

# CKB GROUP



## Insurance Liability, Assumption of Risks & Costs pursuant to Incoterms<sup>®</sup> 2020



# Introduction

## ➤ What are Incoterms® rules ?

- The Incoterms® rules are the world's essential terms of trade for the sale of goods. Whether you are filing a purchase order, packaging and labelling a shipment for freight transport, or preparing a certificate of origin at a port, the Incoterms® rules are there to guide you. The Incoterms® rules provide specific guidance to individuals participating in the import and export of global trade on a daily basis.

## ➤ Why use Incoterms® rules in international trade?

- Although other clauses for global trade exist around the world, such as the Harmonised Tariff Schedule of the United States, Incoterms® rules are global in their reach. Similarly, Incoterms® rules do not include trade terms codified for national purposes, such as the “less than truckload shipping” (LTL) rule of the United States. Unlike national trade policies Incoterms® rules are universal, providing clarity and predictability to business.

## ➤ What does “Incoterms®” stand for?

- “Incoterms®” is an acronym standing for International Commercial Terms.
- The Incoterms® rules feature abbreviations for terms, like FOB (“Free on Board”), DAP (“Delivered at Place”) EXW (“Ex Works”), CIP (“Carriage and Insurance Paid To”), which all have very precise meanings for the sale of goods around the world.
- These terms hold universal meaning for buyers and sellers around the world. If you are a financial analyst in the City of London, then you might associate the acronym “FCA” with the United Kingdom’s Financial Conduct Authority. However, for importers and exporters around the world, FCA are the initials used for “Free Carrier,” or the seller’s obligation to deliver the goods to the carrier nominated by the buyer at the seller’s premises or another named place.

# Historical evolution of Incoterms®



1923

ICC conducts first study of most commonly used trade terms, highlighting disparities of their interpretation.



1953

Three new non-maritime terms address the rise of transport of goods by rail in the wake of World War II: **FOR** (Free on Rail), **FOT** (Free on Truck) and **DCP** (Delivered Costs Paid).



1976

Fourth edition of the **Incoterms®** rules announces new terms to end confusion relating to the interpretation of **FOB** (Free on Board) for air transport.



1990

ICC unveils **Incoterms® 1990**, a complete revision of the 1953 version reflecting contemporary practices in international trade and use of intermodal transport. **FRC** becomes **FCA**. Changes also contain provisions for the use of electronic messages.



1928

Second **Incoterms®** rules study expands scope to improve clarity of trade terms in over 30 countries.



1936

ICC publishes first edition of the **Incoterms®** rules featuring six trade terms relating to carriage by sea.



1967

ICC launches third edition of the **Incoterms®** rules including two new terms: **DAF** (Delivery at Frontier) and **DDP** (Delivery in Country of Destination).



1980

**FRC** (Free Carrier) term and new documentation processes introduced to address rise of containerisation.



2000

Publication of **Incoterms® 2000** sees major changes to the "Delivery" section, which made the term **FCA** (Free Carrier) far clearer and easier to use.

2010

ICC releases **Incoterms® 2010**, reducing the number of terms from 13 to 11 by inclusion of two new rules for use irrespective of the agreed mode of transport. Other modifications to reflect contemporary trade landscape comprises measures to enhance cooperation among parties and adaptations regarding commodities sales and domestic transactions.

# Overview of Incoterms®

- Most essential trade terms for sale and purchase of goods
- Two key players – Seller & Buyer
- Helps in
  - Filing a purchase order/sales contract/ purchase contract
  - Deciding obligations – who does what as a Buyer and Seller
  - Identifying the party responsible for cost towards Carriage, Transportation, Insurance, Packing and Labelling
  - How/ when does the risk transfers from the Seller to the Buyer

# What the Incoterms® rules do

- Incoterms rules explain a set of eleven most commonly used three letter trade terms e.g. CIF; DAP; FOB etc
- Obligation – Who does what between the Buyer and Seller
  - E.g. who organises Carriage or Insurance
- Risk – Where and when the Seller delivers the goods i.e. when the Risk is transferred
- Costs – Which party is responsible for various costs, such as Transport, Packaging, Loading, Un-loading and others

# What the Incoterms® rules do **NOT** do

- Whether there is a Contract of Sale at all
- Specifications of the Goods Sold
- Time, Place, Method or Currency of Payment
- Remedies which can be sought in case of Breach of Contract
- Consequences of delay and any other breaches in the performance of Contractual Obligation
- Effects of Sanctions
- Imposition of Tariffs
- Export or Import Prohibitions
- Force Majeure or hardship
- Intellectual property rights
- Method, Venue or Law in case of dispute resolution
- Most importantly is does not deal with transfer of property/title/ownership of the goods sold

## Important !!

Incoterms® rules are **NOT** themselves a contract of sale; They only become **PART** of the contract when they are incorporated into a contract

# How best to incorporate Incoterms®

➤ If parties want Incoterms® 2020 rules to apply to a their contract, the safest way is to clearly mention in the contract

For example

- **CIF** Rotterdam, The Netherlands Incoterms® 2020
- **FOB** Nhava Sheva, India Incoterms® 2020
- **DAP** 23 North Street, London, United Kingdom Incoterms® 2020

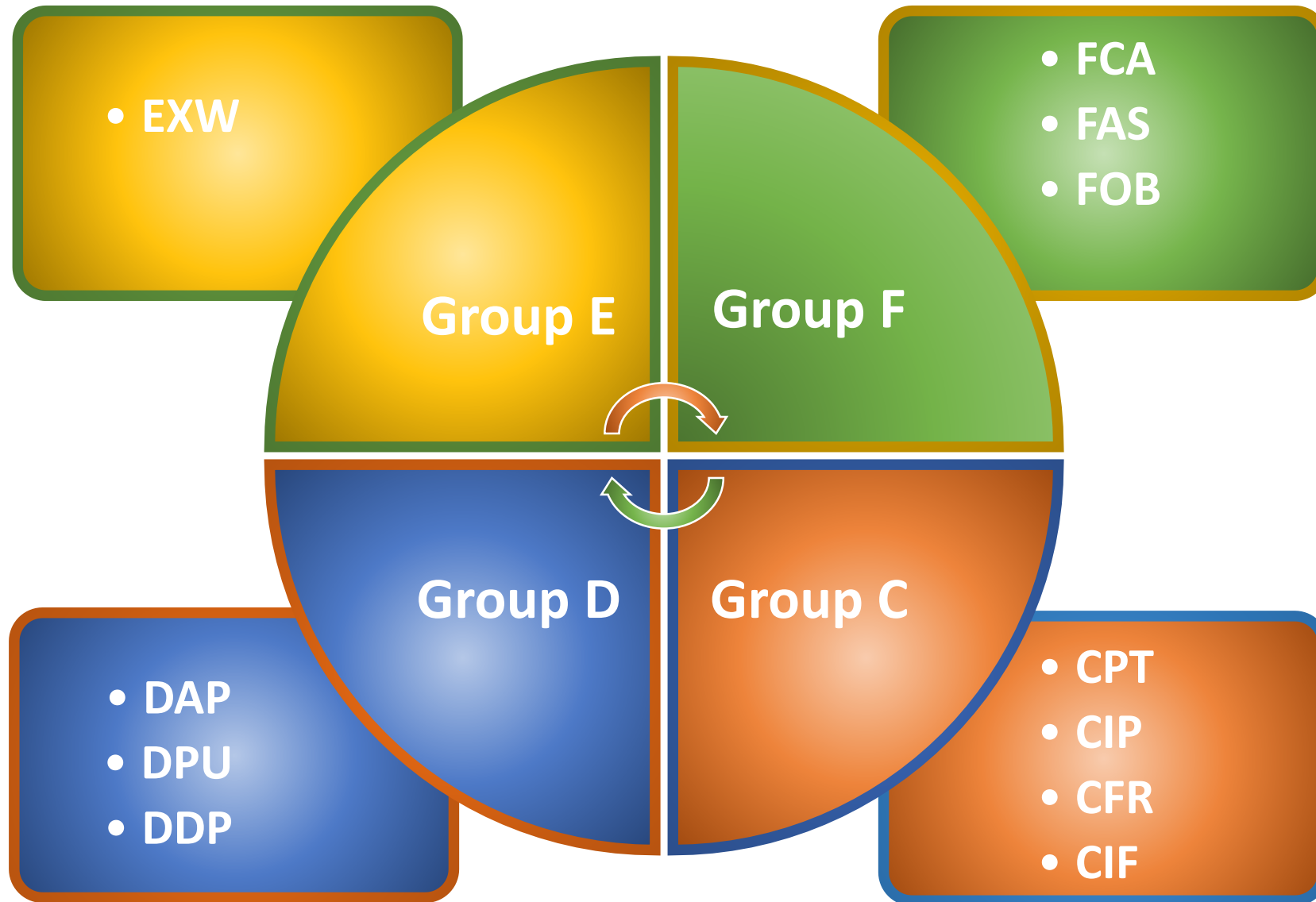
➤ Leaving the year out could cause problems that may be difficult to resolve. The parties, a Judge or an Arbitrator need to be able to determine which version of the Incoterms rules applies to the contract.



# Delivery & Transfer of Risk in the Incoterms® 2020 Rules

- Incoterms rules traditionally grouped into 4 terms
  - **E,F,C and D**
- E and D rules lying at extreme poles from each other in terms of point of delivery and F and C rules lying in between
- EXW – an agreed point of collection for Buyer, irrespective of the destination to which the Buyer will take them where as DAP, DPU & DDP the delivery point is the same as the destination point to which the Seller or its carrier will carry the goods
- In EXW, risk transfers before the transport cycles even starts where as in ‘D’ rules the risk transfers very late
- In case of FOB, CFR and CIF delivery occurs i.e. the risk is transferred when the goods are placed in board the vessel at the port of loading
- In case of CPT and CIP delivery occurs i.e. the risk is transferred when the goods are handed over to the first carrier
- In case of FAS delivery occurs i.e. the risk is transferred when the goods are place along side the vessel at the port of loading
- In case of FCA delivery occurs i.e. the risk is transferred when the goods are placed at the disposal of the Buyer or by loading them on the means of transport provided by the Buyer

# Incoterms® 2020 Structure



Group E	Departure
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Group F	Main Carriage Unpaid
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Group D	Arrival
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Group C	Main Carriage Paid
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# Incoterms® 2020 Rules

Incoterms® are divided into two broad categories

## Rules for any Mode or Modes of Transport (Multi-modal)

<b>EXW</b>	<b>Ex Works</b>
<b>FCA</b>	<b>Free Carrier</b>
<b>CPT</b>	<b>Carriage Paid To</b>
<b>CIP</b>	<b>Carriage Insurance Paid To</b>
<b>DPU</b>	<b>Delivered at Place Unloaded</b>
<b>DAP</b>	<b>Delivered at Place</b>
<b>DDP</b>	<b>Delivered Duty Paid</b>

## Rules for Sea and Inland Waterway Transport (Maritime)

<b>FAS</b>	<b>Free Alongside Ship</b>
<b>FOB</b>	<b>Free On Board</b>
<b>CFR</b>	<b>Cost &amp; Freight</b>
<b>CIF</b>	<b>Cost, Insurance &amp; Freight</b>

# EXW

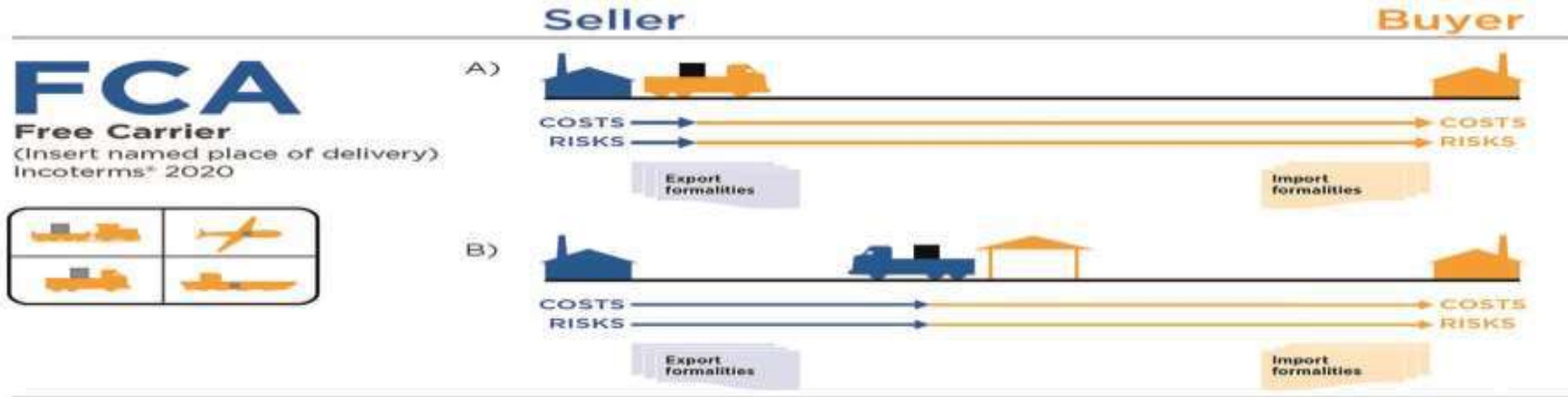


**EXW**  
Ex Works  
(Insert named place of delivery)  
Incoterms® 2020

➤ Delivery and risk - “Ex Works” means the Seller delivers the goods to the Buyer

- When Buyer places the goods at the disposal of the Buyer at a named place (like factory or warehouse)
- For delivery to occur, the Seller need not load the goods on any collecting vehicle, nor does it needs to clear the goods for export wherever applicable

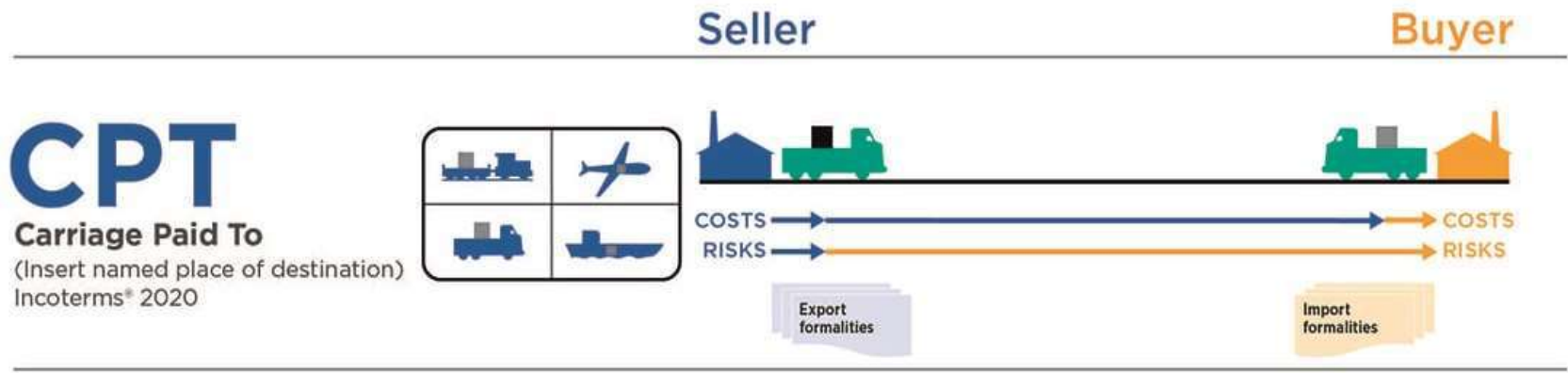
➤ Note: EXW imposes the least set of obligations on the Seller



- Delivery and risk – “Free Carrier” means that the Seller delivers the goods to the Buyer in one of the following ways

- First when the named place is the Seller’s premises the goods are delivered
  - When they are loaded on the means of transport arranged by the Buyer
- Second, when the named place is another place, the goods are delivered
  - When, having been loaded on the Seller means of transport, they reach the named other place and
  - are ready for unloading from the Seller’s means transport and at the disposal of the carrier or the other person nominated by the Buyer
- FCA requires the Seller to clear the goods for export however the Seller is under no obligation to clear the good for import or transit through third countries

# CPT



- Delivery and risk – “Carriage paid to” means that the Seller delivers the goods and transfers the risk to the Buyer
  - By handing over the goods to the carrier contracted by the Seller
  - The Seller may do so by giving the carrier physical possession of the goods
  - The contract of carriage is arranged by the Seller up to the agreed place of destination
- CPT requires the Seller to clear the goods for export however the Seller is under no obligation to clear the good for import or transit through third countries

# CIP



- Delivery and risk – “Carriage & Insurance paid to” means that the Seller delivers the goods and transfers the risk to the Buyer
  - By handing over the goods to the carrier contracted by the Seller
  - The Seller may do so by giving the carrier physical possession of the goods
  - The contract of carriage is arranged by the Seller up to the agreed place of destination
- CIP requires the Seller to obtain cargo insurance complying with the cover provided by Clauses (A) of the institute Cargo Clauses for 110% of the cargo value
- CIP requires the Seller to clear the goods for export however the Seller is under no obligation to clear the good for import or transit through third countries

# DAP



- Delivery and risk – “Delivered at place” means that Seller delivers the goods and transfer risk to Buyer
  - When the goods are placed at the disposal of the Buyer on the arriving means of transport ready for unloading
  - at the named place or destination or at an agreed point within that place, if any point has been agreed
- The contract of carriage must be arranged by the Seller up to the agreed point of delivery of destination
- The Seller is not liable to unload the good from the means of transportation
- Buyer must arrange for import customs clearance and customs duties



# DPU



- Delivery and risk – “Delivered at place unloaded” means that Seller delivers the goods and transfer risk to Buyer
  - When the goods once unloaded from the arriving means of transport are placed at the disposal of the Buyer
  - at the named place or destination or at an agreed point within that place, if any point has been agreed
- The contract of carriage must be arranged by the Seller up to the agreed point of delivery of destination
- The Seller is liable to unload the good from the means of transportation
- DPU requires the Seller to clear the goods for export however the Seller is under no obligation to clear the good for import or transit through third countries
- Buyer must arrange for import customs clearance and customs duties

# DDP



- Delivery and risk – “Delivered duty paid” means that the Seller delivers the good to the Buyer
  - When the goods are placed at the disposal of the Buyer cleared for import on the arriving means for transport, ready for unloading
  - At the named place of destination or at the point within that place, if any such point is agreed
- The contract of carriage must be arranged by the Seller up to the agreed point of delivery of destination
- The Seller is not liable to unload the good from the means of transportation
- DDP requires the Seller to clear the goods for export and also to clear the good for import at destination country
- Seller also has the obligation to pay for customs duties and carry out various customs requirements
- **Note: DDP imposes the maximum set of obligations to the Seller**

# FAS



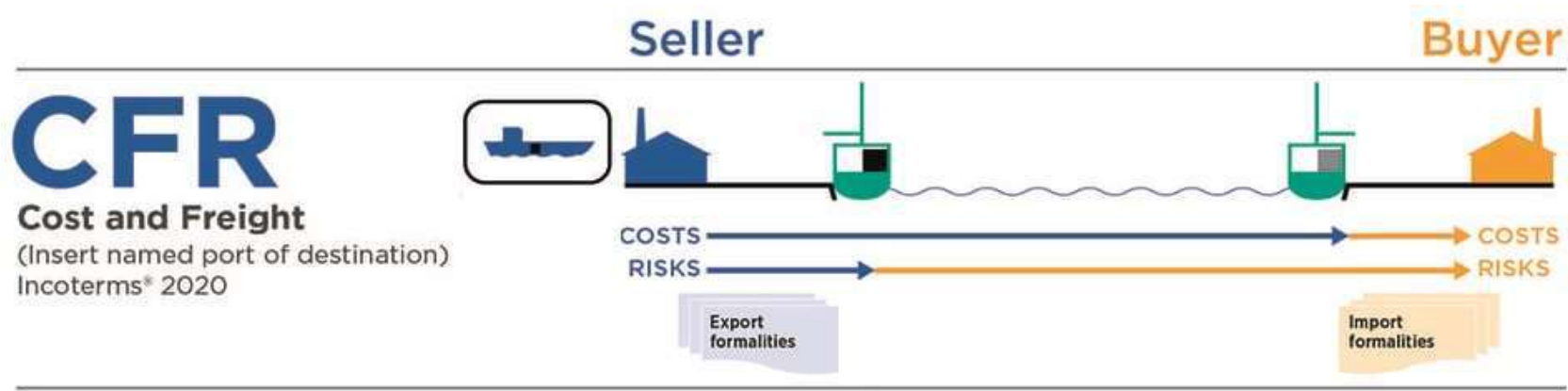
- Delivery and risk – “Free alongside ship” means that Seller delivers the good to the Buyer
  - When the goods are placed alongside the ship (on a quay) nominated by the Buyer at the named port of shipment
- The risk of loss of damage to the goods transfers when the goods are alongside the ship.
- The Seller is under no obligation to cover insurance of the goods
- FAS is only used for sea or waterways transport
- FAS requires the Seller to clear the goods for export, however the Seller is under no obligation to clear the goods for import or transit through third countries
- FAS required the Buyer to arrange for the contract of carriage

# FOB

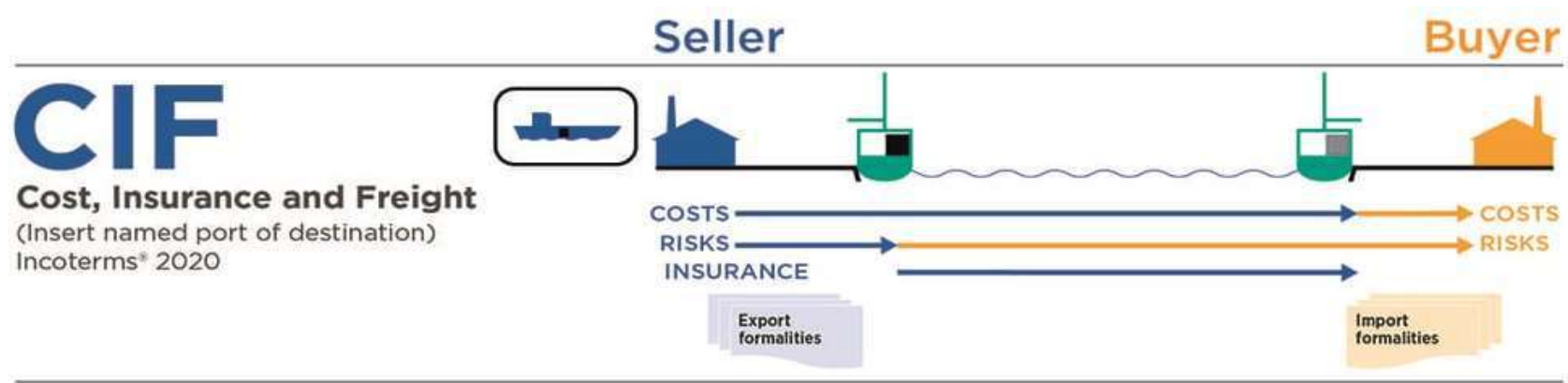


- Delivery and risk – “Free on board” means that the Seller delivers the goods to the Buyer
  - On board the vessel nominated by the Buyer at a named port of shipment
- The risk of loss of damage to the goods transfers when the goods are on board the vessel
- The Seller is under no obligation to cover insurance of the goods
- FOB is only used for sea or waterways transport
- FOB requires the Seller to clear the goods for export, however the Seller is under no obligation to clear the goods for import or transit through third countries
- FOB required the Buyer to arrange for the contract of carriage

# CFR



- Delivery and risk – “Cost and freight” means that the Seller delivers the goods to the Buyer
  - On board the vessel
- The risk of loss or damage of the goods transfers when the goods are on board the vessel
- The Seller is under no obligation to cover insurance of the goods
- CFR is only used for sea or waterways transport
- CFR requires the Seller to clear the goods for export, however the Seller is under no obligation to clear the goods for import or transit through third countries
- CFR required the Seller to arrange for the contract of carriage
- In CFR two ports are important, port where the goods are delivered on board and the port agreed as destination

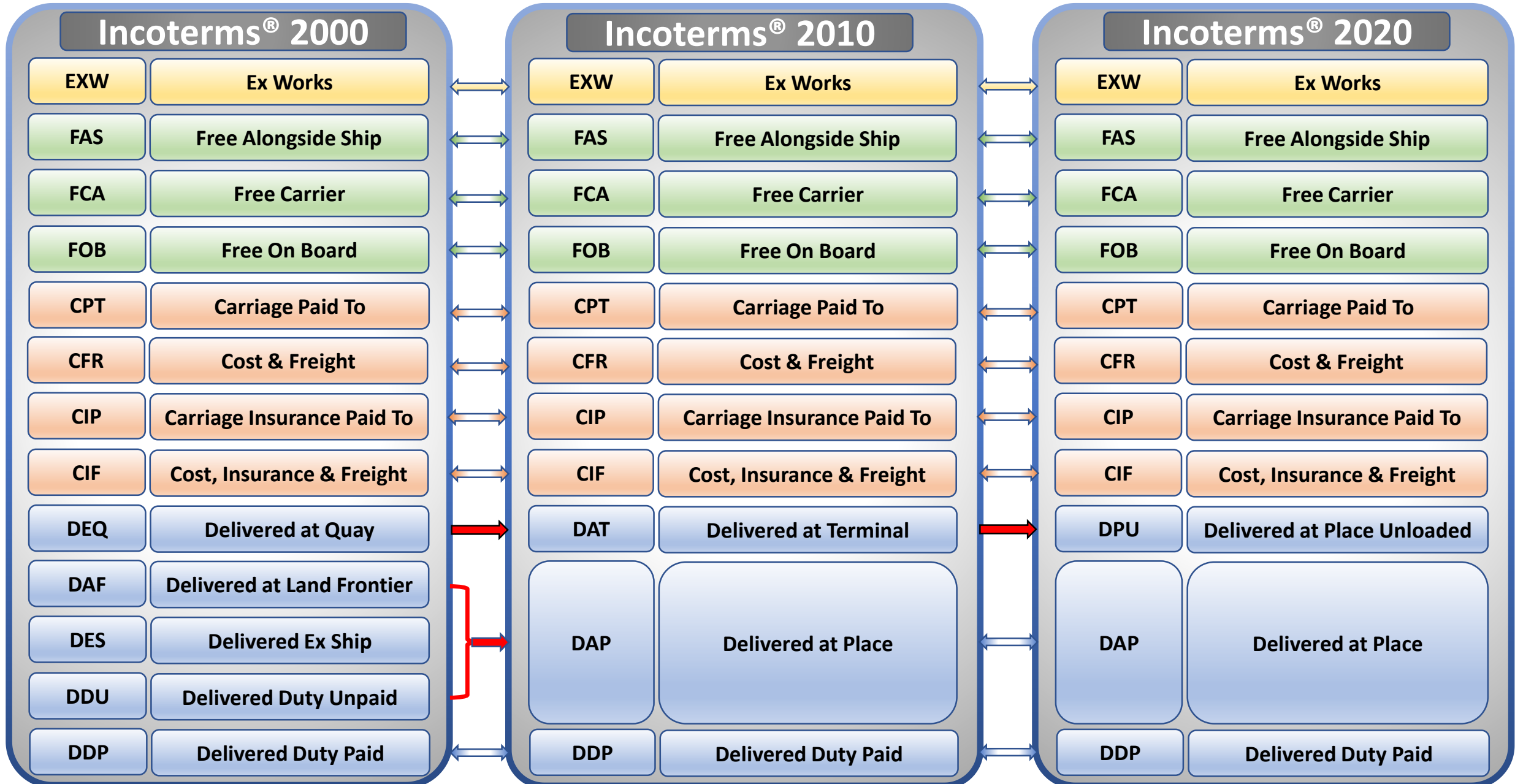


- Delivery and risk – “Cost Insurance and Freight” means that the Seller delivers the goods to the Buyer
  - On board the vessel
- The risk of loss or damage of the goods transfers when the goods are on board the vessel
- The Seller must contract for insurance cover against the Buyer’s risk of loss or damage to the goods from the port of shipment to at least the port discharge. The Seller only requires to obtain limited insurance cover complying with the Institute Cargo Clauses (C)
- CIF is only used for sea or waterways transport
- CIF requires the Seller to clear the goods for export, however the Seller is under no obligation to clear the goods for import or transit through third countries
- CIF required the Seller to arrange for the contract of carriage
- In CIF two ports are important, port where the goods are delivered on board and the port agreed as destination

# Incoterms® 2020 and Incoterms® 2010 Difference

- Bill of lading with an on-board notation under the FCA Incoterms
- Different levels of insurance cover under the CIP and CIF incoterms
- Arranging for carriage with Seller's or Buyer's own means of transport under the FCA, DAP, DPU and DDP
- Change in the three letter initials for DAT to DPU
- Inclusion with security related requirements within the carriage obligation and costs

# Incoterms® Changes







# Incoterms® 2020 - Transport Obligations, Costs & Risks

Incoterms® 2020	Any Transit Mode		Sea/Inland Waterway Transport				Any Transport Mode				
	EXW	FCA	FAS	FOB	CFR	CIF	CPT	CIP	DAP	DPU	DDP
	Ex Works	Free Carrier	Free Alongside Ship	Free On Board	Cost & Freight	Cost Insurance & Freight	Carriage Paid To	Carriage Insurance Paid To	Delivered at Place	Delivered at Place Unloaded	Delivered Duty Paid
Transfer of Risk	At Buyer's Disposal	On Buyer's Transport	Alongside Ship	On Board Vessel	On Board Vessel	On Board Vessel	At Carrier	At Carrier	At Named Place	At Named Place Unloaded	At Named Place
Charges/Fees											
Packaging	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Delivery to Port/ Place	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Export Duty, Taxes & Security Clearance	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Origin Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading on Carriage	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Carriage Charges	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance						Seller		Seller			
Destination Terminal Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller
Import Duty, Taxes & Security Clearance	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller

\* Under CPT & CIP, Destination Terminal Charges and Delivery to Destination will depend on the contract of carriage obtained by the buyer

\*\* Under CIP, Seller has to obtain excessive Insurance cover complying with Institute of Cargo Clause (A) or similar clause

\*\*\* Under CIF, Seller is required to obtain limited Insurance cover complying with Institute Cargo Clause (C) or similar clause

# Transfer of Risk from the Seller to the Buyer

TERM	CARRIAGE OF GOODS	RISKS
EXW	Carriage to be arranged by the Buyer	Risk transfer from the Seller to the Buyer when the goods are at the disposal of the Buyer
FCA	Carriage to be arranged by the Buyer or the Seller on the Buyer's behalf	Risk transfer from the Seller to the Buyer when the goods have been delivered to the carrier at the named place
CPT	Carriage to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods have been delivered to the carrier
CIP	Carriage and insurance to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods have been delivered to the carrier
DAP	Carriage to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods are delivered to named place ready for unloading
DPU	Carriage to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods are delivered and unloaded at named place
DDP	Carriage to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods are placed at the disposal of the Buyer at named place
FAS	Carriage to be arranged by the Buyer	Risk transfer from the Seller to the Buyer when the goods have been placed alongside the ship
FOB	Carriage to be arranged by the Buyer	Risk transfer from the Seller to the Buyer when the goods pass the ship's rail
CFR	Carriage to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods pass the ship's rail
CIF	Carriage and insurance to be arranged by the Seller	Risk transfer from the Seller to the Buyer when the goods pass the ship's rail



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