



Print ISSN: 1738-3110 / Online ISSN 2093-7717
 JDS website: <http://www.jds.or.kr/>
<http://dx.doi.org/10.15722/jds.20.04.202204.101>

The Comparative Study of Incoterms 2020 and 2010 in International Physical Distribution

Jin-Hwan, KIM¹

Received: February 12, 2022. Revised: March 21, 2022. Accepted: April 05, 2022.

Abstract

Purpose: This study is a comparative study to examine the differences between Incoterms 2010 and Incoterms 2020 through a study on the revision contents and conditions of Incoterms 2020. **Research design, data, methodology:** This study is composed of 5 chapters through literature study. Chapter 1 is an introduction, and Chapter 2 explains the significance and change of standard trading conditions. Chapter 3 compares Incoterms 2020 and 2010. Chapter 4 deals with major revisions and considerations of Incoterms 2020, and Chapter 5 mentions conclusions and implications. **Results:** In comparison with Incoterms 2020 and Incoterms 2010, first, the selection of the correct Incoterms rules was emphasized through the introduction; second, the division and connection between the sale contract and the ancillary contract were more clearly explained; and third, each Incoterms An explanatory note was presented by improving the existing guidance note for rules, and finally, the order of clauses within individual Incoterms rules was changed to further emphasize delivery and risk. **Conclusions:** This study pays attention to the understanding of academic content related to standard trade terms and conditions and how usefully it can be used in the business process of users in practice.

Keywords: Incoterms 2020, Incoterms 2010, Terms, Uniform, Selection, Distribution

JEL Classification Code: D30, F10, F23, L14, F40

1. Introduction

In this paper, the significance of the standardized transaction conditions promised to each other during a trade contract and the most representative incoterms among these standardized transaction conditions are examined. In particular, each condition of Incoterms is a three-letter code indicating the rules of execution between the parties in the contract for the sale of goods. This is an important content that you must be familiar with when making a trade contract as it clearly standardizes the contents of each condition.

In the process of international trade and international physical distribution, the transaction starts with agreement

on the terms and conditions of the trade contract between the trading partners. At this time, each condition is determined according to the interests of the seller and the buyer or the situation in which they have a superior position in the trade contract. In particular, incoterms are used along with the unit price presentation in the price condition, which is widely used in international trade because it stipulates the responsibilities and risks of both parties in a standardized form along with the convenience of transaction.

In international trade, commercial practices, including incoterms, have historically been widely used for the smooth process of trade, in order to prevent misunderstandings and different interpretations resulting from the application or

¹ Professor, Korea National Open University, South Korea. Email: jhkimkp@mail.knou.ac.kr

© Copyright: The Author(s)
 This is an Open Access article distributed under the terms of the Creative Commons Attribution Non-Commercial License (<http://creativecommons.org/licenses/by-nc/4.0/>) which permits unrestricted noncommercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

operation of different commercial practices by the parties. Therefore, by enacting unified and common denominator rules, it played a role in making trade between countries more smooth. In this respect, starting with the first enactment in 1936, the contents that have been generalized in the field are included as regulations almost every 10 years, and now Incoterms 2020 is widely used.

In this paper, we will examine the implications of Incoterms 2020, used in international physical distribution, by comparing them with Incoterms 2010. First, we will examine the significance and change of standard trading conditions, and examine the major revisions and conditions of Incoterms 2020. And I would like to compare Incoterms 2010 and Incoterms 2020. In conclusion, I would like to discuss the implications.

2. Uniform Rule for Transaction

2.1. The Significance

In trade transactions, customs regarding delivery place, delivery method, delivery proof, transportation/insurance contract, import/export customs clearance, risk and cost burden, etc. are encoded according to their characteristics (FOB, CIF, etc.) These are called trade terms.

In practice, trade transactions are made between parties in countries with different laws, systems, customs, etc., so there is always a high possibility of disputes over the terms of the sales contract. In addition, it is quite inconvenient to write all the obligations agreed upon between the parties in the contract every time the contract is concluded. Therefore, it would be very convenient if the buying and selling parties could confirm the contract contents by simply selecting a three-letter sign without specifying all the contract details in the contract.

Since these standard trading conditions also have different commercial practices and legal systems in each country or region of the parties, which may cause misunderstandings and disputes in interpretation, the International Chamber of Commerce (ICC) established Incoterms in 1936 to prevent disputes and resolve uncertainties. enacted.

The official name of Incoterms is 'International rules for the interpretation of trade terms'. It is abbreviated as 'International commercial terms', and Incoterms is a term derived from international commercial terms and synthesized. It refers to the international rules on the interpretation of trade terms established by the International Chamber of Commerce (ICC) that apply uniformly to international trade transactions.

The purpose of Incoterms is to unify the content of standard transaction terms used in each country to prevent

trade disputes that may occur between the contracting parties of a trade transaction, to minimize uncertainty due to differences in interpretation, and ultimately to prevent waste of time and money.

Each condition of Incoterms is a three-letter code indicating the rules of execution between the parties in the contract for the sale of goods. It is clearly standardized by condition.

However, this rule is only a worldwide interpretation standard for the obligations between the parties to the sale of goods and is not a compulsory rule, so it is arbitrarily applied by mutual agreement between the parties at the time of the contract. Therefore, if the transaction conditions in the contract are to be applied in accordance with this rule, it is necessary to have a compliant wording that Incoterms 2020 is applied.

Table 1: Comparison of conditions for enactment and amendment of Incoterms

Incoterms 2020	EXW FCA FAS FOB CFR CIF CPT CIP DAP DPU DDP	11
Incoterms 2010	EXW FCA FAS FOB CFR CIF CPT CIP DAT DAP DDP	11
Incoterms 2000	EXW FCA FAS FOB CFR CIF CPT CIP DEQ DES DDU DAF DDP	13
ncoterms 1990	EXW FCA FAS FOB CFR CIF CPT CIP DEQ DES DDU DAF DDP	13
Incoterms 1980	EXW FRC FOR/FOT FOA FAS FOB CFR CIF DCP CIP EXQ EXS DAF DDP	14
Supplement 1976	FOB Air	
Montreal Rules 1957	DAF DDP	
Incoterms 1953	Ex Works FOR/FOT FAS FOB C&F CIF DCP Ex Quay Ex Ship	
Incoterms 1936	Ex Works Free-FOR/FOT FAS FOB C&F CIF DCP Ex Quay Ex Ship Free Delivered	
Trade Terms 2nd ed. 1929	FOR/FOT FAS FOB C&F CIF Free Delivered	
Trade Terms definition 1923	FOR/FOT FOB CIF	

Note: complied with writer's own work

2.2. The Changes

Conventional official names are <International Rules for the Interpretation of Trade Terms> or <ICC Official Rules for the Interpretation of Trade Terms> However, when the International Chamber of Commerce published <Incoterms 2010>, it was named <ICC rules for the use of domestic and international trade terms> as a subtitle. are doing

This change is to clarify that Incoterms is also a 'domestic' transaction condition, such as the emergence of free trade zones such as the European Union in various parts

of the world and the expansion of customs-free zones worldwide. Likewise, the importance of borders in international transactions is gradually fading, and the difference between domestic and international transactions is decreasing. Considering the growing tendency to use Incoterms instead of standard trading conditions under the Commercial Code, it is emphasized that Incoterms can be used for domestic as well as international transactions.[2]

Incoterms, established in 1936, have been revised and supplemented in 1953, 1957, 1976, 1980, 1990, 2000, and 2010, respectively, according to changes in the trade environment. Draft 2017 in response to changes in the trade environment, such as increased interest in security during goods movement, the need for flexibility in insurance coverage according to the nature of goods and transport, and the need for bank bills of lading in transactions financed and subject to FCA rules ‘Incoterms 2020’, a revision of ‘Incoterms 2010’, which has been used for the past 10 years, was announced in September 2019, starting from the work, and has been implemented from January 1, 2020.

In the past, the interpretation of the trade terms of international trade was not established, so many obstacles and disputes occurred in the transaction. Accordingly, the International Chamber of Commerce and Industry collected and published definitions of each country's trade terms at the first general meeting in 1921. Then, in 1936, it was reorganized and a total of 11 types of international unification draft were established, and in 1953, 9 types of standard transaction conditions were stipulated again.

In 1967, the trade transaction conditions supplementing border delivery conditions and import conditions (customs duty) were reflected, and in 1976, air delivery conditions were enacted and supplemented. With the advent of multimodal transportation since the 1970s, it is inevitable to develop standard transaction conditions suitable for a new transportation method. The fare payment conditions, which were previously applied only to inland transportation, have been modified and supplemented so that they are also applicable to multimodal transportation.

In 1990, as electronic document exchange communication and international multimodal transport developed highly, many contents were revised and supplemented again.[3] As for the features revised in Incoterms 2010, the total conditions were reduced from 13 to 11. (Integrates DAF, DES, DEQ and DDU to reduce to DAT, DAP and DDP). The main feature of Incoterms 2020 is that DAT is changed to DPU and consists of 11 conditions.

Incoterms presents a divergence of risks and costs between buyers and sellers in terms of price and responsibility in trade transactions, and reflects recent shipping practices. There are many parts that correspond to the Convention on the International Sale of Goods.

2.3. Terms of Incoterms 2020

2.3.1. Composition of Incoterms 2020

In Incoterms 2020, a total of 11 rules (standard trading conditions) are specified, and each rule is symmetrically arranged with 10 headings about the obligations of the trading party to the other party.

Table 2: Obligations of trading parties stipulated in each condition of Incoterms 2020

A. THE SELLER' OBLIGATIONS	B. THE BUYER' OBLIGATIONS
A1 General obligations	B1 General obligations
A2 Delivery	B2 Taking delivery
A3 Transfer of risks	B3 Transfer of risks
A4 Carriage	B4 Carriage
A5 Insurance	B5 Insurance
A6 Delivery/transport document	B6 Proof of delivery
A7 Export/Import clearances	B7 Export/Import clearances
A8 Checking/packaging/markings	B8 Checking/packaging/markings
A9 Allocation of costs	B9 Allocation of costs
A10 Notices	B10 Notices

Note: complied with writer's own work

In addition, 11 rules of Incoterms 2010 were classified into two groups. The first group can be used for all modes of transport such as sea transport, air transport, and land transport. In particular, it can be used for multimodal transportation, and several transportation methods are used sequentially together, but since it can be used even if it is not multimodal transportation, it can be said that this is a condition of any transportation method for convenience.

The second group can only be used for single sea or inland water transportation, and it can be said that it is only a condition for sea transportation for convenience in Korea, which does not have inland water transportation.

This change of classification standard puts the conditions regardless of the transportation method in the foreground and induces the use of FCA · CPT · CIP, etc. This is to solve the problem of using the marine transport-only terms such as FOB, CFR, and CIF incorrectly.

Table 3. Incoterms 2020 Classification

Rules for Sea and Inland Waterway Transport	• FAS(Free Alongside Ship) • FOB(Free on Board) • CFR(Cost and Freight) • CIF(Cost, Insurance and Freight)
Rules for Any Mode or Modes of Transport	• EXW(EX Works) • FCA(Free Carrier) • CPT(Carriage Paid To) • CIP(Carriage and Insurance Paid To) • DAP(Delivered at Place) • DUP(Delivered at Place Unloaded) • DDP(Delivered Duty Paid)

Note: compiled with writer's own work

2.3.2. Conditions available for single or multiple modes of transport

(1) EXW (Ex Works): Factory delivery

This transaction condition is a condition under which the seller can take over the goods at the seller's premises or other designated place (factory, workshop, warehouse, sales floor, etc.) without customs clearance for export. In this case, the seller is not obligated to load the goods into the vehicle of the buyer, and the buyer has to bear the responsibility for the export procedure directly or indirectly.

Under these conditions, the risk transfers when the goods are delivered at the designated place of delivery, and the seller bears the costs until the goods are delivered. In addition, the seller bears the cost of inspecting the goods (quality, quantity, volume, weight) necessary for storage at the buyer's discretion, but the buyer bears the cost of inspection of the goods, including pre-shipment inspection.

It should be noted that the seller has no obligations in relation to the transport contract and insurance contract, which are important to the bank, and the seller cooperates with the buyer in relation to permission, approval and customs clearance, but the buyer bears the costs and risks. This condition is a minimum obligation to the seller.

(2) FCA (Free Carrier): Delivery

This condition is that the seller delivers the goods cleared for export to the carrier designated by the buyer at the designated place in the country of export.

In the case of delivery on the premises of the seller's premises, from the time of loading on the means of transport provided by the carrier or its agent, and when delivering at any other location, it is loaded on the means of transport of the seller at the designated place and arrives at the designated place and loaded onto the means of transport of the seller. From the time it is placed at the disposal of the carrier or a third party appointed by the buyer, loaded and ready for unloading, the risk and costs shall pass to the buyer.

The costs borne by the seller include packaging costs and transportation costs to a designated place, and the seller must complete the procedures for export-related license

approval and customs clearance, etc. and the buyer for import-related license approval customs clearance, etc.

In the contract of carriage and insurance, the seller is not obligated (a contract of carriage may be concluded if it is customary to conclude a contract of carriage at the buyer's request and expense, and such request can be rejected at any time), and the buyer It must be concluded from a designated place at the expense of one's own expense, and although there is no obligation to conclude an insurance contract, it must be concluded for one's own benefit.

In Incoterms 2020, contrary to existing Incoterms rules, the buyer must instruct his carrier to issue a bill of lading to the seller if the parties have agreed in the contract. In the case of a letter of credit settlement, the seller is sometimes required by the bank to submit a bill of lading with on board notation. It is possible to prove that the product has been delivered to the company through the issuance of a received bill of lading (Received B/L), but there is a problem that it is impossible to prove whether it was shipped.

Accordingly, Incoterms 2020 imposed an obligation to instruct the carrier to issue a bill of lading with on board notation on the B6 delivery/transport document describing the buyer's obligations.

(3) CPT (Carriage Paid to): Delivery

This condition is a transaction where the seller pays the cost of transportation to the named destination in the country of import, but the risks and additional costs for the goods are transferred from the seller to the buyer when the goods are delivered to the original carrier (the carrier under contract with the seller) in the country of export.

The risk for the goods passes from the seller to the buyer when the seller delivers the goods to the carrier on the agreed date or time and to the agreed point at the named place.

In addition, the cost to be borne by the seller under this condition is 'All expenses up to the time of delivery of the goods + the cost of loading the goods + all unloading costs that fall under the seller's burden under the transport contract + transport costs + all costs under the transport contract + the cost of passing through a third country (customs duties and taxes)', and the cost to be borne by the buyer is 'all expenses related to the goods after delivery + all expenses not covered by the seller during the period of transportation according to the transportation contract + unloading expenses + cost of transit to a third country', etc.

With respect to the contract of carriage and insurance, the seller must conclude a contract of carriage at its own expense to the agreed point of the designated destination under normal conditions, and neither the seller nor the buyer are obligated to enter into the contract of insurance. Nevertheless, the buyer must conclude an insurance contract for his own benefit.

If customary or at the buyer's request, the seller shall, at its own expense, provide without delay the usual transport documents to the agreed destination, which transport documents shall, if issued in a negotiable form and in multiple originals, be in the tradition of those originals. provided to the Buyer, and the Buyer must accept the transport documents if they are in conformity with the contract.

(4) CIP (Carriage and Insurance Paid to): Delivery of transportation and insurance premiums

This condition is that the seller pays the cost of transport and insurance of the goods to the named destination in the country of importation, but all risks and additional costs for the goods pass to the buyer when the goods are delivered to the original carrier (the carrier under contract with the seller) in the country of export. is a transaction condition.

Under this condition, the seller bears 'costs borne by the seller in CPT + insurance premiums under the insurance contract', etc., and the buyer pays 'all costs related to the goods + transportation period not covered by the seller according to the transport contract from the time the goods are delivered' All expenses, charges, unloading, etc. + cost of transit to a third country not included in the contract of carriage must be borne.

In relation to the contract of carriage and insurance, these conditions require the seller to conclude the contract of carriage at his own expense to the agreed-upon destination in the usual terms. The seller must also conclude an insurance contract at its own expense and provide the buyer with an insurance policy or other proof of insurance coverage.

In particular, in relation to insurance contracts, in Incoterms 2020, it is not a limited security condition by the C terms of the Association of Cargo Conditions (ICC) applied in the existing rules, but a wide range of collateral according to the A terms of the ICC or similar terms and conditions. It was stipulated in the A5 insurance clause, which is the obligation of the seller, that it must be insured as a condition.

In addition, if customary or at the request of the buyer, the seller shall, at its own expense, provide without delay the usual transport documents to the agreed destination, which, if issued in multiple originals in a circulated form, Traditions are provided to the buyer, who must accept the transport documents if they conform to the contract.

(5) DAP (Delivered at Place): Delivery to destination

This condition provides that the seller has placed at the disposal of the buyer at the designated place of destination in the country of importation or, if any point within the designated place of destination has been agreed upon, the

goods, which have not cleared import clearance at that point, have been unloaded from the means of transport on which they have arrived, i.e., ready for unloading.

These are the terms of the transaction when delivered. The risk for the goods passes from the seller to the buyer when the goods are delivered. "DAP Busan port pier 1, Busan, Korea. Incoterms 2020" is used in conjunction with a place.

Under this condition, the seller is responsible for 'costs including transportation costs until delivery of the goods at the designated place without unloading + customs fees required for export + costs for passing through a third country prior to delivery (duties, taxes, charges)', etc. and the buyer bears 'all costs related to the goods after delivery + customs clearance costs related to imports + follow-up costs', etc.

The cost of unloading does not require the seller to unload the goods from the arriving means of transport; however, if the seller incurs charges for unloading at the place/destination of delivery under his contract of carriage, the seller shall pay such costs unless otherwise agreed between the parties. There is no right to a separate reimbursement from the buyer.

In relation to the contract of carriage and insurance, the seller must conclude a contract of carriage to a designated place or arrange such carriage at its own expense, and neither the seller nor the buyer are obligated to enter into the contract of insurance.

In addition, the seller must, at its own expense, provide the buyer with the delivery instructions and the usual transport documents necessary for the buyer to receive the goods, and the buyer must accept the documents provided.

(6) DPU (Delivered at Place Unloaded):

This is the condition of the transaction under which the seller delivers the goods to the buyer when the goods are placed at the disposal of the buyer at the named place of destination or, if agreed, at any point within the named place of destination, unloaded from the arriving means of transport at that point.

In this condition, the seller assumes all risks and costs of transporting the goods to the named destination and unloading the goods from that place, and is the only Incoterms rule that requires the seller to unload the goods at the destination. Therefore, the seller should check whether the conditions are favorable for the seller to unload at the designated place of the importing country, and if the conditions are not favorable, it is effective to use the DAP.

In this condition, the seller pays 'costs including transportation costs until delivery of the goods in the unloaded state at the designated place + customs clearance costs required for export + cost of transit through a third country prior to delivery (duties, taxes, charges)' The buyer

bears 'all costs related to the goods after delivery + customs clearance costs related to imports + follow-up costs', etc.

In relation to the contract of carriage and insurance, the seller must conclude a contract of carriage to a designated place or arrange such carriage at its own expense, and neither the seller nor the buyer are obligated to enter into the contract of insurance.

In addition, the seller must, at its own expense, provide the buyer with the delivery instructions and the usual transport documents necessary for the buyer to receive the goods, and the buyer must accept the documents provided.

(7) DDP (Delivered Duty Paid): Delivery of duty payment

This is a transaction condition in which the seller delivers the goods to the buyer without unloading them from all means of transport arriving at the designated destination of the importing country after customs clearance for import. The risk for the goods passes from the seller to the buyer when the goods are delivered.

Under this condition, the seller bears 'costs including transportation costs to the time of delivery + customs fees required for export and import + expenses for transit through a third country prior to delivery (duties, taxes, charges) + transportation costs for importation to the final destination'; The buyer bears all costs related to the goods after delivery.

For unloading costs, if the seller incurs costs for unloading at the place/destination of delivery under his contract of carriage, the seller has no right to separately recover such costs from the buyer unless otherwise agreed between the parties.

Seller must carry out all necessary procedures for export, import and customs clearance to third countries, and Buyer must, at Seller's request and where applicable, cooperate in obtaining import licenses and necessary approvals for import, at Seller's expense and risk, if applicable. only be obligated to do.

In relation to transportation and insurance contracts, the seller must conclude a contract of carriage to the designated destination (final destination) at its own expense, and neither the seller nor the buyer is obligated to enter into an insurance contract.

2.3.3. Conditions available for sea transport and inland water transport

(1) FAS (Free Alongside Ship): Delivery on the side of the ship

This condition is a condition that the seller clears the goods for export and delivers them at the ship's side (quay or barge) at the designated loading port.

The junction of risk transfer and cost burden is when the goods are placed on the ship's side of the ship at the

designated loading place at the port of loading at an agreed time., export licenses, export customs fees, etc., and the buyer's expenses include pre-shipment inspection fees, on-board loading costs, warehouse storage/arrangement costs, freight and insurance for sea transportation sections, landing costs, import customs fees, etc.

In relation to the contract of carriage and insurance, the seller has no obligation to bear any burden, and the buyer concludes the contract of carriage at his own risk and expense and is not obligated to enter into the contract of insurance. In other words, the conclusion of the insurance contract is at the discretion of the buyer.

(2) FOB (Free on Board): FOB delivery

This condition is a condition under which the seller bears the obligations until the goods are shipped to the vessel designated by the buyer.

The junction of risk transfer and cost burden is when the ship is shipped to the designated ship, and the seller's cost can be viewed as 'FAS cost + loading cost'.

The seller has no obligation to the contract of carriage and insurance, and the buyer is obliged to conclude a contract for carriage of the goods from the designated port of shipment at his own expense and is not obligated to conclude the contract of insurance. In other words, the conclusion of an insurance contract after the risk has been transferred from the seller to the buyer is at the discretion of the buyer. Nevertheless, the buyer must conclude a cargo insurance contract for his own benefit.

(3) CFR (Cost and Freight): Delivery including freight

This condition is that the seller delivers the goods on board the ship's deck at the port of shipment within the date or time agreed upon to the buyer and bears the freight to the port of destination, but the ordinary costs and risks after loading the goods on board the buyer are transferred to the buyer.

In this condition, the seller bears 'cost under FOB conditions + sea freight (including the cost of passing through a third country according to the contract of carriage)', and the buyer pays 'all costs (barge fee, Landing fee including wharf usage fee) + cost of transit to a third country not included in the transportation contract'.

In this condition, the seller is obliged to conclude a contract of carriage under normal conditions up to the port of destination at its own expense, and neither the seller nor the buyer has any obligation to conclude an insurance contract. In other words, the conclusion of the cargo insurance contract after the risk has been transferred from the seller to the buyer is at the discretion of the buyer. Nevertheless, the buyer must conclude a cargo insurance contract for his own benefit.

(4) CIF (Cost, Insurance and Freight): Delivery including freight and insurance

This condition is that the seller delivers the goods on board the ship's deck at the port of shipment within the date or time agreed upon to the buyer and pays the freight and insurance necessary to carry the goods to the port of destination, but at the normal costs and risks after loading the goods on board the ship. is a condition transferred to the buyer.

In this condition, the seller bears 'costs under CFR conditions + premiums under the insurance contract', and the buyer pays 'all costs related to the goods from the time the goods are delivered + all costs not covered by the seller

under the transport contract (Landing fee including barge fee and wharf usage fee) + cost of transit to a third country not included in the transport contract'.

In relation to the contract of carriage and insurance, under these conditions, the seller is obliged to conclude a contract of carriage and insurance under normal conditions up to the designated port of destination at its own expense, and the seller provides the buyer with an insurance policy or other evidence of insurance coverage.

In addition, the seller shall, at its own expense, provide without delay the usual transport documents to the agreed destination. The buyer must accept the transport documents if they are in accordance with the contract.

Table 4: Main contents of Incoterms 2020 (Rules for Sea and Inland Waterway Transport)

Terms Division	FAS	FOB	CIF	CFR
Risk transfer (A)	When the goods are delivered to the wharf of the designated port of loading or to the side of the ship by barge	When the goods are loaded onto the ship at the designated port of shipment	When the goods are loaded onto the ship at the designated port of shipment	When the goods are loaded onto the ship at the designated port of shipment
Cost transfer (B)	The seller bears various costs up to A (risk transfer) (However, including customs duties)	The seller bears various costs up to A (risk transfer) (However, including customs duties)	The seller bears various expenses until loading + freight and insurance to the destination port + unloading expenses in case of liner	The seller bears various expenses until loading + freight to the destination port + unloading costs in the case of liner ships
Remarks	• Export Customs: Seller • Import customs clearance: Buyer	• Export Customs: Seller • Import customs clearance: Buyer	• Export Customs: Seller • Import customs clearance: Buyer	• Export Customs: Seller • Import customs clearance: Buyer

Note : complied with writer's own work

Table 5: Main Contents of Incoterms 2020 (Rules for Any Mode or Modes of Transport)

Terms Division	Risk transfer (A)	Cost transfer (B)	Remarks
EXW	When the goods are delivered so that the buyer can dispose of them at the seller's workplace	The seller bears various costs up to A (risk transfer)	Import/export customs clearance/approval: Buyer's duty
FCA	When the seller delivers the goods cleared for export to a carrier designated by the buyer	The seller bears various costs up to A (risk transfer)	"
CPT	When the goods are delivered to the first carrier in the custody of the carrier who will transport them to the designated destination within the agreed date or period, or if there is a subsequent carrier,	Seller pays FCA conditions + shipping cost to the designated destination (transportation cost in the concept of multimodal transport)	"
CIP	"	Seller pays CPT conditions + cargo insurance premium to the designated destination	"
DAP	When it is placed at the disposal of the buyer on the arriving means of transport and ready for unloading at the designated place of destination;	The seller bears various costs up to A (risk transfer)	"
DPU	When it is placed at the disposal of the purchaser of the designated purpose deed in the state of being unloaded from the arriving means of transport;	"	"
DDP	When the seller delivers the goods to the destination point in the designated importing country within the agreed date or period and delivers them at the discretion of the buyer	" (However, including customs duties)	Import/export customs clearance/approval: Seller's duty

Note : complied with writer's own work

3. Incoterms 2010 vs Incoterms 2020

'Incoterms 2000', which was the standard for trade contracts from the 2000s to 2010, was classified into a total of 13 clauses of 4 types. Looking at the four basic types, first, condition E (EXW), where the seller delivers the goods to the buyer on the premises of the premises, and the buyer bears all shipping costs, and condition F, which requires the seller to deliver the goods to a carrier appointed by the buyer (FCA, FAS, FOB), Condition C (CFR, CIF, CPT, CIP) where the seller must conclude a contract of carriage but not responsible for any additional costs resulting from events occurring after shipment (CFR, CIF, CPT, CIP), and finally, the seller carries the goods to the destination. There are D conditions (DAF, DES, DEQ, DDU, DDP) where you must bear all the costs and risks required to do so.

'Incoterms 2010', newly announced by the International Chamber of Commerce, has been changed from 13 items in 4 categories to 11 items in 2 categories. The biggest change among them is the change of condition D. Only the DDP item is used among the five items of the delivery conditions currently in use, the remaining four items such as DAF, DES, DEQ, and DDU have been deleted, and new conditions such as 'DAT' and 'DAP' have been newly established.

The DAT (Delivered at Terminal) delivery condition applied to sea transportation has strengthened the existing DEQ to be a condition suitable for container transportation, and the DAP (Delivered at Place) delivery condition applied to all types of transportation is the existing DES, DAF, and DDU.

Incoterms 2010 more clearly supplemented and revised the rules for electronic communication, safety issues, chain sales, and domestic and international trade for smooth trade transactions between the parties.

Since then, Incoterms 2020 has been revised focusing on how to improve the presentation method of Incoterms in order to induce users to use the correct Incoterms rules in sales contracts. Therefore, compared to Incoterms 2010, first, the selection of the correct Incoterms rules was emphasized through the introduction, second, the division and connection between the sales contract and ancillary contracts were explained more clearly, and thirdly, each Incoterms rule was explained. Explanatory Note was presented by improving the existing Guidance Note, and finally, the order of clauses within individual Incoterms rules was changed to further emphasize delivery and risk.

4. Major revisions and Considerations in Incoterms 2020

4.1. Major revisions

4.1.1. Changes in the order of provisions in individual rules

Unlike the previous Incoterms 2010, in Incoterms 2020, the order of clauses was placed first with important

regulations. For example, the existing A4/B4 Delivery/Taking delivery and A5/B5 Transfer of risks were first placed in A2/B2 and A3/B3 in Incoterms 2020, respectively. However, in the case of the cost clause, although it is a very important clause, it is placed in A9/B9 for the purpose of providing a one-stop list.

4.1.2. Changed the name of the existing DAT condition to DPU condition

In Incoterms 2010, the name of DAT (Delivered at Terminal) was changed to DPU (Delivered at Place Unloaded). In the case of the existing DAT condition, there was a location limitation of a terminal, but in the case of the DPU condition, a wider use is possible because the delivery place or destination is not limited to the terminal.

4.1.3. CIP's request for maximum indemnity

In the case of CIP conditions, in the seller's collateral standard, the ICC (A) condition, which is the seller's maximum guarantee, is mandatory in Incoterms 2020, unlike the minimum guarantee conditions in Incoterms 2010. However, in the case of CIF, since it is still widely used in the maritime trade of primary products, the same minimum insurance obligation was maintained.

4.1.4. Bill of lading with on board notation required under FCA conditions

In the case of shipping by sea under the terms of FCA, the buyer or issuing bank may require a bill of lading (shipped B/L or on board B/L) with on board notation. For this purpose, Incoterms 2020 requires A6 In clause /B6, a new provision has been made for the issuance of bills of lading with on board notation at the buyer's expense. In the previous FCA terms in Incoterms 2010, the seller did not need to issue a bill of lading with on-board notation because delivery of the goods was completed before on-board shipment. Upon receipt of the document, it must be submitted to the buyer.

4.1.5. Acceptance of carriage by the contracting party's own means of transport

In terms of FCA and D (DAP, DPU, DDP), the seller and the buyer were allowed to transport using their own means of transport. In the case of FCA condition, the buyer can use his own means of transport to deliver the goods from the designated place to his place of business. so that it could be transported.

4.1.6. Insert security-related obligations

In consideration of the fact that new customs and shipping practices are being established or improved due to

security issues in preparation for terrorism, etc. after the implementation of Incoterms 2010, specific security-related obligations are specified in the security-related transport (A4) and customs (A7) clauses. Also, security-related expenses are stipulated in A9/B9 (cost sharing).

4.2. Practical considerations

4.2.1. Clarification of application of Incoterms 2020

If you wish to apply the Incoterms 2020 rules to your contract, you must make that clear in the contract. For example, it is necessary to ensure accuracy by inserting the phrase “Incoterms 2020” in the fixed transaction terms such as ‘FCA Busan CY Incoterms 2020’.

4.2.2. Selection of appropriate Incoterms terms

The selection of Incoterms should be suitable for the goods and the method of transportation, and above all, it should be suitable for who, among the seller or the buyer, intends to bear the obligation to enter into a contract of carriage or insurance contract. For example, when goods to be sold are loaded into containers and transported by multimodal transport or expedited by air transport, FCA or CPT/CIP should be used instead of FOB or CFR/CIF.

If the buyer is unable to conclude a contract of carriage on his/her own because he/she is not familiar with the port or airport situation of the exporting country, CPT, CIP, CFR, or CIF should be used instead of FCA or FOB. CIF should be avoided.

4.2.3. Accurately specifying the designated place or designated port

It is desirable to specify the designated place, designated port, designated destination, designated destination port, etc. as specifically and precisely as possible. It is advisable to specify the exact point within such a place or destination so as to avoid doubts or controversy. For example, “FCA 38 Cours Albert 1er, Paris, France Incoterms 2020.”

This is because, if the named place is EXW, FCA, DAT, DAP, DDP, FAS, FOB, it is the place of delivery and risk transfer, and in the case of CPT, CIP, CFR, CIF, it is the designated destination.

4.2.4. Application ranking of Incoterms 2020

If the parties to the contract agree to apply Incoterms as standard terms and conditions, Incoterms shall take precedence over CISG or national contract law. However, since Incoterms 2020 is a voluntary rule, if there is any other agreement between the parties, such agreement shall prevail. In addition, mandatory rules of domestic law applied as applicable law take precedence over Incoterms 2020.

However, in practice, the rules of Incoterms 2020 rarely conflict with such compulsory rules.

4.2.5. Application of Incoterms Rules

It is possible for the parties to modify the Incoterms rules as needed, but there is a risk that unintended consequences may occur in this case. Therefore, if the parties wish to change the cost-sharing rules of Incoterms 2020, they must indicate whether they intend to change the risk transfer point.

5. Conclusions and Implication

It is important to note that Incoterms first stipulates the items that are common in the field and sets them as the standard for interpretation, and then uses them by the parties involved in the trade. In trade transactions and international distribution of goods, the reality is that international trading partners face disputes and misunderstandings due to differences in various economic and commercial customs and practices of each country.

Incoterms is the unified rule established by the International Chamber of Commerce to overcome these problems and apply standardized rules to trade transactions regardless of the parties to the transaction, transaction location, and product. Incoterms are not compulsory regulations and take effect when the parties to the transaction agree on the principle of private autonomy of Incoterms.

In terms of content, Incoterms set the obligations between seller and buyer, and are rules related to delivery, risks, costs, and incidental obligations. classified by conditions. In addition, risk and cost are inseparable in most cases, only condition C is slightly different, and condition C can be seen as the condition that the risk ends at the place of shipment but the cost extends to the destination.

Incoterms 2020 suggests that each condition of Incoterms has a tag, which is understood to mean refraining from using a cost breakpoint. It is not a fork of risk. In addition, the Incoterms version must be written together with the address. And it implies the contents of the recommended conditions for use. Regarding import and export customs clearance, it is recommended that exporters use DAP or DPU rather than DDP conditions when customs clearance is impossible at the import location, and use FCA instead of EXW when it is difficult for the importer to clear customs for export. Also, in a situation where the forwarding agent is in charge of almost all tasks, it is recommended to use FCA instead of FOB, CPT instead of CFR, and CIP instead of CIF.

And in the process of international physical distribution, it is emphasized that the conditions for sea and multimodal transport are clearly understood and can be used in the field.

References

- Baluna, R. N. (2012). International Rules for Merchandize Delivery – Delivery Conditions INCOTERMS and FAFTD the title. *Annals of Eftimie Murgu University Resita, Fascicle II, Economic Studies*, 2012(1), 187-196.
- Bergami, R. (2006) The Link between Incoterms 2000 and Letter of Credit Documentation requirement and payment risk, *Journal of Business Systems, Governance and Ethics*, 2006(1), 49-58.
- Bergami, R. (2013). Managing INCOTERMS 2010 Risks: Tension with Trade and Banking Practices. *International Journal of Economics and Business Research*, 6(3), 324-338.
- Baslangic S.Ö. (2015). *Main Features of Changes in Incoterms 2010*, *Manas Journal of Social Studies*, 4(5), 73-84.
- Căruntu, C., & Lăpăduși, M.L. (2010). Complex Issues regarding the Role and Importance of Internationally Codified Rules and Incoterms. *Petroleum - Gas University of Ploiesti Bulletin, Economic Sciences Series*, 62(1), 98-110.
- Dugan, S., & Talmaciu, I. (2012). Influence of the Changes Brought by Incoterms 2010 to International Trade. *Ovidius University Annals, Series Economics Sciences*, 12(1), 41-46.
- Fahmy, H. (2019). Classifying and modeling nonlinearity in commodity prices using Incoterms, *The Journal of International Trade & Economic Development*, 28(8), 1019-1046.
- Hien N., Laporte G., Roy J., (2009). Business environment factors, Incoterms selection and export performance, *Operations and Supply Chain Management*, 2(2), 63-78.
- Ioan, P., Gabriela, B. M., & Mihai, P. D. (2013). Global Logistics, Competitiveness and the New INCOTERMS. *Annals of the University of Oradea, Economic Science Series*, 22(1), 159-166.
- Ivetić, J. (2020). Macrologistic performance and logistics commitments in sales contracts in international supply chains. *International Journal of Logistics Management*, 31(1), 59-76.
- Johnson, W.P. (2014). Analysis of Incoterms as usage under articles 9 of the CISG. *University of Pennsylvania Journal of International Law*. 35(2), 379-430.
- Kim, J.H., & Yoo, K.H (2017). Trade Practice and other attachments. Korea National Open University Publishing Co., Chapter 5, 61-79.
- Kim, S. M. (2019). A Study on the Major Changes in the Incoterms® 2020. *Kyungpook National University Law Institute*, 2019(67), 259-287.
- Kumar, Sameer. (2010). Logistics Routing Flexibility and Lower Freight Costs through Use of Incoterms. *Transportation Journal (American Society of Transportation & Logistics Inc)*, 49(3), 48-56.
- Kwak, S. Y. (2020). A Study on the Characteristics of Major Revised Contents and the Cautions for its Practical Use of Incoterms 2020. *Korean Trade Insurance Society*, 21(1), 201-214.
- Suraraksa J., Amchang C., & Sawatwong N. (2020). Decision-making on Incoterms 2020 of automotive parts manufacturers in Thailand. *The Journal of Asian Finance, Economics and Business*, 7(10), 461-470.
- Stapleton, D. M. Pande, V., & O'Brien, D. (2013). EXW, FOB OR FCA? Choosing the Right INCOTERM and Why It Matters to Maritime Shippers. *Journal of Transportation Law, Logistics & Policy*, 81(3), 227-248.
- Stojanović, Đ., & Ivetić, J. (2020). Possibilities of using Incoterms clauses in a country logistics performance assessment and benchmarking. *Transport Policy*. 2020(98), 217-228.
- Unal, T. D., & Metin, I. (2021). Do the Factors Affecting INCOTERMS® Selection Differ for Exporters and Importers? *A Fuzzy Analytical Hierarchy Process (FAHP) Application, LogForum*, 17(2), 306-307.
- Vogt, J., & Davis, J. (2020). The State of Incoterm® Research. *Transportation Journal (Pennsylvania State University Press)*, 59(3), 304-324.
- Yaakub S., Szu L.Y., Arbak S., Halim N.A. (2018). Incoterms selection factors and its effect on export performance, *Journal of Advanced Research in Business, Marketing and Supply Chain Management*, 2(1), 9-18.