



# Incoterms<sup>®</sup> 2020 – updated rules for sale of goods certainty

The International Chamber of Commerce reviews the latest edition of the Incoterms<sup>®</sup> rules, that ensure a rules-based solution between trading partners worldwide

**E**ach day, millions of transactions take place between importers and exporters around the world. Whether its ordering espresso, purchasing tofu from the local market, or adding an avocado to salad – global trade is at work. Products, like coffee, soybeans, and avocados, travel through various ports, entry ways, bodies of water, containers, and vessels before reaching their final destination.

Despite language differences, customs, and legal standards, these global transactions between businesses continue to flow seamlessly beneath our eyes due to the Incoterms® rules.

The Incoterms® rules were first introduced by the International Chamber of Commerce in 1936 to establish commonly accepted definitions and rules to related to the sale of goods between trading partners worldwide. Since then, ICC has periodically revised the Incoterms® rules to reflect changes in the international trade system.

The latest edition of the Incoterms® rules, launched in September, ensure a rules-based solution to commercial relations between businesses.

### **The merchants of peace**

After its creation in 1919, one of ICC's first initiatives was to examine the use of commercial trade terms by merchants. As part of this review process, ICC commissioned a study on the use of commercial trade terms from 13 countries around the world.

The findings, which were published in 1923, identified just six commonly used terms between importers and exporters. The study also highlighted that misinterpretation of rules and responsibilities was common among participants.

Based upon the results of this initial study, a second highlighted a lack of common understanding between traders. Depending upon the country in context, traders utilised different interpretations, or different commercial trade terms, as part of the transaction process.

Following the results of this second survey, ICC realised the imperative to establish a common set of commercial trade terms to improve understanding worldwide. The first edition of the Incoterms® rules was published in 1936, including six terms: FAS, FOB, C&F, CIF, Ex-Ship, and Ex Quay.

As a result of the expansion of global trade in the mid-twentieth century, ICC added revisions to the Incoterms® rules to ensure their applicability and reduce costly misinterpretations between business.

*These revisions to the Incoterms® rules will help preserve and modernise the global trading system*

One of the most notable revisions occurred in 1967, when ICC added two new rules - Delivery at Frontier (DAF) and Delivery at Destination (DDP) – to resolve possible misinterpretations from the previous edition. Later in 1974, due to the rise in air transport, ICC created FRC (Free Carrier...Named at Point), which provided for goods not actually received by the ship's side but at a reception point on shore, such as a container yard.

Most recently, Incoterms® 2010 included a variety of modifications and changes to the Incoterms® rules to respond to inherent changes in global trade. In particular, Incoterms® 2010 consolidated the D-family of rules, removing DAF (Delivered at Frontier), DES (Delivered Ex Ship), DEQ (Delivered Ex Quay) and DDU (Delivered Duty Unpaid), and adding DAT (Delivered at Terminal) and DAP (Delivered at Place). These revisions sought to simplify the Incoterms® rules for importers and exporters everywhere.

Past editions of the Incoterms® rules were introduced to respond to fundamental changes in global trade. Whether it was the increased popularity of air transport in the 1970's, or the rapid rise in global transactions at the turn of the 21<sup>st</sup> century, the Incoterms® rules have adapted to remain relevant for business.

### **Incoterms® 2020**

As demonstrated by past revisions to the Incoterms® rules, changes and disruptions are commonplace within global trade. Due to the ever-changing nature of global trade, ICC believes that businesses must work together to create shared solutions to emerging challenges. The Incoterms® 2020 drafting process considered changing dynamics of today's global trade system, such as globalisation and technology.

The latest edition of the Incoterms® rules reflect the interconnectedness of global trade. The Incoterms® 2020 Drafting Group, formed by ICC in 2016, comprised nine experts from around the world: three from Asia, two from

America and four from Europe. The Drafting Group combined both users of the Incoterms rules and commercial lawyers, who specialised in international trade.

Bob Ronai, a trade specialist and member of the Incoterms® 2020 Drafting Group said: *“The biggest hurdle is the process. We [the Incoterms® 2020 Drafting Group] had to dissect Incoterms® 2010, make suggested improvements, then disseminate them ... and wait,”* he said. *“We got hundreds of responses - the Incoterms® rules are universal. They are not single country, or single customs union-type problems.”*

By understanding the feedback of the global business community, Mr Ronai and the other members of the Incoterms® 2020 Drafting Group were equipped to implement the necessary changes to the Incoterms® rules.

### **Enabling the benefits of digital technology**

As global trade becomes more digital, so do the Incoterms® rules. Because the Incoterms® rules are used daily in contracts for the sale of goods around the world, ICC has taken steps to ensure that Incoterms® 2020 is convenient and accessible for all users.

In line with ICC commitments to make technology work for all, access to essential information has been made easier via a dedicated Incoterms® 2020 mobile application. The application includes a wide variety of informative features, including latest news updates, event information and training opportunities. Within the application, users will be able to access a digital version of the Incoterms rules, which can be made available offline.

In this manner, Incoterms® 2020 will always be available for business of any size. From multinational corporations to micro-, small-, and medium-sized enterprises (MSME) – Incoterms® 2020 will be easily accessible for all.

By harnessing the power of digital technology, the wider accessibility of Incoterms® 2020 will help reduce barriers in global commerce and enhance opportunity for all.

*“I think that’s another benefit that Incoterms® 2020 has over Incoterms® 2010. The ubiquity of the internet – which wasn’t there for Incoterms 2010,”* said Mr Ronai. *“Now, everything is at our fingertips, on the Internet, on our mobile phones. That’s a huge boon ... to get these rules out there and known by probably five to 10 times the number of people that knew Incoterms® 2010.”*

In addition, ICC is working alongside Perlin, a Singapore-based distributed ledger technology company, to develop customisable, self-executing digital sales agreements, to incorporate into the Incoterms® rules.

The platform will utilise sensor data and application programme interfaces (APIs) to prompt triggers for self-execution, sustainability, and other environmental, social and governmental (ESGs) performance indicators to improve trade facilitation.

### **Trade that works for all**

*“Incoterms 2020 make business work for everyone by facilitating trillions of dollars in global trade annually,”* said ICC Secretary General John WH Denton AO. *“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.”*

Incoterms® 2020 features more informative descriptions to provide the users of the Incoterms® rules with further clarity. For starters, the introduction to Incoterms® 2020 includes a more detailed explanation on how to choose the most appropriate Incoterms® rule for a given transaction, or how a sales contract interacts with ancillary contracts.

In addition, Incoterms® 2020 features more detailed explanatory notes with enhanced graphics to illustrate the responsibilities of importers and exporters for each Incoterms® rule.

Some of the latest technical revisions to the Incoterms® rules include:

- Provision for demonstrated market need in relation to bills of lading (BL) with an on-board notation and the Free Carrier (FCA) Incoterms® rule.
- Alignment of different levels of insurance coverage in Cost Insurance and Freight (CIF) and Carriage and Insurance Paid To (CIP).
- Arrangements for carriage with own means of transport in FCA, Delivery at Place (DAP), Delivery at Place Unloaded (DPU), and Delivered Duty Paid (DDP).
- Change in the three-letter name for Delivered at Terminal (DAT) to DPU.
- Security-related requirements within carriage obligations and costs.

These revisions to the Incoterms® rules will help preserve and modernise the global trading system, by ensuring the free flow of goods between importers and exporters around the world.

Incoterms® 2020 will help avoid costly disputes between trading partners, reduce barriers between MSME's and their competitors, contribute to stability and enhance economic growth.

ICC's worldwide network of offices will be offering 28 translated versions of the Incoterms® rules, as well as training sessions, to benefit the understanding of users around the world. ■

For more information visit: <https://2go.iccwbo.org>