

Logistics and Global Supply Chain

Incoterms® 2010

AES Direct

ATA Carnets

Duty Drawback

The Alabama International Trade Center

The University of Alabama

Incoterms address the legal transfer of title for goods.

1. True
2. False



Incoterms can be used for the transfer of both goods and services.

1. True.
2. False.

Incoterms® 2010

What are Incoterms® ?

- ◆ **International Commercial Terms (Incoterms)**
- ◆ **Published by the International Chamber of Commerce**
- ◆ **A set of standardized guidelines that parties in different countries (and different legal environments) use for structuring the logistical elements of selling and buying goods.**
- ◆ **The emphasis is on delineating (in a sales transaction of tangible goods) the risks and costs between the seller and the buyer via determining a specific place and time for delivery of the goods.**
- ◆ **For decades, the ICC just revised Incoterms as needed (as in early 80's replacing C & F with CFR) but has been on a 10 year cycle since 1990, then 2000, and now the 2010 revision.**

Incoterms® 2010

What are Incoterms® ?

- ◆ **International Commercial Terms (Incoterms)**
- ◆ **With the 2010 version, the word “Incoterms” becomes a registered trademark of the International Chamber of Commerce in Paris.
(And I understand they intend to aggressively protect this mark!)**
- ◆ **And for the first time these terms are now referred to as RULES**
- ◆ **Will be in some 36 (or more) languages**

Incoterms® 2010

What are Incoterms® ?

- ◆ **Abbreviated in a three letter format, *and the abbreviations are always in English.***
- ◆ **Typically quoted with a specific geographic location of delivery, as Ex Works Seller's Plant (500 Pine St, Montgomery, AL, USA) or can be as simple as FOB Any USA Port (but usually best to be specific as you can).**

Incoterms® 2010

Why revise Incoterms beginning 2011?

- **Desire by the ICC to have a universal set of shipping terms that could be used for domestic and well as international shipments.**
- **In the USA, the national council that oversees the Uniform Commercial Code recommended the deletion of the section addressing shipping terms (the so-called FOB terms),**
- **Also in the USA, the adoption of Sarbanes-Oxley requiring greater verification (and liability to senior managers/board of directors) that financial reporting is accurate and in regulatory compliance -- AND INCOTERMS CAN IMPACT REVENUE AND PAYABLES RECOGNITION**
- **Increased inter-modalism in international trade and the need for a broader scope of shipping terms to address land/ocean/air movements.**

Incoterms® 2010

Why are Incoterms relevant (and for whom)?

- ◆ Provides a clear, universal set of standards for multi-lingual, multi-cultural, “multi-legal” usage -- very practical and based more on business practices than legal principle.
- ◆ Specifies which party -- either the seller or the buyer -- has the obligation for carriage (transport), insurance, related costs and (trade) compliance.
- ◆ Now a set of rules that are designed for *both* domestic and international transactions.

Incoterms® 2010

What Incoterm Rules Don't Do :

By themselves, they do not address transfer of legal title of the goods.

Rather, title passage is usually addressed in the sales/purchase contract or, if not, by default it is addressed by sovereign (local) law. Legal ownership passage usually requires two events:

Delivery + Payment = Title Transfer

Incoterms® 2010

What Incoterm Rules Don't Do :

- ◆ **By themselves, Incoterms are not law and do NOT automatically apply to every sales transaction of tangible goods.**
- ◆ **The parties must specify that their transaction is subject to Incoterms® 2010.**
- ◆ **If silent, the default in the USA is the UCC for domestic transactions.**
- ◆ **Or, for cross border transactions, the (USA) default may be the UCC or, in some instances, the UN Convention on the Sale of Goods (CISG) to which the USA is a party (similar to treaty status).**

Incoterms® 2010

What Incoterm Rules Don't Do :

- ◆ By themselves, Incoterms do not determine revenue or expense recognition in financial statements. GAAP in the USA, the Int'l Financial Reporting Standards (IFRS) and other national accounting standards address this issue -- - however, when and where delivery occurs is often an integral part of determining revenue/expense recognition in the sale of tangible goods (other elements which may affect revenue recognition include control over the goods, who has ultimate risk for the goods, seller buy-back provisions and such).

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What Incoterm Rules Don't Do :

- ◆ **Incoterms are not Payment Terms (although payment timing is commonly tied to the event of delivery).**
- ◆ **Payment Terms + Incoterms = Terms of Sale**

F Terms – General Considerations

- ◆ Main Carriage contracted by buyer
- ◆ Less work for seller, but less control over documents
 - For documentary payment terms
 - For US Exporters, EEI (Electronic Export Information) filings are typically done by forwarder
 - Compliance – Documentation required
- ◆ For US Importers, F Terms facilitate ISF (Importer Security Filing – 10+2) reporting

C Terms – General Considerations

- ◆ Most advantageous for seller
- ◆ Main Carriage contracted by seller
 - Most control over documents
 - More work for exporter than F Terms
- ◆ Under C Rules, buyers are responsible for the goods during the main carriage even though the seller has made the arrangements for main carriage
- ◆ US Importers must rely on their supplier's forwarder to submit 10+2 documentation and US Importers at risk during main carriage

D Terms – General Considerations

- ◆ “Arrival” Terms
- ◆ Main Carriage contracted by seller
- ◆ Seller responsible for goods until delivered (“arrived”) to specified location on the buyer’s side
 - Not particularly advantageous if you’re looking for early revenue recognition

D Terms

– General Considerations Continued

- ◆ For US Exporter – more work than the F Terms and greater risk than the C Terms
 - Seller agrees to deliver or make arrive at named location on the buyer's side
 - Potential for demurrage charges
- ◆ For US Importers, again, the 10+2 filings are handled by the vendor's forwarder
- ◆ Not the best term to use for L/C transactions, since the BL or AWB do not show actual arrival

Incoterms 2010 Chart

Any Mode Terms	Control of Costs	Main Carriage Cost	Risk of Costs
Departure, Freight Collect			
EXW (Ex-Works)	Buyer	Buyer	Buyer
Main Carriage Freight Collect			
FCA (Free Carrier)	Buyer	Buyer	Buyer
Main Carriage Freight Prepaid			
CIP (Carriage & Insurance Paid To)	Seller	Seller	Buyer
CPT (Carriage Paid To)	Seller	Seller	Buyer
Arrival, Freight Prepaid			
DAT (Delivered at Terminal)	Seller	Seller	Seller
DAP (Delivered at Place)	Seller	Seller	Seller
DDP (Delivered Duty Paid)	Seller	Seller	Seller

Incoterms 2010 Chart

Sea, Inland Waterway Transport Terms	Control of Costs	Main Carriage Cost	Risk of Costs
Main Carriage Freight Collect			
FAS (Free Alongside Ship)	Buyer	Buyer	Buyer
FOB (Free on Board)	Buyer	Buyer	Buyer
Main Carriage Freight Prepaid			
CFR (Cost and Freight)	Seller	Seller	Buyer
CIF (Cost, Insurance, and Freight)	Seller	Seller	Buyer



Any Mode Terms

- ◆ EXW
- ◆ FCA
- ◆ CPT and CIP
- ◆ DAP, DAT and DDP

EXW (Ex-Works)

- ◆ **Any mode** term
- ◆ Least work for exporters/sellers
 - Popular among new exporters
- ◆ Seller makes goods available for pickup (including agreed packaging)
 - Is the packaging suitable for international shipments?

EXW (Ex-Works) Continued

- ◆ Buyer responsible for loading goods at EXW place
 - How often does this actually happen?
 - If the seller is loading, who takes responsibility if damage occurs?
- ◆ Buyer responsible for export and compliance documentation
 - Seller must provide company info to buyer's forwarder and how does seller feel about that
- ◆ All of this makes EXW less desirable

FCA (Free Carrier)

- ◆ Recommended as substitute for EXW
- ◆ Can be used with **any mode** of transport
- ◆ Seller must deliver the goods to the carrier provided by the buyer at a named point on the seller's side
 - If no point is named the seller can choose a point best suited for them - the named point can be the seller's facility
- ◆ Seller is responsible for:
 - Packaging, Loading, Pre-carriage (if any – none if at seller's dock), Export Clearance, and Compliance Documentation

FCA (Free Carrier) Continued

- ◆ Seller not responsible for unloading on buyer's side
- ◆ Buyer responsible for everything else after loading
- ◆ Insurance not specified
- ◆ Freight Collect – Buyer pays

CPT (Carriage Paid To)

- ◆ Can be used with **any mode** of transport
- ◆ Well suited for multimodal transport
- ◆ Seller must clear goods for export including export compliance documentation
- ◆ Seller delivers goods, packaged for shipment, to carrier for transport to a named destination place on the buyer's side

CPT (Carriage Paid To) Continued

- ◆ Seller pays all transportation costs to specified delivery destination – main carriage
 - Risk passes to buyer when goods are delivered to carrier
- ◆ Buyer typically responsible for unloading at place of destination
- ◆ Insurance not specified
- ◆ Freight Prepaid – Seller pays – Need to incorporate freight charges into invoice to buyer

DDP (Delivered Duty Paid)

- ◆ **Any Mode** (arrival) term
- ◆ Not suitable for domestic shipments
- ◆ Seller arranges to pay for:
 - Transportation, Foreign duties, Export and Import Licenses, Export Compliance Documentation
- ◆ Seller clears goods through Customs in foreign country for delivery to a named place on the buyer's side
 - May be foreign exchange risk

DDP (Delivered Duty Paid) Continued

- ◆ Risky for exporter — dealing with foreign customs
- ◆ Buyer typically responsible for unloading at the point of delivery
- ◆ Insurance not specified
- ◆ Freight Prepaid — Seller pays — Need to incorporate freight and insurance charges into invoice to buyer
- ◆ An importer under DDP is not necessarily the importer of record since they are not clearing goods through Customs — this may affect Duty Drawback

Sea and Inland Waterway Transport Terms

◆ FAS

◆ FOB

◆ CFR

◆ CIF

FAS (Free Alongside Ship)

- ◆ **Sea and Waterway** Term
- ◆ Usually used for charter party transactions (not liner containerized shipments)
- ◆ Seller delivers the goods, commodity, or product, packaged or prepared for export alongside a vessel designated by the buyer at a named place/port on the seller's side
- ◆ Seller responsible for export clearance and export compliance requirements

FOB (Free on Board)

- ◆ **Sea and Waterway** Term (not to be confused with UCC term FOB)
 - Incoterms 2010 will be used for both domestic and international transactions
- ◆ Seller delivers the goods packaged and prepared for export, loaded on-board a vessel chosen by the buyer, at a port on the seller's side
- ◆ Seller is responsible for:
 - Export compliance requirements, Export Clearance, and Pre-Carriage

CFR (Cost and Freight)

- ◆ **Sea and Waterway** Term
- ◆ Seller delivers goods, packaged for shipment, to carrier for transportation to a named destination port on the buyer's side
 - Risk passes to buyer when goods delivered to carrier
- ◆ **Seller:**
 - Chooses vessel, Pays costs for main carriage, and handles export clearance and compliance requirements

Which Incoterm is recommended as a substitute for EXW?

1. FOB
2. FCA
3. FAS
4. SOL



Filing Export Documents using *AESDirect*

What is *AESDirect*?

1. A program for Direct access to AES
2. Just another government Acronym
3. Tool that processes EEI's to the AES
4. No clue – why do you think I'm here today anyway?

What is *AESDirect*?

- ◆ *AESDirect* is a free filing tool that processes Electronic Export Information (EEI) to the Automated Export System (AES).
- ◆ Export shipments that previously required a paper Shippers Export Declaration (SED) must now be filed electronically to the Automated Export System. Once the EEI pertaining to your individual shipments is processed by AES and accepted, an Internal Transaction Number (ITN) will be generated. This number is a proof of filing and must be posted on your loading documents prior to exportation. At the port of export, a Customs and Border Protection Officer may verify the authenticity of the ITN.
- ◆ A missing, or invalid Proof of Filing Citation may lead to delays, fines and/or penalties.

***AESDirect* Online Training**

Training is Conducted by Flagship Customs Service Inc, the company that developed and operates *AESDirect.gov*
- Every Wednesday at 2Pm EST – *AESDirect* Online Training - \$50

EXPORT TRAINING VIDEOS

The US Census Bureau, in conjunction with the International Trade Administration, released a collection of videos to enhance education on the export training process.

A Complete Overview of AESDirect (4 videos)

The videos are available at:

<http://www.census.gov/foreign-trade/aes/exporttraining/videos/>

Methods to Use *AESDirect* to file your Electronic Export Information (EEI) to the Automated Export System (AES)

- ◆ ***AESDirect*** -- Online Internet Filing System
 - FREE -- At No Cost to Users
 - Allows users to file EEI one-at-a-time on the Internet

- ◆ ***AESPCLink*** -- PC-based Filing Software
 - FREE -- At No Cost to Users
 - A software component of *AESDirect*
 - Allows you to key and save EEI without being connected to the Internet
 - Software installs directly to your PC or your Network Server
 - Automatically links to a company's *AESDirect* Filing Account on the Internet

- ◆ ***AESWebLink* and EDI Upload** -- Other Ways to Transmit to *AESDirect*
 - FREE -- At No Cost to Users
 - Connect your Web application to *AESDirect* using *AESWebLink*
 - Connect your in-house computer system to *AESDirect* using EDI Upload

How to Register for an AES*Direct* Account

- ◆ **Submit Registration Form – pick Account Administrator**
- ◆ **Review, Verify and Confirm Information Submitted**
- ◆ **Create Username and Password**
- ◆ **Download User Guide/ Sample Shipment**

The **User Guide** provides all the information necessary to get acquainted with the system. Also available is a **Sample Shipment**.

- ◆ **Take Certification Quiz**

Before you can start filing your EEI, you must pass a Certification Quiz. It is composed of 30 multiple-choice questions. You may take the quiz as many times as necessary to pass.



ATA Carnets

What is an ATA Carnet?

1. International customs document used for temporary duty free imports
2. It's French – I failed that class in high school
3. Customs document that allows for duty free entry in every country

ATA Carnets

- ◆ The "Admission Temporaire - Temporary Admission", or the ATA Carnet, is an international customs document which may be used for the temporary duty free importation of merchandise. This is in-lieu-of the usual customs documents required for entry.
- ◆ The carnet serves as a guarantee against the payment of duties which may become due if the merchandise is not re-exported.
- ◆ A carnet is valid for one year, however, you may make as many trips as desired during the period the carnet is valid.
- ◆ Carnets are "Merchandise Passports." They are international customs documents that simplify customs procedures for the temporary importation of various types of goods.

Who issues ATA carnets?

- ◆ Domestic associations in participating countries that are members of the International Bureau of Chambers of Commerce issue carnets to residents to be used abroad. The United States Council for International Business <http://www.uscib.org> (USCIB) has been designated by the U.S. Customs Service as the United States issuing and guaranteeing organization. A fee is charged by the Council for its service.

The U.S. Council for International Business

- ◆ **The U.S. Council for International Business**
- ◆ <http://www.uscib.org/> or <http://www.merchandisepassport.org/>

ATA Carnet Department

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New York,
NY 10036

Telephone: (866) 786-5625 or
(800) 5DUTYFREE (538-8937)

Fax: (212) 944-0012

Email: atacarnet@uscib.org

Benefits of Carnets

- ◆ Carnets save time, effort, and money. They:
- ◆ May be used for unlimited exits from and entries into the U.S. and foreign countries (Carnets are valid for one year),
- ◆ Are accepted in over 75 countries and territories,
- ◆ Eliminate value-added taxes (VAT), duties, and the posting of security normally required at the time of importation,
- ◆ Simplify customs procedures. Carnets allow a temporary exporter to use a single document for all customs transactions, make arrangements in advance, and at a predetermined cost,
- ◆ Facilitate reentry into the U.S. by eliminating the need to register the goods with U.S. Customs at the time of departure.
- ◆ (Be aware that Carnets do not exempt holders from obtaining necessary licenses or permits.)

Merchandise Covered by Carnets

- Virtually all goods, including commercial samples, professional equipment, and items for tradeshow and exhibitions, including display booths.
- Ordinary goods such as computers, tools, cameras and video equipment, industrial machinery, automobiles, gems and jewelry, and wearing apparel.
- Extraordinary items, for example, Van Gogh Self-portrait, Ringling Brothers tigers, Cessna jets, Paul McCartney's band instruments, WorldCup class yachts, satellites, human skulls, and the New York Philharmonic.
- Carnets DO NOT cover: consumable or disposable goods (e.g., food and agriculture products) giveaways, or postal traffic.

Carnet Countries

Brazil and Indonesia is coming soon						
Albania	China	Guam	Liechtenstein	Montenegro	Slovakia	United Arab Emirates
Algeria	Corsica	Hong Kong	Lithuania	Morocco	Slovenia	Ukraine
Andorra	Curacao	Hungary	Luxembourg	Namibia	South Africa	United Kingdom
Antarctica	Croatia	Iceland	Macao, China	Netherlands	Spain	United States
Aruba	Cyprus	India	Macedonia	New Caledonia	Sri Lanka	Wallis & Futuna Islands
Australia	Czech Republic	Iran	Madagascar	New Zealand	St. Barthelemy	
Austria	Denmark	Ireland	Malaysia	Norway	St. Martin, French side	
Balearic Islands	Estonia	Isle of Man	Malta	Pakistan	St. Pierre	
Belarus	European Union	Israel	Martinique	Poland	Swaziland	
Belgium	Finland	Italy	Mauritius	Portugal	Sweden	
Bosnia & Herzegovina	France	Ivory Coast	Mayotte	Puerto Rico	Switzerland	
Botswana	French Guiana	Japan	Melilla	Reunion Island	Tahiti	
Bulgaria	Germany	Jersey	Mexico	Romania	Taiwan*	
Canada	Gibraltar	Korea	Miquelon	Russia	Tasmania	
Canary Islands	Greece	Latvia	Moldova	Senegal	Thailand	
Ceuta	Guadeloupe	Lebanon	Monaco	Serbia	Tunisia	
Chile	Guernsey	Lesotho	Mongolia	Singapore	Turkey	



Customs Duty Drawback Program

The Duty Drawback program allows you to...?

1. draw money from Duties paid on imports
2. file a reimbursement claim for paid import duties
3. assign duties and responsibilities related to Export Compliance
4. draw your duties on an Etch-a-sketch

What is Customs Duty Drawback

- ◆ Drawback is the refund of Customs duties, certain Internal Revenue taxes, and certain fees that have been paid to U.S. Customs at the time of importation.
- ◆ The refund is administered after the exportation or destruction of either the imported/substituted product or article that has been manufactured from the imported/substituted product.
- ◆ Drawback is recognized as the most complex commercial program the U.S. Customs Service administers.

Kinds of Drawback

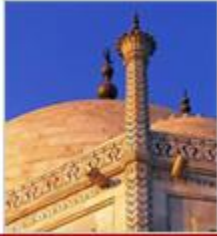
- ◆ **Unused Merchandise:**
Merchandise is eligible for this program as long as it was not used while in the country after importation. There are two ways in which you may claim merchandise under this drawback, they are direct identification basis or by substitution privilege.
- ◆ **Rejected Merchandise:**
Rejected merchandise drawback is a cost recovery tool pertaining to duties paid on products that at the time of importation did not conform to previous samples, pre-determined specifications, or merchandise shipped without the consent of the consignee, or otherwise defective.
- ◆ **Manufactured Drawback:**
The manufacturing drawback is by far the most common form. Imported merchandise is eligible for this type of drawback if it has been used in the manufacturing of secondary goods which are then exported. The substitution privilege also applies under this form of drawback.
 - **Direct Identification Manufacturing:** If articles manufactured in the United States with the use of imported merchandise are subsequently exported or destroyed then drawback not exceeding 99 percent of the duties paid on the imported merchandise may be recoverable.
 - **Substitution Manufacturing:**
Both imported merchandise and any other merchandise of the same kind and quality are used to manufacture articles, some of which are exported or destroyed before use, then drawback not exceeding 99 percent of the duty which was paid on the imported merchandise may be payable on the exported/destroyed articles.
- ◆ There are several options for corporations who want to take advantage of the drawback process. They include packaged software, a customs broker, outside consultants, or a full time drawback specialist.

Claim Period

- ◆ Unused merchandise drawback - within three years from the date of import.
- ◆ Rejected merchandise drawback - within three years after it was originally released from Customs custody.
- ◆ Manufacturing drawback - exported within five years from the date of import.

Payment of Drawback Claims

- ◆ When a claim has been determined to be complete and satisfies all drawback requirements, the drawback amount is verified and the entry liquidated for the refund due.
- ◆ Drawback is payable to the exporter/destroyer unless the right to claim drawback has been transferred to a third party through a Certificate of Delivery and/or Manufacture.



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