



This article is an excerpt of the book “**Financial, Administrative and Trade Management in China: A crash course for executives for a successful and compliant business operation**”, available e.g. on [Amazon Kindle](#), [Google Play](#) and [Apple Books](#).

7.2. INCOTERM

The International Commercial Terms, or short, INCOTERM, provide a standard framework for obligations and transfer of risk during transportation of goods from the vendor to the buyer.

Especially for international goods transactions, you should make sure that you understand the implications of the terms that are being used in the contract. While it might be assumed that the formal ownership, the title, is dependent on the chosen INCOTERM, this is not the case. This should be declared separately in the sales contract.

Cost and risk components

Depending on the described INCOTERM in the contract, the cost of the following items will be borne by either the buyer or the seller:

- Packing
- Loading charges
- Inland freight at exporter
- Terminal charges at the departure port
- Insurance during transport
- Loading on vessel at the departure port
- Freight on the vessel
- Arrival charges
- Duty and taxes
- (Inland) delivery to destination at the destination country

Most Common INCOTERM

The most commonly used INCOTERM in China are:

EX WORKS (EXW)

This INCOTERM means that the goods will be picked up at the factory of the supplier and the buyer is immediately responsible afterwards.

This can be domestically a good choice for a goods transfer, for international transactions it could lead to trouble. In some countries the export has to be declared by the exporting company.

Free Carrier (FCA)

Free Carrier makes the seller responsible for delivering the goods to the carrier. If the destination is defined at the factory, from the logistics flow there is actually no difference to EXW, except that the export declaration has to be prepared by the seller which might be required by the export regulations of the country.

If several carriers are involved, it should be considered that compensation for damages by the first carrier, e.g. an domestic carrier to the port, might be hard to realize if it is a small domestic local company of the exporting country.

Free on Board (FOB)

The seller is responsible for all cost until the goods have been loaded on the ship, including domestic transport and the loading charges in the port of export.

Dan Harris in his amazing ChinaLawBlog mentions in several articles that FOB mostly is the wrong choice: Chinese factories tend not to insure the period between the products leaving the factory and being loaded on board of the transport vessel while demanding payment already after the products leave the factory. Even while legally you might have the stronger arguments if damages happen, an enforcement can be difficult.

Cost, Insurance, Freight (CIF)

The seller is responsible for delivering the goods to the arrival port, including all charges until the goods get unloaded from the vessel. Starting from the arrival charges at the port, the buyer is responsible for all charges, including customs duty, taxes and the transport to the final destination.

A possible pitfall is that goods might be insured by the exporter but the insurance coverage is not sufficient.

Delivered at Place (DAP)

The seller is responsible to deliver the goods to the defined place and pays for all the fees, including freight and insurance, but excluding duty and taxes.

Delivered Duty Paid (DDP)

The seller is responsible for delivering the goods to the final place, including duty and taxes. Similar to the exporting process with EXW, importing procedures at the destination country might not be possible for the exporting company even if the contract asks for it.

Common pitfalls

- When the handover time seems to be short for the vendor, e.g. if the INCOTERM specifies “FOB,” vendors sometimes do not have an insurance for the short period between their warehouse and when the articles reach the ship. Big disasters which destroy or damage the goods are improbable but not impossible. Ensure that the insurance is being paid until the goods get handed over.
- When describing INCOTERM in the contract, be sure that it is not conflicting with the rest of the contract, otherwise it might weaken your chance of regress in front of a court. For example, INCOTERM “EXW” but asking in the contract for the preparation of export documents is per definition of EXW not compatible.



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- When using INCOTERM, you usually describe for which part of the transportation cost in the process each contract partner is responsible. Instead of just writing “FOB” you should use a more specific location, e.g. “FOB Tianjin” to ensure there are no disputes afterwards.
- INCOTERMS do not describe when the goods and the risk will actually be handed over. This should be described in the contract separately.