

INCOTERMS® 2020

The drafting process

MENA Regional Launch Summit

5 December 2019

Istanbul, Turkey

OUR VISION

We enable business worldwide
to secure peace, prosperity
and opportunity for all.

OUR MISSION

**We make business work for
everyone, every day, everywhere.**

Outline

1. History

2. Revisions

3. Drafting Process

What are the Incoterms® rules?

- The Incoterms® rules explain a set of the most commonly used 3-letter trade terms (FCA, DAP, CIF, etc.) reflecting B2B practice in contracts for the sale of goods, both domestic and international
- The rules are standard contractual language to be incorporated into B2B contracts for the sale of goods

Where do Incoterms® rules come from?

- ICC first published the Incoterms® rules in 1936, after a series of research studies.
- The purpose was to provide a set of international rules for the interpretation of the most commonly used trade terms in foreign trade.
- Updated periodically to reflect changes in practice:
1953, 1967, 1976, 1980, 1990, 2000, 2010, and 2020



THE HISTORY OF THE Incoterms® RULES



1923

ICC conducts first study of most commonly used trade terms, highlighting disparities of their interpretation.



1928

Second **Incoterms**® rules study expands scope to improve clarity of trade terms in over 30 countries.



1936

ICC publishes first edition of the **Incoterms**® rules featuring six trade terms relating to carriage by sea.



1953

Three new non-maritime terms address the rise of transport of goods by rail in the wake of World War II: **FOR** (Free on Rail), **FOT** (Free on Truck) and **DCP** (Delivered Costs Paid).



1976

Fourth edition of the **Incoterms**® rules announces new terms to end confusion relating to the interpretation of **FOB** (Free on Board) for air transport.



1967

ICC launches third edition of the **Incoterms**® rules including two new terms: **DAF** (Delivery at Frontier) and **DDP** (Delivery in Country of Destination).



1980

FRC (Free Carrier) term and new documentation processes introduced to address rise of containerisation.



1990

ICC unveils **Incoterms**® 1990, a complete revision of the 1953 version reflecting contemporary practices in international trade and use of intermodal transport. **FRC** becomes **FCA**. Changes also contain provisions for the use of electronic messages.



2000

Publication of **Incoterms**® 2000 sees major changes to the "Delivery" section, which made the term **FCA** (Free Carrier) far clearer and easier to use.



2010

ICC releases **Incoterms**® 2010, reducing the number of terms from 13 to 11 by inclusion of two new rules for use irrespective of the agreed mode of transport. Other modifications to reflect contemporary trade landscape comprises measures to enhance cooperation among parties and adaptations regarding commodities sales and domestic transactions.

Drafting process – Drafting Group

- ❑ 2.5-year process
- ❑ First, ICC Secretariat assembles a small global Incoterms® 2020 Drafting Group
 - Traders and lawyers from 4 continents
 - Australia, China, Turkey, UK, France, Germany, United States
 - Some from Incoterms® 2010 Drafting Group, some new
 - Next time: Need more women!

Drafting process – Network

❑ Seeking global business practices so new rules reflect reality

❑ Views provided by

- ICC network of 90+ national committees
- ICC Commission on Commercial Law and Practice
- ICC Commission on Customs and Trade Facilitation
- selected specialized organizations, e.g., FIATA
- selected experts, e.g., trade finance experts
- Experts convened in Beijing and London for face-to-face consultations

Drafting process – Initial questionnaire

□ Initial questionnaire focused attention on selected issues:

- Cargo security
- VGM
- Containers
- Transfer of title
- FAS
- Commodities
- EXW/DDP
- Insurance
- Other issues?

Drafting process – Drafts + Substantive notes

- ❑ First draft based on replies from initial questionnaire. Substantive note prepared by Drafting Group to explain decisions made in first draft and raise additional issues for thought. Draft 1 and note circulated to network for comment.
- ❑ Second draft based on feedback, and substantive note updated. Draft 2 and note circulated to network for comment.
- ❑ Thousands of comments received from around the world.
- ❑ Each comment and suggestion reviewed and discussed by Drafting Group at face-to-face meetings of several days each.

Drafting process – Introduction

- ❑ Introduction drafted by Special Advisor to Drafting Group, and revised in discussion with Drafting Group.
- ❑ Circulated for comments to network, along with updated Explanatory Notes for each Incoterms® 2020 rule.
- ❑ Once text finalized, Drafting Group worked with artist and ICC designers on illustrations for Introduction and Explanatory Notes.

Drafting process – Approvals + launch

- ❑ Final text approved by ICC Commission on Commercial Law and Practice and then adopted by ICC Executive Board.
- ❑ Translations, mobile app, ICC Academy online course developed.
- ❑ Worldwide launch and training campaign across ICC network.

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Thank you for your attention.