

# International Commercial terms

## (INCOTERMS 2020)

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### Introduction:

When there is a movement of goods involved in a sale whether in a domestic or in an international sale, sellers and buyers carry different obligations and costs such as pre-delivery, loading, freight, insurance, export, import clearance unloading etc. Pre-delivery costs include packing/marking/ weighing / inspection of goods for quality and quantity etc. Parties must understand their obligations and incorporate the same in a sales contract. Apart from costs and obligations, parties must have clarity on place of delivery, where seller's risks pass to the buyer. When all these obligations, costs and place of delivery are included in a sales contract, the size of the contract will increase. As such, there is a lot of scope for misinterpretations that may lead to misunderstandings between the parties. Especially when it comes to international trade, the language used in a sales contract may not be a native language for parties and there is a wide scope for misunderstandings.

The International Chamber of Commerce (ICC) developed certain three letter delivery terms clearly indicating sellers and buyers obligations. When these abbreviated terms are incorporated in a sales contract, parties need not narrate their obligations again, thereby the length of the contract is reduced and the risk of misunderstandings may be minimised to a larger extent.

These INCOTERMS rules describe obligations, transfer of risks, allocation of costs etc., between the parties, but do not describe transfer of title/ownership of the goods. The price of the goods is largely determined by the extent of costs, obligations and place of delivery that the seller is willing to accept by adopting a suitable incoterms. As such, a numerical number & currency code against price does not convey any meaning unless it is followed by INCOTERMS with a place of delivery ( USD 10/MT CFR Dubai Incoterms 2020 instead of Price : USD 10/MT)

The three letter abbreviated terms may carry different meaning in different contexts unless it is clearly indicated as INCOTERMS while using in domestic and international trade contracts. These rules are copyrighted by ICC. When these terms are adopted in a sales contract, it must clearly indicate the source of the term i.e CFR DUBAI INCOTERMS 2020. However, the registered trademark symbol is not required to include. Parties are free to adopt any version of incoterms such as 2000, 2010 or 2020 version etc if they are comfortable with that version. The current version is Incoterms 2020 ICC Publication No.723.

ICC published the first set of INCOTERMS in the year 1936 in a codified form. It is updated eight times and the current version of INCOTERMS 2020 is the ninth version. There are eleven INCOTERMS classified as "Rules for any mode/modes of transport" and "Rules for sea and inland waterway transport". This type of classification is given for earlier versions of INCOTERMS 2010 as well. However, the traditional way of studying as E terms, F

terms, C terms and D terms maybe easier for better understanding as sellers obligations escalate from E term to D terms. The classification of incoterms 2020 is as follows:

Rules for any mode or modes of transport	Rules for sea and inland waterway transport
Ex works (EXW)	Free Alongside Ship (FAS)
Free Carrier (FCA)	Free On Board (FOB)
Carriage Paid To (CPT)	Cost and Freight (CFR)
Carriage and Insurance Paid to (CIP)	Cost Insurance and Freight (CIF)
Delivered At Place (DAP)	
Delivered at Place Unloaded (DPU)	
Delivered Duty Paid (DDP)	

## Rules for any mode or modes of transport

### 1. Ex Works (EXW) named place of delivery

The seller must keep the goods ready for delivery at the named place of delivery usually at seller's warehouse. Exact address and point of the delivery may be included for precision. If there are multiple points of delivery at that place of delivery, and point of delivery is not mentioned in the sales contract, seller may deliver the goods from any point at their convenience .

This rule places minimum responsibility on the seller who merely keeps stocks separately identified with the contract at the place of delivery . Seller shall incur all pre-delivery costs such as packing/marketing/weighing/inspection etc. If the details of packing/marketing are not provided in the sales contract and packing is required for the transportation of the goods, goods must be packed as appropriate.

Buyer is responsible to arrange the truck and engage the labour to load the goods onto the truck.

However, buyer may request the seller to load the goods onto the truck at buyer's cost and risk. Seller's risk passes to the buyer upon delivery and buyer shall provide acknowledgment for the goods received.

Though it is always advisable to take transit insurance for the movement of goods, but it is not an obligation for the buyer to cover insurance

If the sale is in the course of export, buyer is responsible to arrange main contract of carriage as well and must clear the goods for both export and import from the respective custom departments . In most countries, for customs clearance , local registration is required, so buyer may be required to have registration in seller's country. As such, this term is hardly used for cross border transactions.

### 2. Free Carrier (FCA) named place of delivery

Named place of delivery may be either seller's warehouse or carrier's place. If delivery place is seller's warehouse, seller must load the goods in arriving means of conveyance arranged by the buyer where risk passes from seller to the buyer. In case, place of delivery is carrier's place, seller must arrange pre-carriage (i.e truck) up to that place and keep the stock ready for unloading. It means, seller is not responsible for unloading of the goods from the pre-carriage. Buyer must arrange main carriage for the movement of goods to the destination and must pay freight charges.

Though it is always advisable to take transit insurance for the goods, it is not an obligation for both buyer and seller to take insurance for their respective risks.

Anyhow, it is the responsibility of the seller to clear the goods for export from customs department irrespective of delivery place. However, import clearance and unloading costs at destination must be borne by the buyer.

In case, main carriage is by sea and seller require bill of lading for their bank purposes, buyer may instruct the carrier to issue shipped onboard bill of lading to the seller, though goods are delivered on FCA terms. Under FCA terms, seller usually gets an acknowledgment for the goods received from the shipping company but not a bill of lading which is a proof of shipment. This special provision is included in incoterms 2020 for the benefit of sellers who may need onboard bill of lading to get finance from banks.

### **3. Carriage paid to (CPT) place of destination**

Seller must arrange for contract of carriage up to the destination and pay freight charges from place of delivery to place of destination. The delivery place must be incorporated in sales contract in addition to the place of destination.

Seller may deliver the goods to the carrier at their warehouse or at carrier place. All loading charges must be borne by the seller. Though seller pays the freight up to destination, seller's risk passes once the goods are handed over to the carrier in seller's country. In case of multimodal transport, seller's risk passes once goods are handed over to the first carrier.

Though it is always advisable to take transit insurance for the goods, it is not an obligation for both buyer and seller to take insurance for their respective risks.

Seller must clear the goods for export and the buyer shall arrange for clearance for import and unloading costs at the destination to be borne by the buyer.

### **4. Carriage insurance paid to (CIP) place of destination**

Seller must arrange for contract of carriage up to the destination and pay freight charges from place of delivery to place of destination. The delivery place must be incorporated in sales contract in addition to the place of destination.

Seller may deliver the goods to the carrier at their warehouse or at carrier place. All loading charges must be borne by the seller. Though seller pays the freight up to destination, seller's risk passes once the goods are handed over to the carrier. In case of multimodal transport, seller's risk passes once goods are handed over to the first carrier.

In addition to the contract of carriage, seller is responsible to arrange contract of insurance which shall allow the buyer to make claims if any, directly by the insurer from the place of delivery to at least up to the place of destination for a minimum of 110% of the goods value in the currency of the contract covering ICC clauses (A).

Seller must clear the goods for export and the buyer shall arrange for clearance for import and unloading costs at the destination to be borne by the buyer.

### **5. Delivered At Place (DAP) place of destination**

Seller is responsible to arrange transportation up to the place of destination and shall pay freight. Seller delivers the goods at the place of destination ready for unloading.

Though it is always advisable to take transit insurance for the goods, it is not an obligation for the seller to take insurance coverage.

Seller must clear the goods for export and the buyer shall arrange for clearance for import and unloading costs at the destination to be borne by the buyer.

### **6. Delivered at Place Unloaded (DPU) place of destination**

Seller is responsible to arrange transportation up to the place of destination and shall pay freight. Seller deliver the goods at destination unloaded from the means of conveyance .

Though it is always advisable to take transit insurance for the goods, it is not an obligation for the seller to take insurance coverage.

Seller must clear the goods for export but import clearance must be taken by the buyer.

### **7. Delivered Duty Paid (DDP) place of destination**

Seller is responsible to arrange transportation up to the place of destination and shall pay freight. Seller delivers the goods at the place of destination ready for unloading .

Though it is always advisable to take transit insurance for the goods, it is not an obligation for the seller to take insurance coverage.

Seller must clear the goods for both export and import. Seller carries maximum responsibility where as buyer has a minimum responsibility. As import clearance is also responsibility of the seller, seller may be required to have registration in buyer's country to arrange import clearance for the goods. As such, application of this term for cross border transactions is very limited.

# Rules for sea and inland waterway transport

## **1. Free Alongside Ship (FAS) port of loading**

Seller delivers the goods alongside ship (e.g. on a quay or a barge) nominated by the buyer at the port of loading. Buyer pays ocean freight charges up to port of destination . Buyer is responsible to load the goods onboard the vessel. Seller's risk passes to the buyer once goods are kept alongside the ship at quay/wharf or a barge but NOT onboard the ship. This term is usually adopted when there are multiple shippers for a chartered ship. Buyer can appoint a stevedore to make sure that entire cargo is loaded onboard the ship as per stowage plan under a single supervision.

Though it is always advisable to take transit insurance for the goods, it is not an obligation for both buyer and seller to take insurance for their respective risks .

Seller is responsible to clear the goods for export and buyer is responsible to clear the goods for import and unloading at port of destination

## **2. Free On Board (FOB) port of loading**

Seller delivers the goods onboard the vessel nominated by the buyer at the port of loading. Buyer pays ocean freight charges up to the port of destination

Though it is always advisable to take transit insurance for the goods, it is not an obligation for both buyer and seller to take insurance for their respective risks .

Seller is responsible to clear the goods for export and the buyer is responsible to clear the goods for import and unloading at the port of destination.

## **3. Cost and Freight (CFR) port of destination**

Seller must arrange contract of carriage and pay ocean freight for the cargo from the port of loading to the port of destination. Seller's risk passes to the buyer once goods are loaded onboard the vessel at load port.

Though it is always advisable to take transit insurance for the goods, it is not an obligation for both buyer and seller to take insurance for their respective risks .

Seller is responsible to clear the goods for export and the buyer is responsible to clear the goods for import and unloading at port of destination.

## **4. Cost Insurance and Freight (CIF) port of destination**

Seller must arrange contract of carriage and pay ocean freight for the cargo from the port of loading to the port of destination. Seller's risk passes to the buyer once goods are loaded onboard the vessel at load port.

In addition to the contract of carriage, seller is responsible to arrange contract of insurance (which shall allow the buyer to make claims if any directly from the insurer) from the port of loading to port of destination for a minimum of 110% of the goods value in the

currency of the contract covering ICC clauses (C). This term is more appropriate for bulk or break bulk shipments of commodities, value of which is relatively lesser than containerised cargoes under CIP terms. As such, insurance coverage requirements unchanged .

Seller is responsible to clear the goods for export and the buyer is responsible to clear the goods for import and unloading at port of destination.

## Table for transfer of risks from seller to the buyer

Incoterms	Seller's place	Carrier's place	Port of Loading	Port of destination	Carrier's place	Buyer's Place
EXW	X					
FCA	X	X				
FAS			X			
FOB			X			
CPT	X	X				
CIP	X	X				
CFR			X			
CIF			X			
DAP					X	X
DPU				X	X	X
DDP					X	X

1. Seller is responsible for pre-delivery costs for all terms
2. Seller is responsible for export clearance for all terms but for EXW
3. Buyer is responsible for import clearance for all terms but for DDP
4. Insurance is not a obligation for all the terms but for CIP & CIF
5. CIP requires insurance coverage for ICC (A) clauses for min. 110% of goods value
6. CIF requires insurance coverage for ICC (C) clauses for min. 110% of goods value
7. Rules for sea and inland waterway transport “ are more appropriate for bulk shipments ( coal, crude oil etc) where exporters can access loading operations directly , and for containerised cargoes “ Rules for any mode/modes of transport “ are appropriate as shipping company takes charge of the containers at container yard.