

The INCOTERMS rules and their importance

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Abstract

The content INCOTERMS are a set of rules that determine the rights and obligations of the international sales contract, selecting a rule of interpretation of commercial terms INCOTERMS, progress is the result of negotiation between the parties and expresses the ratio of these economic forces.

In relation to the obligations of the parties to an international sales contract are several different types of contracts covered by the clause.

To define the main rules INCOTERMS was considered as a starting point delivery of goods, establishment of the seller and the buyer², the rules concerning the obligations of each party that are grouped into ten items with identical titles for all the rules.

Due to significant developments in international trade, for making available to retailers in the interpretation of the rules commonly used trade terms in international trade, the International Chamber of Commerce in Paris draw a set of delivery conditions for their interpretation in international sales, rules that were in international trade practice some habits, but who were not of equal significance to traders in different countries.

Keywords: *INCOTERMS, International Commerce Terms, string sales, domestic trade, clauses, groups*

Thanks to the significant developments in international trade, for making available to retailers in the interpretation of rules commonly used trade terms in international trade³, have been developed since 1928 by the International Chamber of Commerce in Paris (ICC-Paris⁴) a set of commercial terms or conditions of supply for sale in their interpretation of international rules that were in international trade practice some habits, but who did not have the same meaning for traders from different countries.

During the interwar period and especially the international trade-Atlantic hit, experiencing a great development, so in 1936 the International Chamber of Commerce of Paris publishes first international trade rules – which included 11 commercial terms INCOTERMS International, also known as the "delivery terms", which have generally enjoyed an audience among traders.

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² T. R. Popescu, *Regulile INCOTERMS în vânzarea internațională*, Didactic and Pedagogical Publishing House, 1983, Bucharest, p. 227.

³ Lecturer Luminita Voichița, *Regular use INCOTERMS role in international trade agreements*, University of Craiova, Faculty of Economics and Business Administration.

⁴ Governmental organization, founded in 1919, operating through the National Committees (in 66 countries), working committees and liaison offices (in addition to UN and other international organizations in New York and Hong Kong). No published in booklet CCI. 166 and refer to 18 countries.

This editing the International Chamber of Commerce in Paris merely to give an interpretation of terms and their actual use in international trade.

Inco terms are recognized by UNCITRAL as a global standard for interpreting the terms in foreign trade and provide internationally accepted rules specifying definitions and standards of performance for the most common trading terms.

As world trade development, the modernization that characterized the evolutionary process of international economic life, variant revised ICC was adopted at the Congress of Vienna in 1953 and is known as Incoterms 1953⁵, the first variant, the basic rules that have international recognition that included nine commercial terms⁶.

Subsequently, in 1967⁷, 1976⁸, 1980⁹, 1990¹⁰ Edition INCOTERMS-2000¹¹ brought significant changes in terms of both name and their content, creating a new variant of the basic rules.

The purpose of Incoterms is to provide a set of international rules which are being interpreting best commercial terms that are regularly incorporated into sales contracts worldwide and have become part of daily language of trade.

"Global rules introduced by the ICC and used by companies in many business transactions around the world are an essential part of ICC activities and distinguish us from many other international business organizations"¹².

To keep pace with the rapid growth of international trade and globalization, INCOTERMS rules are reviewed every 10 years, so, since the last review in 2000 have changed in international trade, International Chamber of Commerce meeting in Paris in September 2010¹³ launching the publication Incoterms ® 2010 which sets out a practical guide to help users more easily choose the most appropriate rules for their transaction¹⁴.

⁵ Published in booklet CCI no. 166 and covers 18 countries.

⁶ Ex Works, the factories, coach Franco, Free Alongside Ship, Free on Board, free on board, Cost and Freight / Carriage Paid To; Ex Ship, Ex Quay / Duty Paid.

⁷ They added two terms: 1. Delivered at frontier ... / Rendu borders ... / named cluster of delivery at frontier / livraison lieu of the border and agreed upon in February. Delivered Duty Paid / Rendu droits acquittés.

⁸ They added airport FOB / FOB Airport.

⁹ We have added: 1. Free carrier ... / Transporteur works ... and 2. freight/carriage and insurance paid to; Fret / port PAYE, assurance compromised justqu `a (...). then all S / A reviyuit time Freight / Carriage Paid To (...) Published in bilingual (English and frnceză) CCI Paris, brochure no. 460.

¹⁰ Published in bilingual edition (English and French) of CCI Paris in brochure no. 460.

¹¹ This edition of "The Inco-2000" is essentially positions (practice) representatives of the two main trends manifested in international trade: new trend "reformer", which aims to integrate the (uniform) global business practices in order to perform a wide openings to allow the participation of international trade in favorable conditions, of all states in the world and the current "conservative" in particular supported by some highly developed countries such as USA and Japan, still trying to maintain some avantajoaselor practice, practice derived position of economic supremacy which they won in over time.

¹² ICC Secretary General, Jean Rozwadowski.

¹³ <http://www.arilog.ro>

¹⁴ <http://www.euroavocatura.ro/>

The new terms were developed in order Incoterms delimitation of rights and obligations of the parties participating in international trade in goods and entered into force on 1 January 2011.

"There is no organization better placed than the ICC – this organization is established and maintained INCOTERMS rules – to help traders in the correct application of rules for their operations in global or domestic sales¹⁵.

Rules INCOTERMS are an internationally recognized standard used worldwide in domestic and international contracts for the sale of goods.

The rules have been developed and maintained by experts and practitioners, they help traders avoid costly misunderstandings, clarifying tasks, costs and risks involved in delivering goods from sellers to buyers.

The first change that brings INCOTERMS ® 2010 is the reduction of terms from 13 to 11 in the INCOTERMS 2000 INCOTERMS 2011 delivery terms that clearly define the obligations of the parties and reduce the risk of legal complications.

A second structural change comes in Group D, which suffered the biggest change to the DEQ that the delivery has been replaced with DAT (delivery at the terminal) and delivery terms DAF, DES, and were replaced by DAP DDU (delivery to a place called).

Another change relates to the terms of trade adjustment to the needs of technological progress, as recognized electronic signatures that can serve as evidence in litigation and regulations of the account and e-commerce and electronic billing and data transfer.

Another pointer is to divide into groups INCOTERMS clauses, Otherwise in INCOTERMS 2000 clauses were divided into four groups: Group E Group F Group C Group D, and Incoterms 2010, depending on the method of transportation INCOTERMS new clauses are divided into two broad categories:

I. Provisions applicable to all modes of transport:

EXW	Ex Works	Goods is made available to the buyer at the seller
FCA	Free Carrier	seller hands the goods over the first carrier named by the buyer in a default.
CPT	Carriage Paid To	
CIP	Carriage and Insurance Paid	
DAT	Delivered At Terminal	
DAP	Delivered At Place	
DDP	Delivered Duty Paid	

This group includes seven Inco terms that can be used regardless of mode of transport chosen and whether one or more than one transport mode is employed. They can be used even when there is no maritime waterway at all.

¹⁵ <http://www.iccwbo.org>

II. Clauses only apply the shipping and inland waterways carried on

FAS	Free Alongside Ship
FOB	Free On Board
CFR	Cost and Freight
CIF	Cost, Insurance and Freight

In this new delivery point group, and the place where the goods are shipped to the buyer are both ports, thus labeling rules "sea and inland waterways" FAS, FOB, CFR, CIF are included in this class.

In addition to the 11 rules, INCOTERMS ® 2010 includes: explanatory notes to help users choose the appropriate rule for each transaction, the new classifications to assist in choosing the appropriate rules for transport category envisaged, Tips for using electronic procedures, information security rules on the authorization of the departure of a ship, tips on applying INCOTERM ® 2010 domestic trade.

One concerns the conceptual changes that are not INCOTERMS clauses in international trade and commerce clause "domestic" (ICC Rules for the use of domestic and international trade terms) as these changes occurred come to facilitate trade rules in their use by traders.

One of the conceptual changes, concerns that INCOTERMS are not clauses in international trade but commerce clause "domestic" (ICC Rules for the use of domestic and international trade terms) as these changes occurred come to facilitate trade rules in their use by traders.

Thus, the guide¹⁶ INCOTERMS 2010 states that INCOTERMS rules have traditionally been used in international sales contracts where goods travel across national borders, in various parts of the world, however, commercial structures, such as the Union European border formalities have been less important between different countries.

The rules INCOTERMS ® 2010, formally recognize that they are available for application in both types of contracts for both international and domestic sales.

Two developments have convinced the ICC that a move in this direction is desirable. First, traders, commonly used INCOTERMS rules for sales contracts exclusively domestically, secondly, there is greater availability in the United States to use Incoterms in internal trade rules, than the former Uniform Commercial Code shipment.

“The first rule EXW¹⁷ – enter the place of delivery – can be used regardless of the mode selected and can also be used if more than one transport mode is employed.

¹⁶ INCOTERMS 2010 by the International Chamber of Commerce, ICC rules for the use of domestic and international trade terms, ICC Services Publications, 38 Cours Albert 1er, 75008 Paris, France, www.iccbooks.com

¹⁷ *Idem*, p. 15.

"Ex Works" means that the seller delivers when the goods are placed at the disposal of the buyer or seller in another place called (for example, works, factory, warehouse, etc.). Parties should indicate as clearly as possible for delivery, because the risks and costs in this case is the account of the seller, the buyer bears all costs and risks involved in receiving goods, since the agreement, if applicable, place of delivery.

EXW – represents the minimum obligation for the seller would typically be used with care deaorece:

- a the seller has no obligation to charge the buyer for goods, even if in practice, the seller may be in a better position to do so. If the seller has loads of goods, an own risk and expense of the buyer.
- b a buyer who buys from a seller on an EXW basis for export must be aware that the seller is obliged to provide assistance if the buyer asks that export performance: the seller is not obligated to hold the notice of export. Buyers are therefore advised not to use EXW if they can not directly or indirectly, to obtain export clearance.
- c the buyer has limited supply obligations by the seller and any information regarding the export of goods. However, the seller may need this information, for example, taxation or reporting purposes".

Rule FCA¹⁸ enter the place of delivery – "This rule can be used regardless of the mode selected and can also be used if more than one type of transport is employed.

"Free Carrier" means that the seller delivers goods to the carrier or another person nominated by the buyer at the seller or other place designated.

Parties are advised to indicate as clearly as possible for delivery to the buyer's risk to go into care. If the parties intend to deliver the goods at the seller, they must identify the address of these premises as a place of delivery.

If, on the other hand, the parties intend that the goods are delivered to another place, they must identify a specific delivery elsewhere.

However, the seller has no obligation to clear goods for import customs clearance, pay import taxes or making any import customs formalities.

CPT and CIP rules¹⁹ – insert place of destination – "This rule can be used regardless of the mode selected and can also be used if more than one type of transport is employed.

"Carriage paid to (CPT) means that the seller delivers goods to the carrier or other person nominated by the seller, in an agreed place (if any such place is agreed between the parties).

"Carriage and insurance paid " (CIP) means that the seller delivers goods to the carrier or other person nominated by the seller in a convenient location (if any such place is agreed between the parties), and that the seller must

¹⁸ *Ibidem*, p. 23.

¹⁹ *Ibidem*, p. 33.

contractors for payment of travel expenses necessary to bring goods to named place of destination.

Also, the seller provides the buyer risk cover loss or damage to goods during transport. The buyer should note that under the CIP the seller is obliged to obtain a minimum insurance coverage.

If the buyer wants insurance to reduce risk, it should be expressly agreed with the seller or make their own additional measures of insurance.

When CPT, CIP, CFR and CIF are used, the seller fulfills his obligation to deliver goods to the carrier when he teaches, and not when the goods reach the destination. This policy has two critical points, because the risk of passing the costs are transferred to different places.

Parties should identify the contract, precisely as the places of delivery, where the risk passes to the buyer, and the destination that the seller must pass it in the contract.

If the shipment is used more for transportation to a destination set and the parties agree on a particular point of delivery, the default position is that risk passes when the goods were delivered to a point, whereas the first carrier selected entirely by vendors and on which the buyer has no control.

If the parties want to move to a risk of later stage (eg a port or airport), is needed to clarify this in their sales.

Parties are also well advised to identify as precisely as possible the agreed place of destination, because the costs at this point are the seller's account.

The seller is advised to purchase transportation contracts that fits precisely for that choice. If the seller bears the costs under a contract of carriage on unloading at destination, the seller is not entitled to recover such costs from the buyer unless otherwise agreed between the parties.

CPT and CIF requires the seller to clear the goods for export, where applicable. However, the seller has no obligation to clear the import of goods, payment of import duties or performing any import customs formalities.

Rule DAT²⁰ – enter the name of terminal to the port or place of destination - This rule can be used regardless of type of transport chosen and can also be used if more than one type of transport is employed.

"Delivered at the Terminal" means that when the seller delivers the goods once unloaded from the arriving means of transport are available to the buyer at the named terminal to the port or place of destination.

"Terminal" includes any place, whether or not covered, such as a wharf, warehouse, container yard or road, rail and air cargo terminal. The seller bears all risks involved in bringing their goods and unloading terminal at the port or place of destination.

CPT CIF requires the seller to clear the goods for export, where applicable. However, the seller has no obligation to clear the import of goods, payment of import duties or performing any import customs formalities.

²⁰ *Ibidem*, p. 53.

The parties are well advised to indicate as clearly as possible the terminal and, if possible, a terminal point at the agreed port of destination or place, the risks from that moment to be sure the seller.

The seller is advised to procure a contract of carriage to be fit for that choice. Moreover, if the parties intend that the seller should bear the risks and costs involved in shipping and handling cargo from terminal to another place, then DAP and DDP rules should be used.

However, the seller has no obligation to clear goods for import customs clearance, pay import taxes or making any import customs formalities

DAP²¹ and DDP²² rules– *insert place of destination – This rule can be used regardless of the mode selected and can also be used if more than one transport mode is employed. "Issued in Place" means that the seller delivers when the goods are made available to the buyer on the arriving means of transport ready for download at the destination called the seller bears all risks involved in bringing goods to the named place.*

"Delivered duty paid" means that the seller delivers the goods when the goods are made available to the buyer, cleared for import of vehicles arriving ready for download at the named destination.

The seller bears all risks involved in bringing goods to the named place of destination and customs clearance of goods is required not only for export but for import and to pay any tax, both for import and export and carry out all customs formalities.

Parties should identify as precisely the place of destination set, because the costs to this point in the care of the seller. The seller, in this case, must to purchase transportation contracts that match exactly that choice.

If the seller has to bear costs under a contract of carriage on discharge at the destination, then he is not entitled to recover such costs from the buyer, unless otherwise agreed between the parties. DAP requires the seller to clear goods for export, where applicable.

However, the seller has no obligation for import clearance of goods, to pay any import tax or customs import formalities to complete.

If the parties wish the seller to clear goods for import, they must pay import duties and carry out any formality VAM, in which case you should use the term DDP.

DDP Parties should not use if the seller is unable directly or indirectly to obtain the opinion of import. If the parties wish the buyer to bear all the risks and costs of import clearance, DAP rule should be used.

Any VAT or other import taxes are paid on account of the seller NLESs station expressly agreed otherwise in the sales contract.

FAS Rule²³ – *insert name of port forwarding – requires the seller to clear goods for export where feasible.*

²¹ *Ibidem*, p. 61.

²² *Ibidem*, p. 69.

²³ *Ibidem*, p. 79.

"Free alongside ship" means that the seller delivers when the goods are placed alongside the vessel (eg a key or a barge), nominated by the buyer, the shipping port.

The risk of loss or damage to the goods passes when the goods are with the ship, and the buyer bears all costs since that time.

Parties should indicate as clearly as possible the point of loading at the port of shipment named because the costs and risks at this point are in the care of the seller and handling costs and related expenses can vary depending on the practice port.

The seller is obliged either to deliver the goods alongside the ship or to purchase goods already delivered for shipment.

If the goods are in containers, is typical for the seller to hand goods to the carrier at a terminal, and not along the vessel. In such situations, the rule would be inappropriate, FAS, FCA and the rule Auld be used.

However the seller has no obligation to clear goods for import and to pay import duties on import or complete forms.

FOB Rule²⁴ – insert name of destination – is used in transportation by sea and in transportation inland waterway.

"Free loading" means that the seller delivers the goods on board the ship designated by the buyer at the port of shipment or purchase goods already delivered.

The risk of loss or damage to the goods passes when the goods are on board, and the buyer bears all costs since then.

The seller is obliged either to deliver the goods on board or to purchase goods already delivered for shipment.

FOB may not be appropriate where the goods are delivered to the carrier before the board, such goods in containers, which are usually delivered to a terminal.

In such cases, the FCA should be used regularly.

FOB requires the seller to clear the goods for export, where applicable. However, the seller has no obligation for import clearance of goods to pay import duties or carry out any customs formalities for import.

CFR Rule²⁵ – insert name of destination port

Cost and Freight "means that the seller delivers the goods on board or acquires goods already delivered the risk of loss or damage to property, is high when the goods are on board.

When CPT, CIP, CFR and CIF are used, the seller fulfills his obligation to deliver when the carrier hands the goods over the manner specified in rule choice, not when the goods reach the destination.

This rule has two critical points, because the risk of passing the costs are transferred to different places. While the contract will always specify a destination

²⁴ *Ibidem*, p. 87.

²⁵ *Ibidem*, p. 95.

port, your port forwarding is not specified, where the risk is transferred to the buyer. If the shipping port is the port of interest chosen by the buyer, the parties must identify it as accurately as possible in the contract.

The seller must contract of carriage that perfectly match for this choice. If the seller has to bear costs under a contract of carriage on the discharge to a specified destination point, the seller is not entitled to recover such costs from the buyer unless otherwise agreed between the parties.

CIF Rule²⁶ – enter the name of the port of destination – Cost, insurance and freight "means that the seller delivers the goods on board or purchase such goods already delivered. The risk of loss or damage to the goods passes when the goods are on board.

The seller contracts for insurance to cover the risk of loss or damage to goods during transport. Buyer should be detained under the CIF seller is obliged to obtain insurance only on minimum cover.

If the buyer wishes to obtain more protection for property insurance, it will have to agree with the seller or to take their own measures, additional insurance.

When CPT, CIP, CFR and CIF are used, the seller fulfills his obligation to deliver when the carrier hands the goods over the manner specified in rule chosen and not when the goods arrive at destination.

This rule has two critical points, because the risk of passing the costs are transferred to different places. While the contract will always specify a destination port, your port forwarding is not specified, where the risk is transferred to the buyer. If the shipping port is the port of interest chosen by the buyer, the parties must identify it as accurately as possible in the contract.”

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²⁶ *Ibidem*, p. 105.