



eURC

Version 1.0

URC 522

ICC Uniform Rules for COLLECTIONS

Supplement for Electronic Presentation
(eURC) Version 1.0

INTRODUCTION

On 6th June 2017, the ICC Banking Commission provided a press release announcing the launch of a Working Group to anticipate and accompany the digitalisation of trade finance. One core activity was to evaluate existing ICC rules in order to assess e-compatibility and ensure they are 'e-compliant', i.e. enabling banks to accept data vs. documents. It was identified that this was required in order to accommodate evolving practices and technologies.

A Drafting Group was established, co-chaired by David Meynell and Gary Collyer, with the initial aim of reviewing the e-compatibility of existing ICC rules. As a result of this review, a mandate was received from the ICC Banking Commission Executive Committee to:

- Update the existing version 1.1 of eUCP in order to ensure continued digital compatibility.
- Draft eURC in order to ensure continued digital compatibility for presentation of electronic records under Collections.

The eRules have been intentionally developed with version numbers in order that they can be updated regularly without impacting upon other existing ICC rules, thereby reducing the time required to develop any potential identified revision.

The initial drafts of eUCP version 2.0 and eURC version 1.0 were sent to ICC National Committees (NC's) on 25th September 2017, with a deadline of 27th November 2017 for response. At the request of a number of ICC NC's, based upon a communications issue, it was decided to extend the deadline to 28th February 2018. Pursuant to feedback on the original drafts, work commenced on a 2nd draft, which was subsequently distributed to ICC NC's on 20th March 2018, with a deadline of 25th May 2018 for response. A 3rd draft of the rules was sent out on 20th July 2018, providing a deadline of 28th September 2018 for response. The 4th of the rules was disseminated on 6th November 2018, indicating a deadline of 4th January 2019 for feedback. At that stage, and following a thorough review of all comments received to date, it was considered to be an appropriate time to draft a final version of the rules.

These were consequently sent to ICC NC's on 31st January 2019, specifying that the deadline for voting would be 22nd March 2019. It is worth commenting that this timeframe was only 16 months after distribution of the original drafts and included an enforced 3-month extension, as mentioned above. During the course of the first four drafts, almost 2,000 comments were received from ICC NC's. For the purposes of transparency and clarity, every comment received an individual response. As a valuable reference source, the 'ICC Guide to the eUCP' (ICC Publication No. 639) and the work of the authors, Professor James E. Byrne and Dan Taylor, has been gratefully acknowledged.

For the first time in the history of the ICC Banking Commission, a new approach was introduced for the ICC rules voting process, via the Simply Voting platform. This initiative provided an online voting system to be used for the approval of the revised eUCP and new eURC rules.

Each NC was requested to choose one designated representative with the right to cast the vote on its behalf and the platform was opened for voting from 11th until 22nd March 2019. NC's were invited to vote on the revised eUCP and new eURC separately by choosing 'YES' or 'NO' to the following options:

- Does your National Committee approve the Uniform Customs and Practice for Documentary Credits (UCP 600) Supplement for Electronic Presentation (eUCP) Version 2.0?
- Does your National Committee approve the Uniform Rules for Collections (URC 522) Supplement for Electronic Presentation (eURC) Version 1.0?

Voting result:

- Votes received from 49 NC's, plus one further NC vote after the voting deadline had passed.
- The eUCP received 100% approval with two countries abstaining.
- The eURC received 97.5% approval (on a weighted basis) with one county voting 'no' and two countries abstaining.
- Based upon the above, both sets of rules will come into force from 1st July 2019.

It was recognised in the introduction to the initial ICC Guide to the eUCP (ICC Publication no. 639) that the likely end of the evolution to electronic presentations is automated compliance checking systems in the documentary credit field. This is all too apparent when looking at evolving technology and digital trade finance, with the advent of the Internet of Things, Distributed Ledger Technology, Smart Contracts, Artificial Intelligence, and Machine Learning.

The content of the eRules will be continually monitored in order to ensure applicability. The support of trade practitioners will be an essential element moving forward. These rules provide many benefits in advancing the documentary credit in a digital environment and ensuring the continued relevance of this valuable instrument in mitigating trade risk.

Existing ICC rules, such as UCP 600 & URC 522, whilst being invaluable in a paper world, provide limited protection when applied to electronic transactions. It is inevitable that traditional trade instruments will, over time, inexorably move towards a mixed ecosystem of paper and digital, and, ultimately, to electronic records alone.

In this respect, it is important the market recognise that the new rules provide many benefits in advancing traditional trade solutions in a digital environment:

- Safeguarding applicability and guaranteeing relevance in a constantly evolving digital trade world
- Extending the mitigation of risk from a paper environment to the electronic milieu
- Explicitly and unambiguously supporting the usage of electronic records
- Conformity and congruence as opposed to divergent local, national and regional practice
- Shared understanding of terminologies and objectives
- Confidence in a set of independent and trusted contractual rules
- Uniformity, consistency and standardisation in customs and practice
- Enabling and supporting trade finance between regions and countries regardless of underlying economic and judicial structures

Development of the eRules would have been impossible without the ongoing support of the ICC Banking Commission Secretariat and individual ICC National Committees. Thank you to all involved, with specific acknowledgement to David Bischof, Olivier Paul, and Laura Straube. Particular thanks are given to the eRules Drafting Group, details of which are provided below. I also extend my gratitude to my co-chair, Gary Collyer. Without his input, this work would not have proved possible. Last, but far from least, a reminder that this publication would not be in existence were it not for the groundbreaking initial efforts of Jim Byrne and Dan Taylor.

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PRELIMINARY CONSIDERATIONS

The mode of presentation to the remitting bank, by or on behalf of the principal, of electronic records alone or in combination with paper documents, is outside the scope of the eURC.

The mode of presentation to the drawee, by the collecting or presenting bank, of electronic records alone or in combination with paper documents, is outside the scope of the eURC.

Where not defined or modified in the eURC, definitions given in URC 522 will continue to apply.

Article e1

Application of the eURC

a A collection instruction should only indicate that it is subject to the Uniform Rules for Collections (URC 522) Supplement for Electronic Presentation (“eURC”) where a prior arrangement exists between the remitting bank and the collecting or presenting bank, for the presentation of electronic records alone or in combination with paper documents.

- b** Such prior arrangement should specify:
- i.** the format in which each electronic record will be issued and presented; and
 - ii.** the place for presentation, to the collecting or presenting bank.

Article e2

Scope of the eURC

a The eURC supplements the Uniform Rules for Collections (1995 Revision, ICC Publication No. 522) (“URC”) in order to accommodate presentation of

electronic records alone or in combination with paper documents.

- b** The eURC shall apply where a collection instruction indicates that it is subject to the eURC (“eURC collection instruction”).
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- c** This version is Version 1.0. An eURC collection instruction must indicate the applicable version of the eURC. If not indicated, it is subject to the version in effect on the date the eURC collection instruction is issued or, if made subject to the eURC by an amendment, the date of that amendment.

Article e3

Relationship of the eURC to the URC

- a** An eURC collection instruction is also subject to the URC without express incorporation of the URC.
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- b** Where the eURC applies, its provisions shall prevail to the extent that they would produce a result different from the application of the URC.
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- c** Where an eURC collection instruction is issued but the presentation consists of only paper documents, the URC alone shall apply.

Article e4

Definitions

- a** Where the following terms are used in the URC, for the purpose of applying the URC to an electronic record presented under an eURC collection instruction, the term:
 - i.** “**advices**” includes electronic records originating from a data processing system;

- ii. “**collection instruction**” shall include an instruction originating from a data processing system;
- iii. “**document**” shall include an electronic record;
- iv. “**place for presentation**” of an electronic record means an electronic address of a data processing system;
- v. “**sign**” and the like shall include an electronic signature;
- vi. “**superimposed**” means data content whose supplementary character is apparent in an electronic record.

b The following terms used in the eURC shall have the following meaning:

- i. “**data corruption**” means any distortion or loss of data that renders the electronic record, as it was presented, unreadable in whole or in part;
- ii. “**data processing system**” means a computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages or performances in whole or in part;
- iii. “**electronic record**” means data created, generated, sent, communicated, received or stored by electronic means including, where appropriate, all information logically associated with or otherwise linked together so as to become part of the record, whether generated contemporaneously or not, that is:
 - a. capable of being authenticated as to the apparent identity of a sender and the apparent source of the data contained in it, and as to whether it has remained complete and unaltered, and

- b. capable of being viewed to ensure that it represents the type and/or description of the electronic record listed on the eURC collection instruction;
- iii. **“electronic signature”** means a data process attached to or logically associated with an electronic record and executed or adopted by a person in order to identify that person and to indicate that person’s authentication of the electronic record;
- iv. **“format”** means the data organisation in which the electronic record is expressed or to which it refers;
- v. **“paper document”** means a document in a paper form;
- vi. **“presenter”** means the principal or a party that makes a presentation on behalf of the principal;
- vii. **“received”** means when an electronic record enters a data processing system, at the agreed place for presentation, in a format capable of being accepted by that system. Any acknowledgement of receipt generated by that system is not to be construed that the electronic record has been authenticated and/or viewed under the eURC collection instruction;
- viii. **“re-present”** means to substitute or replace an electronic record already presented.

Article e5

Electronic Records and Paper Documents v. Goods, Services or Performance

Banks do not deal with the goods, services or performance to which an electronic record or paper document may relate.

Article e6

Format

- a** An eURC collection instruction must indicate the format of each electronic record.
- b**
 - i.** The format of each electronic record must be as previously arranged between the remitting bank and the collecting or presenting bank, as required by sub-article e1 (b).
 - ii.** An electronic record received in a format that has not previously been agreed may be treated as not received, and the collecting or presenting bank must inform the remitting bank accordingly.

Article e7

Presentation

- a** When electronic records alone are presented under an eURC collection instruction, these must be accessible to a collecting or presenting bank at the time the collecting or presenting bank receives the eURC collection instruction.
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- b** When electronic records, in combination with paper documents, are presented by the remitting bank under an eURC collection instruction, all the electronic records referred to in the eURC collection instruction must be accessible to the collecting or presenting bank at the time the collecting or presenting bank receives the eURC collection instruction enclosing the paper documents.
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- c** An electronic record that cannot be authenticated is deemed not to have been presented.
 - d**
 - i.** The remitting bank is responsible for ensuring that each presentation of an electronic record, and any presentation of paper documents,

identifies the eURC collection instruction under which presentation is being made. For electronic records this may be by specific reference thereto in the electronic record itself, or in metadata attached or superimposed thereto, or by identification in the eURC collection instruction itself.

- ii. Any electronic record or paper document not so identified may be treated as not received.

Article e8

Advice of Non-Payment or Non-Acceptance

If a collecting or presenting bank receives an eURC collection instruction and issues an advice of non-payment and/or non-acceptance to the bank from which it received the collection instruction and does not receive instructions from such bank for the disposition of the electronic records within 60 calendar days from the date the advice of non-payment and/or non-acceptance is given, the collecting or presenting bank may dispose of the electronic records in any manner deemed appropriate without any responsibility.

Article e9

Determination of a Due Date

When settlement under an eURC collection instruction is due a number of days after the date of shipment or dispatch of the goods, or a number of days after any other date appearing in an electronic record, an eURC collection instruction must indicate the due date.

Article e10

Release of Electronic Records

- a** An eURC collection instruction must indicate the manner in which electronic records may be accessed by the drawee.

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- b** When electronic records are presented in combination with paper documents, and one of those paper documents is a bill of exchange that is to be accepted by the drawee, the electronic records and paper documents are to be released against acceptance of the bill of exchange (D/A) and the eURC collection instruction must indicate the manner in which those electronic records may be accessed by the drawee.

Article e11

Data Corruption of an Electronic Record

- a** If an electronic record that has been received by a bank appears to have been corrupted, the remitting bank may inform the presenter, or the collecting or presenting bank may inform the remitting bank, and may request it to re-present the electronic record.

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- b** If a collecting or presenting bank makes such a request and the presenter or remitting bank does not re-present the electronic record within 30 calendar days, the collecting or presenting bank may treat the electronic record as not presented and may dispose of the electronic records in any manner deemed appropriate without any responsibility.

Article e12

Additional Disclaimer of Liability for Presentation of Electronic Records under eURC

- a** By satisfying itself as to the apparent authenticity of an electronic record, a bank assumes no liability for the identity of the sender, source of the information, or its complete and unaltered character other than that which is apparent in the electronic record received by the use of a data processing system for the receipt, authentication, and identification of electronic records.

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- b** A bank assumes no liability or responsibility for the consequences arising out of the unavailability of a data processing system other than its own.

Article e13

Force Majeure

A bank assumes no liability or responsibility for the consequences arising out of the interruption of its business, including but not limited to its inability to access a data processing system, or a failure of equipment, software or communications network, caused by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, cyberattacks, or by any strikes or lockouts or any other causes, including failure of equipment, software or communications networks, beyond its control.

ICC ARBITRATION

Contracting parties that wish to have the possibility of resorting to ICC Arbitration in the event of a dispute with their contracting partner should specifically and clearly agree upon ICC Arbitration in their contract or, in the event no single contractual document exists, in the exchange of correspondence which constitutes the agreement between them. The following standard arbitration clause is recommended by the ICC:

“All disputes arising in connection with the present contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.”