

Incoterms®

What is an Incoterm®? | How to use Incoterms® 2020? | Getting to know Incoterms® 2020? | Who bears the various costs and risks? | What do the different Incoterms® mean? | Which law governs the contracts?

What is an Incoterm®?

The Incoterms® 2020

Before considering shipping merchandise internationally, an important question must be answered: At which point are the risks and charges transferred to the buyer?

In 1936, for the first time, the International Chamber of Commerce (ICC), published under the name of Incoterms® 1936 (INternational COmmercial TERMS), **a series of international rules** that answers this question.

In order to adapt these rules into the most recent international trade practices, many amendments have been added to the rules of 1936 accomplishing what today is called "Incoterms® 2020" which has replaced Incoterms® 2010.

The main changes made by Incoterms® 2020 to Incoterms® 2010 concern the following points:

- Evolution of the Incoterm® FCA (bills of lading with an on-board notation)
- Appearance of a new Incoterm®: DPU (Delivered at Place Unloaded) to replace the Incoterm® DAT
- Differentiated levels of insurance coverage between CIF and CIP
- Organisation of transport with the seller's or buyer's own means of transport in FCA, DAP, DPU and DDP

Managing Risk Control

By making references in their contracts, using one of the Incoterms® of the ICC, the buyer and the seller reduce the uncertain risks inherent in all international transactions: commercial practices and different interpretations from one country to the other. They specify their own respective responsibilities and obligations during the process of delivering the merchandise and the mandatory documentation that the vendor must supply. Also the Incoterms®, even if they are optional, they are recognized as standardized clauses which will prevent any litigation by clearly distributing between the buyer and the vendor: obligations, risks, costs. In addition, they **dissociate the question of transferring risks from those of transferring ownership**, this last issue remains under the control of the **law that rules the contract**. Concretely, Incoterms® will clarify the following points:

1. Place the critical point of transferring the risks from the vendor to the buyer during the process of shipping the goods (loss, damage or theft of the merchandise) allowing the one who is liable for these risks to make his own dispositions, notably in terms of insurance;
2. Indicate which one, either the seller or the buyer, must underwrite the shipping contract;
3. Distribute among the two parties the logistic and administrative charges

during the different stages of the process;

4. Specify who takes care of the packaging, labeling, handling operations, loading and unloading of goods or stuffing and stripping containers as well as inspection procedures;
5. Set up the individual obligations of each party in the process of accomplishing export and/or import formalities, legal regulations and duty taxes as well as providing all the documents required. There are **11** Incoterms® being kept by the ICC, (original English acronym made up of three letters, ex: FOB) plus one specific location ex: "FOB Le Havre".

How to use the Incoterms® 2020?

Clarify this concept in
the contract of sale

In order to use Incoterms®, this must be clearly stated in the contract of sale by indicating: the Incoterms® rule chosen, the port, designated place or location, followed by "Incoterms® 2020".

Example: CIF Hong Kong Incoterms® 2020

Choose the appropriate
Incoterms® rule

The choice of the Incoterm® is an integral part of a commercial transaction. It has to be done in function with the organizational capacities of the enterprise, the type of transportation used, the level of service that the enterprise wishes to provide to the client or the resources of its supplier, or it could be in function to the common practices of the market, or the practices used by the competitors, etc.

The Incoterm® selected must also be well-adapted to the type of goods that will be shipped and the type of transportation that will be used.

Specify the place and
port with precision

For an optimal application of Incoterms®, the contract's parties are required to assign a place or a port with maximum exactitude: ex FCA 25 rue Saint Charles, Bordeaux, France, Incoterms® 2020.

It must be stressed in this part that for certain Incoterms® such as CPT, CIP, CFR, CIF, the place designated is not the same as the place of delivery: it designates the place of destination paid for. In order to specify the final destination of the goods, it is advised to mention the specific address in order to avoid any ambiguity.

The same applies for the "out of the factory": Is it a factory in France or a factory established abroad by a French company?

Other precautions to be
taken

Some precautions must be taken when using Incoterms®, such as:

- A good knowledge of the meaning of each Incoterm® and its acronym;
- The usage of the variants of Incoterms® with exactitude in order to prevent

confusions that could result from a misinterpretation (ex: FOB USA).

The Incoterms® are standards accepted worldwide. In that capacity, like all standards (industry, quality, pollution), their names do not cause any divergence. Use only the standardized abbreviations. Any other code will be prohibited! As any standard, they are an explicit reference. As the horses DIN or the ISO 9002, the three letters of the Incoterm must be followed by the specific names of the designated places and the mention "Incoterm", see "Incoterm ICC".

Do not hesitate to consult an international law firm.

Today's tendency in international business is based on the fact that the buyer is released from all logistics concerns. This valorizes the position of the exporter. It is essential to negotiate the terms of the contract for the first shipment and, most of all, in the case of dealing with countries at risk, obtaining a document of credit as a form of payment will be advised.

Getting to Know Incoterms® 2020

Incoterms® 2020 applicable to all modes of transport

Code	Name in English
EXW	EX Works
FCA <i>*Possibility to add the on-board notation.</i>	Free CARRIER
CPT	Carriage Paid To
CIP <i>*Integration of Institute Cargo Clause A of the Institute Cargo Clauses, including "All Risks" insurance coverage.</i>	Carriage and Insurance Paid to
DAP	Delivered at Place
DPU*	Delivered at Place Unloaded
DDP	Delivered Duty Paid

** New for Incoterms® 2020*

Incoterms® 2020 applicable to maritime and inland waterway transport

Code	Name in English
FAS	Free AlongSide ship
FOB	Free On Board
CFR	Cost and Freight
CIF <i>*Incorporation of Institute Cargo Clause C, including "Minimum" insurance coverage.</i>	Cost, Insurance, Freight

** New for Incoterms® 2020*

Sale on Departure, Sale on Arrival: a fundamental difference

Sale on Departure

A sale on departure means that the merchandise will be shipped at the risk and hazard of **the buyer**, which means:

- from the moment that the goods are placed at disposal at the vendor's premises (EXW) ;
- from the moment that the goods are handed to the carrier in order to be shipped (FCA, FAS, FOB, CFR, CIF, CPT et CIP) ;

The Incoterms® for a sale on departure assign to the buyer (in a more or less large amount) the costs and the risks linked to the shipping of the merchandise.

Sale on Arrival

A sale on arrival means that the merchandise will be shipped at the risk and hazard of the seller until it reaches the designated destination point or port.

Three Incoterms® are provided:

- until the end of its maritime transportation and its disembarkation (DAP);
- until its destination point (DPU, DDP).

Who bears the various costs and risks?

Distribution of costs between seller and buyer according to the Incoterm® negotiated in the contract

	Incoterms® for any mode or modes of transport							Incoterms® for sea and inland waterway transport			
	EXW	FCB	CPT	CIP	DAP	DPU	DDP	FAS	FOB	CFR	CIF
Packaging	S	S	S	S	S	S	S	S	S	S	S**
Loading from warehouse	B	S	S	S*	S	S	S	S	S	S	S**
Pre-carriage	B	S***	S	S*	S	S	S	S	S	S	S**
Export customs clearance	B	S	S	S*	S	S	S	S	S	S	S**
Handling at departure	B	B	S	S*	S	S	S	B	S	S	S**
Main transport	B	B	S	S*	S	S	S	B	B	S	S**
Handling on arrival	B	B	B	B	S	S	S	B	B	B	B
Import customs clearance	B	B	B	B	B	B	S	B	B	B	B
Post-carriage	B	B	B	B	S	B	S	B	B	B	B

	Incoterms® for any mode or modes of transport							Incoterms® for sea and inland waterway transport			
	EXW	FCB	CPT	CIP	DAP	DPU	DDP	FAS	FOB	CFR	CIF
Unloading into warehouse	B	B	B	B	B	B	B	B	B	B	B

* "All-risk" insurance for the benefit of the buyer

** "Minimum" insurance for the benefit of the buyer

*** According to agreed location. Optional bill of lading.

S : Costs to be borne by the seller

B : Costs to be borne by the buyer

Distribution of risks between seller and buyer according to the Incoterm® negotiated in the contract

	Incoterms® for any mode or modes of transport							Incoterms® for sea and inland waterway transport			
	EXW	FCB	CPT	CIP	DAP	DPU	DDP	FAS	FOB	CFR	CIF
Packaging	S	S	S	S	S	S	S	S	S	S	S
Loading from warehouse	B	S	S	S	S	S	S	S	S	S	S
Pre-carriage	B	S*	S	S	S	S	S	S	S	S	S
Export customs clearance	B	S	S	S	S	S	S	S	S	S	S
Handling at departure	B	B	B	B	S	S	S	B	S	S	S
Main transport	B	B	B	B	S	S	S	B	B	B	B
Handling on arrival	B	B	B	B	B	S	S	B	B	B	B
Import customs clearance	B	B	B	B	B	B	S	B	B	B	B
Post-carriage	B	B	B	B	B	B	S	B	B	B	B
Unloading into warehouse	B	B	B	B	B	B	B	B	B	B	B

* According to agreed location

S : Risks to be borne by the seller

B : Risks to be borne by the buyer

What do the different Incoterms® mean?

EXW (Ex Works)

Seller

The only responsibility of the seller is to prepare the merchandise for the buyer, at his own premises, suitably packed for export shipping purposes (in general, the price includes loading the merchandise in the pallet).

Buyer

The buyer is responsible for all the charges and risks involved in the shipment of the merchandise from the moment it leaves the seller's warehouse until it reaches its destination place.

The term EXW represents a minimum obligation for the seller. However, if the parties agree that the vendor insures the loading of the merchandise at the point of departure "EXW Loaded", and make the vendor responsible of these risks and charges, they have to precise this issue very clearly on an explicit clause included in the sales contract (ex: EXW Paris loaded, ICC 2020).

The seller is expected to provide for the buyer, at his request and at his charge and risks, all the assistance required to obtain an export license, insurance and provide the buyer with all the useful information in his possession which will allow the buyer to insure the export of his merchandise in full security.

Variant

« EXW Loaded ».

The revised version of Incoterms® 2000 introduced this concept of "EXW Loaded" which recognizes a frequently used practice: the seller takes care and responsibility of loading the merchandise into the buyer's vehicle.

Specifications EXW	Charges	Risks
Packaging	S	S
Pre-carriage	B	B
Export customs	B	B
Loading into main carriage (handling)	B	B
Main transportation	B	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

FCA (Free Carrier)

Seller

If the delivery takes place at the seller's premises, it is the seller, who handles the loading of the suitably packaged goods into the vehicle provided by the buyer, (specify "FCA seller's premises"). Export customs clearance is the responsibility of the seller.

Buyer

The buyer has chosen the type of transportation and the carrier with whom he has signed a transportation contract and pays for the main transportation (if applicable). The transfer of charges and risks takes place at the moment when the carrier picks up the merchandise. The parties must agree upon naming a place where to hand over the merchandise (the carrier's terminal or the vendor's premises).

The seller must, should the case arise, provide for the buyer, at the right time, all the assistance needed to obtain all the documents and information regarding the security requirements for the export and/or import of the merchandise and/or for its transportation to its final destination. The cost of the documents furnished and/or the assistance given are costs and risks paid by the buyer.

The Incoterms® 2020 rules explicitly allow for the necessary transport to be performed under a contract of carriage or to be arranged by own means (without the involvement of a carrier acting as a third party).

Variant

"FCA seller's premises".

This Incoterm® was officially added to the revised version of Incoterms® 2000: it is the responsibility of the seller to load the merchandise.

Geographical precision

More than in any of the other Incoterms®, in FCA, the "named place" agreed upon must be precise and indicated with care. FCA (Le Havre) is not enough if the buyer is located in Le Havre. Is it FCA (warehouse Le Havre) or FCA (in-transit bulking warehouse X Le Havre) or even FCA (dock No. X at the port of Le Havre)?

If the delivery is going to be done at a place other than the vendor's premises, for example: handing it over at a transportation terminal -truck, rail, air, maritime - the vendor will be in charge of transporting the merchandise up to this named terminal but he will not be responsible for unloading the vehicle. The unloading will be handled by the one in charge of receiving the merchandise at the transportation terminal. Prefer FCA instead of FOB if the transportation is done in containers or by roll-on roll-off ship.

Bill of lading with an on-board notation in FCA sales

When the goods are sold FCA, sellers or buyers (or their bank if a letter of credit is involved) may wish to obtain a bill of lading with an on-board notation.

However, delivery under the Incoterm® FCA is effective prior to the loading of the goods on board a vessel. It is by no means certain that the seller can obtain an on-board bill of lading from the carrier. According to the transport contract, this carrier is only required and entitled to produce a bill of lading when the goods are properly loaded.

To remedy this situation, the Incoterms® 2020 have provided an additional option. The buyer and seller can agree that the buyer should instruct its carrier to provide the seller with the bill of lading with the on-board notation after the goods have been loaded, and the seller is then obliged to deposit this bill of lading with the buyer, typically via banks. The seller will not be liable to the buyer in respect of the terms of the contract of carriage.

Specifications FCA	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	B	B
Main transportation	B	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

FAS (Free Alongside Ship)

Seller

The obligations of the seller are henceforth fulfilled when the merchandise is placed, **after customs clearance**, alongside the ship at the dock or at the lading of the designated port of shipment.

Buyer

From this moment on, the buyer is responsible for all charges and risks of loss or damages, from the moment that the merchandise is delivered alongside the ship, especially in the case of a ship's schedule delay or the cancellation of a port of call. The buyer designates the carrier, arranges the transportation contract and pays for the freight.

Obligations of place and moment

The seller does not deliver FAS if the vessel is not at the dock. It is a responsibility of time and moment (From Marseilles to Anvers, where every company offers at least one weekly departure, bringing the delivery eight days before the date of the departure of the ship chosen by the buyer is too premature).

License acquisition

The acquisition of an export license or any other official authorization is at the charge and risk of the seller. In the same way, the buyer is responsible for the import license. The buyer must provide the vendor with all the information regarding the name of the vessel, the loading place and the time chosen to deliver the merchandise within the period accorded.

Documents fees

The seller must, should the case arise, provide for the buyer, at the right time, all the assistance needed to obtain all the documents and information regarding the security requirements for the export and/or import of the merchandise and/or for its transportation to its final destination. The cost of the documents furnished and/or the assistance given are costs and risks paid by the buyer.

Specifications FAS	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	B	B
Main transportation	B	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

FOB (Free on Board)

Seller

He has to deliver the merchandise at the designated loading port, on board of the vessel chosen by the buyer and fulfill all the formalities of export customs clearance, if there are any.

Under a contract type FOB, the seller fulfills his delivery obligation when the merchandise is on board of the vessel at the designated loading port, or in the case of successive sales, the vendor obtains the merchandise and delivers it, as well, in order to have it all transported up to the designated destination place indicated in the sales contract.

Buyer

He selects the vessel, pays the maritime freight, the insurance and he takes care of the formalities at the arrival. He is also responsible for all the charges and risks of loss and damage that could arise to the merchandise from the moment it was delivered.

Variant

For information, the "ARRANGING FOB" is the term used by the freight brokers to indicate that the operations that take place prior to placing the merchandise aboard have been done and accomplished, as well as the export customs clearance operations, if needed. All these operations represent an extra cost, to be paid by the seller, which is sometimes called "fee of placing into FOB".

The "FOB STOWED" and/or "FOB STOWED and TRIMMED" are variations. The seller is responsible for the total charges incurred by the merchandise at the loading port. However, it has to be stipulated in the contract at which point the transfer of risks takes place.

The seller must, should the case arise, provide for the buyer, at the right time, all the assistance needed to obtain all the documents and information regarding the security requirements for the export and/or import of the merchandise and/or for its transportation to its final destination. The cost of the documents furnished and/or the assistance given are costs and risks paid by the buyer.

The American FOB

The American FOB is different. In the United States, the Incoterm® FOB (Free on Board) does not refer to a shipment in a boat or to a port but to an American destination, at the border. In the United States there could be, mainly, four types of FOB:

- **FOB/Point of departure:** The buyer pays for everything;
- **FOB/Border:** The manufacturer pays for the charges up to the border without clearing the merchandise through customs;
- **FOB/Point of Sale:** The merchandise arrives to a designated American city. It is then, the supplier, who pays for customs clearance. The chosen free port must always be marked, in general, the city;
- **FOB/Destination Customs Clearance:** In this case, the manufacturer takes care of everything, without the cooperation of the buyer. It is also called DDP/Delivery duty paid. Most of the sales into the United States are done on this basis.

Specifications FOB	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	B	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

CFR (Cost and Freight)

Seller

He chooses the transportation, contracts and pays for the freight up to the named port of destination; the unloading of the merchandise is not included. The loading of the merchandise after customs clearance into the vessel is his responsibility as well as the shipping formalities. However, the transfer of risk is the same as in FOB.

Buyer

He is responsible for the risk of transportation from the moment that the merchandise is delivered alongside the ship at the loading port; he receives the carrier and picks up the merchandise delivered at the designated destination port.

Documents fees

The seller must, at his own expense, furnish the buyer with a customary transportation document to be used until the merchandise reaches the designated port of destination, covering the contractual merchandise which serves him as a guarantee (ex: claims of merchandise to the carrier, sale of

merchandise while in transit, etc.). He also has to provide all the information required in order to take proper measures in receiving the merchandise. The information and documents related to the security that the buyer needs in order to export and/or import and/or for the transportation of the merchandise until its final destination must be furnished by the seller, following the buyer's request, and at his own expense and risks.

Specifications CFR	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	S	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

CIF (Cost Insurance and Freight)

Seller

It is a term identical to CFR, but with the supplementary obligation for the seller to provide maritime insurance against the risk of loss or damage caused to the merchandise. The vendor pays the insurance premium. Under the CIF rule of Incoterms® 2020, the seller is required to obtain limited insurance coverage in accordance with Clause C of the Institute Cargo Clauses or any other similar set of clauses. However, the parties are free to agree on a higher level of cover.

Buyer

He is responsible for the cost and risk of transportation from the moment that the merchandise is delivered alongside the ship at the loading port. He receives and takes the merchandise from the carrier at the named destination port.

The buyers appreciate this Incoterm because they are released from logistics formalities.

Documents fees

The information and documents related to the security that the buyer needs in order to export and/or import and/or for the transportation of the merchandise up to its final destination must be furnished by the seller following the buyer's request and at his own expense and risks.

Specifications CIF	Charges	Risks
Packaging	S	S
Pre-carriage	S	S

Specifications CIF	Charges	Risks
Export customs	S	S
Loading into main carriage (handling)	S	S/B
Main transportation	S	B
Transportation insurance	S	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

CPT (Carriage Paid To)

Seller

The seller controls the logistic chain. After having taken care of export customs clearance, he chooses the cargo carrier and pays the charges up to the designated place.

Buyer

The risk of damage or loss is borne by the buyer from the moment that the merchandise is loaded into the first carrier. After that, the buyer takes care of the import customs clearance and the unloading expenses.

Unloading fees

It is important to clarify the concept of who is responsible for the unloading charges into the frame of the transportation contract. Normally, the buyer must be responsible for these charges unless they are included in the transportation fee. In this case, they are charged to the vendor. The vendor must clarify this question with the buyer in order to prevent finding himself in a situation where the receiver refuses to pay and the cargo carrier turns back to the provider (the seller) to demand his part of the payment for the unloading charges as well as the eventual fees for the vehicle's immobilization while waiting for the problem to be solved.

Geographical precisions

Under the rule CPT, there are transfers of risks and charges in different places. It is recommended that the parties involved specify clearly in their contract the delivery place where the risk is transferred to the buyer and the named destination up to which the seller is required to arrange a transportation contract.

Documents fees

The information and documents related to security, that the buyer needs for the export/import of merchandise and/or for the transportation up to its final destination must be provided by the seller at the request of the buyer and at its own charge and risks.

Specifications CPT	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	S	B
Transportation insurance	B	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

CIP (Carriage and Insurance Paid To)

Seller

CIP is identical to CPT, but the seller must supply, in addition, a transportation insurance. The seller settles the transportation contract, pays the freight and the insurance premium. "Under the CIP rule of Incoterms® 2020, the seller is required to obtain limited insurance coverage in accordance with Clause A of the Institute Cargo Clauses or any other similar set of clauses. However, the parties are free to agree on a lower level of cover.

Buyer

The risk of damage or loss is borne by the buyer from the moment that the merchandise is loaded into the first carrier. After that, the buyer takes care of the import customs clearance and the unloading expenses.

Insurance Coverage

According to the term CIP, the seller is not obliged to apply for insurance but for a minimum coverage. If the buyer wishes to protect himself by a superior coverage, under these circumstances, he would need to obtain the agreement of the seller or apply on his own for a complementary insurance.

Documents fees

The information and documents related to security, that the buyer needs for the export/import of merchandise and/or for the transportation up to its final destination must be provided by the seller at the request of the buyer and at his own charge and risks.

Specifications CIP	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	S	B

Specifications CIP	Charges	Risks
Transportation insurance	S	B
Unloading from main carriage (handling)	B	B
Import customs	B	B
Post-carriage	B	B

DAP (Delivered at place)

Seller

The seller has to deliver the merchandise and place it at the buyer's disposal into the inland freight transportation carrier ready to be unloaded at the designated place of destination. He has to take care of the export customs clearance; however, he is under no obligation of performing the import customs clearance. The seller must bear a contract for the transportation of the merchandise up to the named destination and unload it from the transportation carrier at its arrival. The seller has no obligation towards the buyer of obtaining an insurance contract. Nevertheless, he must provide the buyer, at his own expense, the documents that will allow him to pick up the merchandise delivered. The Incoterms® 2020 rules explicitly allow for the necessary transport to be performed under a contract of carriage or to be arranged by own means (without the involvement of a carrier acting as a third party).

Buyer

He has to pay the price of the merchandise as stipulated in the sales contract and he has to pick up the merchandise once it has been delivered.

Security

The buyer must request from the seller to furnish him with all the information required in relation to the security which he will need for the export, import and transportation of the merchandise until its final destination. This new rule replaces the DDU. It is advised to use it only in the countries where the means of transportation to a destination are under good control.

Specifications DAP	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	S	S
Transportation insurance	S	S
Unloading from main carriage (handling)	S	S
Import customs	B	B
Post-carriage	S	S

DPU (Delivered at Place Unloaded)

The Incoterm® DPU replaces DAT (Delivered At Terminal) to underline the fact that the place of destination is not necessarily a "terminal". However, if the place of destination is not a terminal, the seller must ensure that he is able to unload the goods at the place where he intends to deliver them.

Seller

He must deliver the goods by making them available to the buyer at the agreed place of destination, on the agreed date or within the agreed period. The seller must conclude a contract for the transport of goods to that place at his own expense and unload the goods from the arriving means of transport. The seller is not obliged vis-à-vis the buyer to conclude an insurance contract. However, he must provide the buyer, at his own expense, with the document enabling him to take delivery of the goods. The Incoterm® DPU obliges the seller to clear the goods for export. However, he has no obligation to carry out customs clearance on import.

The Incoterms® 2020 rules explicitly allow for the necessary transport to be performed under a contract of carriage or to be arranged by own means (without the involvement of a carrier acting as a third party).

Buyer

He must take delivery of the goods as soon as they have been delivered and pay the price as stipulated in the sales contract. In addition, the buyer must advise the seller of the need to provide him with any safety information he may require for the export, import and transport of the goods to their final destination. This Incoterms® rule was created specifically for containerized transport. It is also suitable for conventional maritime transport when the seller wants to retain the risks of unloading the ship at the port of destination. In this case, it is advisable to specify the place of availability (quay, under hoist, etc.).

Specifications DPU	Costs	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs clearance	S	S
Loading into main carriage (handling)	S	S
Main Transport	S	S
Transportation insurance	S*	S*
Unloading from main carriage (handling)	S	S
Import customs clearance	B	B
Post-carriage	B	B

** non-mandatory*

DDP (Delivered Duty Paid)

Seller

The seller has, in this case, the maximum obligation; he is responsible for all transfer charges and risks until the merchandise is delivered to the buyer. The import customs clearance is also under his charge.

The Incoterms® 2020 rules explicitly allow for the necessary transport to be performed under a contract of carriage or to be arranged by own means (without the involvement of a carrier acting as a third party).

Buyer

The buyer picks up the delivery at the designated destination place and pays the unloading fees. He must request from the seller to furnish him with all the information required in relation to the security which he will need for the export, import and transportation of the merchandise until its final destination.

DDP versus EXW

The term DDP is exactly the opposite of EXW.

Charges relating to the importation of merchandise

If the parties wish to exclude from the seller's obligations the payment of particular fees payable, by reason of imports of the merchandise, it must specify. For example: "Delivered Duty Paid, VAT unpaid (DDP, VAT unpaid)".

Specifications DAP	Charges	Risks
Packaging	S	S
Pre-carriage	S	S
Export customs	S	S
Loading into main carriage (handling)	S	S
Main transportation	S	S
Transportation insurance	S	S
Unloading from main carriage (handling)	S	S
Import customs	S	S
Post-carriage	S	S

Which law governs the contracts?

The three possibilities

The two parties are placed in front of three possibilities:

- **To keep the law of the exporting country** : That would be very often the wish of the seller who would prefer to apply his own law considering that it is the one that he knows well. However, it is not always the best solution. As a matter of fact, some laws, such as the French and Belgian laws, protect much more the buyer;
- **To keep the law of the importing country** : This law can be more interesting for the exporter since it is less constraining; however, it is important to know it and master it well because it could be very dangerous to be subject to regulations that are totally or partially unknown;
- **To keep the law of a third country** : This choice allows neutralizing the legal nationalism. It is often used in commercial interests for compromising or for convenient reasons (in the case where the court of competent jurisdiction belongs to this third country).

Swiss law

In this respect, the Swiss law is often recommended because it favors much more the exporter and, most of all, it has the benefit of belonging to a neutral state, which is an advantage for the parties who are conducting commercial trade.

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