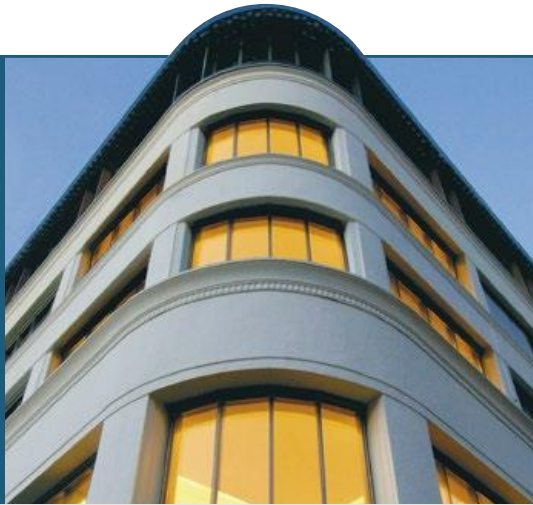


LALIVE



## INCOTERMS 2010

UIA Poznan Conference

International Sales Commission

Prof. Dr. Jean-Paul Vulli ty and Simon P. Quedens

Poznan, 18-19 May 2018

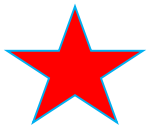
# How to choose the right Incoterm?

## What Incoterms do?

- Set out obligations of seller/buyer in terms of transport of goods, documents, carriage, insurance arrangements
- Risk
- Costs
- Government authorizations and export licenses

# What INCOTERMS do not do?

- Property regime: who owns the goods
- Contract of sale (price, payment method)
- Consequences of breach of contract
- Contract with the carrier
- Contract with the insurer



**Look at sale contract, transport documents (e.g. bill of lading) and applicable law**

# Changes introduced by new INCOTERMS 2010

- Application for international and domestic trade
- Reduced from 13 to 11 INCOTERMS: DAT and DAP have replaced former DAF, DES, DEQ and DDU
- Divided in two categories:
  - Delivery by any mode of transport (sea, road, air, rail): can be used irrespective of mode of transport and whether one or more modes of transport are employed: EXW, FCA, CPT, CIP, DAT, DAP, DDP
  - Delivery by sea and inland waterways transport: the point of delivery and destination are both ports: FAS, FOB, CFR, CIF. In FOB, CFR and CIF, the ship's rail as the point of delivery is replaced by goods «on board» the vessel

 **E- terms** «come to collect the goods»; **F-terms** «goods are sent from»; **C-terms** (goods are sent to, freight prepaid) and **D-terms** «goods are delivered at».

# Delivery and risk transfer

- Named place: where delivery takes place and where risk passes from seller to buyer
  - EXC
  - FCA
  - DAT
  - DAP
  - DDP
  - FAS
  - FOB
- Named place: destination to which carriage is paid. Place of delivery: where risk passes from seller to buyer
  - CPT
  - CIP
  - CFR
  - CIF

## EX WORKS - Reasons for avoiding EXW

- Delivery when seller places goods at buyer's disposal at seller's premises or at another named place (risk passes)
- Minimum seller obligation
- Buyer loads goods onto collecting vehicle
- Buyer pays transport
- Buyer responsible for export where applicable
- Best used for domestic/intra-trading bloc contracts



Parties to identify as precisely as possible the named place of delivery

## FCA (Free Carrier)

- Any mode of transport
- Delivery when seller delivers goods to carrier or other nominee of buyer at seller's premises or other named place (risk passes)
- Buyer arranges and pays for transport BUT...
- If commercial practice or at buyer's request, seller may (but is not required to) arrange transport at buyer's cost and risk
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable



Parties to identify as precisely as possible the named place of delivery

## CPT (Carriage Paid to)

- Any mode of transport
- Risk and cost shift to buyer at different places
- Delivery when seller hands goods over to carrier (risk passes) BUT...
- Seller pays for transport (but does not bear risk of transport)
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable

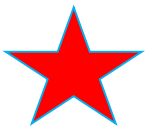


Parties to identify as precisely as possible both place of delivery (where risk passes to buyer) and named place of destination to which seller must contract for carriage.



# CIP (Carriage and Insurance Paid to)

- Any mode of transport
- Risk and cost shift to buyer at different places
- Delivery when seller hands goods over to carrier (risk passes) BUT...
- Seller pays for transport (but does not have risk of transport)
- Seller contracts for minimum cover insurance against buyer's transport risk
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable



Parties to identify as precisely as possible both place of delivery (where risk passes to buyer) and named place of destination to which seller must contract for carriage.

## DAT (Delivered at terminal)

- Any mode of transport
- Delivery when seller unloads the goods and places them at buyer's disposal at named terminal (any place: quai, warehouse, container yard, rail or air cargo terminal)
- Seller pays for transport
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable
- Replaces DEQ (delivery ex quay at named port of destination)



Parties to identify as clearly as possible terminal, and if possible, a specific point within terminal

## DAP (Delivered at Place)

- Any mode of transport
- Delivery when seller places the goods at buyer's disposal ready for unloading on arriving means of transport at named place (risk passes)
- Seller pays for transport
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable
- Replaces DES (delivered ex ship named port of destination), DAF (delivered at frontier named place) and DDU (delivered duty unpaid named place of destination)



Parties to clearly specify the point within the agreed place of destination

## DDP (Delivered Duty Paid)

- Any mode of transport
- Delivery when seller places the goods, cleared for import, at buyer's disposal ready for unloading on arriving means of transport at named place of destination (risk passes)
- Seller pays for transport
- Seller responsible for export, where applicable
- Seller also responsible for import, where applicable
- Maximum obligations for seller: all costs and risks until place of destination



Parties to specify as clearly as possible named place of destination

## FAS (Free Alongside Ship)

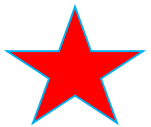
- Sea or inland waterway transport only
- Delivery when goods are placed alongside vessel at port of shipment (risk passes)
- Seller may also deliver by procuring goods already delivered as above (a «string sale»)
- Buyer pays transport
- If commercial practice or at buyer's request, seller may (but is not required to) arrange transport at buyer's cost and risk
- Seller responsible for export where applicable
- Buyer responsible for import where applicable



Parties to specify as clearly as possible the loading point of the named port of shipment

# FOB (Free on Board)

- Sea or inland waterway transport only
- Delivery when goods are placed on board vessel at port of shipment (risk passes)
- Seller may also deliver by procuring goods already delivered as above (a «string sale»)
- Buyer pays transport
- If commercial practice or at buyer's request, seller may (but is not required to) arrange transport at buyer's cost and risk
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable



Parties to clearly specify (i) port of shipment and (ii) vessel

## CFR (Cost and Freight)

- Sea or inland waterway transport only
- Risk and cost shift to buyer at different places
- Delivery when goods are placed on board vessel at port of shipment (risk passes) BUT ...
- Seller must contract and pay the costs of transport to port of destination (no risk of transport)
- Seller may also deliver by procuring the goods already delivered as above (a «string sale»)
- Seller responsible for export, where applicable
- Buyer responsible for import, where applicable



Parties to clearly specify (i) port of shipment, and (ii) port of destination

# CIF (Cost Insurance and Freight)

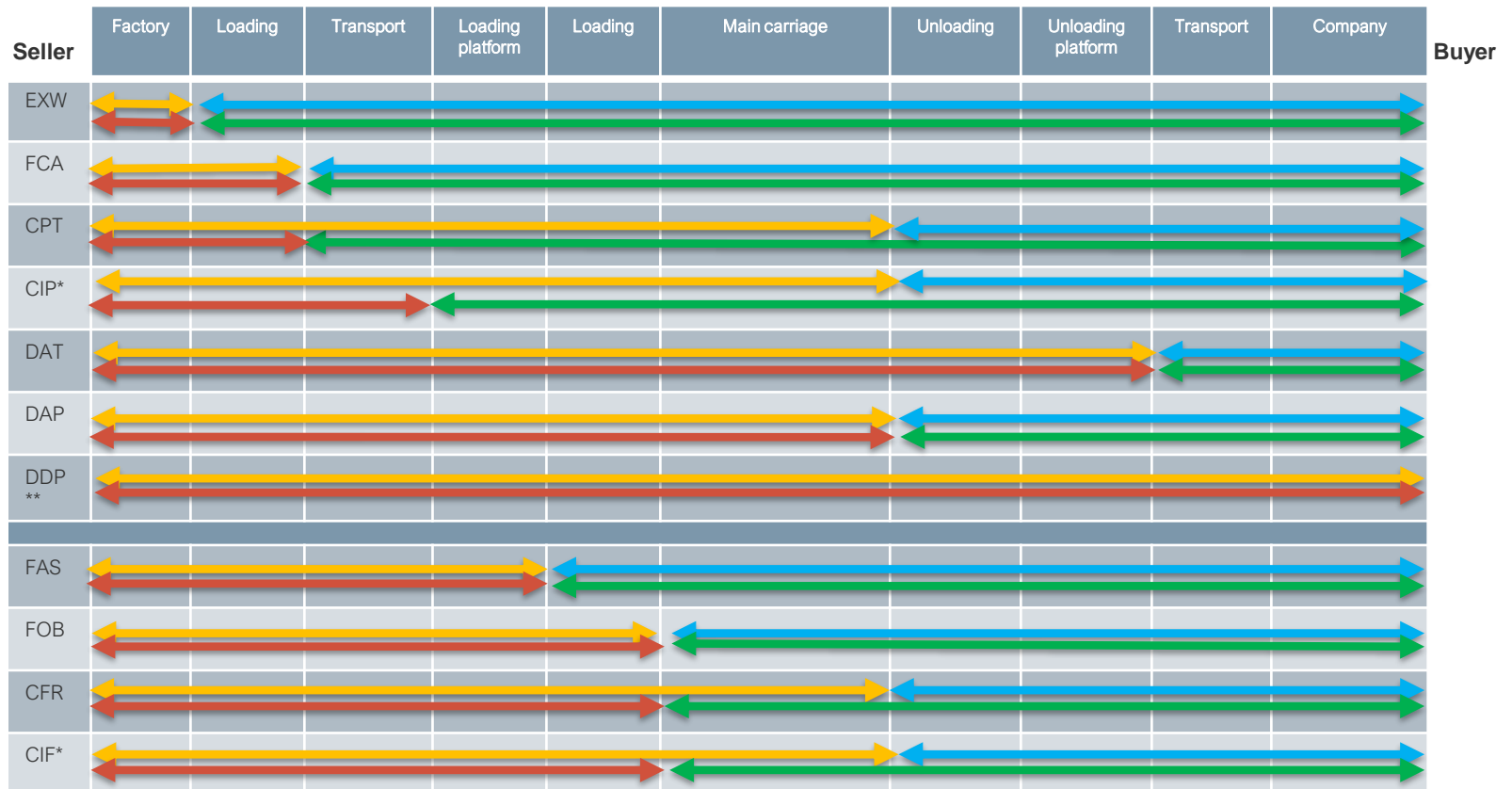
- Sea or inland waterway transport only
- Risk and cost shift to buyer at different places
- Delivery when goods are placed on board vessel at port of shipment (risk passes) BUT...
- Seller must contract and pay cost of transport to port of destination (no risk of transport)
- Seller may also deliver by procuring the goods already delivered as above (a «string sale»)
- Seller must contract for minimum cover insurance against buyer's transport risk
- Seller responsible for export where applicable
- Buyer responsible for import where applicable



Parties to clearly specify (i) port of shipment, and (ii) port of destination



# Incoterms 2010 Costs & Risks



Any mode of transport



Sea & inland waterway transport



\* Insurance for seller's account

\*\* With import clearance

**Costs**



Seller's account



Buyer's account

**Risks**



Incurred by seller



Incurred by buyer