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MASTER'S THESIS

A BROAD APPROACH TO INCOTERMS: CHANGES BROUGHT WITHIN INCOTERMS 2020 AND COMPARATIVE ANALYSIS OF THEIR APPLICATION UNDER SEVERAL JUDGEMENTS

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İZMİR-2023

DECLARATION

I hereby declare that this master's thesis titled as "A Broad Approach to Incoterms: Changes Brought within Incoterms 2020 and Comparative Analysis of Their Application under Several Judgements'' has been written by myself in accordance with the academic rules and ethical conduct. I also declare that all materials benefited in this thesis consist of the mentioned resourses in the reference list. I verify all these with my honour.

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ABSTRACT
Master's Thesis

A Broad Approach to Incoterms: Changes Brought within Incoterms 2020 and Comparative Analysis of Their Application under Several Judgements

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With the development of international trade, the problem of determining the legal rules to be applied in disputes between the parties has emerged. Incoterms rules have been created in order to make these practices uniform and to eliminate the differences in interpretation between the buyer and the seller. Incoterms rules have been revised periodically in order to meet the innovations brought by the increasing trade and the needs of the period.

Incoterms are internationally accepted standards defined by the International Chamber of Commerce (ICC) that identifies the responsibilities of sellers and buyers in sales contracts, depending on the way the goods are delivered. These rules are not binding unless specified in the sales contract by the buyer and seller, but will be legally binding if the parties add a certain incoterms to the sales contract.

In this study, the concept of Incoterms, its historical development and legal aspects are examined. The 2020 rules are given in detail and the innovations brought in 2020 compared to 2010 are discussed. In addition, a comparative analysis of the decisions given by the courts in different countries regarding the Incoterms rules and their legal aspects has been evaluated.

Keywords: International Trade, Sales Contract, Incoterms, Legal Aspects, Delivery Point, Responsibilities of Importer and Exporter

ÖZET

Yüksek Lisans Tezi

A Broad Approach to Incoterms: Changes Brought within Incoterms 2020 and Comparative Analysis of Their Application under Several Judgements / Incoterms'e Geniş Bir Yaklaşım: Incoterms 2020 Kapsamında Getirilen Değişiklikler ve Çeşitli Yargılar Altında Uygulamalarının Karşılaştırmalı Analizi

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Uluslararası ticaretin gelişmesi ile birlikte taraflar arasındaki uyuşmazlıklarda uygulanacak olan hukuki kuralların belirlenmesi problemi ortaya çıkmıştır. Bu uygulamaları yeknesaklaştırmak, alıcı ve satıcı arasındaki yorum farklılıklarını ortadan kadırmak amacı ile Incoterms kuralları oluşturulmuştur. Incoterms kuralları, artan ticaret ile getirilen yenilikler ve dönemin ihtiyaçlarını karşılayabilmek için belirli aralıklara revize edilmiştir.

Bu kuralların, alıcı ve satıcı tarafından satış sözleşmesinde belirtilmediği takdirde bağlayıcılığı yoktur ancak taraflar satış sözleşmesine belirli bir incoterms'ü eklediği takdirde hukuki açıdan bağlayıcı olacaktır.

Bu çalışmada Incoterms kavramı, tarihsel gelişimi ve hukuki açıdan bağlayıcılığı incelenmiştir. 2020 kuralları detayları ile verilmiş ve 2010 ile kıyaslandığında 2020'de getirilen yenilikler ele alınmıştır. Ayrıca incoterms kuralları ve yasal bağlayıcılığı ile ilgili farklı ülkelerdeki mahkemeler tarafından verilen kararların karşılaştırmalı analizi yapılmış ve hukuki yönleri değerlendirilmiştir.

Anahtar Sözcükler: Uluslararası Ticaret, Satış Sözleşmeleri, Uluslararası Teslim Şekilleri, Yasal Yönü, Teslimat Noktası, İhracatçı ve İthalatçının Sorumlulukları

A Broad Approach to Incoterms: Changes Brought within Incoterms 2020 and Comparative Analysis of Their Application under Several Judgements

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LIST OF ABBREVIATIONS

B/L	Bill of Lading
EU Brussels I Regulation	Regulation (Eu) Of the European Parliament and of The Council
CFR	Cost and Freight
CFS	Container Freight Station
CIF	Cost Insurance and Freight
CIP	Carriage and Insurance Paid To
CISG	Contracts for the International Sale of Goods
CPT	Carriage Paid To
CY	Container Yard
DAP	Delivery at Place
DAF	Delivery at Frontier
DAT	Delivered at Terminal
DCP	Delivery Cost Paid
DDP	Delivery Duty Paid
DDU	Delivery Duty Unpaid
DEQ	Delivered Ex Quay
DPU	Delivery Place Unloaded
EXW	Exworks
FAS	Free Alongside Ship
FCA	Free Carriage
FCL	Full Container Load
FCP	Freight or Carriage Paid To
FOB	Free on Board
FOR	Free on Rail
FOT	Free on Truck
FRC	Free Carrier…Named at Point
GST	Goods and Services Tax

ICC	International Chamber Of Commerce
LCL	Less Than Container Load
SOLAS	International Convention for the Safety of Life at Sea
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nation on Trade and Development
UNIDROIT	International Institute for the Unification of Private Law
VAT	Value Added Tax
VGM	Verified Gross Mass

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INTRODUCTION

In order to establish the order in a certain area, the rules of law are created by the societies. In this context, the legal rules applied in every society and a legal system have emerged with the drawing of political borders. However, with the increase in international trade, the problem of which country's law will be applied in case of any dispute between the parties has emerged. In order to solve this problem, incoterms rules have been created by the International Chamber of Commerce (ICC) in order to uniform international trade and determine which countries law applicable in the international trade.

In addition, Incoterms are non-binding rules in the nature of suggestions stipulated by the ICC for practitioners. In this respect, incoterms rules will be binding only if they are added to the contract between the parties.

Trade terms created for the uniformization of international trade define the passage of risk between the buyer and the seller, the place of delivery, the responsibilities of the buyer and the seller, and the cost sharing.

These rules, published for the first time by the International Chamber of Commerce in 1936 under the name of''Incoterms 1936'', have regulated the responsibilities of buyers and sellers in terms of items such as the time of delivery of goods, expense liability, damage transitions in international sales, and some renewals have been made over time. Incoterms rules were published in 1953, 1967, 1976, 1980, 1990, 2000 and 2010. The latest version of the rules is Incoterms® 2020, which came into effect on January 1, 2020.

In the first part of the study, what the concept of Incoterms is, its purpose, legal nature, scope and historical development process are explained.

In the second part of the study, Incoterms® 2020 rules are given in detail and the responsibilities of the buyer and seller are explained in each incoterms.

In the third part of the study, the innovations brought with Incoterms® 2020 are examined in detail and the differences with the 2010 version are explained.

In the last part of the study, different decisions given by the courts in the trade between different countries, in line with the Incoterms determined in the sales contract, were examined, in order to compare and analyse their application under several

judgements. ICC published incoterms rules since 1936. These rules were consisted to standardize, uniform the application of international trade and remove the various comments between users.

Incoterms rules are defined passing of risk point, allocation of cost, delivery and general obligation of seller and buyer. Delivery point defines the passing of risk and cost in terms of incoterms. It can be port, on board of ship or specified place of the buyer. This place varies in accordance with the agreed incoterms.

Incoterms regulate tthe divisions of obligation between seller and buyer and determine who will arrange the shipment, pay export and import clearance or which of the parties take out the insurance cover for the goods sold.

Allocation of cost is analyzed under A9/B9 clauses in Incoterms® 2020. In Incoterms® 2020, users (seller and buyer) are able to find the details of which party pay which cost in terms of determined incoterms.

Incoterms are divided in two groups UN Incoterms® 2020. EXW, FCA, CPT, CIP, DAP, DPU and DDP incoterms can be used for any mode or modes of transport and FAS, FOB, CFR and CIF incoterms rules can be used for rules for sea and inland waterway transport. This seperation has been made by ICC to assist the seller and buyer in choosing the best appropriate incoterm for sales of goods contract.

Some changes were made by ICC in Incoterms® 2020 to ease the understanding of each incoterms by parties. These changes are made to increase the usage of incoterms and make all incoterms rules clear for seller and buyer. Some explanatory notes were given by ICC to users and all rules list revised. A1/B1 defines general obligations both seller and buyer and A2/B2 defines delivery and taking delivery for instance. In addition, DAT incoterms were removed and DPU incoterm is added to clearify the delivery points.

Determining the specific incoterm in a sales contract is also important to determine the applicable law to solve the disputes arised between parties. Which country's court can make jurisdiction when the disputes arises? This is also important an issue in international trade.

Incoterms rules do not have the force of law and they are legaly binding only if both parties stated and agreed on the usage of a specific incoterm under their contract of sales. This is a type of soft law instrument. When the parties state the specific

incoterms on the cotract of sales, passing of risks, delivery of place and cost allocation are assumed to be determined under the contract. Also, parties shall specify the jurisdiction place or choice of law to solve the disputes when occured between two parties.

CHAPTER Ⅰ

GENERAL APPROACH TO INCOTERMS

In this chapter, Incoterms will be examined in general. Concept of incoterms, aim of incoterms, legal nature of incotems, functions of incoterms and versions of incoterms will be analyzed in this chapter.

1.1 CONCEPT OF INCOTERMS

Incoterms is the abbrevation of the International COmmercial TERMS. It is the set of rules which regulate some aspects of foreign trade operations by exporters and importers. The Incoterms rules were created in 1936. These rules are used to harmonize and standardize the meanings of trade terms in international level. Trade terms were already widely accepted before 'Incoterms 1936', but their meaning had never been so fully and completely standardized. The rules of Incoterms are equally applicable to customs union contracts or domestic or intra-block trading. However, the first part of 'Incoterms' include a reference to the word 'international' (Incoterms 2010 Q&A, 2013:6).

The Incoterms rules are standard 'trade terms'. These phrases are utilized in both domestic and international sales contracts by users. They are utilized to divide up certain expenses and risks between the buyer and the seller. The Incoterms rules define who must pay for transport. Besides, the Incoterms rules specify who is in charge of handling transactions for tariffs and customs procedures related to export and import, as well as who must assume the risk of loss of or damage to the products during shipment. However incoterms rules do not provide any information or definition about prices and payment methods. ICC published incoterms rules since 1936. These rules were consisted to standardize, uniform the application of international trade and remove the various comments between users.

Incoterms rules are defined passing of risk point, allocation of cost, delivery and general obligation of seller and buyer. Delivery point defines the passing of risk and cost in terms of incoterms. It can be port, on board of ship or specified place of the buyer. This place varies in accordance with the agreed incoterms.

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jurisdiction place or choice of law to solve the disputes when occured between two parties.

The Incoterms rules are not considered as laws and they have no force of law. Therefore, it is not a must to utilize Incoterms for international trade. The use of Incoterms rules must be defined in the sales contract under the condition of acceptance of the parties (buyer or seller). Incoterms rules are effective because they are widely known and they are used by different parties like banks, exporters, insurance companies, and freight forwarders. Therefore, Incoterms rules are more practical and useful. Buyers and sellers agree on terms of an agreement that contain rules in which are universally known (Practical Guide to Incoterms 2020, 2019:6).

Incoterm rules do not deal with the specifications of the good sold. It deals with the method, time currency of payment of the price and place. Also it is not deal with the remedies that are defined in relevant laws. These are breach of sales contract, delay consequences and other relevant breaches of contractual obligations, prohibitions about import and export, hardship or force majeure, venue and so on (ICC 2020, 2019:2).

1.2 AIM OF INCOTERMS

Global trade develops everyday. The borders between countries disappear with the globalization of trades. (Eldovic at.all, May 2015: 327). Those engaged in international trade and commerce prefer standardization of their contract provisions. By doing so, cost and risk can be calculated more accurately and easily, and the number of disputes inherit in any transaction reduced to a minimum (UNCTAD, 1999:9).

The International Chamber of Commerce (ICC) designated trade terms to define the responsibilities and rights of the seller and buyer, as well as the method of delivery of goods sold with regard to the following. Responsible party to arrange the carriage from one point to another, to make payment for the carriage of the goods from one point to another, to bear the risk in case of the operations are not carried out for

any reason and to bear the damage or loss to the goods in transit (UNCTAD, 1999: 9).

Trade terms may be understanding differently in various countries even if there is universally recognized. Accordingly, ICC decided to publish a set of rules that define trade terms in 1935. Incoterms is a set of rules to define trade terms. It is defined by ICC on 1936 in Paris. Incoterms was the first trade terms in which defines standard for obligations of sellers and buyers internationally.

Incoterms provides commercial trade terms with standardized definitions. It is a reference that reveals commercial applications. The efforts of standardisation include standard contract terms and uniform contract forms. These refer to boilerplate terms. They dispense according to the need for contract negotiation.

The purpose of the Incoterms is to provide some international legislations or rules as an explatanory set of international terms about foreign trade. Thus, there are some different interpretations of these terms in different countries. Incoterms are used to eliminate or reduce these uncertainities (UNCTAD, 1999:9).

1.3. LEGAL NATURE OF INCOTERMS

As mentioned above, Incoterms rules was published by ICC for standardization and uniform international trades. Incoterms rules aren't binding but if the parties agreed to add incoterms on their agreements, incoterms will be binding between two parties. Incoterms has binding power. This power comes from application of individual autonomy. Incoterms has “authority” however it is recognized internationally for international trade.

1.3.1. Lex Mercatoria

Lex Mercatoria was formed by combining the words *lex* meaning law in Latin and *mercatoria* which means trade. Although it is a widely used expression in international trade and especially in international arbitration literature, there is no consensus on its definition and scope.(Ozdemir, 2013:94) *Lex mercatoria* has been

defined as the general legal principles regarding international commercial transactions briefly (Bucur, 2018:292).

In the Middle Ages, a rule had been developed among traders who dealt in international trade to be used for solving disputes in the event of disputes. "The terms "transnational law," "transnational commercial law," and "transnational principles of international business" are also used to refer to this law." Although this regulation, which dates back to the Middle Ages, started losing its effectiveness as a result of economic advancements and innovations in trade, after the Second World War there was a need for international rules, which we call the "new lex mercatoria". (Bingöl, 2017:1954).

There is no consensus on the content of lex mercatoria in the doctrine *lex mercatoria* was strongly argued in the doctrine, An opinion exists independent of *Lex Mercatoria*'s legal mechanisms. Another view within the doctrine is that *Lex Mercatoria*, besides being rules specific to international trade, should not be evaluated independently from national laws, on the contrary, it should be applied to disputes as a part of these mechanisms. According to the third view, which has a mixed feature, although *Lex Mercatoria* is not expressed as an independent legal system, it is a set of norms unique to international trade, which is possible to apply to the principles of disputes as independent and arising from the acceptance that they can see their binding nature directly in international plans (Ayoğlu, 2011:30 cited in Altay, 2008: 150-154).

Lex mercatoria is analyzed according to its sources and contents. Emmanuel Gaillard accepts transnational rules as derived from different legal systems and they are not limited with one single legal systems. Therefore, it is specific because it is fed by one source but not one content (Bucur, 2018:296). The view that sees *Lex Mercatoria* as an independent legal mechanism draws the framework of *Lex Mercatoria* within the scope of general principles in law, trade practices, international conventions, arbitration decisions and general transaction conditions. This view does not attribute the binding nature of *Lex Mercatoria* to a legal mechanism, but sees it directly in its international character. Therefore, this view argues that *Lex Mercatoria* should be accepted as a foreign legal system (Ayoğlu, 2011: 32 cited in Altay, 2008:150-154).

According to the second view, the sources of international commercial law are limited to conventions, model laws and commercial customs, and these are not independent from national legal systems, on the contrary, they are a part of them. For this reason, material provisions and agreements of international nature should be interpreted and implemented uniformly by national legal systems in accordance with the needs of international trade (Ayoğlu,age, 2011: 45).

According to the third view, the *lex mercatoria* is a set of material rules specific to international trade and these rules are not independent from national legal systems, but they derive their bindingness from the general acceptance they see in the international arena, not from the national legal systems. Therefore, they can be applied to the merits of disputes that may arise from international conventions (Ayoğlu, age,2011: 32).

Incoterms are universally accepted. They are universally accepted all trading countries. Incoterms are derived from *lex mercatoria*. Incoterms are not statutory. Incoterms have force of law by virtue of national enactment or measure of relevant law (Unctad, 1999:10). According to the view that defends that Incoterms rules are included in *Lex Mercatoria*, there should not be even the slightest doubt about the character of Incoterms *Lex Mercatoria*. The subject of discussion arises as to whether the Incoterms will be applied only in cases where the parties do not refer.

Acceptance of Incoterms among commercial practices due to its high level of recognition and even if the parties do not agree between them, it is accepted and implemented as part of the contract in accordance with the provisions of the convention on the Conracts of the International Sale of Goods (CISG) article 9 (2) view is gaining weight (Ayoğlu, age, 2011:323).

However, it must be said that it is not possible to agree with this view. First of all, even if Incoterms has a high recognition at the international level, the purpose of ICC to publish the Incoterms rules is to make a common interpretation of the delivery methods used in international trade and prevent disputes (Erdem, 1990: 70).

The parties are free to choose and change the delivery method which they want within the contracts they will make between them. So it is also the opposite of the ICC structure. The ICC does not have the authority to set binding rules. For all these

reasons, it is possible to say that Incoterms are material contract rules that the parties are free to apply (Erdem, 1990: 70).

1.3.2. Soft Law

The term "soft law" refers to quasi-legal instruments which do not have any legally binding force, or whose binding force is somewhat weaker than the binding force of traditional law, often contrasted with soft law by being referred to as "hard law" (Bucur, 2018: 299). Soft law is defined by Michael Joachim Bonell as is a set of legal “instruments of a normative nature with no legally binding force, and which are applied only through voluntary acceptance”. In other words, soft law refers to legal principles that do not have judicial force. (Gabriel, 2019:413).

There isn't a widely agreed-upon definition of soft law. It often refers to any written international document that does not contain any norms, standards, or other assertions of anticipated behavior. “Soft law “expresses a preference and not an obligation that state should act, or should refrain from acting, in a specified manner”. Expressed preference of significant behavior aims to reach international goals to provide functional cooperation between states (Shelton, 2008:3).

The application of soft law has affected international trade law. It has a lengthy history that is based on past trading customs and has been in use for many centuries. This is accepted as “*lex mercatoria*”.There are many modern sources of soft law. These come from instruments obtained “United Nations Commission on International Trade Law (“UNCITRAL”) ” and “the International Institute for the Unification of Private Law (UNIDROI) ” or from private bodies like ICC (Gabriel, 201: 414).

Some of the most successful international commercial soft law instruments, such as the Incoterms soft law instruments, provide some structure for relevant trade customs. These were specifically prepared for use by a large number of contracting parties. Because contracting parties are effected. Incoterms are well-established business practices. Therefore, it is already de facto of existing legal standards (Gabriel, 2019: 426).

ICC published incoterms rules since 1936. These rules were consisted to standardize, uniform the application of international trade and remove the various comments between users (Incoterms 2010 Q&A,2013:6).

Determining the specific incoterm in a sales contract is also important to determine the applicable law to solve the disputes arised between parties. Which country's court can make jurisdiction when the disputes arises? This is also important an issue in international trade.

Incoterms rules do not have the force of law and they are legaly binding only if both parties stated and agreed on the usage of a specific incoterm under their contract of sales (Practical Guide to Incoterms 2020,2019:6). This is a type of soft law instrument. When the parties state the specific incoterms on the cotract of sales, passing of risks, delivery of place and cost allocation are assumed to be determined under the contract. Also, parties shall specify the jurisdiction place or choice of law to solve the disputes when occured between two parties.

Private organizations like ICC also have a long history to prepare soft law documents. Letters of credit and shipping conditions are two very important aspects of ICC. Incoterms are only legally enforceable if they are explicitly or implicitly accepted by the parties and as long as they do not conflict with the laws and regulations that apply and from which the parties are not permitted to derogate. (Gabriel, 2019: 414-415).

1.4. FUNCTIONS OF INCOTERMS

Transfer of risk, place of delivery, allocation of delivery-related expenses, and general responsibilities of the seller and the buyer are all covered under Incoterms, respectively.The responsibilities of seller and buyer in terms of Incoterms® 2020 is shown in Table1.

Table 1. Incoterms 2020 Rules Responsibility Quick Reference Guide

	Freight Collect Terms				Freight Prepaid Terms						
Mode of Transportation	Any Transport Mode		Sea/Inland Waterway Transport				Any Transport Mode				
Group	E: Departure	F: Pre Carriage			C: Main Carriage				D: On Carriage		
IncoTerm	EXW	FCA	FAS	FOB	CFR	CIF	CPT	CIP	DAP	DPU	DDP
	Ex Works Place	Free Carrier Place	Free Alongside Ship Port	Free on Board Port	Cost and Freight Port	Cost Insurance & Freight Port	Carriage Paid To Place	Carriage & Insurance Paid To Place	Delivered at Place Place	Delivered at Place Unloaded Place	Delivered Duty Paid Place
Transfer of Risk	At Buyer's Disposal	On Buyer's Transport	Alongside Ship	On Board Vessel	On Board Vessel	On Board Vessel	At Carrier	At Carrier	At Named Place	At Named Place Unloaded	At Named Place
Obligations & Charges											
Export Packaging	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Delivery to Port/Place	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Export Duty, Taxes & Customs Clearance	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Origin Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading on Carriage	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Carriage Charges	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance						Seller		Seller			
Destination Terminal Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller
Unloading at Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Buyer
Import Duty, Taxes & Customs Clearance	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller

Sources: Astra Supply Chain, LLC (https://www.astraservices.com/static/sitefiles/IncoTerms(1).pdf)

As shown above figure, seller and buyer have responsibilities and this responsibilities passes from seller to buyer according to agreed incoterms. This point is analyzed in this table in detailed. These details are explained under Chapter 2.

1.4.1. Place of Delivery

In Incoterms, a specific city or port is not indicated as the place of delivery, but a delivery point such as delivery on the ship, on the deck or in the enterprise is specified. The delivery time is left to the will of the parties by saying "on the agreed date or within the period" in the relevant article (Erdem, 2001: 190).

Place of delivery term is analyzed in 2020 under the delivery/ taking delivery (A2/B2) phase in details. Delivery place can be port where closest to seller in Exwork (EXW) and Free Carriage (FCA), and closest to buyer in Delivery at Place (DAP), Delivery Place Unloaded (DPU) and Delivery Duty Paid (DDP)(ICC 2020).

1.4.2. Obligation

The Incoterms include analytical provisions that govern the abovementioned aspects. It specifically regulates the obligations of buyer and sellers. These parties shall agree upon the transportation obligations, obligations about customs operations or take out insurance coverage. For example; to obtain export and import licenses (Mattina,2020). In case of buyer and seller agree to employ a particular Incoterm, each of the parties accept relevant responsibilities and obligations that are clearly determined and defined under the specific Incoterms (Noah,2020).

There is one clause in the EXW rule that regulates seller and buyer obligations. The goods have to be prepared to mark and pack the goods by the seller for delivery to the buyer. However, they are not loaded by the seller. The buyer is responsible for the shipment of the products as well as customs clearance, which includes export clearance. (Piltz,2020:11).

In F group clauses (FCA, FAS- Free alongside Ship, FOB) again buyer will be responsible about the transport of goods. It is not similar to the EXW clause. However, seller is responsible fort he transport of the goods to the relevant place of delivery. Acoording to the circumstances it is seller's responsibility to load the goods and to clear them for export at seller's expense. The buyer is responsible to deliver the goods in the place of delivery. The buyer is responsible to pay and organise further transport. Besides, seller is responsible to transit through third countries and to import clearance in the destination. (Piltz, 2020:11).

In C group of Incoterms, seller is responsible to clear the goods for export. Unlike the F group, seller is responsible to arrange the transport to the relevant destination and expenses shall belong to seller. The buyer is not responsible to take over goods to the place of delivery. However, buyer is responsible to take over the goods to the relevant destination (Piltz, 2020:12).

According to Incoterm 2020, buyer is not obliged to seller in order to make a contract of insurance in terms of Exworks (EXW), Carriage Paid To (CPT), Free Along Side (FAS), Free on Borad (FOB), Cost and Freight (CFR), and Free Carrier (FCA) incoterms (ICC 2020).

The buyer is responsible to provide seller any information that is required for the seller in order to provide any extra insurance wanted by the buyer as indicated in Carriage and Insurance Paid To (CIP), Cost Insurance and Freight (CIF), Delivery at Place (DAP), Delivery at Place Unloaded (DPU) and Delivery Duty Paid (DDP) incoterms. Additionally, buyer shall provide information to the seller about risk and costs. However, excluding from CIP and CIF clauses, seller is not obliged to the buyer about insurance contract. Neverthless, the seller must inform buyer about risk and cost. It is apart from group D. The seller has no obligation to inform the buyer about risk and cost in D group (ICC, 2020).

In D group, seller must bear all costs. In contrast to C clauses, seller is responsible for all risks until the arrival of goods to the relevant place of destination. Place of destination is the place where delivery is done. It is the place where goods are received by the buyer. But the buyer is still liable to clear the goods for import. Therefore, D group clauses are quite different from F group clauses. It is only different for DDP clause since exporter is obliged to arrange clearance of import (Piltz, 2020:12).

These obligations will be identified details under Chapter 2.

1.4.3. Transfers of Risks in Transport

The meaning of risk is defined by ICC. According to this definition, risk starts place and time that the seller "delivers" the goods. In other words it is the place where risk is taken by the buyer from seller (ICC, 2020:2). The place of delivery or port of delivery under A2 marks is the place at which risk is transferred from seller to buyer under A3. The seller satisfies his responsibility in order to procure the goods defined in A1. This point is defined as the point that when it is passed buyer could not be able to claim his damages from the seller (Incoterms, 2020: 19).

Incoterms determine the risk and costs before transfer of the risks about the carriage of the goods as physically. However, Incoterms rules is not related to the body of the law and this is only binding if expressly agreed upon by the both parties on contract of sales. It is an international agreement upon protocol in order to understand

payment of the consumers. It consists of time of the risk transfers, and place that goods will be delivered (Karaisma, 2020:30).

Risk is a permissible concept. It refers to accidental injury to the goods. The relevant damage or lost must be accidential. It must not contain any behavior or mistake of the contracted parties (Karaisma,2020:26, Goodfriend, 1983).

Incoterms includes "price risk". In other words, buyer will be obliged to pay this price. On the other hand, seller has right to claim the price risk. Risk consists of damage or accidential loss. Risk of non-performance do not address this situation. Therefore, risk under Incoterms consist of any physical loss or damage to the goods. In this case, damage to the goods is accidential and parties are not responsible from ommissions or behaviors of third parties (Coetzee; 2010:188).

Incoterms rules are defined passing of risk point, allocation of cost, delivery and general obligation of seller and buyer. Delivery point defines the passing of risk and cost in terms of incoterms. It can be port, on board of ship or specified place of the buyer. This place varies in accordance with the agreed incoterms.

According to Incoterms® 2020, transfer of risks in transport occur in country of origin or in the country of destination. While, in terms of Exwork, FCA, FAS, FOB, CPT, CFR, CIP and CIF, transfer of risk occur in the country of origin, transfer of risks occur in the country of destination in terms of DAP, DPU and DDP.

Risks are determined through Incoterms, as Incoterm clauses define the passing of the risk point. According to Incoterms® 2020, it is seller's liability to cover all risks and damages on the goods until they have been transferred according to A2 and damages and losses that are defined under the circumstances given in B3 of Exwork C, D and F group. Otherwise, the buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2.

According to Incoterms® 2020, passing of risk will be examined details in Chapter 2.

1.4.4. Allocation of Logistic Costs

The Incoterms consist of analytical provisions that direct the abovementioned aspect. Specifically, this regulates the between the buyer and seller of costs. Party must bear the costs of insurance, packaging, customs charges and so on (Mattina, 2020).

In Incoterms® 2020 costs seem A9/B9 of each Incoterms® rule in order to articles as per the rules of Incoterms® 2020. This regulation gives users one-step list of costs. The buyer or seller can determine all the costs that they could be responsible under the Incoterms® rules.

EXW is the only "collection" incoterm. All risks and costs are the responsibility of the buyer in whole entire process of shipping (Butcher, 2020).

Seller does not cover the risks and costs of the main transport according to FCA, FAS and FOB Incoterms. When goods are delivered by the carrier, main transport risks and costs are going to be transferred to the buyer (Butcher, 2020).

There is one difference in FOB Incotems. The buyer must pay additional incurred costs. These costs are either occurred by the buyer has failed to give notice under B10. The vessel is selected by the buyer is failed to reach the arrival point on time. It fails to take the goods. It fails to close Cargo is provided earlier than the time notified according to B10. (ICC, 2020:168).

CPT, CIP, CIF and CFR are the four Incoterms. In these Incoterms, seller must bear all of the costs of main transport. When goods are handed over to the carrier there is only one risk. It is occurred during the transfer to the buyer. The costs and insurance remain as the risk for selling party (Butcher, 2020).

There are three Incoterms that selling party is obliged for all costs and risks until the goods are arrived to the agreed destination between the parties. These are DAP, DPU and DPP (Butcher, 2020).

These costs will be examined detailed under A9/B9 of each incoterms clause under chapter 2.

1.5. VERSIONS OF INCOTERMS

International Commercial Terms are often referred to as "Incoterms." These conditions are common in contracts for international trade. In the absence of specific law, they apply to contracts for the international sale and purchase of commodities in which the period of risk transfer (and associated costs for the goods) are defined. It is therefore essential in terms of goods. Every detail is given in related incoterms and the end of risk transfer place is really important. Using incoterms in international trade would help to avoid mistakes.

ICC published the first version in 1936. Revisions are published in 1953, 1967, 1976, 1980, 1990, 2000, 2010 and 2020. This initiative suits to a certain international trend for uniformity of agreement rules. It would have the purpose to facilitate business conditions interpretation (Glitz, 2011: 110).

1.5.1. Incoterms 1936

Later, in 1936, the International Chamber of Commerce in Paris published a set of international rules governing delivery, known as Incoterms. These rules, which include 11 international trading terms, also referred to as "delivery clauses," were able to define the obligations of the seller and the buyer more precisely and comprehensively than in 1928. For this reason, most merchants, with the exception of the British and Americans, accepted Incoterms 1936. (Popa, 2012: 100).

1.5.2. Incoterms 1953

Incoterms is used as an abbreviation of international commercial terms. It is the official title for "International Rules for the Interpretation of Trade Terms". The first version of Incoterms was fully revised in 1953. The new text had accepted by the most of the delegates in ICC congress. This provided international legitimacy to the Incoterms (Coetzee, 2010:180).

Congress had agreed to cite incoterms according to the year of revision in order to avoid confusion(Coetzee, 2010:180).

The 1953 version includes of five obligations of the seller and buyer. The new version of incoterms had changed in order to include practices of international commerce. Therefore, more parties of international commercial agreements would adopt these incoterms (Coetzee, 2010:180).

If relevant practices were significantly different from incoterms, then incoterms shall determine the minimum obligation of buyer and seller. These parties are free to stipulate obligations beyond the minimum obligations. Commercial terms that are used frequently in the area of internation commerce were given in the modification of 1953. These terms are EXW, FAS, FOB, C&F and CIF (Coetzee, 2010:180).

1.5.3. Incoterms 1967

Incoterms 1967 is the third modification and delivered terms are added to the list. It is unlike traditional shipment or dispatch contract. Because in these contracts goods must be delivered across the ship's rail, risks and costs according to DAF and DDU. (Coetzee, 2010:181). Supplementary revisions of Incoterms® had suspended in World War II. This situation is continued until 1950's. Then, in 1953, the first update to the Incoterms rules was published. Three new terminology for non-maritime transportation were introduced. The new rules comprised "DCP (Delivered Costs Paid), FOR (Free on Rail) and FOT (Free on Truck) " (ICC, 2020).

1.5.4. Incoterms 1974

According to the increased usage of air transportation, another version for popular trade terms is published. This version includes of new form of the FOB Airport. This rule is aimed to solve the conflicts about the term FOB. It is achieved by determining the "vessel" that will be utilized (ICC, 2020).

1.5.5. Incoterms 1980

The ICC had published revision of Incoterms in 1980. It contains fourteen terms. It had strongly influenced due to significant changes in documentary practices and transportation techniques. It is called as container revolution. Traditional CIF and FOB terms had became ineffective. Therefore, there is a need occurred to define new trade terms (Coetzee, 2010:182). This edition include of FRC trade term. This term is used for goods that are not actually received by the side of the ship, instead it is taken at reception point of the shore. This can be a container yard (ICC, 2020).

Named point is the point where the carrier takes the goods into his custody. This can be inland goods terminal. The critical point is the moment of the delivery of goods to the first custody of the carrier (Icc Guide to Incoterms 1980: 8-9). In case of FOB and CIF, seller does not affect delivery at the rail of ship.

If the goods are received into transportation system delivery will be occurred. It is the time that they are delivered to the inland carrier. These Incoterms are specifically suitable for the containerized goods. When it comes to containerized goods, several types of transport are utilized in order to carry the goods. Seller shall not be liable about the loss or damage risks on goods until the point in which they are going to be loaded (Coetzee, 2010: 182).

1.5.6. Incoterms 1990

In Incoterms 1990 modernized transport techniques had taken into consideration, particularly with respect to the use of container shipment, multimodal transport and roll-on and roll-off traffic by means of vehicles and railway wagons (Coetzee, 2010:182-183). Instead, the general term FCA is considered as sufficient. Other provisions are taken into consideration for increased utilization of electronic messages (ICC, 2020).

1.5.7. Incoterms 2000

Incoterms 2000 became effective on January 1, 2000. It was the responsibility of the Working Party on Trade Terms to make sure that Incoterms 2000 reflected actual commercial practices. Commercial practices in nations that have not always participated in the Incoterms elaboration process or where Incoterms are not regularly used were also taken into consideration to make sure that Incoterms 2000 represents the most widespread commercial practice. (Coetzee, 2010: 184).

The Incoterms 2000 were presented by the ICC in four groups: E, F, C, and D, with each group representing classes of terms that varied slightly within groups but significantly across groups in terms of delivery points, risk, and cost responsibilities, and the point at which those costs and risks shifted from the seller to the buyer.Staplaton at.all: 230). Two substantial modifications were made in the 2000 edition. The first modification was to the FAS phrase. With the Incoterms 2000 modification, the buyer's responsibility for export customs procedures was changed to that of the seller. Another change occurred in the term FCA. Previously, it was the buyer's job to load the goods into the truck, but with the modification, the seller is now in charge of doing so (Baslangıc, 2015:76). The *"License, Authorisations and Formalities"* section of FAS and DEQ (Delivered Ex Quay) Incoterms® rules were modified to comply with the way most customs authorities address the issues of exporter and importer of record (ICC.org).

1.5.8. Incoterms 2010

Incoterms were initially published in 1936 and updated in 1953, 1967, 1976, 1980, 1990, and 2000, with the most recent edition, Incoterms 2010, taking effect on January 1, 2011. There are 11 Incoterms in the 2010 version, and they are categorized in Table 1 based on which modes of transportation they apply to. The Incoterms 2010 set forth the mutually exclusive rights, obligations, responsibilities, and duties of the contracting parties with respect to the delivery of goods and those services which are directly related to such delivery, such as customs clearance and the payment of duties and taxes; local, international, and foreign domestic transport movements; and cargo

insurance. Incoterms 2010 are not the whole contract, but only one important part of the overall contract of sale (Bergami, 2013: 326).

Comparing the 2010 revision to the earlier revisions, we see that there are some quite significant modifications. (Dugan and Talmaciu, 2012: 42).The 2010 edition has introduced two new clauses, DAT and DAP, while four have been removed, namely DAF, DES, DEQ, and DDU (Eldovic at all., 2015: 327). DAT (Delivered at Terminal) and DAP (Delivered at Place) have been added rather than extracted terms which thought to be more functional. (Baslangıc, 2015: 78).

Table 2. Incoterms 2010 Transport Applicability

Mode of Transport	Incoterms 2010
Group A:	EXW-Exworks
	FCA-Free Carrier
All modes of Transport and Combinations (Multimodal or Combined Transport)	CPT-Carriage Paid To
	CIP-Carriaga and Insurance Paid To
	DAT-Delivered at Terminal
	DAP-Delivered at Place
	DDP-Delivered Duty Paid
Group B:	
Sea and Inland Waterways transport only	Fas-Free Alongside Ship
	FOB-Free Onboard
	CFR- Cost and Freight
	CIF- Cost Insurance and Freight
Note: These terms are not recommended for	maritime container traffic

Source: International Chamber of Commerce (2010) , Ramberg (2011) and Ross (2011)

1.5.9. Incoterms 2020

The new Incoterms® 2020 are being drafted by ICC as the body that publishes them since 1936. The new incoterms appeared in last quarter of 2019, simultaneously

with the centenary of the International Chamber of Commerce and entered in the force on January 1,2020. Incoterms® 2020 will be explained detailed under Chapter 2.

CHAPTER Ⅱ

CLASSIFICATION OF INCOTERMS 2020

In this chapter, the newest version of incoterms which is Incoterms® 2020 will be analyzed with the rules which includes all transportation types under two seperate topics about any mode or modes of transport and rules for sea and inland waterway transport.

2.1. RULES FOR ANY MODE OR MODES TRANSPORT

In this part of chapter, EXW, FCA, CPT, CIP, DAP and DPU incoterms are analyzed accordoing to ICC 2020 rules in detailed. These rules can be used for all modes of transport. All costs and risks are belong to buyer in EXW and FCA incoterms and in other incoterms these are belong to seller until the goods delivered.

2.1.1. Exworks

Exworks is examined in this section. EXW is an incoterms regulation that gives the seller the least amount of responsibility and risk. The seller is required to deliver the items to the buyer at a specific place agreed upon by the parties in accordance with EXW guidelines. The seller is free to deliver products wherever the buyer and the seller agree.

The seller does not have to load the vehicle or complete customs clearance processes in order for the delivery to take place. Incoterms 2020 contains a buyer's cautionary notice. In which case, the rule should be carefully applied for a variety of reasons from the buyer's standpoint. This rule can also be applied to any mode or modes of transportation.

Figure 1. Exworks insert named place of delivery



Source: ICC Rules for the Use of Domestic and International Trade Terms, 2020 :2

The parties merely need to specify the delivery location. The parties should, however, indicate as precisely as feasible the precise spot inside the named delivery location. A named specific location of delivery indicates to both parties when the products are delivered and when risk passes to the buyer; it also indicates when costs become the buyer's responsibility.

The seller is considered to have selected the place "that best matches its purpose" if the parties do not identify one. This implies that the buyer might be in danger of the seller choosing a point just before goods are lost or damaged.

As a result, it is best for the buyer to pick a specific location inside a location where delivery would take place.

The parties only need to specify the delivery address. The parties should, however, indicate as precisely as feasible the precise spot inside the named delivery location.

A named specific location of delivery indicates to both parties when the products are delivered and when risk passes to the buyer; it also indicates when costs become the buyer's responsibility. If the parties do not specify a location of delivery, the seller is presumed to have chosen the point "that best suits its purpose." This means that the buyer may be exposed to the risk that the seller will select a point just prior to the loss or damage of products. If buyer wants to prevent risk during the loading at the location of seller, the buyer must consider the FCA rule. If the goods are delivered at the premise of the seller, then the seller will owe the buyer an obligation about the

load. The risk of loss of damage or in case of damage on goods during the operation will be claimed to the seller (ICC, 2020:21).

Indeed, EXW may be appropriate for internal commerce if the commodities are not intended for export.

All of the seller's and buyer's obligations are analyzed with all the details in ANNEX V. Information in the table is collected from the ICC 2020 book.

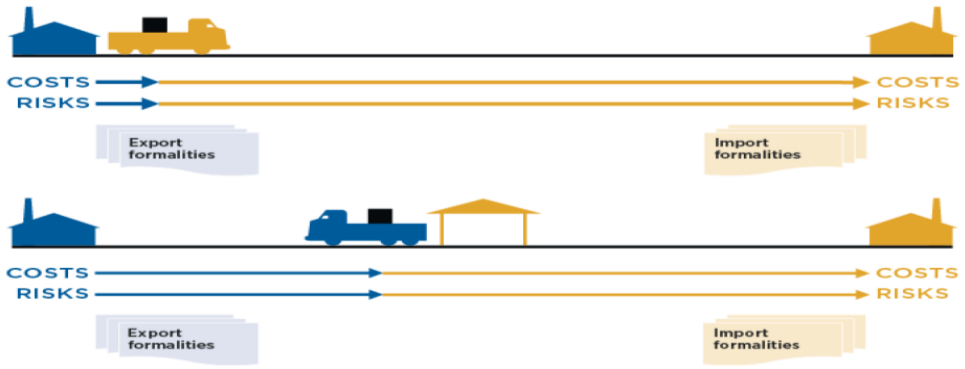
2.1.2. Free Carrier (FCA)

Free Carrier (FCA) incoterms is analyzed in this part. FCA is very flexible because the goods can be deliver place where both parties agreed. This place can be various poitns such as transport centers, ports, airport, container terminals etc.

Under the FCA, a transfer can be completed by identifying only the point of delivery, which can be at the seller's premises or elsewhere, but not the actual moment of delivery within that stated place.

The parties should, however, indicate as precisely as feasible the specific place inside the chosen delivery location. A designated specific location of delivery indicates to both parties when the products are delivered and when risk passes to the buyer; it also indicates when costs become the buyer's responsibility. However, if the specific place is not recognized, the buyer may face difficulties.

Figure 2. FCA (insert named place of delivery) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms, 2020: 27

The seller may select the location in these situations "that best fits its purpose." That location would be the point of delivery, from which the buyer would bear risk and costs.

If the particular point of delivery is not named in the sales contract, the parties are presumed to have given it up to the seller to choose the location "that best suits its purpose." This implies that the buyer might be at risk of the seller choosing a point just before the goods are lost or damaged. As a result, it is best for the customer to choose the exact location within the location where delivery would take place.

Any form of cargo, including groupage, full loads, and general cargo, can be shipped using FCA incoterms with different payment methods, e.g., bank transfer, open account, or letter of credit payment method. (Practical Guide to Incoterms 2020:40). This rule is applicable regardless of the form of transportation chosen, as well as when more than one means of transportation is used.

Until the goods are delivered to the customer at the delivery site, the seller is responsible for all costs associated with the merchandise. This is also the time at which the seller's expense goes to the buyer.From this point on, the buyer is responsible for any costs associated with the products. Furthermore, the seller is not required to insure the products.

FCA Incoterms® 2020 introduces the following optional procedure for the first time to account for the possibility of an FCA seller needing a bill of lading with an on-board note. A seller can demand a bill of lading with an on-board note under FCA terms due to a bank collection or letter of credit obligation. The buyer must ask the carrier to give the seller "*a bill of lading with an on-board note*" if the parties have agreed on this in the contract

The seller must give the buyer the same bill of lading if the carrier issues one to them at their cost. The buyer will require the bill of lading in order to get the goods released from the carrier.However, if the parties have agreed that the seller would also provide buyer with a bill of lading that just declares that the products have been received for shipping rather than delivered on board, this alternate technique is rendered meaningless. Also, even if this alternative method is implemented, the seller has no obligation to the buyer under the carriage contract. Furthermore, if this alternate

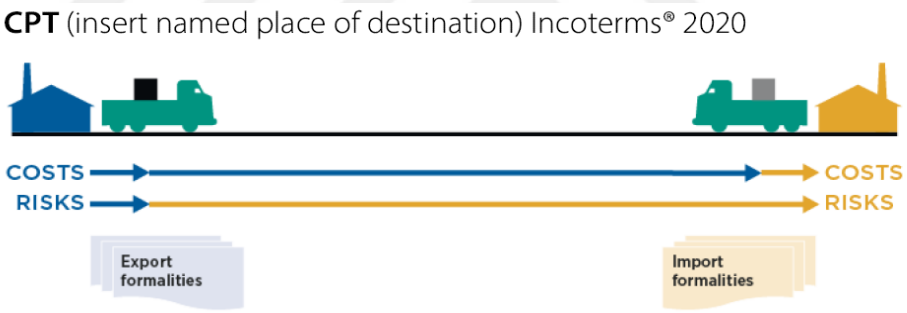
approach is followed, the onshore delivery and loading on board dates will be incompatible, which might create issues for the seller under a letter of credit.

All of the seller's and buyer's obligations are analyzed with all the details in ANNEX VI. . Information in the table is collected from the ICC 2020 book.

2.1.3. Carriage Paid To (CPT)

Carriage Paid to (CPT) goes into a bit more depth than FCA, stating that the seller is responsible for the cost of shipping the products to the buyer's designated location. CPT can be applied to any form of transportation, and the risk is transferred from the seller to the buyer as soon as the products are delivered at the designated location and taken over by the carrier.

Figure 3. CPT (insert named place of destination) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms, 2020: 39

CPT specifies that the seller delivers the goods and transfers the risk to the buyer by handing them over to the seller's contractual carrier. The seller can do so by handing over actual possession of the products to the carrier in the manner and at the location that is appropriate for the mode of transportation being chosen. When the items are shipped or when the goods are received inside the destination location, the buyer should notify the seller. The risk of loss or damage to the products falls to the buyer as of the agreed-upon date or the end of the agreed-upon period if the buyer fails to do so.

The parties are also encouraged to define a specific point of destination in the contract of sale, which is the place where the transport expenses are transferred to the

seller. Unless the parties agree otherwise, if the seller incurs expenses linked to unloading at the stated place of destination as a result of its transport contract, the seller is not entitled to collect such costs separately from the buyer.

The CPT rule has two important places, the place of delivery in the seller's country and the destination to where the seller contracts the carriage. It is important to not confuse the two (www.tradefinanceglobal.com/). In the sales contract, the parties must careful to identify both locations, or even precise points within both locations, as fully as possible. To account for the common situation in which many carriers are engaged, each for distinct legs of the transit from delivery to destination, precisely specifying the place or point (if any) of delivery is crucial. When this happens and the parties cannot agree on a precise delivery location or point, risk is deemed to transfer when the items are passed to the first carrier at a point specified entirely by the seller and over which the buyer has no control.

According to CPT according to import-export clearance require seller to clear the goods for export. However, seller is not responsible to collect the goods for import or to pay any import duty or to conduct formalities import customs (ICC, 2020).

All of the seller's and buyer's obligations are analyzed with all the details in ANNEX VII. Information in the table is collected from the ICC 2020 book.

2.1.4. CIP (Carriage and Insurance Paid To)

CIP is an Incoterm that seller is liable to deliver the goods to the relevant destination of the buyer. Besides, seller is liable to pay for the carriage procedure (https://www.tradefinanceglobal.com/). The seller gives the goods in the way and place appropriate for the transport. The seller shall not be liable to deliver the goods in the relevant place and quantity.

The reason is that risk is transferred from seller to buyer at the time goods are delivered to the buyer by delivering them to the carrier. Nonetheless, the seller must make agreement for the carriage of the delivery of the goods to the mutually agreed destination (ICC 2020). The buyer has the option of purchasing additional insurance for the goods while they are being transported. When the goods are received by their first carrier, the risk is passed. This incoterm can be used for any mode of transport.

Figure 4. CIP (insert named place of destination) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms ;2020: 49

There are two significant locations in CIP incoterms: the place where goods are taken (point for transfer of the risks) and point or place that is mutually agreed for the delivery of the goods (for the transfer of risk).

The parties would be wise to define both locations, or even specific points within those locations, as clearly as possible in the sales contract.

The parties are also required to indicate the point of destination as exactly as possible in the sales contract, because this is the point at which the seller must contract for carriage and insurance and pay the expense of them. This insurance obligation is analyzed detailed in A5/ B5 clauses on ANNEX VIII.

If the seller incurs costs associated with discharging at the stated place of destination as a result of its transport contract, the seller is not entitled to collect such costs independently from the buyer unless the parties agree differently.

The seller's and buyer's obligations are analyzed with all details in terms of CIP incoterms in ANNEX VIII. . Information in the table is collected from the ICC 2020 book.

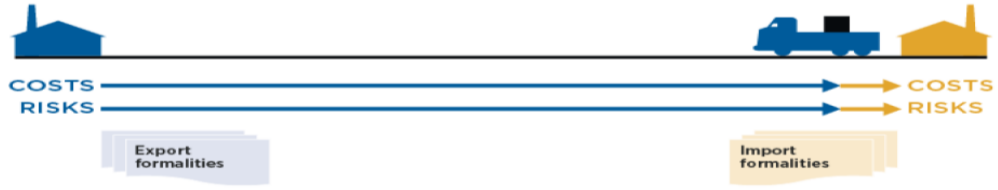
2.1.5. Delivery at Place (DAP)

Hereunder, Delivery at Place incoterms is analyzed. According to the DAP, transfer of risk takes place at the time when goods arrive at the significant point or these are unloaded in a certain place (DEMIRCI at all ;2020: 32).

Incoterms® 2020 differs slightly from Incoterms® 2010 in terms of DAP content. The seller can deliver the goods without unloading the products from the transportation vehicle at the place they have mutually chosen. In other words, under this rule, the seller is responsible for transporting the items from one location to another, but not for their safe offloading. Version 2020, unlike version 2010, allows parties to use their own vehicles for transportation.

The seller assumes all risks associated with delivering the products to the specified location or to the agreed-upon point within that location. As a result of this relevant Incoterms rule, point of arrival and delivery at the destination are same. DAP can be utilized in any method of transportation.

Figure 5. DAP (insert named place of destination Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms ;2020: 59

DAP allows the seller to deliver to a location specified by the buyer, which is usually the buyer's address. Discharging the mode of transport is the responsibility of the customer. The seller is required to complete all export documentation, and also the buyer must complete all import documentation.

Risk is only transferred to the buyer after delivery under the seller's contract for carriage. This is now at the buyer's location, similar to CPT and CIP. The seller is under no obligation to insure the buyer's risk. This rule adapts well for transport of goods from land within the Europe/Central Asia landmass. However, strikes are potentially problematic. Because they cause change in mode of transport (https://www.tradefinanceglobal.com/).

There are some obligations of seller's and buyer' in terms of DAP incoterms. Seller shall;

(i) Transfer the goods on the agreed date. It must be done according to the agreed conditions. Therefore, seller shall cover all of the expenses,

(ii) Arrange the invoice that is suitable for the trade in which is agreed as electronic form,

(iii) To make delivery agreement solely on seller's cost and expense.

It is required to deliver the goods,

(iv) Procure all required papers to buyer and to make all notifications to buyer about delivery of the goods,

(v) To make custom clearances for exportation solely and to conduct import process,

(vi) To cover all of the costs that include packaging and control of the goods until the delivery to the transportation.

Buyer shall;

(i) Pay the expenses expressed in sales agreement

(ii) If it is convenient to the contract, buyer is obliged to accept the transportation/delivery document that is sent by the seller,

(iii) Accept the proof of transfer that shows the transfer is occurred,

(iv) Help the seller about transactions. Besides, every transaction must be conducted by the country of import at buyer's sole expense,

(v) Notify the location of delivery (DEMIRCI at al., 2020: 32). These obligations are also analyzed in detailed ANNEX IX.

According to DAP 2020 Incoterms® the seller is not obliged to make insurance contract. However, seller is obliged to procure insurance services to the buyer at the buyer's request. The buyer is not liable to make insurance contract on behalf of the seller.

The seller's and buyer's obligations are analyzed with all the details in ANNEX IX. . Information in the table is collected from the ICC 2020 book.

2.1.6. Delivery at Place Unloaded (DPU)

Incoterms rules assist in determining risk and cost allocation between seller and buyer at various stages of world trade transportation. Due to misunderstandings of the DAT (Delivery at Terminal) rule, the term "terminal" has been replaced by Incoterms® 2020. DPU incoterms are discussed in detail.

All risks involved with delivering and unloading the products at the designated destination are assumed by the seller. Furthermore, parties should ensure that the delivery and arrival points are the same in this Incoterms® rule. The sole rule that enables the seller to unload items at the destination is the DPU rule. As a result, the seller should ensure that unloading can take place at the designated location.

DAT was introduced in 2010. It is under DEQ to cover any type of transport. The application of DAT contains the seller that delivers the goods and unloads into a terminal. It can be both an open area of land. It can be container yard or a closed warehouse. In this version, difference between DPU and DAP are clearly defined.

"DPU" refers the delivery of the goods. Besides, it also refers to the risk and costs transferred to buyer from seller. It is the point where goods are unloaded by means of transport and taken by the buyer. The delivery place is the destination that is stated in the agreement (Ship Hub).

Figure 6. DPU (insert named place of destination) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms; 2020: 68

Regardless of the mode of transportation, the DPU rule can be applied. This is also applicable when you use more than one form of transportation.

For a variety of reasons, the parties should identify the delivery place or point as precisely as possible. First, at the point of delivery or destination, the risk of damage or loss to the products passes to the buyer, and it is really important for both the buyers and sellers to be explicit about when that essential transfer occurs.

Second, the costs until that point/place of delivery or destination are the seller's responsibility, while the costs beyond that point or place are the buyer's responsibility. Finally, the seller must organize or contract the transportation of the products to the agreed-upon delivery/destination place. If this one fails to provide it, the seller is in

violation of this regulation and will be accountable to the buyer for any losses incurred as a result. For example, the seller would be liable for any extra transportation costs assessed by the carrier on the customer.

The DPU incoterm, when applicable, requires the seller to clear the goods for export. On the other hand, the seller is not responsible for clearing the items for import or post-delivery transit through third countries, paying import duties, or completing any import customs formalities. As a result, the goods will be stored in the port or inland port of the destination country unless the customer arranges for import clearance.

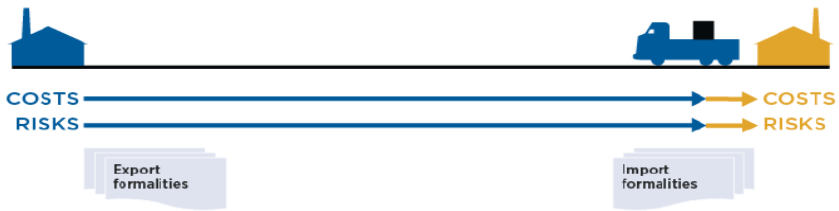
The seller's and buyer's obligations are analyzed with all the details. Annex XI. Infmation in the table is collected from the ICC 2020 book.

2.1.7. Delivery Duty Paid (DDP)

DDP is an Incoterm that refers to the delivery of products in which the seller bears the majority of the duty. Under DDP, the seller is responsible for all expenses related with the delivery of products up to they arrive at the designated destination. After that, the buyer is in charge of discharging the goods at the final destination.

As a result, arrival and delivery at the destination are all the same under this Incoterms® rule. DDP can be used to represent goods transportation by sea, road, or air, as well as multimodal transportation.

Figure 7. DDP (insert named place of destination) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms; 2020: 76

The greatest responsibility is mentioned in the Incoterms 2020 book as a caution to sellers. The Incoterms® rule DDP refers to the delivery to the destination.

The seller is liable for payment of import duty and associated taxes. Seller imposes the highest amount of responsibility on the seller of all eleven Incoterms® rules. As a result, from the seller's standpoint, the rule must be utilized carefully for a variety of reasons.

It is advised to both of the parties to precisely specify the destination of the shipment. There are some reasons:

- The risk about loss or damage of goods is transferred to the buyer from the moment that the products are delivered to the mutually agreed destination. Sellers and buyers must clearly define where the risk is transferred,
- All costs shall belong to the seller until the goods are delivered. It is the responsibility of buyer to cover all of the costs from the moment the goods are delivered. It is equally important to realize the time replacement shall take place,
- The seller is liable to make an agreement. Besides, seller is liable to transport the goods to the relevant destination. If this rule is not satisfied by the seller, then DDP rules will be violated and seller will be held responsible. Seller will be responsible to satisfy all losses of the buyer (Ship Hub).

Unless the parties agree otherwise, if the supplier incurs expenses linked to discharging at the point of delivery/destination as a result of its carriage contract, the seller is not entitled to collect such costs independently from the buyer.

According to DDP 2020 Incoterms®, the buyer has no obligation to the seller about insurance contract. However, buyer is liable to make insurance on behalf of the seller. The seller is not liable to make insurance contract on behalf of the buyer.

The seller’s and buyer’s obligations are analyzed in ANNEX XI. Information in the table is collected from the ICC 2020 book.

2.2. DELIVERY TERMS EXCLUSIVE TO SEA AND INLAND WATERWAY TRANSPORT

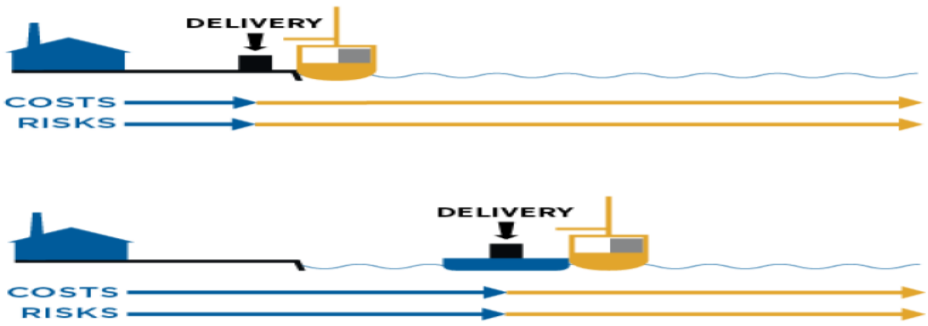
In this part of Chapter Ⅱ, FAS, FOB, CIF and CFR incoterms are analyzed according to ICC 2020 rules in detail. These rules can only be used for sea and inland waterway transport.

2.2.1. Free Alongside Ship (FAS)

FAS is given in the original Incoterms of 1936. It is common usage starts with the usage of sailing ships. The first version does not include formalities of export. In 1953, seller had to render assistance to the buyer to obtain export licence and authorization for exportation of goods. It is continued in the 1990 version. However, Incoterms® 2000 includes of responsibility to conduct exportation formalities. (www.tradefinanceglobal.com).

Incoterms refers the task distribution of risks between buyer and seller in international trade. Group F requires to specify destination port of the transfer in advance (https://www.shiphub.co/). Incoterms FAS states that the risk and all cost related with shipment transfers to the buyer when the goods are placed alongside the ship. Loading point is important to assume transfer of risks. Therefore, it is advised to clarify loading point (Demirci at. all; Incoterms 2020 :35). It is well advised that the FAS incoterms shouldn't be used for FCL (Full Container Load) or LCL (Less Than Container Load) container shipments because the goods are normally delivered to the carrier by the seller at an inland port such as a container yard (CY) (CY for FCLs) or Container Freight Station (CFS for LCL consolidations).

Figure 8. FAS (insert named port of shipment) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms ;2020: 83

Nowadays, FAS is not frequently. However, it is still available for heavy machinery shipment that is brought to the wharf or it is barged up to the alongside. The goods had not delivered until the vessel is available in the port of shipment. (www.tradefinanceglobal.com).

This rule only applies to sea or inland waterway transportation if the parties intend to convey the goods by placing them alongside a vessel. As a consequence, the 'place,' which is a vessel devoted to maritime transportation, decides where the items are going to be delivered to the client, as a result, if items are given over to the carrier once they reach alongside the vessel, for example at a container port, the FAS rule does not apply. It is recommended that the parties use the FCA rule rather than the FAS rule.

Export procedures are the responsibility of the seller, whereas import requirements are the responsibility of the buyer. Because the buyer make contract for carriage, the shipper on the b/l should be the buyer instead of the seller. The seller will very probably need a mate's receipt or some other type of export paperwork, such as a copy of the bill of lading, for VAT (Value Added Tax) / GST (Goods and Services Tax) purposes (BL).

All details in terms of FAS incoterms are analyzed in ANNEX XII. Information in the table is collected from the ICC 2020 book.

2.2.2. Free on Board (FOB)

FOB is a term that is utilized in sea and inland transportation. It refers to the rule that seller delivers the goods to buyer on the ship at the loading point. Seller provides the goods in this manner (Demirci at. all; Incoterms 2020: 36).

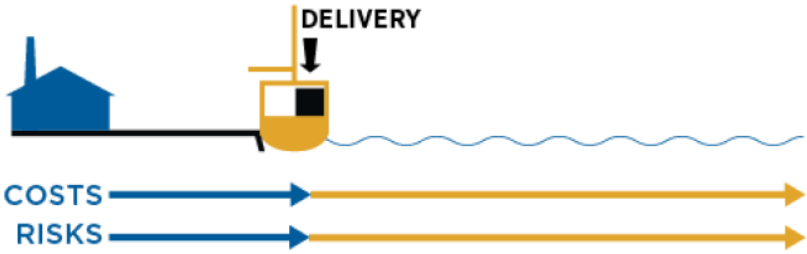
FOB had started to be used by the beginning of the shipment. It is included in the first version of Incoterms 1936. Its concept remained identical in later versions (https://www.tradefinanceglobal.com/).

Incoterms 1990 contain the rules that seller is responsible to arrange shipment at the buyer’s cost and risks about usual terms. Sellers must be aware about customs procedures in the relevant countries. The contract must define very specifically what is required to the seller and limit their liability if it is defined as the consignor or shipper (https://www.tradefinanceglobal.com/).

In the form of FOB delivery (Incoterms 2000), the risk passes to the buyer before delivery, that is, from the moment the cargo passes the onboard the ship or ship's rail while the goods are loaded on the ship. One of the important changes made

within the scope of Incoterms 2010 compared to the previous version is that the expression "on board of ship" was used instead of "shipboard" expression in FOB delivery. In this case, with the loading of the goods on the ship, possible risks have passed to the buyer, and disputes that may arise between the parties regarding liability hae been avoided (Ceylan; 2020: 21).

Figure 9. FOB (insert named port of shipment) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms; 2020: 92

According to FOB incoterm, the seller is under no obligation to make an insurance contract with the buyer. However, at the buyer's request, risk and cost, the seller must give the buyer with information in the seller's possession that the buyer requires for acquiring insurance. The buyer is under no duty to the seller to get into an insurance contract.

All export procedures are the responsibility of the seller, while all import requirements are the responsibility of the buyer. Because the buyer makes the carriage contract, the shipper on the b/l should be the buyer instead of the seller. The seller will very probably need a mate's receipt or another type of export paperwork, such as a copy of the BL, for VAT or GST purposes. When a letter of credit is used, the seller is frequently portrayed as the shipper on the bill of lading, in which case the seller must be aware of the additional duties they may be embarking on under the bill of lading's conditions and terms.

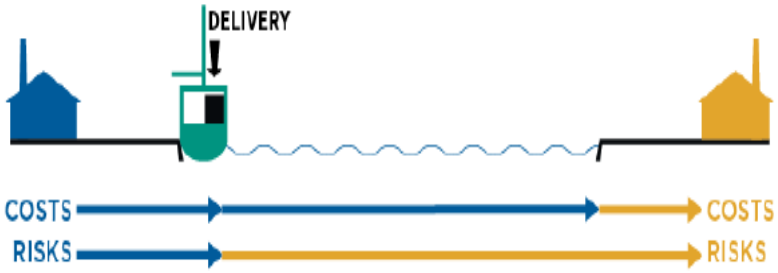
The seller’s and buyer’s obligations are analyzed with all the details. Annex XIII. Information in the table is collected from the ICC 2020 book.

2.2.3. Cost and Freight (CFR)

The term CFR is utilized only for sea transportation. It refers to the seller's liability to procure the goods to the buyer. The term "procurement" refers to need in enchainment sales that will possibly arise due to multiple sales of goods (Demirci at. al, Incoterms 2020:38).

This trade term dates back to the times of sailing and, like in earlier editions, requires the seller to place the products on board the vessel contracted by themselves under the Incoterms® 2020 regulations. The risk of damage or loss to the goods passes to the buyer at that time. On board is not defined as placement of goods to the rail of ship anymore. Instead, it is defined as agreement for specification of the goods (https://www.tradefinanceglobal.com/).

Figure 10. CFR (insert named port of destination) Incoterms® 2020



Source: ICC Rules for the Use of Domestic and International Trade Terms; 2020: 101

The risk or liability for the goods transfers from the seller to the buyer as soon as the goods are loaded on board the vessel before carriage takes place, and the buyer bears costs from that point forward (Noah; 2020). The seller is in charge of handling all export documentation, whereas the buyer is in charge of handling all import documentation. The seller is liable for shipping costs, and the BL is sometimes indicated as "freight prepaid." Because the seller has no obligation to offer insurance coverage to the buyer under CFR, the buyer should get some coverage for themselves. On the other hand, the seller has unlimited choice over whether or not to insure the items for his personal benefit.

The port where the goods are loaded on board the ship and the port chosen as the goods' arrival are both important in CFR. When the items are delivered to the customer, either by putting goods on board a ship at the shipping port or by supplying the goods that have already been delivered, the risk moves from the seller to the buyer.

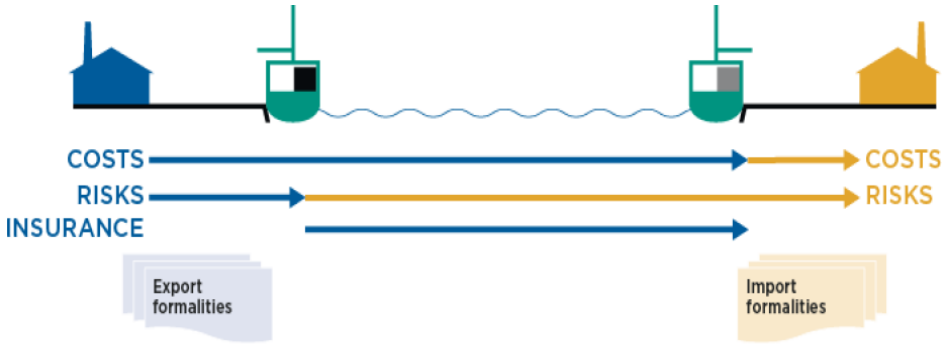
The basic shipping document is a bill of lading with an onboard date. It enables customers to take possession of products while they are being transported. It is common practice to have the BL as proof for shipment to letters or payments from buyer to seller (https://internationalcommercialterms.guru/incoterms-cfr/) .

The seller's and buyer's obligations are analyzed with all the details in ANNEX XIV. Information in the table is collected from the ICC 2020 book.

2.2.4. CIF (Cost, Insurance and Freight)

CIF refers the responsibility of seller for loading packaged goods on board where the vessel is located, carriage cost to the destination port and insrurance costs at the relevant point (https://www.shippingsolutions.com/blog/incoterms-cif). The risk of damage or loss of the goods passes to the seller when the goods are on board the ship, and the seller is considered to have fulfilled its duty to deliver the goods whether or not the goods arrive in good condition, in the specified amount, or at all. This incoterm can be applied to both maritime and inland waterway transportation. CIF incoterms can also be used for more than one mode of transport, which is typical when goods are transferred to a carrier at a container terminal; in this situation, the appropriate rule to apply is CIP rather than CIF.

Figure 11. CIF (insert named port of destination) Incoterms 2020



Sources: ICC 2020: 111

The port of loading is where delivery takes place, the port of discharge is where the seller's risk stops, and this is where insurance must be purchased. (https://internationalcommercialterms.guru/incoterms-cif/). However, the seller is obliged to make contract for the carriage of the goods from delivery to the agreed destination. For example, if goods are located in a vessel at Shanghai port for carriage to Southampton port, then delivery will be occurred when the goods are arrived to the Shanghai port. Risk is transferred to the buyer (ICC, 2020:112).

Carriage is evected through several carriers at different parts of the sea transport. A feeder vessel is placed from Hong Kong to Shanghai and then they are placed on the vessel from Shanghai to Southampton. There is no standard agreement that defines the place where the risk is transferred. It must be clearly defined in sales agreement and mutually agreed between the parties. (ICC, 2020:113).

The sole Incoterms® 2020 term that specifies which party must get insurance is CIF. Unlike the Incoterms® 2020 amendment to the term CIP, which increases the amount of insurance coverage required on the goods, CIF considers that the minimum level of coverage set under Clause C of the Institute Cargo Clauses is enough. In both CIF and CIP circumstances, insurance should cover at least 110 percent of the products' value as stated in the sales contract. The insurance should at the very least cover the products up to the place of delivery.

The seller’s and buyer’s obligations are analyzed with all the details in ANNEX XV. Information in the table is collected from the ICC 2020 book.

CHAPTER Ⅲ

DIFFERENCES BETWEEN INCOTERMS 2010 AND INCOTERMS 2020

ICC reviews and updates the Incoterms rules every ten years, the previous edition was published in 2010 (SURARAKSA at all.,2020: 462). The Incoterms® 2020 Rules is the ninth edition of Incoterms, which have the aim of being more inclusive and applied with simple language for the current international trade (Ronai, 2020). Generally, the main differences between Incoterms 2010 and Incoterms 2020 include:

1) New Incoterm DPU Replaces DAT
2) Different Level of Insurance Cover between CIP and CIF
3) The Listing of Costs
4) Security Requirements
5) FCA and Bill Of Lading
6) FCA, DAP, DPU, and DPP Have Their Own Means of Transport
7) Explanatory Notes for Users

ICC is decided not to make any amendments in Incoterms®2020. There is one explanatory note about VGM in Incoterms® 2020. Since July 2016, shippers are obliged to weigh the packed container by using calibrated or certified equipment. Alternatively, they can weigh the contents of container and then add the weight of the empty container. The VGM must be recorded with the carrier in either situation. Failure to comply results in the container "not being loaded onto a ship" under the *"International Convention for the Safety of Life at Sea (SOLAS) Convention*": see paragraph 4.2, MSC1/Circ.1475, 9 June 2014. (ICC, 2020: 13). However, the Incoterms® 2020 working group has not made any regulation, as it has decided that the obligations and costs related to VGM are very specific and complex in terms of regulating within Incoterms® 2020 (Ağaoğlu, 2020: 1128).

3.1. NEW INCOTERM DPU REPLACES DAT

The ICC renamed DAT in which is named as DPU before (Davis at al., 2021:18). This amendment is simple. Obligations and functions of both terms are same (Practical Guide to Incoterms 2020: 14). The DPU incoterm emphasizes the rule's correct application as an unloaded delivery to anyplace in the target country, not merely to a terminal. The term "terminal" refers to both transportation (sea, land and air) and logistics infrastructure (ports, airports, train stations) or equivalent facilities such as free zones, docks and warehouses.

3.2. DIFFERENT LEVEL OF INSURANCE COVER BETWEEN CIP AND CIF

The aim of cargo insurance is to protect goods during transportation against physical loss or damage. Only the CIP and CIF incoterms specify the requirement to arrange insurance coverage. The seller must incurred insurance in both incoterms, but not in the remaining nine incoterms.

CIF and CIP indicate that the seller is just responsible for delivering the goods to the carrier but pays for carriage and insurance to the stated destination. There are various differences between the two incoterms. CIP can be used for all forms of transportation, but CIF can only be used for sea and inland waterway transportation. Another difference is the degree of insurance coverage. The seller is required to perform the contract of carriage under insurance in favor of the buyer with comprehensive coverage in CIP incoterms, but the seller conducts the contract of insurance with minimal coverage in CIF incoterms.

CIF Incoterms® 2020 has the same insurance coverage as Incoterms 2010, while CIP Incoterms® 2020 requires the seller to has more insurance. This is because CIF is more commonly used with bulk commodity trading, but CIP is more commonly used with manufactured products, and manufactured products require additional insurance (Lowe,2020).

Jonathan Davis and John Vogt reviews the cover of insurance differences between 2010 and 2020 in Incoterms® 2020 and the missed opportunities for the next version. Jonathan Davis and John Vogt state that Incoterms® 2020 Incoterms for

decreasing the complexity of insurance covarage level increasing to clause ‘A’ insurance for one of the rules, but not the other. Therefore, this does not reduce the complexity of rules. The main purpose is to allow cargo movements that the seller takes responsibility and costs. However, it is not the risk that solely belong to buyer. Alternatively, it is not the risk that solely belong to buyer in terms of insurance policy in which is purchased by the seller on behalf of the buyer.

3.3. THE LISTING OF COSTS

In Incoterms® 2020, costs which are responsible each party is defined in detailed in A9/B9 clause. These costs are packaging, marking, weighing, loading or unloading costs, transportation costs etc.

The general rule of cost allocation is defined by the United Nation on Trade and Development (UNCTAD) Secretariat in Legal Aspects of International Trade books. CIF Incoterms® 2020 has the same insurance requirements as in Incoterms 2010, while CIP Incoterms® 2020 has increased the level of insurance needed by the seller. The general rule is that when the seller has completed his commitment to deliver the products, the obligation to cover the costs associated with the products moves from the seller to the buyer. Thus, in terms of cost distribution, 'delivery' is the dividing line between seller and buyer.

The place or port of delivery specified by A2 is critical for risk transfer and cost allocation. According to Incoterms® 2020, the port or place of delivery under A2 also identifies the central point under A9, which assigns expenses to the buyer and seller, according to Incoterms® 2020. In general, A9 allocates costs to the seller until the place of delivery and costs to the customer beyond that point.

All costs are given in A9/B9 clauses in 2020. However, there is another amendement. There is another amendment that will become certain to users. There are different rules in which are defined in various articles of the Incoterms®. It is appeared in different parts of each Incoterms® rule. Therefore, costs about obtaining “delivery document” in FOB 2010 were expressed in A8. It is under the delivery document. However, it is not in A6 under “allocation of costs” section (ICC, 2020; 14). The aim

of giving a one-stop list of costs is to see all of the costs incurred by the buyer and seller for which they are liable under the terms of the contract.

3.4. SECURITY REQUIREMENTS

The seller and the buyer have duties towards each other in relation to export and import licenses, governmental authorizations, security clearances, and customs procedures necessary for the export and import of commodities, according to articles A2 and B2 of each incoterms clause in Incoterms 2010 regulation, where applicable(Coetzee: 2013:20).

Some security-related problems happened in the early 20th century, such as the September 11, 2001 attacks on the United States. After these concerns grew so prevalent, the ICC created security-related sections, which were included in the 2010 rules.

Security clearance is expressed under the Incoterms 2010. It is occurred due to September 2001 attacks. It had aimed to cover the controls that commercial goods are subjected to protect against non-operational hazards (Piltz, 2020: 18).

These problems, as well as the related shipping procedures that they have created, are already well-established. The Incoterms® 2020 guidelines now include greater information regarding security needs and expenses.

A4 and A7 of each Incoterms regulation now clearly allocate security-related responsibilities (Incoterms® 2020), as they are linked to carriage requirements. The expenses associated with these criteria, especially A9/B9, are already given a more prominent place in the costs article (ICC, 2020: 16).

3.5. FCA AND BILL OF LADING

Jonathan David and John Vogt (2021) define FCA as the expense that is paid by the seller. Then, goods are delivered to the mutually agreed destination by the buyer at the buyer's expense.

In Incoterms® 2020, the FCA incoterms are modified. New provision states that if goods are sold as FCA for maritime shipping, buyers or sellers (or, more likely,

their banks if a letter of credit is in place) may need a bill of lading with an on-board notation.

The amendment in this rule is that each of the parties are free to issue transport document to the seller. There must be a statement that goods are loaded. The content of this provision is the letter of credit. It includes changes for habits of banks about issuance of letters of credit for the on-board BL. This document can also be used for the goods that are transferred by the trucks (Kubáˇnová at all: 2020: 292).

This problem is now addressed in Incoterms® 2020 FCA A6/B6. Following the loading of the goods, the buyer and seller might agree that the buyer will order its carrier to give an on-board bill of lading to the seller, with the seller being compelled to present the bill of lading to the buyer, usually through the banks. Finally, this should be noted that, even if this optional method is used, the seller has no responsibility to the buyer in terms of the carriage contract (ICC, 2020:14).

3.6. FCA, DAP, DPU, AND DDP HAVE THEIR OWN MEANS OF TRANSPORT

One of the main differences between Incoterms 2010 and 2020 is that Provisions to allow for own transport rather than assuming 3rd party transport in FCA, DAP, DPU and DDP incoterms. Previous versions assumed that the parties agreed with an intermediary shipping company to deliver the goods to the original carrier (Öztürk at all: 2020: 45).

However, it is became obvious during the discussions that led to Incoterms® 2020 in which there are some scenarios where the items may be transported from the seller to buyer without the use of a third-party carrier. Similarly, there is no reason to stop the buyer to use own vehicle to collect the goods. Besides, buyer can transport the goods in the same manner. The Incoterms®2020 allows carriage contract but also it is simply utilized to arrange required carriage (ICC, 2020: 15-16).

3.7. EXPLANATORY NOTES FOR USERS

In the 2010 edition, the Guidance Notes at the start of each Incoterms regulation have been renamed "Explanatory Notes for Users." The principles of each Incoterms®

2020 rule are explained in these Notes, including when it should be utilized, when risk transfers, and how costs are divided between seller and buyer.

The Explanatory Notes are intended to assist the user in accurately and efficiently determining the appropriate Incoterms® rule for a particular transaction, as well as to provide guidance on matters that may require interpretation to those deciding or advising on conflicts or contracts governed by Incoterms® 2020(ICC, 2020:16-17).

CHAPTER Ⅳ

THE PRACTICE OF SEVERAL INCOTERMS UNDER COMPERATIVE LAW ANALYSIS

4.1. METHODOLGY OF THE STUDY

Global trade volume is increasing everyday. There are so many risk and cost during carriage of goods. Determining who will bear these risks and costs, where the passes from seller to the buyer is really important. This thesis aims to identify the parties responsibilities during transportation of goods according to the incoterms 2020 and analysis the countries application under several judgements when the diputes arise between seller and buyer.

Four different cases examined in this thesis. All cases were selected from Europe countries judgements. These countries are Hungray, Netherlands, Germany and Denmark.

This thesis implements qualitative research and, specifically**,** case study research. Finding an answer to a question is a crucial notion in qualitative research, with the goal of revealing underlying viewpoints and insights. The goal of qualitative research isn't to find a predefined answer or idea regarding the study topic. Rather, having a full perspective of the item and its causes is the finest conclusion of such inquiry. Data is acquired from experts and specialists through an interactive interaction with the researcher in qualitative research, which takes place in a natural setting. Text, images, interviews, and other media are used to compile the research material.

All research, even quantitative research, starts with qualitative research. Quantitative research differentiates from qualitative research in that it begins with a pre-defined question to be addressed. Theories are established in qualitative research with the goal of defining the topic, but in quantitative research, the route is from theory to practice, often known as deduction.

Case studies were one of the first types of research to be used in the field of qualitative methodology. Case studies have been largely used in the social sciences and have been found to be especially valuable in practice-oriented fields (such as education, management, public administration, and social work).In a case study, one

or more cases can be investigated. When examining one case, we refer to a singular case study, and a multiple or plural case study is used to describe a study examining several cases (Starman, 2013: 33).

4.2. PRACTICES

In this study, four different cases related to four different incoterms are analyzed. All of the cases are about the delivery of delivery problems of the goods between parties from different countries. The main question is which country's court can judge and give a decision in these cases. Another question is whether the usage of incoterm rules in contracts of carriage will affect how this suit is solved and which country's law will be given decision by the court. Is the only usage of incoterms in the contract of carriage enough to solve all these problems?

4.2.1. THE PRACTICE OF CPT INCOTERM UNDER NETHERLANDS LAW

The Dutch company, which is applicant, bought an item of machinery from the defendant which domiciled in Germany. An incoterms provision stating "Pricing ex-works: CPT Rotterdam" and "Delivery time about 2 weeks: delivery after full payment" is incorporated in the agreement between the two parties.

4.2.1.1. What is the Dispute?

The parties couldn't agree on a delivery location. Dispute arises from this point because the defendant maintained that Germany was the point of delivery since that is where the equipment was handed over to the carrier. The claimant, on the other hand, contended that the place of delivery was Rotterdam, the sole location named in the contract.

4.2.1.2. What are the Assertions of Claimant?

The first assertion of the claimant was that the point of delivery was Rotterdam in accordance with the sales contract. That's why claimant brought the case before the Rotterdam District Court. The claimant discussed that the parties are agreed about the delivery of the machine. It shall be transferred to the Rotterdam and expenses will be covered by the defendant.

The claimant claimed compensation from the defendant for the expense of hiring new machinery, among other reasons.

The claimant maintained that the jurisdiction provision could not be enforced since the defendant's general conditions and terms had never been accepted by themselves. It further said that it had been decided that the products would be shipped to Rotterdam. Therefore, according to Article 7(1)(b) Rotterdam District Court would have the authorization for the jurisdiction.

4.2.1.3. What are the Defences of Defendant?

The defendant stated that the equipment was delivered to the carrier in Germany. Meanwhile, the defendant claimed that delivery happened when the seller passed over the machine to the carrier under the Incoterm CPT Rotterdam agreement and that the Court of Rotterdam lacked jurisdiction because this transition occurred in Germany.

The defendant contended that the court's jurisdiction was challenged on two grounds. A jurisdiction provision in the defendant's general terms and conditions names a court in Germany. As a result, if the products were delivered in Germany and the jurisdiction could not be enforced, the German courts had jurisdiction under Article 7(1)(b)[1] of the EU Recast Brussels Regulation (1215/2012).

[1] [1] *A person domiciled in a Member State may be sued in another Member State: (1)*
(a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;
(b) for the purpose of this provision and unless otherwise agreed, the place of performance of the obligation in question shall be:
— in the case of the sale of goods, the place in a Member State where, under the contract, the goods were delivered or should have been delivered,
— in the case of the provision of services, the place in a Member State where, under the contract, the services were provided or should have been provided;

4.2.1.4. What is the Decision of Court?

The claimant referred to another case contested before the European Court of Justice, the Electrosteel case. Furthermore, the claimant alleged that the CPT Rotterdam was only referenced in the contract's cost obligation clause. The claimant claimed that this was the sole place emphasized throughout the contract, and therefore, under Article 7(1). (b). The delivery location should be recognized as being in Rotterdam.

The court determined that, except from the CPT Rotterdam clause, that there were no relevant terms in this instance to identify the site of delivery, and that was insufficient. The court stated that the CPT Incoterm was not the only incoterm referenced in the contract. Because the Incoterm was placed after the phrases "pricing ex-works" and because the contract included another clause designed to address delivery, the judge decided that the Incoterm CPT Rotterdam agreement was included in the process of dividing costs in the framework of this agreement.

In the context of agreement, the court decided that identifying the point of delivery was impossible. The court determined that the point of delivery, where the actual transfer of the commodities occurred, was the Dutch city of Waddinxveen, as specified in the B/L. The court ruled that it lacked jurisdiction to hear the complaint since this city was outside its jurisdiction.

4.2.2. THE PRACTICE OF DDP INCOTERM UNDER GERMAN LAW

The seller (defendant) is a limited company in South Korea and the buyer (claimant) is also limited liability Company established under German law. The claimant is a fibre optic producer and bought the necessary fibre from the defendant in South Korea. Both parties agreed on a DDP Cologne (Germany) Incoterm. This means that defendant should deliver the goods in Cologne with bearing all cost and risk until deliver the goods in the aggreeing place.

(c) if point (b) does not apply then point (a) applies;
Sources: REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast).

According to Incoterms® 2020 clauses, the seller pay all cost and bear risks until goods delivered in the place where both parties agreed on contract. Also, seller pay all cost relating with import and export custom clearance. Seller has maximum responsibility according to DDP terms.

4.2.2.1. What is the Dispute?

The dispute between seller and buyer arose as a result of temperature-dependent failures discovered by the claimant's clients after selling the produced fiber optic cables. These problems were linked back to the defendant's defective and supplied fibers.

As a result, the claimant started legal procedures at the Cologne District Court and filed a demand for damages compensation.

4.2.2.3. What are the Assertions of Claimant?

The claimant filed a claim for damages in the Cologne District Court. The claimant considered Germany to have international jurisdiction since the contractual duty to deliver the products had to be fulfilled in Germany according to the DDP Cologne clause.

4.2.2.3. What are the Defences of Defendant?

According to the defendant, the contract did not specifically reference the international commerce terms (Incoterms), and as a result, the provision did not impose a responsibility to deliver the products in Germany. The DDP Cologne clause was only included by the parties with the intention of dividing the risk and expenses of the export and import. The official remarks of the International Chamber of Commerce could not be interpreted because they did not make any specific mention of the Incoterms.

4.2.2.4. What is the Decision of Court?

First of all, the Federal Court of Justice considered whether German international jurisdiction could be established under German civil procedure law; as a result, the parties did not choose a court or a law that was explicitly applicable to the contract. The court made its decision based on the applicable lex fori[2].

The claimant sought compensation from the defendant for breaching its responsibility to supplying flawless goods. As a result, the place where the seller was required to deliver the products also determined the point of performance for the reason of reimbursement for damages. The court ruled that the site of delivery and performance should have been specified in the parties' sales contract. The Federal Court of Justice considered whether Cologne was the site of delivery because both parties agreed on it under the defined lex clause[3].

By the time the sales contract was signed, South Korea and Germany had both recognized the " Hague Sales Convention and the Convention on the Sale of Goods ".

Unless the agreement states the otherwise, Article 31[4] of the International Sale of Goods convention determines such a place of performance in principle. Federal Court of Justice found an agreement that is contrary to DDP Cologne clause. This clause states that it is not sole responsibility of the seller to bear all relevant export and import expenses and risks. However, buyer is obliged to seller about bringing the goods to the relevant destination. Therefore, the jurisdiction will be conducted in Germany.

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[2] Lex fori is a legal term used in the conflict of laws used to refer to the laws of the jurisdiction in which a legal action is brought. It is a Latin term referring to the laws of the forum (uslegal.com).

[3] Lex causae is the law or laws chosen by a forum court from among the relevant legal systems to arrive at its judgment. This is mostly used in international or interjurisdictional cases. (https://definitions.uslegal.com/l/lex-causae/)[3]

[4] If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

(a) if the contract of sale involves carriage of the goods—in handing the goods over to the first carrier for transmission to the buyer;

(b) if, in cases not within the preceding subparagraph, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place—in placing the goods at the buyer's disposal at that place;

(c) in other cases—in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract. (United Nations Convention on Contracts for the International Sale of Goods, 2010: 9)

The defendant's argument for appealing the judgment is that the DDP Cologne article was only intended to specify risk and cost allocation. Due to its extensive usage in international trade, the Federal Court of Justice declared that the clause should be construed in accordance with the ICC's guidelines in order to identify the system of responsibilities under the particular clause, even if no reference to the ICC is made.

4.2.3 THE PRACTICE OF CIF INCOTERM UNDER DANISH LAW

In 2016, the claimant (seller) from Denmark entered into a contract with the defendant (buyer) from the Czech Republic to purchase large equipment weighing about 16 tonnes. The offer and invoice made by the claimant to the defendant include a CIF Bratislava term. They did not agree on the choice of law or jurisdiction if a dispute arose under this contract. The equipment was delivered to a road carrier in Svenstrup, inland Denmark, by the seller, who then transported it to Bratislava.

4.2.3.1. What is the Dispute?

A dispute between the two parties arose as a result of the buyer's failure to complete payment after receiving the items. As a result, the seller sued the buyer at Aalborg City Court to take under quarantee the €136,637 payment for the products.

4.2.3.2. What are the Assertions of Claimant?

According to Article 7(1)(a), a person domiciled in an EU member state may sue in the courts of another EU member state for the location of performance of the obligation. In addition, the claimant claimed that the court should examine the entire contract provisions when determining delivery place. In this case, claimant referred to:

- *the contract, which included the CIF Bratislava clause;*
- *and Section 10 of the Danish Sale of Goods Act*

"*Section 10 of the Sale of Goods Act* " – *it applies to purchase and sales agreement other than those are about real estate. It affects the seller to conduct*

delivery. Seller shall be accepted as completed the delivery of goods after achieving the following:

- *They have been given to the carrier who has agreed to make the carriage from the loading place; or*
- *In the situation of a maritime transport shipment, the products are taken on board .*

Claimant further stated that CIF contracts and their provisions are widely known and that the court should determine the point of delivery based on the parties' common understanding in this case, claimant made delivery when it turned the items over to the third party carrier.

4.2.3.3. What are the Defences of Defendant?

The defendant argued that Aalborg City Court lacked the ability to decide the dispute and that it could only be sued in the location where the buyer resided (ie, the Czech Republic) In accordance with article 4(1) of the *REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2012* on jurisdiction, the recognition and enforcement of decisions in civil and commercial issues *(EU Brussels I Regulation)*.Furthermore, according to *Article 7(1)(b) of the EU Brussels I Regulation*, the place of performance of the obligations is the place in an EU member state where the goods were shipped or should have been delivered under the contract, unless otherwise agreed in the contract.

Defendant also stated that they agreed on CIF Bratislava incoterm and claimant didn't deliver the goods in Denmark. As a consequence the defendant claims that the Danish courts doesn't have the authority to judge the conflict. Furthermore, B contended that a CIF provision could not be interpreted as an agreement on special jurisdiction for the purpose of *Article 7(1)(a) and (b) of the EU Brussels I Regulation*.

4.2.3.4. What is the Decision of Aalborg City Court?

Aalborg city court stated that disputes that occurs between the parties doesn't include place of delivery in terms of incoterm. The Cif-Bratislava incoterm was agreed

upon by the parties. However, what did "Cif Bratislava" mean? Was the delivery place agreed upon by the parties to be the point where the items were handed over to a third-party carrier, or was it Bratislava, Slovakia? The CIF clause, according to the Aalborg City Court, simply stated who was responsible for the risk of damage to the products at a certain moment in time. The court also said explicitly that the CIF Bratislava provision included no reference of the place where the goods were to be delivered to a third-party carrier.

4.2.3.5. What is the Decision of High Court of Western Denmark?

On appeal, The High Court of Western Denmark considered whether the CIF clause meant that the parties agreed that the place of performance and delivery of the obligation was Bratislava, Slovakia or whether the parties agreed that the place of performance of the obligation under Article 7(1)(a) of the EU Brussels I Regulation was the delivery place of the goods to the third-party carrier.

The manager of the defendant stated that the claimant had not informed them if the merchandise were to be transferred to a third-party carrier in Svenstrup.

The High Court of Western Denmark overturned the first-instance decision, finding that the court in question had legal authority and that the CIF Bratislava provision indicated that the both parties had agreed that claimant would make delivery when the items were passed over to a third-party carrier in Svenstrup, Denmark.

The court based its decision on the circumstances of the case, which included the fact that CIF clauses are generally recognized and utilized in international commercial practice, meaning, among other items, that delivery occurs when goods are transferred to a third-party carrier. As a consequence, the court had jurisdiction over the case.

4.2.4. THE PRACTICE OF EXWORK INCOTERM UNDER HUNGARIAN LAW

In this case, can a judicial error create Hungarian Jurisdiction if the place of performance issue is abroad is analyzed. The applicant, acting as the buyer, and the defendant, acting as the seller, entered into a contract of sale for the purchase of potatoes.Both parties agreed on Exworks incoterms in the contract of sale. In this case,

it is examined which country's court can decide on the disputes arising from the agreed incoterms in sales of contract of companies which is domiciled in different countries.

4.2.4.1. What is the Dispute?

Dispute between two parties occurs from quality defect of goods. The buyer organized the carriage by contracting with third party from taking delivery the goods in Slovakia. Goods were delivered back to the seller because of quality defect.

4.2.4.2. What are the Assertions of Claimant?

The applicant sued the Slovak defendant for European order-for-payment proceedings. Applicant demand to pay the freight, purchase price, and interpretation fees from the defendant based on its withdrawal decision.

4.2.4.3. What are the Defences of Defendant?

The defendant objected to the court's jurisdiction. According to it, the applicant's claim was governed by the EU Brussels IA Regulation. The matter could be decided by the Slovak courts in accordance with Article 4(1)[5] of the regulation.

4.2.4.4. What is the Decision of First-Instance Court?

The first-instance court in Hungary ruled that because the defendant doesn't reside in Hungary, Article 4(1) of the European Brussels IA Regulation prevents this jurisdiction from being filed in Hungarian courts. According to the court, the sale contract had been completed in Slovakia and the Hungarian courts lacked jurisdiction under the particular rule of jurisdiction set down in Article 7(1) of the EU Brussels IA Regulation since the applicant had agreed to deliver the goods.

[5] *EU Brussels Ia Regulation article 4(1) stated that: subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State (Official Journal of the European Union,2012:7).*

4.2.4.5. What is the Decision of Second-Instance Court?

The second-instance court confirmed that the Hungarian court doesn't have the jurisdiction under the article 7(1) of the European Brussels IA Regulation in this case. The applicant asked for a judicial review of the decision. It was believed that the first-instance court's previous decision, which had established jurisdiction, was binding. The applicant additionally argued that because the performance (i.e., the delivery of the goods to the applicant) took place in Hungary, the Hungarian courts were competent under Article 7(1)(a) of the EU Brussels Ia Regulation.

As a consequence, the place of performance is determined by the place of the service: this means at first the place where the service should be performed according to the contract; after performance of the service, the factual place of performance is of relevance, provided that it complies with the contractual provisions or the counterparty has accepted performance at this place in accordance with the contract.

According to the applicant, as the action also included a claim for damages resulting from bad performance, the Hungarian courts' jurisdiction may be established in accordance with *Article 7(2) of the EU Brussels IA Regulation*, which states that in cases involving tort, delict, or quasi-delict, the courts of the location where the harmful event happened had jurisdiction.

4.2.4.6. What is the Decision of Supreme Court?

Firstly, the Supreme Court reviewed the first-instance court's ruling and emphasized that it had not been illegal for the court to afterwards declare that it lacked jurisdiction and end the proceedings. The court also considered whether the EU's Brussels Ia Regulation may grant jurisdiction to the Hungarian court. The court stated that the transportation of the goods was arranged by applicant in terms of Exworks incoterms and the goods were delivered by the defendant at its own premises in Slovakia.

According to Article 7(1) of the EU Brussels IA Regulation, there was no specific ground of jurisdiction given the aforementioned facts. Consequently, the

Hungarian courts lacked jurisdiction over the case. Therefore, the Supreme Court affirmed the judgment from the second instance.

CONCLUSION

Due to globalization, sales and transportation contracts become more important in international trade. There are two important issues in international sales contract: who will bear the risk and cost and where these passes from seller to the buyer.

In order to determine the answers of these two important questions and to solve the disputes between seller and buyer based on the delivery defective goods or occurence of particular damages on the goods during transportation, ICC published incoterms rules since 1936. These rules were consisted to standardize, uniform the application of international trade and remove the various comments between users.

These rules have been updated multiple times to reflect changing international trade patterns. The most recent version of these regulations came into effect on January 1, 2020. The Incoterms® 2020 regulations seek to be beneficial to practitioners by revising the previous edition of the Incoterms 2010 rules while taking into account current commercial practices.

Incoterms rules are defined passing of risk point, allocation of cost, delivery and general obligation of seller and buyer. Delivery point defines the passing of risk and cost in terms of incoterms. It can be port, on board of ship or specified place of the buyer. This place varies in accordance with the agreed incoterms.

Incoterms regulate tthe divisions of obligation between seller and buyer and determine who will arrange the shipment, pay export and import clearance or which of the parties take out the insurance cover for the goods sold.

Allocation of cost is analyzed under A9/B9 clauses in Incoterms® 2020. In Incoterms® 2020, users (seller and buyer) are able to find the details of which party pay which cost in terms of determined incoterms.

Incoterms are divided in two groups in Incoterms® 2020. EXW, FCA, CPT, CIP, DAP, DPU and DDP incoterms can be used for any mode or modes of transport and FAS, FOB, CFR and CIF incoterms rules can be used for rules for sea and inland waterway transport. This seperation has been made by ICC to assist the seller and buyer in choosing the best appropriate incoterm for sales of goods contract.

Some changes were made by ICC in Incoterms® 2020 to ease the understanding of each incoterms by parties. These changes are made to increase the

usage of incoterms and make all incoterms rules clear for seller and buyer. Some explanatory notes were given by ICC to users and all rules list revised. A1/B1 defines general obligations both seller and buyer and A2/B2 defines delivery and taking delivery for instance. In addition, DAT incoterms were removed and DPU incoterm is added to clearify the delivery points.

Determining the specific incoterm in a sales contract is also important to determine the applicable law to solve the disputes arised between parties. Which country's court can make jurisdiction when the disputes arises? This is also important an issue in international trade.

Incoterms rules do not have the force of law and they are legaly binding only if both parties stated and agreed on the usage of a specific incoterm under their contract of sales. This is a type of soft law instrument. When the parties state the specific incoterms on the cotract of sales, passing of risks, delivery of place and cost allocation are assumed to be determined under the contract. Also, parties shall specify the jurisdiction place or choice of law to solve the disputes when occured between two parties.

Parties shall state the specific incoterm under their contract of sale for instance CIF Bratislava or DDP Cologne. This defines where the delivery occurs and if any dispute occure between parties, which court can judge under specified incoterms in the contract of sales. EU Brussels I Regulation was accepted by EU countries and this law can also applied to solve the disputes between parties.

The regulation's main concept is that people can only be sued in their member state of residence. The Regulation defines "domicile" as a person's usual or habitual residence. A limited number of exceptions to this fundamental concept are spelled forth in the EU Brussels I Regulation. Most of these exceptions are optional and enable the plaintiffs to sue in a place other than the defendant's jurisdiction without requiring them to.

The place of performance of the obligation and product delivery may be the place of an EU member state, according to Article 7(1)(b) of the EU Brussels I regulation. The delivery location will be chosen by the sales contract from this point forward. This location is crucial in determining the location of performance as well as the court that has the ability to judge under the regulation.

Parties shall evaluate every details of incoterms and choose the appropriate one for their benefits. This is also important for determining which countries law can be applied to solve the disputes.

All the incoterms 2020 rules are identified in depth in this thesis, and some cases between different countries that are members of European Member Countries and non-member countries are examined. The main question is which country's court has the right to judgement when the problem arises. Consequently, determining the incoterms in the sales contract and giving the decision place of performance according to incoterm is really important to give an answer to this question.

In the future, researchers may analyze cases that include the same incoterm in different countries or different continents and their legal applications.

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APPENDICES

APPENDIX- I

THE PRACTICE OF CPT INCOTERM UNDER NETHERLANDS LAW

08 September 2015

Litigation, Netherlands

The Rotterdam District Court recently ruled that it lacked authority to hear a dispute between the buyer and seller of an item of machinery transported from Germany to the Netherlands, holding that the actual place of delivery was outside its jurisdiction. It follows from the decision that the mere mention in Incoterms of a specific city is by no means a guarantee that a dispute will be heard by a court in that city.

Facts

The claimant, a Dutch recycling company, bought an item of machinery from the defendant, based in Germany. The machine was transported to the Netherlands, but was subsequently found to be defective. The parties disagreed on the place of delivery. The defendant argued that Germany was the place of delivery, as that was where the machine had been handed over to the carrier. However, the claimant maintained that the point of delivery was Rotterdam, the only place mentioned in the contract.

The claimant sought damages from the defendant for, among other things, the cost of hiring replacement machinery. The claimant brought the case before the Rotterdam District Court, but the defendant contested the court's jurisdiction on two grounds:

- The defendant's general terms and conditions contained a jurisdiction clause specifying a court in Germany; and
- In the event that the jurisdiction clause could not be enforced, and since the goods had been delivered in Germany, the German courts had jurisdiction pursuant to Article 7(1)(b) of the EU Recast Brussels Regulation (1215/2012).

The agreement between the two parties contained an Incoterms clause stipulating "Pricing ex-works: Carriage Paid To Rotterdam (CPT)" and "Delivery time around 2 weeks: delivery after full payment". 'CPT' is a commercial term denoting that the seller will deliver the goods to a carrier or another person nominated by the seller at a place

mutually agreed upon by the buyer and seller, and that the seller will pay the freight charges to transort the goods to the specified destination.

The claimant argued that it had never accepted the defendant's general terms and conditions, and that the jurisdiction clause thus could not be enforced. Furthermore, it maintained that it had been agreed that the goods would be delivered in Rotterdam, so that the Rotterdam District Court would have jurisdiction pursuant to Article 7(1)(b).

Decision

The court held that it had not been established whether the general terms and conditions (including the jurisdiction clause for the court in Germany) formed part of the agreement between the parties. The remaining part of the decision therefore turned on whether Rotterdam should be regarded as the place of delivery within the meaning of Article 7(1)(b).

The claimant argued that the parties had agreed that the machine would be delivered in Rotterdam at the defendant's expense. The defendant, meanwhile, contended that, pursuant to the Incoterm CPT Rotterdam agreement, delivery took place when the machine was handed over by the seller to the carrier and that, as this handover took place in Germany, the Court of Rotterdam did not have jurisdiction.

The claimant noted that the Incoterm CPT Rotterdam agreement was mentioned only in that paragraph of the agreement addressing cost. It argued that in Electrosteel (C-87/10), the European Court of Justice (ECJ) held that in order to determine the place of delivery, all terms and conditions of the agreement should be taken into account. Since Rotterdam was the only place mentioned in the entire agreement, the claimant argued that Rotterdam should be regarded as the place of delivery within the meaning of Article 7(1)(b).

The court held that it follows from the ECJ decisions in Electrosteel and in Car Trim (C-381/08) that in case of distance selling, the place where the goods were delivered pursuant to the contract must be determined on the basis of that contract. In order to verify whether the place of delivery was determined under the contract, all relevant terms and clauses capable of clearly identifying that place, including Incoterms, must be taken into account. When Incoterms are included in the agreement, it is necessary to determine whether the specific Incoterm provision was included only in order to divide the risk of transportation and/or cost, or also to determine the place

of delivery.If it is impossible to determine the place of delivery on this basis without referring to the substantive law applicable to the contract, the place of delivery is the place where the physical transfer of the goods took place, as a result of which the purchaser obtained - or should have obtained - actual power of disposal over those goods at the final destination under the sales transaction. The court held that in this case, aside from the clause mentioning CPT Rotterdam, there were no other relevant clauses capable of identifying the place of delivery. Consequently, the court held that this clause in itself was insufficient to conclude that the place of delivery was indeed Rotterdam.

In the context of this agreement, the court found that the Incoterm CPT Rotterdam agreement was specifically included in order to divide cost, because the Incoterm was placed after the words 'Pricing ex-works' and because the agreement included another clause addressing delivery, although this determined only the moment of delivery (after full payment), and not the place of delivery.

In the end, the court disagreed with both parties and concluded that it was impossible to determine the place of delivery on the basis of the contract. Therefore, it held that the place of delivery would be the place where physical transfer of the goods took place - which, as evidenced by the relevant bill of lading, was the Dutch city of Waddinxveen. As this city lies outside its jurisdiction, the court declared that it lacked jurisdiction to hear the case.

Comment

It follows from this decision that in case of distance selling, mention in Incoterms of a specific city by no means guarantees that jurisdiction will fall to a court in that city. In order to avoid any doubt about the place of delivery – and the consequences for jurisdiction – it is advisable to include the place of delivery explicitly in agreements and/or general terms and condition.

APPENDIX - Ⅱ

THE PRACTICE OF DDP INCOTERM UNDER GERMAN LAW

09 July 2013 | Contributed by Dabelstein & Passehl

Litigation, Germany

Introduction

On November 7 2012 the Commercial Law Division of the Federal Court of Justice ruled on a case (VIII ZR 108/12) in which the opposing parties had entered into an international sales contract containing the clause "delivered duty paid (DDP) Cologne (Germany)". The court decided that in such cases German jurisdiction is provided for claims seeking compensation for damages.

In German civil procedure law, international jurisdiction is considered a mandatory prerequisite for any decision. Therefore, the question that the Federal Court of Justice had to decide is important to each case with an international background, since the place of jurisdiction can have a serious impact for the parties involved.

The facts of the case are fairly simple and could be potentially regarded as a blueprint for a large number of similar cases in international trade.

Facts

The claimant, a limited liability company established under German law with its registered office in Germany, and the defendant, a South Korean limited company, had been engaged in ongoing business relations since 2003. The claimant manufactured fibre-optic cables and bought the necessary fibres from the defendant. It was understood that the parties' agreed on the DDP Cologne (Germany) clause.

After selling the manufactured fibre-optic cables, temperature-dependent failures were detected by the claimant's customers. These failures were linked the defendant's delivered and defective fibres.

Consequently, the claimant initiated legal proceedings at the Cologne District Court and filed a motion for compensation for damages. The claimant considered international jurisdiction to be in Germany, since the contractual obligation to deliver the goods had to be performed in Germany due to the DDP Cologne clause. The defendant denied such jurisdiction by arguing that the contract did not refer directly to the international commerce terms (Incoterms), and thus the clause did not provide for a duty to deliver the goods in Germany. The parties' sole intent in incorporating the DDP Cologne clause was to allocate the risk and costs of the export and import. Without any direct reference to the Incoterms, the official comments of the International Chamber of Commerce could not serve as a means of interpretation.

The first instance court rejected the claim due to lack of jurisdiction. The Cologne Court of Appeal recognised the German international jurisdiction and annulled the first instance court's judgment. After filing for revision, the Federal Court of Justice approved the Cologne Court of Appeal decision.

Although based only on this simple situation, the legal consequences drawn by the Federal Court of Justice are crucial to all international sales contracts for non-German parties.

Decision

The main focus and first question assessed by the Federal Court of Justice was whether German international jurisdiction could be established by German civil procedure law, because the parties did not choose a forum or a law explicitly applicable to the contract.

The answer was determined by the applicable *lex fori* (ie, in this case Section 29 of the German Code of Civil Procedure). In order to establish jurisdiction, Section 29(1) requires the place of the respective performance to be located in Germany. Therefore, the Federal Court of Justice had to define the respective performance on which the claim was based and then its location.

The claim for compensation for damages was derived from the obligation to deliver flawless goods. So the place where the goods had to be delivered by the seller also determined the place of performance for the purposes of compensation for damages. Since the parties had agreed on the DDP Cologne clause, the Federal Court of Justice then assessed whether this clause provided for a place of performance for delivery of the goods, which had to be determined in accordance with the applicable lex causae. This mechanism seeks a balance between the opposing interests as regards place of jurisdiction in order to enable each party to enforce its respective claims in accordance with the contract- specific characteristics. Germany and South Korea had ratified the Hague Sales Convention and the Convention on the International Sale of Goods by the time the contract was concluded. Therefore, the convention was applicable to the contract and thus the respective lex causae.

The determining factor (ie, the agreed place of delivery for the fibres) had to be defined according to the convention's regulations. Only the respective contractual obligation on which the claim was based specified the relevant location; therefore, the contract did not determine just one place of performance.

Article 31 of the convention determines such a place of performance in principle, unless the contract does not state otherwise. The Federal Court of Justice detected such a contrary agreement in the DDP Cologne clause. This clause contained not only the seller's obligation to bear all the export and import related costs and risks, but also obliged the seller to bring the goods to the named destination (ie, Cologne). Therefore, jurisdiction had to be considered as established in Germany.

The defendant's argument that the DDP Cologne clause was intended only to define the allocation of risks and costs was rejected. The Federal Court of Justice stated that the clause should be interpreted according to the recommendations of the International Chamber of Commerce in order to determine the system of obligations under the respective clause, even without any reference thereto, due to its common use in international trade. An exemption can be made only if a contrary intent of the parties is detectable, which was not so in this case. It was also not essential whether the parties of the international sales contract were aware that the DDP Cologne clause established, only indirectly, international jurisdiction by

determination of the place of performance.

Comment

The decision confirms German international jurisdiction for claims based on cases where a non-German seller has agreed to DDP with a destination in Germany, if – in accordance with the *lex causae* – the seller has an obligation to bring the goods. The Federal Court of Justice judgment is binding precedent for any German civil court in respect of claims deriving from the delivery of goods - such as compensation for damages.

Although this decision is based on the DDP clause - which, in comparison to the other Incoterms, transfers most obligations to the seller - it is to be expected that German courts will also recognise German jurisdiction in cases where a different clause of the D-group Incoterms with destinations in Germany is agreed between the parties. All D-group clauses are meant to establish the seller's obligation to bring the respective goods to the agreed destination.

Three different levers can be detected which may lead to a lawsuit in German courts:

- The contract contains a choice of forum;
- The contract provides for an explicit place of performance within Germany; and
- The law chosen to apply to the contract leads to a place of performance within Germany. This applicable law can be expressly agreed or will be determined by the *lex fori*.

A party negotiating an international sales contract must pay close attention to these aspects, especially since the Federal Court of Justice has not required a party's awareness of these legal effects. The second and third aspects in particular can lead to unpleasant surprises. In order to prevent such surprises, the parties should negotiate an explicit choice of forum. In cases where only the applicable law can be negotiated, a lawyer's legal opinion should be obtained in order to evaluate the possible effects of such a choice

APPENDIX -Ⅲ

THE PRACTICE OF CIF INCOTERM UNDER DANISH LAW

18 April 2018 | Contributed by WSCO Advokatpartnerselskab

Shipping & Transport, Denmark

On November 8 2017 the High Court of Western Denmark decided in favour of a Danish cost insurance and freight (CIF) seller in a jurisdiction dispute involving a Czech buyer. The court found that:

- the "CIF Bratislava" clause agreed under the International Commercial Terms (Incoterms) 2010 stipulated that the place of delivery under the contract was located in Denmark; and
- the Danish court seized had enjoyed jurisdiction under Articles 7(1)(a) and (b) of the EU Brussels I Regulation (1215/2012).

Facts

In 2016 a Danish seller (S) entered into a contract with a Czech buyer (B) for the sale of a large machine weighing approximately 16 tonnes. A CIF Bratislava clause was included in the offer and invoice that S issued to B. It was undisputed before the first-instance court and the High Court of Western Denmark on appeal that the CIF term (ie, that costs, insurance and freight be paid to Bratislava, Slovakia) constituted a term of the contract. The parties reached no specific agreement on dispute resolution, choice of law or jurisdiction.

S handed the machine over to a road carrier at its place of business in Svenstrup, inland Denmark, which performed the carriage to Bratislava. After taking delivery of the machine, B failed to pay the purchase price. S subsequently instigated legal proceedings before the Aalborg City Court to secure the €136,637 payment for the goods.

However, as its primary request for relief, B claimed that the court seized lacked jurisdiction and that pursuant to Article 4(1) of the EU Brussels I Regulation, B could

be sued only in the courts of the EU member state in which it was domiciled (ie, the Czech Republic).

Further in support of its request for relief, B argued that under Article 7(1)(b) of the EU Brussels I Regulation, the place of performance of the obligation shall be the place in an EU member state where, under the contract, the goods were delivered or should have been delivered, unless otherwise stipulated under the contract. Given that the Incoterms clause chosen by the parties was CIF Bratislava, S had not made the delivery in Denmark. As a result, Article 7(1)(a) could not merit a finding that the Danish courts enjoyed jurisdiction on the substantive dispute. B argued that a CIF clause could not be construed to mean that the parties had reached an agreement on special jurisdiction for the purposes of Article 7(1)(a) and (b).

Conversely, S argued that under Article 7(1)(a), in matters relating to contract, a person domiciled in an EU member state could be sued in another member state in the courts for the place of performance of the obligation. S argued that when determining the place of performance of an obligation under Article 7(1), the court should consider the terms of the contract, including the place of delivery under the contract. In the case at hand, S referred to:

- the contract, which included the CIF Bratislava clause; and Section 10 of the Danish Sale of Goods Act.

Section 10 of the Sale of Goods Act – which applies to sale and purchase agreements other than those concerning real estate – stipulates that if a seller, in order to make a delivery, has agreed to arrange for the carriage of the goods from one place to another, it will be deemed to have delivered the goods when:

- they have been handed over to the carrier that has promised to perform the carriage from the place of shipment; or
- in the case of a carriage of goods by sea, the goods are brought on board.

Therefore, given that S handed the goods over to an independent carrier in Svenstrup, Denmark, the place of performance of S's obligation under Article 7 of the EU Brussels I Regulation was Svenstrup, granting jurisdiction to the court of Aalborg, Denmark.

S further argued that CIF clauses and their terms enjoy broad recognition and that the court should determine the place of delivery in accordance with the ordinary understanding that the parties ascribe to it – in this particular case, that S had made delivery when it handed the goods over to the independent carrier. The first-instance court ruled on the question of jurisdiction as a preliminary issue.

Aalborg City Court's Decision

The Incoterms 2010 clause as a part of the contract was not in dispute. The dispute therefore exclusively concerned whether "CIF Bratislava" meant that:

- the parties had agreed that the place where the goods were handed over to a third-party carrier constituted the place of delivery; or
- the place of delivery was Bratislava, Slovakia.

In Paragraph 22 of *Electrosteel Europe SA v Edil Centro SpA* (C-87/2010), the European Court of Justice (ECJ) held that to determine the place of delivery under the first indent of Article 7(1)(b) of the EU Brussels I Regulation, the court must consider all relevant contract terms and clauses, including those generally recognised and applied in international commercial usage, such as the Incoterms, insofar as they enable that place to be clearly identified.

The Aalborg City Court found that as a main rule, the CIF clause merely determined which party carried the risk of damage to the goods at a given point in time. Further, the court explicitly highlighted that the CIF Bratislava clause made no reference to the place where the goods were to be handed over to a third-party carrier.

Accordingly, for the purposes of the test set out in *Electrosteel*, the clause could not constitute a basis for determining the place of performance of S's obligations.

The court therefore resorted to Paragraph 16 of *Car Trim* (C-381/08), in which the ECJ had found that where it is impossible to determine the place of delivery on the basis of the contract without reference to the substantive law applicable to the contract, the place of delivery is determined to be where the physical transfer of the goods took place, as a result of which the purchaser obtained, or should have obtained, actual power of disposal over the goods at the sales transaction's final destination. For the

Aalborg City Court, it was sufficient to note that this was irrefutably not in Denmark. Therefore, the court seized did not enjoy jurisdiction and the case was dismissed.

High Court of Western Denmark decision

On appeal, the High Court of Western Denmark considered whether:

- the CIF clause meant that the parties had agreed that the place of performance of the obligation under Article 7(1)(a) of the EU Brussels I Regulation was where the goods were handed over to the third-party carrier;
- or the parties had agreed that the place of delivery and performance of the obligation was Bratislava, Slovakia.

Witness testimony provided by B's sales manager before the court stated that he had been accustomed to the Incoterms 2010 when the contract had been drawn up, but had not been aware that the goods were to be handed over to a third-party carrier in Svenstrup, Denmark.

Reversing the first-instance decision, the High Court of Western Denmark found that the court seized enjoyed jurisdiction and that the CIF Bratislava clause meant that the parties had agreed that S made delivery when the goods were handed over to the third-party carrier in Svenstrup, Denmark.

The court explicitly based its decision on the circumstances of the case, including that CIF clauses: are generally recognised and applied in international commercial usage; and entail, among other things, that delivery has been made upon handing over goods to a third-party carrier.

The court seized therefore enjoyed jurisdiction.

APPENDIX -Ⅳ

THE PRACTICE OF EXWORKS INCOTERM UNDER HUNGARIAN LAW

04 May 2021 | Contributed by SMARTLEGAL Schmidt & Partners

Litigation, Hungary

Introduction

This article analyses a recent Supreme Court decision(1) and seeks to answer the following questions:

Can a defendant which is domiciled abroad be sued in Hungary under the EU Brussels Recast Regulation (1215/2012/EU) in the event of defective performance of an international sales contract if the place of performance is abroad?

Can the jurisdiction of a Hungarian court be established based on the fact that a lower court expressly established its jurisdiction at the beginning of the litigation?

How is the Ex Works (EXW) clause to be interpreted within the meaning of the EU Brussels I Regulation?

Facts

A contract of sale was concluded between the applicant, as the buyer, and the defendant, as the seller, for the purchase of potatoes. The applicant, established in Hungary, delivered the goods to Hungary from the defendant's premises in Slovakia by contracting a carrier and then returned the goods with reference to a quality defect.

The applicant initiated European order-for-payment proceedings against the Slovak defendant, which turned into litigation in Hungary. In the litigation, the applicant, based on its withdrawal, requested that the defendant pay the purchase price, freight and interpretation fees.

The defendant raised an objection to the court's jurisdiction. In its view, the applicant's claim was governed by the EU Brussels Ia Regulation(2). According to Article 4(1) of the regulation, the Slovak courts had jurisdiction to adjudge the case.(3)

First-instance Court’s Decision

The first-instance court, in its order brought at the beginning of the proceedings, held that it had jurisdiction to hear the case. However, in a later part of the lawsuit, the court found the defendant's objection to jurisdiction to be well founded and terminated the lawsuit.

The court stated that its jurisdiction could not be established on the basis of the general rule of jurisdiction under Article 4(1) of the EU Brussels Ia Regulation as the defendant was not domiciled in Hungary.

With regard to the special rule of jurisdiction under Article 7(1) of the EU Brussels Ia Regulation, the court found that since the applicant had undertaken to deliver the goods, the contract of sale had been performed in Slovakia and the Hungarian courts did not have jurisdiction.

Second-instance Court’s Decision

The applicant appealed the decision. The second-instance court disagreed with the applicant's argument that the first- instance court had been bound by the order establishing its jurisdiction brought at the beginning of the proceedings, after which the proceedings could no longer be terminated on the ground of a lack of jurisdiction.

The court of appeal emphasised that the court must detect a lack of jurisdiction at its own motion at any stage of the proceedings. An earlier order in this matter has no res iudicata effect and cannot create a ground of jurisdiction.

In addition, the second-instance court confirmed that there was no special ground of jurisdiction under Article 7(1) of the EU Brussels IA Regulation that would establish the Hungarian courts' jurisdiction.

The applicant applied for a judicial review of the final order. In its view, the first-instance court was bound by its earlier order which had established jurisdiction.

In addition, the applicant emphasised that the Hungarian courts' jurisdiction could be established on the basis of Article 7(1)(a) of the EU Brussels Ia Regulation since the performance (ie, the delivery of the goods to the applicant) had taken place in Hungary.

In connection with the court's jurisdiction, it cited the judgment brought by the European Court of Justice (ECJ) in Zurich Insurance plc.(4)

The applicant argued that since its action also contained a claim for damages arising from defective performance, the Hungarian courts' jurisdiction could also be established based on Article 7(2) of the EU Brussels Ia Regulation, according to which – in matters relating to tort, delict or quasi-delict – the courts of the place where the harmful event occurred have jurisdiction.

Supreme Court decision

The Supreme Court emphasised that it had not been unlawful for the first-instance court, despite its earlier order, to later declare its lack of jurisdiction and terminate the proceedings. As the order establishing jurisdiction was not binding on the court, it could change its standpoint until the trial was closed.

The court then examined whether the Hungarian court could have jurisdiction under the EU Brussels Ia Regulation. The court emphasised that since the applicant had asserted a claim based on a contractual relationship in his action, the ground of jurisdiction for the place of damage provided for in Article 7(2) of the regulation was not applicable.

The court also ruled on the existence of a special ground of jurisdiction under Article 7(1)(a) of the EU Brussels Ia Regulation. In this context, the question arose as to what constituted the place of performance for the purposes of the regulation if the goods had been transported from the defendant's premises in Slovakia to Hungary by a third party.

The court argued that in this case, the applicant had arranged the transport of the goods and had also indicated the related costs in its claim. The defendant had handed over the goods to the applicant's agent at its own premises in Slovakia, so the place of performance was Slovakia. Considering the above, there was no special ground of jurisdiction under Article 7(1) of the EU Brussels Ia Regulation. Therefore, the Hungarian courts did not have jurisdiction in the matter. Thus, the Supreme Court upheld the second-instance decision.

Questions

Does a decision on the objection of jurisdiction have binding force during proceedings or can a court differ from its own decision?

In this regard, the Supreme Court correctly applied the principles previously developed by domestic case law in relation to the adjudication of objections concerning local court competence.

It has long been standard practice in Hungarian civil procedure law cases that the courts need not make a formal decision on the rejection of an objection of court competence during the proceedings; rather, it is enough to adjudicate the objection in the decision of merits closing the proceedings.

However, if the court nevertheless made a separate order on the objection of jurisdiction and, as in the present case, established its competence separately, there is no separate appeal against that decision.(5)

Since it is not possible to appeal such a procedural order, it follows a contrario that the order is not legally binding, so the court may change its stance throughout the first-instance procedure.

The Supreme Court correctly applied the above principles by way of an analogy to determine jurisdiction under the EU Brussels Ia Regulation.

If the applicant's position had prevailed, a judicial error could also have justified the court's jurisdiction under the EU Brussels Ia Regulation. However, according to ECJ case law, one of the main objectives of the regulation is to ensure legal certainty and predictability in the application of the jurisdiction rules so that an adequately informed defendant can foresee in which country proceedings against it may be brought.(6)

In light of the above, it is easy to understand that an ad hoc judicial error cannot create jurisdiction as it would be incompatible with legal certainty and predictability.

What constitutes 'place of performance' within the meaning of Article 7(1) of the EU Brussels Ia Regulation?

The EU Brussels Ia Regulation must be interpreted autonomously in this regard. Therefore, instead of the rules of national law, the decisions of the ECJ, which has the sole power to interpret EU law, must be considered.

The Supreme Court correctly disregarded the judgment in Zurich Insurance plc, on which the applicant had relied, on the ground that it interpreted the regulation in the context of multimodal transport, which is a provision of services (in the present case, the legal relationship was the sale of goods).

In the present case, the applicant's argument also implicitly relied on the judgment in Car Trim,(7) according to which, in case of a sale involving carriage of goods where it is impossible to determine the place of delivery based on the contract, the place of performance is the place where the physical transfer of the goods took place, as a result of which, the purchaser obtained, or should have obtained, actual power of disposal over those goods at the final destination of the sales transaction.

In the present case, the parties agreed on EXW parity as the transport had been arranged by the buyer.

In cases where parties have relied on a standard, such as the widely used International Commercial Terms (INCOTERMS),(8) national courts have not always found the place of performance to be determined on the basis of parity, as some parities were intended to determine the allocation of costs or the mode of transport rather than the actual place of the final delivery.(9)

However, in Electrosteel,(10) the ECJ ruled that the EXW INCOTERMS parity stipulated in the contract constituted an agreement between the parties as to the place of performance.

Therefore, the Supreme Court applied the EU Brussels Ia Regulation in accordance with the aforementioned ECJ case law and, by considering the clear stipulation of the place of delivery in Slovakia as an EXW parity, correctly found that in the absence of a domestic place of performance, the Hungarian courts did not have jurisdiction to decide the dispute arising from the international sales contract.

Comment

The Supreme Court's decision is important for two reasons:

The Supreme Court used an analogy to apply the procedural practice previously used in connection with the competence of local courts to the question of jurisdiction and made it clear that a possible judicial error could not establish a Hungarian court's jurisdiction under the EU Brussels Ia Regulation.

The Supreme Court, in accordance with ECJ case law, established that in the absence of a domestic place of performance, the Hungarian courts do not have jurisdiction over a dispute arising from an international sales contract.

APPENDIX-V

Table 3. The obligations attributed to seller and buyer under EXW sales contract

Seller's Obligation	**A1. General Obligation** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract	**A2. Delivery** The seller must deliver the goods by placing them at the disposal of the buyer at the agreed point, if any, at the named place of delivery, not loaded on any collecting vehicle. The seller must deliver the goods on the agreed date or within the agreed period.	**A3. Transfers of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstance described in B3.	**A4. Carriage** The seller has no obligation to the buyer to make a contract of carriage must provide the buyer, at the buyer's request, risk and cost, with any information in the possession of the seller, including transport-related security requirements, that the buyer needs for arranging carriage.	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance Must provide the buyer, at the buyer's request, risk and cost with information in the possession of the seller that the buyer needs for obtaining insurance.
Buyer's Obligation	**B1. General Obligation** The buyer pay the price of the goods Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2 and notice given under A10.	**B3. Transfers of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If the buyer fails to give notice in accordance with B10, then the buyer bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery, provided that the goods have been clearly identified as the contract goods.	**B4. Carriage** It is up to the buyer to contract or arrange at its own cost for the carriage of the goods from the named place of delivery	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance.

Sources: ICC, 2020

Table 3. The obligations attributed to seller and buyer under EXW sales contract (Cont.)

Seller's Obligation	**A6. Delivery/Transport Document** The seller has no obligation to the buyer.	**A7. Export/ Import Clearance** The seller must assist the buyer export/transit/import licence; security clearance for export/transit/import; pre-shipment inspection; and any other official authorisation	**A8. Checking / Packaging/ Marking** The seller must pay the costs of those checking operations The seller must package and mark the goods in the manner appropriate for their transport	**A9. Allocation of Costs** The seller must pay all costs relating to the goods until they have been delivered	**A10. Notices** The seller must give the buyer any notice needed to enable the buyer to take delivery of the goods
Buyer's Obligation	**B6. Proof of Delivery** The buyer must provide the seller with appropriate evidence of having taken delivery.	**B7. Export/ Import Clearance** Where applicable, it is up to the buyer to carry out and pay for all export/transit/import clearance formalities required by the countries of export/transit/import	**B8. Checking / Packaging / Marking** The buyer has no obligation to the seller	**B9. Allocation of Costs** The buyer must: • pay all costs relating to the goods from the time they have been delivered under A2; • reimburse all costs and charges incurred by the seller in providing assistance or information under A4, A5, or A7; • pay, where applicable, all duties, taxes and other charges, as well as the costs of carrying out customs formalities payable upon export; and • pay any additional costs incurred by failing either to take delivery of the goods when they have been placed at its disposal or to give appropriate notice in accordance with B10, provided that the goods have been clearly identized as the contract goods.	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time within an agreed period and/or the point of taking delivery within the named place, give the seller suwcient notice.

Sources: ICC, 2020

APPENDIX -VI

Table 4. The obligations attributed to seller and buyer under FCA sales contract

The Seller's Obligation	**A1. General Obligations** The seller must provide the goods and the commercial invoice, which may be in paper or electronic forms as agreed, in confirmity with the contract of sale and any other evidence of confirmity that may be required by the contract	**A2. Delivery** The seller must deliver the goods to the carrier or another person nominated by the buyer at the named point, if any, at the named place, or procure goods so delivered. The seller must deliver the goods on the agreed date or at the time within the agreed period notified by the buyer under B10 or if no such time is notified then at the end of the agreed period. Delivery is completed either If the named place is the seller's premises, when the goods have been loaded on the means of transport provided by the buyer; or in any other case, when the goods are placed at the disposal of the carrier or another person nominated by the buyer on the seller's means of transport ready for unloading. If no specific point has been notified by the buyer under B10(d) within the named place of delivery, and if there are several points available, the seller may select the point that best suits its purpose.	**A3. Transfers of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstances described in B3.	**A4. Carriage** The seller has no obligation to the buyer to make a contract of carriage. However, the seller must provide the buyer, at the buyer's request, risk and cost, with any information in the possession of the seller, including transport-related security requirements, that the buyer needs for arranging carriage. If agreed, the seller must contract for carriage on the usual terms at the buyer's risk and cost. The seller must comply with any transport-related security requirements up to delivery.	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance. However, the seller must provide the buyer, at the buyer's request, risk and cost, with information in the possession of the seller that the buyer needs for obtaining insurance.
The Buyer's Obligation	**B1. General Obligation** The seller must pay the price of goods Any document to be provided by the buyer may be in paper or electronic form as agreed or where there is no agreement, as is customary	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2	**B3. Transfers of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If, the buyer fails to nominate a carrier or another person under A2 or to give notice in accordance with B10; or the carrier or person nominated by the buyer under B10(a) fails to take the goods into its charge, then, the buyer bears all risks of loss of or damage to the goods: from the agreed date, or in the absence of an agreed date, from the time selected by the buyer under B10(b); or, if no such time has been notified, from the end of any agreed period for delivery, provided that the goods have been clearly identified as the contract goods.	**B4. Carriage** The buyer must contract or arrange at its own cost for the carriage of the goods from the named place of delivery, except when the contract of carriage is made by the seller as provided for in A4.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance.

Sources: ICC, 2020

Table 4. The obligations attributed to seller and buyer under FCA sales contract (Cont.)

The Seller's Obligation	**A6.Delivery/Transport Document** The seller must provide the buyer at the seller's cost with the usual proof that the goods have been delivered in accordance with A2. The seller must provide assistance to the buyer, at the buyer's request, risk and cost, in obtaining a transport document. Where the buyer has instructed the carrier to issue to the seller a transport document under B6, the seller must provide any such document to the buyer.	**A7. Export/ Import Clearance** Export clearance where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as:export licence; security clearance for export;pre-shipment inspection; and any other owcial authorisation. Assistance with import clearance where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import.	**A8.Checking/Packaging/ Marking** The seller must pay the costs of those checking operations at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged.	**A9. Allocation of Costs** The seller must pay: all costs relating to the goods until they have been delivered in accordance with A2, other than those payable by the buyer under B9; the costs of providing the usual proof to the buyer under A6 that the goods have been delivered; where applicable, duties, taxes and any other costs related to export clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	**A10. Notices** The seller must give the buyer sufficient notice either that the goods have been delivered in accordance with A2 or that the carrier or another person nominated by the buyer has failed to take the goods within the time agreed.
The Buyer's Obligation	**B6.Delivery/ Transport Document** The buyer must accept the proof that the goods have been delivered in accordance with A2. If the parties have so agreed, the buyer must instruct the carrier to issue to the seller, at the buyer's cost and risk, a transport document stating that the goods have been loaded (such as a bill of lading with an onboard notation).	**B7. Export / Import Clearance** Assistance with export clearance where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export. Import clearance, where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: import licence and any licence required for transit; security clearance for import and any transit, pre-shipment inspection; and any other owcial authorisation.	**B8.Checking/Packaging/Marking** The buyer has no obligation to the seller.	**B9. Allocation of Costs** The buyer must pay: all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9; the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A4, A5, A6 and A7(b); where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and any additional costs incurred, either because: (i) the buyer fails to nominate a carrier or another person under B10, or (ii) the carrier or person nominated by the buyer under B10 fails to take the goods into its charge, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must notify the seller of the name of the carrier or another person nominated within sufficient time as to enable the seller to deliver the goods in accordance with A2; the selected time, if any, within the period agreed for delivery when the carrier or person nominated will receive the goods; the mode of transport to be used by the carrier or the person nominated including any transport-related security requirements; and the point where the goods will be received within the named place of delivery.

APPENDIX -VII

Table 5. The obligations attributed to seller and buyer under CPT sales contract

Seller's Obligation	**A1. General Obligation** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**A2. Delivery** The seller must deliver the goods by handing them over to the carrier contracted in accordance with A4 or by procuring the goods so delivered. In either case the seller must deliver the goods on the agreed date or within the agreed period	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstance described in B3.	**A4. Carriage** The seller must contract or procure a contract for the carriage of the goods from the agreed point of delivery, if any, at the place of delivery to the named place of destination or, if agreed, any point at that place. The contract of carriage must be made on usual terms at the seller's cost and provide for carriage by the usual route in a customary manner of the type normally used for carriage of the type of goods sold. If a specific point is not agreed or is not determined by practice, the seller may select the point of delivery and the point at the named place of destination that best suit its purpose. The seller must comply with any transport-related security requirements for transport to the destination	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance. However, the seller must provide the buyer, at the buyer's request, risk and cost, with information in the possession of the seller that the buyer needs for obtaining insurance.
Buyer's Obligation	**B1. General Obligation** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2 and receive them from the carrier at the named place of destination or if agreed, at the point within that place.	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If the buyer fails to give notice in accordance with B10, then the buyer bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery, provided that the goods have been clearly identified as the contract goods	**B4. Carriage** The buyer has no obligation to the seller to make a contract of carriage..	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance.

Sources : Incoterms 2020

Table 5. The obligations attributed to seller and buyer under CPT sales contract (Cont.)

Seller's Obligation	**A6.Delivery /Transport Document** If customary or at the buyer's request, the seller must provide the buyer, at the seller's cost, with the usual transport document[s] for the transport contracted in accordance with A4. This transport document must cover the contract goods and be dated within the period agreed for shipment. If agreed or customary, the document must also enable the buyer to claim the goods from the carrier at the named place of destination and enable the buyer to sell the goods in transit by the transfer of the document to a subsequent buyer or by notification to the carrier. When such a transport document is issued in negotiable form and in several originals, a full set of originals must be presented to the buyer	**A7. Export / Import Clearance** Export clearance Where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as: • export licence; • security clearance for export; • pre-shipment inspection; and • any other owcial authorisation. Assistance with import clearanceWhere applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import.	**A8. Checking/Packaging/ Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. Allocation of Cost** The seller must pay all costs until the goods have been delivered under A2, other than any costs the buyer must pay as stated in B9. transport and all other costs resulting from A4, including the; cost of loading the goods and transport-related security costs any charges for unloading at the agreed place of destination but only if those charges were for the seller's account under the contract of carriage; the costs of transit that were for the seller's account under the contract of carriage; the costs of providing the usual proof to the buyer under A6 that the goods have been delivered; where applicable, duties, taxes and any other costs related to export clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	**A10. Notices** The seller must notify the buyer that the goods have been delivered in accordance with A2. The seller must give the buyer any notice required to enable the buyer to receive the goods

Sources : Incoterms 2020

Table 5. The obligations attributed to seller and buyer under CPT sales contract (Cont.)

Buyer's Obligation	**B6.Delivery /Transport Document** The buyer must accept the transport document provided under A6 if it is in conformity with the contract.	**B7. Export/ Import Clearance** Assistance with export clearance Where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export Import clearanceWhere applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: • import licence and any licence required for transit; • security clearance for import and any transit; • pre-shipment inspection; and • any other official authorisation	**B8. Checking/Packaging/ Marking** The buyer has no obligation to the seller.	**B9. Allocation of Cost** The buyer must pay all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9 the costs of transit, unless such costs were for the seller's account under the contract of carriage unloading costs, unless such costs were for the seller's account under the contract of carriage; the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A5 and A7(b); where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and any additional costs incurred if it fails to give notice in accordance with B10, from the agreed date or the end of the agreed period for shipment, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time for dispatching the goods and/or the point of receiving the goods within the named place of destination, give the seller sufficient notice.

Sources : Incoterms 2020

APPENDIX -VIII

Table 6. The obligations attributed to seller and buyer under CIP sales contract

The Seller's Obligation	A1. General Obligations	A2. Delivery	A3. Transfer of Risk	A4. Carriage	A5. Insurance
	The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary	The seller delivers the goods by handing them over to its contracted carrier, on the agreed date or within the agreed period	The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstance described in B3.	The seller must contract or procure a contract for the carriage of the goods from the agreed point of delivery, if any, at the place of delivery to the named place of destination or, if agreed, any point at that place. The contract of carriage must be made on usual terms at the seller's cost and provide for carriage by the usual route in a customary manner of the type normally used for carriage of the type of goods sold. If a specific point is not agreed or is not determined by practice, the seller may select the point of delivery and the point at the named place of destination that best suit its purpose. The seller must comply with any transport-related security requirements for transport to the destination.	Unless otherwise agreed or customary in the particular trade, the seller must obtain at its own cost cargo insurance complying with the cover provided by Clauses (A) of the Institute Cargo Clauses (LMA/IUA) or any similar clauses as appropriate to the means of transport used. The insurance shall be contracted with underwriters or an insurance company of good repute and entitle the buyer, or any other person having an insurable interest in the goods, to claim directly from the insurer. When required by the buyer, the seller must, subject to the buyer providing any necessary information requested by the seller, provide at the buyer's cost any additional cover, if procurable, such as cover complying with the Institute War Clauses and/or Institute Strikes Clauses (LMA/IUA) or any similar clauses The insurance shall cover, at a minimum, the price provided in the contract plus 10% (i.e. 110%) and shall be in the currency of the contract. The insurance shall cover the goods from the point of delivery set out in A2 to at least the named place of destination. The seller must provide the buyer with the insurance policy or certificate or any other evidence of insurance cover. Moreover, the seller must provide the buyer, at the buyer's request, risk and cost, with information that the buyer needs to procure any additional insurance.

Sources : Incoterms 2020 book

Table 6. The obligations attributed to seller and buyer under CIP sales contract (Cont.)

The Buyer's Obligation	**B1. General Obligations** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Delivery** The buyer must take delivery of the goods when they have been delivered under A2 and receive them from the carrier at the named place of destination or if agreed, at the point within that place.	**B3. Transfer of Risk** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2 If the buyer fails to give notice in accordance with B10, then the buyer bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery, provided that the goods have been clearly identified as the contract goods	**B4. Carriage** The buyer has no obligation to the seller to arrange a contract of carriage.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance. However, the buyer must provide the seller, upon request, with any information necessary for the seller to procure any additional insurance requested by the buyer under A5.

Sources : Incoterms 2020 book

Table 6. The obligations attributed to seller and buyer under CIP sales contract (Cont.)

The Seller's Obligation	**A6.Delivery/Transport Document** If customary or at the buyer's request, the seller must provide the buyer, at the seller's cost, with the usual transport document[s] for the transport contracted in accordance with A4. This transport document must cover the contract goods and be dated within the period agreed for shipment. If agreed or customary, the document must also enable the buyer to claim the goods from the carrier at the named place of destination and enable the buyer to sell the goods in transit by the transfer of the document to a subsequent buyer or by notification to the carrier. When such a transport document is issued in negotiable form and in several originals, a full set of originals must be presented to the buyer.	**A7. Export/Import Clearance** Where applicable, the seller must at its own risk and expense carry out all export clearance formalities required by the country of export, such as licences or permits; security clearance for export; pre-shipment inspection; and any clearance for export; pre-shipment inspection; and any other authorisations or approvals. Assistance with import clearance Where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import.	**A8.Checking/Packaging/Marking** In all rules the seller must pay the costs of any checking operations which are necessary for delivering the goods, such as checking quality, measuring the goods and/or packaging, weighing, counting the goods and/or packaging The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. Allocation of Costs** The seller must pay all costs until the goods have been delivered under A2, other than any costs the buyer must pay as stated in B9. Transport costs resulting from the contract of carriage, including costs of loading the goods and any transport-related security, must be paid by the by the seller. The cost of providing to the buyer proof of the goods being delivered are also for the seller. If the contract of carriage includes unloading at the agreed destination, the seller must pay these. Additionally, any costs of transit included in the contract of carriage must also be paid by the seller. The seller must pay any costs involved in providing the usual proof that the goods have been delivered, so if the contract between the parties states that proof as being a transport document then the carrier's document fee is for the seller. The seller must pay any costs, export duties and taxes, where applicable, related to export clearanceThe seller must pay the costs of insurance. If the buyer is requested by the seller to provide information or documents in relation to export clearance or insurance, then the seller must pay the buyer for these costs	**A10. Notices** The seller must notify the buyer that the goods have been delivered in accordance with A2. The seller must give the buyer any notice required to enable the buyer to receive the goods.

Sources : Incoterms 2020 book

Table 6. The obligations attributed to seller and buyer under CIP sales contract (Cont.)

The Buyer's Obligation	**B6. Delivery/Transport Document**	**B7. Export/ Import Clearance**	**B8.Checking/Packaging/Marking**	**B9. Allocation of Costs**	**B10. Notices**
	The buyer must accept the transport document provided by the seller so long as it is in conformity with the contract	Where applicable, the buyer must assist the seller at the seller's request, risk and cost, in obtaining any documents and/or information needed for all export-related formalities required by the country of export Where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import. These include licences and permits required for transit; import licences and permits required for import; import clearance; security clearance for transit and import; pre-shipment inspection; and any other official authorisations and approvals. They are the buyer's responsibility because they occur after delivery by the seller	The buyer has no obligation to the seller	The buyer must pay the seller all costs relating to the goods from when they have been delivered, other than those payable by the seller. If the seller has been requested by the buyer to provide assistance in obtaining information or documents needed for the buyer to effect import formalities, then the buyer must reimburse the seller's costs. Where applicable, the buyer must pay any duties, taxes and other costs for import clearance. The buyer must pay for unloading costs unless they were paid by the seller under the contract of carriage. The buyer pays for any costs of the country of transit unless they have been paid by the seller under the contract of carriage	The buyer must, whenever it is agreed that the buyer is entitled to determine the time for dispatching the goods and/or the point of receiving the goods within the named place of destination, give the seller sufficient notice

Sources : Incoterms 2020 book

APPENDIX -IX

Table 7. The obligations attributed to seller and buyer under DAP sales contract

The Seller's Obligations	**A1. General Obligations** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary	**A2. Delivery** The seller must deliver the goods by placing them at the disposal of the buyer on the arriving means of transport ready for unloading at the agreed point, if any, at the named place of destination or by procuring the goods so delivered. In either case the seller must deliver the goods on the agreed date or within the agreed period	**A3. Transfer of Risks** In all the rules the seller bears all risks of loss or damage to the goods until they have been delivered in accordance with A2 described above. The exception is loss or damage in circumstances described in B3 below, which varies dependent on the buyer's role in B2	**A4. Carriage** The seller must contract or arrange at its own cost for the carriage of the goods to the named place of destination or to the agreed point, if any, at the named place of destination. If a specific point is not agreed or is not determined by practice, the seller may select the point at the named place of destination that best suits its purpose. The seller must comply with any transport-related security requirements for transport to the destination .	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance.
The Buyer's Obligations	**B1. General Obligations** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer's obligation is to take delivery when the goods have been delivered as described in A2.	**B3. Transfers of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If: the buyer fails to fulfill its obligations in accordance with B7, then it bears all resulting risks of loss of or damage to the goods; or the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery, provided that the goods have been clearly identified as the contract goods	**B4. Carriage** The buyer has no obligation to the seller to make a contract of carriage.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance. However, the buyer must provide the seller, at the seller's request, risk and cost, with information that the seller needs for obtaining insurance

Sources : Incoterms 2020 book

Table 7. The obligations attributed to seller and buyer under DAP sales contract (Cont.)

The Seller's Obligations	**A6. Delivery / Transport Document** The seller must provide the buyer, at the seller's cost, with any document required to enable the buyer to take over the goods	**A7. Export / Import Clearance** Where applicable, the seller must at its own risk and expense carry out all export clearance formalities required by the country of export, such as licences or permits; security clearance for export; pre-shipment inspection; and any other authorisations or approvals. Assistance with import clearance where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all import clearance formalities, including security requirements and pre-shipment inspection, needed by the country of import	**A8.Checking/Packaging/Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. *Allocation of Costs*** The seller must pay all costs relating to the goods and their transport until they have been delivered in accordance with A2, other than those payable by the buyer under B9; any charges for unloading at the place of destination but only if those charges were for the seller's account under the contract of carriage the cost of providing the delivery/transport document under A6; where applicable, duties, taxes and any other costs related to export and any transit clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B5 and B7(a).	**A10. Notices** The seller must give the buyer any notice required to enable the buyer to receive the goods.
The Buyer's Obligations	**B6. Delivery/ Transport Document** The buyer must accept the document provided under A6.	**B7. Export / Import Clearance** Assistance with export and transit clearance Where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export/transit clearance formalities, including security requirements and preshipment inspection, needed by the country of export and any country of transit (other than the country of import). Where applicable, the buyer must carry out and pay for all formalities required by the country of import. These include licences and permits required for import; import clearance; security clearance for transit and import; pre-shipment inspection; and any other	**B8. Checking/Packaging/Marking** The buyer has no obligation to the seller	**B9. Allocation of Costs** The buyer must pay: all costs relating to the goods from the time they have been delivered under A2 ;all costs of unloading necessary to take delivery of the goods from the arriving means of transport at the named place of destination, unless such costs were for the seller's account under the contract of carriage; the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A7(b); where applicable, duties, taxes and any other costs related to import clearance under B7(b); and any additional costs incurred by the seller if the buyer fails to fulfil its obligations in accordance with B7 or to give notice in accordance with B10, provided that the goods have been clearly identified as the	**B10. Notices** The buyer must, whenever it is agreed tthat the buyer is entitled to determine the time within an agreed period and/or the point of taking delivery within the named place of destination .

Sources : Incoterms 2020 book

APPENDIX -X

Table 8. The obligations attributed to seller and buyer under DPU sales contract

The Seller's Obligation	**A1. General Obligation** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract.	**A2. Delivery** The seller must unload the goods from the arriving means of transport and must then deliver them by placing them at the disposal of the buyer at the agreed point, if any, at the named place of destination or by procuring the goods so delivered. In either case the seller must deliver the goods on the agreed date or within the agreed period.	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstances described in B3.	**A4. Carriage** The seller must contract or arrange at its own cost for the carriage of the goods to the named place of destination or to the agreed point, if any, at the named place of destination. If a specific point is not agreed or is not determined by practice, the seller may select the point at the named place of destination that best suits its purpose. The seller must comply with any transport-related security requirements for transport to the destination.	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance
The Buyer's Obligation	**B1. General Obligation** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If ; the buyer fails to fulfill its obligations in accordance with B7, then it bears all resulting risks of loss of or damage to the goods; or the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or agreed date or the end of the agreed period for delivery, the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery,	**B4. Carriage** The buyer has no obligation to the seller to make a contract of carriage	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance. However, the buyer must provide the seller, at the seller's request, risk and cost, with information that the seller needs for obtaining insurance.

Sources :Incoterms 2020 book

Table 8. The obligations attributed to seller and buyer under DPU sales contract (Cont.)

The Seller's Obligation	**A6. Delivery/ Transport Document** The seller must provide the buyer, at the seller's cost, with any document required to enable the buyer to take over the goods	**A7. Export / Import Clearance** Where applicable, the seller must at its own risk and expense carry out all export clearance formalities required by the country of export, such as licences or permits; security clearance for export; pre-shipment inspection; and any other authorisations or approvals. Assistance with import clearance Where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all import clearance formalities, including security requirements and pre-shipment inspection, needed by the country of import	**A8. Checking/ Packaging/ Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. Allocation of Costs** The seller must pay all costs relating to the goods and their transport until they have been unloaded and delivered in accordance with A2, other than those payable by the buyer under B9; the cost of providing the delivery/transport document under A6; where applicable, duties, taxes and any other costs related to export and any transit clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B5 and B7(a).	**A10. Notices** The seller must give the buyer any notice required to enable the buyer to receive the goods.
The Buyer's Obligation	**B6. Delivery / Transport Document** The buyer must accept the document provided under A6	**B7. Export/ Import Clearance** Assistance with export and transit clearance where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export/transit clearance formalities including security requirements and preshipment inspection, needed by the country of export and any country of transit (other than the country of import). Import clearance where applicable, the buyer must carry out and pay for all formalities required by the country of import, such as: import licence; security clearance for import; pre-shipment inspection and any other official authorisation	**B8. Checking/ Packaging/ Marking** The buyer has no obligation to the seller	**B9. Allocation of Costs** The buyer mus pay; all costs relating to the goods from the time they have been delivered under A2; the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A7(b); where applicable, duties, taxes and any other costs related to import clearance under B7(b); any additional costs incurred by the seller if the buyer fails to fulfill its obligations in accordance with B7 or to give notice in accordance with B10, provided that the goods have been clearly identified as the contract goods	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time within an agreed period and/or the point of taking delivery within the named place of destination, give the seller sufficient notice.

Sources :Incoterms 2020 book

APPENDIX -XI

Table 9. The obligations attributed to seller and buyer under DDP sales contract

The Seller's Obligation	**A1. General Obligation** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**A2. Delivery** The seller must deliver the goods by placing them at the disposal of the buyer on the arriving means of transport ready for unloading at the agreed point, if any, at the named place of destination or by procuring the goods so delivered. In either case the seller must deliver the goods on the agreed date or within the agreed period	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstances described in B3.	**A4. Carriage** The seller must contract or arrange at its own cost for the carriage of the goods to the named place of destination or to the agreed point, if any, at the named place of destination. If a specific point is not agreed or is not determined by practice, the seller may select the point at the named place of destination that best suits its purpose. The seller must comply with any transport-related security requirements for transport to the destination	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance.
The Buyer's Obligation	**B1. General Obligations** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2.	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If the buyer fails to fulfill its obligations in accordance with B7, then it bears all resultingrisks of loss of ordamage to the goods; the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for delivery, provided that the goods have been clearly identized as the contract goods.	**B4. Carriage** The buyer has no obligation to the seller to make a contract of carriage.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance. However, the buyer must provide the seller, at the seller's request, risk and cost, with information that the seller needs for obtaining insurance.

Sources : Incoterms 2020 book

Table 9. The obligations attributed to seller and buyer under DDP sales contract (Cont.)

The Seller's Obligation	**A6. Delivery/Transport Document** The seller must provide the buyer, at the seller's cost, with any document required to enable the buyer to take over the goods	**A7. Export/Import Clearance** Where applicable, the seller must carry out and pay for all export/transit/import clearance formalities required by the countries of export, transit and import, such as: • export/transit/import licence; • security clearance for export/transit/import; pre-shipment inspection; and any other official authorisation	**A8. Checking/Packaging/Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are neccessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. Allocation of Costs** The seller must pay; • all costs relating to the goods and their transport until they have been delivered in accordance with A2, other than those payable by the buyer under B9; • any charges for unloading at the place of destination but only if those charges were for the seller's account under the contract of carriage; • the cost of providing the delivery/transport document under A6; • where applicable, duties, taxes and any other costs related to export, transit and import clearance under A7; and • the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B5 and B7.	**A10. Notices** The seller must give the buyer any notice required to enable the buyer to receive the goods.

Sources :Incoterms 2020 book

Table 9. The obligations attributed to seller and buyer under DDP sales contract (Cont.)

The Buyer's Obligation	**B6. Delivery/ Transport Document** The buyer must accept the document provided under A6.	**B7. Export/Import Clearance** The buyer must assist the seller, at the seller's request, risk and cost. in obtaining any documents and/or information related to all export/transit/import clearance formalities required by the countries of export/ transit/ import, such as: • export/transit/import licence; • security clearance for export, transit and import pre-shipment inspection; and any other official authorisation.	**B8. Checking/Packaging/Marking** The buyer has no obligation to the seller	**B9. Allocation of Costs** The buyer must pay: • all costs relating to the goods from the time they have been delivered under A2; • all costs of unloading necessary to take delivery of the goods from the arriving means of transport at the named place of destination, unless such costs were for the seller's account under the contract of carriage; any additional costs incurred by the seller if the buyer fails to fulfill its obligations in accordance with B7 or to give notice in accordance with B10, provided that the goods have been clearly	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time within an agreed period and/or the point of taking delivery within the named place of destination, give the seller sufficient notice.

Sources :Incoterms 2020 book

APPENDIX -XII

Table 10. The obligations attributed to seller and buyer under FAS sales contract

The Seller's Obligation	**A1. General Obligations** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**A2. Delivery** The seller must deliver the goods either by placing them alongside the vessel nominated by the buyer at the loading point, if any, indicated by the buyer at the named port of shipment or by procuring the goods so delivered. The seller must deliver the goods 1. on the agreed date or 2. at the time within the agreed period notified by the buyer under B10 or, if no such time is notified, then at the end of the agreed period and in the manner customary at the port. If no specific loading point has been indicated by the buyer, the seller may select the point within the named port of shipment that best suits its purpose	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2,with the exception of loss or damage in the circumstances described in B3.	**A4. Carriage** The seller has no obligation to the buyer to make a contract of carriage. However, the seller must provide the buyer, at the buyer's request, risk and cost, with any information in the possession of the seller, including transport-related security requirements, that the buyer needs for arranging carriage. If agreed, the seller must contract for carriage on the usual terms at the buyer's risk and cost.	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance. However, the seller must provide the buyer, at the buyer's request, risk and cost, with information in possession of the seller that the buyer needs for obtaining insurance.
The Buyer!s Obligation	**B1. General Obligations** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2.	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If: a) the buyer fails to give notice in accordance with B10; or b) the vessel nominated by the buyer fails to arrive on time to enable the seller to comply with A2, fails to take the goods, or closes for cargo earlier than the time notified in accordance with B10; then the buyer bears all risks of loss of or damage to the goods: from the agreed date, or in the absence of an agreed date, from the date selected by the buyer under B10, or, if no such date has been notified, from the end of any agreed period for delivery, provided that the good have been clearly identified as the contract goods	**B4. Carriage** The buyer must contract at its own cost for the carriage of the goods from the named port of shipment, except when the contract of carriage is made by the seller as provided for in A4.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance

Sources :Incoterms 2020 book

Table 10. The obligations attributed to seller and buyer under FAS sales contract (Cont.)

The Seller's Obligation	**A6.Delivery/Transport Documents** The seller must provide the buyer, at the seller's cost, with the usual proof that the goods have been delivered in accordance with A2. Unless such proof is a transport document, the seller must provide assistance to the buyer, at the buyer's request, risk and cost, in obtaining a transport document.	**A7. Export/ Import Clearance** Export clearance Where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as: • export licence; • security clearance for export; • pre-shipment inspection; and any other official authorisation Assistance with import clearance where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit /import clearance formalities, including security requirements and pre-shipment inspection, needed by an country of transit or the country of import	**A8. Checking/Packaging/Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9.Allocation of Costs** The seller must pay: all costs relating to the goods until they have been delivered in accordance with A2, other than those payable by the buyer under B9; The costs of providing the usual proof to the buyer under A6 that the goods have been delivered; Where applicable, duties, taxes and any other costs related to export clearance under A7(a); and The buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	**A10. Notices** The seller must give the buyer sufficient notice either that the goods have been delivered in accordance with A2 or that the vessel has failed to take delivery of the goods within the time agreed.
The Buyer!s Obligation	**B6.Delivery/Transport Documents** The buyer must accept the proof of delivery provided under A6.	**B7. Export/Import Clearance** Assistance with export clearance Where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export. Import clearance where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: • import licence and any licence required for transit; security clearance for import and any transit; pre-shipment inspection; and any other official authorisation.	**B8. Checking/Packaging/Marking** The buyer has no obligation to the seller.	**B9.Allocation of Costs** The buyer must pay: all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9; The seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A4, A5, A6 and A7(b); Where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and; Any additional costs incurred, either because: (i) the buyer has failed to give notice under B10, or the vessel nominated by the buyer under B10 fails to arrive on time, fails to take the goods, or closes for Cargo earlier than the time notified in accordance with B10, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must give the seller sufficient notice of any transport related security requirements, the vessel name, loading point and, if any, the selected delivery date within the agreed period

Sources :Incoterms 2020 book

APPENDIX -XIII

Table 11. The obligations attributed to seller and buyer under FOB sales contract

The Seller's Obligation	**A1. General Obligations** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**A2. Delivery** The seller must deliver the goods either by placing them on board the vessel nominated by the buyer at the loading point, if any, indicated by the buyer at the named port of shipment or by procuring the goods so delivered. The seller must deliver the goods 1. on the agreed date or 2. at the time within the agreed period notified by the buyer under B10or, 3. if no such time is notified, then at the end of the agreed period and in the manner customary at the port. If no specific loading point has been indicated by the buyer, the seller may select the point within the named port of shipment that best suits its purpose.	**A3. Tranfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstances described in B3.	**A4. Carriage** The seller has no obligation to the buyer to make a contract of carriage. However, the seller must provide the buyer, at the buyer's request, risk and cost, with any information in the possession of the seller, including transport-related security requirements, that the buyer needs for arranging carriage. If agreed, the seller must contract for carriage on the usual terms at the buyer's risk and cost. The seller must comply with any transport-related security requirements up to delivery.	**A5.Insurance** The seller has no obligation to the buyer to make a contract of insurance. However, the seller must provide the buyer, at the buyer's request, risk and cost, with information in the possession of the seller that the buyer needs for obtaining insurance.
The Buyer's Obligation	**B1. General Obligation** The buyer must pay the price of the goods as provided in the contract of sale Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2.	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2.If: the buyer fails to give notice in accordance with B10; or the vessel nominated by the buyer fails to arrive on time to enable the seller to comply with A2, fails to take the goods, or closes for cargo earlier than the time notified in accordance with B10; then the buyer bears all risks of loss of or damage to the goods: from the agreed date, or in the absence of an agreed date, from the date selected by the buyer under B10, or, if no such date has been notified, from the end of any agreed period for delivery, provided that the goods have been clearly identified as the contract goods.	**B4. Carriage** The buyer must contract at its own cost for the carriage of the goods from the named port of shipment, except when the contract of carriage is made by the seller as provided for in A4.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance.

Sources :Incoterms 2020 book

Table 11. The obligations attributed to seller and buyer under FOB sales contract (Cont.)

The Seller's Obligation	**A6. Delivery/Transport/Document** The seller must provide the buyer, at the seller's cost, with the usual proof that the goods have been delivered in accordance with A2. Unless such proof is a transport document, the seller must provide assistance to the buyer, at the buyer's request, risk and cost, in obtaining a transport document.	**A7. Export/Import Clearance** Export **clearance** Where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as:export licence;security clearance for export; pre-shipment inspection; andany other owcial authorisation. Assistance with import clearance where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import**.**	**A8.Checking/Packaging/Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	**A9. Allocation of Costs** The seller must pay: all costs relating to the goods until they have been delivered in accordance with A2, other than those payable by the buyer under B9; proof to the buyer under A6 that the goods have been delivered where applicable, duties, taxes and any other costs related to export clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	**A10. Notices** The seller must give the buyer sufficient notice either that the goods have been delivered in accordance with A2 or that the vessel has failed to take the goods within the time agreed.
The Buyer's Obligation	**B6.Delivery/Transport/Document** The buyer must accept the proof of delivery provided under A6.	**B7. Export/Import Clearance** Assistance with export clearance where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export. Import clearance where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: import licence and any licence required for transit; security clearance for import and any transit; pre-shipment inspection and any other official authorisation	**B8. Checking/Packaging/Marking** The buyer has no obligation to the seller.	**B9. Allocation of Costs** The buyer must pay: all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9; the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A4, A5, A6 and A7(b); where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and any additional costs incurred, either because: the buyer has failed to give notice under B10, or the vessel nominated by the buyer under B10 fails to arrive on time, fails to take the goods, or closes for cargo earlier than the time notified in accordance with B10, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must give the seller sufficient notice of any transport related security requirements, the vessel name, loading point and, if any, the selected delivery date within the agreed period.

Sources :Incoterms 2020 book

APPENDIX -XIV

Table 12. The obligations attributed to seller and buyer under CFR sales contract

The Seller's Obligations	**A1. General Obligations** The seller must provide the goods and the commercial invoice innconformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**A2. Delivery** The seller must deliver the goods either by placing them on board the vessel or by procuring the goods so delivered. In either case, the seller must deliver the goods on the agreed date or within the agreed period and in the manner customary at the port.	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstance described in B3.	**A4. Carriage** The seller must contract or procure a contract for the carriage of the goods from the agreed point of delivery, if any, at the place of delivery to the named port of destination or, if agreed, any point at that port. The contract of carriage must be made on usual terms at the seller's cost and provide for carriage by the usual route in a vessel of the type normally used for the transport of the type of goods sold. The seller must comply with any transport-related security requirements for transport to the destination.	**A5. Insurance** The seller has no obligation to the buyer to make a contract of insurance. However, the seller must provide the buyer, at the buyer's request, risk and cost, with information in the possession of the seller that the buyer needs for obtaining insurance.
The Buyer's Obligations	**B1. General Obligations** The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	**B2. Taking Delivery** The buyer must take delivery of the goods when they have been delivered under A2 and receive them from the carrier at the named port of destination	**B3. Transfer of Risks** The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for shipment, provided that the goods have been clearly identified as the contract goods	**B4. Carriage** The buyer has no obligation to the seller to make a contract of carriage.	**B5. Insurance** The buyer has no obligation to the seller to make a contract of insurance.

Sources :Incoterms 2020 book

Table 12. The obligations attributed to seller and buyer under CFR sales contract (Cont.)

The Seller's Obligations	**A6. Delivery/Transport Document**	**A7. Export/Import Clearance**	**A8.Checking/Packaging/Marking**	**A9. Allocation of Costs**	**A10. Notices**
	The seller must, at its own cost, provide the buyer with the usual transport document for the agreed port of destination. This transport document must cover the contract goods, be dated within the period agreed for shipment, enable the buyer to claim the goods from the carrier at the port of destination and, unless otherwise agreed, enable the buyer to sell the goods in transit by the transfer of the document to a subsequent buyer or by notification to the carrier. When such a transport document is issued in negotiable form and in several originals, a full set of originals must be presented to the buyer.	Export clearance where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as: • export licence; • security clearance for export; • pre-shipment inspection; and • any other owcial authorisation. Assistance with import clearance where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import.	The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements.	The seller must pay: a) all costs relating to the goods until they have been delivered in accordance with A2, other than those payable by the buyer under B9; b) the freight and all other costs resulting from A4, including the costs of loading the goods on board and transport-related security costs; c) any charges for unloading at the agreed port of discharge that were for the seller's account under the contract of carriage; d) the costs of transit that were for the seller's account under the contract of carriage; e) the costs of providing the usual proof to the buyer under A6 that the goods have been delivered; f) where applicable, duties, taxes and any other costs related to export clearance under A7(a); and g) the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	The seller must notify the buyer that the goods have been delivered in accordance with A2. The seller must give the buyer any notice required to enable the buyer to receive the goods.

Sources :Incoterms 2020 book

Table 12. The obligations attributed to seller and buyer under CFR sales contract (Cont.)

The Buyer's Obligations	**B6. Delivery/Transport Document** The buyer must accept the transport document provided under A6 if it is in conformity with the contract	**B7. Export/Import Clearance** Assistance with export clearance where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export. Import clearance where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: • import licence and any licence required for transit; • security clearance for import and any transit; • pre-shipment inspection; and • any other official authorisation.	**B8. Checking/Packaging/Marking** The buyer has no obligation to the seller.	**B9. Allocation of Costs** The buyer must pay: a) all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9; b) the costs of transit, unless such costs were for the seller's account under the contract of carriage; c) unloading costs including lighterage and wharfage charges, unless such costs and charges were for the seller's account under the contract of carriage; d) the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A5 and A7(b); e) where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and f) any additional costs incurred if it fails to give notice in accordance with B10, from the agreed date or the end of the agreed period for shipment, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time for shipping the goods and/or the point of receiving the goods within the named port of destination, give the seller sufficient notice.

Sources :Incoterms 2020 book

APPENDIX -XV

Table 13. The obligations attributed to seller and buyer under CIF sales contract

The Seller's Obligation	**A1. General Obligations** The seller must provide the goods and the commercial invoice in conformity with the contract of sale and any other evidence of conformity that may be required by the contract. Any document to be provided by the seller may be in paper or electronic form as agreed or, where there is no agreement, as is customary	**A2. Delivery** The seller must deliver the goods either by placing them on board the vessel or by procuring the goods so delivered. In either case, the seller must deliver the goods on the agreed date or within the agreed period and in the manner customary at the port.	**A3. Transfer of Risks** The seller bears all risks of loss of or damage to the goods until they have been delivered in accordance with A2, with the exception of loss or damage in the circumstance described in B3.	**A4. Carriage** The seller must contract or procure a contract for the carriage of the goods from the agreed point of delivery, if any, at the place of delivery to the named port of destination or, if agreed, any point at that port. The contract of carriage must be made on usual terms at the seller's cost and provide for carriage by the usual route in a vessel of the type normally used for the transport of the type of goods sold. The seller must comply with any transport-related security requirements for transport to the destination.	**A5. Insurance** Unless otherwise agreed or customary in the particular trade, the seller must obtain, at its own cost, cargo insurance complying with the cover provided by Clauses (C) of the Institute Cargo Clauses (LMA/IUA) or any similar clauses. The insurance shall be contracted with underwriters or an insurance company of good repute and entitle the buyer, or any other person having an insurable interest in the goods, to claim directly from the insurer. When required by the buyer, the seller must, subject to the buyer providing any necessary information requested by the seller, provide at the buyer's cost any additional cover, if procurable, such as cover complying with the Institute War Clauses and/or Institute Strikes Clauses (LMA/IUA) or any similar clauses (unless such cover is already included with the Cargo insurance described in the preceding paragraph). The insurance shall cover, at a minimum, the price provided in the contract plus 10% (i.e. 110%) and shall be in the currency of the contract. The insurance shall cover the goods from the point of delivery set out in A2 to at least the named port of destination. The seller must provide the buyer with the insurance policy or certificate or any other evidence of insurance cover. Moreover, the seller must provide the buyer, at the buyer's request, risk and cost, with information that the buyer needs to procure any additional insurance.

Sources :Incoterms 2020 book

Table 13. The obligations attributed to seller and buyer under CIF sales contract (Cont.)

The Buyer's Obligation	B1. General Obligations	B2. Taking Delivery	B3. Transfer of Risks	B4. Carriage	B5. Insurance
	The buyer must pay the price of the goods as provided in the contract of sale. Any document to be provided by the buyer may be in paper or electronic form as agreed or, where there is no agreement, as is customary.	The buyer must take delivery of the goods when they have been delivered under A2 and receive them from the carrier at the named port of destination	The buyer bears all risks of loss of or damage to the goods from the time they have been delivered under A2. If the buyer fails to give notice in accordance with B10, then it bears all risks of loss of or damage to the goods from the agreed date or the end of the agreed period for shipment, provided that the goods have been clearly identified as the contract goods.	The buyer has no obligation to the seller to make a contract of carriage.	The buyer has no obligation to the seller to make a contract of insurance. However, the buyer must provide the seller, upon request, with any information necessary for the seller to procure any additional insurance requested by the buyer under A5.

Sources :Incoterms 2020 book

Table 13. The obligations attributed to seller and buyer under CIF sales contract (Cont.)

The Seller's Obligation	**A6. Delivery/Transport Document** The seller must, at its own cost, provide the buyer with the usual transport document for the agreed port of destination. This transport document must cover the contract goods, be dated within the period agreed for shipment, enable the buyer to claim the goods from the carrier at the port of destination and, unless otherwise agreed, enable the buyer to sell the goods in transit by the transfer of the document to a subsequent buyer or by notification to the carrier. When such a transport document is issued in negotiable form and in several originals, a full set of originals must be presented to the buyer	**A7. Export/Import Clearance** Export clearance Where applicable, the seller must carry out and pay for all export clearance formalities required by the country of export, such as: • export licence; • security clearance for export; • pre-shipment inspection; and • any other official authorisation. Assistance with import clearance Where applicable, the seller must assist the buyer, at the buyer's request, risk and cost, in obtaining any documents and/or information related to all transit/import clearance formalities, including security requirements and pre-shipment inspection, needed by any country of transit or the country of import.	**A8. Checking/ Packaging/ Marking** The seller must pay the costs of those checking operations (such as checking quality, measuring, weighing, counting) that are necessary for the purpose of delivering the goods in accordance with A2. The seller must, at its own cost, package the goods, unless it is usual for the particular trade to transport the type of goods sold unpackaged. The seller must package and mark the goods in the manner appropriate for their transport, unless the parties have agreed on specific packaging or marking requirements	**A9. Allocation of Costs** The seller must pay: a) all costs relating to the goods until they have been delivered in accordance with A2, other than those payable by the buyer under B9; b) the freight and all other costs resulting from A4, including the costs of loading the goods on board and transport-related security costs; c) any charges for unloading at the agreed port of discharge that were for the seller's account under the contract of carriage; d) the costs of transit that were for the seller's account under the contract of carriage; e) the costs of providing usual proof to the buyer under A6 that the goods have been delivered f) the costs of insurance resulting from A5; g) where applicable, duties, taxes and any other costs related to export clearance under A7(a); and the buyer for all costs and charges related to providing assistance in obtaining documents and information in accordance with B7(a).	**A10. Notices** The seller must notify the buyer that the goods have been delivered in accordance with A2. The seller must give the buyer any notice required to enable the buyer to receive the goods

Sources: Incoterms 2020 book

Table 13. The obligations attributed to seller and buyer under CIF sales contract (Cont.)

The Buyer's Obligation	**B6. Delivery/Transport Document** The buyer must accept the transport document provided under A6 if it is in conformity with the contract.	**B7. Export/Import Clearance** Assistance with export clearance Where applicable, the buyer must assist the seller at the seller's request, risk and cost in obtaining any documents and/or information related to all export clearance formalities, including security requirements and preshipment inspection, needed by the country of export. Import clearance Where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import, such as: • import licence and any licence required for transit; • security clearance for import and any transit; • pre-shipment inspection; and • any other official authorisation.	**B8. Checking/ Packaging/ Marking** The buyer has no obligation to the seller.	**B9. Allocation of Costs** The buyer must pay: a) all costs relating to the goods from the time they have been delivered under A2, other than those payable by the seller under A9; b) the costs of transit, unless such costs were for the seller's account under the contract of carriage c) unloading costs including lighterage and wharfage charges, unless such costs and charges were for the seller's account under the contract of carriage; d) the costs of any additional insurance procured at the buyer's request under A5 and B5; e) the seller for all costs and charges related to providing assistance in obtaining documents and information in accordance with A5 and A7(b); f) where applicable, duties, taxes and any other costs related to transit or import clearance under B7(b); and any additional costs incurred if it fails to give notice in accordance with B10, from the agreed date or the end of the agreed period for shipment, provided that the goods have been clearly identified as the contract goods.	**B10. Notices** The buyer must, whenever it is agreed that the buyer is entitled to determine the time for shipping the goods and/or the point of receiving the goods within the named port of destination, give the seller sufficient notice.

Sources :Incoterms 2020 book