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## United Nations Commission on International Trade Law

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### Endorsement of texts of other organizations: International Standard Demand Guarantee Practice for URDG 758

#### Note by the Secretariat

1. By letter of 6 December 2021 (reproduced in annex I), the Secretary General of the International Chamber of Commerce (the “ICC”) requested the Commission to consider endorsing the International Standard Demand Guarantee Practice for URDG 758 (ISDGP)<sup>1</sup> for worldwide use. With its request, the ICC submitted an introduction to the ISDGP (reproduced in annex II).
2. The Commission may wish to note that it has already endorsed a number of ICC texts, such as the Incoterms 2020, the Uniform Rules for Forfaiting (URF 800), the Uniform Rules for Demand Guarantees: 2010 Revision (URDG 758), the Uniform Customs and Practices for Documentary Credits (UCP 600), the International Standby Practices (ISP98), the Uniform Rules for Contract Bonds (URCB), the Uniform Customs and Practices for Documentary Credits (UCP 500) and others.<sup>2</sup>
3. In particular, the Commission may wish to recall that it endorsed the Uniform Rules for Demand Guarantees: 2010 Revision (URDG 758) at its forty-fourth session, in 2011 (A/66/17, para. 249). On that occasion, the Commission congratulated the ICC “on having made a further contribution to the facilitation of international trade by making its rules on demand guarantees clearer, more precise and more comprehensive while including innovative features reflecting recent practices”. The Commission also noted that the Uniform Rules for Demand Guarantees constituted “a valuable contribution to the facilitation of international trade” (ibid.).
4. The Commission may also wish to note that the ISDGP is a companion document to the URDG 758 as it supplements the URDG 758 by identifying and recording best practice in relation to the URDG 758 and beyond. Moreover, the Commission may wish to note that the URDG 758 provided a set of rules applicable to demand guarantees securing monetary and performance obligations in a wide array of international and domestic contracts, and that they were fully compatible with the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, prepared by the Commission in 1995 and endorsed by the International

<sup>1</sup> Available at <https://2go.iccwbo.org/international-standard-demand-guarantee-practice-isdgp-for-urdg-758.html>.

<sup>2</sup> The list of texts endorsed by UNCITRAL is available at <https://uncitral.un.org/en/texts/endorsed>.



Chamber of Commerce in 1999 ([A/66/17](#), para. 248). Thus, the Commission is invited to consider endorsing the ISDGP.

## Annex I

6 December 2021

### **Letter of Mr. John W.H. Denton AO, Secretary General, of the International Chamber of Commerce**

ICC has now completed the implementation of its International Standard Demand Guarantee Practice for URDG 758 (ISDGP). The rules are a compendium of standard practices under the URDG which were endorsed by UNCITRAL in 2010.

The new set of rules is destined to apply to hundreds of billions of dollars of demand guarantees securing monetary and performance obligations in a wide array of international and domestic contracts.

The ISDGP are composed with 215 international standard practices collected through a decade of the application of the URDG. They record best practice in demand guarantees throughout the lifecycle of the guarantee: the drafting and issue of guarantees and counter- guarantees, presentations, examinations and payments, rejections and expiry, transfers and assignments, and more.

The ISDGP demonstrates how the principles and content of URDG 758 should be integrated into day-to-day demand guarantee practice, in all types of demand guarantees, international or domestic, in all sectors of trade and industry, regardless of when or where the guarantee or counter-guarantee is issued.

The ISDGP were adopted by the ICC Banking Commission during its 2021 annual meeting plenary session on 31 March 2021 involving our 87 current ICC National Committees under the supervision of a group of experts from 12 countries and led by co-chairs Dr Georges Affaki and Mr Glenn Ransier.

The International Chamber of Commerce and the United Nations Commission on International Trade Law (UNCITRAL) have a history of mutual endorsement of standards and we believe endorsing the ISDGP would be the logical next step to facilitate international trade worldwide.

Therefore the ICC would like to request formal endorsement of the International Standard Demand Guarantee Practice for URDG 758 (ISDGP) by UNCITRAL. We hope your organisation will respond favourably to this formal request for endorsement and we would be pleased to provide you with any further information on the new ISDGP.

## Annex II

### **Introduction to the International Standard Demand Guarantee Practice for URDG 758**

The International Standard Demand Guarantee Practice for URDG 758 (ISDGP) is a companion document to the ICC Uniform Rules for Demand Guarantees 758 (URDG). It supplements the URDG by identifying and recording best practice in relation to the URDG rules and beyond.

While international standard practice in demand guarantees – which the ISDGP is intended to represent – is referred to in article 2 of the URDG in relation to the determination of a complying presentation, it may be used as a useful guide beyond the mere examination of documents, to cover all the stages in the lifecycle of a demand guarantee and counter-guarantee. Collected during over a decade of the application of the URDG in thousands of transactions identified by ICC members as international best practice in demand guarantees, but also from mishaps that led to costly court proceedings, the ISDGP offers an unparalleled insight into the correct application of the URDG in a practical context. Its authority stems primarily from the participative process of its drafting. Seventy-two sets of national comments received from 27 ICC national committees on five continents, and countless individual comments from practitioners across the world, have permitted a collaborative drafting of the ISDGP that is truly representative of international guarantee practice. The standards listed span all types of demand guarantees, domestic and international, in all the sectors of trade and industry.

The ISDGP is a statement of best practice when applying the URDG; it is not an amendment of the URDG, nor can it conflict with their rules. It offers guidance as to how rules and practices codified in the URDG are to be applied regardless of the applicable law, the mandatory rules of which will always prevail. Accordingly, the ISDGP must be read in conjunction with the URDG, not alone. Where examples are given in the ISDGP, these are solely for the purpose of illustration and are not exhaustive. The ISDGP may also be used as an aid for the interpretation of URDG 458 where the relevant rule in URDG 458 does not contradict the revision in URDG 758.

Over the past 30 years, courts and arbitral tribunals have been regularly referring to the URDG as a compendium of customs and usage in demand guarantees, even where the guarantee in dispute did not incorporate the URDG. In the same vein, it is expected that the ISDGP shall also offer guidance on best practice in demand guarantees even where the URDG are not specifically incorporated.

The listing of best demand guarantee practice in the ISDGP is not exhaustive, nor is it ever expected to become so. Other international standard demand guarantee practices under the URDG may be identified on a case-by-case basis. Those additional, uncodified practices may apply alongside or instead of the ISDGP where both their relevance to the case in hand and their international and widespread character are evidenced. Official Opinions of the ICC Banking Commission naturally add to and supplement the ISDGP even if those opinions are not listed in the ISDGP or any addenda that may later be published. In contrast, local practice, however widespread in the relevant country, should not be held to amount to international standard demand guarantee practice under the URDG.

For the avoidance of repetitions, terms used in the ISDGP carry the meaning ascribed to them in the URDG. In particular, “guarantee” means a demand guarantee and includes a counter-guarantee, and “guarantor” includes a counter-guarantor, unless otherwise stated in the relevant practice. Reference in the ISDGP to “article” followed by its number refers to the corresponding rule in the URDG unless otherwise indicated.

In the ISDGP, the practices are classified in accordance with the successive steps of the lifecycle of a demand guarantee. An index at the end links each listed practice with the relevant articles of the URDG.

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