

Holst, Newsletter



Incoterms 2020

On 1 January 2020, a new version of Incoterms rules came into force. The new version contains clarifications and modifications which your company should be aware of when applying the rules.

Incoterms rules, first published by the International Chamber of Commerce (ICC), are much applied in international trade as the rules, among others, govern where and how deliveries shall be made, transfer of risk, insurance, etc.

On 1 January 2020, existing Incoterms from 2010 were replaced by a newer version: Incoterms 2020.

Incoterms 2020 contains a name change to an existing term, and other updated Incoterms rules have been provided with modifications to insurance coverage as well as other general clarifications. According to ICC, the update has been made with the aim of making the rules more user-friendly.

The new version of Incoterms from 2020 contains the following shipping rules, which can be used regardless the mode of transportation used in the agreement:

- EXW (Ex Works)
- FCA (Free Carrier)
- CPT (Carriage Paid To)
- CIP (Carriage and Insurance Paid To)
- DAP (Delivered at Place)
- DPU (Delivered at Place Unloaded)
- DDP (Delivered Duty Paid)

In addition, Incoterms 2020 contains the following shipping rules, applicable for maritime transport:

- FAS (Free Alongside Ship)

- FOB (Free On Board)
- CFR (Cost and Freight)
- CIF (Cost Insurance and Freight)

The most significant changes are described below:

DPU (Delivered at Place Unloaded)

The DPU rule is new as it replaces the former DAT (Delivered at Terminal).

The new rule merely constitutes a change in name, as the contents remain the same. The change in name implies that the rule is changed in such way that "Terminal" has been omitted and replaced by "Place"; hence it becomes evident that the rule is not only applicable for deliveries to a terminal, but that deliveries can be made to any place. Now it also appears directly from the wording of the rule that the goods shall be unloaded, cf. "Unloaded". It should be noted that this was also the case with the former DAT rule, although it was not directly evident from the wording.

If DPU (Delivered at Place Unloaded) is agreed, seller is obliged to pay all freight costs until the goods have arrived at and unloaded at the place specified. Seller also bears the risk of the goods during transport and until unloading has been carried out at the agreed place. Seller has no obligation to take out insurance.

DPU is the only Incoterms rule requiring seller to unload the goods. Provided the parties do not want seller to bear the risk and costs in connection with the unloading of the goods, the DPA rule (Delivered at Place) should be agreed, which is less onerous on the part of seller.

When applying the DPU rule, place of delivery is stated in the agreement. We recommend that the place is specified as accurate as possible, for example: "DPU Holst, Advokater, Hans Broges Gade 2, DK-8100 Aarhus C, Incoterms 2020".

Minimum level insurance coverage in CIP (Carriage and Insurance Paid To) modified

The CIP rule (Carriage and Insurance Paid To) is applicable, regardless the mode of transportation used in the agreement. The rule implies that seller is obliged to pay freight costs until the goods have arrived at the place specified. Risk is transferred at the time where the goods are handed over to the carrier specified by seller. Nevertheless, seller is obliged to take out insurance covering buyer's risk in the event the goods become damaged or lost during transport.

When applying the CIP rule under Incoterms 2010, seller was to take out insurance covering the goods according to Institute Cargo Clauses (C).

If the parties agree on the CIP rule under Incoterms 2020, seller is obliged to take out insurance covering the goods according to the more comprehensive Institute Cargo Clauses (A).

Please note that the parties may separately agree on a lower or higher level of insurance coverage.

In addition, when applying the Incoterms rules, the differences in requirements for insurance coverage under CIP and CIF should be taken into consideration. As stated above, under Incoterms 2020, seller will be obliged to take out insurance pursuant to Institute Cargo Clauses (A), if CIP is agreed between the parties. On the other hand, if the parties have agreed on CIF (Cost Insurance and Freight), seller is only obliged to take out insurance covering the goods pursuant to the less comprehensive Institute Cargo Clauses (C).

FCA (Free Carrier) and Bill of Lading

Incoterms rule FCA is applicable for all modes of transportation and implies that seller bears all costs up and until the goods have been loaded onboard the first means of transport and that risk is transferred to buyer as of the moment the goods are loaded onboard the means of transport.

When applying this Incoterms rule, the parties have often found it necessary to issue an onboard bill of lading documenting that the goods have been loaded onboard the means of transport. The FCA clause in Incoterms 2020 now states that buyer and seller can agree that buyer must re-

quest his carrier to issue a bill of lading to seller after the goods have been loaded, and that seller is obliged to hand over bill of lading to buyer.

The option of applying the outlined procedure is voluntary and must be agreed between the parties in the agreement.

Other clarifications

As already mentioned, the new version of Incoterms contains several clarifications.

Among other things, it is now directly set out in Incoterms rules FCA (Free Carrier), DAP (Delivered at Place), DPU (Delivered at Place Unloaded) and DDP (Delivered Duty Paid) that transport does not necessarily have to be carried out by third parties, but can be carried out with own (i.e. seller's or buyer's) means of transport.

When do the new Incoterms 2020 apply?

Incoterms only apply if agreed between the parties to the agreement.

If a certain version of Incoterms is referred to in an agreement, Incoterms 2010 for example, then this version shall apply to the agreement. Modifications in consequence of the update to the 2020 version will therefore have no importance in such cases.

On the other hand, if no specific version of Incoterms is referred to in the agreement, it will be the most current version of Incoterms which will apply, i.e. Incoterms 2020.

Can we assist you?

Our experts are ready to assist you if you wish to learn more about the new Incoterms 2020, or if you require a review of the delivery terms in your agreements in order to clarify whether your company is applying the most beneficial delivery terms.



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