

The Incoterms 2010 Rules
The logic of the rules
The eleven rules in brief
Ex Works
Free Carrier
Carriage Paid To
Carriage & Insurance Paid to
Delivered At Terminal
Delivered At Place
Delivered Duty Paid
Free Alongside Ship
Free On Board
Cost & Freight
Cost Insurance & Freight

What are Incoterms?

The Incoterms rules are a set of standard packages of terms and conditions relating to the sale of physical goods that need to be transported. First published by the ICC in 1936, the Incoterms rules are revised from time to time. The latest revision, Incoterms 2010 came into force on 1 January 2011, replacing the previous version Incoterms 2000.

The Incoterms rules focus on these two key aspects of the transaction:

Which party – buyer or seller – is responsible for arranging and paying for transport† (and associated activities such as loading or unloading), import and export procedures,‡ insuring the goods etc.?

At what point in the journey does responsibility for the consignment transfer from seller to buyer? This becomes important if the goods are lost or damaged in transit.

The Incoterms 2010 revision contains 11 rules – follow the links on the left for brief summaries of their key features.

By agreeing to use an Incoterms rule, the buyer and seller achieve precision and clarity in defining their obligations and responsibilities.

Note that the Incoterms rules do not attempt to cover all aspects of the commercial agreement – there are important matters such as transfer of title and how the goods are to be paid for, on which the Incoterms rules are silent.

When the parties have agreed on an Incoterms rule to govern the transaction, it is incorporated into the commercial agreement by way of a reference such as the following:

FOR EXAMPLE: CIP Hong Kong Terminal 4††Incoterms 2010

Note these three elements:

A three-letter abbreviation – CIP stands for "Carriage and Insurance Paid to"

A precisely-defined place. For the CIP Incoterms rule, this is a place of destination, to which the seller has contracted to transport the goods. For other Incoterms rules, the place may have a different meaning – see the summaries for more on this.

The applicable edition of the Incoterms rules – here, Incoterms 2010. †(Parties who† wish to use earlier editions of the rules such as Incoterms 2000 are free to do so, provided they specify this)

The Incoterms 2010 revision divides the rules into two groups – there are four Incoterms rules whose use is reserved for transport of goods by sea or inland waterway, and seven rules that can be used for any transport mode or more than one means of transport.

One of the aims of the Incoterms 2010 edition is to encourage use of the correct Incoterms for containerised goods, which nowadays represent the vast majority of cross-border movements.

Use of the traditional Incoterms rules such as CIF and CFR for containerised goods exposes the exporter to unnecessary risks.

This was dramatically illustrated by the Japanese tsunami in March 2011. Many exporters suffered avoidable losses when their containers were washed away whilst in the container terminal.

Although the Incoterms 2010 edition no longer emphasise this, the rules can also be usefully arranged in these four groups:

Buyer responsible for all carriage – EXW

Buyer arranges main carriage – FAS; FOB; FCA

Seller arranges main carriage, risk passes after main carriage – DAT; DAP; DDP

Seller arranges main carriage, but risk passes before main carriage – CFR; CIF; CPT; CIP

The Incoterms rules in this last group have an important feature that the newcomer should take careful note of. The place mentioned in a rule such as CIP Hong Kong Terminal 4 Incoterms 2010 is not the point of delivery, where risk transfers. The seller is responsible for arranging and paying for transport to Hong Kong, but risk will transfer from seller to buyer at the point where the goods are taken in charge by the carrier, i.e. before the main carriage.

The eleven rules are divided into two main groups:
FIRST GROUP- RULES FOR ANY TRANSPORT MODE

- Ex Works EXW
- Free Carrier FCA
- Carriage Paid To CPT
- Carriage & Insurance Paid to CIP
- Delivered At Terminal DAT
- Delivered At Place DAP
- Delivered Duty Paid DDP

The eleven rules are divided into two main groups:

SECOND GROUP- RULES FOR SEA AND INLAND WATERWAY ONLY

- Free Alongside Ship FAS
- Free On Board FOB
- Cost and Freight CFR
- Cost Insurance and Freight CIF

In general the ‘transport by sea or inland waterway only’ rules should only be used for bulk cargos (e.g. oil, coal etc) and non-containerised goods, where the exporter can load the goods directly onto the vessel. Where the goods are containerised, the ‘any transport mode’ rules are more appropriate.

A critical difference between the rules in these two groups is the point at which risk transfers from seller to buyer. For example, the ‘Free on Board’ (FOB) rule specifies that risk transfers when the goods have been loaded on board the vessel. However the ‘Free Carrier’ (FCA) rule specifies that risk transfers when the goods have been taken in charge by the carrier.

Another useful way of classifying the rules is by considering:

Who is responsible for the main carriage – the buyer or the seller?

If the seller is responsible for the main carriage, where does the risk pass from the seller to the buyer – before the main carriage, or after it?

This gives us these four groups:

Buyer responsible for all carriage – EXW

Buyer arranges main carriage – FAS; FOB; FCA

Seller arranges main carriage, risk passes after main carriage – DAT; DAP; DDP

Seller arranges main carriage, but risk passes before main carriage – CFR; CIF; CPT; CIP

This last group of rules often surprises newcomers, because although the seller pays for transport to the named place, the risk transfers at an earlier point in the journey – see delivery.

[DELIVERY]

Under the Incoterms rules, delivery is linked to the transfer of risk and responsibility for the consignment from the seller to the buyer.

Particular care must be taken with the C rules:

CPT Carriage Paid to,

CIP Carriage and Insurance Paid to,

CFR Cost and Freight,

CIF Cost Insurance and Freight.

[DELIVERY]

Consider this rule CIP Hong Kong Terminal 3.

This rule obliges the seller to contract with a carrier to transport the goods to the specified place, Hong Kong Terminal 3. This is the named place of destination.

However there is another critical point – the point where the seller hands the goods over to the carrier. This is the place of delivery, where risk passes from seller to buyer.

[DELIVERY]

In this example, there are a number of possible places of delivery – e.g. it could be the container yard at the place of loading for the sea voyage (e.g. Felixstowe berth 8); or it could be the seller's premises, or another logistics hub. So it is good practice for the buyer and seller to identify the place of delivery as well as the place of destination, and to include it in the commercial agreement.

[DELIVERY]

If a place of delivery has not been agreed, and there is more than one carrier, then by default it is taken to be the point where the goods are taken in charge by the first carrier.

For the sea and inland waterway rules "CIF Cost Insurance and Freight", "CFR Cost and Freight", the goods are deemed to be delivered when placed on board the vessel for transport to the place of destination.

Exworks

Can be used for any transport mode, or where there is more than one transport mode.

This rule places minimum responsibility on the seller, who merely has to make the goods available, suitably packaged, at the specified 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 placed to do this); for all export procedures; for onward transport and for all costs arising after collection of the goods.

In many cross-border transactions, this rule can present practical difficulties.

Specifically, the exporter may still need to be involved in export reporting and clearance processes, and cannot realistically leave these to the buyer. Consider Free Carrier (seller's premises) instead.

Other things to watch for.††Although the seller is not obliged to load the goods, if the seller does so, this is at the buyer's risk!

In spite of its apparent simplicity, this rule presents many pitfalls for both parties when used for cross-border transactions.

Ex Works obliges the buyer to undertake export procedures (obtaining of licences, security clearances and so on.)† †The buyer may be poorly placed to do this.†† In any event the seller is only obliged to provide assistance, at the buyer's risk and expense.

From the seller's perspective, there is the problem of obtaining evidence that the goods are to be exported ñ where VAT or sales tax is charged on domestic sales, †the tax authorities may require this.

The obvious alternative for cross-border transactions is Free Carrier (FCA) ñ seller's premises.

FCA

Can be used for any transport mode, or where there is more than one transport mode. A very flexible rule that is suitable for all situations where the buyer arranges the main carriage. For example:

Seller arranges pre-carriage from seller's depot to the named place, which can be a terminal or transport hub, forwarder's warehouse etc. Delivery and transfer of risk takes place when the truck or other vehicle arrives at this place, ready for unloading – in other words, the carrier is responsible for unloading the goods. (If there is more than one carrier, then risk transfers on delivery to the first carrier.)

Where the named place is the seller's premises, then the seller is responsible for loading the goods onto the truck etc. NB this is an important difference from Ex Works EXW

In all cases, the seller is responsible for export clearance; the buyer assumes all risks and costs after the goods have been delivered at the named place.

FCA is the rule of choice for containerised goods where the buyer arranges for the main carriage.

For cross-border transactions, Free Carrier (seller's premises) is usually a better option than Ex Works.

As with Ex Works, the seller's responsibilities end once the consignment has been collected from their premises by the buyer's carrier.

However the seller is required to undertake export procedures, and to load the goods onto the vehicle if necessary – something the seller is probably better placed to do anyway

CPT

Can be used for any transport mode, or where there is more than one transport mode.

The seller is responsible for arranging carriage to the named place, but not for insuring the goods to the named place. However 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 – see delivery.

Things to watch for.

Terminal Handling Charges (THC) are charges made by the terminal operator. These charges may or may not be included by the carrier in their freight rates – the buyer should enquire whether the CPT price includes THC, so as to avoid surprises.

The buyer may wish to arrange insurance cover for the main carriage, starting from the point where the goods are taken in charge by the carrier – NB this will not be the place referred to in the Incoterms rule, but will be specified elsewhere within the commercial agreement.

See also “Carriage and Insurance Paid To CIP”

CIP

Can be used for any transport mode, or where there is more than one transport mode. The seller is responsible for arranging carriage to the named place, and also for insuring the goods.

As with CPT, 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 – see delivery.

Things to watch for. Terminal Handling Charges (THC) are charges made by the terminal operator. These charges may or may not be included by the carrier in their freight rates – the buyer should enquire whether the CPT price includes THC, so as to avoid surprises.

Although the seller is obliged to arrange for insurance for the journey, the rule only requires a minimum level of cover, which may be commercially unrealistic. Therefore the level of cover may need to be addressed elsewhere in the commercial agreement

See also “Carriage Paid To CPT”

This rule and CIF (Cost Insurance and Freight) are the only two rules that place an obligation on the seller to arrange insurance for the consignment.

Note that this insurance covers the buyer’s risk, because risk will pass from the seller to the buyer before the main carriage.

As with the other “C” rules, a good choice for transactions involving letters of credit.

DAT

Risk transfers from seller to buyer when the goods have been unloaded.

‘Terminal’ can be any place – a quay, container yard, warehouse or transport hub.

The buyer is responsible for import clearance and any applicable local taxes or import duties.

Things to watch for:

The place for delivery should be specified as precisely as possible, as many ports and transport hubs are very large.

A useful rule, well suited to container operations where the seller bears responsibility for the main carriage.

DAP

Can be used for any transport mode, or where there is more than one transport mode.

The seller is responsible for arranging carriage and for delivering the goods, ready for unloading from the arriving conveyance, at the named place. (An important difference from Delivered At Terminal DAT, where the seller is responsible for unloading.)

Risk transfers from seller to buyer when the goods are available for unloading; so unloading is at the buyer's risk.

The buyer is responsible for import clearance and any applicable local taxes or import duties.

This rule can often be used to replace the Incoterms 2000 rules Delivered At Frontier (DAF), Delivered Ex Ship (DES) and Delivered Duty Unpaid (DDU)

DDP

Can be used for any transport mode, or where there is more than one transport mode.

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

Risk transfers from seller to buyer when the goods are made available to the buyer, ready for unloading from the arriving conveyance

This rule places the maximum obligation on the seller, and is the only rule that requires the seller to take responsibility for import clearance and payment of taxes and/or import duty.

These last requirements can be highly problematical for the seller. In some countries, import clearance procedures are complex and bureaucratic, and so best left to the buyer who has local knowledge.

FAS

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, alongside the vessel at a named port, at which point risk transfers to the buyer.

The buyer is responsible for loading the goods and all costs thereafter.

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.

CFR

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 'Carriage Paid To CPT' instead.

Seller arranges and pays for transport to named port. Seller delivers goods, cleared for export, loaded on board the vessel.

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

NB seller is not responsible for insuring the goods for the main carriage.

See also "Cost Insurance and Freight CIF"

CIF

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 'Carriage and Insurance Paid CIP' instead.

Seller arranges and pays for transport to named port. Seller delivers goods, cleared for export, loaded on board the vessel.

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

Seller also arranges and pays for insurance for the goods for carriage to the named port.

However as with "Carriage and Insurance Paid To", the rule only require a minimum level of cover, which may be commercially unrealistic. Therefore the level of cover may need to be addressed elsewhere in the commercial agreement.

This rule and CIP (Carriage & Insurance Paid to) are the only two rules that place an obligation on the seller to arrange insurance for the consignment.

Note that this insurance covers the buyer's risk, because risk will pass from the seller to the buyer before the main carriage.