

THE IMPACT OF INCOTERMS 2020 RULES ON THE DEVELOPMENT OF INTERNATIONAL TRADE

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ABSTRACT

This article discusses the reforms carried out in the development of Customs affairs, the general situation of the application of Incoterms delivery conditions, the impact of the application and problems encountered by the general rules when applying the general rules of Incoterms in foreign economic activity, prospects for the transportation of goods through sea routes when exporting or importing goods to Uzbekistan.

Keywords: customs administration, digital customs, improvement of the investment climate, improvement of the export capacity of the country, liberalization of foreign trade, “paperless” customs, “electronic” customs, “digital” customs, terms of delivery, Incoterms 2010, Incoterms 2020.

INTRODUCTION

Currently, the ongoing reforms in our country serve as the basis for achieving the priorities of the Republic of Uzbekistan. In particular, such tasks include: liberalization of foreign trade, increasing the scale of trading countries with our state, creating favorable conditions for national entrepreneurs, attracting foreign investment, which in turn serve as a platform for the development of the national economy. To achieve these objectives, numerous innovations are being carried out in most areas. Also in the bodies of the state customs service, which in turn ensure the security of the national economy, thereby being a reliable support for bona fide entrepreneurs of our country. Such reforms also include the application of a Risk Management System for customs clearance of goods, the application of simplified customs procedures by bona fide business entities assigning them the status of Authorized Economic Operators, the construction of customs terminals that will help reduce the time and financial costs of entrepreneurs by carrying out customs clearance at the most adjacent customs posts, in accordance with the Presidential Decree of 24.11.2018 “On additional measures to improve customs administration and increase the efficiency of the State Customs Service of the Republic of Uzbekistan”. The continuation of such reforms was approved in DP-6005 “On reforming customs administration and improving the activities of the State Customs Service of the Republic of Uzbekistan”, which provides for the implementation into national legislation of standards and recommendations of the World Trade Organization, the World Customs Organization, as well as other international organizations to improve customs administration

and simplify customs procedures, consistent development from “paperless” customs to “Electronic” customs, and subsequently to the “digital” customs, further improvement of methods of combating smuggling and movement of counterfeit products, corruption, illegal currency transactions and evasion of customs payments require the use of modern and proven methods of customs administration. The results of the ongoing reforms can be seen in the work done by the Division of the State Customs Committee for Navai region alone. In this area, the volume of goods processed under the customs procedure of export amounted to 244.2 million US dollars. The main part of the export goods were natural resources, radioactive substances, textile products, yarn, aluminum and products made from it, nitrogen fertilizers, plastics. The foreign trade turnover of goods under the management of the State Customs Committee for the Jizzakh region amounted to 264.5 million US dollars. The volume of exports of goods amounted to 106.1 million US dollars, which is 56.3 million US dollars more than in the same period last year, or 112.9%. The bulk of exports account for yarn, textiles, fruits and vegetables, food, glass and glass products, natural resources and other goods. Also, within 7 months from the beginning of the year, grapes with a total value of 18,771.4 thousand US dollars were exported from the Samarkand region to countries such as China, Turkey, Russia, the UAE, and Iraq. Simplification of customs procedures, compliance with customs regimes when processing goods are one of the parts of the implementation of foreign economic activity. Entrepreneurs engaged in foreign trade activities take into account many factors, such as the property of the object of purchase and sale, their cost, the method of movement, and the immediate need for imported goods in their activities.

When drawing up a foreign trade contract, special attention is paid to the delivery condition, which is one of the decisive factors when moving goods across the customs border. The presence of significant differences in the content and interpretation of contracts, as well as trade customs existing in the legal systems of different countries, is one of the main problems of regulating international trade. To solve this problem, in 1936, International Rules for the Interpretation of Trade Terms were developed – Incoterms, created by the decision of the International Chamber of Commerce. However, the earliest edition is considered to be the unification of trade conditions in 1928 on the initiative of the International Law Association, which was soon revised and amended in 1932, but in practice this unification was never applied.

Subsequently, in 1953, 1967, 1976, 1980, 1990, 2000, 2010 - new editions of Incoterms were adopted. Currently, Incoterms 2020 is envisaged in international relations, but the possibility of using previous versions is also provided. Incoterms 2010 is currently being applied in the Republic of Uzbekistan, but measures are being developed to apply the Incoterms 2020 edition. Each new version included new terms of delivery based on:

The emergence of new ways of transporting goods;

Development of economic information exchange;

The need to adapt the terms of delivery in modern commercial practice;

Simplification of transportation procedures by combining delivery conditions;

Detailing the responsibilities of the seller and buyer.

Incoterms 2020 has not undergone significant changes. No terms have been removed and no terms have been added, but one of the delivery terms has been renamed. Conditions DAT

(Delivery at the terminal) has been replaced by DPU (Delivery to the place of unloading). This change was caused by two reasons. Firstly, there was confusion about the differences between the DAT and DAP terminals (Delivery at Destination). The key difference between these conditions is that according to the DAT rules, the goods are delivered after the specified terminal is within the conditions. Whereas under the DAP condition, delivery is carried out before unloading, goods-when they are provided to the buyer on the arriving vehicle ready for unloading. Secondly, it is necessary to provide greater flexibility in determining the place of delivery of goods. Now the seller and the buyer can agree on any place for the delivery of the goods, and not only in a specific terminal. DPU is the only term that instructs the seller to unload the goods.

But despite the changes made, not a few disputes arise not because the contracting parties do not fully understand the terms of delivery, or the negotiations are not fully detailed.

As we know, according to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan RCM-283 “On measures to further improve the monitoring of foreign trade operations in the Republic of Uzbekistan”, the minimum requirements for a foreign trade contract include the following:

The subject of the contract;

Terms and date of delivery of goods, performance of works and provision of services;

The total amount of the contract and the price of the goods in units of measurement;

Payment terms;

Origin of the goods, place of performance of works and provision of services;

Details of the parties.

Barter contracts must take into account the conditions that provide for the advance delivery of imported goods or the submission of counter bank guarantees.

Basic terms of delivery (according to international Incoterms rules), when using which it is necessary to indicate (along with an abbreviation) the place of delivery (name of the railway station, port, airport, etc.)

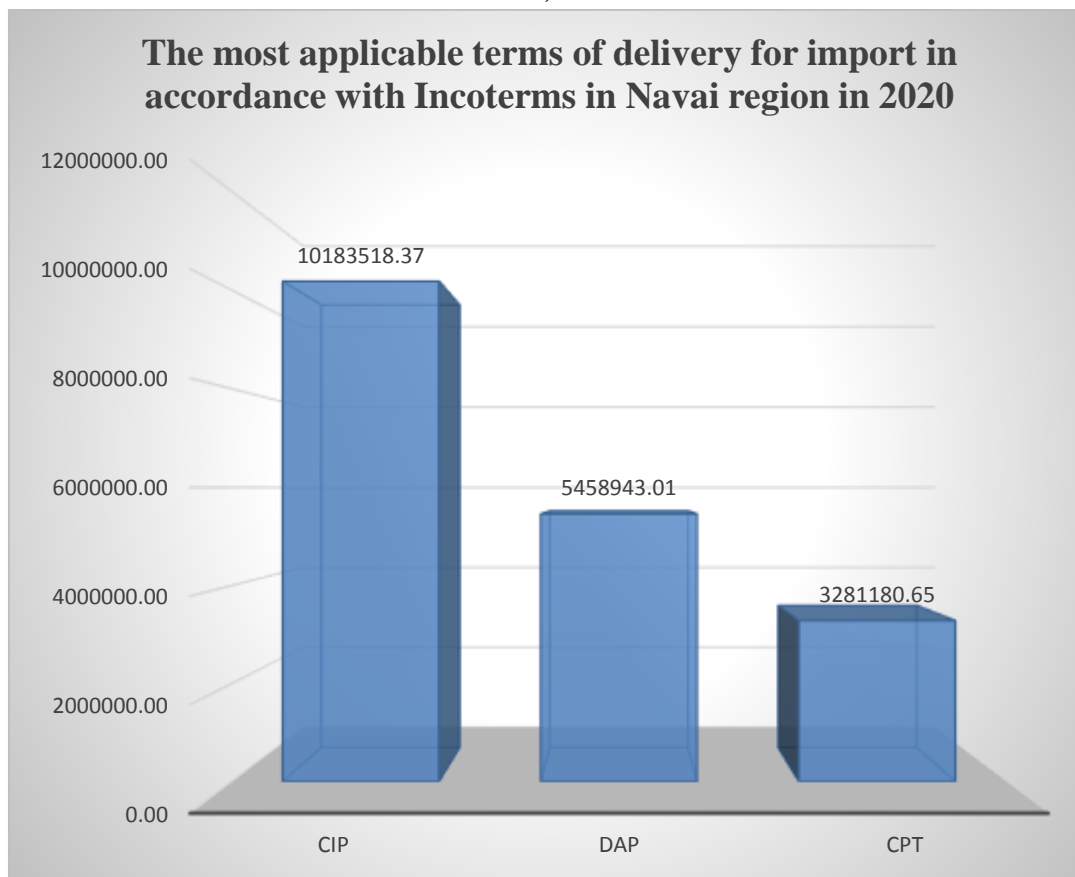
Also, in order to simplify the implementation of foreign trade, in accordance with this Resolution, business entities are provided with the opportunity to export and import goods (works and services) on the basis of invoices, without concluding export and import contracts, as well as to make mutual settlements with foreign partners through commercial banks on the basis of these invoices. Also, one of the minimum requirements for invoices are the definitions of the terms of delivery under Incoterms, as well as the type of transportation.

The absence of one of the mandatory elements of a foreign trade contract or invoice indicates their incompleteness, and the resulting responsibility is assigned to economic entities. Business entities, concluding a foreign trade contract, agree on all the details of the export or import of goods or services provided. But despite this, disputes often arise between foreign trade partners, and although it would seem that a solution to their dispute is provided for in the contract, in certain cases, the impossibility of solving them can lead to quite serious problems, and often losses. Among the subtleties available at the conclusion of a foreign trade contract are the basic terms of delivery based on Incoterms, as well as the type of transportation. Although the Incoterms rules are not mandatory, they are widely used in international trade.

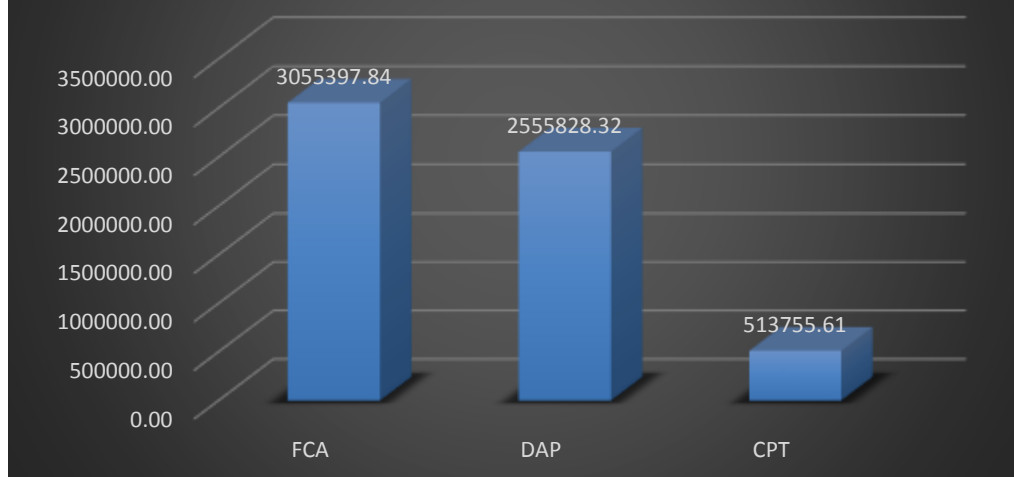
It should be remembered that Incoterms has nothing to do with the contract of carriage, and the main goal is to clearly define the terms of the contract with respect to the seller's obligations to deliver goods to the buyer and to unify the obligations of the parties to the contract of sale of goods.

At first glance, when concluding contracts based on the rules, Incoterms does not provide for discrepancies and disputes, since each of the terms of delivery clearly defines all the obligations of the contracting parties, such as: transportation of goods, its loading and unloading from a vehicle, customs clearance, payment of taxes, duties and charges, insurance, as well as the transfer of risks of loss and damage to the goods and the risks that are assigned to them in accordance with the current rules. But in addition to the duties and risks provided for by these rules, there are intermediate operations based on the specifics of the goods being transported. In accordance with the current legislation, when exporting goods from Uzbekistan, the statistical value is calculated according to the terms of delivery FOB and DAP, and when importing to CIF or CIP. But even in these conditions of delivery there are subtleties when crossing.

As the analysis shows, in 2020, such delivery conditions as DAP, CPT, FCA were widely used in our country, and CIP, DAP, CPT are common in imports. Over the past year, goods worth 10183518.36 thousand US dollars were exported to Navai region on the condition of CIP delivery, according to DAP -5458943.01 thousand US dollars, with CPT 3281180.64 thousand US dollars. Also, when importing, FCA was applied at a cost of 3055397.83 thousand US dollars, with DAP - 2555828.3183 thousand US dollars, and CPT at 513755.61 thousand US dollars.



The most applicable terms of delivery for export in accordance with the Incoterms for the Navai region in 2020



The spread of these particular terms of delivery is associated with various factors. For example, the use of DAP in export is due to the fact that domestic entrepreneurs, in order to further cooperate with foreign partners, use this delivery condition, which is more profitable for importers of our goods. At the same time, when concluding a contract, some reservations may be made related to the delivery of goods, while maintaining all the risks and conditions of the DAP.

Also with CIP, which means “Freight/transportation and insurance paid to (... name of destination)”, the goods are insured and delivered to the customer's carrier at the specified destination. In this case, both for the buyer and for the seller, the duties are divided evenly during the movement of the goods. Also, when applying this delivery condition, the goods are insured by the seller with minimal coverage.

The FCA Incoterms 2020 (Free Carrier) delivery condition is the most common Incoterms rule (about 40% of international commercial transactions take place with this trade term). It finds wide application in Uzbekistan for several factors. Firstly, one of the types of widely exported goods is fruit and vegetable products, grapes and melons, as well as dried fruits. Secondly, in order to ostensibly save costs for the transportation of goods, companies entering the international market apply “simplified” basic conditions for the delivery of goods. In this delivery condition, the main risks and costs associated with the delivery of the goods are with the buyer.

There are also controversial issues in maritime transportation. In accordance with Incoterms, only 4 types of delivery conditions are applied, which are: FOB, FAS, CFR and CIF. And the rest of the Incoterms terms provide for use in all types of transport. On the experience of developed countries of the rules for the application of Incoterms - 2010, there are controversial issues in the term FCA in water transport. This problem is as follows: when applying FCA, foreign trade partners conclude a contract based on the use of a bank letter of credit and transportation is carried out by sea. As we know, when using a bank letter of credit, a mark “on

board” in the bill of lading is required. But the sea carrier does not provide the seller with a bill of lading with such a mark. Such difficulties arose when applying Incoterms 2010. When developing Incoterms 2020, such a difficulty was taken into account and the FCA delivery condition allows the parties to agree in the contract of sale that the buyer should instruct his carrier to issue a bill of lading with an on-board record to the seller.

When transporting goods, foreign trade partners strive to minimize the costs of moving them, while maintaining the consumer properties of their goods. In world trade, the method of fast delivery of goods is air transportation, meanwhile, the cheapest transportation by sea. Many countries, including the USA, Russia, Brazil, India, Pakistan, Canada use all types of transportation, both by sea or rail, and by aircraft or motor vehicles. This creates ample opportunities for conducting foreign economic activity. But not all countries have direct access to sea routes. If for some countries it is necessary, such as Kazakhstan, Mongolia, Turkmenistan, to cross one state to enter the open ocean, then two countries of the world are fenced off from all sides of the sea routes by two states. The first of them is Liechtenstein, and the second is the Republic of Uzbekistan, which borders with countries that also have no access to the sea. In 2018, the President of Turkmenistan invited Uzbekistan to explore the possibility of using the port infrastructure on the Caspian coast at the talks held in Tashkent. In addition, in September last year, the Deputy Prime Minister, Minister of Foreign Trade and Investment of Uzbekistan discussed prospects and opportunities Uzbekistan intends to actively use the infrastructure of Pakistan's ports for the transit of its cargo to foreign markets. Undoubtedly, the implementation of these negotiations will open up new trade routes for our state. The ongoing reforms in the field of cargo transportation have a specific weight in foreign trade development, but also in strengthening cooperation with neighboring countries.

It is important to know that the rules of Incoterms do not replace the contract of sale, but only allow you to shorten it. The terms of delivery do not determine the transfer of ownership of the goods, do not specify the price for the goods and the method of payment or the consequences of costs, such as transportation of the goods, its loading and unloading from the vehicle, customs clearance, payment of taxes, duties and fees, insurance, as well as the transfer of risks of loss and damage to the goods.

At the moment, the current version of the code of rules of international trade is Incoterms 2020. But this does not mean that foreign trade participants do not have the right to use the delivery bases from earlier versions: Incoterms-2010 and Incoterms-2000. According to the ICC recommendations, in order to use the terms of delivery of the previous editions of Incoterms, when concluding a foreign trade contract, it is necessary, in addition to the terms of delivery, to specify the version of the international rules. The next revision of the Incoterms rules is scheduled for 2029. Now we can expect technological amendments reflecting developments related to digital commerce and the increasing use of intellectual property contracts, which is absent in Incoterms 2020.

As the President of the Republic of Uzbekistan Shavkat Mirziyoyev noted in his Message to the Oliy Majlis: “... today we have taken the first practical steps to implement the Trans-Afghan Transport Corridor construction project, which will connect Central Asia with the Indian Ocean. Its implementation will serve to ensure stability and sustainable economic development

throughout the region”. Based on this, we can make sure that the ongoing reforms in the areas of foreign trade, customs administration, as well as strengthening international cooperation will open up new opportunities for Uzbekistan and become confident steps towards building a new Uzbekistan.

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