



Incoterms

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1. What are Incoterms?
2. Scope and application
3. Main differences between Incoterms 2010 and 2020
4. Incoterms 2020 explained in detail
5. summary of cost allocation and risk transfer

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Background



A sales contract is an agreement between seller and buyer

On a product – a quantity – a price



Sales contracts usually don't provide specific information on the respective obligations of seller and buyer for delivery of goods, i.e.:

- Who organizes and pays the transport?
- Who bears the risk in case of damage on the goods?
- Who handles shipping documents?
- Who organizes customs clearance?

Answers to these questions are given by **Incoterms®** (= trade terms).

What are INCOTERMS®?

- Stands for “**International Commercial Terms**”
- International standardized rules defining the respective obligations of seller and buyer in the delivery of goods in a purchase/sale contract
- Created in 1936 by the International Chamber of Commerce (ICC) in Paris to facilitate the conduct of global trade
- Updated regularly to adapt to international trade evolutions
- Latest version: “Incoterms® 2020” (replaces Incoterms 2010)
- Effective from 1st of January 2020

Incoterms 2020: Where to find?



Published by the International Chamber of Commerce (ICC)
Sold as printed book or eBook

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Geographical scope of INCOTERMS®

- Recognized and used worldwide for
- Domestic trade transactions
 - Within the same country
 - Within a customs union such as the European Union
- International trade transactions



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What do INCOTERMS® describe?

The OBLIGATIONS of seller and buyer

- Who organizes the transport and/or insurance of the goods?
- Who obtains shipping documents and export and import licenses?

Division of COSTS

- Who pays the transport costs?
- Who pays loading and unloading costs, packaging, checking and security related costs

Division of RISKS

- Where and when the seller “delivers” the goods?
- Who bears the risk of loss or damage to the goods during transport, packaging, loading, unloading?



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Example of costs in international trade

Export:

- Loading charges
- Delivery to port/place
- Export customs formalities
- Terminal charges
- Carriage to port of export

Import:

- Unloading charges
- Terminal charges
- Carriage to place of destination
- Import customs formalities



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What is NOT covered by INCOTERMS®?

- Transfer of title/ownership of the goods
- Payment terms (the time, place, method or currency of payment)
- Applicable legislation including customs legislation
- most consequences of delays and other breaches in the performance of contractual obligations
- the remedies which can be sought for breach of the contract of sale
- dispute resolution
- Force majeure or hardship
- Relationship with the carrier – covered in the transport contract

These provisions must be covered in the sales/purchase/transport contract

Compliant use of Incoterms

- Each 3-letter Incoterm rule must be followed by a specific location (= a “named place”)
 - e.g. FCA (insert named place), Incoterms 2020
- Be as specific as possible in order to avoid any ambiguity, especially for port or warehouse locations
 - e.g. “CIF Shanghai Port , Quay 241,China, Incoterms® 2020”
 - E.g. “DAP Company XY, 120 Central Avenue, Dallas, TX, USA, Incoterms® 2020



Where to specify Incoterms®?

- in sales or purchase contract
- On sales or purchase order
- On order confirmation
- On invoice
- On customs declaration (box 20)
- Also for Free of Charge shipments
- and for samples

Caution

Incoterms mentioned on invoices often do not reflect actual situation

recommended to look at contract and facts

E.g.: EXW whereby supplier nevertheless arranges the transport

Incoterms & VAT

- Not transfer of ownership
- Determine who is responsible for the transport and customs formalities
 - E.g. EXW → Indicates goods are made available at factory gate and customer comes to collect the goods and will in principle arrange for the transport
- Mentioning of Incoterm is not a mandatory invoice requirement but recommendable (provided correct use)
- Attention: Incoterms mentioned on invoices often do not reflect actual situation → recommended to look at contract and facts

E.g. EXW whereby supplier though arranges the transport

Impact of Incoterms®?

On Sales

- Incoterms are part of the sales contract

On Logistics

- identification of logistics costs
- identification of risks borne during transport
- determination of the location where goods should be delivered
- delivery/handover of shipping documents

On Customs

- Identification of whose responsible for export clearance
- Identification of whose responsible for import clearance
- Impact on customs value (CIP value in EU; FOB value in US)

INCOTERMS® 2020 explained

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Incoterms 2020: Overview

Any mode of transport:

- EXW (Ex Works)
- FCA (Free carrier)
- CPT (Carriage Paid To)
- CIP (Carriage and Insurance Paid To)
- DAP (Delivered at Place)
- DPU (Delivered at Place Unloaded)
- DDP (Delivered Duty Paid)

Sea or inland waterway transport:

- FAS (Free Alongside Ship)
- FOB (Free on Board)
- CFR (Cost and Freight)
- CIF (Cost Insurance and Freight)



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Which rule to select?

Any mode of transport:

- To use where goods are not to be placed on board or alongside a vessel, but
- the point where the seller places the goods or hands over the goods to a carrier (CPT, CIP)
- or, where the seller hands the goods over to the buyer (EXW, FCA)
- Or, the point at which the seller puts the goods at the disposal of the buyer (DAP, DPU, DDP)

Sea or inland waterway transport:

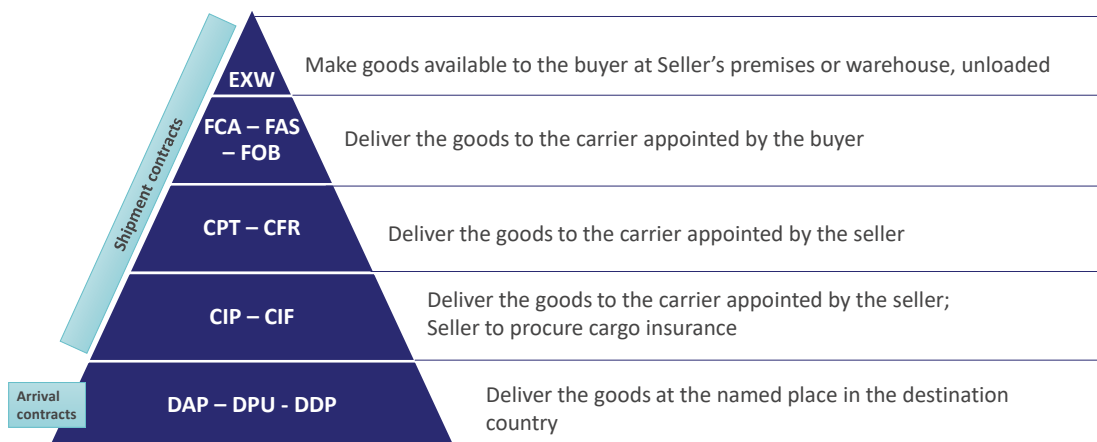
- To use where the seller places the goods on board of a vessel (FOB, CFR, CIF)
- or, alongside a vessel (FAS)
- at a sea port or river port
- That port = point where seller delivers goods to buyer, and
- where risk of loss/damage is transferred



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Incoterms 2020: structure

Seller's delivery obligations



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INCOTERMS® 2020 - Explanatory Notes cover:

A = Seller's
obligations

B = Buyer's
obligations

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/packing/marking
A9/B9	Allocation of costs
A10/B10	Notices

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Rules for any mode of transport

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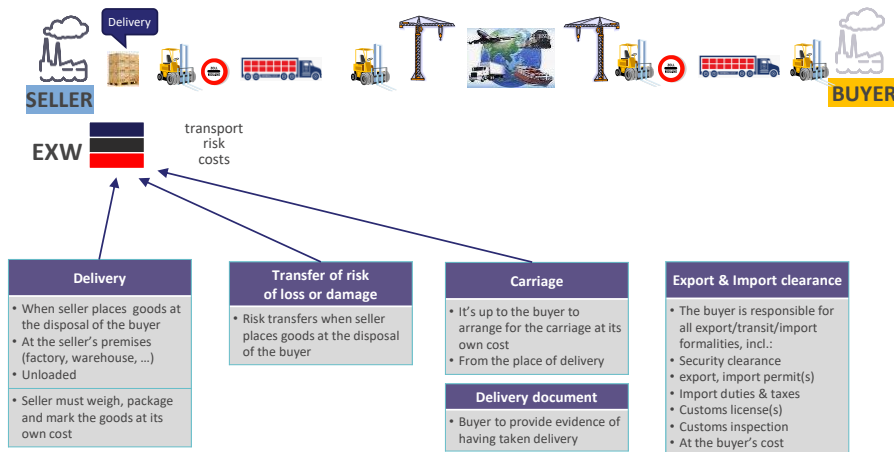
Ex Works

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Ex Works EXW [+named place of delivery] Incoterms 2020



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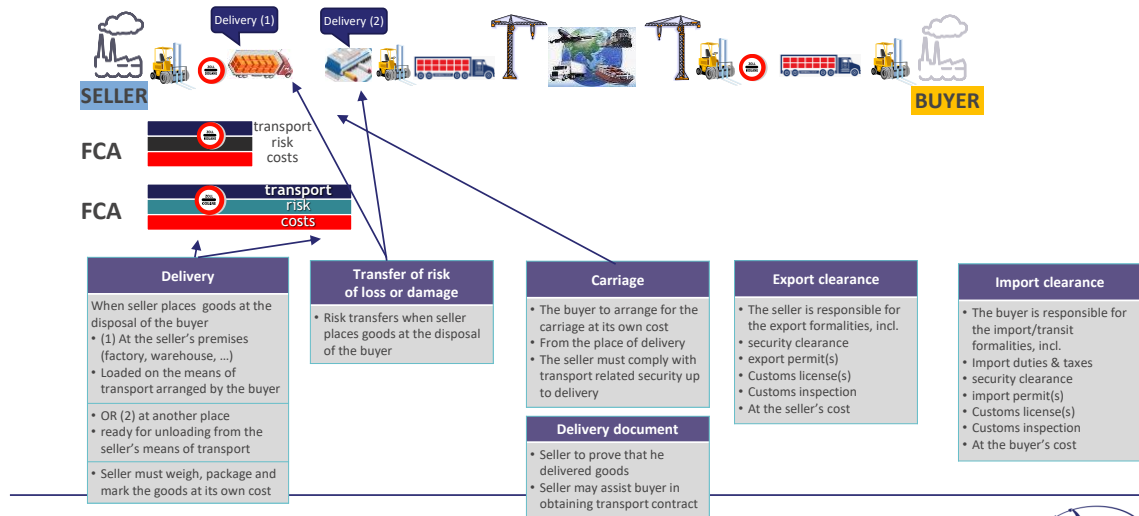
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Caution on using EXW

- EXW is not recommended for international, cross-border transactions
 - Seller may face difficulties in obtaining the proof of exit since the buyer is responsible for the customs clearance at export => without proof of exit, no VAT exemption for the seller
 - Seller has no view on where and how the transport is going (risk of diversion, non-compliance)
- EXW may be suitable for transactions within a country (domestic trade)
- or for intercompany sales

Free Carrier

Free Carrier FCA [+named place of delivery] Incoterms 2020



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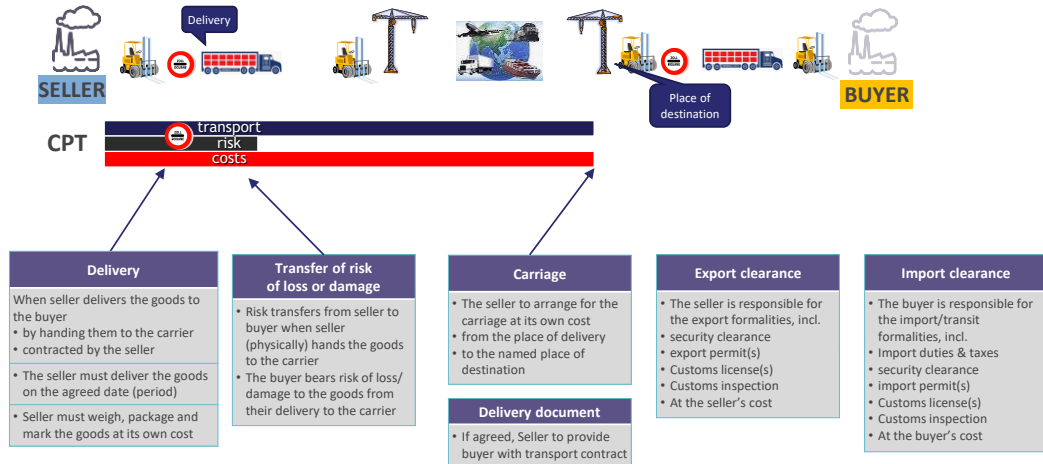
Carriage Paid To

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Carriage Paid To CPT [+named place of destination] Incoterms 2020



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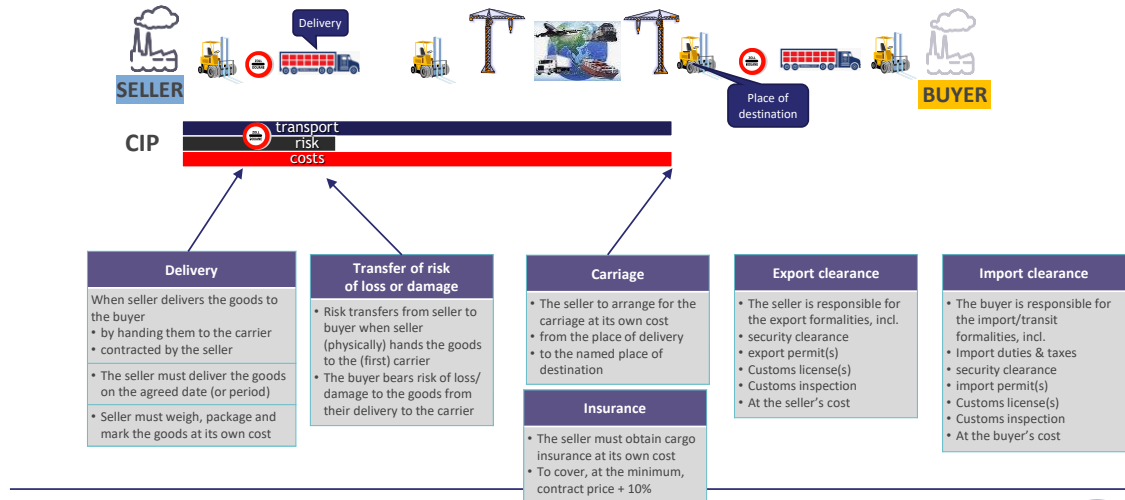
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Carriage and Insurance Paid To



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Carriage and Insurance Paid To CIP [+named place of destination] Incoterms 2020



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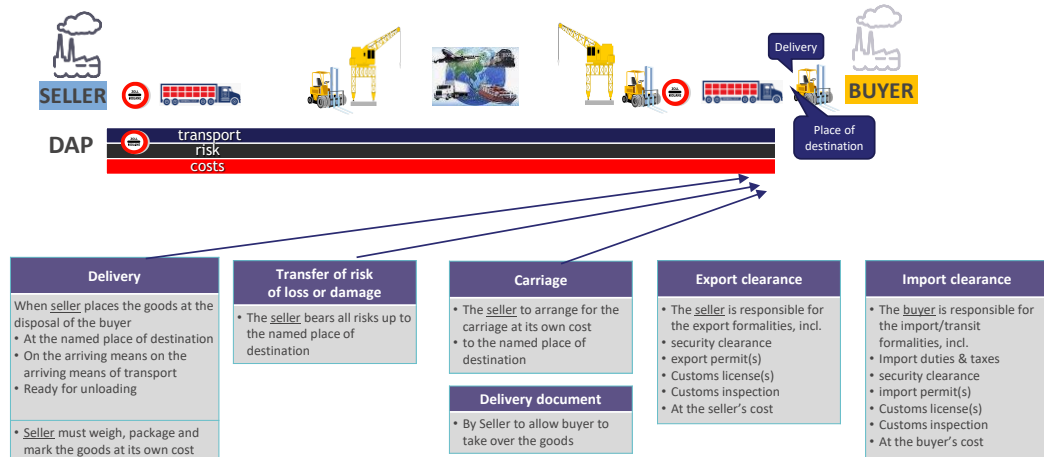
Delivered at Place

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Delivered at Place DAP [+named place of destination] Incoterms 2020



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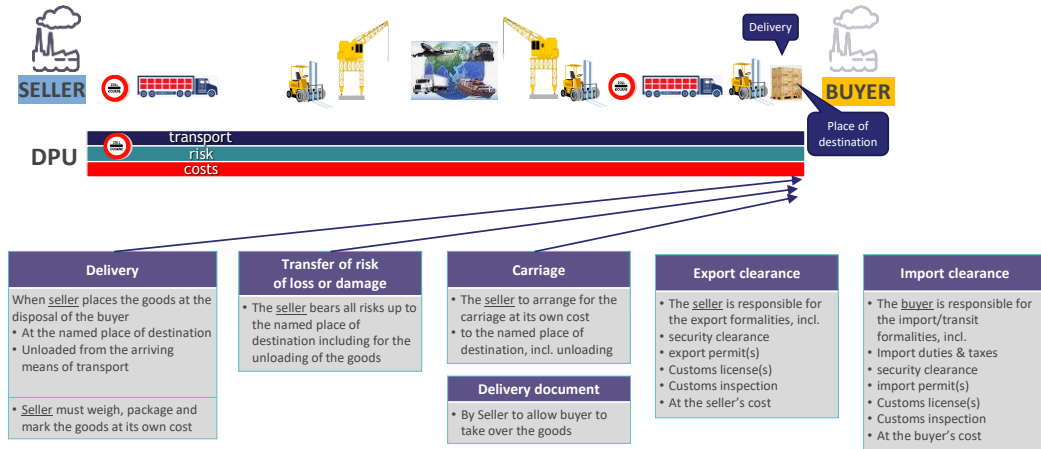
Delivered at Place Unloaded

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Delivered at Place Unloaded DPU [+named place of destination] Incoterms 2020



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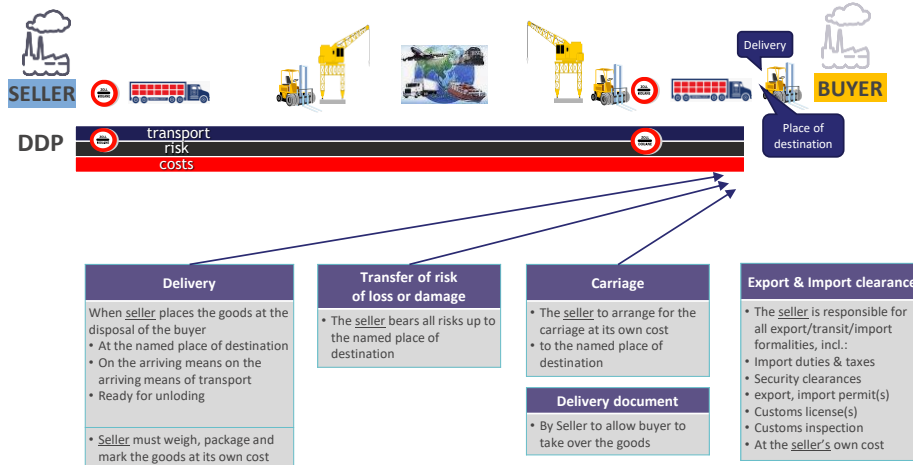
Delivered Duty Paid

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Delivered Duty Paid DDP [+named place of destination] Incoterms 2020



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Caution on using DDP

- DDP is not recommended for international, cross-border transactions
 - Seller is responsible for import clearance in the buyer's country which in many countries is legally and physically difficult in many foreign countries (unfamiliar law, local rules and habits ...)
 - Seller responsible for paying applicable import duties and taxes (VAT liability)
 - Alternative: DDP excluding import VAT (to specify in contract, PO, order confirmation ...)
- DDP may be suitable for transactions within a country (domestic trade)
- or for intercompany sales

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Rules for sea and inland waterway transport



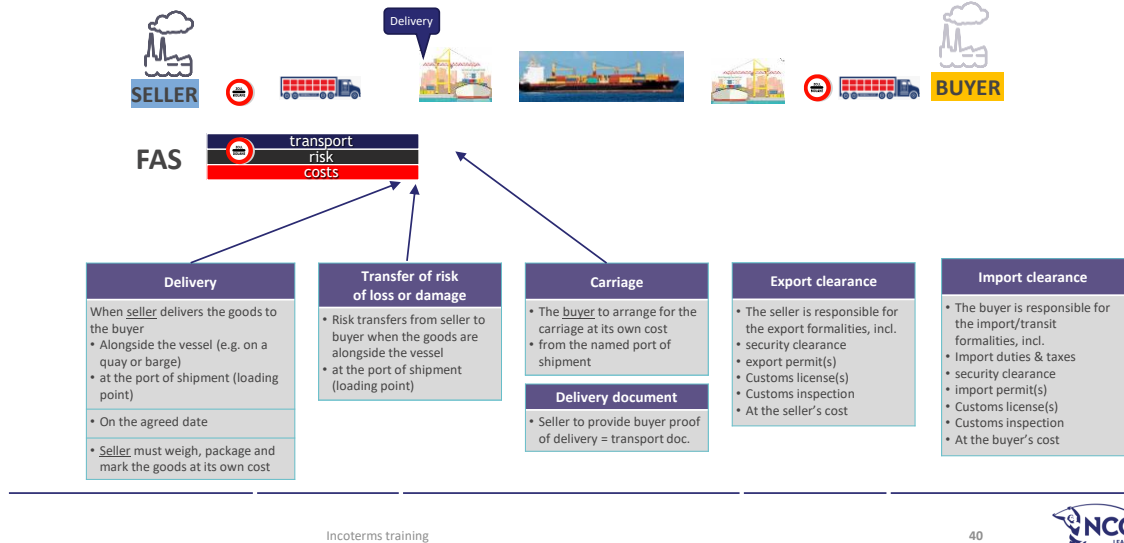
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Free Alongside Ship



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Free Alongside Ship FAS [+named port of loading] Incoterms 2020

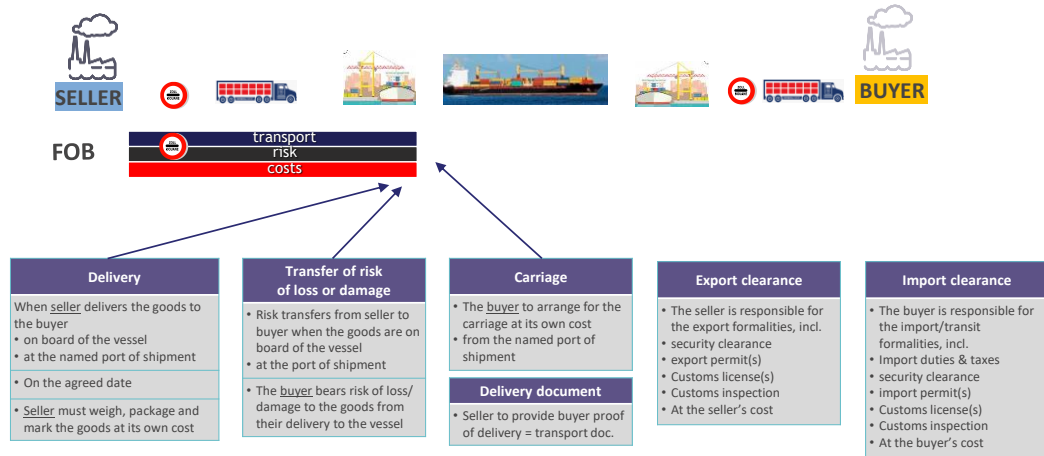


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Free On Board

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Free on Board FOB [+named port of shipment] Incoterms 2020



Note: When containerized goods are handed over to a carrier at a container terminal, FCA is more appropriate.

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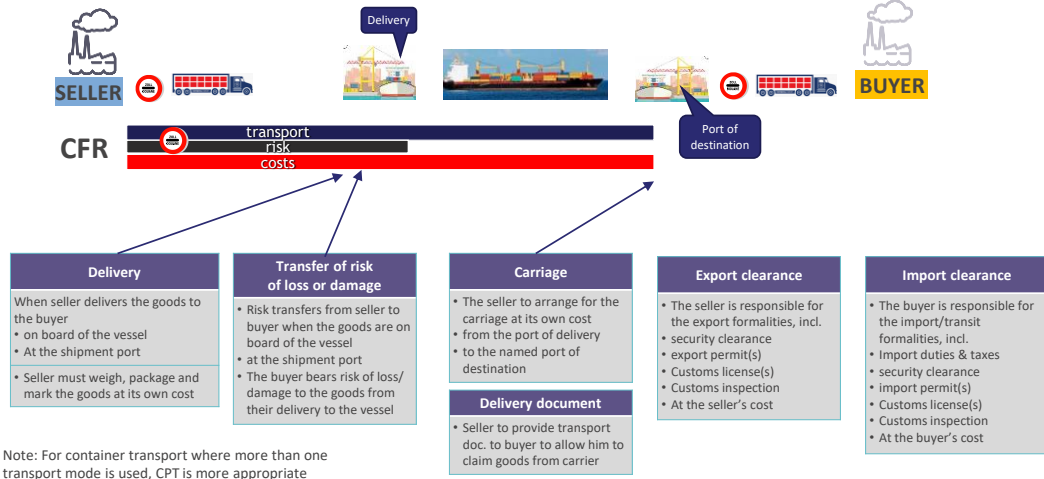
Cost and Freight



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Cost and Freight

CFR [+named port of destination] Incoterms 2020



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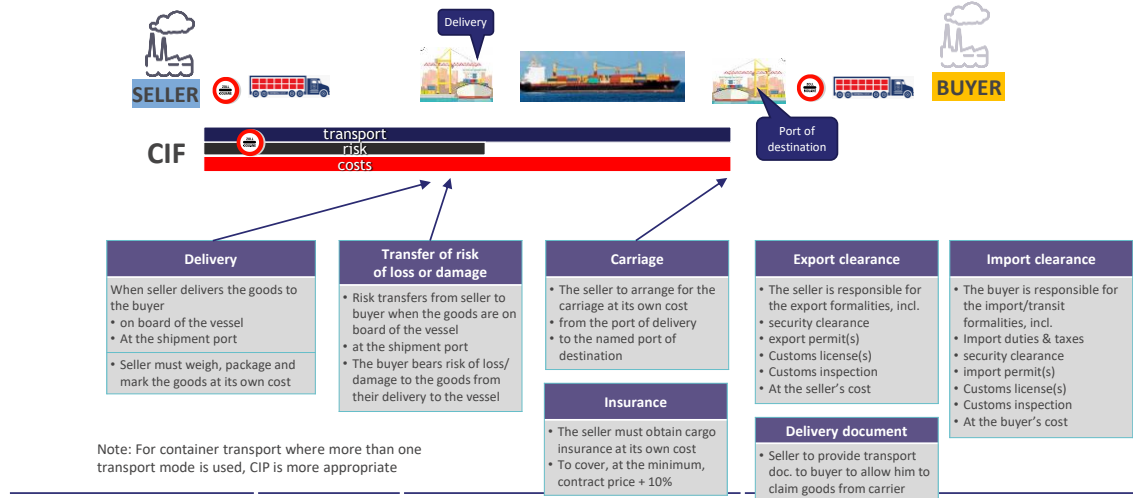
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Cost, Insurance and Freight



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Cost, Insurance and Freight CIF [+named port of destination] Incoterms 2020



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Company Guidelines



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Example of Company policy guidelines

	Incoterm	Company policy	Exceptions	Comment
All modes of transport	EXW	Not allowed	None, also not when the transport is arranged by a forwarder	Under EXW the buyer must obtain export clearance. The seller runs the risk of not obtaining proof of export/exit and cannot obtain VAT exemption
	FCA	Allowed		Caution: truck may not depart before the mandatory customs document (EAD or TAD) is given to the driver
	CPT	Allowed		Seller to hand over goods to the <u>first</u> carrier where risk is transferred to the buyer
	CIP	Allowed		Seller to procure cargo insurance on contract value +10%
	DAP	Allowed		Seller must arrange + pay transport and bears risk up to the final destination
	DPU	Not recommended		Under DPU seller is responsible for unloading its goods from the means of transport at destination
	DDP	Not allowed	Post-Brexit deliveries in the UK if the customer contractually agrees to take care of the import VAT. To specify "DDP [place] excluding VAT"	DDP requires that seller obtains import clearance in destination country (import declaration, import duties and VAT) which is difficult and risky
Sea and inland waterway	FAS	Sub-optimal		Not suitable if goods are handed over to a carrier at a container terminal. Better to use FCA.
	FOB	Allowed		Seller to place goods on board of a vessel contracted by the buyer
	CFR	Allowed		If goods are to be transported to a container terminal in the destination country it's better to use CPT
	CIF	Allowed		to procure cargo insurance on contract value +x%



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Cost allocation and risk transfer



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Allocation of costs to buyer and seller - Risk transfer

Incoterms 2020	Loading charges at export	Delivery to port/place	Export customs formalities	Export terminal charges	Carriage to port of export	Carriage to port of import	Insurance	Import terminal charges	Carriage to place of destination	Import customs formalities	Transfer of risk
Any mode of transport											
EXW	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer		Buyer	Buyer	Buyer	At buyer's disposal
FCA	Seller	Seller	Seller	Buyer	Buyer	Buyer		Buyer	Buyer	Buyer	On Buyer's transport
CPT	Seller	Seller	Seller	Seller	Seller	Seller		Seller	Buyer	Buyer	At carrier
CIP	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer	At carrier
DAP	Seller	Seller	Seller	Seller	Seller	Seller		Seller	Buyer	Buyer	At named place
DPU	Seller	Seller	Seller	Seller	Seller	Seller		Seller	Buyer	Buyer	At named place unloaded
DDP	Seller	Seller	Seller	Seller	Seller	Seller		Seller	Seller	Seller	At named place
Sea & inland waterway transport											
FAS	Seller	Seller	Seller	Seller	Buyer	Buyer		Buyer	Buyer	Buyer	Alongside ship
FOB	Seller	Seller	Seller	Seller	Seller	Buyer		Buyer	Buyer	Buyer	On board vessel
CFR	Seller	Seller	Seller	Seller	Seller	Seller		Buyer	Buyer	Buyer	On board vessel
CIF	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Buyer	Buyer	Buyer	On board vessel

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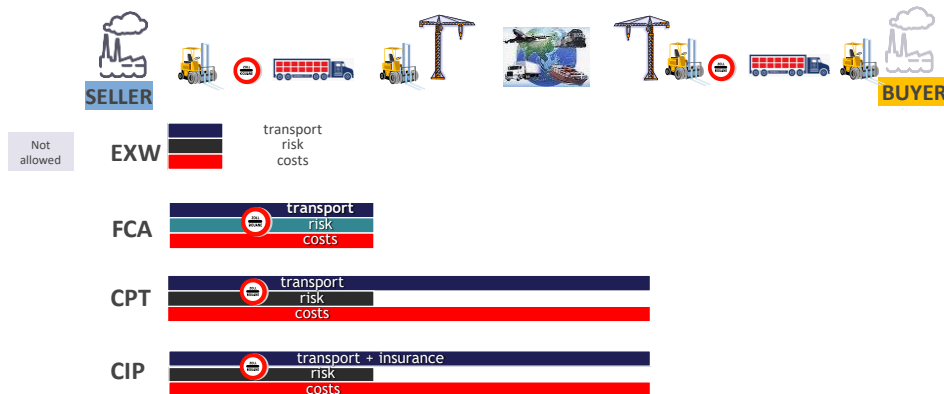
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Incoterms 2020 - Overview

Rules for any mode of transport (1/2)



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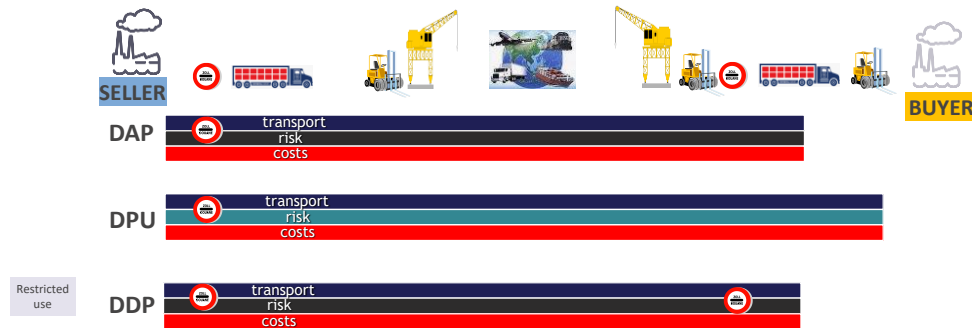
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Incoterms 2020 - Overview

Rules for any mode of transport (2/2)



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Incoterms 2020 - Overview

Rules for sea and inland waterway transport



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VAT and Customs impact

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Incoterms & VAT Exempt intra-Community supplies

- One of the conditions to exempt an intra-Community supply
= Transportation to another EU MS by the supplier or customer or on their behalf
- Proof of transport
- Chain transactions and triangulation
- Incoterms determine who is responsible for the transport
- Issues may rise when customer arranges for the transport e.g. EXW, FCA, FOB

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Incoterms and VAT Imports

- Incoterms determine who needs to take care of import formalities
 - DDP: the seller
 - Other terms: the buyer
- The importer or record generally needs to register for VAT (payment of import VAT)
- Use of DDP may have VAT consequences for foreign companies in country of importation
- Potential solutions:
 - Use of other Incoterm
 - Use DDP VAT unpaid (if possible in country of import)

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Incoterms & Customs Incoterms on Customs Declarations

- Box 20 of the Single Administrative Document (SAD)
 - ❖ **Mandatory** for regimes: A, C, E, H, I
 - A: Export
 - C: Re-export after PCC, IPR, Temporary Importation
 - E: Temporary Export (OPR)
 - H: Release for free circulation
 - I: Entry under a customs procedure other than bonded warehousing and OPR (IPR, PCC, Temporary Importation)
 - ❖ **Not** for regimes: B, D, J, K
 - B: Storage in bonded warehouse with view on export with pre-financing (export refunds)
 - D: Re-export after bonded warehousing
 - J: Entry in bonded warehouse Type A, B, C, E or F
 - K: Entry in bonded warehouse Type D

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Incoterms & Customs

Incoterms and customs declaration/authorizations

Exempla	18 Identiteit en nationaliteit van het vervoermiddel bij aankomst	19 Cijfer	20 Leveringvoorwaarden
		0	CIF Antwerpen
	21 Identiteit en nationaliteit van het grensoverschrijdende actieve vervoermiddel		23 Wisselkoers
	25 Vervoerwijze	26 Vervoerwijze	24 Aard van de
	1 de grens	1 binnenland	1 1 transactie
8	29 Kantoor van binnenkomst	30 Plaats van de goederen	28 Financiële en bankgegevens
31 Cijfer en omschrijving van de goederen	Merken en nummers - Container(s) nr(s) - Aantal en soort L15:45.197.050 1 VL-Bulk, vloeistof GASOLIE-LS (Zwavel >0,001 <0,05 gwp) Los		
32 Aantal	33 Goederencode	34 Code L. oorsprong US b 38046711.00 35 Bruto massa (kg) 45 00 38046711.00 36 Preferentie 1 00 37 REGELING 38 Netto massa (kg) 40 Summiere aangifte/voorafgaand document 41 Aanvullende eenheden 42 Prijs vrt goederen 15200076.00 43 Code H	
44 Bijzondere vermeldingen / Voorgelegde stukken /	N325 9999 17/02/2009		

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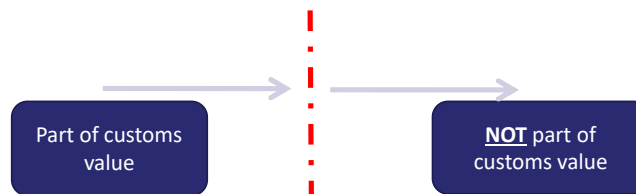
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Incoterms & Customs

Incoterms and customs value

- General principle: basis for calculation of customs value =

Price CIF (CIP) first border



- If other term is used, for customs valuation purposes:
 - Freight/insurance costs can be deducted from invoice price (C, D terms)
 - Freight/insurance need to be added to invoice price (E, F, C terms)

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Incoterms & Customs

Incoterms used in the Rules to determine preferential origin

- Many origin rules refer to 'the EXW price of the goods'

E.g. Free Trade agreement ('Protocol') EU – Switzerland. Agreement concerning the definition of the concept of "originating products" ...

ex Chapter 87

Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof, except for:

Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

"ex-works price" means the price paid for the product ex works to the manufacturer in the Community or in Switzerland in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

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Thank you

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Questions?

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