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Think-easy Guide for Exports and Imports

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Many thanks to Cherryl, Jenny, Valérie and her team.

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Main features of Incoterms® 2010

Incoterms® 2010 take into account :

- The new security program : the party who pays customs clearance must also pay the cost of the new security-related document *(exit summary declaration or entry summary declaration).*

» **Slide 5.10 "ECS-ICS programmes"**

- The evolution of electronic procedures : the latest version gives equal importance to communication in electronic form as in paper form, as long as both parties are in agreement or where this is common practice.
- The new Insurance cover clauses : 2009 Revised Institute Cargo Clauses which offer three levels of cover : A (the broadest cover) - B (covers only specifically identified risks, such as theft) - and C (minimal cover, general damage sacrifice for example). Under CIF/CIP rules, the seller has a duty to the buyer to provide a minimum level of cargo insurance (C level) covering at least 110 % of the value of the goods.

Incoterms® 2010 also confirm certain key issues and introduce new innovations :

- Maritime rules : the ship's rail is no longer recognized as the point of delivery. Point of delivery is now : on board.
- EXW represents the seller's minimum obligation in "domestic trade" ie where no customs formalities are required.
- FCA "seller's premises" : should be the seller's minimum obligation in international trade.
- Packaging is always at the seller's cost and risk, unless otherwise agreed. The seller must package and label the goods in the manner appropriate for their transportation.
- Variants of Incoterms® rules. Alterations are allowed but parties are well advised to clearly specify such alterations. Example : *Ex-tank for chemical products, CPT unloaded, CIP with A clause insurance, DDP without VAT…*
- Incoterms® 2010 seek to avoid paying twice for THC (*terminal handling charges*) by clearly allocating such costs between seller and buyer. If the seller incurs costs under his contract of carriage related to unloading at the port of destination, he cannot recover such costs from the buyer unless previously agreed with the buyer.
- Each rule sets out the information that each party must provide. If either party fails to fulfil its obligations, then it is held responsible for any resulting risk of loss of or damage to the goods as well as any additional costs incurred.

Limits of Incoterms®

- Incoterms® do not govern every issue of the contract : they are simply one condition of sale among many others.
- Transfer of ownership of goods, commercial or technical dispute, consequences of a breach of contract… These types of issues are usually covered in separate clauses in the contract of sale.

Be sure that your business partner speaks the same language as you : Incoterms® 2010 rules.

Any variant must be clearly set out.

Incoterms® do not solve everything.

Know clearly what the contract of carriage covers : ask the forwarder and give sufficient notice to your partner (seller or buyer).

Comply with obligations to give notice of shipment or arrival.

GOOD TO KNOW

***Incoterms® of C group** : in order to avoid misunderstandings or disputes, clearly specify both critical points ie point of delivery and place of destination. Example with an export from Spain : "CIP New York airport from Barcelona airport".*

***The pitfalls of FOB** : the seller must load onto a vessel contracted by the buyer. The seller is thus dependent on the goodwill of his buyer. When payment is made under documentary credit, non-compliance with the latest date of shipment results in a banking discrepancy.*

Solutions to the FOB :

• change methodology and sell under FCA rule with presentation of related transport document,

• if paying by documentary credit, book carriage yourself or sell under "FCA THC prepaid",

• the best solution is to negotiate C rules (CPT/CIP) which gives the seller control of loading on board and of transport document.

- Official publication ICC nr 715 available on www.incoterms.com

Import customs clearance

1

Goods must be conveyed and presented to the Customs office of entry without delay.

It is possible to clear goods at another customs office under a transit procedure : goods are then transported under customs control from one customs office to another, together with a declaration for transit (T1 document).

Goods can also be customs cleared in the factory under a simplified procedure.

2

Draw up or have drawn up by a customs broker, a customs declaration under the EORI *(Economic Operator Registration)* number of the importer, accompanied by the required documents :

- supplier's invoice, packing list, transport document, other documents relating to product and/or origin.

3

A data-processing declaration is lodged in order to assign a customs treatment.

Otherwise the goods are placed in temporary storage.

4

Goods may be subject to customs control

5

- Goods can be placed under a suspensive customs arrangement or can be released for free circulation.
- Free circulation : after payment of duties and taxes (cash or deferred payment) and application of external trade measures. Some EU States accept reverse-charge of V.A.T.

6

- Goods must be removed once the release is given by the customs.
- Otherwise they are placed in a temporary storage and may be sold at auction within a specified time-limit.

» ***Import customs declaration in annex***

» ***Slide 5.10 "ECS-ICS programmes for security purpose"***

Documentary collection - *Cash Against Documents (CAD)* or *Documents Against Payment (D/P)*

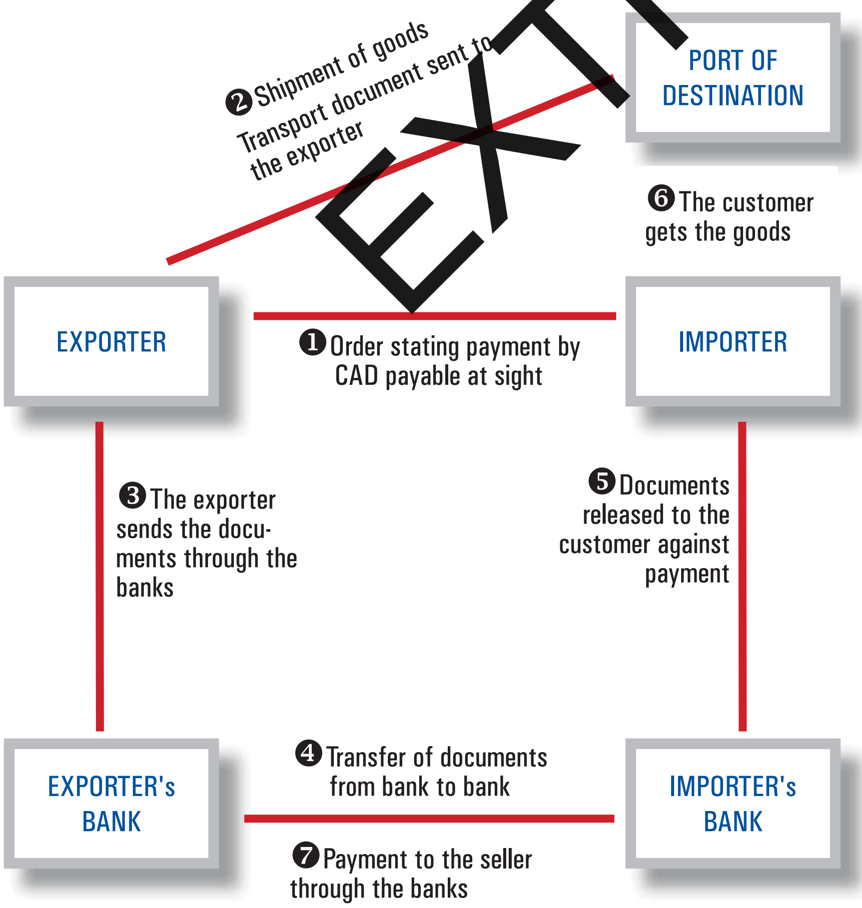
Definition

Documentary collection is a very simple mechanism based on the fact that the importer needs original documents to pick up and clear the goods. In this case, the exporter retains control of the goods until he has received payment :

- The exporter ships the goods and then assembles the relevant commercial documents such as the invoice, packing list, transport document, etc. Then he passes them on to the bank of the importer instead of sending them directly to the buyer as per usual.
- The bank will only release the documents once the customer has paid.

Mechanisms

Cash against document, by maritime transport



ADVANTAGES

- *Easy and inexpensive mechanism.*
- *For the seller : in case of non-payment, the goods will not be released.*
- *For the buyer : payment will be released on evidence of transport.*

DISADVANTAGES

For the seller :

- *Not suitable with short transit times (air, road transport) as goods arrive before documents.*
- *Not adapted with Incoterms® rules allowing the customer to get the goods before payment (EXW, FCA at seller's premises, door-to-door supplies).*
- *Risk that the importer does not release documents... and does not pay.*
  Political risk is not covered either.

For the buyer :

- *Risk that the goods shipped may not be as indicated on the invoice and the transport document.*
  You can ask for an inspection prior to shipment.

TIPS FOR THE EXPORTER

- *Ask the forwarder to consign the transport document (mainly bill of lading) to the importer's bank, so that the bank keeps control of the goods until payment.*
- *If possible, refuse "Documents against Acceptance" of a draft payable at maturity date. Draft accepted does not mean draft paid...*
- *... unless the draft is guaranteed by a bank until the end of the operation.*

- The banking practice relating to collection arrangements is standardized in ICC's Uniform Rules for Collections (ICC Publication 522) - www.iccbooks.com