

INCOTERMS 2020: TRANSFER OF OWNERSHIP AND PAYMENT RISK

Incoterms 2020 do not regulate the transfer of ownership of the merchandise, nor the sale price, the form of payment, the general conditions of sale, etc. These issues are defined in the International Sale Contract that materializes the consent between the seller and the buyer.

Exporters and importers often confuse risk transfer with transfer of ownership. This confusion is understandable because these two elements can be linked: the transfer of ownership can be subordinated to the full payment of the goods, often linked to a conforming delivery of the merchandise.

Although Incoterms 2020, that will be in force till 2030, has the advantage of presenting areas for improvement, the issue of transport risk insurance remains unchanged; only two Incoterms impose a minimum insurance obligation: CIP and CIF. Therefore, it is advisable that exporters and importers take the necessary measures to protect themselves from the multiple failures that can occur in a logistics operation. Thus, in the event of non-payment by the buyer due to the impossibility of fulfilling their obligations, the parties can protect themselves by resorting to documentary credit that constitutes a secure means of payment for the buyer, once the merchandise has been sent, on condition to present in the bank the documents that are specified in the documentary credit itself.

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Although the Incoterms reform that gave rise to the new Incoterms 2020 has the advantage of presenting areas for improvement, the issue of transport risk insurance remains unchanged; only two Incoterms impose a minimum assurance obligation: CIP and CIF. Therefore, it is advisable to take the necessary measures to protect yourself from the multiple failures that can occur in a logistics operation. Thus, in the event of non-payment by the buyer due to the impossibility of fulfilling their obligations, the parties can protect themselves by resorting to documentary credit that constitutes a secure means of payment for the buyer, once the merchandise has been sent, on condition to present in the bank the documents that are specified in the documentary credit itself.

While in Incoterms 2020 fundamental principles have not changed, attention should be drawn to Incoterm FOB, which remains a widely used Incoterm rule. The notion of "going overboard" has disappeared and the notion of "on board" appears. Exporters and importers must be careful with the use of this FOB expression in the port because the use takes precedence over the Incoterms rule. However, it is advisable, on the part of the insurance

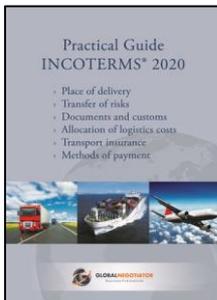
company, to guarantee the merchandise in all cases until it is properly placed and tied up on board the ship. This new definition of FOB on board is a real advance, as it is clear and precise, unlike the concept of “going overboard”, which is a very ambiguous concept.

The best way to avoid tensions between the seller and the buyer is to take out transport damage insurance, to transfer the management of the dispute and its resolution from the seller to the buyer. Even when the merchandise travels at the buyer's risk and expense, the seller is interested, as long as he has not received the payment of the invoice that there is no incident in the logistics operation.

A menudo los exportadores e importadores confunden la transferencia de riesgo con la transferencia de propiedad. Esta confusión es comprensible porque estos dos elementos pueden vincularse: la transferencia de propiedad puede subordinarse al pago total de la mercancía, a menudo vinculada a una entrega de la mercancía conforme.

In the event of a claim, the seller is subject to a great uncertainty because the financial risk is significant: the buyer may reject the goods or not pay the price, if the buyer has not insured the goods or his insurer rejects the compensation.

Whatever the situation as an importer or exporter, there are means of payment, financial guarantees and transport insurance to carry out international trade operations safely.



To obtain the Incoterms Guide click here:
[Practical Guide to Incoterms](#)

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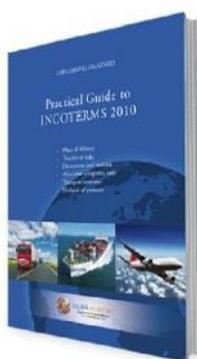


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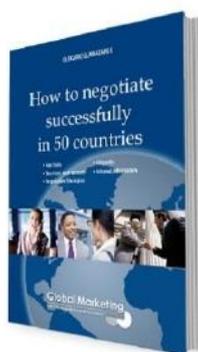


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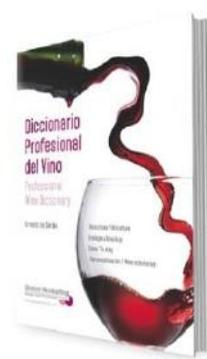
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