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FREQUENTLY USED INCOTERMS AND THEIR RELEVANCE IN INTERNATIONAL TRADE

INCOTERMS



International trade transactions inevitably involve parties situated in different jurisdictions, which necessitates a clear and universally accepted framework to allocate rights, obligations, costs, and risks. To address this need, standard contractual mechanisms have been developed and recognized globally. Two such mechanisms are the Incoterms, published by the International Chamber of Commerce (ICC), and the

suite of contractual terms developed by the Baltic and International Maritime Council (BIMCO). While both serve critical roles in facilitating cross-border commerce, their applications differ substantially.

Incoterms (International Commercial Terms) are widely referred to in the spheres of trade, exports and logistics. They are a set of rules issued by the ICC that clearly define the roles, duties, and responsibilities of

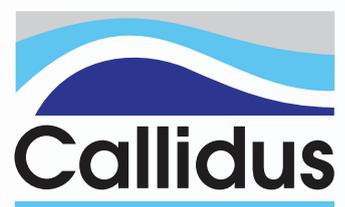
the buyer and seller, typically the importer and the exporter under various types of trade transactions. Depending on the nature of the transaction, parties mutually agree upon an Incoterms clause, which not only delineates responsibilities but also provides legal clarity in case of disputes. Importantly, the Incoterms clause is typically listed on the Commercial Invoice, making it a cornerstone document for legal enforceability in international trade.



THOUGHT
for
the MONTH

The ultimate measure
of a man is not
where he stands in
moments of comfort
and convenience, but
where he stands at
times of challenge and
controversy

MARTIN LUTHER
KING JR



Highlighted below are the most frequently used Incoterms, followed by an overview of the relevance of BIMCO terms in maritime commerce, along with an analysis of why Incoterms are often preferred by traders and manufacturers when structuring international sales contracts.

I. Understanding Frequently Used Incoterms

Incoterms (International Commercial Terms) are globally recognized contractual clauses that define how responsibility for delivery, transport, insurance, risk transfer, division of cost and import/export obligations are divided between the buyer and seller in an international trade transactions. They do not replace the underlying contract of sale, but rather supplement it by establishing uniform standards that reduce ambiguity.

Below are some of the most widely used Incoterms,

➤ **EXW – Ex Works**

Obligation: The seller's responsibility is limited to making the goods available at its premises and the buyer assumes all responsibility for transportation, export clearance, import duties, and insurance.

➤ **FCA – Free Carrier**

Obligation: The seller delivers goods to a carrier nominated by the buyer at a specified location (usually at a port or terminal) and handles export clearance.

➤ **FOB – Free on Board**

Obligation: The seller bears the cost and risk until goods are loaded on board the vessel at the port of shipment. Risk transfers to the buyer once the goods are on board.

➤ **CFR – Cost and Freight**

Obligation: The seller pays for the transport of goods to the destination port. However, risk transfers once the goods are on board the vessel.

➤ **CIF – Cost, Insurance and Freight**

Obligation: It is similar to CFR, with the additional duty on the seller to procure marine insurance in favour of the buyer.

➤ **DAP – Delivered at Place**

Obligation: The seller delivers the goods at the buyer's nominated place of destination, with the buyer responsible for import clearance, duties and taxes.

➤ **DDP – Delivered Duty Paid**

Obligation: The seller assumes the highest level of responsibility, by delivering goods to the buyer's destination and covering all costs, including duties and taxes.

➤ **CPT – Carriage Paid To**

Obligation: The seller arranges and pays for transport to the agreed destination, but the risk transfers once goods are handed over to the first carrier.

➤ **CIP – Carriage and Insurance Paid To**

Obligation: This is similar to CPT, but the seller must also procure insurance.

➤ **FAS – Free Alongside Ship**

Obligation: The seller delivers the goods alongside the vessel at the loading port. From that point, the buyer is responsible for loading, freight, and subsequent risks.

➤ **DPU – Delivered at Place Unloaded**

Obligation: The seller delivers and unloads the goods at the place of destination. The buyer remains responsible for import clearance.

The seven Incoterms valid and applicable across all modes of transport are EXW, FCA, CPT, CIP, DAP, DPU, and DDP. The four specific to sea and inland waterway transport are FAS, FOB, CFR, and CIF.

II. Understanding where BIMCO Terms are used:

While Incoterms govern the sale and delivery of goods, BIMCO contracts are widely used in the maritime sector primarily to regulate maritime and shipping operations including vessel operations and management, hire, and related services.

The commonly used BIMCO agreements include:

- Charter Parties (GENCON, NYPE, BARECON): Define obligations relating to vessel hire, laytime, demurrage, and off-hire clauses of owners and charterers.
- Towage & Salvage Agreements (TOWCON, TOWHIRE): Define rights and obligations in towage services and emergency salvage services.
- Crew Management Contracts (CREWMAN A & B): Govern the engagement, supply, and management of crew.
- SALEFORM: Standardizes the sale and purchase of vessels, addressing delivery terms, conditions and warranties.
- Agency and Bunker Supply Contracts: Regulate port agency functions and supply of marine fuel including scope of services, liabilities, and payment obligations.

BIMCO contracts are recognized globally by courts and arbitration tribunals making them the preferred framework for resolving maritime disputes across multiple jurisdictions.

III. Why Traders Prefer Incoterms over BIMCO Terms

While BIMCO contracts continue to be of central importance within the maritime industry, their application is narrowly confined to vessel operations and related services. By contrast, Incoterms have emerged as the preferred framework for international trade in goods owing to their wider applicability across all modes of transport, whether by sea, air, road, or rail and their direct

commercial relevance to the relationship between buyer and seller. They serve a practical function in allocating delivery obligations, costs, and risks in a manner that is both comprehensive and accessible, even to parties who may not be maritime specialists. Significantly, Incoterms enjoy broad recognition by customs authorities, insurers, freight forwarders, and arbitral tribunals worldwide, which ensures consistency in interpretation and reinforces their role as the default contractual language of global commerce. Their continued use not only enhances contractual

efficiency but also reduces the scope for disputes by establishing clear, uniform standards that transcend jurisdictional differences, thereby providing parties with a reliable legal framework within which to conduct international trade.

Conclusion

Both Incoterms and BIMCO terms are indispensable for international commerce, but they serve distinct purposes.

Incoterms are primarily designed for traders, manufacturers, and logistics

teams to simplify the delivery of goods and reduce contractual uncertainty, whereas BIMCO terms are tailored for shipowners, charterers, and maritime professionals who require detailed, legally vetted frameworks governing vessel operations, chartering, and management.

A clear understanding of both regimes enables businesses to allocate risk effectively, avoid contractual uncertainty, and safeguard their commercial interests in the complex landscape of international trade ■

LONDON MARITIME ARBITRATORS ASSOCIATION

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London remains the unrivaled global center for maritime arbitration, handling over 80% of such disputes worldwide. Governed by the UK Arbitration Act 1996 and guided by the London Maritime Arbitrators Association (LMAA) Rules, these proceedings are typically ad hoc and tailored to the complexities of maritime trade—from charterparties to marine insurance. Established in 1960, the LMAA offers three distinct sets of rules designed to suit varying scales of disputes, making it the go-to forum for efficient and specialized maritime resolution.

LMAA Intermediate Claims Procedure, 2021

Applicability: The LMAA intermediate claims procedure was created to bridge gap between the LMAA Terms and the Small Claims Procedure. This procedure applies when the claim or counterclaims exceeds the upper limit of small claims or USD 100,000 but not over USD 400,000, which is exclusive of interests and costs. If either party advances claims which exceeds the

threshold, then no later than 14 days of the counterclaim service, a notice in writing demanding the claims be dealt with under LMAA Terms 2021 shall be served to the tribunal.

Tribunal composition: By default, the tribunal comprises three arbitrators unless agreed otherwise. Each party appoints one, and the two jointly

appoint a chairperson. If they fail to agree, the President of the association appoints the third arbitrator. Decisions are by majority, with the chairperson's view prevailing in the absence of unanimity. Alternatively, a tribunal may consist of two arbitrators and an umpire. If a party fails to appoint an arbitrator within 14 days, or if parties cannot agree on a sole



LMAA

THE LONDON MARITIME ARBITRATORS ASSOCIATION

arbitrator, the President will appoint one upon payment of a £450 fee.

Submission protocols: Initial submissions must clearly and comprehensively set out the issues between the parties in number paragraphs and be supported by relevant documents. The claimant must submit their claim within 14 days of tribunal formation. The respondent has 28 days to reply with a defence and any counterclaim. The claimant may respond within 21 days, and if needed, the respondent can reply to the counterclaim within another 21 days. No further submissions are allowed without the tribunal permission after this stage.

Evidence and Hearings: There is no formal stage of disclosure, and all relevant documents must be produced at the opening submissions. Witness statements must be announced within 14 days of closure of opening submissions and must be exchanged within 28 days after the completion of opening submissions. Expert evidence requires the tribunal's permission and should be limited to 3500 words. Moreover, there exist no right to oral hearing and only in exceptional cases will the same be held.

Award and Remedies: the tribunal publishes the award within 6 weeks of service of last submissions. Corrections and clarifications maybe made as per section 57 of the Arbitration Act or on its own initiative within 28 days of the award. Appeals shall be confined to only instances where the issue is of importance to the trade or industry,

else the right of appeal is excluded.

LMAA Small Claims Procedure, 2021

Scope and Threshold: The terms apply exclusively to those disputes agreed to be resolved under this procedure. The maximum claim or counterclaim respectively shall amount to only USD 100,000 excluding costs and interests. If the counterclaim exceeds, either party in writing demand that the claim and counterclaim be dealt under LMAA Terms or the LMAA Intermediate Claims Procedure 2021.

Arbitrator appointment and Fees: In the absence of mutual agreement between parties, either party may request appointment, in writing, of an arbitrator by the LMAA President accompanied by a Small claims fee which includes the appointment fee, interlocutories, a hearing not exceeding one day, the writing of the award and the assessment of costs, if any. This condition is precedent to the continuance of proceedings i.e. the proceedings may not continue until the fee is paid.

Also, it must be noted that additional fee for counterclaims, that exceeds the claim and under circumstances where the arbitrator retains the jurisdiction, is payable by the respondent within 14 days of claim submissions shall be a condition precedent.

Submissions Timeline and Limits: The letter of claim must be served within 14 days of appointing an arbitrator and should not exceed 2,500 words. The respondent must submit a letter of defence and any counterclaim within

28 days, also limited to 2,500 words. The claimant may reply within 21 days: a reply to defence (max 1,000 words) and a reply to counterclaim (max 2,500 words). The respondent may submit a reply to the counterclaim defence (max 1,000 words) within 14 days. Time extensions may be granted by the arbitrator where appropriate; otherwise, the arbitrator may proceed to an award based on available submissions and documents.

Evidence protocol and Hearings: There shall be no expert's report disclosure unless prior permission is taken, not exceeding 2500 words. Simultaneously, no disclosure exists in this procedure unless the arbitrator feels to the contrary.

Awards and Appeal rights: The arbitrator will publish the award within one month which will be reasoned. The right of appeal to courts is excluded and deemed waived once adoption the procedure. Additional award or the powers to correct an award are granted to the arbitrator in addition to the power under section 57 of the Arbitration Act 1996.

The LMAA Terms serves as a robust framework best suited for complex and high-value disputes. For faster, leaner solution, the Intermediate Claims Procedure offers a midpoint option for cases up to USD 400,000, while the Small Claims Procedure emphasizes efficiency and proportionality for disputes under USD 100,000. Selecting the appropriate procedural framework enables parties to align the level of arbitration detail with the value and intricacy of the dispute at hand ■

MARITIME LAW & INDUSTRY: AI ADOPTION FACES LEGAL CHALLENGES

According to a recent report from The Maritime Executive, the maritime industry is increasingly experimenting with artificial intelligence (AI) to enhance operational efficiency

and streamline business processes. However, despite growing enthusiasm, many maritime companies remain cautious and find it difficult to expand AI usage beyond limited pilot

projects. The report highlights legal, regulatory, and ethical challenges as the primary barriers to broader adoption.

Why This Matters

- **Evolving Legal Frameworks:** Regulations governing AI in maritime operations are still in development, particularly in critical areas such as liability, safety standards, and data governance.
- **Accountability Concerns:** Scaling up AI raises unanswered questions around compliance, responsibility, and enforcement in the event of mishaps or disputes involving AI systems.
- **New Legal Demands:** As AI increasingly intersects with navigation, cargo handling, and predictive maintenance, maritime legal practitioners are likely to see growing demand for **risk mitigation strategies, compliance guidance, and dispute resolution services** linked to AI adoption ■

Courtesy: www.maritime-executive.com



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