck on March 11, where more than 7,000 people were lost. On behalf of ICC Japan, Mr Minakuchi thanked the Banking Commission community for their heartfelt messages and warm support.

#### **2. Keynote Speeches**

**Gerold Bühler - Chair, Economiesuisse, Switzerland** welcomed the ICC Banking Commission on behalf of Economiesuisse and the Swiss Business Federation. Mr Bühler thanked Kah Tan Chye, the Banking Commission Chairman, and the Banking Commission in full for their work during the year and their engagement in the field of international cooperation.

In his remarks he focused on the importance of open markets and free trade agreements, asserting that trade and investments beyond borders is the core of trade value and what will increase wealth in all countries. Mr Bühler then spoke about Switzerland's stance during the economic crisis, and highlighted three key points that kept the Swiss economy afloat. First, he mentioned an institutional mechanism, introduced in the 90's, against the building of debt. This allowed Switzerland to avoid the deficit and keep the public debt ratio of GDP below 40%. Second, he highlighted the diversification of the Swiss economy, which includes three main sectors: the financial sector, the non-financial sector, and the "good and strong" industrial sector. Third, he noted that economic policy issues and regulations not only behaved, despite the crisis, but also contributed to the country's economic stability.



Mr Bühler wished everyone a successful meeting, and introduced Jean Pierre Danthine, member of the board of Swiss National Bank, to the stage.

**Jean-Pierre Danthine, Member of the Governing Board, Swiss National Bank**, introduced a discussion on the current economic situation in Switzerland. Mr Danthine pointed to three reasons why the Swiss economy experienced only a recession and not a “great depression”. He first pointed to the debt break rule that kept the Swiss economy from accumulating debt ahead of the recession. He then explained that Switzerland experienced only a relative fall in GDP partly because the domestic economy, measured by consumption, continued to do relatively well. This indicated that the fall in GDP was almost exclusively externally driven due to a fall in exports.

Mr Danthine suggested that while some parts of the export industry were preserved, others were violently affected. One of these was the service industry, dropping 55% in demand. According to Mr Danthine, the Swiss economy was lucky to enter the crisis at a time when it had experienced a number of growth years, which were reflected by high growth rates in disposable income or real employee compensation. Although other countries may have experienced the same situation prior to the crisis, Mr Danthine explained that the distinguishing feature in the Swiss economy was its lack of excess build up, particularly in the real estate market.

Mr Danthine explained the Swiss consumer behaviour, noting that Swiss people started to save as the economy developed. At the height of the crisis, though, Swiss consumers decreased their savings in order to maintain consumption during the crisis. This positive behaviour contributed to maintaining demand and helped to balance the economy.

### 3. Highlights

**Georges Affaki**, Member of the Executive Committee and Head of Structured Finance, CIB Legal, BNP Paribas announced the adoption of URDG 758. This was an outcome of a process that started 30 years ago, when ICC began drafting rules that would standardise a healthy and successful international guarantee practice. Mr Affaki ended his speech by reporting the release of a new ICC guide for URDG, which included the joint expertise of its drafters, and aims at answering questions when practicing guarantees under all legal systems.

**Roy Goode- Norton Rose**, professor of English Law at Oxford University reiterated the importance of the URDG guide and urged the banking community to use it so that URDG 758 may become a business standard.

- **Trends and opportunities in the global economy: On the recovery path?**

**Jean-Pierre Chauffour**, Lead Economist of The World Bank presented a new book regarding trade finance during the great trade collapse, documented in one volume. He explained the four sections of the book, which consisted of the following: Defining and



explaining trade finance, especially between banking intermediated trade finance and inter firm trade finance; The role of trade finance during the crisis; Government intervention during the crisis; and The response from international institutions.

Additionally, Mr Chauffour presented the work of a new research and prospect group at the World Bank, which found that for most developing countries the crisis was over. However, for other parts of the world, specifically Eastern Europe and Central Asia, the crisis was still evident.

Mr Chaufford explained that some of the main challenges in overcoming the crisis included discovering ways to put countries back on a sustainable fiscal track, and ways to better re-regulate the financial system. In terms of risks, Mr Chauffour asserted that the crisis was partly related to the type of monetary policy, monetary easing and qualitative easing.

In his concluding remarks, Mr Chauffour stated that although the world economy was recovering, it continued to face new risks.

#### **4. Market Intelligence Round Table – The ICC Global Survey 2011: Presentation of key findings**

**Kah Chye Tan** Chair of the ICC Banking Commission invited Vincent O' Brien to introduce a discussion of the ICC Global Survey

**Vincent O'Brien**, Chair of the Trade Finance Market Intelligence Group, described the work of his panel as the result of a partnership with bankers, ICC national committees and more than 100 countries. He added that SWIFT statistics and figures not only gave the survey volume, but also value in terms of regional development and indicators of trade. He then introduced Gary Collyer for a presentation on key findings and to speak about operational issues that have come back from the survey.

**Gary Collyer**, Senior Technical Adviser of the Banking Commission, explained that responses were received from 210 banks in 94 countries, an increase of 30 compared to the year before. Additionally, there were contributions from the World Bank, the Berne Union, EBRD, IFC, ADB, AFB, and AIDB.

The following are some of the survey findings in bullet points:

- 58% of those surveyed indicated that they expected an increase in export LCs, and 60% on the import side.
- When looking at guarantees, those surveyed indicated an expected 42% increase on the export side, and 38% on the import side.
- 12% of respondents indicated a decreasing corporate trade credit lines compared to 40% in 2010.
- 13% in decrease in FI trade credit lines compared to 42% from last year's survey.
- 69% indicated that they will be actively increasing their corporate credit lines, with 53% on FI credit line side.



- 83% of the respondents indicated an increase in the demand for bank undertakings, signifying that bank guarantees, standby letters of credit, confirmation under letters of credit, and issuance of letters of credit were still prominent in the minds of the corporate base to which they serve.
- On the other hand, 34% of banks have seen an increase in the number of refusals under letters of credit, in particular if compared to the 2010 survey.
- 40% indicated an increase in the number of claims under standby letters of credit and guarantees, from 44%.
- 26% indicated an increase in the number of injunctions.
- When looking at risk rating and whether banks looked at how they assessed their risk in 2010 and the effects of Basel II and Basel III, 69% indicated that they had not changed any of their risk rating criteria in 2010. They believe they were adequate enough to cover what they needed.
- 35% indicated that they expect Basel III to negatively or very negatively impact their business.

**Andre Casterman**, Head of Trade and Supply Chain, SWIFT, presented SWIFT's trade finance statistics. In his presentation, Mr Casterman noted that Asia Pacific was one of the highest users of trade finance on the import side, almost reaching a mark of 1.1 M messages on a monthly basis. Some identifying peak points were in Africa, where continuous growth was found between 2008 and 2009, and specifically from Algeria during 2009 and 2010.

On the Asia Pacific side, Mr Casterman noted a visible decrease in imports between 2008 and 2009. However, a 10% growth was seen between 2010 and 2009 from China at 15%, and India at 13%.

On the export side, there was a wide gap between the Asia Pacific countries and the Euro Zone. Algeria was driving the growth from Africa with 76% and on the Asian side, China with a 13% increase and the 8.2% overall growth in Asia Pacific. In terms of regional break down, the top two regions in terms of volumes of letter of credit issues were Asia Pacific and Euro zone, whereas in the average value of letter of credit issued are non-Euro zones and the Middle East.

Mr Casterman explained that the value analyser was the new module in the Watch product range that enabled to drill into institution specific data, and statistics. In that tool, one could find a combination of volume statistics and value statistics for your institution and can drill into specific messages, specific groups between one country and another country, and corridors. In his concluding remarks, Mr Casterman reminded the audience that SWIFT's role was simply to provide them with data, a role they will continue to take on a continuous basis.

**Vincent O'Brien**, Chair of the Trade Finance Market Intelligence Group, then welcomed Mr Ranil Salgado from the IMF.



**Ranil Salgado**, Division Chief of the International Monetary Fund, also presented key findings of the survey as the previous panellists, and found that the views of the IMF reflected most of Jean Pierre's views from the World Bank. Mr Salgado explained that although some of the trade collapse could be attributed to difficulties in the financial sector in terms of supply constraints for trade finance, the large majority of the decline in trade reflected demand developments, related to the financial crisis itself. He explained that there was a rebound in global growth, specifically in the emerging world where GDP was well above what it had been at the beginning of the crisis. But just as the World Bank had previously mentioned, the IMF was also concerned that some of the countries may be overheating.

Although the advanced countries were recovering from a pretty substantial financial crisis, a number of countries had much higher levels of debt than they had earlier. One of the grave uncertainties in moving forward was to be able to move towards plans in which you have some consolidation of fiscal deficits. A reduction in those deficits is essential so that you can achieve longer term fiscal sustainability in the context that the domestic economies still need some economic support.

In that sense, Mr Salgado asserted that there was more concern about the USA and Japan, where the recent changes required continuing fiscal stimulus. The appropriate balance needed to be taken into account. In his concluding remarks, Mr Salgado touched on the subject of Japan's tragedy.

**Daniela Carrera Marquis**, Chief, Financial Market Division for the Inter American Development Bank explained that the aftermath of the financial crisis impacted smaller economies and smaller banks due to a lack of access to the right financing.

In Latin American the lack of financing has had a very strong impact on development, especially when noting that an estimated 80% of the jobs come from SMIs. Ms Carrera Marquis disclosed that the focus of IADB's programmes and all interventions on trade finance has been to promote access to smaller banks, banks that serve SMIs, and the smaller economies that continue to face these limitations.

**Fabrice Morel**, from the Berne Union discussed credit insurance. He specifically touched on two areas of business; one involved the short term export credit insurance, and transactions with credit terms of one year or less, usually referred to as trade finance. The second area touched on medium-long term export credit insurance for the longer tenures, usually referred to as export finance.

From a survey conducted by Berne Union, two of the most important findings were that most credit insurers covered trade finance instruments. The second was that 90% of the respondents said the loss on trade finance instruments were much lower or lower than on open accounts. Mr Morel concluded his presentation by noting that Berne Union members cover roughly 10% of the world exports, and opened the discussion to all members.



## 5. Highlight - Strengthening the resilience of the banking industry and the new regulatory regime

**Karl Cordewener**, Deputy Secretary General, Basel Committee on Banking Supervision (BCBS), shared his insight on Basel as well as concerns expressed by the trade finance industry.

In his presentation, Mr Cordewener mentioned that some banks had built up massive leverage to finance growth, often supported by insufficient capital. Additionally, credit underwriting standards, in particular related to residential mortgages, were poor. Mr Cordewener explained that loans were granted without any documentation and equity requirements. To make things even worse, those loans were then securitised and investors underestimated the riskiness. Banks, unfortunately, let the capital base and liquidity situation to absorb the resulting shocks. Last but not least, there was a widespread belief that certain banks were too big to fail and thus implicitly guaranteed by the governments, which was another incentive, of course, for risk taking. As a response to the crisis, the Basel Committee initiated the huge Reform Program, also referred to as Basel III.

Mr Cordewener indicated that Basel III aimed at strengthening potential requirements for capital and liquidity. It raised a minimum amount of capital that banks must hold against risk assets. Internationally harmonised capital requirements for banks were first released in 1988. In 1988, the members of the Basel Committee then agreed on a simple measure. Capital divided by risk rated assets should be at least 8%. More or less, this measure was said to be still valid. However, both the calculation of risk rated assets and the definition of capital have significantly changed by introducing the Basel II and Basel III frameworks, respectively.

He argued that the essential element of Basel III was its stricter definition of regulatory capital. Higher quality capital meant more loss absorbing capacity, allowing banks to better extend periods of stress. Only capital that was fully loss absorbing on a going concern basis could protect a bank in times of stress. Interestingly enough, soon after the crisis had started, market focus shifted to those elements of capital and ignored all those other subordinated elements.

When Basel III would be fully implemented, banks would have to hold a minimum of 7% common equity, consisting of over 4.5% base ratio and an additional 2.5% buffer. This so-called capital conservation buffer was introduced as an additional element to absorb losses during periods of financial and economic stress. While reducing the capital below the minimum has serious implications, banks were expected to build up this buffer in good times so that it can be drawn down in periods of stress. Basel III also introduced simple non-risk based leverage ratio. Besides capital, with Basel III, the BCBS aimed at introducing internationally harmonised standards for liquidity to make banks more resilient to short term disruptions and access to funding.



Mr Cordewener then outlined capital requirements for trade finance. He reminded that the G20 leaders agreed in the Seoul Summit of 2011 to assess trade finance programs in support of developing countries, in particular, the coverage and impact on low income countries and to evaluate the impact of regulatory regimes on trade finance. In a nutshell, capital requirements as calculated under the advanced internal ratings base would reflect the loss history of a particular asset class, for example trade finance. The lower the number and amount of historic losses, the lower the capital requirement. He said that the smaller banks that were more likely to use simpler methods for calculating regulatory capital requirements, for example the standardised measurement method, would be expected to use the credit conversion factors for off balance sheet items, which were standardised measures for calculating the exposure at default.

Another issue raised was the so called maturity floor. Basel II introduced the floor of 1 year to the maturity. However, for short term self liquidating trade transactions, for example letters of credit, there should be an exception from the one year floor. But this exception was said to be currently subject to national discussions. Some jurisdictions have exercised their discretion and the Committee has been asked to make the exception the rule.

Finally, he indicated that banks would be given sufficient time to adjust to the new rules to avoid negative implications for credit growth and the real economy.

**Neil Chantry**, Global Head Policy and Compliance HSBC Bank Plc, asked whether the intention was to look at using 45-day and less trade bills as part of the calculation for liquid assets? Karl Cordewener indicated that the Committee has decided to split liquid assets into two tiers. The first tier consisted more or less of cash and government bonds. The second tier, which is limited to 40% of the total amount of liquid assets, could consist of highly rated corporate bonds and covered bonds.

**Georges Affaki** asked the question of how the BCBS would be willing to provide a favourable treatment to trade finance. Karl Cordewener indicated that risk rated measures have not changed over the last 23 years as far as the treatment of trade finance is concerned. However, if we were looking into this in the context of low income countries, there might be a need to reconsider whether the 20% credit conversion factor under the risk based measure was the right number or not. He indicated that the aim was to report on trade finance issues by the G20 summit in Cannes.

## **6. Regulatory Round Table – Update on the changing regulatory environment, including the Basel Framework and AML Standards**

**Dan Taylor**, Vice-Chair, ICC Banking Commission, introduced a discussion of the regulatory environment and informed delegates of ICC's established relationship with the Basel Committee. Additionally, Mr Taylor mentioned that ICC was in the process of going into the second phase of the registry project to expand the data gathering process with 17 banks.



**Simon J. Evenett**, Professor of International Trade and Economic Development, presented a discussion on ICC's flawed arguments regarding the unintended consequences that Basel III may cause. Mr Evenett pointed to three specific examples. He considered ICC's argument stating that the change in rules could lead to higher costs, some of which will be passed on to customers, but refuted this argument based on insufficient evidence on the impact on trade flows and access credit. Mr Evenett suggested that ICC should include which countries and which sectors would more than likely be affected.

In his second point, Mr Evenett suggested to emphasize the incoherence between what bank regulators want and what development ministries and G20 leaders want. He added that while G20 leaders have affirmed their commitments to integrating developing countries into the world trading system through initiatives such as the Doha Round and Aid for Trade, Basel III measures go the opposite direction.

Mr Evenett's third and final comment suggested the expansion of allies, not just to include the development ministries, but also the development NGOs in the northern countries, while stating that commercial policy was extraordinarily influential.

**Marc Auboin**, Counsellor in Economic Research and Statistics Division, WTO, discussed the relationship between relatively affordable trade finance, and the expansion of trade. With that said, Mr Auboin noted that developing countries, and particularly low income ones were having most difficulties recovering the access they once had to trade finance. Poor countries continue to face difficulties gaining access to trade finance, particularly on the import side caused by high charges by international banks when making proposals for the endorsement of letters of credit.

The combination of difficult market conditions, increasing regulatory requirements on the suppliers of trade credit or endorses of those credit lines and other factors is negatively impacting the process of integration for certain countries into the world trade.

Mr Auboin explained that this issue has stalled letters of credit because they are heavily used by developing and low income countries. Not only in direct trade from Brazil to China, but also on secured finance that is used by banks to maintain a level of security.

Mr Auboin concluded by stating that regardless of what the Basel committee would decide, the WTO has made substantial progress in ensuring that the banks understand the types of regulations that would apply each trade finance product. Mr Auboin asserted his belief that the dialogue between the banks, the institutions, and the Basel committee will lead to clarification and better accepted regulations on both sides.

**Steven Beck**, Head of Trade Finance, Asian Development Bank (ADB) expanded on his two main concerns regarding regulations. The first was the concern that if the cost of capital was the same for all transactions, there was going to be a temptation for financial institutions to move into the higher risks and higher margin transactions as opposed to



trade finance. The second was a concern over having financial institutions entirely move their risks off balance sheets and into unregulated territory to securitisation.

Although ADB is neutral to the regulatory requirements, it continues to be of importance to the institution because it provides loans and guarantees in support of trade. Mr Beck notes that this was especially important when there was a visible 500% increase the first two months of this year compared to the same two months last year. Mr Beck acknowledged that part of this growth was attributed to the regulatory environment and the interest from financial institutions to lay off risks to MDBs because of risk weighting issues.

Lastly, Mr Beck mentioned the use of the ICC Registry project as a way to continue this growth, and prove empirically that trade finance carries a relatively low probability of loss, and he encouraged others to share the register statistics with their own institutions.

**Scott Stevenson**, Senior Manager, IFC, also stressed the concern over the inability of the local banking system to provide the finance that they need. This creates an immediate disadvantage for them when competing with more established banking systems.

Mr Stevenson commented that one of IFCs major concerns over the unintended consequences of Basel III was that although SMI's may be the engine for future developmental growth, current regulations discourage banks to deal with these low risk counter parties and high risk countries because of increased capital.

Mr Stevenson concluded by adding that whether it is liquidity, the leverage ratio, the capital ratio, or the maturity floor, it will all increase costs, and the costs must be passed on.

**Wednesday, 23 March 2011**

## **7. The ICC Banking Commission Business Plan 2011 – 2015**

**Kah Chye Tan**, Chair ICC Banking Commission, introduced the discussion of the work plan for the rest of the year and added that the Officers would present its five-year business plan at the fall meeting in Beijing. The Officers then shortly presented their own area of work and responsibilities.

**Gary Collyer**, Senior Technical Advisor, Banking Commission, stated his continual responsibility for letters of credit, Guarantees and Collection products and he will continue to focus on that particular area and the documents the ICC can issue to support these important settlement means.

**Dan Taylor**, Vice-Chair, Banking Commission, stated that his responsibilities have more recently become focused on regulatory and advocacy issues, including Basel, while also continuing to work with AML organizations such as FATF. Additionally, Mr Taylor noted an increase in important projects related to regulatory and compliance issues, which ICC will continue to embark in order to remain a strong advocate in the industry.



**Georges Affaki**, Vice Chair, Banking Commission, Head of Structured Finance, CIB Legal, BNP Paribas, stated his continuous efforts to expand and improve guarantees products, and to create a sounding board firm enough to recommend and answer queries regarding UCP and URDG.

**Steven Beck**, Senior Advisor to the Banking Commission, Head of Trade Finance, Asian Development Bank, mentioned that his arrival at ICC began at the start of the Registry Project, and now as a Senior Advisor ideas such as creating a repository of information around KYC/AML, specifically focused in the emerging markets are being considered. Another considered project is developing rules around factoring, where there seems to be a gap.

**Alexander Zelenov**, Vice Chair, Banking Commission, Director, Vnesheconombank, spoke about his new role as a governance official, which would be made more specific by the end of the meeting.

**Yanling Zhang**, Vice Chair, Executive Vice President, Bank of China, stated her commitment to promote ICC's rules and explanations worldwide, as well as focus on publishing the Banking Commission's 80<sup>th</sup> anniversary publication.

## **8. Highlight – Supply Chain Finance Demystified**

**Enrico Camerinelli**, Senior Analyst, Aite Group, introduced the concept of Supply Chain Finance (SCF), and defined it as the use of financial instruments that optimise the working capital of supply chain management processes. Additionally, he stressed the importance of having general accepted standards for the industry and therefore praised ICC and SWIFT who were working together to get the BPO as the accepted standard.

## **9. The Rules-Making Forum: Next Generation of Banking Commission Rules**

- **ISBP: Gary Collyer, ICC Banking Commission Technical Advisor**

**Gary Collyer**, Chair ISBP Drafting Group, explained that that as a first step, the drafting group and consulting group looked at the drafting of only paragraphs 1-42 of the ISBP, which were effectively the general principles. He specified that while they were not looking for new ideas, spin-offs from the text received were included.

Mr. Collyer stressed that the Drafting Group did not only consider a banks perspective, but a corporate one as well. He stated that if the corporates understand how the banks are going to examine documents, it should facilitate their capability of preparing documents to meet that standard. Mr Collyer discussed the group's motive to create an expanded version of the international standard banking practice, so that it may go beyond the examination of documents. Today, the publication covers drafts, invoices, transport documents, insurance and certificates of origin. The goal is to create an ISBP

that will cover the multitude of documents that are currently not present, in a compact and easy to use format.

Mr Collyer reminded national committees that this expanded version was made as a request from them, and recalled that the drafting group was dependent on the input from all NCs to form the basis of this version.

- **The ICC BPO Project: Dan Taylor, Murray McGuire and André Casterman**

**Dan Taylor**, Vice-Chair, ICC Banking Commission, Co-Chair, BPO, presented the newly created BPO working group made as part of the SWIFT TSU. Mr Taylor explained the vision of this group, which included the creation of stand-alone rules for bank payment obligation that could be used independently of the TSU and that would remain technology neutral.

**André Casterman**, Head of Trade and Supply Chain SWIFT, Co-Chair, BPO, reviewed BPO and its background, as well as a brief summary of how it came into existence at SWIFT. Mr Casterman stated that with regard to the open account space, BPO had been created as a set of rules in 2008 when SWIFT upgraded the first version of the trade services utility (TSU) to the second version and made it available in April 2009. Mr Casterman asserted BPO was really the micro-processor that would allow the offering of different devices and services to support the corporate customers according to the requirements that they had expressed.

Mr Casterman clarified that BPO would not be the final product delivered by banks to the corporate customers as it is an inter-bank mitigation tool. He explained that it was an irrevocable obligation of an obligor bank to pay a specified amount to a recipient bank according to data being exchanged in the bank to bank space according to ISO 2022.

While comparing letters of credit to BPO, Mr Casterman asserted that BPO takes from the letter of credit world the bank intermediation rather than enabling the bank to intermediate those transactions via paper. The paper is not going through the banking system, but instead data representing the documents would be exchanged via technology offered by SWIFT, or other providers. With the BPO, documents would remain in the corporate to corporate world, and data flow to the banks in order to enable banks to offer pre and post shipment services to their corporate customers.

Further, Mr Casterman announced the establishment a commercialisation group, made by SWIFT in 2010, to facilitate the pairing up of banks using the BPO as the risk mitigation scheme, ISO 2022 as the data exchange, and the trade services utility as the messaging and matching tool. The goal would be to help banks pair up in support of end to end supply chains.

In his concluding remarks, Mr Casterman stated that the goal of the ICC BPO working group would be to transfer and enrich the BPO instrument rules in order to deliver a set of UCP rules for open account transaction.



**Murray McGuire**, Director, Product Manager & Trade Solutions, BMO Capital Markets, offered thoughts and insights on the BPO instrument after utilizing it for two and a half years. Mr McGuire indicated that the BPO offered the opportunity to layer additional risk mitigation on top of open account. He advised that the focus of BPO should be on the following:

- Improving efficiencies and reducing risks at the same time, which should translate to lower costs.
- The need for BPO to align with the corporate client's demands for flexible standards.
- The ability to be open enough to allow any country to join and participate.
- Increase the trade finance capacity.
- The ability to unlock pre shipment or post shipment financing for the benefit of the suppliers and ultimately for the buyers.
- Streamline the trade payable settlement.

Additionally, Mr McGuire stressed the need to take into consideration a client's perspective.

- **URDG**

**George Affaki**, Chair, Task Force on Guarantees, provided an update of the Task Force on Guarantees related to the implementation of the revised rules and discussed potential actions to make a standard business practice worldwide. Mr Affaki related that the URDG have become standard in many banks, including Israel, Austria, Italy amongst other. Subsequently he reported cases from the various countries where the URDG 758 was accepted.

In the USA, for example, the URDG guarantees were being issued through foreign banks. Additionally, representatives from China reported an increasing interest by the legislators to update their legislation on demand guarantees, where the URDG may be adopted. Overall, it was commonly noted that wherever the URDG 458 were accepted, the URDG 758 were accepted as well.

Mr Affaki concluded his presentation by reminding the delegates of the support and after sales services that the Banking Commission offered in support of the use of the URDG all over the world. Additionally, Mr. Affaki announced the appointment of Dr. Andrea Hauptmann as the new Vice Chair to the ICC task force on guarantees.

- **Factoring**

**Mr. Peter Mulroy, Senior Vice President and International Manager, CIT Commercial Services and Marco Loni, FCI Legal Committee Chairman**, provided a discussion regarding factoring 101, the history of FCI, the mechanics and impact of a dispute, the GRIF, the General Rules of International Factoring, FCS statistics and performance, and concluded by answering questions.



Mr Mulroy described factoring as a business that combined both servicing and financing, generally through the sale or assignment of an accounts receivable typical without recourse back to the seller. Factoring is essentially a seller centric process, where the contract is with the exporter/seller. Mr Mulroy continued by stating that factoring was similar to a financial package that provided credit protection, a type of credit which protects the seller from default of their customer, their buyer or debtor. In general factoring predominantly serves consumer products sold to retail.

Today, FCI has 250 members in 67 countries and a volume of nearly 920 billion. Mr Mulroy added that these FCI volumes represent nearly 60% of the total industry.

**Marco Loni – Chairman ,Factors Chain International (FCI) Legal Committee, Legal Counsel, Centro Factoring**, who is in charge of FCI's legal committee discussed the development of GRIF, 'General Rules for International Factoring'. He asserted that the GRIF was a world standard for conducting factoring business, and suggested a future collaboration with ICC to revise and endorse such rules in the future.

- **IFA – ICC Forfaiting Rules**

**Don Smith, Chair ICC Forfaiting Drafting Group, Sean Edwards, Legal Counsel, Sumitomo Mitsui Banking Corp.**, and the ICC-IFA Forfaiting Drafting Group presented the first draft of forfaiting rules for the primary and secondary markets. From the drafting group Mr Geoffrey Wynne, Vice Chair of the drafting group and partner with SNP Denton, UK, Nicole Keller, Vice President with KfW IPEX Bank and Waltraud Raderschall, Commerzbank, Lixin Guo, Bank of China joined the panel.

The drafting for the Uniform Rules for Forfaiting is described as a joint project between the International Forfaiting Association (IFA) and the ICC. Following the Spring 2009 Banking Commission meeting, the drafting group was assembled with five members from the Banking Commission, as well as five members from IFA. Shortly after, a consulting group from the ICC Banking Commission was created under the leadership of Hennie van Diemen from BNP Paribas-Fortis in Belgium. Additinoally, the IFA also has a consulting group, which was comprised of members of their market practice committee. The Drafting Group has produced two drafts that have been sent to the consulting group for their review and their comment. By doing so, their goal was to capture the essential characteristics of the forfaiting product.

The members of the Drafting Group then discussed in depth those items receiving the most comment from the ICC and IFA Consulting Groups. National Committee formal comments were requested to be received by mid-May for discussion at the next Drafting Group meeting in late May. A new full discussion draft is anticipated for the fall meeting of the Banking Commission.



## 10. ICC AML Task Force and Counter Terrorist Financing / Financial Crimes Group report

**Neil Chantry, Chair, ICC AML Task Force and Counter Terrorist Financing / Financial Crimes Group**, lead a discussion concerning the new work by the Counter Terrorist Financing/Financial Crimes Group (CTF). Mr Chantry announced a new working group created to formulate official responses on behalf of ICC to bodies such as FATF or queries regarding the private sector. In particular the CTF was created to handle new mandates in the area of AML, terrorist financing, financial crimes and proliferation financing.

Additionally, Mr Chantry discussed current AML projects which included a paper intended to inform regulators of the consequences of sanctions. Another was the drafting of guidelines which inform institutions on how to implement and formulate policies with respect to AML CTFMDWMD sanctions.

## 11. Draft official Opinions of the Banking Commission and latest DOCDEX decisions

**Gary Collyer**, Technical Adviser of the Banking Commission, led a discussion on the draft opinions, and opened the floor for discussion. The outcome of the discussion was the following:

- (1) Queries 732 and 734 were accepted without alteration
- (2) Queries 727, 728, 730, 731, 737, 738, 740, 743 were approved with minor changes
- (3) Queries 735 and 736 had been approved in Orlando in September 2010
- (4) Queries 729 and 739 were withdrawn due to 729 being a hypothetical issue and 739 being a matter now before the courts.

DOCDEX update. Since Orlando, there have been two cases.

## 12. Concluding remarks

**Kah Chye Tan**, Chair, ICC Banking Commission, then thanked UBS Bank, BNP Paribas, Credit Suisse, Coastline Solutions, Züricher Kantonalbank and Surecomp, the meeting sponsors, for their great effort in organizing the meetings in Switzerland. He also thanked the Swiss national committee for being gracious hosts and Emmanuel and Thomas for organizing this successful event.

On behalf of ICC China, **Yanling Zhang**, Executive Vice President, Bank of China H.O., P.R. China CC China, then welcomed the participants to join the Beijing meeting. The meeting will coincide with the 80<sup>th</sup> anniversary of the ICC Banking Commission. Both ICC and ICC China look forward to this event. This meeting will help expand the influence of the ICC especially its Banking Commission in China. At the same time, it will afford those

engaged in China's trade finance an opportunity to compare notes with top experts and professionals in trade finance.