

Practical Guide INCOTERMS® 2020

- › Place of delivery
- › Transfer of risks
- › Documents and customs
- › Allocation of logistics costs
- › Transport insurance
- › Methods of payment



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Business Publications

PRACTICAL GUIDE TO INCOTERMS 2020

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**WHAT
ARE THE
INCOTERMS
RULES?**

What are the Incoterms rules?

The Incoterms rules (INternational COMmerce TERMS) are a total of eleven terms published by the International Chamber of Commerce (ICC) based in Paris, which define the conditions of supply of goods in international sales transactions. The first edition was published in 1936 and subsequently there have been continuous revisions and updates (usually every ten years) to that currently in force which is the Incoterms 2020. This edition will probably be in effect for a decade, until 2030.

The Incoterms 2020 rules are contained in Publication No. 723 EF of the International Chamber of Commerce (ICC) in a bilingual English-French edition. A copy of this publication can be acquired, in both hard copy and e-book format, on the website www.iccbooks.com.

Revision and preparation of the Incoterms 2020 was carried out by a group of experts called the “Drafting Group” comprising of ten people. Traditionally, these experts came from European Union countries (mainly France and the United Kingdom) but in this occasion experts from other countries such as Australia, China, the United States and Turkey have been incorporated. Although most experts have a legal background, three of them are specialists in logistics and customs, which has made possible for the new version to use an easy language (plain English) rather than a complex one (legal English); in this sense, closer to the practice of international trade.

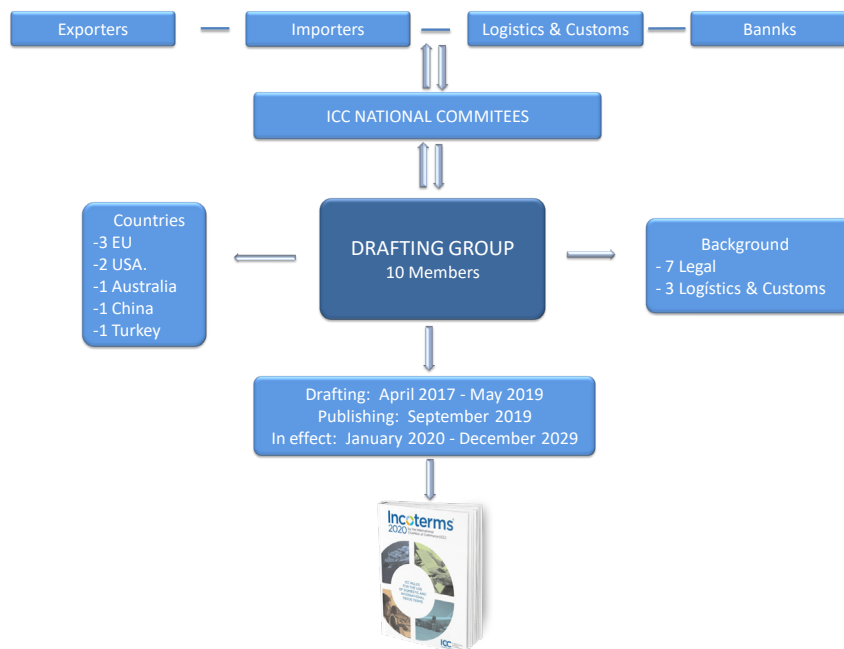
The process of preparing the Incoterms 2020 was long. The Drafting Group met for the first time in Paris, in April 2017, and delivered the final version in May 2019. During these two years, more than 3000 suggestions and comments were received through the ICC National Committees in the different countries that contributed to supplement the text. The final version was published in September 2019, the year in which the centenary of the International Chamber of Commerce was commemorated.

The Incoterms are private law rules and are not underpinned by the laws of any country or by a supranational organisation. They are a set of rules by businesses (exporters and importers) within the International Chamber of Commerce to regulate some aspects of foreign trade operations.

The Incoterms do not have the force of law and therefore there is no obligation to use these terms in international trade operations; their use will be conditioned on the acceptance of the parties (seller and buyer) in the sale contract. The effectiveness of the Incoterms is that its rules are widely known and used by different parties in foreign trade (exporters, importers, carriers, freight forwarders, customs brokers, banks

and insurance companies, etc.). Therefore, the Incoterms rules are very useful for sellers and buyers to agree on terms of delivery of the goods and that the agreement corresponds to rules that are universally known.

Incoterms 2020: Process of revision and drafting



Classification of the Incoterms 2020

The Incoterms can be classified according to three criteria that all have to do with transport: mode of transport used, payment for the main (international) transport and transfer of risks in transport. In the classification of the Incoterms 2020, the prevailing approach is the mode of transport used.

Mode of transport used (Incoterms for any mode of transport and sea Incoterms)

The first criterion is the mode of transport used. In the version of the Incoterms 2020, there are seven Incoterms that can be used with any mode of transport (surface, air or sea) or multiple modes (multimodal). Conversely, there are four Incoterms that can only be used with sea transport and inland waterways (canals, rivers, lakes).

- Incoterms for any mode of transport and multimodal transport: EXW, FCA, CPT, CIP, DAP, DPU and DDP.
- Incoterms, only for sea and inland waterways transport: FAS, FOB, CFR and CIF.

Payment for the main transport (seller or buyer)

The second criterion of classification is the payment of main transport which is the international transport between the country of origin and the country of destination. The Incoterms distinguish between those terms in which the main transport payment is made by the buyer (importer) and those where it is made by the seller (exporter).

- Incoterms in which the main transport is paid by the buyer: EXW, FCA, FAS and FOB.
- Incoterms in which the main transport is paid by the seller (exporter): CPT, CFR, CIP, CIF, DAP, DPU and DDP.

Transfer of risks in transporting the goods (at origin or destination)

Finally, we should distinguish between those Incoterms in which the obligation to deliver the goods by the seller and, therefore, the transfer of risks in transport occurs in the country of origin, while in other Incoterms the obligation of delivery occurs in the country of destination.

- Incoterms with transfer of risks in the country of origin: EXW, FCA, FAS, FOB, CPT, CFR, CIP and CIF.
- Incoterms with transfer of risks in the country of destination: DAP, DPU and DDP.

In the case of Incoterms in “C” (CPT, CFR, CIP and CIF) should be noted that, although the seller will be paying international transport to the country of destination, the risks of transport are transferred in the country of origin when the goods are loaded onto the means of transport. Hence in the Incoterms CIF and CIP, which incorporate a compulsory insurance transport, it is the seller who takes out and pays the insurance. Although, the beneficiary of insurance is the buyer who bears the risks of transport.

Classification of Incoterms 2020

Acronyms	Incoterm	Mode of transport	Payment of main transport	Transfer of risks in transport
EXW	Ex Works	Any mode	Buyer	Origin
FCA	Free Carrier	Any mode	Buyer	Origin
CPT	Carriage Paid To	Any mode	Seller	Origin
CIP	Carriage and Insurance Paid To	Any mode	Seller	Origin
DAP	Delivered at Place	Any mode	Seller	Destination
DPU	Delivered at Place Unloaded	Any mode	Seller	Destination
DDP	Delivered Duty Paid	Any mode	Seller	Destination
FAS	Free Alongside Ship	Sea	Buyer	Origin
FOB	Free On Board	Sea	Buyer	Origin
CFR	Cost and Freight	Sea	Seller	Origin
CIF	Cost, Insurance and Freight	Sea	Seller	Origin

Changes in the Incoterms 2020: General and specific

The Incoterms 2020 rules have not introduced any significant changes as compared to the previous version of 2010. In this regard, the key elements of the 2010 version are retained, in particular:

- **Classification into 11 Incoterms:** the sole change is that of the Incoterm DAT (Delivered at Terminal) which is replaced by DPU (Delivered Place Unloaded), although it is rather change in the three-letter name as both terms have the same functions and obligations.
- **Priority of the multimodal Incoterms as compared to the maritime Incoterms:** the criterion of the type of transport is retained in order to establish the order of priority of the Incoterms. The multimodal terms (for any mode of transport) are classified first and then followed by the maritime terms given that it is understood that with the widespread use of multimodal transport, the multimodal Incoterms are a much better fit with the reality of international logistics.
- **Similarity in the obligations of seller and buyer:** the 10 obligations for each party are retained, although some minor changes have been made (for example, the “Inspection of goods” section has been taken out and becomes part of “Export/ Import clearance”). The order is likewise changed, placing

at the beginning of the section the obligations related to the delivery of the goods and the transfer of risks given that these are considered key aspects in the Incoterms rules.

- **Goods in containers only with multi-modal Incoterms:** this change which was one of the most significant changes to the Incoterms 2010 version is retained in the Incoterms 2020. If the goods are transported in containers, the Incoterms 2020 rules clearly state that maritime terms must not be used, although the delivery is conducted in a port. The justification is that the containers are delivered to port terminals, that is, prior to loading on board the ship; in these cases, FOB, CFR or CIF must not be used, in lieu thereof their counterparts for multimodal transport which are, FCA, CPT and CIP respectively.

"Incoterms CIF rule is to be used only for sea or inland waterway transport. Where more than one mode of transport is to be used, which will commonly be the case where goods are handed over to a carrier at a container terminal, the appropriate rule to use is CIP rather than CIF"

Source: Incoterms 2020®, International Chamber of Commerce.

Nevertheless, this change which was introduced in the Incoterms 2010, has been very slowly implemented and are not being used by a vast majority of exporters, importers, carriers, freight forwarders etc., reason why it is foreseen that the maritime Incoterms will continue to be used, in particular FOB and CIF, when the goods are transported in a container. Elsewhere, in the Incoterms 2020 text this change is included in the "Explanatory Notes for Users" as regards each of the four maritime Incoterms (FAS, FOB, CFR and CIF) and not in the "Obligations" reason why so it can be considered as "advice" or a "suggestion" rather than a requirement of obligatory compliance pursuant to the Incoterms 2020 rules.

Notwithstanding the fact that in the Incoterms 2020 the essentials of the Incoterms 2010 have been retained there have been certain changes made which substantiate this new version and which can be classified into general changes and specific changes.

General changes

Are those which have more to do with the form rather than the content which regulates the implementation of the Incoterms. Its purpose is to facilitate the understanding and exercise of the Incoterms rules to all those who use the terms for the first time.

- **More simple language, with less legal content**

The first task to be carried out by a Committee of Experts or Drafting Group of the Incoterms 2020 was to review the contents of the 2010 version, to eliminate technicalities and legal expressions which hamper the understanding of the majority of users who do not possess any legal expertise or knowledge. It addresses the issue of moving away from the use of a legal language (*legal English*) to a simpler one (*plain English*), more closely associated with the world of international trade. This likewise facilitated the official translation of the Incoterms into 27 languages. The fact that three of the ten members of the Drafting Group were not legal professionals from the legislative sphere but from the logistics sector has facilitated that change in the language used.

- **More detailed explanatory content**

An effort has been made to explain in more accurate, comprehensive manner in which way the Incoterms must be used. To that end, in the Introduction (19 pages) aspects such as; “What the Incoterms rules do not do” or “How best to incorporate the Incoterms 2020 rules”. For each of the 11 Incoterms, the “Guidance notes” of the 2010 version are replaced by “Explanatory notes for Users” with more detailed content, as well as explanatory graphics. Nevertheless, it should be mentioned that the content of these explanations do not impose any obligations on sellers and buyers: they are merely explanatory notes.

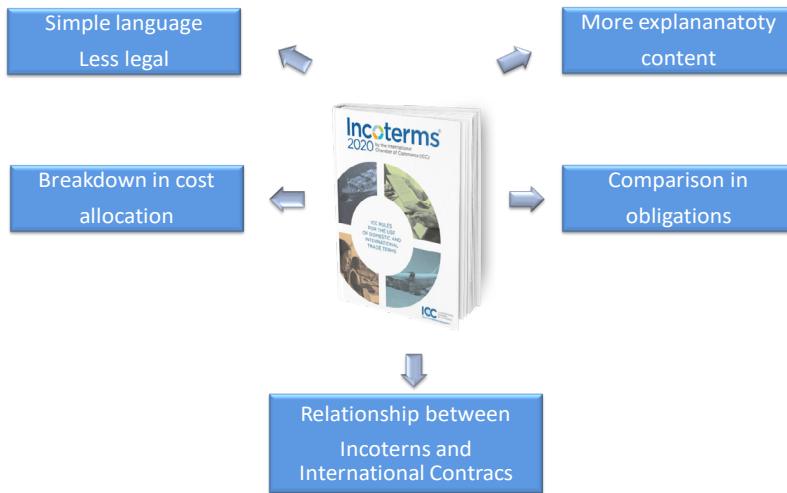
- **Further breakdown in cost allocation**

In respect to an essential issue such as the allocation of costs of an international trade operation (logistics, documentation, customs), a greater further breakdown of those corresponding to the seller and buyer is undertaken for each of the 10 obligations which must be met. Thus, for example, in the Incoterm CIP the seller must bear 8 costs and the buyer must bear 7 costs, while in the 2010 version there were 3 and 6 respectively. In this manner the user has a comprehensive list of the costs which are to be borne by said buyer and seller for each Incoterms which will allow for an easier calculation of the price offer (in the event of being a seller) or comparison of the offers received (in the event of being a buyer).

- **The relationship between Incoterms and international commercial contracts**

The relationship between Incoterms and international commercial contracts is likewise clarified: international sale contract, transport contract, insurance contract and letter of credit contract. The new version of Incoterms explains that the Incoterms are not part of those contracts and do not require the use thereof by the parties, nor bind same upon execution thereof.

General changes in Incoterms 2020



- Comparison of obligations between the 11 Incoterms

Elsewhere, at the end of the version there is a comparison (body text) of the 10 Seller Obligations and the 10 Buyer Obligations in each of the 11 Incoterms. This is intended to facilitate the selection of the most appropriate Incoterms for a given transaction based on the obligation which is deemed to be the most important consideration; that is, if it is considered essential, for example, the transfer of risks in transport, it is not necessary to consult Incoterms by Incoterms wherein the risk is passed on, but where it is possible to see and compare simultaneously the location of the transfer of risk for the 11 Incoterms.

These changes of a general nature which facilitate the understanding of the Incoterm and provide assistance in selecting the best Incoterm for each situation have meant that the new version of the Incoterms is considerably more comprehensive than the former version; in particular the Incoterms 2020 comprising of 203 pages, as compared to 150 pages of the Incoterms 2010.

Specific changes

Unlike the general changes, the specific changes do have a bearing on the content of the Incoterms 2020 rules and, in particular (with some exceptions) to the obligations that sellers and buyers must comply with. We will first address the changes that affect each Incoterms and then we shall move onto those which apply to several terms.

Customs liability in the export country, import and transit countries

Incoterm	Seller (Exporter)	Buyer (Importer)
EXW	-----	Export country Transit countries Import country
FCA, FAS, FOB, CPT, CFR, CIP and CIF	Export country	Transit countries Import country
DAP and DPU	Export country Transit countries	Import country
DDP	Export country Transit countries Import country	-----

- FCA: option of Bill of Lading (BL) with on-board notation

In the Incoterms 2020 version, this option is specified, for maritime transport, so that the buyer may instruct the carrier (shipping company or its agent) which has been contracted in order to issue a Bill of Lading (B/L – Bill of Lading) on behalf of the seller with the annotation of “aboard” (on-board), which specifies that the goods have been loaded aboard the ship. This is the most common shipment document which is used in the letter of credits transactions in order to substantiate the delivery of the goods and, thereby, payment of the credit to the seller.

Nevertheless, this option must be agreed between seller and buyer in the international sale contract. Furthermore, the Incoterms 2020 version includes this option in the “Explanatory Notes to the Incoterm FCA” section and not in the “Obligations of the Buyer Party” section, reason why it is not an obligation for the buyer.

- CIP and CIF: different coverage of transport insurance

In Incoterms CIP the seller is under the obligation to take out under contract transport insurance in favour of the buyer with extensive coverage, which corresponds to Clause A of the Institute Cargo Clauses (IUA/LMA). Nevertheless, the parties may agree to take out insurance which offers reduced coverage (Clause C of the Institute Cargo Clauses).

In Incoterms CIF the seller is only under the obligation to take out under contract insurance with minimum coverage, which corresponds to Clause C of the

Institute Cargo Clauses (IUA/LMA). This difference with CIP is justified on the basis that as the CIF is commonly used for bulk maritime transport (raw materials, minerals etc.) whose price per kilo is very low and the requirement of insurance with maximum coverage which would drive up considerably the policy premium, making it much more expensive, and which is detrimental to margin for negotiation of the sellers. In either event, just like in Incoterms CIP the parties may agree to take out insurance which offers broader coverage (Clause A of the Institute Cargo Clauses) which will be compulsory, if the payment of the sale is made by means of a letter of credit.

- **DPU: renaming of DAT**

In the Incoterms 2020 a new Incoterm DPU (Delivered at Place Unloaded) is created replacing the DAT (Delivered at Terminal). This change of acronyms is a simple renaming given that the obligations and functions of both terms are exactly the same.

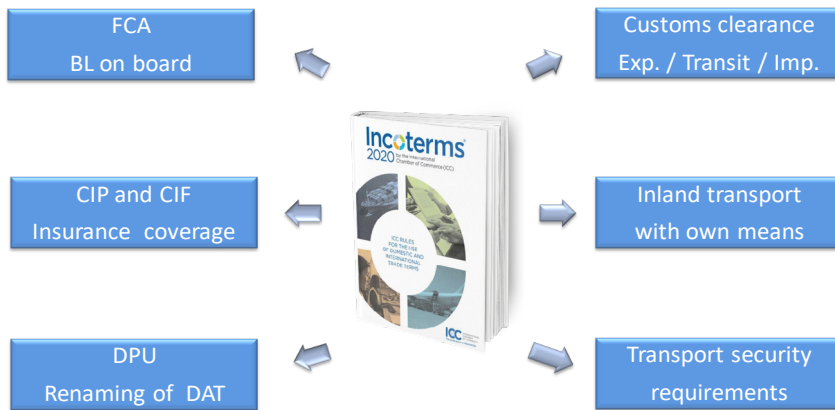
DPU is the only Incoterm in which the goods are delivered unloaded at the place of destination. The change of name is substantiated as the goods cannot only be unloaded at a transport terminal or infrastructure (port, airport, dock etc.) but likewise at any other point in the destination country which has facilities for the unloading of the goods from the means of transport, such as for example a factory or warehouse.

Elsewhere, in the classification of Incoterms 2020, DPU is included after DAP as therein the goods are delivered ready for unloading, that is, a prior step to the unloaded goods as in the DPU.

Customs clearance: export, transit and import

In Incoterms 2020 is more precisely explained which party, seller or buyer, is responsible for carrying out customs formalities and clearance, assuming the costs and risks thereof. And the release of goods in transit is included for the first time. For the latter, the rule which is used is that the liability is assigned to whoever assumes the risk of transport to the place of delivery. Therefore, in the Incoterms EXW, FCA, FAS, FOB, CPT, CFR, CIP and CIP wherein the risk of transport is transferred at origin (country of the seller) the liability in the customs transit clearance is assumed by the buyer; on the contrary, in Incoterms DAP, DPU and DDP the risk is passed on at the destination (country of the buyer), the seller bears the liability. This change may be significant in international sales wherein the goods must pass through customs of complex countries prior to arriving at the customs of the import country.

Specific changes in Incoterms 2020



- **Inland transport with seller's or buyer's own means**

In Incoterms 2020 for the first time this option is contemplated for some Incoterms the inland transport in the country of origin (FCA) or in the destination (DAP, DPU and DDP), may be undertaken by the seller or the buyer using their own means of transport. This would be the case, for example, of a British seller located in London who carries out the delivery of goods “FCA Port of Southampton, United Kingdom, Incoterms® 2020”, made the transport of the goods from London to Southampton in a truck owned by that seller. Or either, that of an American buyer located in the city of San Francisco who acquired the goods “DPU Los Angeles Airport, USA, Incoterms 2020” and carries out the transport between Los Angeles and San Francisco using its own means.

- **Transport security requirements**

In the Incoterms 2020, liability as regards security is addressed more precisely under two circumstances: transport from the country of origin to that of the destination and customs clearance formalities and procedures (export/transit/import).

During the transport of the goods the security liability is assumed by the party who executes the carriage of goods contract: Seller (CPT, CFR, CIP, CIF, DAP, DPU and DDP) or buyer (EXW, FCA, FAS and FOB). As customs clearances are concerned, the safety liability lies with the party which must undertake the clearance.

In both cases, the carriage of goods and customs clearance, the party who is not

liable is under the obligation to supply to the liable party at the request of the latter and who bears the cost thereof, any information related to transport security.


As can be seen, the changes which have been made in the new version of the Incoterms 2020 scarcely change the obligations of the parties in aspects such as place of delivery, transfer of risks in transport or allocation of logistics costs between seller and buyer are concerned. These are rather changes in the manner of introducing and explaining the contents of the Incoterms that, as stated in the introduction of the Incoterms® 2020 rules “All these changes, though cosmetic in appearance, are in reality substantial attempts of the part of the ICC to assist the international trading community towards smoother export/import transactions”.

Variants of Incoterms

The practice of foreign trade has meant that sometimes the exporters and importers add a term to the Incoterms in order to clarify the distribution of costs and risks between the parties. It should be noted that the Incoterms 2020, unlike previous versions, do not mention any of these variants. However, it remains appropriate in certain circumstances of international operations to mention three variants that must eventually be used:

- **EXW loaded:** the loading —and therefore the risks— of the goods in the truck paid by the seller that comes to pick them up. Normally, when using EXW it is the seller who makes the load on the first transport and therefore, this variant corresponds more to reality than the rule EXW in which the costs and risks of loading are borne by the buyer.
- **CIF maximum cover:** for the benefit of the buyer, the seller contracts insurance coverage of international transportation with Clause A of the Institute Cargo Clauses (ICC), plus a Strike Clause and a War Clause. The cost of this additional coverage is not very significant in relation to the risks they cover, so in some higher-risk countries, it is advisable to hire them.
- **DDP VAT unpaid or DDP VAT excluded:** the seller bears the costs of import clearance but without accounting for VAT. The use of this variant is justified by the difficulties that the seller has in recovering the tax paid on the value of the merchandise in the country of destination.

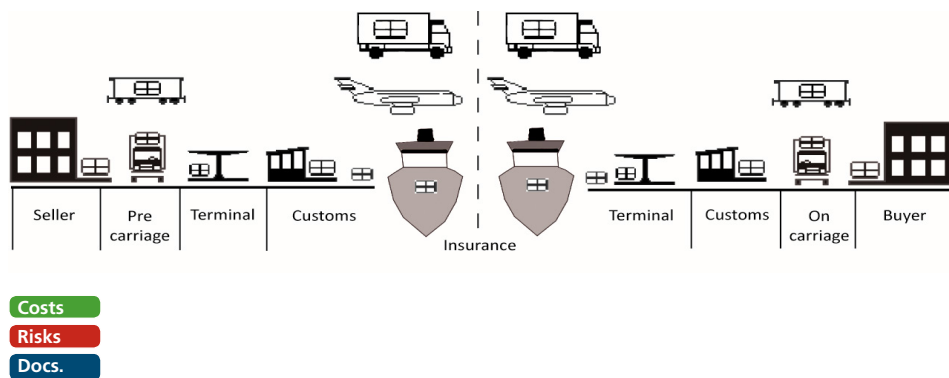
In any case, using some variant of Incoterms rules should be clearly specified in the sale contract about how the costs and risks covered by the variant are allocated between buyer and seller.



OBLIGATIONS OF THE SELLER AND THE BUYER

EXW

Ex Works (named place of delivery)



HOW TO USE EXW

EXW is the Incoterm that represents the minimum obligations, costs and risks for the seller, as he delivers the goods at his own premises (factory or warehouse) in his country. Not even the seller is responsible for loading the goods onto the first carrier (usually truck) that sends the buyer to pick them up. It is the only Incoterm in which the seller does not clear the goods for export, when such clearance is applicable.

On the contrary, with EXW, the seller offers the lowest service of all Incoterms and represents a loss of competitiveness in comparison with other companies that assume part of international logistics.

This term is suitable for exporting firms with little international experience and who make groupage operations (boxes, pallets) in which the buyer sends a truck to collect the goods at the seller's premises. When sending full containers, it is better to use FCA, as usually the seller makes the loading of the container on the truck sent by the buyer to the seller's premises.

It is not advisable to use EXW regularly because when the seller delivers the goods in its own country, normally it is preferable to use FCA.

EXW MAIN CHARACTERISTICS

Mode of transport

EXW can be used with any mode of transport (land, sea, air) and specially with multimodal transport (containers).

Place of delivery and reception of goods

Normally when using this Incoterm, the place of delivery of the goods are the seller's premises (factory or warehouse). If the seller has several places in different locations he should specify in which of them will the goods be delivered. If the sales contract has not established a specific place and there are several possible points of delivery, the seller can choose the one that suits him better.

The buyer is required to collect the goods at the agreed place and date, if the seller has properly notified him in due time.

Loading/unloading of goods

The seller delivers the goods to the buyer at the named place of delivery, but without being loaded into the first carrier (usually truck). Therefore, the loading on the first carrier is at the risk of the buyer.

Delivery document

The seller has no obligation to justify the delivery of goods to the buyer with any type of document, as it is the buyer who sends a transport (usually truck) to collect the goods at seller's premises.

The delivery document used is a delivery note of the carrier who has been sent by the buyer to the seller's premises or in the case of multimodal transport, a FCR FIATA certificate issued by the forwarder, hired for the buyer, with information that has been previously provided by the seller.

Documents for export/import procedures

The seller has only the obligation to provide the buyer with the commercial documents accompanying the goods (invoice and packing list). However, the seller should help the buyer to obtain other documents necessary for the export operation such

as licenses, permits, certificates, etc.; the cost of obtaining these documents is borne by the buyer.

Furthermore, the seller must provide the buyer with any information and help in obtaining any documents necessary to complete the formalities for import into the country of destination and also those documents relating to security in the transport of the goods from the delivery place to the final destination. The buyer must pay the seller for expenses made to obtain such information and documents.

Transport documents (carriage of goods by road CMR, bill of lading B/L, air waybill AWB, railway bill of lading CIM and FIATA bill of lading FBL) shall be obtained by the buyer.

If the parties agree or if it was normal practice, the seller can provide the documents to the buyer using electronic procedures.

Transport contract

Neither party has the obligation to the other to make a contract of transport. In any case, transportation, either by their own means or by contract, is done by the buyer who is the one that bears the costs and risks of transporting the goods from the place of delivery at the seller's country to the final destination.

Transfer of risks in transport

The risk in transporting the goods is transferred from seller to buyer at the time of delivery, i.e., before the goods are loaded on the first carrier (usually truck). Therefore, the risk in the operation of loading the goods on the first carrier is assumed by the buyer.

To transfer the risk, it is necessary that the goods transported can be identified and individualized as the goods object of the sale contract. Also, the seller must notify the buyer in a reliable way that he has put the goods at his disposal at the place of delivery.

Insurance contract

Neither party has the obligation to make a contract of insurance for transporting the goods. However, it is advisable that the buyer hires insurance transport, at least to cover the international transport of goods. In this sense, the seller must provide the buyer with any information necessary to enable him to hire the insurance he needs.

Export/transit/import customs clearance

All procedures, costs and taxes of both export and import clearance are borne by the buyer. However, the seller is obliged to provide assistance to the buyer, at his request and at his expense, in order to obtain all the necessary documents to comply with customs obligations, including: export/ transit /import licenses, pre-shipment inspection or any other official document required.

Security requirements

The seller is obliged to provide the buyer with the information available to him regarding security, both in the transport of the goods, and in the customs clearance of export, transit and import.

Allocation of costs between seller and buyer

The seller assumes only the cost of packaging, checking and marking of goods, according to usual practices in international trade. He also assumes any specific requirements on the packaging that have been included in the sale contract.

All other operating and logistics costs are borne by the buyer:

- Loading of the goods at the first carrier.
- Inland transportation (pre-carriage) to transport center, port, airport in seller's country, either with a carrier contracted by the buyer or with his own means of transport.
- Obligation to comply with transport safety requirements to the place of delivery.
- Costs and taxes of export clearance.
- Terminal costs (warehousing, handling, loading) in transport center, port, airport in the seller's country.
- Main transport to the country of destination.
- Insurance transport (if it is taken out).
- Terminal costs (unloading, handling, warehousing) in transport center, port or airport in the buyer's country.

- Costs and taxes of transit and import clearance.
- Inland transportation (on-carriage) from the transport center, port, airport, to the buyer's premises, either with a carrier contracted by the buyer or with his own means of transport.
- Unloading of goods on the buyer's premises.

Methods of payment

EXW shall be used with no documentary methods of payment such as payment in advance, cash on delivery, open account or check. Is not suitable for documentary methods (letter of credit or documentary credit) because the seller does not have a transport document (CMR, B/L AWB, FBL) that justify the delivery of the goods at the agreed conditions and therefore be included as documentation of the letter of credit.

Moreover, if the letter of credit requires a transport document to justify delivery and the buyer does not send a carrier to collect the goods from the seller's premises, the seller will not be able to make effective the credit because he will not have the required delivery document.

When using documentary methods of payment (letter of credit or documentary credit) it is better use Incoterms in "F" or "C".

PRACTICAL ADVICE TO USE EXW

EXW is the first Incoterm out of the eleven and the one that implies fewer obligations to the seller; he only has to deliver the goods at his own premises and the buyer will send a carrier to collect them.

EXW allows the seller to give the lowest price quotation and not assume the costs and risks in international operations management. In this sense, the seller may quote prices immediately, without having to make any calculations about the costs of the export operation: it is like a sale in the local market.

In contrast, EXW means the less service given by the seller and requires the buyer to assume full logistics management. Seller's commercial offers will lose competitiveness in relation to those of other providers that includes international logistics management among the services offered.

In EXW, companies with a certain volume of international business, will not get certain discounts and preferential rates in hiring of international transport. These discounts can represent an additional source of income if they are not applied to final prices, or make the offers more competitive when they are translated to a reduced final price.

As for loading the goods, in the first mode of transportation (usually truck), it must be taken into account that according to the EXW the loading shall be done by the buyer. However, in most cases, the daily experience shows that it is the seller who assumes the cost and risk of loading because the trucks normally do not have means to upload the goods. When the buyer is unwilling to assume, either the cost or the risk of the load on the first carrier, it is better to use other Incoterms, for example, FCA.

EXW is the only Incoterm in which the exporter does not carry out customs formalities for the export of goods. In this sense, the seller does not have any document that serves to justify the export of goods. Thus, for purposes of taxation (VAT) or other regulations, the buyer must ask to the customs broker or forwarding agent of the buyer for a copy of the SAD (Single Administrative Documents, issue nº 3) which is the document that demonstrates that the export clearance has been made; the seller can also ask for a transport document (CMR, B/L, SWB, AWB, FBL) as evidence that the goods are exported. If it is an integrated economic area (e.g. the EU) where there is free movement of goods and no customs clearance, to justify the exit of goods from the national territory for VAT purposes, it will be sufficient with a transport document or a carrier's delivery note signed and sealed by the consignee of the goods in the destination country.

EXW is useful for the following types of international operations:

- First exports of companies that have very short experience and knowledge of international trade.
- International sales between subsidiaries belonging to the same multinational group in which there is full transparency and confidence in the way of operating.
- Sales in an integrated economic area (e.g. the EU), where there is free movement of goods without customs clearance.
- Groupage operations of small volumes where the buyer sends a carrier to the seller's premises to collect and load the goods in the truck (pallets, boxes) with very little costs and risks.
- Full load operations (full container or truck) in which there is a single trans-

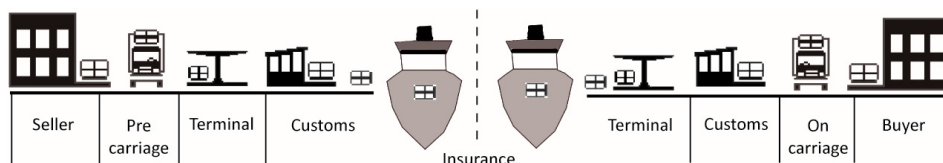
port document for the whole journey, and where it is not necessary to carry out customs clearance since the goods are sent to a zone of countries (e.g. the EU) in which there is a system of free movement of goods. However, in the cases where the goods are loaded by the seller on a truck sent by the buyer, it is preferable to use FCA.

KEYS TO EXW

Mode of transport	Any type of transport (land, air, sea), including multimodal transport (containers).
Delivery place	On the premises (factory or warehouse) of the seller.
Loading/unloading of the goods	Properly packaged and marked, ready to be loaded into the first carrier (usually truck).
Delivery document	Delivery note or FIATA FCR certificate if multimodal transport is used.
Type of cargo	Any type of cargo, except bulk and heavy loads.
Contract of main transport	Buyer.
Contract of insurance	There is no obligation on either party. However, it is advisable that the buyer purchases insurance because he assumes the risks.
Transfer of risks in transport	At the time of delivery, before the goods are loaded on the first carrier in the seller's premises.
Pre-shipment inspection	Buyer, except when the inspection is required by regulations or institutions in the country of the seller.
Export customs clearance	Buyer.
Import (and transit) customs clearance	Buyer.
Methods of payment	Payment in advance, cash on delivery, open account, bank transfer, check. It is not suitable for documentary methods (letter of credit or documentary credit).

FCA

Free Carrier (named place of delivery)



Costs

Risks

Documents

HOW TO USE FCA

FCA is a very flexible Incoterms because it allows the delivery of the goods, both at the premises of the seller and at various points such as transports centers, ports, airports, container terminals, etc., which are located in the country of the seller. Therefore, when using this Incoterms, it is very important to specify clearly the place of delivery.

FCA can be used for any type of cargo (general cargo, full load, groupage) and with different methods of payment (open account, bank transfer, letter of credit, etc.).

In the Incoterms FCA, the seller must complete and bear the costs of export clearance and, therefore, is responsible for obtaining the necessary documents for it. The import clearance formalities are carried out by the buyer.

When the goods are transported in containers and the place of delivery is the port of shipment, the Incoterms 2020 rules recommends using FCA instead of FOB, because the containers are delivered regularly in the port's container terminal and not loaded onto the ship.

FCA is one of the most used Incoterms in international trade and will probably replace EXW for the majority of sales where the seller delivers the goods in its own country and do not want to manage international logistics.

FCA MAIN CHARACTERISTICS

Mode of transport

FCA can be used with any mode of transport (land, sea, air) and specially with multimodal transport (containers).

Place of delivery and reception of goods

The seller delivers the goods to the buyer in two possible locations:

- The seller's premises (factory or warehouse)
- Somewhere (transport center, terminal, port, airport, container's terminal) in the seller's country.

This second alternative is more usual. If the seller has not set a specific place and there are several possible delivery points, the buyer can choose the most convenient for him.

The buyer is required to collect the goods at the place and date agreed, if the seller properly notified him in due time.

Loading/unloading of goods

When the goods are delivered on the seller's premises (factory or warehouse), the seller has to load the goods on the first carrier (usually truck).

If the merchandise is delivered at some other point (transport center, port, airport), the seller must deliver the goods ready for unloading and delivery to the carrier that has been designated by the buyer for international transport.

Delivery document

The seller must provide the buyer with a document proving the delivery of the goods in the agreed conditions. This document is usually the delivery note of goods from the carrier hired by the seller to the international carrier or freight forwarder hired by the buyer. The seller must also assist the buyer in order to get the international transport documents.

When the goods are delivered at seller's premises, the delivery documents is usu-

ally a receipt of the carrier sent by the buyer to the seller's premises. In the case of multimodal transport FIATA FCR, a certificate is issued by the forwarder with the information that has been previously provided by the seller.

Documents for export/transit/import procedures

The seller is obliged to provide the buyer with the commercial documents accompanying the goods (commercial invoice and packing list). He also has to get all the documents required for export clearance (export SAD, export license, pre-shipment inspection, and any other official document needed —certificates, authorizations, etc.—).

Furthermore, the seller must provide the buyer with any information and help in obtaining any documents necessary to complete the formalities for transit clearance an import into the country of destination. The buyer must pay the seller for expenses made to obtain such information and documents.

Transport documents (carriage of goods by road CMR, bill of lading B/L, air waybill AWB, railway bill of lading CIM and FIATA bill of lading FBL) shall be obtained by the buyer.

If the parties agree or if it was normal practice, the seller can provide the documents to the buyer using electronic procedures.

Transport contract

It is the buyer who must hire transportation from the place of delivery (in the seller's country) to the final destination of the goods. However, the buyer can ask the seller to hire the carriage on usual conditions, at the risk of the buyer. The seller may reject the request and in this case, he should inform the buyer as soon as possible.

Transfer of risks in transport

The risk in transporting the goods is transferred from seller to buyer at the time of delivery. There are two possibilities:

- If the goods are delivered to the buyer on the seller's premises (factory or warehouse) the risk is transferred when the goods have been loaded in the first carrier (usually truck).
- If the goods are delivered elsewhere (transport center, port, airport) in the country of the seller, the risk is transferred before the goods are unloaded from the first carrier for delivery to the carrier named by the buyer.

The buyer bears all risks of transport from the moment the goods have been delivered at the agreed place and time if:

- Does not notify the seller the name of the carrier that will pick up the goods.
- The carrier named by the buyer fails to take the goods on the date or deadline agreed.

In either of these circumstances, the buyer bears all costs (storage) and risk (loss or damage) in transporting the goods from the agreed delivery date or, if there is no specific date, from completion of the agreed delivery period.

To transfer the risk, it is necessary that the goods transported can be identified and individualized as the goods object of the sale contract. Also, the seller must notify the buyer in a reliable way that he has put the goods at his disposal at the place of delivery.

Insurance contract

Neither party has the obligation to make a contract of insurance for transporting the goods. However, it is advisable that the buyer takes out insurance transport, at least to cover the international transport of goods. In this sense, the seller must provide the buyer with any information necessary to enable him to take out the insurance he needs.

Export/transit/import customs clearance

All procedures, costs and taxes of export clearance are borne by the seller.

All procedures, costs and taxes of transit and import clearance are borne by the buyer.

Security requirements

The seller is obliged to comply with any transport safety requirement to the place of delivery, whether it is done by own means (usually truck) or by a carrier hired by the seller.

Besides, the seller has to comply with any security requirements in the customs export clearance and is obliged to provide the buyer with the information he has regarding security for transit and import clearance.

Allocation of costs between seller and buyer

The seller assumes the following operational costs:

- Packaging, checking and marking of goods.
- Loading the goods at the first carrier.
- Inland transportation (pre-carriage) to transport center, port, airport in seller's country, either with a carrier contracted by the buyer or with his own means of transport.
- Costs and taxes of export clearance.

For its part, the buyer assumes the following operational costs:

- Terminal costs (warehousing, handling, loading) in transport center, port, airport in seller's country.
- Main transport to the country of destination.
- Obligation to comply with transport safety requirements to the place of delivery.
- Insurance transport (if it is taken out).
- Terminal costs (unloading, handling, warehousing) in transport center, port or airport in the buyer's country.
- Costs and taxes of transit and import clearance.
- Inland transportation (on-carriage) from the transport center, port, airport, to the buyer's premises, either with a carrier contracted by the buyer or with his own means of transport.
- Unloading of goods on the buyer's premises.

Methods of payment

FCA can be used with any payment methods (payment in advance, cash on delivery, open account, bank transfer or check) and also with documentary methods (letter of credit or documentary methods). In the case of documentary methods, the seller must ensure to obtain the transport document that justifies the delivery of the goods because it is the buyer who contracts the main transport. For this, the seller must request the carrier or the forwarder hire by the buyer a copy of the international transport document that has been used (CMR, B/L, SWB, AWB or FBL). This document, is usually required to collect the credit as proof of delivery of the goods.

In the Incoterms 2020 version a new option is established: in the case of maritime transport, the buyer can give instructions to the shipping company that has hired to issue a Bill of Lading B/L on behalf of the seller the notation “on board”, which indicates that the goods have been loaded on board of the ship. The Bill of Lading B/L is the most common transport document used in the procedure to open a letter of credit in order to justify the delivery of the goods by the seller and, thereby, collect the credit.

However, this option must be agreed between seller and buyer in the contract of sale. In addition, the Incoterms 2020 version includes this option in the section of “Explanatory Notes” of Incoterms FCA and not the “Buyer’s Obligations” section, so it is application is not compulsory for the buyer.

PRACTICAL ADVICE TO USE FCA

FCA is a term that requires more involvement by the seller than EXW, as the seller manages logistics in his own country and carries out export clearance; however, both activities are not excessively complex and, therefore, any exporting company must be offering quotations, at least, under FCA terms.

Moreover, FCA is a very flexible Incoterms because it allows different places of delivery of the goods depending on the type of transport used. It is also very suitable for multimodal transport.

There are several alternatives for using FCA, whose choice depends on the place of delivery:

- FCA factory or warehouse: it is recommended using this option to full load (truck or container) as an alternative to EXW. Delivery takes place once the goods have been loaded onto the truck, in the seller’s premises, and at his own risk.
- FCA transport center: it is used mainly for groupage. The seller pays the inland transportation (pre-carriage) until the goods are delivered to the carrier that has been designated by the buyer at a terminal or transport center. Delivery of goods occurs when the truck is located in the loading dock of the international carrier designated by the buyer.
- FCA port or port terminal: it is the most suitable Incoterms, substituting FOB, when using full containers. The seller is responsible for the transport of the container from its premises to the container terminal at the designated

port. The delivery takes place when the truck carrying the goods arrive at the port's container terminal. All handling operations at the terminal, which are known as THC (Terminal Handling Charges) are borne by the buyer.

- FCA airport: the seller bears the cost of transport from his premises to the airport that has been designated to deliver the goods. It is understood that the goods have been delivered when the vehicle is parked in the loading dock of the assigned terminal. Any further handling will be paid by the buyer.
- FCA railroad: the delivery of goods occurs when the inland carrier that has been hired by the seller puts the truck in the loading dock of the rail terminal.

Incoterms FCA is suitable for companies that have their own transport vehicles (trucks, vans) and export using groupage services; this situation involves very little cost and risk to transport the goods (in boxes or pallets) to the place of delivery (transportation terminal, port, airport). Generally, the place of delivery will not be far away from the seller's premises.

FCA is useful for the following types of international operations:

- Companies that do not have too much experience in foreign markets and do not want to manage international logistics to deliver the goods in the destination country.
- Exports of full loads (trucks, containers) in which it is preferable that the seller carry out the loading onto the first carrier (usually truck) in its own facilities.
- Exports in groupage for which the seller uses their own transport vehicles to deliver the goods somewhere (transport center, port, airport) in their own country, usually near their premises
- Sales in an integrated economic area (e.g. the EU), where there is a free movement of goods and therefore is not necessarily clear the goods for export.
- Sales to customers in EU countries, but in which the goods will be sent to a third country (a country outside the EU) so it is advisable, for tax purposes, that the seller obtains the documents that verify the exit of goods from the EU.

In conclusion, FCA is a very flexible Incoterms, increasingly used, that will probably replace EXW for most exports in which the seller delivers the goods in his own country and prefers not to manage international logistics.

KEYS TO FCA

Mode of transport	Any type of transport (land, air, sea) and, specially, multimodal transport (containers).
Delivery place	a) In seller's premises (factory or warehouse). b) In different locations (transport center, port, airport) in the seller's country.
Loading/unloading of the goods	a) Load in the first carrier (usually truck). b) Prepared for the unloading in the delivery place.
Delivery document	a) Receipt of the carrier sent by the buyer to the seller's premises or FIATA FCR certificate for multimodal transport. b) Delivery note of goods from the carrier hired by the seller to the international carrier or forwarder hired by the buyer.
Type of cargo	Any type of cargo (general cargo, complete cargo, groupage).
Contract of main transport	Buyer.
Contract of insurance	There is no obligation on either party. However, it is advisable that the buyer purchases insurance because he assumes the risks.
Transfer of risks in transport	a) Once the goods have been loaded in the first carrier, at the seller's premises. b) In the delivery place, before the goods are unloaded from the first transport for delivery to the carrier hired by the buyer.
Pre-shipment inspection	Buyer, except when the inspection is required by regulations or institutions in the country of the seller.
Export customs clearance	Seller.
Import customs clearance	Buyer.
Methods of payment	Payment in advance, cash on delivery, open account, check. It is also suitable for documentary methods (letter of credit or documentary credit).

MODEL CONTRACTS

INTERNATIONAL CONTRACTS (ENGLISH, SPANISH, FRENCH, GERMAN & PORTUGUESE)

- International Sale Contract
- International Distribution Contract
- International Commercial Agency Contract
- International Sales Representative Agreement
- Intermediary Contract for Trade Operations
- International Joint Venture Contract
- International Strategic Alliance Agreement
- International Franchise Contract
- International Services Contract
- International Consulting Contract
- International Technology Transfer Agreement
- International Trademark License Agreement
- International Supply Contract
- International Manufacturing Contract
- International Buying Agent Contract
- Logistics Services Contract
- Export Contract
- Confidentiality Agreement
- Expatriate Contract of Employment
- Memorandum of Understanding for International Distribution
- Memorandum of Understanding for Joint Venture
- **Pack 10 Contracts in English**
- **Pack All Contracts in English**

BUSINESS CONTRACTS (ENGLISH, SPANISH, FRENCH, GERMAN & PORTUGUESE)

- Distribution Contract
- Commercial Agency Contract
- Sales Representative Agreement
- Commission Contract
- Joint Venture Contract
- Services Provider Contract
- Consulting Contract
- Strategic Alliance Agreement
- Franchise Contract
- Supply Contract
- **Pack 12 Commercial Contracts (Premium)**

CHINA CONTRACTS (ENGLISH-CHINESE DUAL VERSION)

- Distribution Contract China
- Agency Contract China
- Commission Contract China
- Supply Contract China
- Manufacturing Contract China
- Confidentiality Contract China
- Memorandum of Understanding for Distribution Contract China
- Memorandum of Understanding for Joint Venture China

LETTERS OF INTENT (ENGLISH & SPANISH)

- Letter of Intent for International Sale
- Letter of Intent for International Distribution
- Letter of Intent for International Joint Venture
- **Pack 3 Letters on Intent**

LETTERS FOR EXPORTERS (ENGLISH & SPANISH) LETTERS FOR IMPORTERS

- Presentation to potential client
- Proposal for agent/distributor
- Proposal to form a strategic alliance
- Invitation to a trade fair
- Making a commercial offer
- Preparation of a contract
- Reminder of payment pending
- **Pack 15 Letters for Exporters**
- Request for information to an overseas supplier
- Offering as agent/distributor
- Reply to proposal for strategic alliance
- Making contact after a trade fair
- Renegotiation of a contract
- Complaint about delivery of faulty goods
- **Pack 15 Letters for Importers**
- **Pack 30 Letters for Exporters and Importers**



INTERNATIONAL TRADE AND TRANSPORT DOCUMENTS

MODELS OF THE MAIN INTERNATIONAL TRADE AND TRANSPORT DOCUMENTS READY TO USE WITH EXPLANATIONS ABOUT WHAT THEY ARE AND PRACTICAL ADVICE TO COMPLETE THEM

- [International Proforma Invoice](#)
- [International Commercial Invoice](#)
- [Packing List](#)
- [Delivery Note](#)
- [International Purchase Order](#)
- [General Conditions of International Sale](#)
- [CMR Transport Document](#)
- [Bill of Lading B/L](#)
- [Air Waybill AWB](#)
- [Multimodal Bill of Lading FBL](#)
- [ATA Carnet](#)
- [Irrevocable Letter of Credit L/C](#)
- [Cargo Insurance Certificate](#)
- [Certificate of Origin](#)
- [Certificate of Origin Form A](#)
- [Certificate of Inspection](#)
- [Certificate of Analysis](#)
- [Phytosanitary Certificate](#)
- [Kosher Certificate](#)
- [Halal Certificate](#)

[Pack All Documents](#)

