

# PUBLIC PROCUREMENT AUTHORITY



## TRAINING ON CONTRACT ADMINISTRATION (GOODS & WORKS)



Public Procurement Authority, Ghana

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From Buyer to Seller ...  
What can go wrong?



**Seller** – **Carrier** – **Port** – **Shipper** – **Port** – **Carrier** - **Buyer**



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## Incoterms – What are they?

- The Incoterms® rules are the regulations that apply to the trade for the sales of goods worldwide; these rules are in place to clarify the buyer's responsibilities and the seller/shipper in the international shipments of global goods. The Incoterms® rules assist the mutual understanding of responsibilities for the sale of goods worldwide between buyers and sellers and the export and import shipping process
- First Published in 1936, previous update Incoterms 2010
- Latest Edition Incoterms 2020,



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## Why do we need Incoterms?

- They are the authoritative rules for determining how costs and risks are allocated to the parties; they guide individuals and companies participating in the import and export of global trade. These rules are regularly incorporated into contracts and have become part of the daily language of trade between buyers and sellers.
- Different Commercial Practices
- Different Commercial Laws
- Different Languages
- Different Meanings for the same words



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## Key Incoterms 2020 changes

- The new Incoterms® 2020 have arrived and will go into effect January 1, 2020. Incoterms® are used in both international and domestic contracts. They clearly define the buyer and sellers responsibilities, risks, and costs.
- They are reviewed and updated every ten years
- Organized Two General Categories
  - Rules for Any Mode of Transportation
  - Rules for Sea and Inland Waterway Transportation



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## Key Incoterms 2020 changes

Group 1 (two changes) - Incoterms® that apply to any mode of transport:

EXW: Ex Works

FCA: Free Carriage

CPT: Carriage Paid

**CIP: Carriage and Insurance Paid**

**DAT: Delivered at Terminal**

DAP: Delivered at Place

DDP: Delivered Duty Paid

CIP - The Insurance piece has been refined and now the seller is obliged to provide cargo insurance as mandated by Institute Clause "A" or All Risk coverage.

DAT - Delivered at Terminal has been changed to DPU - Delivered at Place Un-Loaded.



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## Key Incoterms 2020 changes

Group 2 (no changes)

Incoterms® that apply to sea and inland waterway transport only:

FAS: Free Alongside Ship

FOB: Free on Board

CFR: Cost and Freight

CIF: Cost, Insurance, and Freight



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## Key Incoterms 2020 changes

- Provides for demonstrated market need concerning bills of lading (BL) with an on-board notation and the Free Carrier (FCA) rule.
- Aligns different insurance coverage levels in Cost Insurance and Freight (CIF) and Carriage and Insurance Paid to (CIP).
- Includes arrangements for carriage with own means of transport in Free Carrier (FCA), Delivery at Place (DAP), Delivery at Place Unloaded (DPU), and Delivered Duty Paid (DDP).
- There is a change in the three-letter name for Delivered at Terminal (DAT) to Deliver at Place Unloaded (DPU).
- Includes security-related requirements within carriage obligations and costs



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- 'Incoterms® 2020 rules make business work for everyone by facilitating trillions of dollars in global trade annually. Because they help importers and exporters around the world to understand their responsibilities and avoid costly misunderstandings, the rules form the language of international sales transactions, and help build confidence in our valuable global trading system.'

ICC Secretary General John W.H. Denton AO



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## Key Incoterms 2020 changes

- **Security Requirements**

Transport Security requirements are now addressed as they have become more prevalent (example container screening). Delays and costs are to be expected if not fulfilled. This is the sellers and buyers responsibility based on the agreed terms and a shared responsibility in all cases.

- **Sellers/ Buyers utilizing their own transport**

Past assumptions were the seller/ buyer would contract the transport of their goods to third parties. The wording has now changed from "contract" to "contract or arrange" as listed under each applicable term.



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## Key Incoterms 2020 changes

- FCA, FOB Bills of lading

The issue of sellers obtaining bills of lading under these terms has called for a clarification. Both terms if used, make it almost impossible for the seller to obtain a bill of lading from the carrier as the buyer is controlling the booking with the carrier and is the recipient of the bill of lading. It is important and recommended that the seller understand these risks and to shift away from using these terms when negotiating the terms of a Letter of Credit. As a “band aid”, FCA terms now allow both parties to agree to direct the carrier to release the bill of lading to seller on these ‘rare’ occasions.



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## Valuable Incoterms 2020 information

- Incoterms® does not constitute a complete contract, but rather become a part of it. For its application, the following formula should be used:
- (The chosen Incoterm® rule) followed by (Named port, place or point) Incoterms® 2020
- Example: "CIF Amsterdam Incoterms® 2020" or "DAP 1500 Rankin Road, Houston, TX United States Incoterms® 2020."
- If there is no year stated in the Incoterms®, then the following applies:
- Until December 31st, 2019, the Incoterms® 2010 apply.
- From January 1st, 2020, the Incoterms® 2020 applies.
- Suppose a different year is stated, e. g. Incoterms® 1980, then respective terms apply.



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










## Incoterms for Any Mode of Transportation

- EXW (Ex Works)
- FCA (Free Carrier)
- CPT (Carriage Paid To)
- CIP (Carriage and Insurance Paid To)
- DAP (Delivered at Place)
- DPU (Delivered at Place Unloaded)
- DDP (Delivered Duty Paid)



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## Incoterms for Any Mode of Transportation

	 Seller/ Exporter Facility	 Customs Clearance (Export)	 Pre-Carriage	 Delivered & Unloaded at Port of Loading	 Alongside Vessel	 Onboard Vessel Port of Loading	 Main Transport	 Onboard Vessel Point of Discharge	 Unload at Port of Discharge	 On-Carriage	 Customs Clearance (Import)	 BUYERS INC. Buyer/ Importer Facility
<b>EXW</b> EX Works	Carriage											
	Risk											
	Cost											
	Seller is only responsible for having the goods packed made available at the seller's premises. The buyer bears the full risk and costs from there to the destination – including the loading of the cargo.											
<b>FCA</b> Free Carrier	Carriage											
	Risk											
	Cost											
	Seller is only responsible for delivery to the named place. Seller is responsible for loading. Risk and cost are transferred to the buyer as soon as delivered at the named place. Unloading is the buyer's responsibility.											



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## Incoterms for Any Mode of Transportation

ANY MODE OF TRANSPORT	<b>CPT</b> Carriage Paid To													
	Carriage													
	Risk													
	Cost													
	Seller arranges the transportation and costs to the named place at destination. Risk is transferred to the buyer once delivered at first carrier.													
	<b>CIP</b> Carriage & Insurance Paid To													
	Carriage													
	Risk													
	Cost													
	Seller arranges the transportation, costs, and insurance on behalf of the buyer to the named place at destination. Risk is transferred to the buyer once delivered at first carrier. Seller is required to obtain extensive insurance cover complying with insurance Cargo Clauses (A) or similar clause in the buyer's name.													
<b>DAP</b> Delivered at Place														
Carriage														
Risk														
Cost														
Seller delivers the goods to the agreed place at destination. Seller assumes all cost and risk until the goods are ready for unloading at named place at destination.														
<b>DPU</b> Delivered at Place Unloaded														
Carriage														
Risk														
Cost														
Seller assumes all costs and risks until the goods are unloaded at the agreed named place at destination. Buyer is responsible for import customs formalities.														
<b>DDP</b> Delivery Duty Paid														
Carriage														
Risk														
Cost														
Seller delivers the goods to the agreed place destination. Seller assumes all cost - including import formalities, and risks until the goods are ready for unloading at named place at destination.														

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## Incoterms for Sea and Inland Waterway Transport

SEA & INLAND WATERWAY TRANSPORT	<b>FAS</b> Free Alongside Ship													
	Carriage													
	Risk													
	Cost													
	Seller is responsible for delivery of goods at the port alongside the vessel. From this point onward, risk and cost transfers to the buyer.													
	<b>FOB</b> Free On Board													
	Carriage													
	Risk													
Cost														
Seller is responsible for delivery of goods loaded on board the vessel. Risk and cost are transferred as soon as the goods have been loaded onboard the vessel.														
<b>CFR</b> Cost & Freight														
Carriage														
Risk														
Cost														
Seller cover cost of freight to the named port of destination or place. Risk is transferred as soon as the goods have been loaded onboard the vessel.														
<b>CIF</b> Cost, Insurance & Freight														
Carriage														
Risk														
Cost														
Seller covers cost of insurance and freight to the named port of destination or place. Risk is transferred as soon as the goods have been loaded onboard the vessel. Seller is required to obtain minimum insurance cover complying with Institute Cargo Clauses (C) in the buyer's name.														

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- **Did you know?** The most commonly used Incoterms are EXW – Ex-Works · DAP – Delivered At Place · DDP – Delivered Duty Paid.



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## 8 facts about Incoterms you should know

1. It all started way back over **200 years ago**: In 1812, British Courts established Free On Board (FOB) shipment terms indicating who is liable for damaged in shipping were established. These established rules were the seeds that would eventually grow into Incoterms® we know today!
2. **Booming Trade**: Up until 1936, the original FOB rules were updated only once. It was in this year that the ICC would publish 6 rules, making these the first truly global standardization for worldwide trade.
3. **World War II**: After the second world war, lots of trade standards and agreements had to be mended, re-written, and new rules established.



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## 8 facts about Incoterms you should know

4. **New Modes = New Rules:** As new forms of transportation emerged, Incoterms had to evolve as well. In 1953, 3 new rules were added to include Trains, Trucks, and specific costs
5. **FOB:** The first air freight was officially delivered in 1910, but it took until 1976 to include air FOB rules into Incoterms®!
6. **Electronification:** in 1990, Incoterms® underwent a massive re-build, as more and more electronic services became available.
7. **Ever-changing landscape:** In 2010 with so many changes and increases with shipping, Incoterms® had to make adjustments as well. In 2010, 4 Incoterms were done away with, and 3 all-new Incoterms were added.
8. **Incoterms® 2020** were released!



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## INCOTERMS Pointers

- Recognize that the whole point of Incoterms is to apportion risk. When risk transfers can have an effect on cost, liability, etc.
- When you pick a term, know what it means, not what you think it means.
  - Who bears the cost?
  - Who bears the risk?
  - What can you do to minimize cost and mitigate risk beyond using the Incoterm?



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## INCOTERMS Pointers

- Beyond Risk understand the mechanics
  - Who is responsible for loading/unloading?
  - Who has to pay for loading/unloading?
    - Compare, e.g.
      - DAT – Seller Loads and Unloads
      - DAP/DDP – Seller places goods at Buyers disposal on the carrier ready for unloading.
      - The “Cs” – have to identify the port of destination
  - Who has to clear and pay for Customs
    - Sellers don’t do DDP unless you really have a way of doing it on the other end.
    - Beyond Customs Clearance – Security? Security Filings? Timing of
    - Security filings?



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THANK YOU



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