

INCOTERMS 2010

International Commercial Terms, known as “Incoterms”, are internationally accepted terms defining the responsibilities of exporters and importers in the arrangement of shipments and the transfer of liability involved at various stages of the transaction. Incoterms *do not* cover ownership of the transfer of title of goods. It is crucial to agree on an Incoterm at the start of a negotiation/ quotation of a sale, as it will affect the costs and responsibilities involved in shipping, insurance and tariffs. The new Incoterms 2010 rules were revised by the International Chamber of Commerce and will become effective January 1, 2011. Four terms were eliminated (DAF, DEQ, DES, DDU) and two were added: Delivered at Place (DAP) and Delivered at Terminal (DAT). The modifications affect obligations, risk transfer, and cost sharing for the seller and buyer, resulting in better clarification and application of the eleven (11) Incoterms, and consistent with the way global trade is actually conducted since the last update in 2000.

In any sales transaction, it is important for the seller and buyer to agree on the terms of sale and know precisely what is included in the sale price. Exporters should choose the Incoterm that works best for their company, but also be prepared to quote on other terms.

INCOTERM DEFINITIONS / CHANGES

The 11 Incoterms consist of two groups and are listed below in order of increasing risk/liability to the exporter. Under the revised terms, buyers and sellers are being urged to contract precisely where delivery is made and what changes are covered. This should avoid double-billing of terminal handling charges at the port of discharge. References to “ship’s rail” were taken out to clarify that delivery means “on-board” the vessel. Insurance, electronic documentation, and supply chain security are addressed in more detail, and gender-neutral language is now used.

Rules for Sea and Inland Waterway Transport:

FAS – Free Alongside Ship: Risk passes to buyer, including payment of all transportation and insurance costs, once delivered alongside the ship (realistically at named port terminal) by the seller. The export clearance obligation rests with the seller.

FOB – Free On Board: Risk passes to buyer, including payment of all transportation and insurance costs, once delivered on board the ship by the seller. A step further than FAS.

CFR – Cost and Freight: Seller delivers goods and risk passes to buyer when on board the vessel. Seller arranges and pays cost and freight to the named destination port. A step further than FOB.

CIF – Cost, Insurance and Freight: Risk passes to buyer when delivered on board the ship. Seller arranges and pays cost, freight and insurance to destination port. Adds insurance costs to CFR.

Rules for Any Mode or Modes of Transportation:

EXW – Ex Works: Seller delivers (without loading) the goods at disposal of buyer at seller’s premises. Long held as the most preferable term for those new-to-export because it represents the minimum liability to the seller. On these routed transactions, the buyer has limited obligation to provide export information to the seller.

FCA – Free Carrier: Seller delivers the goods to the carrier and may be responsible for clearing the goods for export (filling the EEI). More realistic than EXW because it includes loading at pick-up, which is commonly expected, and sellers are more concerned about export violations.

CPT – Carriage Paid To: Seller delivers goods to the carrier at an agreed place, shifting risk to the buyer, but seller must pay cost of carriage to the named place of destination.

CIP - Carriage and Insurance Paid To: Seller delivers goods to the carrier at an agreed place, shifting risk to the buyer, but seller pays carriage and insurance to the named place of destination.

DAT - Delivered at Terminal: Seller bears cost, risk and responsibility until goods are unloaded (delivered) at named quay, warehouse, yard, or terminal at destination. Demurrage or detention charges may apply to seller. Seller clears goods for export, not import. DAT replaces DEQ, DES.

DAP - Delivered at Place: Seller bears cost, risk and responsibility for goods until made available to buyer at named place of destination. Seller clears goods for export, not import. DAP replaces DAF, DDU.

DDP - Delivered Duty Paid: Seller bears cost, risk and responsibility for cleared goods at named place of destination at buyers disposal. Buyer is responsible for unloading. Seller is responsible for import clearance, duties and taxes so buyer is not “importer of record”.

INCOTERMS DO NOT...

Determine ownership or transfer title to the goods, nor evoke payment terms.

Apply to service contracts, nor define contractual rights or obligations (except for delivery) or breach of contract remedies.

Protect parties from their own risk or loss, nor cover the goods before or after delivery.

Specify details of the transfer, transport, and delivery of the goods. Container loading is NOT considered packaging, and must be addressed in the sales contract.

INCOTERMS – SELLER / BUYER RISKS, COSTS AND OBLIGATIONS TRANSFER

