

PRINCIPLE OF AUTONOMY IN LETTER OF CREDIT: MALAYSIAN PRACTICE**Rosmawani Che Hashim**Faculty of Business and Accountancy
University of Malaya**Akhtarzaite Abdul Aziz**Kulliyah of Islamic Revealed Knowledge
International Islamic University Malaysia**Ahmad Azam Othman**Ahmad Ibrahim Kulliyah of Laws
International Islamic University Malaysia**Abstract**

The term letter of credit (LC) is not uncommon in international trade as it is the most frequent method of payment used by seller and buyer in their sales contract. LC serves its significant role by facilitating payment between buyer and seller from different countries, who are always prejudiced towards each other on the issue of payment, especially when the deal involves a huge amount of money. By using LC, the seller and buyer will be represented by their own bankers whose function is to issue an LC for the buyer and pay on presentation of seller's documents which are strictly compliant to LC requirement. It is well-known that LC is governed by the principle of autonomy or also referred to as the principle of independence which indicates LC, being a contract of payment is totally separated from the underlying sales contract. The bank concerns with documents only and does not concern with the goods. LC transaction is governed by the Uniform Custom and Practice for Documentary Credit, known as the UCP which provides the rules relating to LC matters and is adopted in almost all LC transactions. This paper discusses the nature and background and significance of principle of autonomy in LC transaction. Furthermore, it elaborates the provisions of principle of autonomy in the UCP 600. To certain extent, comparisons between relevant articles in the UCP 500 and 600 are highlighted. Next, discussion focuses on relevant case-law where the principle of autonomy was upheld in LC transaction. Furthermore, it discusses the principle of autonomy as practiced by Malaysian bankers, in comparison between the applications of this principle in conventional and Islamic LC in Malaysia. The finding found that Malaysian bankers are fully subscribed to the principle of autonomy as outlined by the UCP 600.

DAY 01
[cont'd]
15 June 2010
Tuesday

VENUE	PAPER
ROOM NO. MM 1.10	PAPERS (2.D) Theme : قضايا الديون وإدارة المخاطر في المشهد المالي المعاصر
	علاقة القرض بالقواعد الفقهية وأثر ذلك على المعاملات المالية المعاصرة Ahmad Asad Mahmood Ibrahim, KINGDOM OF BAHRAIN
	منهج الشيخ محمد تقي العثماني في التعويض ضرر المظل Nor Naema Abdul Rahman & Isaa Khan, MALAYSIA
	النظام المصرفي الإسلامي وتحديات الأزمة المالية الراهنة Raed S. A Faqir, JORDAN
	مخاطر الصكوك الإسلامية طرق معالجتها Ziad J.K. Aldammagh, MALAYSIA
	أحكام فوائد البنوك الربوية في منظور القواعد الفقهية الإسلامية Yusuf Abas Abafogi, MALAYSIA
	مقاصد الشريعة وتطبيقاتها في المعاملات المصرفية المعاصرة Abdel Wadoud Moustafa Moursi, MALAYSIA
	لحيل بين الإمام تقي الدين السبكي الشافعي والإمام ابن قيم الجوزية الحنبلي: دراسة تحليلية مقارنة: بيع العينة أنموذجاً Anwar Mustapha, MALAYSIA
ROOM NO. MM 1.11	PAPERS (2.E) Theme : Standardization of Islamic banking practices in cross border transactions
	Hilah in the Islamic Banking instruments in Malaysia with reference to the banking practices in other jurisdictions: Is there a need to standardize Islamic banking instruments used in all the jurisdictions? Aishath Muneeza, Nik Nurul Atiqah Nik Yusuf, Norariefeh binti Mohd Iqbal & Juyda bt. Noor Mohamad, MALAYSIA
	Cross-Border Banking Transactions: Is There a Need to Uniform Stock Screening Procedures, Korimbocus Janick Marie Christine, Aishath Muneeza, Nik Nurul Atiqah Nik Yusuf & Sooraiya Capery, MALAYSIA
	An Analysis of Global trends and Regional Pockets in the Application of Islamic Financial Contracts in Malaysia and Gulf Cooperation Council, Anne-Sophie Gintzburger, AUSTRALIA
	Towards a global standard in Islamic Banking and finance practices: a review of the principles, products and regulatory organs of banking under Islamic Law, Ibrahim Fofana, MALAYSIA
	Rationality and its Role in the Standardization of Islamic Banking and Finance Practices in Cross Border, Jilani Ben Touhami Meftah, MALAYSIA
	Islamic Banking and Finance beyond Borders: Issues of Standardisation, Edib Smolo & Elmin Habibovic, MALAYSIA
	Principle Of Autonomy In Letter Of Credit : Malaysian Practice, Rosmawani Che Hashim, Ahmad Azam Othman and Akhtarzaite Abdul Aziz, MALAYSIA
FOYER CAFE	1.00 p.m. – 2.00 p.m. Lunch & Zuhr Prayer
MOOT COURT	2.00 p.m. – 2.15 p.m. Arrival of Invited Guest and VVIP 2.15 p.m. – 2.30 p.m. Arrival of Guest of Honor 2.35 p.m. – 2.40 p.m. Opening Remarks by Master of Ceremony 2.40 p.m. – 2.45 p.m. Recitation of verses from Al-Qur'an 2.45 p.m. – 2.55 p.m. Welcoming Remarks by Dean, AIKOL 2.55 p.m. – 3.05 p.m. Officiating Speech by Y. Bhg Prof Dato' Seri Dr. Syed Arabi Idid Rector IIUM 3.05 p.m. – 3.40 p.m. Keynote Address by Guest of Honor
FOYER MOOT COURT	3.40 p.m. – 3.50 p.m. Presentation of Souvenir
MOOT COURT	3.50 p.m. – 4.20 p.m. Refreshment 4.20 p.m. – 5.20 p.m. Panel Discussion I : Cross Border Litigation in Islamic Banking and Finance (PLENARY DISCUSSION) Moderator : Dr. Norhashimah Mohd Yassin, IIUM Speakers : Mr. Megat Hizaini Hassan, Zaid Ibrahim & Co : Assoc. Prof. Dr. Engku Rabbiah Adawiyah Engku Ali, IIUM : Mr. Mohamed Ismail Shariff, SKRINE
	05.20 p.m. Disperse



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INTERNATIONAL CONFERENCE ON ISLAMIC BANKING & FINANCE:

CROSS BORDER PRACTICES & LITIGATIONS

15 & 16 JUNE, 2010

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
KUALA LUMPUR, MALAYSIA

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