

# Maqâshid Syarî'ah Perception Toward Letter of Credit as Export-Import Risk Mitigation at Indonesian Fishery Trade Experience

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**Submission date:** 01-Feb-2022 04:43AM (UTC+0000)

**Submission ID:** 1752538365

**File name:** 6761-17580-1-PB.pdf (1.86M)

**Word count:** 7695

**Character count:** 40476

## ***Maqâshid Syarî'ah Perception Toward Letter of Credit as Export-Import Risk Mitigation at Indonesian Fishery Trade Experience***

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### **Abstract**

Export-Import is one of the engines that drive economic growth. Compared to domestic trade, Export-Import trade or international trade contains more risks. In reducing the risks that may occur in international trade, exporters use Letters of Credit as a guarantee of payment for goods. Compared with the weaknesses and benefits of using a Letter of Credit (LoC) in risk mitigation in export-import transactions, the benefits of using it are greater. Therefore, this study aims to find out how to use a Letter of Credit (LoC) as an instrument in mitigating export-import risk based on the *maqâshid syarî'ah* review. This research is qualitative with observation, interviews, and documentation in data collection. The data is analyzed from the data obtained from the object of the research is a descriptive analysis using the *maqâshid syarî'ah* approach by looking at the risks that may occur in the use of a Letter of Credit (LoC). The results of the study stated that the use of a Letter of Credit (LoC) as an export-import payment instrument is allowed if it becomes a necessity and creates benefits for the wider community. Providing facilities for issuing and using letters of credit as export

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and import documents needs to be developed so that it will increase exporters' interest and encourage an increase in export-import, as well as an increase in the value of foreign exchange, besides that it is necessary to develop Islamic banks as providers of shari'ah letter of credit services for exporters and Muslim importer.

**Keywords:** International Trade, Export Import, Letter of Credit, *Maqâshid syari'ah*.

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### Abstrak

Ekspor-Import merupakan salah satu mesin yang mendorong pertumbuhan ekonomi. Dibandingkan dengan perdagangan domestic, perdagangan Ekspor-Import atau perdagangan internasional mengandung lebih banyak risiko yang terjadi. Dalam mengurangi risiko yang kemungkinan terjadi pada perdagangan internasional, eksportir menggunakan Letter of Credit (LoC) sebagai sarana penjamin pembayaran barang yang dijual. Apabila dibandingkan dengan kelemahan dan manfaat dalam penggunaan Letter of Credit (LoC) dalam mitigasi risiko pada Transaksi export impor manfaat penggunaannya lebih besar *masalahnya*. Oleh karena itu, penelitian ini bertujuan untuk mengetahui bagaimana penggunaan Letter of Credit (LoC) sebagai instrument dalam mitigasi risiko ekspor- import berdasarkan tinjauan *maqâshid syari'ah*. Penelitian ini merupakan penelitian kualitatif dengan observasi, wawancara dan dokumentasi dalam pengumpulan datanya. Data selanjutnya dianalisis dari data yang didapat dari obyek penelitian secara deskriptif analisis dengan menggunakan pendekatan *maqâshid syari'ah* dengan melihat pada risiko yang mungkin terjadi pada penggunaan Letter of credit (LoC). Hasil penelitian menyebutkan bahwa penggunaan Letter of Credit (LoC) sebagai instrumen pembayaran ekspor-impor diperbolehkan jika menjadi kebutuhan dan menciptakan manfaat bagi masyarakat luas. Pemberian kemudahan dalam menerbitkan dan menggunakan Letter of Credit (LoC) sebagai dokumen ekspor dan impor perlu dikembangkan sehingga akan meningkatkan minat eksportir dan mendorong peningkatan ekspor-import, serta peningkatan nilai devisa Negara, disamping itu diperlukan pengembangan bank shari'ahh sebagai penyedia jasa Letter of Credit (LoC) shari'ahh bagi eksporter dan importer muslim.

**Kata Kunci:** Perdagangan Internasional, Export Import, Letter of Credit, *Maqâshid syari'ah*.

## Introduction

Import-export becomes a requirement for overseas trade success in times of uncertainty global. Increased exports and investment by emerging countries can enhance output and economic growth, generating foreign cash that can be used to fund the acquisition of raw materials and capital goods that will add value to the manufacturing process<sup>1</sup>. While, in Indonesia as an archipelagic country, export-import activities account for 94.64 percent of Indonesia's Gross Domestic Product<sup>2</sup>. The trade-in fishery products are the main commodity that has reached a surplus of USD 4.936 billion.<sup>3</sup> This surplus was the highest in the 2015-2019 period, increasing by 5.44% per year with a positive trend in the export value with an increase of 3.52%. While the import of fishery products reached USD 477 million with an average of 9.60% in the same period.

Through the unbalance data of import-export activities of fishery products of Indonesia, more risks have to prevent for both exporters and importers. A common risk that occurred is marketization on the relationship of exchange rate fluctuation and import-exports<sup>4</sup> especially in exchange rate volatility will inhibit the next period of import exports. In reducing this risk, exporters-importers use Letters of Credit (LoC) as collateral for marketization in the relationship between exchange rate fluctuations and export-import marketability. LoC is a method that is released for blocking and limiting foreign exchange payments<sup>5</sup> such as the failure of providing appropriate documents, non-bank credit issuers, transfer risk and political risk of the destination country and

<sup>1</sup> Ari Muliarta Ginting, "Analisis Pengaruh Ekspor Terhadap Pertumbuhan Ekonomi Indonesia," *Buletin Ilmiah Litbang Perdagangan* 11, no. 1 (2017): 3, <https://doi.org/10.30908/bilp.v11i1.185>. Ismadiyanti Purwaning Astuti and Fitri Juniwati Ayuningtyas, "Pengaruh Ekspor Dan Impor Terhadap Pertumbuhan Ekonomi Di Indonesia," *Jurnal Ekonomi & Studi Pembangunan* 19, no. 1 (2018): 1, <https://doi.org/10.18196/jesp.19.1.3836>.

<sup>2</sup> A Affandi, T Zulham, and Eddy Gunawan, "Pengaruh Ekspor, Impor Dan Jumlah Penduduk," *Jurnal Perspektif Ekonomi Darussalam* 4, no. 2 (2018): 250, <https://doi.org/https://doi.org/10.24815/jped.v4i2.13021>

<sup>3</sup> Direktorat Jenderal Penguatan Daya Saing Produk Kelautan dan Perikanan Kementrian Kelautan dan Perikanan, "Statistik Ekspor Hasil Perikanan Tahun 2015 - 2019 2020," 2020, 32.

<sup>4</sup> Brian Luceya, Xiaoxue Wangd, Yanfang Wangd, Ying Xu, "Can financial marketization mitigate the negative effect of exchange rate fluctuations on exports? Evidence from Chinese regions," *Finance Research Letters*, 2019, <https://doi.org/10.1016/j.frl.2019.07.023>

<sup>5</sup> Baldric Siregar dan M. Fakhri Husein, *Mekanisme Ekspor-Impor Dengan Letter of Credit* (Yogyakarta: UPP AMP YKPN, 2005), 44



exchange rate fluctuations and the risk of fraud<sup>6</sup>.

Indonesia as the fourth Muslim majority population country, Letter of Credit (LoC) is issued between conventional Letter of Credit (LoC) and shari'ah Letter of Credit (LoC). Regarding the number of Shari'ah Letter of Credit (LoC) issued in Indonesia is far less than conventional Letter of Credit (LoC). In practice, CV. Sembada as a Muslim importer-exporter in fishery trade more prefers to use shari'ah Letter of Credit (LoC) than conventional Letter of Credit (LoC). However, the limitations of Issuer Banks that have limited to issue shari'ah Letter of Credit (LoC) that make it difficult for CV. Sembada to use shari'ah Letter of Credit (LoC). Besides, either shari'ah Letter of Credit (LoC) and conventional Letter of Credit (LoC) still contain elements of *maysir*, *gharar*, and usury when viewed from the possible risks that can occur in the use of Letter of Credit (LoC) and its benefits. In addition, both forms of Letter of Credit (LoC) are considered as a debt document due to both are regulated on the same *The Uniform Customs and Practice for Documentary Credits* (UCP) as a set of rules on the issuance and use of Letter of Credit (LoC).

Regarding this phenomenon, mitigating this challenge have to provide solutions for Muslim exporters-importers which is a reality that is difficult to avoid. Besides, they require certainty of Islamic laws in Letter of Credit (LoC) activities. Departing from these problems, an understanding of Islamic law and the purpose of its application based on (*maqâshid syarî'ah*) become very important, this is will affect the success in the process of implementing Letter of Credit (LoC) following Islamic law both among Muslims and the community in general. So ideally, *maqâshid syarî'ah* provides legal protection for sure and control for realize the benefit and maintain dignity and worth. Reviewing the problems mentioned earlier, this research is considered necessary related to the use of Letter of Credit (LoC), especially in

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<sup>6</sup> Prawitra Thalib, "Mekanisme Lalu Lintas Pembayaran Luar Negeri Dalam Kegiatan Ekspor Impor," *Yuridika* 26, no. 3 (2011): 74, <https://doi.org/10.20473/ydk.v26i3.278>. Mulianta Ginting, "Pengaruh Nilai Tukar Terhadap Ekspor Indonesia," *Buletin Ilmiah Litbang Perdagangan* 7, no. 1 (2013): 61, <http://jurnal.kemendag.go.id/bilp/article/view/96/61>. Directory Report of the Supreme Court of the Republic of Indonesia on fraud cases conducted using Letter of Credit documents in the period 2019 including the Central Jakarta PN Verdict in the case of Comodity Energy Resources vs KTO Exsport PTE LTE, Pn Semarang Verdict in the case of Ricardo Wijaya vs. PT. Budi Beton Mulya, See: . <https://putusan3.mahkamahagung.go.id/> and case of Fictitious Letter of Credit PT. Maria Pauline's Gramarindo Group, see: <https://www.cnnindonesia.com/ekonomi>

Muslim exporters-importers who use Letter of Credit (LoC). Therefore, this article analyzes Letter of Credit (LoC) as exporter-importer risk-mitigating based on *maqâshid syarî'ah*.

## Discussion

The export-import activities are closely related to the payment system. A payment system that is practical, smooth, safe, and guarantees to the parties that it will support export trade, on the other hand, if there is a lot of uncertainty in payments it will have an impact on the parties concerned, as for the payment methods that can be used in export-import transactions, including a) Cash payment; b) Payment of open accounts (open accounts); c) Payment by draft or Letter of Credit (LoC).<sup>7</sup>

The legal basis for using the Letter of Credit in Indonesia is regulated in a Government Regulation. In Government Regulation no. 1 of 1982 that Bank Indonesia supports the UCP to become a provider in the practice of international import and export trade, this is because Bank Indonesia assesses the creation of a sense of security if the Letter of Credit is subject to UCP. However, informal juridical terms, the foreign exchange bank (commercial bank) has the freedom to determine whether or not to submit to the UCP.<sup>8</sup>

In another sense, the Indonesian Ulama Council in Fatwa number 35/DSN-MUI/ IX/2003 concerning Shari'ah Export Letter of Credit is a payment agreement to an Exporter issued by a Bank to facilitate export trade by fulfilling certain requirements following applicable regulations Islamic principles.<sup>9</sup>

## Letter of Credit as Export-Import Risk Mitigation

Letters of credit play an important role in international trade and have been described as the lifeblood of international trade. The Accounting and Auditing Organization for Islamic Financial

<sup>7</sup> Handayani dan Sarjiyanto, "Mitigasi Resiko Dan Klaim Asuransi Pengiriman Barang Ekspor Pada Perusahaan Internasional Freight Forwarder (Study Kasus Pada PT. MSA Kargo Surakarta)," *Jurnal Vokasi Indonesia* 7, no. 1 (2019): 58.

<sup>8</sup> Surat Edaran Bank Indonesia No. 26/34/ULN tanggal 17 Desember 1993 mengatur bahwa bank devisa (bank umum) boleh tunduk atau tidak pada UCP

<sup>9</sup> Fatwa DSN MUI tentang Kredit Shari'ahh Shari'ahh tentang Export Letter of Credit Shari'ahh

Institutions (AAIOFI) <sup>10</sup> states that the Letter of Credit is

“A documentary credit is written undertaking by bank (known as issuer) given to the seller (the beneficiary) as a per the buyer’s (applicant’s or orderer’s) instruction or issued by the bank for its use, undertaking to pay up to a specified amount (in cash or acceptance or discounting of the bill of exchange), within a certain period, on condition that the seller present document for the goods conforming to the instruction”. <sup>10</sup>

International Uniform Custom and <sup>29</sup> Practice explains the definition of Letter of Credit (LoC) as outlined in the Uniform Customs and Practice Documentary Credit (UCP 600) that “a credit document means any arrangement, however, named or described, which cannot be canceled and thus constitutes a definite effort by the issuing bank. to honor appropriate presentations”.<sup>11</sup>

Koshal defines it as a “secured method of payment as the credit-issuing bank gives an independent undertaking to pay the seller or beneficiary provided the terms and conditions of the credit have been complied with and all the stipulated documents as required by the documentary credit are presented”.<sup>12</sup> Christopher Leon calls the Letter of Credit (LoC) a Documentary Credit. Leon defines it as “a draft which is to be presented with the stipuled document, so from the beneficiaries view it is just a modality”.<sup>13</sup>

<sup>37</sup> From the previously mentioned definition, it can be concluded that a Letter of Credit (LoC) is a document <sup>38</sup> used in foreign trade (export-import) with buyers (exporters) abroad asking the bank to represent it in payment of goods, which is then carried out by the bank in the seller’s country ( importer) will accept the document and notify the importer to complete the export-import document data, payment will occur when the document is complete and following the submitted import-export requirements.

There are many types of Documentary Credits. While almost every documentary credit issued today is irrevocable, some credits can be canceled but are very rarely used. The types of letters of credit that can be used by exporter and importer include:

<sup>10</sup> AAIOFI, *Shari’ah Standards AAIOFI* (Bahrain: <sup>23</sup> Dar Al- Maiman for Publishing and Distributing, 2017), 397.

<sup>11</sup> International Chamber of Commerce, “*Uniform Customs & Practice for Documentary Credits (UCP 600)*,” no. March 2002 (2007).

<sup>12</sup> Nisha S. Koshal, *Understanding Letter of Credit: Learner’s Guide to Letter of Credit* (Chennai: Notion Press, 2017), 2.

<sup>13</sup> Christopher Leon, “*Letter of Credit: A Primer*,” *Maryland Law Review* 45, no. 2 (nd).



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a. *Revocable Letter of Credit*

Revocable is a type of letter of credit that can be canceled at any time without prior notification to the recipient. The Letter of Credit (LoC) can be withdrawn at any time but it cannot be confirmed and all credits that can be canceled must be unconfirmed.<sup>14</sup> Unconfirmed credits can be changed or canceled by the issuing bank at any time without the prior consent of the recipient. All credits issued subject to UCP 600 are irrevocable unless otherwise specified. Cancelable credits may still be issued subject to UCP 500.<sup>15</sup>

b. *Irrevocable Letter of Credit*

Irrevocable is a type of letter of credit that cannot be canceled or changed without written approval from the credit party. All credits issued subject to UCP 600 are irrevocable unless there is an agreement between the exporter and importer.<sup>16</sup> In this case, as long as the credit requirements can be fulfilled by the parties, the bank is fully responsible for making payments to the beneficiary, while the party that guarantees payment to the beneficiary is the issuing bank which is then forwarded the Letter of Credit (LoC) to the beneficiary by the advising bank according to the instructions and provide information regarding the correctness of the Letter of Credit.<sup>17</sup>

c. *Standby Letter of Credit*

Standby Letter of Credit (LoC) is a guarantee given by the issuing bank to pay to the recipient when the disbursement of the Standby Letter of Credit (LoC) has been fulfilled by the recipient.<sup>18</sup> Standby Letter of Credit (LoC) used as a guarantee for the beneficiary to get payment in the event of a payment failure made by the applicant in fulfilling its obligations following an agreement made by the issuing bank on behalf of one of its customers to pay according to the request for a partial amount of

<sup>14</sup> Herbert Broom, *Legal Maxims* (Philadelphia: T&J W. Johnson & Co., 1874), 887.

<sup>15</sup> Hamed Alavi, "Risk Analysis in Documentary Letter of Credit Operation," *Financial Law Review* 0, no. 0 (2017), <https://doi.org/10.1515/flr-2016-0021>.

<sup>16</sup> To Abu et al., "Application for Opening an Irrevocable Documentary Credit," n.d., 2.

<sup>17</sup> Gerhart Gregorius, "Perlindungan Hukum Terhadap Bank Pembayar Dalam Transaksi Letter of Credit Apabila Terjadi Non Akseptasi Oleh Bank Penerbit" (Universitas Diponegoro, 2009), 61.

<sup>18</sup> Ramlan Ginting, *Letter of Credit Tinjauan Aspek Hukum Dan Bisnis*, 2nd ed. (Jakarta: Penerbit Universitas Trisakti, 2015), 22.



money or all of it.<sup>19</sup>

This type of Letter of credit (LoC) itself can be used in any situation when one of the other parties violates the contract between them.<sup>20</sup> The majority of commercial letters of credit are issued subject to the latest version of the ISP (International Standby Practices). ISP (International Standby Practices) is a set of rules governing the letter of credit Standby procedure.<sup>21</sup> If in the application for a Letter of Credit (LoC) you are unable to pay or default.

d. *Transferable Letter of Credit*

This Letter of Credit (LoC) is issued for the benefit of intermediaries. Then he transfers part of the credit to the last supplier of the goods. Credits may be granted subject to UCP 600 and may be transferred to more than one recipient.<sup>22</sup>

e. *Sight Payment Letter of Credit*

Sight payment Letter Of Credit (LoC) is one type of Letter of Credit (LoC) in the form of a Letter of Credit (LoC) payment tool with payment made in cash. This kind of payment is usually called payment against documents or payment based on documents.<sup>23</sup> At sight payment Letter of Credit (LoC), the exporter as the beneficiary has the right to pay for the goods as written on the document with the condition that the maximum payment period is due, The payment period used in the sight payment Letter of Credit (LoC), usually with a maximum period of seven days after submission (document presentation) to the bank concerned, or within the time limit specified in the regulations on the standby Letter of Credit (LoC).<sup>24</sup>

f. *Usance or Acceptance Letter of Credit*

Usance Letter of Credit (LoC) is also known as Acceptance Letter of Credit (LoC). This type of Letter of Credit (LoC) requires submission of documents and a usance draft containing payment

<sup>19</sup> Jacob E. Sifri, *Standby Letters of Credit: A Comprehensive Guide*, 1st ed. (New York: Palgrave Macmillan, 2008), 6.

<sup>20</sup> Ramlan Ginting, *Letter of Credit Tinjauan Aspek Hukum Dan Bisnis*, 104.

<sup>21</sup> Xiang Gao, *The Fraud Rule in the Law of Letter of Credit: A Comparative Study* (Belanda: Kluwer Law International, 2002), 7.

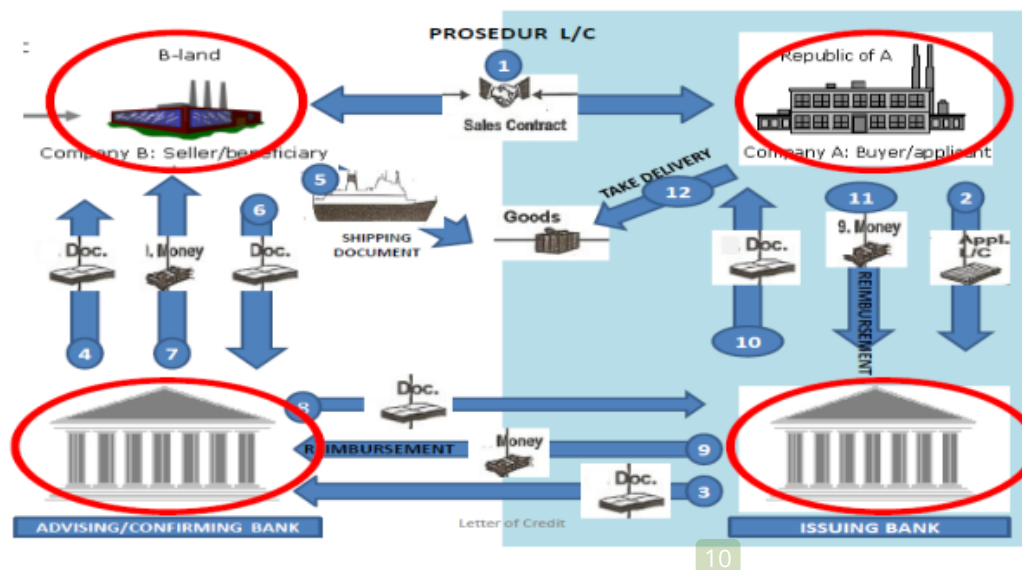
<sup>22</sup> Mary S. Schaeffer, *International Credit and Collection: A Guide to Extending Credit Worldwide* (Canada: John Wiley&Sons, Inc, 2001), 214.

<sup>23</sup> Ramlan Ginting, *Letter of Credit Tinjauan Aspek Hukum Dan Bisnis*, 81.

<sup>24</sup> Jacob E. Sifri, *Standby Letters of Credit: A Comprehensive Guide*, 27.

terms at maturity.<sup>25</sup> The Usance Letter of Credit (LoC) document requires an attached shipping document as one of the payment terms on the day the goods are paid.<sup>26</sup> There is an option to postpone payments on the condition that the exporter (beneficiary) agrees to allow the importer to use the usance Letter of Credit (LoC) in the settlement of payments.<sup>27</sup>

One of the factors that make Letter of Credit (LoC) widely used in the export-import trade process, one of which is because payments are made based on documents.<sup>28</sup> In UCP 600, it is stated that the bank does not deal with the goods sent but with documents.<sup>29</sup>. The mechanisms for issuing a Letter of Credit (LoC) by an Importer to an Exporter are as follows:



The request format for the issuance of a Letter of Credit (LoC) is also known as a documentary credit application or instruction to issue a Letter of Credit (LoC) which generally follows international standards covering basic matters consisting of: The name and address

<sup>25</sup> Agus Dedi Subagja, "Letter of Credit Sebagai Cara Pembayaran Paling Aman Dalam Transaksi Pembayaran Perdagangan Internasional Ekspor Impor (Study Kasus Pada PT. San Saudaratex Jaya)," *SpringerReference* 2, no. 1 (2011): 89, [https://doi.org/10.1007/springerreference\\_1818](https://doi.org/10.1007/springerreference_1818).

<sup>26</sup> Gerhart Gregorius, "Perlindungan Hukum Terhadap Bank Pembayar Dalam Transaksi Letter of Credit Apabila Terjadi Non Akseptasi Oleh Bank Penerbit," 56.

<sup>27</sup> Jacob E. Sifri, *Standby Letters of Credit: A Comprehensive Guide*, 28.

<sup>28</sup> Baldric Siregar dan M. Fakhri Husein, *Mekanisme Ekspor-Impor Dengan Letter of Credit* (Yogyakarta: UPP AMP YKPN, 2005), 44.

<sup>29</sup> International Chamber of Commerce, "Uniform Customs & Practice for Documentary Credits (UCP 600)," Artikel 4.

of the recipient, amount and currency of the Letter of Credit (LoC), the type of Letter of Credit (LoC) used, Method of payment of Letter of Credit (LoC), parties are interested in the draft and the term of the draft, description of goods including details of quantity and price per unit, details of the required documents, place of delivery of goods, place of goods, and place of destination of goods, How to pay for the cost of transporting goods, Permission of transfer of ships or not, permission of delivery by means of partially permitted or not, the date of last shipment deadline for submission of documents for payment, acceptance, negotiation and later payment, the date and place of maturity, the Letter of Credit (LoC) used is transferable or not, how to forward the Letter of Credit (LoC).<sup>30</sup>

This format is intended to standardize and simplify Letter of Credit (LoC) procedures. The parties can arrange several clauses in the sales contract document according to the needs and agreements between exporters and importers.<sup>31</sup>

Risk is closely related to possible losses that cause problems. Risk will become an important problem if it is not known with certainty.<sup>32</sup> International trade has a high enough risk because in practice between traders and buyers cannot meet directly, the goods to be purchased cannot be seen in the direct condition. Some of the risks that can occur when using a letter of credit are as follows:

1. Risk of failure to provide inappropriate document

The risk of failure of the Letter of Credit (LoC) document is very likely due to a document mismatch caused by an error in the presentation made by the issuing bank as the representative of the importer to the advising bank (the exporter) so that in the delivery of documents and goods there is a mismatch.<sup>33</sup>

In the Letter of Credit (LoC) used, it is written in detail the type of Letter of Credit (LoC) used, the address of the sender and recipient, shipping, shipping port, and loading port, invoice, and others. By writing in detail the criteria of the goods to be sent, so

<sup>30</sup> Ramlan Ginting, *Letter of Credit Tinjauan Aspek Hukum Dan Bisnis*, 49.

<sup>31</sup> International Chamber of Commerce, "Uniform Customs & Practice for Documentary Credits (UCP 600)," Article 1.

<sup>32</sup> Jürgen Franke, Wolfgang Karl Härdle, and Christian Matthias Hafner, "Credit Risk Management and Credit Derivatives," 2019, 5,

<sup>33</sup> Mohd Zakhiri bin Md. Nor Emad Mohammad Al- Amaren, Che Habib Bt Md. Ismail, "Risk And Remedy in Islamic and Conventional Letter of Credit: Jordanian Practices," *International Journal of Islamic Economics (IJIE)* 02 (2020): 4.



as to reduce the risk of not delivery of goods not in accordance with the request.

2. Risk of non-bank credit document issuers

The risk happens because the issuing bank only relies on documents issued by issuing buyers individually or person to person causing the submitted documents to be problematic and the applicant (importer) does not receive a release order from the carrier due to problematic documents.<sup>34</sup> To mitigate the risk of import-export documents received by the exporter is a shipping document that is not issued by the bank, the use of Letter of Credit (LoC) issued by the bank makes the import-export documents more legal and safe because there are parties who in writing become responsible not only an importer, the bank also has the responsibility of providing loan services in case of other risks such as late payments made by importers and exporters.

3. Risk of country conditions and fluctuations in currency exchange rates.

The political situation of a country and the issuance of a country's policies are risks that may be faced by exporters and importers. Political conditions will affect fluctuations in currency exchange rates, currency rates can change at any time.<sup>35</sup> This fluctuating currency exchange rate creates speculation that can not be predicted by importers and exporters.

In the Letter of Credit (LoC) has been written the amount and type of currency used, it is written that "32:B currency code, amount USD". In using an irrevocable at-sight Letter of Credit (LoC), usually, the importer (buyer) must deposit approximately 1000 USD at an issuing bank in his country as proof of issuance of a Letter of Credit (LoC) and as a guarantee.<sup>36</sup>

4. Fictitious Letter of Credit (LoC) Fraud

The risk of fraud is very likely to occur in export-import, especially if exporters are new exporters who do not have sufficient experience and knowledge about the use of Letter of Credit (LoC) which are very often the target of fraud.<sup>37</sup> To mitigate the risk of

<sup>34</sup> Emad Mohammad Al- Amaren, Che Habib Bt Md. Ismail, 58.

<sup>35</sup> Bramantyo Djohanputro, "Valas Dan Risiko Transaksi Ekspor - Impor," 2002, 5.

<sup>36</sup> The results of the author's interview with Mr. Taufik Sembada as the head of the Financial Advisor, interviews were conducted at the CV office. Sembada on March 18, 2021 at Tambakboyo, Tuban

<sup>37</sup> Yanan Zhang, "Documentary Letter of Credit Fraud Risk Management," *Journal*



fraud related to the use of Letter of Credit (LoC) by Importers will confirm with the advising bank, the advising bank will then confirm with a draft script to the issuing bank regarding the issued Letter of Credit (LoC).

### Using Letter of Credit on *Maqâshid syarî'ah* Perception

Al- Juwainy named by Imam al- Haramain explains that *maqâshid syarî'ah* is a shari'ah that was revealed to man as a guideline of relations to God as well as to man. He explains that *maqâshid syarî'ah* is devoted to human skill, maintaining wealth, and avoiding harm and damage.<sup>38</sup> Ar Raishuny explains that *maqashid* is likened to the first level to be used for the benefit of mankind in this world and the hereafter. In the general sense, it is everything beneficial to human beings, either in the sense of attracting or producing such as producing profit or tranquility. Everything that is not allowed in the Shari'ah means that the harm is greater than the benefit.<sup>39</sup>

Ibn Ashur defines *maqâshid syarî'ah* in general as a law that discusses the shari'ah addressed to human beings and the purpose of the rules that maintain the rules, maintain welfare and ward off damage, build equality among human beings, make shari'ah something to be loved and obeyed so that it becomes give peace later.<sup>40</sup>

From this understanding, it can be concluded that *maqâshid syarî'ah* is a purpose of the existence of shari'ah. Shari'ah or all the rules revealed by Allah that are imposed on a servant that aims at the existence of *maslahah* or benefits for human beings and to prevent human beings from *masa dah* or damage.

Economic practice can not be separate from the *maqashid of shari'ah* and the existence of rules and regulations in Islamic law is made for welfare. The benefit becomes one of the basics in making a decision or law. In Islam, it is known as *maslahah*. Terminologically, *maslahah*

of *Financial Crime* 19, no. 4 (2012): 344, <https://doi.org/10.1108/13590791211266340>.

<sup>38</sup> هشام بن سعيد أزهري، مقاصد الشريعة عند إمام الحرمين وآثارها في تصرفات المالية (الرياض: مكتبة الرشد ناشرون، ٢٠١٠)، ٧١.

<sup>39</sup> أحمد الريسوني، نظرية المقاصد عند الإمام الشاطبي (بيروت: الدار العالمية للكتاب الإسلامي، (n.d.)، ١٢٥.

<sup>40</sup> محمد الطاهر بن محمد بن محمد الطاهر بن عاشور التونسي، مقاصد الشريعة الإسلامية (قطر: وزارة الأوقاف والشؤون الإسلامية، (n.d.)، ٤٩.

is the opposite of the word *mafsadah* which means damage. *Maslahah* can be defined as the benefits, goodness, and benefits expected from something.<sup>41</sup> Ibn Faris explaining that *Maslahah* means the benefits generated, in another sense, it means activities in which there are benefits and benefits to many people.<sup>42</sup>

*Maslahah* is hierarchically formulated by Imam Shatibi into three parts, namely *ad-dharuriyat* (primary or necessity), *al-hajiyat* (secondary or requirement), and *at-tahsiniyyat* (tertiary or beautification).<sup>43</sup> Of the three hierarchies, Jasser Auda 'explains briefly that:

- a. *ad-dharuriyat* is something that must be implemented must exist to realize benefits in this world and in the hereafter, if this does not exist will cause damage, can even lead to loss of life and life.
- b. *al-hajiyat* is something that should exist so that humans can carry out their lives freely and avoid difficulties, but if it does not exist then it will not cause damage, it's just that it will cause difficulties (*masyaqqah*).
- c. *at-tahsiniyyat* is something that is needed, if it exists and is done, it will complete an activity carried out and if it is abandoned or not owned, it will not cause difficulties.<sup>44</sup>

Imam Shatibi gives an example in the field of *mu'amalat* with the need for *'iwadh* or a balanced substitute in the transaction of transfer of ownership, for example in the sale and purchase.<sup>45</sup> Therefore, in Islamic transactions the value of obtaining mutual benefits and avoiding losses for others is upheld.

Ibn Taymiyyah mentions in his book *al-qawaidh wa dhawabith al-fiqhiyyah li al- mu'amalah al- maaliyah 'inda Ibn Taymiyyah* that:

« أصله في عامة العقود اعتبار المصلحة الناس، فإن الله أمر بالصالح، ونهى عن الفساد، وبعث رسله بتحصيل المصالح وتكميلها، وتعطيل المفاسد وتقليلها»

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<sup>41</sup> أحمد بن محمد بن علي الفيومي ثم الحموي، أبو العباس، المصباح المنير في غريب الشرح الكبير (بيروت: المكتبة العلمية، n.d.), ٣٤٥.

<sup>42</sup> Imam Kamaluddin, "Maqâshid syarî'ahh Dalam Ekonomi Islam," *IJTIHAD* 9, no. 1 (2015): 6.

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<sup>43</sup> إبراهيم بن موسى بن محمد اللخمي الغرناطي الشهير بالشاطبي، الموافقات (م.د): دار ابن عفان، ١٩٩٧، ١٧.

<sup>44</sup> Jasser Auda, *Maqashid Al- Shari'ahh an Introductory Guide* (Malaysia: IIIT Publisher, 2008), 7.

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<sup>45</sup> إبراهيم بن موسى بن محمد اللخمي الغرناطي الشهير بالشاطبي، الموافقات، ١٩.

That is the sentence it can be understood that in general the basis of the existence of contracts or agreements is to consider the problems or interests of the general public.

Ibn Taymiyyah explained the nature of *maslahah* not only seen from the five elements in the *maqashid shari'ah* but also explained it more widely. While the *maslahah* related to the worldly purpose of *shari'ah* that must be maintained is *Hifz ad-Din* (Maintaining religion), *Hifz and-Nafs* (maintaining the self), *Hifz Aql* (maintaining the mind), *Hifz Maal* (maintaining the property), *Hifz Nasl* (maintaining descendants).<sup>46</sup>

Trade and buying and selling were classified by Ibn Taymiyyah into *maslahah daruriyah* to preserve property (*hifz al-maal*) to meet the welfare of human beings in the world. When viewed from the *maqashid syari'ah* approach, the use of letters of credit in mitigating export-import risks has benefits including:

- 1) *Jalb masâlih wa dar'u mafâsid* (creating benefits and preventing damage)

The existence of difficulties (*masyaqqah*) provides convenience for a person in using existing lighting. That everything as long as it goes to the *maslahah* that belongs to *shari'ah* and is considered as a way or a solution whether it is included in the explanation of something *darury* (primary), *hajjiy* (secondary) or *tahsiniy* (tertiary) then to the wisdom of the implementation of *shari'ah* as a whole will have an impact on realizing the benefit and preventing greater damage.<sup>47</sup>

The use of letters of credit brings benefits (*maslahah*) and prevents dangers (*mudharat*) risks that can occur in the export-import trade. One of the purposes of using the Letter of Credit (LoC) by exporters and importers is to facilitate transactions between the two parties who are geographically distant. This is in line with the purpose of the rules *Jalb masâlih wa dar'u mafâsid* because the purpose of its use is to bring benefits not only to exporters and importers

- 2) *Hifzh al-maâl* (maintaining property)

Safeguarding property is included in the level of *dharuriyat*

<sup>46</sup> أبو العباس شهاب الدين أحمد بن إدريس بن عبد الرحمن المالكي الشهير بالقرافي، جزء من شرح تنقيح الفصول في علم الأصول (مملكة سعودية: رسالة علمية، كلية الشريعة جامعة أم القرى، ٢٠٠٠)، ٣٢٨.

<sup>47</sup> هشام بن سعيد أزهر، مقاصد الشريعة عند إمام الحرمين وأثارها في تصرفات المالية، ٢١٥-١٩.



in *maqâshid syarî'ah*. Safeguarding property is evidenced by the calling of humans to work, carrying out sale and purchase transactions, leasing, and also services to be able to meet other needs.<sup>48</sup> The use of the Letter of Credit (LoC) as an instrument for risk mitigation will be closely related to *maqâshid syarî'ah* for *hifdz al-maal*. In terms of export-import practices which have a greater risk than domestic trade, the use of this Letter of Credit (LoC) can be used by exporters and importers to reduce the risks that may occur. More broadly, international trade has great potential to be used as foreign exchange earnings, so it can increase national income, evidenced by the export-import fishery sector contributes 40 trillion a year, and can create jobs.

3) *Raf'u al-kharaj* (eliminating difficulties)

If there is an act that in its original context is contrary to *shari'ah* (*ghayru masyru'*) that if the act is left to cause difficulties and hardships to humans, then in that condition it is permissible to perform the act to avoid human difficulties.<sup>49</sup> The Letter of Credit (LoC) is used by exporters and importers as a means of payment for transactions that can facilitate and provide security for sellers and buyers of goods being traded because one of the benefits of using a Letter of Credit (LoC) is to reduce risks in the export-import trade.

Concerning *maqâsid syarî'ah*, the use of a Letter of credit (LoC) can be categorized as *raf'ul kharaj* or eliminating difficulties. This is following the rules of *fiqhiyyah al-masyaqqah tajlib 'ala taysir*, that is, if the payment must be made abroad is difficult, so it is given the ease in payment by using this Letter of Credit (LoC) document.

4) *At-Ta'awun, Tadhamun, and Takaful* (helping each other)

Between *at-ta'awun*, *tadhamun*, and *takaful* have interrelated meanings between one and complement each other. The principle of helping to help those that exist grows based on a very close humanitarian bond to help each other in bonds of *ukhuzwah* based

<sup>48</sup> نور الدين بنور الدين بن مختار الخادمين مختار الخادمي, علم المقاصد الشرعية (مصر: مكتبة العبيكان, ٢٠٠١), ٤٨.

<sup>49</sup> إبراهيم بن موسى بن محمد اللخمي الغرناطي الشهير بالشاطبي, الموافقات, ٢٠٦, عبد الملك بن عبد الله بن يوسف بن محمد الجويني, أبو المعالي, ركن الدين, الملقب بإمام الحرمين, البرهان في أصول الفقه (بيروت - لبنان: دار الكتب العلمية بيروت, ١٩٩٧), ٤٨.



on shari'ah.<sup>50</sup>

The connection with the use of a Letter of Credit (LoC) as an instrument of payment and risk mitigation in export-import is one of the means to help keep it safe, if the export-import trade is smooth, the needs of the people in a country can be fulfilled and fulfilled. Therefore, the benefit of using a Letter of Credit (LoC) is as a payment instrument to maintain the safety and trust of exporters and importers.

- 5) *Tanzimu al-janib al-maaliy lil usrah* (managing the financial aspects of the family)

Maqasid shari'ah has regulated various types of expenditure on the financial aspects of the family, such as dowry, provision for wives, children, women who have been divorced with children in their care, breastfeeding women and parents with various forms of income, either in the form of waqf or inheritance.<sup>51</sup>

Sufficient wealth (*maal*) in the family is one of the goals of *maqasid shari'ah*. The use of this Letter of Credit (LoC) is one of the means to make it easier to complete and be financially sufficient, not only for the company but also for all aspects, from the owner to the workers who work in the export-import company. If the company is affected by risks that cannot be avoided, causing losses, then all components in the company will be affected, which will have an impact on the financial condition of each worker's family. Therefore, this Letter of Credit (LoC) is used as a means of mitigating this risk.

- 6) *Taysiir was murâ'at al haâjah* (the ease concerning aspects of needs)

Something if needed by many people then give the ease to use it. Ease of use is allowed by reviewing the aspects of needs, which if not achieved or not met the need there will be a chain of unity that will feel the impact, then it is allowed to use the ease if it can raise a difficulty as long as it does not violate shari'ah boundaries.<sup>52</sup>

The benefits arising from the use of the Letter of Credit (LoC) in mitigating risks in import-export practices outweigh the harms that will arise when the import-export transaction does not use

<sup>50</sup> جمال الدين عطية، نحو تفعيل مقاصد الشريعة (دمشق: دار الفكر، ٢٠٠١).

<sup>51</sup> جمال الدين عطية، ١٥٤.

<sup>52</sup> هشام بن سعيد أزهر، مقاصد الشريعة عند إمام الحرمين وآثارها في تصرفات المالية، ٣٥٦-٥٧.

the Letter of Credit (LoC). Therefore, if something halal is then forbidden because to avoid damage (*sad dzariah*) that will occur, then if the *maslahah* or benefit is clear, it is permissible to use it as long as the *maslahah* is clearer than what is forbidden to avoid damage.

That when compared between the disadvantages and benefits in the use of Letter of Credit (LoC) in risk mitigation on import-export transactions, the benefits of its use are greater. The use of Letter of Credit (LoC) carries risks such as failure to provide unsuitable documents, the risk of the issuer not from the bank, the risk of late payment and default, the risk of exchange rate fluctuations, and the risk of fraud, this Letter of Credit (LoC) is needed to be used as a risk mitigation instrument previously mentioned. If these risks are not minimized, it will cause losses that are felt by all parties and have an impact, namely damage. The use of this Letter of Credit (LoC) has benefits, namely *hifz al-maal* (safeguarding property), *raf'u al-kharaj* (eliminating difficulties), *At ta'awun, ta'adamun*, and *takaful* (helping each other), *Tanziimu al-janib al- maaliy lil usrah* (managing the financial aspects of the family) and *Taysiir wa mura'atu al haajah* (the ease with regard to aspects of needs).

## Conclusion

Letter of credit is considered a safer method of payment than others, because it has a role in facilitating the settlement of transaction payments, securing importers' funds for import payments, and ensuring the completeness of shipping documents, especially if the exporter and importer do not know each other. Several factors make letters of credit safer to use, namely because there are many alternative types of Letter of Credit (LoC) to choose from, payments made on the basis of documents, credit from foreign exchange banks, and Letter of Credit (LoC) free from blocking restrictions on foreign exchange payments abroad.

Although the use of Letter of Credit (LoC) carries risks such as failure to provide unsuitable documents, the risk of the issuer not from the bank, the risk of late payment and default, the risk of exchange rate fluctuations, and the risk of fraud, this Letter of Credit (LoC) is required to be used as an instrument risk mitigation that has been previously mentioned. If these risks are not minimized, it will cause

losses that are felt by all parties and have an impact, namely damage. The use of this Letter of Credit (LoC) has benefits, namely *hifz al-maal* (safeguarding property), *raf'u al-kharaj* (eliminating difficulties), *At ta'awun, tadamun, and takaful* (helping each other), *Tandziimu al-janib al- maaliy lil usrah* (managing the financial aspects of the family) and *Taysir wa mura'atu al haajah* (ease with regard to aspects of needs). So when compared between the weaknesses and benefits of using the Letter of Credit (LoC) in risk mitigation in export-import transactions, the benefits or *maslahah* of using it are greater.

Hoped that the government facilitate more exporters and importers in terms of providing financing and opening up exporters' market expansion. As well as encouraging shari'ah banks and using shari'ah contract as a Shari'ah export import Letter of Credit (LoC) with several contract options such as *Wakalah bil Ujrah, Qardh, Murabahah, Salam, Istisna', mudharabah, musyarakah and hawalah*. Shari'ah export Letter of Credit uses *wakalah bil ujrah, mudharabah, musyarakah, and al bay'* in promotion and socialization related to the use of Shari'ah Letter of Credit (LoC), seeing that for now conventional Letter of Credit (LoC) is more desirable because the opening is easier, while Islamic Letters of Credit (LoC) from issuing banks abroad and advising banks in Indonesia are still difficult.[]

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