

# Incoterms:

## Everything You Need to Know



## What are Incoterms?

### The Incoterms are not law

By agreeing to one of the three letters and incorporating them into the sales contract, the buyer and seller can achieve a precise understanding of what each party is obliged to do, and where responsibility lies, in the commercial application as well as determining risk in the event of loss or damages.

### They do not determine transfer of title (ownership)

This is a common misconception. Incoterms remain silent with regards to transfer of title as that can occur anywhere during the life cycle of the supply chain and should be specifically identified in the sales contract/commercial agreement between both parties.

### They do not determine when revenue may be recognized

Regulatory agencies such as the Security Exchange Commission or any other government agency/ entity.

### The Incoterm does not apply to the contract of carriage

i.e. the Bill of Lading, truck or ocean or air-waybill but to the delivery of goods under a sales contract.

### They do not enumerate all of the duties and responsibilities of the buyer and seller

They purely establish where in the journey the risk transfers from the seller to the buyer.



## Export Packaging

The packaging of goods should comply with the requirements of the sales/commercial contract.

It is incorrect to assume that the Incoterm selected will reflect the type of packaging required.

The value of the merchandise, the conveyance and destination of the cargo all affect the type of packaging required to protect the integrity of the goods.



## Cargo Insurance

### Insurance – CIF, CIP

Note: When an Incoterm includes “I” (insurance), it requires the Seller to purchase insurance in the Buyer’s name.

**Type of insurance covered by these terms is Minimum Coverage only**

Minimum = FPA (Free of Particular Average ) or in layman’s terms – basic liability.



## Incoterms Structure

The Incoterm as a three-letter acronym is insufficient.

A named location must be listed as part of the agreed Incoterm and the version of the Incoterms® should be included.

### Examples:

- ExW Harrisburg, PA, Incoterms 2000
- FCA Kennedy Intl Airport, Incoterms 2010
- FOB Port Houston, Incoterms 2010
- DDU 410 Hazel Street, Bangkok, Thailand, Incoterms 2000
- DDP 68 Waterloo Road, Port Hedland, NSW, Incoterms 2010



## The 11 Rules of Incoterms

The two main categories of Incoterms® 2010 are now organized by modes of transport. Used in **international** as well as **domestic** contracts for the first time, the new groups aim to simplify the drafting of contracts and help avoid misunderstandings by **clearly stipulating the obligations of buyers and sellers.**

### Group 1

**Incoterms® that apply to any mode of transport:**

**EXW:** Ex Works

**FCA:** Free Carrier

**CPT:** Carriage Paid To

**CIP:** Carriage and Insurance Paid To

**DAT:** Delivered at Terminal

**DAP:** Delivered at Place

**DDP:** Delivered Duty Paid

### Group 2

**Incoterms® that apply to sea and inland waterway transport only:**

**FAS:** Free Alongside Ship

**FOB:** Free on Board

**CFR:** Cost and Freight

**CIF:** Cost, Insurance, and Freight

## EX-Works (All modes)

This rule places minimum responsibility on the seller, who merely has to make the goods available, suitably packaged and in accordance with the sales contract, at named place, usually the seller's factory or depot.

The buyer is responsible for loading the goods onto a vehicle (even though the seller may be better positioned to provide this service) and for all export procedures and for onward transport costs arising after taking receipt of the cargo/goods.

However, with this Incoterm the seller may be requested to assist the overseas buyer with the export reporting, clearance processes and Export Licensing.

## FCA (All modes)

Seller arranges pre-carriage from seller's depot to the named place, which can be a terminal or transport hub, forwarder's warehouse, etc. Under this Incoterm, the seller is also obliged to load containers if they agree to include this service in their FCA fee under the terms of the sales contract.

Delivery and transfer of risk takes place when the truck arrives at this named place, ready for off/unloading by others - one important facet of this term is if there is more than one carrier (trans-loading) then the risk transfers on delivery to the first carrier.)

The named place can also be the seller's door - in this case the seller is responsible for loading the goods onto the truck, etc.

## CPT / CIP (All modes)

These two terms are identical. The seller is responsible for arranging carriage to the named place, and also for insuring the goods under CIP terms.

Delivery of the goods takes place, and risk transfers from seller to buyer, at the point where the goods are taken in charge by a carrier - not at the named place.

Watch for container moves - Destination Terminal Handling Charges (DHC) may or may not be included by the carrier in their ocean freight rates to the seller.

## DAT / DAP (All modes)

Seller is responsible for export clearance, delivery of the goods appropriately packed at named-destination and pay all transport costs to named-destination and available for unloading by others. The risk transfers once the above is fulfilled.

Buyer is responsible for unloading and import clearance, including all duties, taxes, and Import licensing. No insurance obligation by either party.

## DDP (All modes)

The seller is responsible for arranging carriage and delivering the goods at the named place, cleared for import with all applicable taxes and duties paid (e.g. VAT, GST), as well as determining any import licensing requirements.

Buyer is responsible for unloading only.

No insurance obligation by either party.

## FAS/ FOB ('Sea' mode only)

Use of this rule is restricted to goods transported by sea or inland waterway and relates to break bulk or non-container vessels.

Seller should have direct access to the buyers vessel regardless of FAS/FOB terms.

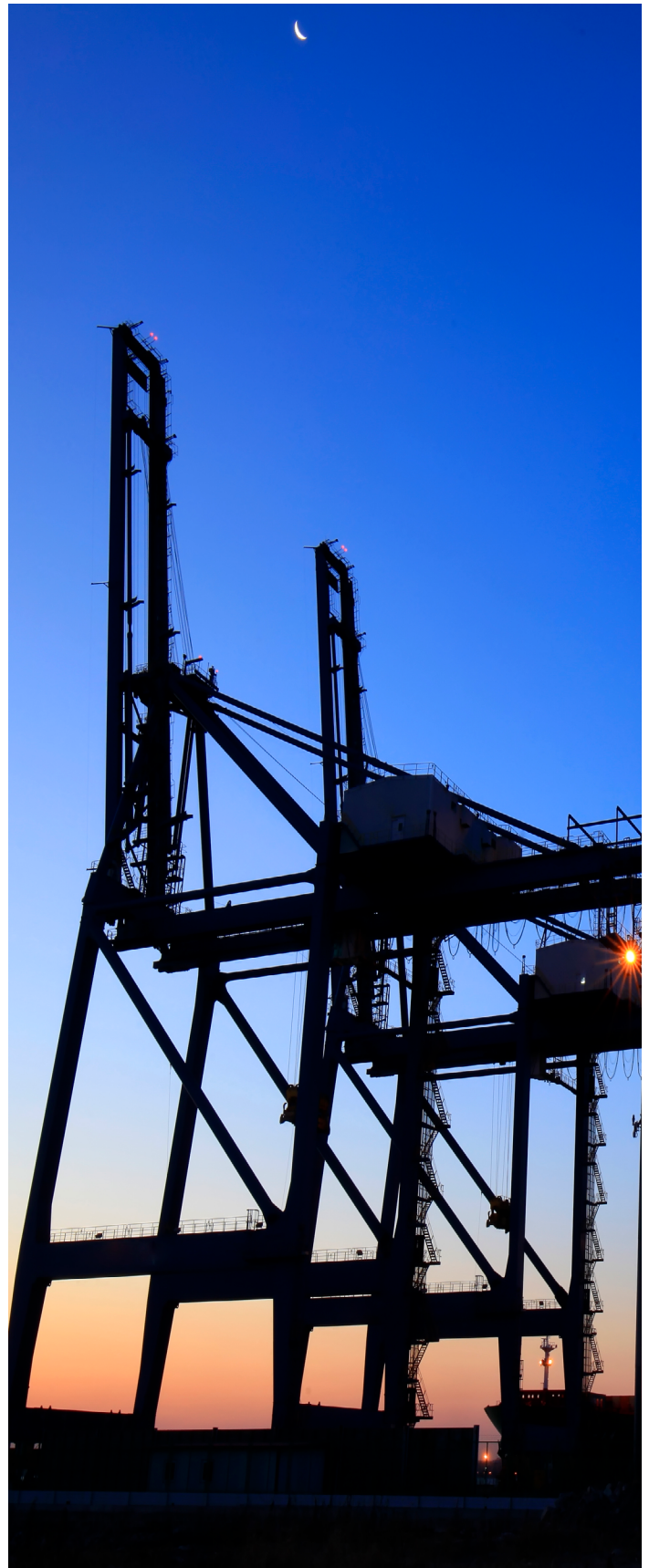
## CFR/ CIF ('Sea' mode only)

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/ break bulk cargos or non-containerized goods. For containerized goods, consider "CPT" or "CIP" or "FCA."

Seller arranges and pays for transport to named port, cleared for export.

However, risk transfers from seller to buyer once the goods have been loaded on board, i.e. before the main carriage takes place – see common mistakes below.



## Common Mistakes

- Use of a traditional **“sea and inland waterway only”** rule such as FOB or CFR/CIF for containerized goods, instead of the “all transport modes” rule e.g. FCA or CPT/CIP. This exposes the exporter to unnecessary risks.
- Making assumptions about passing of title to the goods, based on the agreed Incoterm. The Incoterms rules are silent regarding title transfers this must be defined in the sales contract. Incoterms only address commercial **“RISK.”**
- Failure to specify the port/place with sufficient precision, e.g. “FCA Chicago,” which could refer to many places within a wide geographical area.
- 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 or paying duties and taxes as a foreign importer of record.
- Use of **EXW** without thinking through the implications of the buyer being required to complete export procedures – in many countries it will be necessary for the seller not the buyer who must communicate with the authorities.
- Selecting **CIP** or **CIF** without understanding the implications of the limited insurance coverage versus the cost of goods.
- Under **FCA** where there is more than one carrier, failure to think through the implications if there is more than one carrier, the risk transfers on delivery to the first carrier.
- Failure to establish how terminal handling charges (THC) are going to be treated at the point of arrival if they are “hidden” from the sellers cost.
- When **DAT** or **DAP** is used with a “post-clearance” delivery point, (not a customs bonded yard) failure to think through the liaison between all parties to the transaction can lead to delays and extra costs i.e. demurrage/storage.
- Assuming that risk transfers when the vessel arrives at destination C-terms because the port of discharge is listed when in reality risk transfers at the time the cargo is loaded on board at the origin port.

**Don't get caught in a mouse trap. Get in touch with our logistics experts while there's still time.**



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