

INCOTERMS 2020: MAIN CHANGES

The new Incoterms 2020 are being drafted in the International Chamber of Commerce (ICC) as the body that publishes them since 1930. In the last decades, there has always been a revision of Incoterms Rules coinciding with the first year of each decade 1990, 2000, 2010, which is the latest version and currently in force.

Incoterms 2020 are being drafted by a Committee of Experts (Drafting Group) that for the first time include representatives from China and Australia, although most of the members are European. This Committee meets periodically to discuss the different issues that come from the 150 members (mainly Chambers of Commerce) of the International Chamber of Commerce.

The new Incoterms are expected to appear in the last quarter of 2019, simultaneously with the centenary of the International Chamber of Commerce, and will enter into force on January 1, 2020.

Some of the new issues and changes that would be evaluated to be included in the new edition of the Incoterms 2020 are:

Removal of Incoterm FAS

FAS (*Free Alongside Ship*) is an Incoterm very little used and, in fact, does not contribute almost anything to FCA (*Free Carrier Alongside*) that is used when the merchandise is delivered at the port of departure in the exporter's country. With FCA, the exporter can also deliver the goods at the dock, as in FAS, since the dock is part of the maritime terminal. On the other hand, if FAS is used and there is a delay in the arrival of the ship, the merchandise will be available to the buyer at the dock for several days and, on the contrary, if the ship arrives in advance, the merchandise will not be available for shipment. Actually, FAS is only used for the exportation of some commodities (minerals and cereals) and, in this sense, the Drafting Committee is evaluating the convenience of creating a specific Incoterm for this type of products.

Unfold FCA in two Incoterms

FCA is the most used Incoterm (about 40% of the international trade operations are carried out with this Incoterm) since it is very versatile and allows the delivery of goods in different places (seller's address, land transport terminal, port, airport, etc.) that, most of the times, are in the seller's country. The Committee is thinking about the possibility of creating two Incoterms FCA; one for terrestrial delivery and another for maritime delivery.

FOB and CIF for container shipping

The modification made in the edition of Incoterms 2010 that when the merchandise does not travel in a container, Incoterms FOB and CIF should not be used, but their counterparts FCA and CIP are not being applied by the vast majority of exporting and importing companies, nor by agents involved in international trade (freight forwarders, logistics operators, banks, etc.). This is due to the fact that FOB and CIF are two very old Incoterms (FOB was already used in England at the end of the XVIII century), and the International Chamber of Commerce has not made an effort to transmit this change adequately, which is very important, since approximately 80% of the world trade is made in a container. In the Incoterms 2020 version, it is possible that FOB and CIF can be used again for container shipping, as was the case with Incoterms 2000 and earlier versions.

Creation of a new Incoterm: CNI

The new Incoterm would be denominated as CNI (*Cost and Insurance*) and would cover a gap between FCA and CFR/CIF. Unlike FCA, which would include the cost of international insurance on account of the seller-exporter, and as opposed to CFR/CIF that would not include freight. As in the other Incoterms in "C," this new Incoterm would be an "arrival Incoterm," i.e., the risk of transport would be transmitted from the seller to the buyer at the port of departure.

Two Incoterms based in DDP

As with FCA, DDP (*Delivered Duty Paid*) also generates some problems due to the fact that the customs duties in the importing country are paid by the exporter-seller, regardless of the place of delivery of the goods. For this reason, the Drafting Committee is considering creating two Incoterms based on DDP:

- **DTP (*Delivered at Terminal Paid*)**: when the goods are delivered to a terminal (port, airport, transport center, etc.) in the country of the buyer, and the seller assumes the payment of customs duties.
- **DPP (*Delivered at Place Paid*)**: when the goods are delivered at any place other than a transport terminal (for example, at the buyer's address), and the seller assumes the payment of the customs duties.

In addition to the elimination and creation of some Incoterms, the Drafting Committee is analyzing other issues to include in the new version of the Incoterms 2020. Among them are:

- Transportation security.
- Regulations on transportation insurance.
- The relationship between the Incoterms and the International Sale Contract.