

Know your Incoterms

(Lecture B1235 – 14.01 minutes)

What are incoterms?

Published by the International Chamber of Commerce (ICC), Incoterms stands for 'International Commercial Terms'. As the name suggests, these are a set of internationally recognized, abbreviated terms used when trading in goods. Incoterms represent guidelines, rather than law. Governments and legal authorities around the world accept these terms.

Inserted into a contract, incoterms clarify the tasks, costs and risks to be borne by buyers and sellers at each stage of the deal. Further, these terms effectively provide instructions to carriers, forwarders, customs brokers, banks and other financial institutions involved in shipping goods; they specify who is responsible for paying for and managing the shipment, insurance, documentation, customs clearance, and any other activities.

There are 11 incoterms in total, four of which relate specifically to Sea and Inland Waterway Transport.

When including Incoterms in a contract two items need to be included: the abbreviated name of Incoterm being used and the named place, which will be one of the following:

- Place of delivery
- Place of destination
- Port of shipment
- Port of destination

Incoterms for road, rail, air and sea

EXW: Ex Works (Insert place of delivery, usually seller's premises)

FCA: Free Carrier (Insert named place of delivery)

CPT: Carriage Paid to (insert place of destination)

CIP: Carriage and Insurance Paid To (insert place of destination)

DAP: Delivered at Place (insert named place of destination)

DPU: Delivered at Place Unloaded (insert of place of destination)

Formerly: DAT Delivered at Terminal

DDP: Delivered Duty Paid (Insert place of destination).

Incoterms for Sea and Inland Waterway Transport

- FAS: Free Alongside Ship (insert name of port of loading)
- FOB: Free on Board (insert named port of loading)
- CFR: Cost and Freight (insert named port of destination)
- CIF: Cost Insurance and Freight (insert named destination port)

Summary of Incoterms with buyer and seller responsibility

There is a useful tabular summary of Incoterms2020, effective from 1 January 2020, showing who is responsible for what that can be found at:

<https://incodocs.com/blog/wp-content/uploads/2020/06/IncoDocs-Trade-Guide-2020-J.pdf>

Not Covered

It is important to remember that Incoterms do not cover everything. For example, they do not identify the goods being sold, the price or the method and timing of payment. Further the contract will need to detail separately what happens in the event of failure to provide the goods, delayed delivery, and indeed how any dispute will be resolved.

<https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/>

Practical impact

The implications of incoterms need to be appreciated. If a UK business were to agree DDP terms with an EU customer for post transition trade we will have a problem. The UK supplier is responsible for the UK export documentation and the EU import documentation in the destination state. As a result, the UK supplier will be responsible for the EU import VAT and as such this will normally result in a VAT registration obligation in the destination state. The UK supplier will then be able to recover the import VAT paid and then account for the EU VAT on their onward sale to their EU customer.