

**Standardizing trade and to include
into contracts to reduce legal issues.**

**There are People who think FOB is
Freight on board.
Or Still use C&F
Or think the
Rules as a cost matter.**

**95% of contracts don't use incoterms
correctly**

In containerizing

LCL /FCL

FOB CFR, CIF does not work

**Example Ex works. FOB. DDP, CIF is not
recommended**

for containers or air

**Who should use
incoterms?
Seller and buyer must use
(B2B)**

**Have you got to use
incoterms?
NO
But what happens if
something happens?
lawyers win**

Common mistake!
Wrong rule for wrong transaction
Read the book!
Make sure you understand the rules
What do you want to achieve
Then decide the rule

**Tips for containers
Sellers best term CPT
Buyers Best FCA
Why? Better control**

**Don't or avoid use D rules for international trade, EU is okay for
rail and road.**

Sellers responsibly seller cant control

Don't use ex works or DDP unworkable

Common mistakes

Wrong rule for wrong transaction

Read the book

Make sure u understand the rules

What do you want to achieve

Then decide the rule



SUMMARY

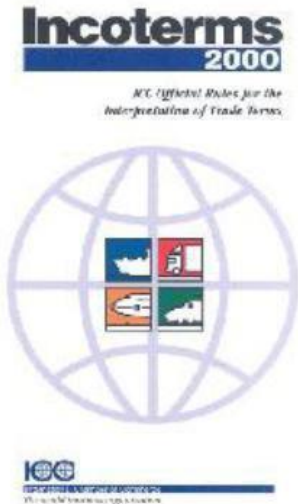


Main changes on the Incoterms® 2010

2020

Number of Incoterms was reduced from 13 to 11.

EXW
FAS
FOB
FCA
CFR
CIF
CPT
CIP
~~DAF~~
~~DES~~
~~DEQ~~
DDU
DDP



EXW
FAS
FOB
FCA
CFR
CIF
CPT
CIP
DAP
DAT
DDP



EXW
FAS
FOB
FCA
CFR
CIF
CPT
CIP
DAP
DAT
DDP



Change in title from DAT - DPU



INTERNATIONAL COMMERCIAL TERMS

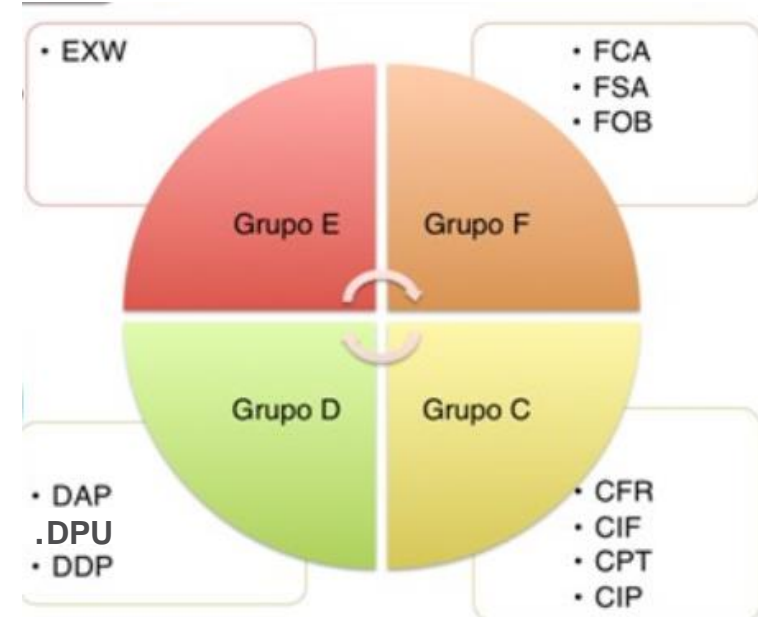
INCREASED OBLIGATIONS OF THE SELLER



E F C D



DECREASED OBLIGATIONS OF THE BUYER



Grupo E	Departure	Grupo F	Main carriage unpaid
Grupo D	Arrival	Grupo C	Main carriage paid

Main features of INCOTERMS rules

- the 11 Incoterms rules are presented in two classes:
 - rules for any modes of transport
 - rules for sea and inland waterway transport

How to use the INCOTERMS?

Remember that Incoterms rules dont give you a complete contract of sale!

INCOTERMS rules say nothing about!

- the price to be paid and the method of the payment
- transfer of ownership of the goods
- consequences of a breach of contract

INCOTERMS rules do say!

- which party to the sales contract has the obligation to make carriage or insurance arrangements
- when the seller delivers the goods to the buyer
- which costs each party is responsible for

How to choose the appropriate INCOTERMS rule?

The chosen Incoterms rule has to be appropriate:

- to the goods,
- to the means of their transport
- to whether the parties intend to put additional obligations, such as obligation to organize carriage or insurance, on the seller or on the buyer

How to use the INCOTERMS?

- if we want the Incoterms **2020** to apply to our contract of sale, we have to make it clear in the contract, through such words: „*CIF Hamburg, Incoterms 2020*”
- the chosen Incoterms rule can work only, if the parties of contract name a place or port and specify this place or port as precisely as possible:

„*FCA 38 Cours Albert 1er, Paris, France Incoterms 2020*”

Main features of INCOTERMS rules

- **Guidance Explanatory Notes**
- before each Incoterms rule you will find a **Guidance/ Explanatory Notes**
- **Guidance/ Explanatory Notes explaining** the fundamentals of each Incoterms rule: when it should be used, when risk passes, how costs are allocated between seller and buyer

Variants of INCOTERMS rules

- sometimes the parties want to alter an Incoterms rule
- Incoterms **2020** rules don't prohibit such alteration
- there are dangers in so doing
- in order to avoid any unwelcome surprises, the parties of contract would need to make the intended effect of such alterations extremely clear in their contract

Terms used in the INCOTERMS 2020

- the seller's obligations and the buyer's obligations can be carried out personally by the seller or by the buyer, or sometimes through intermediaries such as carriers, freight forwarders or other persons nominated by the seller or the buyer for a specific purpose

Terms used in the INCOTERMS 2020

- **CARRIER** – the party with whom carriage is contracted
- **CUSTOMS FORMALITIES** – may include documentary, security, information or physical inspection obligations
- **DELIVERY** – this concept is used to indicate where the risk of loss of or damage to the goods passes from the seller to the buyer

Terms used in the INCOTERMS 2020

- **DELIVERY DOCUMENT** – a document used to prove that the delivery has occurred: a transport document or corresponding electronic record
- **PACKAGING:**
 - the packaging of the goods to comply with any requirements under the contract of sale
 - the packaging of the goods so that they are fit for transportation

How to use the INCOTERMS?

- EXW, FCA DPU DAP, DDP, FAS, FOB – the named place is the place where delivery takes place and where risk passes from the seller to the buyer
- CPT, CIP, CFR, CIF – the named place differs from the place of delivery. The named place is the place of destination to which carriage is paid

Key thèmes for changes

- > Helping users make the right choice of rule for their sale contract
- > Bills of lading with on-board notation in FCA
- > Where costs are listed
- > Different levels of insurance cover in CIP and CIF
- > ‘Arranging’ for carriage in FCA, DAP, DPU and DDP
- > Change in title from DAT → DPU
- > Security-related requirements included in carriage obligations and costs

Can Incoterms® 2020 be included in contracts now?

According to the [ICC website](#) Incoterms® 2020 rules "come into effect on 1 January 2020". There is no prohibition in the Incoterms® 2020 rules that they only "come into effect" on 1 January 2020 however.

Incoterms® rules users also do not have to switch over to Incoterms® 2020. Users can, if they clearly specify it in the contract, carry on using Incoterms® 2010 if they want to. Practically it may take 12-18 months for most Incoterms® users to switch over to Incoterms® 2020.

Incoterms® 2020 rules may be included in contracts that are currently being prepared now and should be. If a contract is entered into on or after 1 January 2020, it is likely that Incoterms® 2020 shall apply unless the contract says otherwise.

What are the key changes?

Bills of lading can be issued after loading (FCA)

The Free Carrier (FCA) Incoterms® rule exposes sellers to the greatest level of risk with the exception of the Ex Works Incoterm rule. Incoterms® 2020 rule FCA [1] has been changed to allow the parties (including trade finance providers) to agree for the buyer to direct the carrier to issue the onboard bill of lading to the seller (a bill of lading is a document that gives information about the goods being transported in a container or containers from one port to another).

Security requirements have increased (all Incoterms)

Since the last time Incoterms[®] rules were updated, the most significant change to trade (and arguably the world) has been the advent of technology. Security threats to cross-border trade are significant and on the rise, with ever increasing attacks on organisations in every industry. The ICC's response has to been to ensure that transport security requirements e.g. mandatory screening of containers are now more prominent in Incoterms[®] 2020. They are costly and can risk delay if not fulfilled **[3]**.

Expanded standard insurance (CIP)

Institute Cargo Clauses are a term for cargo insurance policies voluntarily adopted as standard terms by many international marine insurance organisations. The Incoterm rule Carriage and Insurance Paid to (CIP) meant that the seller delivered to the carrier, but then paid for carriage and insurance to a named destination. The seller was obliged to provide insurance for the buyer equivalent to Clause C - a basic level of insurance, which typically might be suitable for bulk commodity cargoes but may not be appropriate for manufactured goods. In ICC Incoterms® 2020 the level of insurance has increased to Clause A which is more often used for manufactured goods [2].

Standard Class "C" Marine Cargo Insurance

basic insurance covers the value of goods only then the extra 10% is designed to cover all other costs paid by the buyer in getting the goods to their delivery point. These costs include freight charges, intermediary compensation and other such items including the cost of the insurance, this is nothing new. This 110% class "C" insurance is an industry standard

https://www.sjnk.co.jp/info/cargo_nk/

DAT has been replaced with DPU

The Delivery at Place Unloaded (DPU) Incoterm replaces the Delivered at Terminal (DAT) Incoterm rule. The DAT Incoterm rule previously specified that the seller was responsible for arranging carriage and delivery of goods, unloaded from the arriving conveyance, at the named place. The reference to 'terminal' has been removed to make it more general. 'Place unloaded' could be a quay, warehouse, container yard or any road for rail, air or road. There is no other change in substance. DPU is the ONLY Incoterms® rule that requires the seller to unload goods at destination. Those who currently use DAT Incoterms® 2010 should change to DPU.

Seller/buyer using own transport (FCA, DAP, DDP and DPU)

It was previously assumed that transport of the goods between seller and buyer would be carried out by a third party carrier and did not anticipate where the transport is provided by the seller or buyer. Incoterms FCA [5], Delivered At Place (DAP) [6], Delivered Duty Paid (DDP) [7] and DPU [8] now take into account the fact a buyer/seller may be required to “contract or arrange at its own cost for the carriage of the goods from the named place of delivery”.

How to use incoterms

Read introduction to the rules.

What do you want achieve in your trade transaction.

Select the most suited 3 letter term

Read the explanatory notes

Understand cost/risk/liability of the rule under

A1-A10 if you are the seller

B1-B10 if you are the buyer

Make sure the other party also agree on the term

VIII. ORDER WITHIN THE INCOTERMS® 2020 RULES

52. All the ten A/B articles in each of the Incoterms® rules are important—but some are more important than others.
53. There has, indeed, been a radical shake-up in the internal order in which the ten articles within each Incoterms® rule have been organised. In *Incoterms® 2020*, the internal order within each Incoterms® rule now follows this sequence:
- A1/B1 General obligations
 - A2/B2 Delivery/Taking delivery
 - A3/B3 Transfer of risks
 - A4/B4 Carriage
 - A5/B5 Insurance
 - A6/B6 Delivery/transport document
 - A7/B7 Export/import clearance
 - A8/B8 Checking/packaging/marking
 - A9/B9 Allocation of costs
 - A10/B10 Notices
54. It will be noticed that concerning the Incoterms® 2020 rules, after recording in A1/B1 the basic goods/payment obligations of the parties, Delivery and the Transfer of risks are moved to a more prominent location, namely to A2 and A3 respectively.

THE TERMS & FREIGHT PAYMENT

NEW! ICC GUIDE ON TRANSPORT + INCOTERMS 2010 RULES

Freight under incoterms

3-F Terms -
7- C & D Terms-
1-E Term -

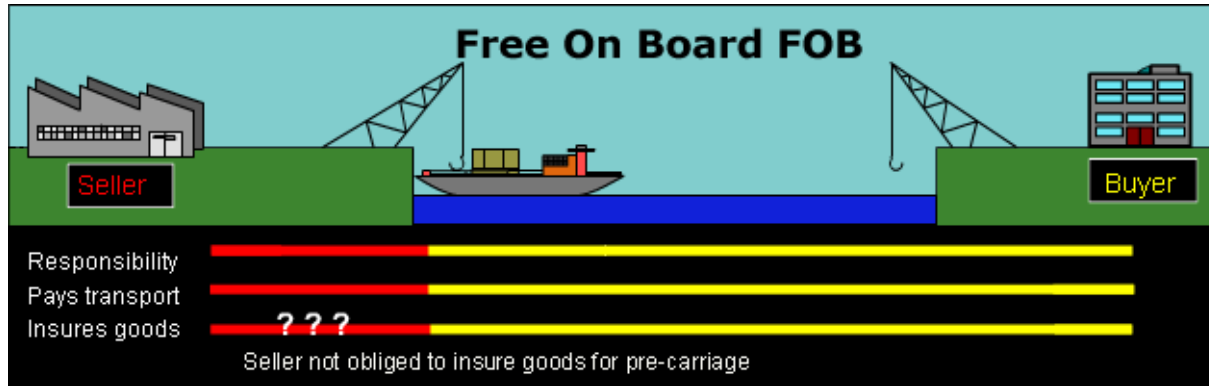
Collect
Prepaid
Either



Any mode
EXW,FCA,CPT,CIP,DPU,DAP,DDP

Sea and inland waterways
FAS,FOB, CFR,CIF

FOB & CFR



SEA OR INLAND WATERWAY



3-F Terms - Collect
7- C & D Terms- Prepaid
1-E Term - Either

Free On Board (FOB)

Use of this rule is restricted to goods transported by sea or inland waterway.

In practice it should be used for situations where the seller has direct access to the vessel for loading, e.g. bulk cargos or non-containerised goods.

For containerised goods, consider “Free Carrier FCA” instead.

Seller delivers goods, cleared for export, loaded on board the vessel at the named port.

Once the goods have been loaded on board, risk transfers to the buyer, who bears all costs thereafter.

FOB is now only appropriate for ro/ro (cars), over-sized cargo, and bulk items where the shipper must physically arrange for the goods to be loaded onto a vessel – i.e. drive it, or hire the cranes to load it.

FOB

Free on Board (named port of shipment)

- seller must load the goods on board the vessel nominated by the buyer
- cost and risk are passes when the goods are actually on board of the vessel (this rule is new!) and the buyer bears all costs from that moment
- the seller must clear the goods for export

FOB

the seller's obligations

- to deliver the goods by placing them on board the vessel nominated by the buyer at the loading point, at the named port of shipment
- to bear all risks of loss of or damage to the goods until they have been placed on board
- to pay costs of customs formalities in export, all duties, taxes, charges payable upon export

FOB

the buyer's obligations

- to pay the price of the goods
- must contract at its own expense for the carriage of the goods from the named port of shipment
- to bear all risks of loss of or damage to the goods from the time they have been placed on the board

FOB

the buyer's obligations

- to pay costs of customs formalities in import, all duties, taxes, charges payable upon import of the goods

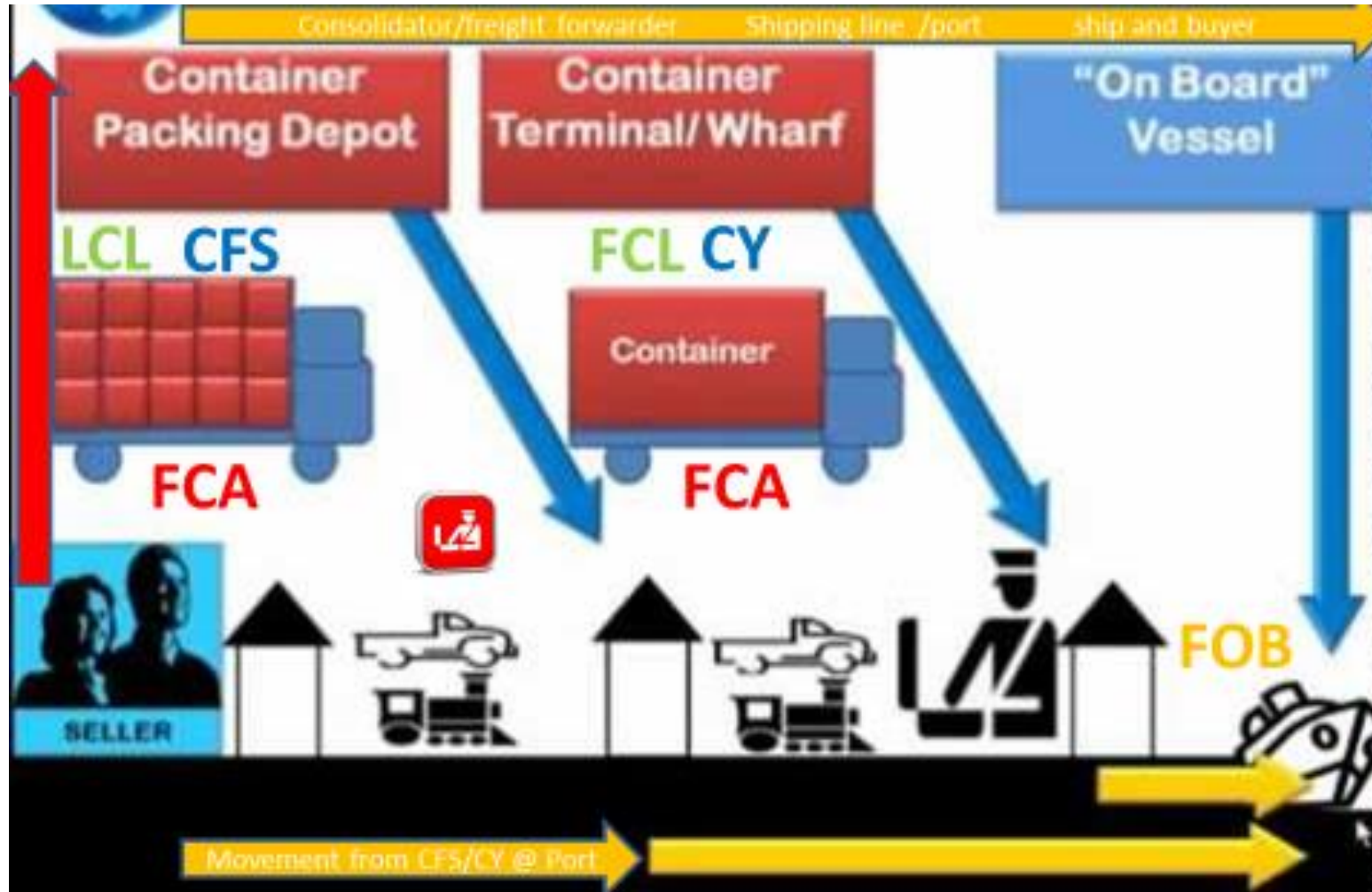
NEW! ICC GUIDE ON TRANSPORT + INCOTERMS 2010 RULES

What I achieved in



FOB may not be appropriate where goods are handed over to the carrier before they are on board the vessel, for example goods in containers, which are typically delivered at a terminal. In such situations, the FCA rule should be used.

FOB requires the seller to clear the goods for export, where applicable. However, the seller has no obligation to clear the goods for import, pay any import duty or carry out any import customs formalities.



NEW! ICC GUIDE ON TRANSPORT + INCOTERMS 2010 RULES

What about insurance?

There is a special note on insurance except for CIP.CIF

In all other terms insurance has to be agreed upon by buyer and seller

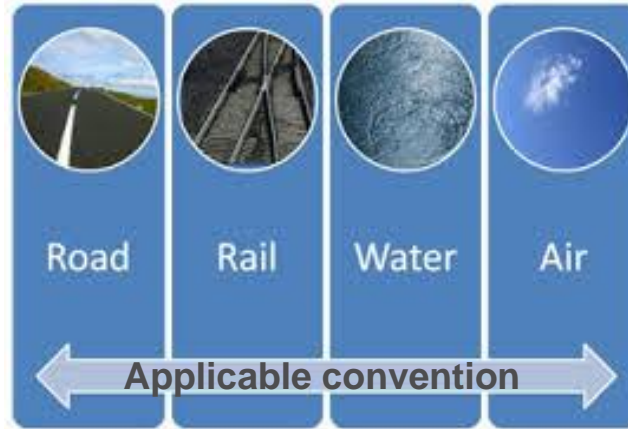
Depending on the mode of transport as per applicable convention (86)



it happens

Whose problem is it?

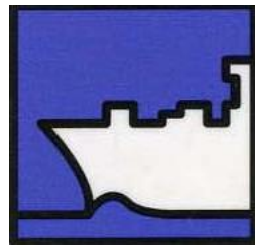




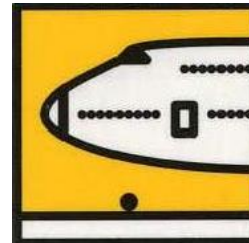
HAGUE VISBY



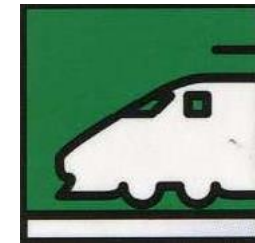
HAMBURG



ROTTERDAM ?



MONTREAL



COTIF /CMI



CMR





Transfer of Title

ICC: Delivery point on B/L very important according to Customary manner in each country the ports operate

Door, CY, CFS

Ten common mistakes in using the Incoterms rules

Here are some of the most common mistakes made by importers and exporters:

- 1. Use of a traditional "sea and inland waterway only" rule such as FOB or CIF for containerised goods, instead of the "all transport modes" rule e.g. FCA or CIP. This exposes the exporter to unnecessary risks.*
- 2. Making assumptions about passing of title to the goods, based on the Incoterms rule in use. The Incoterms rules are silent on when title passes from seller to buyer; this needs to be defined separately in the sales contract*
- 3. Failure to specify the port/place with sufficient precision, e.g. "FCA Chicago", which could refer to many places within a wide area*
- 4. Attempting to use DDP without thinking through whether the seller can undertake all the necessary formalities in the buyer's country, e.g. paying GST or VAT*
- 5. Attempting to use EXW without thinking through the implications of the buyer being required to complete export procedures – in many countries it will be necessary for the exporter to communicate with the authorities in a number of different ways*

- 6. Use of CIP or CIF without checking whether the level of insurance in force matches the requirements of the commercial contract – these Incoterms rules only require a minimal level of cover, which may be inadequate.*
- 7. Where there is more than one carrier, failure to think through the implications of the risk transferring on taking in charge by the first carrier – from the buyer's perspective, this may turn out to be a small haulage company in another country, so redress may be difficult in the event of loss or damage*
- 8. Failure to establish how terminal handling charges (THC) are going to be treated at the point of arrival. Carriers' practices vary a good deal here. Some carriers absorb THC's and include them in their freight charges; however others do not.*
- 9. Where payment is with a letter of credit or a documentary collection, failure to align the Incoterms rule with the security requirements or the requirements of the banks.*
- 10. When DPU or DAP is used with a "post-clearance" delivery point, failure to think through the liaison required between the carrier and the customs authorities – can lead to delays and extra costs*

Frequently asked questions

Q:Can we still use Incoterms 2000/2010/2020 in our agreements?

Yes.

Many companies have complex agreements with their counterparties and service providers, which will be time-consuming to redraft.

Therefore parties are free to continue to refer to Incoterms 2000/2010 (or any other revision!) – provided that this is specified unambiguously in their agreements.

Q:What Incoterms rules work best with letters of credit?

Where possible use CIF, CIP, CFR or CPT.

For all these rules, delivery takes place before the main carriage. The carrier gives the seller a transport document which (usually) serves as a mechanism for control of the goods – it will be presented to a bank under the letter of credit, and then passed on to the buyer so that the goods can be claimed.

All the other rules are potentially problematical in one way or another.

For example with FCA, the buyer is in control of the main transport, and there are circumstances in which the buyer may be able to frustrate the transaction.

Conversely with DPU/DAP, the buyer can be at risk, because seller may be able to get paid under the letter of credit before fulfilling the delivery obligation.

Frequently asked questions

Q:What is Incoterms 2020's relevance to domestic transactions?

Use of the rules is not limited to cross-border trading.

The Incoterms rules are also applicable to transactions where the buyer and seller are in the same country, or both within a customs union such as the European Union.

All the provisions of the rules are written with this in mind, e.g. if there are issues with import duty or taxes, they need only be considered where appropriate.

Q:What is Incoterms 2020's connection with transfer of title to the goods?

The Incoterms rules are silent on the issue of when title in the goods passes from seller to buyer. This should be dealt with elsewhere in the commercial agreement.

The issue of title to the goods is related to that of revenue recognition, which matters to those organisations who want the best figures in their financial reports.

Revenue recognition is defined by accounting standards such as GAAP, and the point of delivery (as defined by the Incoterms rule) is one factor in the decision on this matter.

Hence rules such as DAP and DAT would tend to be disadvantageous in this respect

Frequently asked questions

Q:What do the Incoterms rules say about costs for cargo security?

Since 9/11 and incidents such as the oil tanker bombing in the Gulf of Aden in 2002, cargo security is now high on the transport industry agenda. However 2020 gives more clarity on Security

The Incoterms rules themselves only set out generalities such as the requirement for the parties to cooperate with each other in the provision of security-related information.

In practice, the most relevant security framework is often the International Ship and Port Security code ISPS Code, which is an amendment to the International Convention for the Safety at Sea (SOLAS). Responsibility for security policy rests with designated persons both at the ship level and for shipping terminals. Carriers will often levy a small charge for security/ISPS, which will be borne by whoever contracts with the carrier.

Q:Does Incoterms rules say anything about costs for cargo on VGM?

No it has been left out to be decided by the buyer and seller to be included separately in the contract

Frequently asked questions

Q:Can we add qualifications or variations to a rule?

Yes

It is possible to add extra words to an Incoterms rule, so as to cater for special situations and/or to achieve more precise definition of obligations

Example 1:

For some types of cargo, costs arise from stowing the cargo on the vessel. So the Incoterms rule “FOB stowed” will make it clear that the seller is responsible not only for loading the cargo on board, but also for stowing it.

Example 2:

The rule “DDP, VAT unpaid” – seller is responsible for paying import duty, but not for paying VAT

Example 3:

The rule “EXW, loaded” – seller loads goods onto vehicle

Caution:

By qualifying a rule, there is the danger of introducing ambiguity. Examples: expressions such as “Liner terms” and “Liner out” are open to different interpretations. “EXW, loaded” – there are different views as to whether loading is at buyer’s or at seller’s risk.

Incoterms : The US view

Incoterms vs the Uniform Commercial Code

Trade practitioners in the U.S. will be aware that the terms FOB, CIF and so on are defined within the United States federal Uniform Commercial Code (UCC). First published in 1952, UCC covers many aspects of commercial contracts. It contains "shipment and delivery" provisions that have similar aims to those of the Incoterms rules.

Some UCC expressions have the same three-letter abbreviations as those within the Incoterms system; but their definitions are totally different. Notoriously, "FOB" can have a number of different meanings within UCC, most of which do not correspond with the ICC Incoterms FOB definition.

The situation is confused further by variations between different US states. In 2004, there was a major revision of the UCC, which abolished many of these terms. However for reasons unrelated to its "shipment and delivery" provisions, many states have failed to adopt the 2004 revision; so in these states, the former UCC revision remains law.

Companies in the US are therefore faced with the prospect of mastering two versions of the UCC for use with domestic transactions, plus ICC Incoterms rules for use with cross-border transactions.

The logical solution to this confusion is to **standardise on the use of ICC Incoterms rules** for all transactions, whether domestic or international.

The Incoterms 2020 revision has been drafted to make the interpretation of the rules very straightforward for domestic trades. For example, all obligations in respect of import or export procedures need only be considered 'where applicable.'

[Book recommendation: Incoterms for Americans](#)

*Thank
you*

