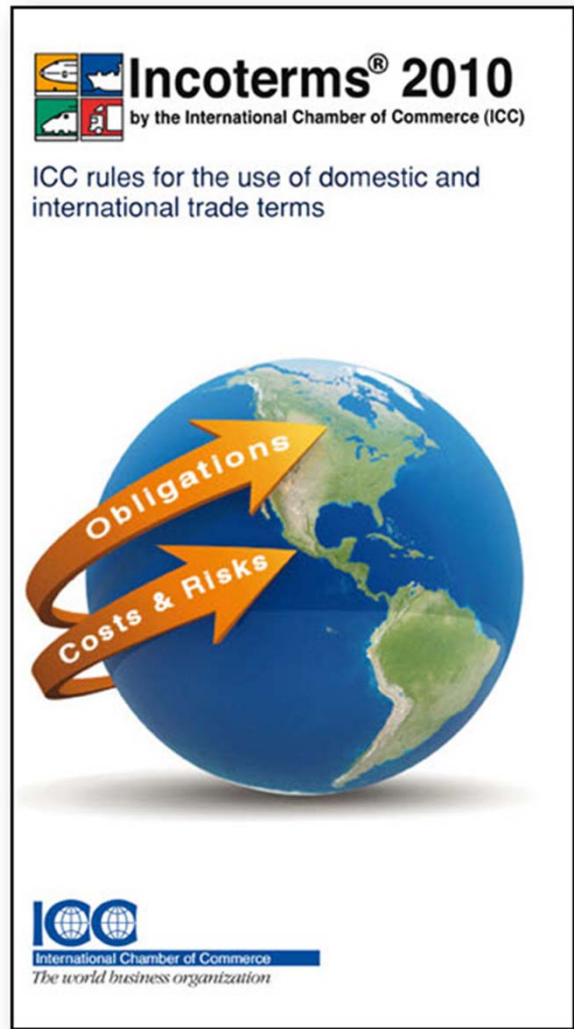




Incoterms 2010 (ICC Publication 715)

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XXVII Latin American Conference on
Foreign Trade (CLACE)

Buddy Baker, Global Trade Solutions
Fifth Third Bank
buddy.baker@53.com
(312) 704-6942



CLACE 2012

XXVIII Latin American Conference on Foreign Trade

Organized by:



Walter (Buddy) Baker

Walter (Buddy) Baker has over 30 years of experience in international trade finance. In May 2009 he joined Fifth Third Bank as the head of their Global Trade Solutions Delivery team. Fifth Third is one of the 20 largest banks in the US and provides a full range of risk mitigation and financing products for exporters and importers. Prior to Fifth Third, Buddy worked for Atradius Trade Credit Insurance, ABN AMRO Bank, Bank of America, Wachovia Bank, and The First National Bank of Chicago.

Buddy is a recognized expert in trade finance and author of numerous magazine articles and the books *Users' Handbook to Documentary Credits under UCP600*, *Documentary Payments & Short-Term Trade Finance*, and *The Regulatory Environment of Letters of Credit and Trade Finance*. He owns the consulting firm Global Trade Risk Management Strategies, which specializes in educational training, and makes frequent presentations for national associations of exporters, importers, bankers and lawyers. Mr. Baker serves as a member-at-large of the National Letter of Credit Committee of the International Financial Services Association and is actively involved in establishing national and worldwide standard practices for LCs, such as the recent revision of the Uniform Customs and Practice for Documentary Credits (referred to as UCP600), the official ICC guide for examining letter of credit documents, called the International Standard Banking Practices for the Examination of Documents under Documentary Credits, the eUCP supplement to the UCP dealing with electronic documents, the International Standby Practices, and Article 5 of the Uniform Commercial Code. He acts as an advisor to the Wolfsberg Group, an international group that includes most of the largest banks in the world whose purpose is to set standards for combating money laundering, and to the Institute for International Banking Law and Practice. Buddy also serves on the Board of Directors of the Association of International Credit and Trade Finance Professionals (ICTF), a multinational association of export credit managers.

Buddy earned his undergraduate degree at Yale University and his MBA at Northwestern. He can be reached at (312) 704-6942 or buddy.baker@53.com.

Introduction

- What are the Incoterms?
 - Who is responsible for arranging transportation and insurance?
 - Who pays for the packing, freight, and insurance?
 - At what point does the risk of damage change hands?
- Why are the Incoterms needed?
- Competing terms
 - American Foreign Trade Definitions
 - UCC trade terms
- When do you use the Incoterms?

Incoterms 2010 became “effective” January 1, 2011

Incoterms ~~2000~~ 2010

- Ex Works EXW
- Free Carrier FCA
- Free Alongside FAS
- Free On Board FOB

- Cost & Freight CFR
- Cost, Insurance, & Freight CIF
- Carriage Paid to CPT
- Carriage & Insurance Paid to CIP

- ~~Delivered at Frontier~~ ~~DAF~~
- ~~Delivered Ex Ship~~ ~~DES~~
- Delivered Ex Quay DEQ
- ~~Delivered Duty Unpaid~~ ~~DDU~~
- Delivered Duty Paid DDP

Incoterms ~~2000~~ 2010

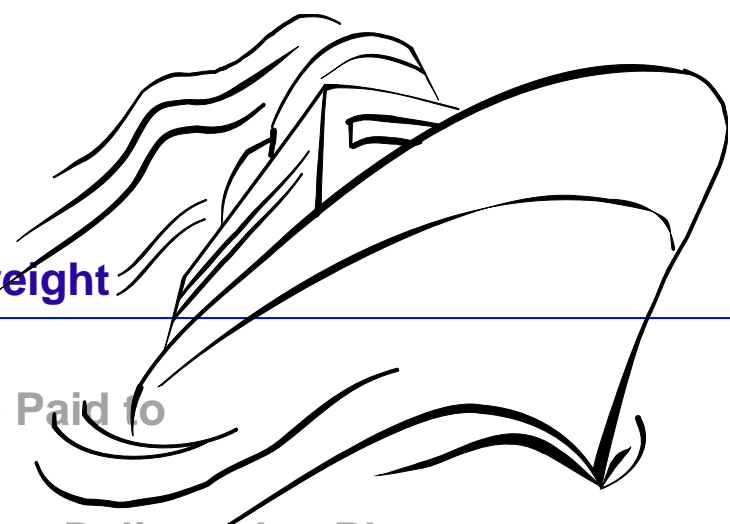
- Ex Works EXW
- Free Carrier FCA
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- Carriage Paid to CPT
- Carriage & Insurance Paid to CIP
- ~~Delivered at Frontier~~ **Delivered at Place** ~~DAF~~ **DAP**
- ~~Delivered Ex Ship~~ **Delivered at Place** ~~DES~~ **DAP**
- ~~Delivered Ex Quay~~ ~~DEQ~~
- ~~Delivered Duty Unpaid~~ **Delivered at Place** ~~DDU~~ **DAP**
- Delivered Duty Paid DDP

Incoterms ~~2000~~ 2010

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- ~~Delivered at Frontier~~ **Delivered at Place** ~~DAF~~ **DAP**
- ~~Delivered Ex Ship~~ **Delivered at Place** ~~DES~~ **DAP**
- ~~Delivered Ex Quay~~ **Delivered at Terminal** ~~DEQ~~ **DAT**
- ~~Delivered Duty Unpaid~~ **Delivered at Place** ~~DDU~~ **DAP**
- Delivered Duty Paid DDP

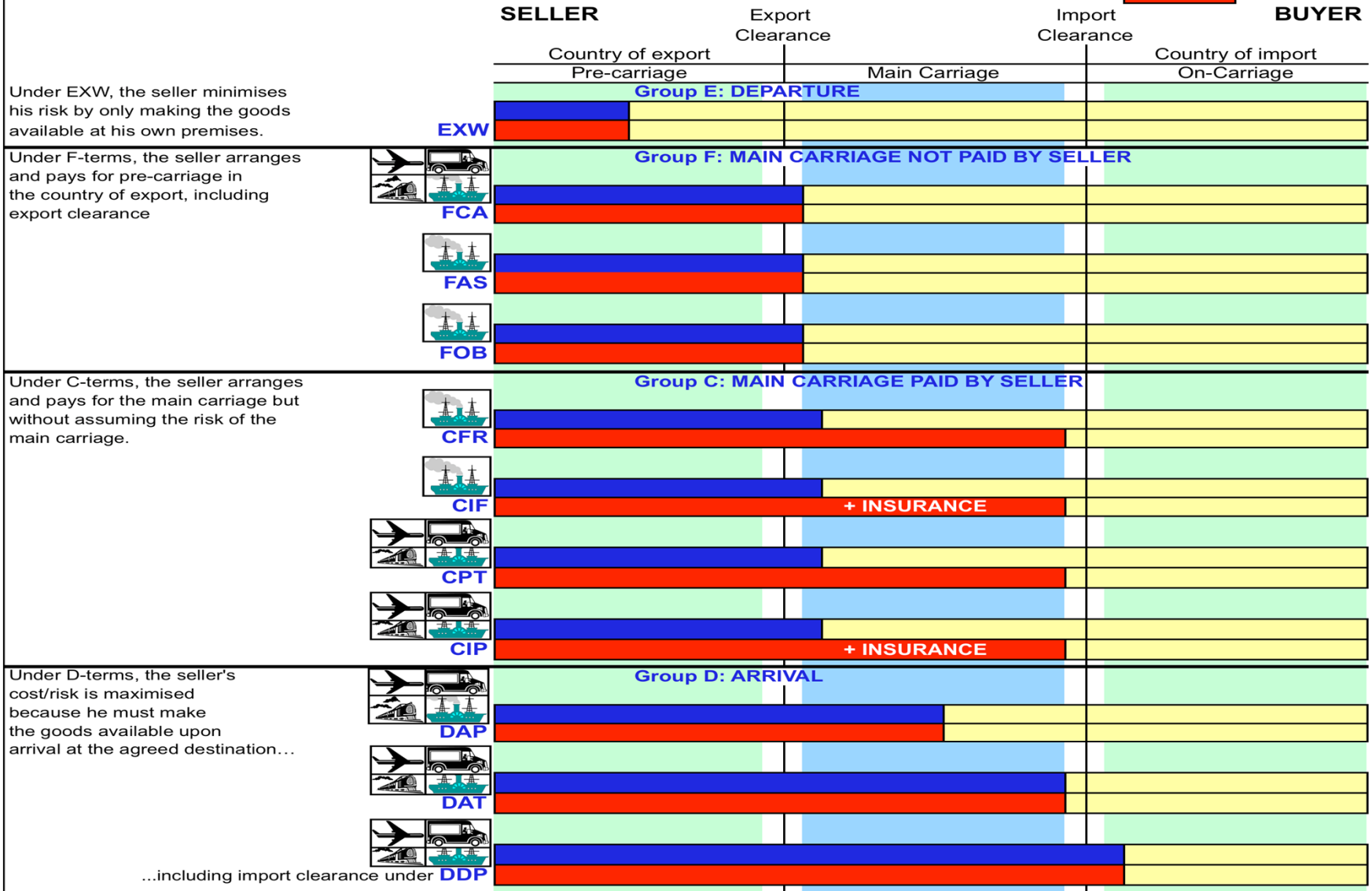
Terms Confined to Port-to-Port Shipments

- | | | | |
|---|-----------------------|----------------|-----|
| • Ex Works | | EXW | |
| • Free Carrier | | FCA | |
| • Free Alongside | | FAS | |
| • Free On Board | | FOB | |
| • Cost & Freight | | CFR | |
| • Cost, Insurance, & Freight | | CIF | |
| • Carriage Paid to | | CPT | |
| • Carriage & Insurance Paid to | | CIP | |
| • Delivered at Frontier | Delivered at Place | DAF | DAP |
| • Delivered Ex Ship | Delivered at Place | DES | DAP |
| • Delivered Ex Quay | Delivered at Terminal | DEQ | DAT |
| • Delivered Duty Unpaid | Delivered at Place | DDU | DAP |
| • Delivered Duty Paid | | DDP | |



This chart indicates how the seller's and buyer's cost/risk responsibilities vary between Incoterms.

RISK
COST
BUYER





The 3 Incoterms Used Most Often

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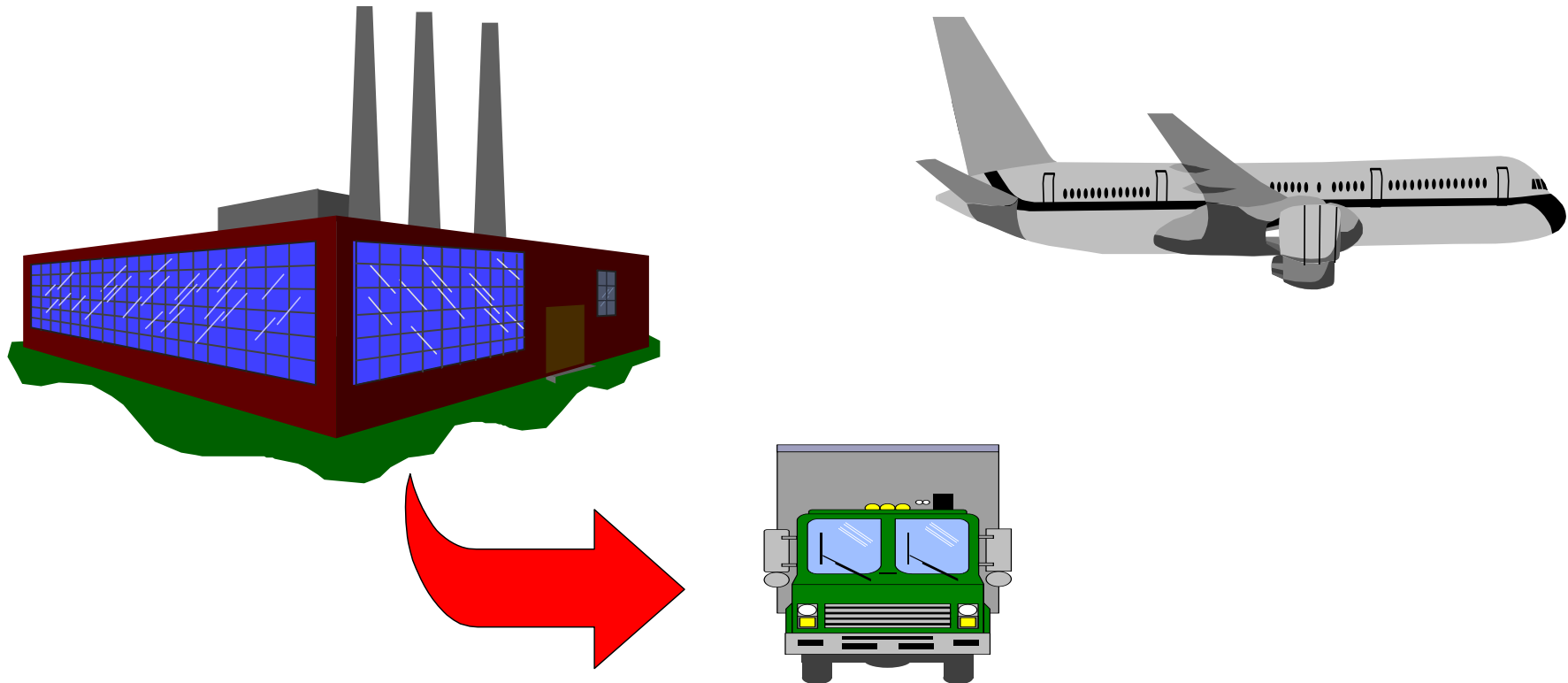
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Free Carrier (FCA)

Transfer of responsibility occurs at the place of receipt by the carrier



Free Carrier (FCA)

Seller's primary duties:

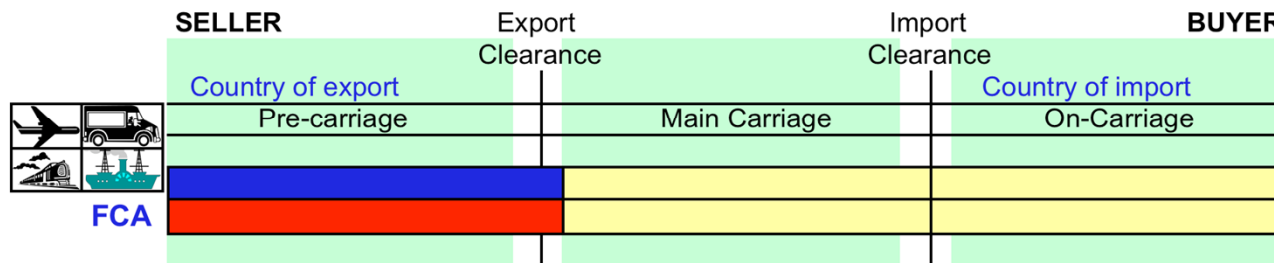
- Deliver goods at the named point into the custody of the carrier named by the Buyer
- Provide export clearance
- Provide evidence of delivery of the goods to the carrier

Buyer's primary duties:

- Nominate carrier
- Contract for the carriage & pay the freight

Free Carrier (FCA)

RISK OF SELLER
 COST TO SELLER



Including Export Clearance

Under FCA, the seller arranges and pays for delivery of the goods to the carrier at the named point, in the country of export

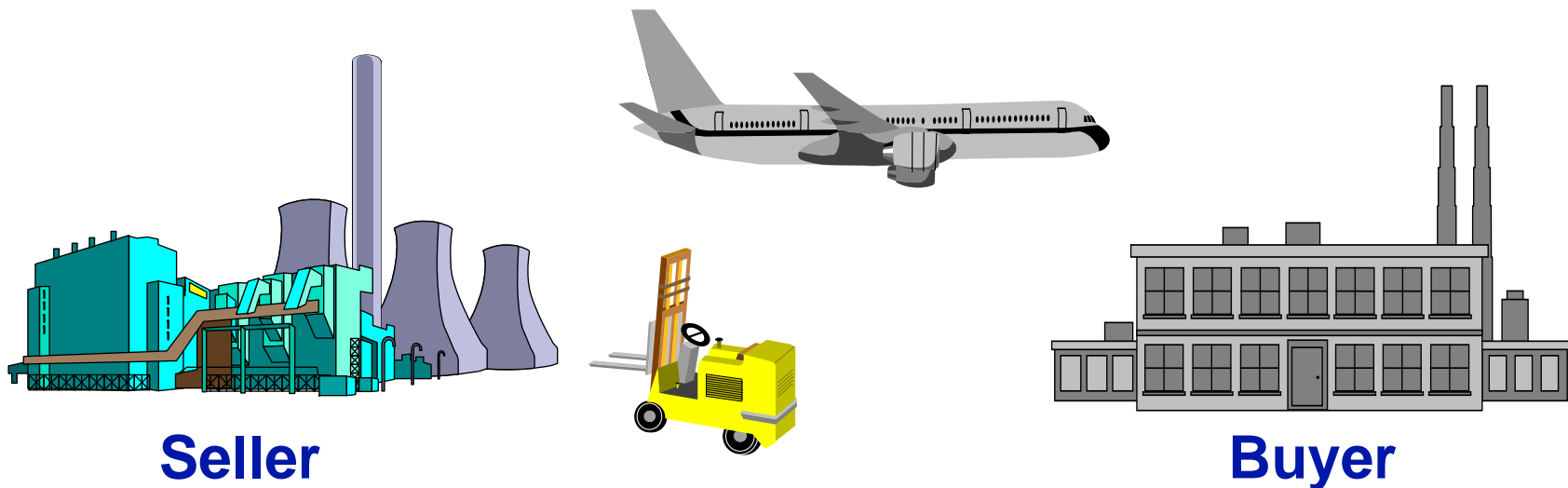
Free Carrier (FCA)

Typical documents:

- Commercial Invoice
- Usual document evidencing delivery of the goods to the carrier, such as:
 - Air waybill
 - Truck bill of lading
 - Multimodal transport document

Carriage Paid to (CPT)

Transfer of responsibility occurs at the place goods are received by the carrier



Carriage Paid to (CPT)

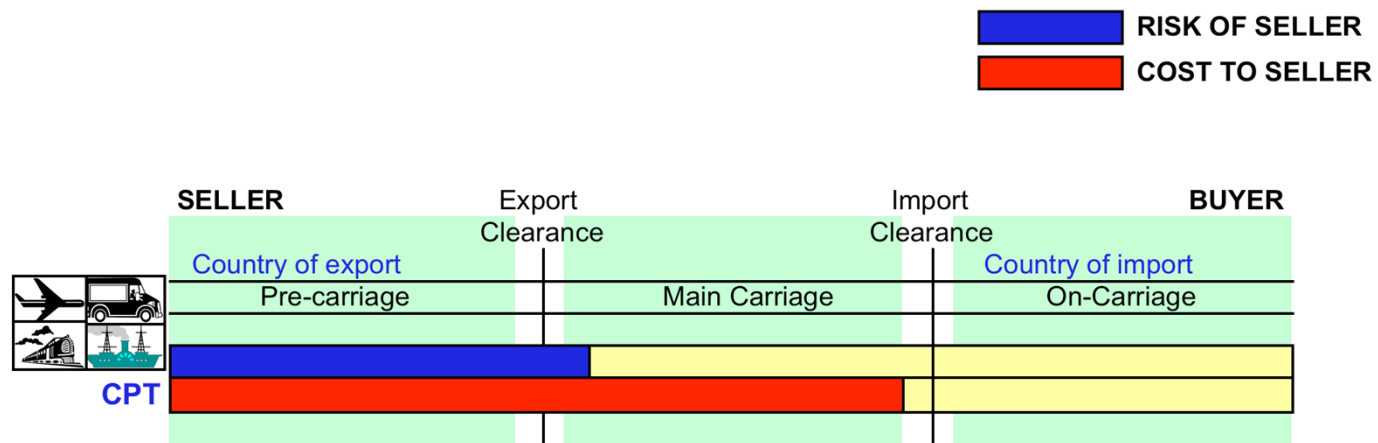
Seller's primary duties:

- Contract for the carriage and pay the freight
- Deliver the goods into the custody of the first carrier
- Provide export clearance
- Furnish Buyer with documents

Buyer's primary duties:

- Accept delivery of the goods from the first carrier
- Receive the documents

Carriage Paid to (CPT)



Under CPT, the seller arranges and *pays* for the main carriage but without assuming the *risk* of the main carriage.

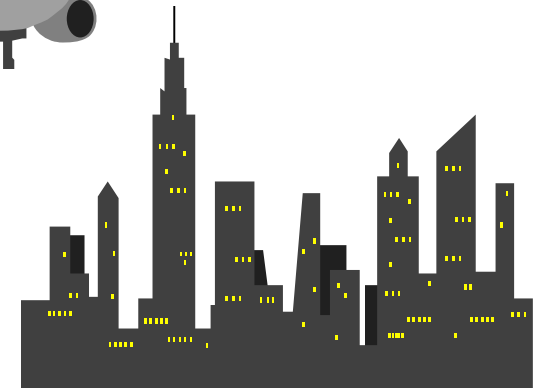
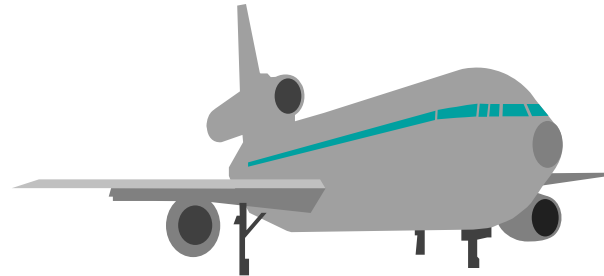
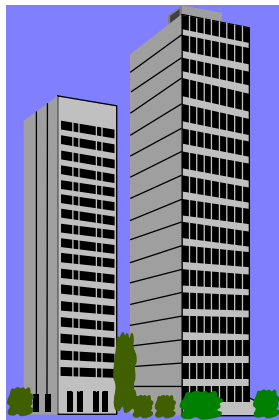
Carriage Paid to (CPT)

Typical Documents:

- Commercial invoice
- Usual transport document, such as a combined transport document or an air waybill

Carriage & Insurance Paid to (CIP)

Transfer of responsibility occurs at the place goods are received by the carrier



INSURANCE AT SELLER'S EXPENSE TO DESTINATION

Carriage & Insurance Paid to (CIP)

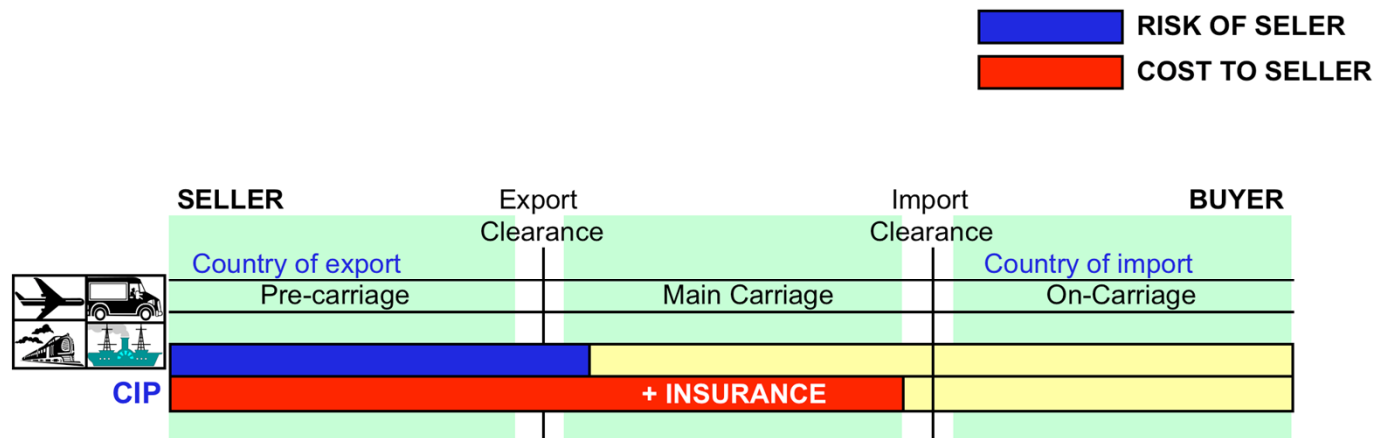
Seller's primary duties:

- Contract for carriage & pay the freight
- Deliver the goods to first carrier
- Provide export clearance
- Contract for insurance & pay premium
- Furnish the Buyer with documents

Buyer's primary duties:

- Accept delivery of the goods with first carrier
- Receive the documents

Carriage & Insurance Paid to (CIP)



Under CIP, the seller arranges and *pays* for the main carriage but without assuming the *risk* of the main carriage.

Carriage & Insurance Paid to (CIP)

Typical Documents:

- Commercial invoice
- Usual transport document
- Export license
- Insurance policy or certificate of open policy



The Incoterm Misused Most Often

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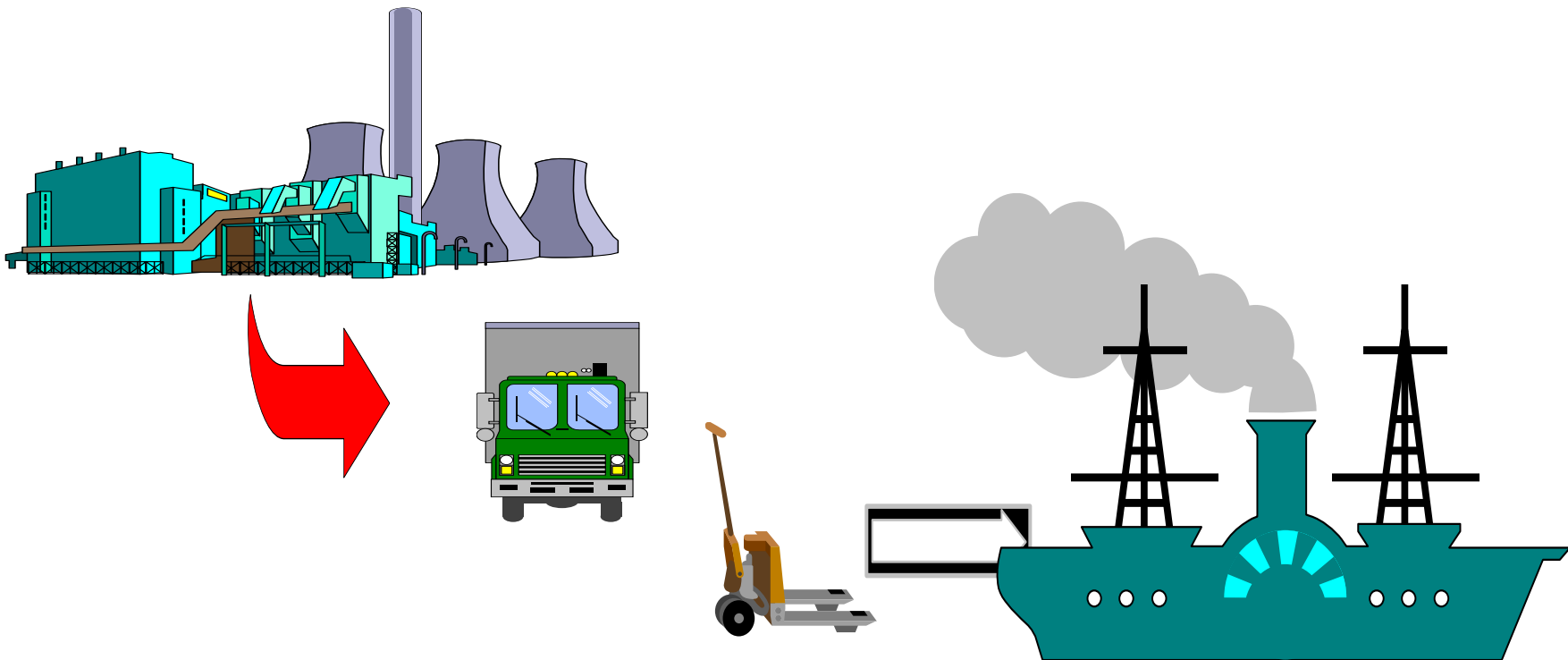
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Free On Board (FOB)

Transfer of responsibility occurs on board vessel at the port of loading



Free On Board (FOB)

Seller's primary duties:

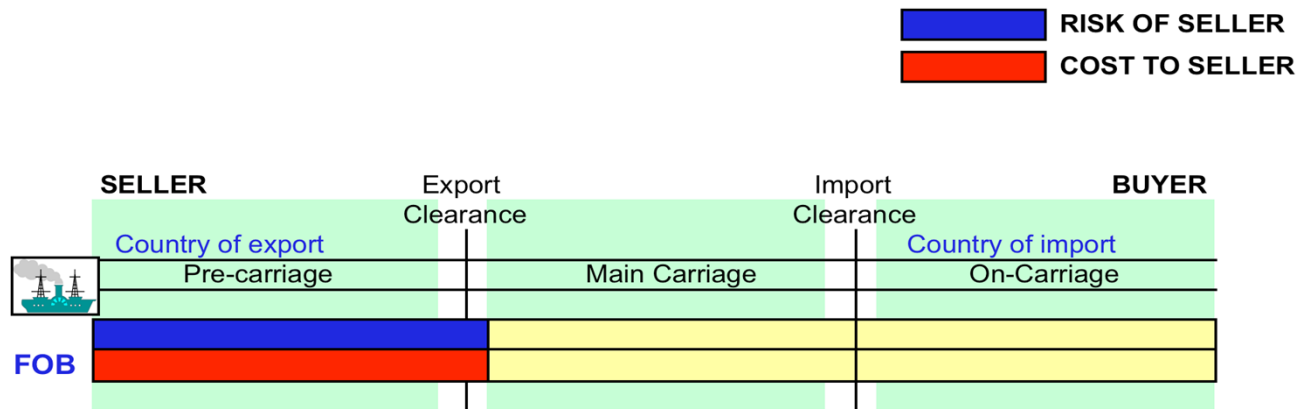
- Deliver the goods on board
- Provide export clearance
- Provide clean on board receipt (bill of lading)
- Pay loading costs

Free On Board (FOB)

Buyer's primary duties:

- Nominate carrier
- Contract for the carriage & pay for the freight
- Pay unloading costs
- Pay loading costs--to the extent that they are included in the freight

Free On Board (FOB)



Including Export Clearance

Under FOB, the seller arranges and pays for all inland freight in the country of export

Free On Board (FOB)

Typical documents:

- Commercial invoice
- Customary clean receipt--on board bill of lading
- Export license (if required)



Transfer of Title

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Transfer of Title

- Not covered by the Incoterms
- When there is a title document
- Should be specified in the contract of sale

If not covered in the contract of sale
but the sale is covered by the
U.N. Convention on
Contracts for the International Sale of Goods (“CISG”),
title transfers when goods are “delivered” as per the contract

The UN Convention on Contracts for the International Sale of Goods

- Created by UNCITRAL and adopted by the United Nations on April 11, 1980
- Became a multilateral treaty on January 1, 1988, after being adopted by 11 countries
- Also known as the “Vienna Convention”
- Now adopted by 76 countries; see http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods/1980CISG_status.html
- Text may be downloaded at <http://www.uncitral.org/pdf/english/texts/sales/cisg/V1056997-CISG-e-book.pdf>

Countries that Have Ratified the CISG

Albania	Cyprus	Hungary	Mongolia	Slovenia
Argentina	Czech Republic	Iceland	Montenegro	Spain
Armenia	Denmark	Iraq	Netherlands	Sweden
Australia	Dominican Republic	Israel	New Zealand	Switzerland
Austria	Ecuador	Italy	Norway	Syrian Arab Republic
Belarus	Egypt	Japan	Paraguay	Macedonia
Belgium	El Salvador	Kyrgystan	Peru	Turkey
Bosnia and Herzegovina	Estonia	Latvia	Poland	Uganda
Bulgaria	Finland	Lebanon	Romania	Ukraine
Burundi	France	Lesotho	Republic of Korea	United States of America
Canada	Gabon	Liberia	Russian Federation	Uruguay
Chile	Georgia	Lithuania	Saint Vincent and the Grenadines	Uzbekistan
China	Germany	Luxembourg	Serbia	Venezuela
Colombia	Greece	Mauritania	Singapore	Zambia
Colombia	Guinea	Mexico	Slovakia	
Croatia	Honduras	Moldova		
Cuba				

Brazil, India, South Africa, and the United Kingdom are notable non-signatories



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THANK YOU

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ICC rules for the use of domestic and international trade terms



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