

Forthcoming changes to Incoterms

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26 November 2009

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Incoterms

- What are Incoterms and when do they apply?
- Classic mistakes when using Incoterms
- Sneak preview into Incoterms 2011

What are Incoterms and when do they apply?

- ICC official rules for the interpretation of trade terms
- Provide a set of international rules for the interpretation of the most commonly used trade terms in foreign trade

What are Incoterms and when do they apply?

- Grouped in four categories:
 - E term (Ex works) - best for seller
 - F terms (FCA, FAS and FOB)
 - C terms (CFR, CIF, CPT and CIP)
 - D terms (DAF, DES, DEQ, DDU and DPP) - best for buyer

What are Incoterms and when do they apply?

- Avoid the uncertainties of different interpretations of such trade terms in different countries
- First published in 1936, since then reviewed and updated on five occasions. Current version is Incoterms 2000
- Scope limited to matters relating to rights and obligations of parties to contract of sale with respect to delivery of goods sold.
- Primarily intended for use where goods are sold for delivery across national boundaries but are in practice also incorporated into contracts for sale of goods within purely domestic markets

Classic mistakes when using Incoterms

- Maritime term (e.g. FOB, CIF) used where ship's role is irrelevant
 - FOB Moscow will not work!
 - Use non maritime terms (e.g. FCA) for containers
- Using the wrong Incoterm
 - Read them!
 - Challenge wrong use!
- Assume they do everything
 - Use as part of the contract, not all
 - Incoterms do not deal with:
 - Ownership (title)
 - Price/payment
 - Intellectual property
 - Law

Classic mistakes when using Incoterms

- Fail to incorporate Incoterms
 - FCA Moscow does not incorporate Incoterms
 - FCA (Moscow) (Incoterms 2000) is correct usage
- Not being specific enough on place of delivery
 - FCA (Moscow) (Incoterms 2000) - where in Moscow?
 - Be specific:
 - FCA (DHL's warehouse Moscow Airport) (Incoterms 2000)
 - FCA (warehouse in Moscow nominated by seller 60 days before delivery) (Incoterms 2000)
- Using Ex works for international delivery. Might be incorrect:
 - Seller might have to charge VAT
 - Seller not obliged to load
 - Seller not obliged to clear export customs

Sneak preview into Incoterms 2011

- Review process started in 2009
- Incoterms 2011 expected to be published in Summer 2010, and come into force on 1 January 2011
- Consultation with national ICC committees
- Expect limited changes
 - new Incoterm DAP (replaces DDU/DAF/DES)
 - Changes to reflect cargo security post 9/11
 - Terminal Handling Charges - making it clearer
 - Presentation of Incoterms
 - More guidance notes
 - Splitting maritime off into a separate section

Questions & Answers