

## บรรณานุกรม

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ศูนย์วิทยพัชกร  
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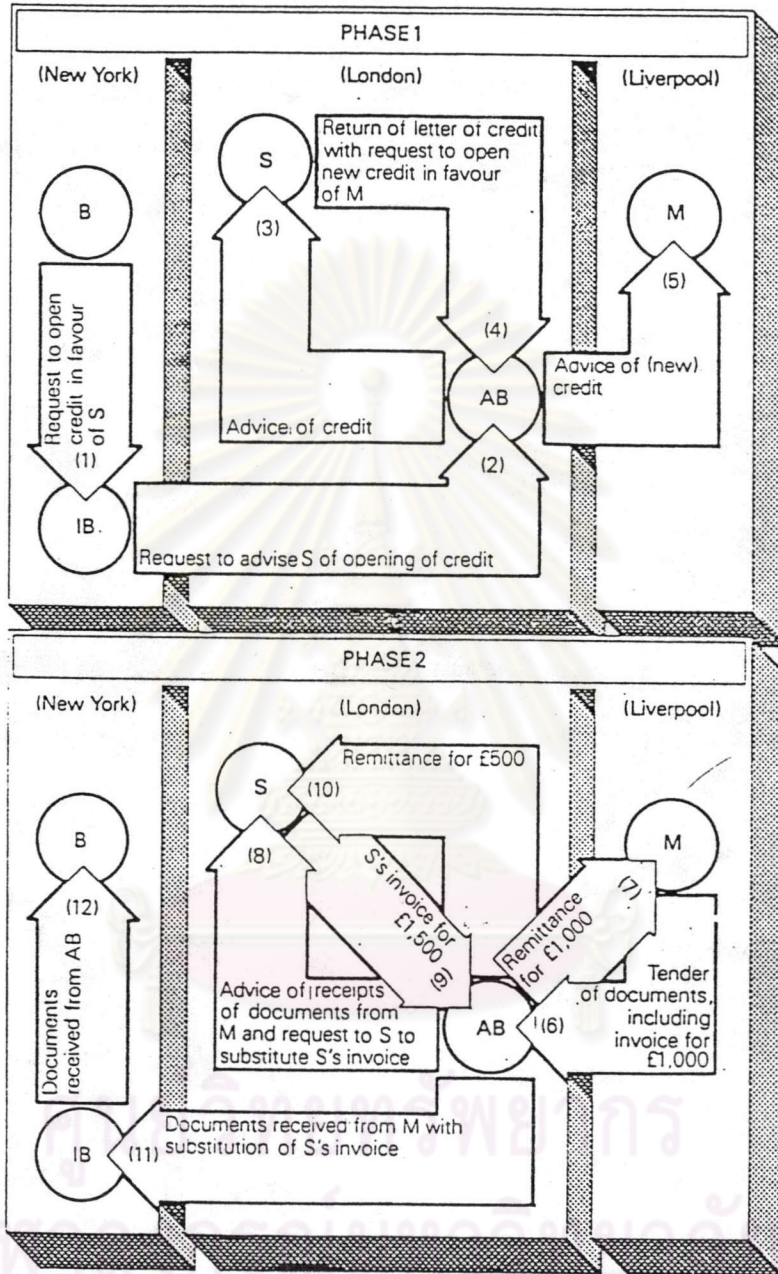
ภาคผนวก

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



ภาคผนวก ก

แผนผังแสดงกระบวนการโอนเลตเตอร์ออฟเครดิต



Flow of documents and money on transfer of a credit

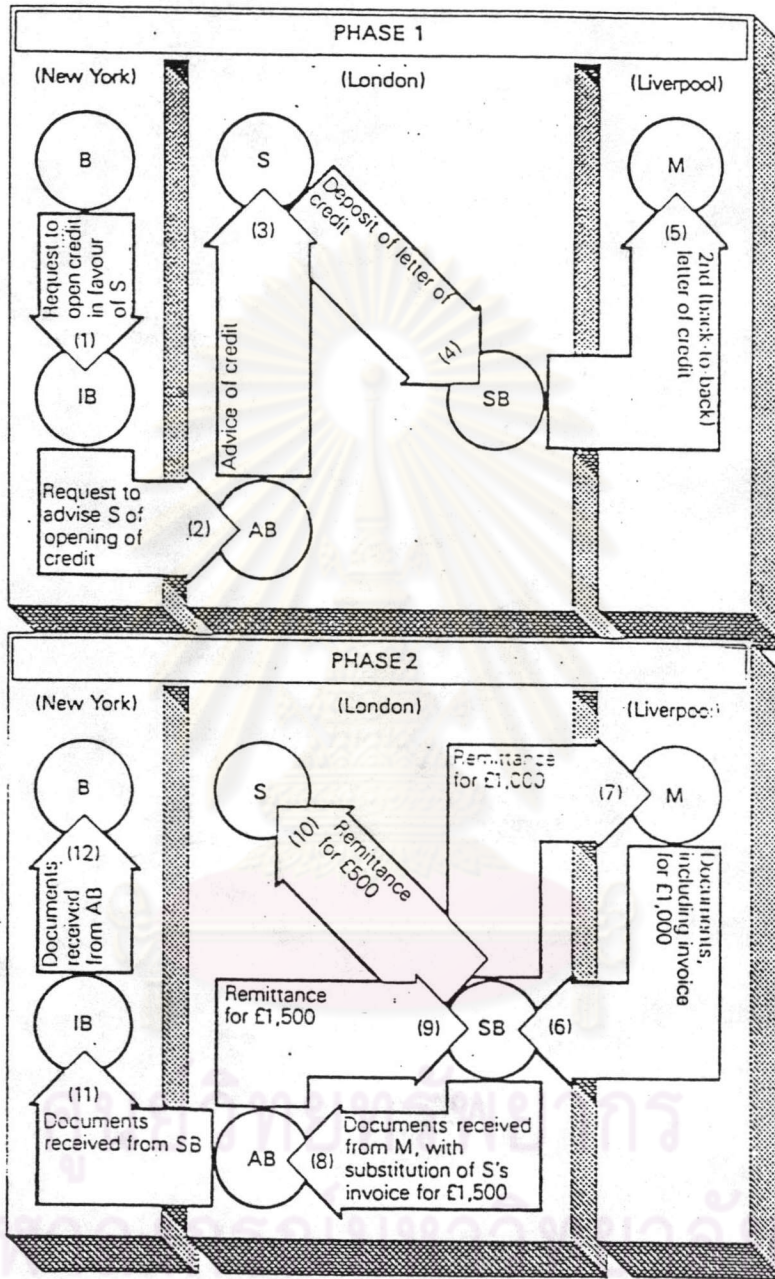
ความหมายของคำย่อ

- B หมายถึง ผู้ซื้อ
- S หมายถึง ผู้ขาย
- IB หมายถึง ธนาคารผู้เปิดเครดิต
- AS หมายถึง ธนาคารผู้ติดต่อ
- M หมายถึง ผู้ผลิต หรือ Supplier

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ภาคผนวก ข

แผนผังแสดงกระบวนการใช้เครดิตหมุนเครดิต



Flow of documents and money under a back-to-back credit

ความหมายของคำย่อ

- B หมายถึง ผู้ซื้อ
- S หมายถึง ผู้ขาย
- IB หมายถึง ธนาคารผู้เปิดเครดิต
- AB หมายถึง ธนาคารผู้ติดต่อ
- SB หมายถึง ธนาคารของผู้ขาย (ธนาคารผู้เปิดเครดิตหมุนเครดิต)
- M หมายถึง ผู้ผลิตหรือ Supplier

## ภาคผนวก ค

บทบัญญัติในเรื่องการโอนเครดิตออฟเครดิตและการโอนสิทธิที่จะได้รับเงิน  
ตามเครดิต ใน U.C.P. ฉบับแรก จนถึงฉบับแก้ไขเพิ่มเติมปี 1974

1. U.C.P. ฉบับแรกปี 1933

## มาตรา 49

"A credit can only be transferred on the express authority of the principal. In this case the credit can be transferred once only, and on the terms and conditions specified in the original credit, with the exception of the amount of the credit and of the time of validity, which both may be reduced.

"If a Commercial Documentary Credit is transferred by fractions, such fractional transfers shall be considered as constituting one single transfer only.

"Authority to transfer a credit covers authority to transfer it to another place. Bank charges entailed by such transfers are payable by the original beneficiary unless otherwise specified. During the validity of the original credit, payment may be made at the place to which the credit has been transferred."

2. U.C.P. ฉบับแก้ไขเพิ่มเติมปี 1951

## มาตรา 46

"A transferable or assignable credit is a credit in which the paying or negotiating Bank is entitled to pay in whole or in part to a third party or parties on instructions given by the first beneficiary.

"A credit can be transferred only on the express authority of the opening Bank and provided that it is expressly designated as "transferable" or "assignable." In such case the credit can be transferred once only (that is to say that the third party or parties designated by the first beneficiary are not entitled to retransfer it), and on the terms and conditions specified in the original credit, with the exception of the amount of the credit, of any unit price stated therein, and of the time of validity or of shipping, any or all of which may be reduced or curtailed. In the event of any reduction in amount or unit price, a transferer may be permitted to substitute his own invoices for those of the transferee, for amounts or unit prices transferee greater than those set forth in the transferee's invoices, but not in excess of the original sum stipulated in the credit, and upon such substitution of invoices, the transferer may draw under the credit for the difference between his invoices and the transferee's invoices.

Fractions of a transferable or assignable credit (not exceeding in the aggregate the amount of the entire credit) may be transferred separately provided partial shipments are not excluded, and the aggregate of such transfers will be considered as constituting only one transfer of the entire credit.

"Authority to transfer a credit includes authority to transfer it to a beneficiary in another place whether in the same country or not, unless otherwise specified. During the validity of the credit as transferred, payment or negotiation may be made at the place to which the credit has been transferred.

"Bank charges entailed by transfers are payable by the first beneficiary unless otherwise specified.

"No transfer shall be binding upon the Bank which is to act thereunder except to the extent and in the manner expressly

consented to be such Bank, and until such Bank's charges for transfer are paid."

3. U.C.P. ฉบับแก้ไขเพิ่มเติมปี 1962

A transferable credit is a credit under which the beneficiary has the right to give instructions to the bank called upon to effect payment or acceptance or to any bank entitled to effect negotiation to make the credit available in whole or in part to one or more third parties (second beneficiaries).

A credit can be transferred only if it is expressly designated as "transferable" by the issuing bank. Terms such as "divisible" "fractionable", "assignable" and "transmissible" add nothing to the meaning of the term "transferable" and shall not be used.

A transferable credit can be transferred once only. Fractions of a transferable credit (not exceeding in the aggregate the amount of the credit) can be transferred separately, provided partial shipments are not prohibited, and the aggregate of such transfers will be considered as constituting only one transfer of the credit. The credit can be transferred only on the terms and conditions specified in the original credit, with the exception of the amount of the credit, of any unit price stated therein, and of the period of validity or period for shipment, any or all of which may be reduced or curtailed. Additionally, the name of the first beneficiary can be substituted for that of the applicant for the credit, but if the name of the applicant for the credit is specifically required by the original credit to appear in any document other than the invoice, such requirement must be fulfilled.

The first beneficiary has the right to substitute his

own invoices for those of the second beneficiary, for amounts not in excess of the original amount stipulated in the credit and for the original unit prices stipulated in the credit, and upon such substitution of invoices the first beneficiary can draw under the credit for the difference, if any, between his invoices and the second beneficiary's invoices. When a credit has been transferred and the first beneficiary is to supply his own invoices in exchange for the second beneficiary's invoices but fails to do so on demand, the paying, accepting or negotiating bank has the right to deliver to the issuing bank the documents received under the credit, including the second beneficiary's invoices, without further responsibility to the first beneficiary.

The first beneficiary of a transferable credit can transfer the credit to a second beneficiary in the same country, but if he is to be permitted to transfer the credit to a second beneficiary in another country this must be expressly stated in the credit. The first beneficiary shall have the right to request that payment or negotiation be effected to the second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the original credit, and without prejudice to the first beneficiary's right subsequently to substitute his own invoices for those of the second beneficiary and to claim any difference due to him.

The bank requested to effect the transfer, whether it has confirmed the credit or not, shall be under no obligation to make such transfer except to the extent and in the manner expressly consented to by such bank, and until such bank's charges for transfer are paid.

Bank charges entailed by transfers are payable by the first beneficiary unless otherwise specified.

4. U.C.P. ฉบับแก้ไขเพิ่มเติมปี 1974

มาตรา 46

(a) A transferable credit is a credit under which the beneficiary has the right to give instructions to the bank called upon to effect payment or acceptance or to any bank entitled to effect negotiation to make the credit available in whole or in part to one or more third parties (second beneficiaries).

(b) The bank requested to effect the transfer, whether it has confirmed the credit or not, shall be under no obligation to effect such transfer except to the extent and in the manner expressly consented to by such bank, and until such bank's charges in respect of transfer are paid.

(c) Bank charges in respect of transfers are payable by the first beneficiary unless otherwise specified.

(d) A credit can be transferred only if it is expressly designated as "transferable" by the issuing bank. Terms such as "divisible", "fractionnable", "assignable", and "transmissible" add nothing to the meaning of the term "transferable" and shall not be used.

(e) A transferable credit can be transferred once only. Fractions of a transferable credit (not exceeding in the aggregate the amount of the credit) can be transferred separately, provided partial shipments are not prohibited, and the aggregate of such transfers will be considered as constituting only one transfer of the credit. The credit can be transferred only on the terms and conditions specified in the original credit, with the exception of the amount of the credit, of any unit prices stated therein, and of the period of validity or period for shipment, any or all of which may be reduced or curtailed.

Additionally, the name of the first beneficiary can be substituted for that of the applicant for the credit, but if the name of the applicant for the credit is specifically required by the original credit to appear in any document other than the invoice, such requirement must be fulfilled.

(f) The first beneficiary has the right to substitute his own invoices for those of the second beneficiary, for amount not in excess of the original amount stipulated in the credit and for the original unit prices if stipulated in the credit, and upon such substitution of the invoices the first beneficiary can draw under the credit for the difference, if any, between his invoices and the second beneficiary's invoices. When a credit has been transferred and the first beneficiary is to supply his own invoices in exchange for the second beneficiary's invoices but fails to do so on first demand, the paying, accepting or negotiating bank has the right to deliver to the issuing bank the documents received under the credit, including the second beneficiary's invoices, without further responsibility to the first beneficiary.

(g) The first beneficiary of a transferable credit can transfer the credit to a second beneficiary in the same country or in another country unless the credit specifically states otherwise. The first beneficiary shall have the right to request that payment or negotiation be affected to the second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the original credit, and without prejudice to the first beneficiary's right subsequently to substitute his own invoices for those of the second beneficiary and to claim any difference due to him.

มาตรา 47

The fact that a credit is not stated to be transferable shall not affect the beneficiary's rights to assign the proceeds of such credit in accordance with the provisions of the applicable law.



## Uniform Customs and Practice for Documentary Credits

(ฉบับแก้ไขเพิ่มเติม 1983)

Reproduced below is the text of International Chamber of Commerce publication No. 400 setting out Uniform Customs and Practice for Documentary Credits (1983 Revision) which has been reproduced with the permission of the International Chamber of Commerce.

Copyright of this publication is held by the International Chamber of Commerce, Paris, and copies of the publication may be obtained from the Australian Council of the ICC, PO Box E118, Queen Victoria Terrace, ACT. 2600, or from the ICC Headquarters, 38 Cours Albert 1er, 75008, Paris or from ICC National Committees in over 58 countries throughout the world.

In addition, copies may be obtained from the main offices of banks in Australia.

### A. General Provisions and Definitions

#### *Article 1.*

These articles apply to all documentary credits, including, to the extent to which they may be applicable, standby letters of credit, and are binding on all parties thereto unless otherwise expressly agreed. They shall be incorporated into each documentary credit by wording in the credit indicating that such credit is issued subject to Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400.

#### *Article 2.*

For the purposes of these articles, the expressions 'documentary credit(s)' and 'standby letter(s) of credit' used herein (hereinafter referred to as 'credit(s)'), mean any arrangement, however named or described, whereby a bank (the issuing bank), acting at the request and on the instructions of a customer (the applicant for the credit);

i) is to make a payment to or to the order of a third party (the beneficiary), or is to pay or accept bills of exchange (drafts) drawn by the beneficiary, or

ii) authorises another bank to effect such payment, or to pay, accept or negotiate such bills of exchange (drafts),

against stipulated documents, provided that the terms and conditions of the credit are complied with.

#### *Article 3.*

Credits, by their nature, are separate transactions from the sales or other contract(s) on which they may be based and banks are in no

way concerned with or bound by such contract(s), even if any reference whatsoever to such contract(s) is included in the credit.

*Article 4.*

In credit operations all parties concerned deal in documents, and not in goods, services and/or other performances to which the documents may relate.

*Article 5.*

Instructions for the issuance of credits, the credits themselves, instructions for any amendments thereto and the amendments themselves must be complete and precise.

In order to guard against confusion and misunderstanding, banks should discourage any attempt to include excessive detail in the credit or in any amendment thereto.

*Article 6.*

A beneficiary can in no case avail himself of the contractual relationships existing between the banks or between the applicant for the credit and the issuing bank.

**B. Form and Notification of Credits**

*Article 7.*

a) Credits may be either:

- i) revocable, or
- ii) irrevocable.

b) All credits, therefore, should clearly indicate whether they are revocable or irrevocable.

c) In the absence of such indication the credit shall be deemed to be revocable.

*Article 8.*

A credit may be advised to a beneficiary through another bank (the advising bank) without engagement on the part of the advising bank, but that bank shall take reasonable care to check the apparent authenticity of the credit which it advises.

*Article 9.*

a) A revocable credit may be amended or cancelled by the issuing bank at any moment and without prior notice to the beneficiary.

b) However, the issuing bank is bound to:

- i) reimburse a branch or bank with which a revocable credit has been made available for sight payment, acceptance or negotiation, for any payment, acceptance or negotiation made by such a

branch or bank prior to receipt by it of notice of amendment or cancellation, against documents which appear on their face to be in accordance with the terms and conditions of the credit.

- ii) reimburse a branch or bank with which a revocable credit has been made available for deferred payment, if such branch or bank has, prior to receipt by it of notice of amendment or cancellation, taken up documents which appear on their face to be in accordance with the terms and conditions of the credit.

*Article 10.*

a) An irrevocable credit constitutes a definite undertaking of the issuing bank, provided that the stipulated documents are presented and that the terms and conditions of the credit are complied with:

- i) if the credit provides for sight payment – to pay, or that payment will be made;
- ii) if the credit provides for deferred payment – to pay, or that payment will be made, on the date(s) determinable in accordance with the stipulations of the credit;
- iii) if the credit provides for acceptance – to accept drafts drawn by the beneficiary if the credit stipulates that they are to be drawn on the issuing bank, or to be responsible for their acceptance and payment at maturity if the credit stipulates that they are to be drawn on the applicant for the credit or any other drawee stipulated in the credit;
- iv) if the credit provides for negotiation – to pay without recourse to drawers and/or bona fide holders, draft(s) drawn by the beneficiary, at sight or at a tenor, on the applicant for the credit or on any other drawee stipulated in the credit other than the issuing bank itself, or to provide for negotiation by another bank and to pay, as above, if such negotiation is not effected.

b) When an issuing bank authorises or requests another bank to confirm its irrevocable credit and the latter has added its confirmation, such confirmation constitutes a definite undertaking of such bank (the confirming bank), in addition to that of the issuing bank, provided that the stipulated documents are presented and that the terms and conditions of the credit are complied with:

- i) if the credit provides for sight payment – to pay, or that payment will be made;
- ii) if the credit provides for deferred payment – to pay, or that payment will be made, on the date(s) determinable in accordance with the stipulations of the credit;
- iii) if the credit provides for acceptance – to accept drafts drawn by the beneficiary if the credit stipulates that they are to be drawn on the confirming bank, or to be responsible for their acceptance and payment at maturity if the credit stipulates that they are to be drawn on the applicant for the credit or any other drawee stipulated in the credit;

iv) if the credit provides for negotiation – to negotiate without recourse to drawers and/or bona fide holders, draft(s) drawn by the beneficiary, at sight or at a tenor, on the issuing bank or on the applicant for the credit or on any other drawee stipulated in the credit other than the confirming bank itself.

c) If a bank is authorised or requested by the issuing bank to add its confirmation to a credit but is not prepared to do so, it must so inform the issuing bank without delay. Unless the issuing bank specifies otherwise in its confirmation authorisation or request, the advising bank will advise the credit to the beneficiary without adding its confirmation.

d) Such undertakings can neither be amended nor cancelled without the agreement of the issuing bank, the confirming bank (if any), and the beneficiary. Partial acceptance of amendments contained in one and the same advice of amendment is not effective without the agreement of all the above named parties.

#### *Article 11.*

a) All credits must clearly indicate whether they are available by sight payment, by deferred payment, by acceptance or by negotiation.

b) All credits must nominate the bank (nominated bank) which is authorised to pay (paying bank), or to accept drafts (accepting bank), or to negotiate (negotiating bank), unless the credit allows negotiation by any bank (negotiating bank).

c) Unless the nominated bank is the issuing bank or the confirming bank, its nomination by the issuing bank does not constitute any undertaking by the nominated bank to pay, to accept, or to negotiate.

d) By nominating a bank other than itself, or by allowing for negotiation by any bank, or by authorising or requesting a bank to add its confirmation, the issuing bank authorises such bank to pay, accept or negotiate, as the case may be, against documents which appear on their face to be in accordance with the terms and conditions of the credit, and undertakes to reimburse such bank in accordance with the provisions of these articles.

#### *Article 12.*

a) When an issuing bank instructs a bank (advising bank) by any teletransmission to advise a credit or an amendment to a credit, and intends the mail-confirmation to be the operative credit instrument, or the operative amendment, the teletransmission must state 'full details to follow' (or words of similar effect), or that the mail confirmation will be the operative credit instrument or the operative amendment. The issuing bank must forward the operative credit instrument or the operative amendment to such advising bank without delay.

- b) The teletransmission will be deemed to be the operative credit instrument or the operative amendment, and no mail confirmation should be sent, unless the teletransmission states 'full details to follow' (or words of similar effect), or states that the mail confirmation is to be the operative credit instrument or the operative amendment.
- c) A teletransmission intended by the issuing bank to be the operative credit instrument should clearly indicate that the credit is issued subject to Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400.
- d) If a bank uses the services of another bank or banks (the advising bank) to have the credit advised to the beneficiary, it must also use the services of the same bank(s) for advising any amendments.
- e) Banks shall be responsible for any consequences arising from their failure to follow the procedures set out in the preceding paragraphs.

*Article 13.*

When a bank is instructed to issue, confirm or advise a credit similar in terms to one previously issued, confirmed or advised (similar credit) and the previous credit has been the subject of amendment(s), it shall be understood that the similar credit will not include any such amendment(s) unless the instructions specify clearly the amendment(s) which is/are to apply to the similar credit. Banks should discourage instructions to issue, confirm or advise a credit in this manner.

*Article 14.*

If incomplete or unclear instructions are received to issue, confirm, advise or amend a credit, the bank requested to act on such instructions may give preliminary notification to the beneficiary for information only and without responsibility. The credit will be issued, confirmed, advised or amended only when necessary information has been received and if the bank is then prepared to act on the instructions. Banks should provide the necessary information without delay.

**C. Liabilities and Responsibilities**

*Article 15.*

Banks must examine all documents with reasonable care to ascertain that they appear on their face to be in accordance with the terms and conditions of the credit. Documents which appear on their face to be inconsistent with one another will be considered as not appearing on their face to be in accordance with the terms and conditions of the credit.

*Article 16.*

- a) If a bank so authorised effects payment, or incurs a deferred payment undertaking, or accepts, or negotiates against documents which appear on their face to be in accordance with the terms and conditions of a credit, the party giving such authority shall be bound to reimburse the bank which has effected payment, or incurred a deferred payment undertaking, or has accepted, or negotiated, and to take up the documents.
- b) If, upon receipt of the documents, the issuing bank considers that they appear on their face not to be in accordance with the terms and conditions of the credit, it must determine, on the basis of the documents alone, whether to take up such documents, or to refuse them and claim that they appear on their face not to be in accordance with the terms and conditions of the credit.
- c) The issuing bank shall have a reasonable time in which to examine the documents and to determine as above whether to take up or to refuse the documents.
- d) If the issuing bank decides to refuse the documents, it must give notice to that effect without delay by telecommunication or, if that is not possible, by other expeditious means, to the bank from which it received the documents (the remitting bank), or to the beneficiary, if it received the documents directly from him. Such notice must state the discrepancies in respect of which the issuing bank refuses the documents and must also state whether it is holding the documents at the disposal of, or is returning them to, the presenter (remitting bank or the beneficiary, as the case may be). The issuing bank shall then be entitled to claim from the remitting bank refund of any reimbursement which may have been made to that bank.
- e) If the issuing bank fails to act in accordance with the provisions of paragraphs c) and d) of this article and/or fails to hold the documents at the disposal of, or to return them to, the presenter, the issuing bank shall be precluded from claiming that the documents are not in accordance with the terms and conditions of the credit.
- f) If the remitting bank draws the attention of the issuing bank to any discrepancies in the documents or advises the issuing bank that it has paid, incurred a deferred payment undertaking, accepted or negotiated under reserve or against an indemnity in respect of such discrepancies, the issuing bank shall not be thereby relieved from any of its obligations under any provision of this article. Such reserve or indemnity concerns only the relations between the remitting bank and the party towards whom the reserve was made, or from whom, or on whose behalf, the indemnity was obtained.

*Article 17.*

Banks assume no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any documents, or for the general and/or particular conditions stipulated in the documents or superimposed thereon; nor do they assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods represented by any documents, or for the good faith or acts and/or omissions, solvency, performance or standing of the consignor, the carriers or the insurers of the goods, or any other person whomsoever.

*Article 18.*

Banks assume no liability or responsibility for the consequences arising out of delay and/or loss in transit of any messages, letters or documents, or for delay, mutilation or other errors arising in the transmission of any telecommunication. Banks assume no liability or responsibility for errors in translation or interpretation of technical terms, and reserve the right to transmit credit terms without translating them.

*Article 19.*

Banks assume no liability or responsibility for consequences arising out of the interruption of their business by Acts of God, riots, civil commotions, insurrections, wars or any other causes beyond their control, or by any strikes or lockouts. Unless specifically authorised, banks will not, upon resumption of their business, incur a deferred payment undertaking, or effect payment, acceptance or negotiation under credits which expired during such interruption of their business.

*Article 20.*

- a) Banks utilising the services of another bank or other banks for the purpose of giving effect to the instructions of the applicant for the credit do so for the account and at the risk of such applicant.
- b) Banks assume no liability or responsibility should the instructions they transmit not be carried out, even if they have themselves taken the initiative in the choice of such other bank(s).
- c) The applicant for the credit shall be bound by and liable to indemnify the banks against all obligations and responsibilities imposed by foreign laws and usages.

*Article 21.*

- a) If an issuing bank intends that the reimbursement to which a paying, accepting or negotiating bank is entitled shall be obtained by such bank claiming on another branch or office of the issuing bank or on a third bank (all hereinafter referred to as the reimbursing bank) it

shall provide such reimbursing bank in good time with the proper instructions or authorisation to honour such reimbursement claims and without making it a condition that the bank entitled to claim reimbursement must certify compliance with the terms and conditions of the credit to the reimbursing bank.

b) An issuing bank will not be relieved from any of its obligations to provide reimbursement itself if and when reimbursement is not effected by the reimbursing bank.

c) The issuing bank will be responsible to the paying, accepting or negotiating bank for any loss of interest if reimbursement is not provided on first demand made to the reimbursing bank, or as otherwise specified in the credit, or mutually agreed, as the case may be.

#### **D. Documents**

##### *Article 22*

a) All instructions for the issuance of credits and the credits themselves and, where applicable, all instructions for amendments thereto and the amendments themselves, must state precisely the document(s) against which payment, acceptance or negotiation is to be made.

b) Terms such as 'first class', 'well known', 'qualified', 'independent', 'official' and the like shall not be used to describe the issuers of any documents to be presented under a credit. If such terms are incorporated in the credit terms, banks will accept the relative documents as presented, provided that they appear on their face to be in accordance with the other terms and conditions of the credit.

c) Unless otherwise stipulated in the credit, banks will accept as originals documents produced or appearing to have been produced:

- i) by reprographic systems;
- ii) by, or as the result of, automated or computerised systems;
- iii) as carbon copies, if marked as originals, always provided that, where necessary, such documents appear to have been authenticated.

##### *Article 23.*

When documents other than transport documents, insurance documents and commercial invoices are called for, the credit should stipulate by whom such documents are to be issued and their wording or data content. If the credit does not so stipulate, banks will accept such documents as presented provided that their data content makes it possible to relate the goods and/or services referred to therein to those referred to in the commercial invoice(s) presented, or to those referred to in the credit if the credit does not stipulate presentation of a commercial invoice.



*Article 24.*

Unless otherwise stipulated in the credit, banks will accept a document bearing a date of issuance prior to that of the credit, subject to such document being presented within the time limits set out in the credit and in these articles.

*Article 25.*

Unless a credit calling for a transport document stipulates as such document a marine bill of lading (ocean bill of lading or a bill of lading covering carriage by sea), or a post receipt or certificate of posting:

- a) Banks will, unless otherwise stipulated in the credit, accept a transport document which:
- i) appears on its face to have been issued by a named carrier, or his agent, and
  - ii) indicates dispatch or taking in charge of the goods, or loading on board, as the case may be, and
  - iii) consists of the full set of originals issued to the consignor if issued in more than one original, and
  - iv) meets all other stipulations of the credit.
- b) Subject to the above, and unless otherwise stipulated in the credit, banks will not reject a transport document which:
- i) bears a title such as 'Combined transport bill of lading', 'Combined transport document', 'Combined transport bill of lading or port-to-port bill of lading', or a title or a combination of titles of similar intent and effect, and/or
  - ii) indicates some or all of the conditions of carriage by reference to a source or document other than the transport document itself (short form/blank back transport document), and/or
  - iii) indicates a place of taking in charge different from the port of loading and/or a place of final destination different from the port of discharge, and/or
  - iv) relates to cargoes such as those in containers or on pallets, and the like, and/or
  - v) contains the indication 'intended', or similar qualification, in relation to the vessel or other means of transport, and/or the port of loading and/or the port of discharge.
- c) Unless otherwise stipulated in the credit in the case of carriage by sea or by more than one mode of transport but including carriage by sea, banks will reject a transport document which:
- i) indicates that it is subject to a charter party, and/or
  - ii) indicates that the carrying vessel is propelled by sail only.
- d) Unless otherwise stipulated in the credit, banks will reject a

D1. Transport Documents (documents indicating loading on board or dispatch or taking in charge).

transport document issued by a freight forwarder unless it is the FIATA Combined Transport Bill of Lading approved by the International Chamber of Commerce or otherwise indicates that it issued by a freight forwarder acting as a carrier or agent of a named carrier.

*Article 26.*

If a credit calling for transport document stipulates as such document a marine bill of lading.

a) Banks will, unless otherwise stipulated in the credit, accept a document which:

- i) appears on its face to have been issued by a named carrier, or his agent, and
- ii) indicates that the goods have been loaded on board or shipped on a named vessel, and
- iii) consists of the full set of originals issued to the consignor if issued in more than one original, and
- iv) meets all other stipulations of the credit.

b) Subject to the above, and unless otherwise stipulated in the credit, banks will not reject a document which:

- i) bears a title such as 'Combined transport bill of lading', 'Combined transport document', 'Combined transport bill of lading or port-to-port bill of lading', or a title or a combination of titles of similar intent and effect, and/or
- ii) indicates some or all of the conditions of carriage by reference to a source or document other than the transport document itself (short form/blank back transport document), and/or
- iii) indicates a place of taking in charge different from the port of loading, and/or a place of final destination different from the port of discharge, and/or
- iv) relates to cargoes such as those in containers or on pallets, and the like.

c) Unless otherwise stipulated in the credit, banks will reject a document which:

- i) indicates that it is subject to a charter party, and/or
- ii) indicates that the carrying vessel is propelled by sail only, and/or
- iii) contains the indication 'intended', or similar qualification in relation to:
  - the vessel and/or the port of loading – unless such document bears an on board notation in accordance with Article 27(b) and also indicates the actual port of loading, and/or

- the port of discharge – unless the place of final destination indicated on the document is other than the port of discharge, and/or
- iv) is issued by a freight forwarder, unless it indicates that it is issued by such freight forwarder acting as a carrier, or as the agent of a named carrier.

*Article 27.*

a) Unless a credit specifically calls for an on board transport document, or unless inconsistent with other stipulation(s) in the credit, or with Article 26, banks will accept a transport document which indicates that the goods have been taken in charge or received for shipment.

b) Loading on board or shipment on a vessel may be evidenced either by a transport document bearing wording indicating loading on board a named vessel or shipment on a named vessel, or, in the case of a transport document stating 'received for shipment', by means of a notation of loading on board on the transport document signed or initialled and dated by the carrier or his agent, and the date of this notation shall be regarded as the date of loading on board the named vessel or shipment on the named vessel.

*Article 28.*

a) In the case of carriage by sea or by more than one mode of transport but including carriage by sea, banks will refuse a transport document stating that the goods are or will be loaded on deck, unless specifically authorised in the credit.

b) Banks will not refuse a transport document which contains a provision that the goods may be carried on deck, provided it does not specifically state that they are or will be loaded on deck.

*Article 29.*

a) For the purpose of this article transhipment means a transfer and reloading during the course of carriage from the port of loading or place of dispatch or taking in charge to the port of discharge or place of destination either from one conveyance or vessel to another conveyance or vessel within the same mode of transport or from one mode of transport to another mode of transport.

b) Unless transhipment is prohibited by the terms of the credit, banks will accept transport documents which indicate that the goods will be transhipped, provided the entire carriage is covered by one and the same transport document.

- c) Even if transshipment is prohibited by the terms of the credit, banks will accept transport documents which:
- i) incorporate printed clauses stating that the carrier has the right to tranship, or
  - ii) state or indicate that transshipment will or may take place, when the credit stipulates a combined transport document, or indicates carriage from a place of taking in charge to a place of final destination by different modes of transport including a carriage by sea, provided that the entire carriage is covered by one and the same transport document, or
  - iii) state or indicate that the goods are in container(s), trailer(s), 'LASH' barge(s), and the like and will be carried from the place of taking in charge to the place of final destination in the same container(s), trailer(s), 'LASH' barge(s), and the like under one and the same transport document, or
  - iv) state or indicate the place of receipt and/or of final destination 'C.F.S.' (container freight station) or 'C.Y.' (container yard) at, or associated with, the port of loading and/or the port of destination.

*Article 30.*

If the credit stipulates dispatch of goods by post and calls for a post receipt or certificate of posting, banks will accept such post receipt or certificate of posting if it appears to have been stamped or otherwise authenticated and dated in the place from which the credit stipulates the goods are to be dispatched.

*Article 31.*

- a) Unless otherwise stipulated in the credit, or inconsistent with any of the documents presented under the credit, banks will accept transport documents stating that freight or transportation charges (hereinafter referred to as 'freight') have still to be paid.
- b) If a credit stipulates that the transport document has to indicate that freight has been paid or prepaid, banks will accept a transport document on which words clearly indicating payment or prepayment of freight appear by stamp or otherwise, or on which payment of freight is indicated by other means.
- c) The words 'freight prepayable' or 'freight to be prepaid' or words of similar effect, if appearing on transport documents, will not be accepted as constituting evidence of the payment of freight.
- d) Banks will accept transport documents bearing reference by stamp or otherwise to costs additional to the freight charges, such as costs of, or disbursements incurred in connection with, loading, unloading or similar operations, unless the conditions of the credit specifically prohibit such reference.

*Article 32.*

Unless otherwise stipulated in the credit, banks will accept transport documents which bear a clause on the face thereof such as 'shippers load and count' or 'said by shipper to contain' or words of similar effect.

*Article 33.*

Unless otherwise stipulated in the credit, banks will accept transport documents indicating as the consignor of the goods a party other than the beneficiary of the credit.

*Article 34.*

a) A clean transport document is one which bears no superimposed clause or notation which expressly declares a defective condition of the goods and/or the packaging.

b) Banks will refuse transport documents bearing such clauses or notations unless the credit expressly stipulates the clauses or notations which may be accepted.

c) Banks will regard a requirement in a credit for a transport document to bear the clause 'clean on board' as complied with if such transport document meets the requirements of this article and of Article 27(b).

*Article 35.*

a) Insurance documents must be as stipulated in the credit, and must be issued and/or signed by insurance companies or underwriters, or their agents.

b) Cover notes issued by brokers will not be accepted, unless specifically authorised by the credit.

*Article 36.*

Unless otherwise stipulated in the credit, or unless it appears from the insurance document(s) that the cover is effective at the latest from the date of loading on board or dispatch or taking in charge of the goods, banks will refuse insurance documents presented which bear a date later than the date of loading on board or dispatch or taking in charge of the goods as indicated by the transport document(s).

*Article 37.*

a) Unless otherwise stipulated in the credit, the insurance document must be expressed in the same currency as the credit.

b) Unless otherwise stipulated in the credit, the minimum amount for which the insurance document must indicate the insurance cover to have been effected is the CIF (cost, insurance and freight... 'named

port of destination') or CIP (freight/carriage and insurance paid to 'named point of destination') value of the goods, as the case may be, plus 10%. However, if banks cannot determine the CIF or CIP value, as the case may be, from the documents on their face, they will accept as such minimum amount the amount for which payment, acceptance or negotiation is requested under the credit, or the amount of the commercial invoice, whichever is the greater.

*Article 38.*

a) Credits should stipulate the type of insurance required and, if any, the additional risks which are to be covered. Imprecise terms such as 'usual risks' or 'customary risks' should not be used; if they are used, banks will accept insurance documents as presented, without responsibility for any risks not being covered.

b) Failing specific stipulations in the credit, banks will accept insurance documents as presented, without responsibility for any risks not being covered.

*Article 39.*

Where a credit stipulates 'insurance against all risks', banks will accept an insurance document which contains any 'all risks' notation or clause, whether or not bearing the heading 'all risks', even if indicating that certain risks are excluded, without responsibility for any risk(s) not being covered.

*Article 40.*

Banks will accept an insurance document which indicates that the cover is subject to a franchise or an excess (deductible), unless it is specifically stipulated in the credit that the insurance must be issued irrespective of percentage.

*Article 41.*

a) Unless otherwise stipulated in the credit, commercial invoices must be made out in the name of the applicant for the credit.

b) Unless otherwise stipulated in the credit, banks may refuse commercial invoices issued for amounts in excess of the amount permitted by the credit. Nevertheless, if a bank authorised to pay, incur a deferred payment undertaking, accept or negotiate under a credit accepts such invoices, its decision will be binding upon all parties, provided such bank has not paid, incurred a deferred payment undertaking, accepted or effected negotiation for an amount in excess of that permitted by the credit.

c) The description of the goods in the commercial invoice must correspond with the description in the credit. In all other documents, the goods may be described in general terms not inconsistent with the description of the goods in the credit.

D4. Other Documents

*Article 42.*

If a credit calls for an attestation or certification of weight in the case of transport other than by sea, banks will accept a weight stamp or declaration of weight which appears to have been superimposed on the transport document by the carrier or his agent unless the credit specifically stipulates that the attestation or certification of weight must be by means of a separate document.

E. Miscellaneous Provisions

Quantity and Amount

*Article 43.*

a) The words 'about', 'circa' or similar expressions used in connection with the amount of the credit or the quantity or the unit price stated in the credit are to be construed as allowing a difference not to exceed 10% more or 10% less than the amount or the quantity or the unit price to which they refer.

b) Unless a credit stipulates that the quantity of the goods specified must not be exceeded or reduced, a tolerance of 5% more or 5% less will be permissible, even if partial shipments are not permitted, always provided that the amount of the drawings does not exceed the amount of the credit. This tolerance does not apply when the credit stipulates the quantity in terms of a stated number of packing units or individual items.

Partial Drawings and/or Shipments

*Article 44.*

a) Partial drawing and/or shipments are allowed, unless the credit stipulates otherwise.

b) Shipments made by sea, or by more than one mode of transport but including carriage by sea, made on the same vessel and for the same voyage, will not be regarded as partial shipments, even if the transport documents indicating loading on board bear different dates of issuance and/or indicate different ports of loading on board.

c) Shipments made by post will not be regarded as partial shipments if the post receipts or certificates of posting appear to have been stamped or otherwise authenticated in the place from which the credit stipulates the goods are to be dispatched, and on the same date.

d) Shipments made by modes of transport other than those referred to in paragraphs b) and c) of this article will not be regarded as partial shipments, provided the transport documents are issued by one and the same carrier or his agent and indicate the same date of issuance, the same place of dispatch or taking in charge of the goods, and the same destination.

Drawings and/or  
Shipments by  
Instalments

*Article 45.*

If drawings and/or shipments by instalments within given periods are stipulated in the credit and any instalment is not drawn and/or shipped within the period allowed for that instalment, the credit ceases to be available for that and any subsequent instalments, unless otherwise stipulated in the credit.

Expiry Date and  
Presentation

*Article 46.*

- a) All credits must stipulate an expiry date for presentation of documents for payment, acceptance or negotiation.
- b) Except as provided in Article 48(a), documents must be presented on or before such expiry date.
- c) If an issuing bank states that the credit is to be available 'for one month', 'for six months' or the like, but does not specify the date from which the time is to run, the date of issuance of the credit by the issuing bank will be deemed to be the first day from which such time is to run. Banks should discourage indication of the expiry date of the credit in this manner.

*Article 47.*

- a) In addition to stipulating an expiry date for presentation of documents, every credit which calls for a transport document(s) should also stipulate a specified period of time after the date of issuance of the transport document(s) during which presentation of documents for payment, acceptance or negotiation must be made. If no such period of time is stipulated, banks will refuse documents presented to them later than 21 days after the date of issuance of the transport document(s). In every case, however, documents must be presented not later than the expiry date of the credit.
- b) For the purpose of these articles, the date of issuance of a transport document(s) will be deemed to be:
  - i) in the case of a transport document evidencing dispatch, or taking in charge, or receipt of goods for shipment by a mode of transport other than by air – the date of issuance indicated on the transport document or the date of the reception stamp thereon whichever is the later.
  - ii) in the case of a transport document evidencing carriage by air – the date of issuance indicated on the transport document or, if the credit stipulates that the transport document shall indicate an actual flight date, the actual flight date as indicated on the transport document.
  - iii) in the case of a transport document evidencing loading on board a named vessel – the date of issuance of the transport document or, in the case of an on board notation in accordance with Article 27(b), the date of such notation.
  - iv) in cases to which Article 44(b) applies, the date determined as above of the latest transport document issued.



*Article 48.*

- a) If the expiry date of the credit and/or the last day of the period of time after the date of issuance of the transport document(s) for presentation of documents stipulated by the credit or applicable by virtue of Article 47 falls on a day on which the bank to which presentation has to be made is closed for reasons other than those referred to in Article 19, the stipulated expiry date and/or the last day of the period of time after the date of issuance of the transport document(s) for presentation of documents, as the case may be, shall be extended to the first following business day on which such bank is open.
- b) The latest date for loading on board, or dispatch, or taking in charge shall not be extended by reason of the extension of the expiry date and/or the period of time after the date of issuance of the transport document(s) for presentation of document(s) in accordance with this article. If no such latest date for shipment is stipulated in the credit or amendments thereto, banks will reject transport documents indicating a date of issuance later than the expiry date stipulated in the credit or amendments thereto.
- c) The bank to which presentation is made on such first following business day must add to the documents its certificate that the documents were presented within the time limits extended in accordance with Article 48(a) of the Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400.

*Article 49.*

Banks are under no obligation to accept presentation of documents outside their banking hours.

*Article 50.*

- a) Unless otherwise stipulated in the credit, the expression 'shipment' used in stipulating an earliest and/or a latest shipment date will be understood to include the expressions 'loading on board', 'dispatch' and 'taking in charge'.
- b) The date of issuance of the transport document determined in accordance with Article 47(b) will be taken to be the date of shipment.
- c) Expressions such as 'prompt', 'immediately', 'as soon as possible', and the like should not be used. If they are used, banks will interpret them as a stipulation that shipment is to be made within thirty days from the date of issuance of the credit by the issuing bank.
- d) If the expression 'on or about' and similar expressions are used, banks will interpret them as a stipulation that shipment is to be made during the period from five days before to five days after the specified date, both end days included.

Loading on Board,  
Dispatch and Taking  
in Charge (shipment)

**Date Terms***Article 51.*

The words 'to', 'until', 'till', 'from', and words of similar import applying to any date term in the credit will be understood to include the date mentioned. The word 'after' will be understood to exclude the date mentioned.

*Article 52.*

The terms 'first half', 'second half' of a month shall be construed respectively as from the 1st to the 15th, and the 16th to the last day of each month, inclusive.

*Article 53.*

The terms 'beginning', 'middle', or 'end' of a month shall be construed respectively as from the 1st to the 10th, the 11th to the 20th, and the 21st to the last day of each month, inclusive.

**F. Transfer***Article 54.*

- a) A transferable credit is a credit under which the beneficiary has the right to request the bank called upon to effect the payment or acceptance or any bank entitled to effect negotiation to make the credit available in whole or in part to one or more other parties (second beneficiaries):
- b) A credit can be transferred only if it is expressly designated as 'transferable' by the issuing bank. Terms such as 'divisible', 'fractionable', 'assignable', and 'transmissible' add nothing to the meaning of the term 'transferable' and shall not be used.
- c) The bank requested to effect the transfer (transferring bank), whether it has confirmed the credit or not, shall be under no obligation to effect such transfer except to the extent and in the manner expressly consented to by such a bank.
- d) Bank charges in respect of transfers are payable by the first beneficiary unless otherwise specified. The transferring bank shall be under no obligation to effect the transfer until such charges are paid.
- e) A transferable credit can be transferred once only. Fractions of a transferable credit (not exceeding in the aggregate the amount of the credit) can be transferred separately, provided partial shipments are not prohibited, and the aggregate of such transfers will be considered as constituting only one transfer of the credit. The credit can be transferred only on the terms and conditions specified in the original credit, with the exception of the amount of the credit, of any unit prices stated therein, of the period of validity, of the last date for presentation of documents in accordance with Article 47 and the period for shipment, any or all of which may be reduced or curtailed, or the percentage for which insurance cover must be effected, which

may be increased in such a way as to provide the amount of cover stipulated in the original credit, or these articles. Additionally, the name of the first beneficiary can be substituted for that of the applicant for the credit, but if the name of the applicant for the credit is specifically required by the original credit to appear in any document other than the invoice, such requirement must be fulfilled.

f) The first beneficiary has the right to substitute his own invoices (and drafts if the credit stipulates that drafts are to be drawn on the applicant for the credit) in exchange for those of the second beneficiary, for amounts not in excess of the original amount stipulated in the credit and for the original unit prices if stipulated in the credit, and upon such substitution of invoices (and drafts) the first beneficiary can draw under the credit for the difference, if any, between his invoices and the second beneficiary's invoices. When a credit has been transferred and the first beneficiary is to supply his own invoices (and drafts) in exchange for the second beneficiary's invoices (and drafts) but fails to do so on first demand, the paying, accepting or negotiating bank has the right to deliver to the issuing bank the documents received under the credit, including the second beneficiary's invoices (and drafts) without further responsibility to the first beneficiary.

g) Unless otherwise stipulated in the credit, the first beneficiary of a transferable credit may request that the credit be transferred to a second beneficiary in the same country, or in another country. Further, unless otherwise stipulated in the credit, the first beneficiary shall have the right to request that payment or negotiation be effected to the second beneficiary at the place to which the credit has been transferred, up to and including the expiry date of the original credit, and without prejudice to the first beneficiary's right subsequently to substitute his own invoices and drafts (if any) for those of the second beneficiary and to claim any difference due to him.

Assignment of  
Proceeds

*Article 55.*

The fact that a credit is not stated to be transferable shall not affect the beneficiary's right to assign any proceeds to which he may be, or may become, entitled under such credit, in accordance with the provisions of the applicable law.

### ประวัติผู้เขียน

นายวิสิทธิ์ กาญจนภาส เกิดที่อำเภอเมือง จังหวัดชลบุรี สำเร็จการศึกษานิติศาสตรบัณฑิต (เกียรตินิยม อันดับสอง) จากมหาวิทยาลัยธรรมศาสตร์ เมื่อปี พ.ศ. 2528 และสำเร็จการศึกษาเป็นเนติบัณฑิตไทย เมื่อปี พ.ศ. 2529 มีประสบการณ์ทำงานที่สำนักกฎหมาย ธนาคารกสิกรไทย ตั้งแต่ปี พ.ศ. 2528 ถึง 2532 ได้รับทุนการศึกษาจากรัฐบาลออสเตรเลีย เมื่อปี พ.ศ. 2533 เพื่อการศึกษาในระดับปริญญาบัตรมหาบัณฑิต ณ มหาวิทยาลัย Monash ประเทศออสเตรเลีย และปัจจุบันอยู่ในระหว่างการเขียนวิทยานิพนธ์ ของมหาวิทยาลัยดังกล่าว



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย