TRADE KNOWLEDGE · ORBIS SHIPPING

Incoterms® 2020

A practical guide to the 11 delivery rules: where risk passes, who pays what, and the mistakes that cost the most.

Written by ORBIS SHIPPING CO., LTD

www.orbisshipping.com

What the Incoterms® rules do — and do not do

The Incoterms® rules are published by the International Chamber of Commerce to settle three questions in a contract for the sale of goods: **where the seller must deliver**, **at what point the risk of loss or damage passes to the buyer**, and **which party bears which cost**. The current edition took effect on 1 January 2020 and contains 11 rules.

Most disputes in practice come from expecting the rules to do things they never covered. They do **not** determine:

- When title to the goods passes — that is governed by the contract and the applicable law.
- The price, or the method and timing of payment.
- The consequences of a breach, or what happens if the goods are defective.
- Sanctions, trade restrictions, or whether the goods may lawfully be cleared.

Put simply: an Incoterms® rule is **one clause in a sale contract** — not the whole contract, and not a contract of carriage.

> **Write it correctly.** A rule only works when all three parts are stated: the code, a specific place, and the edition. For example **"CIF Port of Rotterdam, Netherlands, Incoterms® 2020"**. Without the place, nobody knows where risk passes; without the edition, a dispute starts with an argument about which version applies.

The 11 rules at a glance

The first seven rules work for any mode of transport, including shipments with a sea leg. The last four are **for sea and inland waterway transport only**, and only where the goods are handed over directly to the vessel — containerised cargo delivered at a yard or CFS should use FCA, CPT or CIP, not FOB, CFR or CIF.

Code	Rule	Mode	Where delivery happens	Main carriage	Insurance	Customs
EXW	Ex Works	Any mode	At the seller's premises, not loaded onto any vehicle	Buyer	Not required	Buyer handles both export and import
FCA	Free Carrier	Any mode	To the carrier nominated by the buyer, at the agreed place	Buyer	Not required	Seller exports, buyer imports
CPT	Carriage Paid To	Any mode	To the first carrier — risk passes there, NOT at destination	Seller	Not required	Seller exports, buyer imports
CIP	Carriage and Insurance Paid To	Any mode	To the first carrier — risk passes there	Seller	Seller, all-risks level (ICC A)	Seller exports, buyer imports

DAP	Delivered at Place	Any mode	At the named destination, still on the arriving vehicle, not unloaded	Seller	Not required	Seller exports, buyer imports
DPU	Delivered at Place Unloaded	Any mode	At the named destination, AFTER unloading from the arriving vehicle	Seller	Not required	Seller exports, buyer imports
DDP	Delivered Duty Paid	Any mode	At the named destination, cleared for import, not unloaded	Seller	Not required	Seller handles both export and import
FAS	Free Alongside Ship	Sea / inland waterway	Alongside the vessel at the port of shipment	Buyer	Not required	Seller exports, buyer imports
FOB	Free On Board	Sea / inland waterway	Once the goods are on board the vessel at the port of shipment	Buyer	Not required	Seller exports, buyer imports
CFR	Cost and Freight	Sea / inland waterway	On board at the port of shipment — risk passes there	Seller	Not required	Seller exports, buyer imports
CIF	Cost Insurance and Freight	Sea / inland waterway	On board at the port of shipment — risk passes there	Seller	Seller, minimum level (ICC C)	Seller exports, buyer imports

Three pairs that are routinely confused

The C rules — paying the freight is not bearing the risk

This is the costliest misunderstanding we see. Under all four C rules (CPT, CIP, CFR, CIF) the seller pays carriage to the destination, but **risk passes to the buyer at the origin, when the goods are handed over**. If a CIF shipment is lost at sea, the buyer still owes the price and must claim on the insurance. The C rules have two separate points: risk transfers at origin, cost responsibility ends at destination.

CIP and CIF — two different levels of insurance

Since the 2020 edition these two no longer carry the same cover. **CIP** requires the seller to insure at the all-risks level, corresponding to Institute Cargo Clauses (A). **CIF** keeps the minimum level, corresponding to Institute Cargo Clauses (C), which responds only to a listed set of risks. The parties may agree a different level, but it must be stated in the contract.

DAP, DPU and DDP — who unloads, and who pays import duty

All three have the seller delivering at the destination. The differences are two details: **DPU** is the only rule requiring the seller to unload the goods from the arriving vehicle, and **DDP** is the only rule putting import clearance and import duty on the seller.

> **Think twice before accepting DDP.** The seller must clear customs in a country where it has no legal entity. Many countries will not let a foreign company act as importer of record, or will not refund VAT to

> one. Before agreeing to DDP, confirm the seller can actually complete import formalities in the destination country.

What changed from the 2010 edition

- **DAT was renamed DPU.** The old name suggested delivery was limited to a terminal; the new one makes clear the destination can be any place, provided the goods are unloaded.
- **The insurance level under CIP was raised to all-risks cover,** while CIF retained the minimum level.
- **FCA gained an option covering on-board bills of lading.** The buyer may instruct the carrier to issue a bill of lading with an on-board notation and release it to the seller — which solves a real problem for FCA shipments paid by letter of credit, since banks commonly require that document.
- **Carriage using a party's own means of transport** is now expressly provided for in FCA, DAP, DPU and DDP, instead of assuming an external carrier.
- **Costs are collected into a single dedicated item** in each rule rather than scattered across it, which makes checking who pays what far quicker.
- **Security-related obligations** were brought into the carriage and cost provisions.
- **Each rule opens with explanatory notes for users.**

The five mistakes ORBIS sees most often

1. Using FOB, CFR or CIF for containerised cargo

These three turn on the goods being "on board". Containerised cargo, however, is handed over at a yard or CFS days before the vessel sails. The gap between letting go and loading is a grey zone: if loss occurs there, neither party is clearly responsible. Containerised cargo belongs under **FCA, CPT or CIP**.

2. Naming the place too vaguely

"FCA Vietnam" or "DAP Germany" is not enough. Name the warehouse, the address, the port or the airport. This is the legal reference point for where risk passes, not background information.

3. Selling EXW but still handling export clearance

Under EXW the buyer is responsible for export clearance. In practice a foreign buyer usually cannot be named on a Vietnamese export declaration, so the seller ends up doing it anyway — without any contractual obligation protecting them. **FCA** is the right rule here: the seller clears for export, which is what is actually happening.

4. Assuming the C rules keep risk with the seller to destination

Covered above, but it recurs often enough to repeat: the C rules mean the seller **pays the freight**, not that the seller carries the risk.

5. Omitting the edition

The rules have been revised several times and older editions still apply if the parties refer to them. Leave out the year and a dispute begins with an argument about which version governs.

Choosing a rule for your shipment

There is no best rule — only the rule that matches each party's capability and appetite for control. Some practical guidance:

- **New exporters not yet used to booking carriage:** start with FCA. Responsibility ends at handover; the international leg is not your problem.
- **Want to control the transport leg and earn margin on the freight:** use CPT, CIP or DAP.
- **Paid by letter of credit where the bank requires an on-board bill:** use FCA with the 2020 bill of lading option, or FOB for break-bulk cargo handed directly to the vessel.
- **Customer wants delivery to their warehouse abroad:** DAP or DPU. Accept DDP only after confirming import formalities in the destination country are actually achievable.

How ORBIS SHIPPING helps

We advise on the right rule shipment by shipment — based on the commodity, the lane, the payment method and how much control each side wants — then build the transport document set to match the rule chosen. For shipments settled by letter of credit, send us the draft credit to review before you accept it: correcting a line at that stage costs far less than amending a credit the bank has already issued.