

Columbia River
Customs Brokers & Forwarders
Association (CRCBFA)
presents

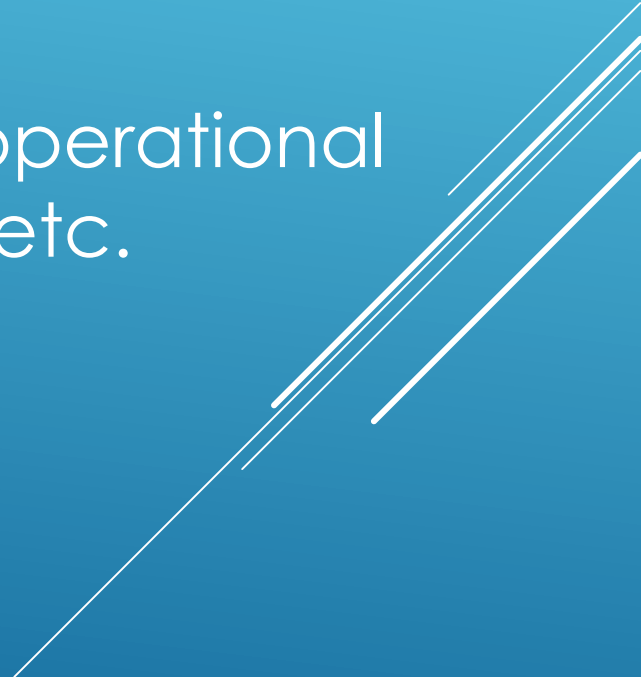
INCOTERMS 2020

November 20, 2019


What Are Incoterms?

- ▶ “International COmmercial TERMS”
- ▶ Created by the ICC – International Chamber of Commerce – in 1936
- ▶ Amendments made in 1953, 1967, 1976, 1980, 2000 and 2010.
- ▶ Used between the buyer and seller in an **international** contract for the sale of tangible goods
- ▶ Consist of 11 distinct 3-letter abbreviations that identify the shipping/delivery obligations of buyer and seller in a transaction (contract)
- ▶ Used in 130 countries; translated into 27 languages

What Incoterms Are Not

- ▶ Incoterms are not law! They must be specified in order to apply
3-digit Term + place + Incoterms 2020
 - ▶ Incoterms are not all inclusive – do not address operational issues of carriers, ports, government regulations, etc.
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- A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, located in the lower right quadrant of the slide.

What Do Incoterms Do?

- Incoterms are utilized in International Trade and provide a set of global rules, which buyers and sellers operate under, to achieve a mutual understanding of:
 - Who does what (Obligations)
 - Who pays for what (Costs)
 - Where does risk transfer (Risks)
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What Incoterms Do **Not** Do

- ▶ Address passage of title from seller to buyer (only passage of risk of loss)
- ▶ Address recognition of revenue
- ▶ Address dispute resolution or remedy for breach of contract
- ▶ Address specific payment terms (time, place, method or currency)
- ▶ Address tax considerations, tariffs, sanctions and import or export prohibitions
- ▶ Address unloading except for DPU term

Significant Changes in Incoterms 2020

- ▶ Guidance notes in 2010 now more detailed and called Explanatory Notes.
- ▶ Renaming the term Delivered at Terminal (DAT) to Delivered at Place Unloaded (DPU).
- ▶ Free Carrier (FCA) - Under this term, the buyer can now instruct its carrier to issue a bill of lading with an on-board notation to the seller so that they may satisfy the terms of a letter of credit.
- ▶ Incoterms 2020 rules now specifically call out the import and export security requirements and identifies whether the buyer or seller is responsible for meeting those requirements.
- ▶ Insurance is addressed for each term; different levels of insurance coverage for CIP and CIF.

- ▶ Carriers have multiple defenses
- ▶ Carrier liability is not enough to cover losses
- ▶ Buyer or seller is responsible to cover losses above carrier liability

CARRIER'S LIMIT OF LIABILITY

Transportation Mode	Limit of Liability
Ocean Carriers	\$500/package or Customary Shipping Unit based on the Carriage of Goods by Sea Act
International Air	\$9.07/lb. or approx. \$20/kg under Warsaw Convention
Domestic Airlines, Trucks & Railroads	\$0.50/lb. is customary, or limited by tariff
Couriers & Warehousemen	\$100 or less on any one shipment



GENERAL AVERAGE

- ▶ Partial loss that is shared proportionally by all parties
- ▶ Typically declared by the vessel owner when:
 - ▶ Cargo is jettisoned
 - ▶ Vessel sustains damage
 - ▶ Corrective action taken to save the ship and crew
- ▶ Applies to both All Risk and FPA coverages
- ▶ Without cargo insurance, the owner must post a cash deposit before the cargo is released. This still may take several years to resolve.
- ▶ If insured, the insurance company provides the bonded guarantee and any other related fees
- ▶ No cargo insurance = CASH must be posted

▶ Free of Particular Average (FPA)

(Institute Cargo Clause C)

- ▶ Most suitable for used merchandise, on-deck bills of lading and bulk goods
- ▶ Covers named perils only
 - ▶ Stranding or sinking
 - ▶ Burning
 - ▶ Collision and jettison
 - ▶ General Average
- ▶ May be broadened with underwriter's approval

▶ All Risk Coverage

(Institute Cargo Clause A)

- ▶ Most new merchandise, properly packed and not unusually susceptible to loss
- ▶ Most common type of coverage
- ▶ Offers broadest coverage
- ▶ Subject to some exclusions

ALL RISK VS FPA



Incoterms 2020

Group E

Departure EXW Ex Works

Group F

Main carriage FCA Free Carrier
Unpaid FAS Free Alongside Ship
FOB Free On Board

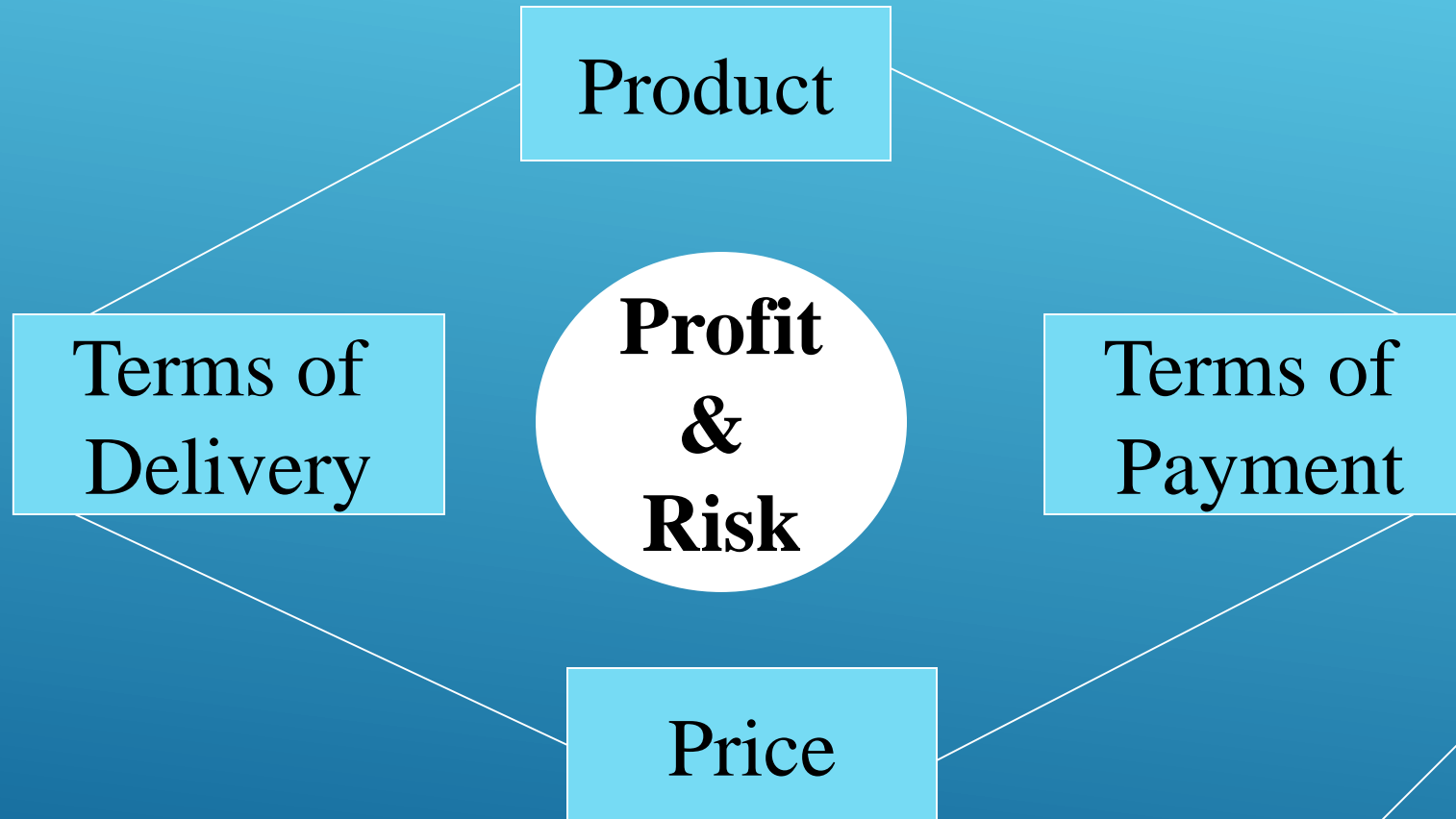
Group C

Main carriage CFR Cost and Freight
Paid CIF Cost, Insurance and Freight
CPT Carriage Paid To
CIP Carriage and Insurance Paid To

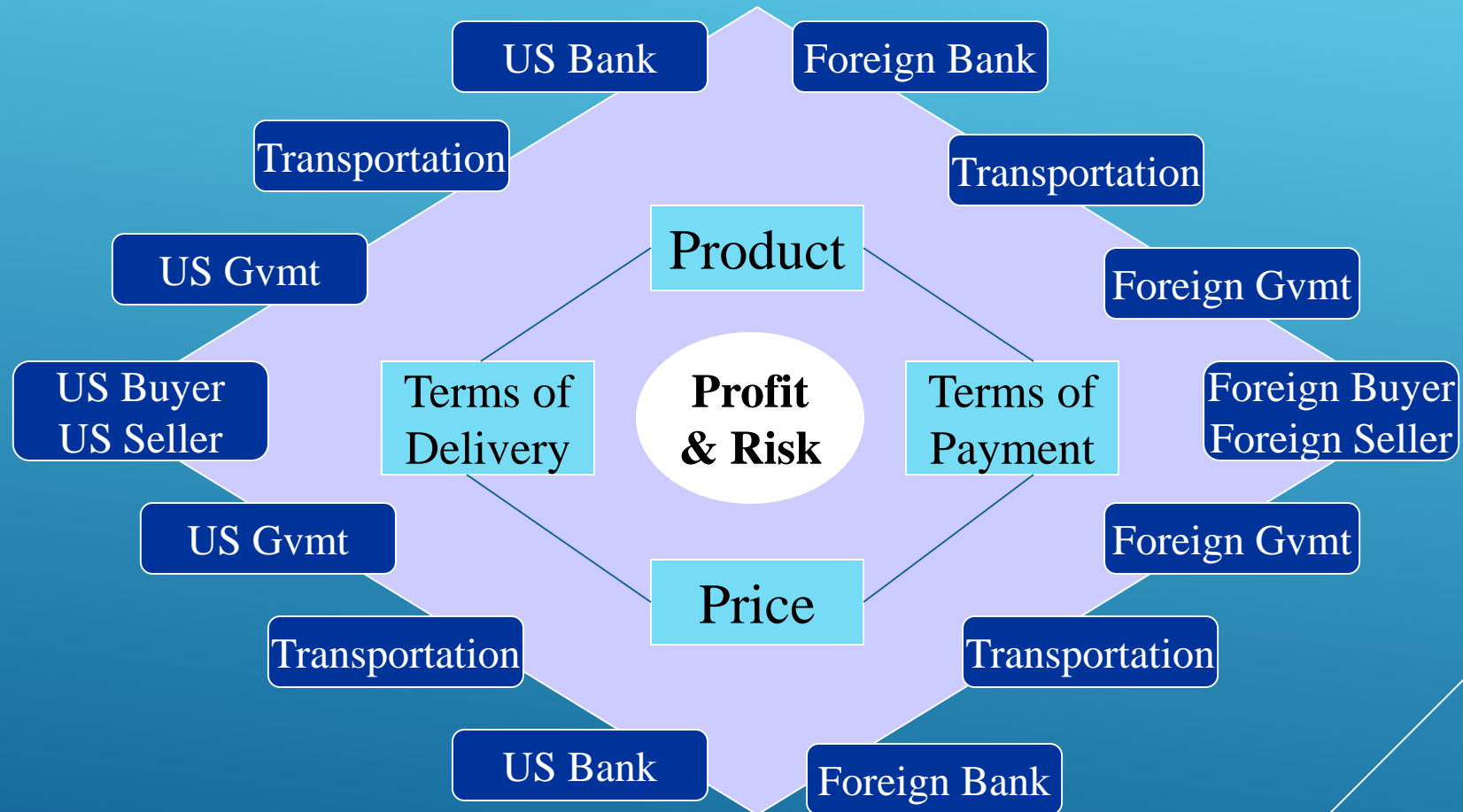
Group D

Arrival DAP Delivered At Place
DPU Delivered At Place Unloaded (formerly DAT)
DDP Delivered Duty Paid

The Deal



The Deal and The Parties



INCOTERMS 2020

Seller

Sea & Inland Waterway

Buyer



Any Mode of Transport Including Multi-Modal



Use of Incoterms

- What does it take to use Incoterms correctly?

 - ICC recommends that "Incoterms 2020" be referred to specifically whenever the terms are used, together with a location.

- Examples of correct use of Incoterms:

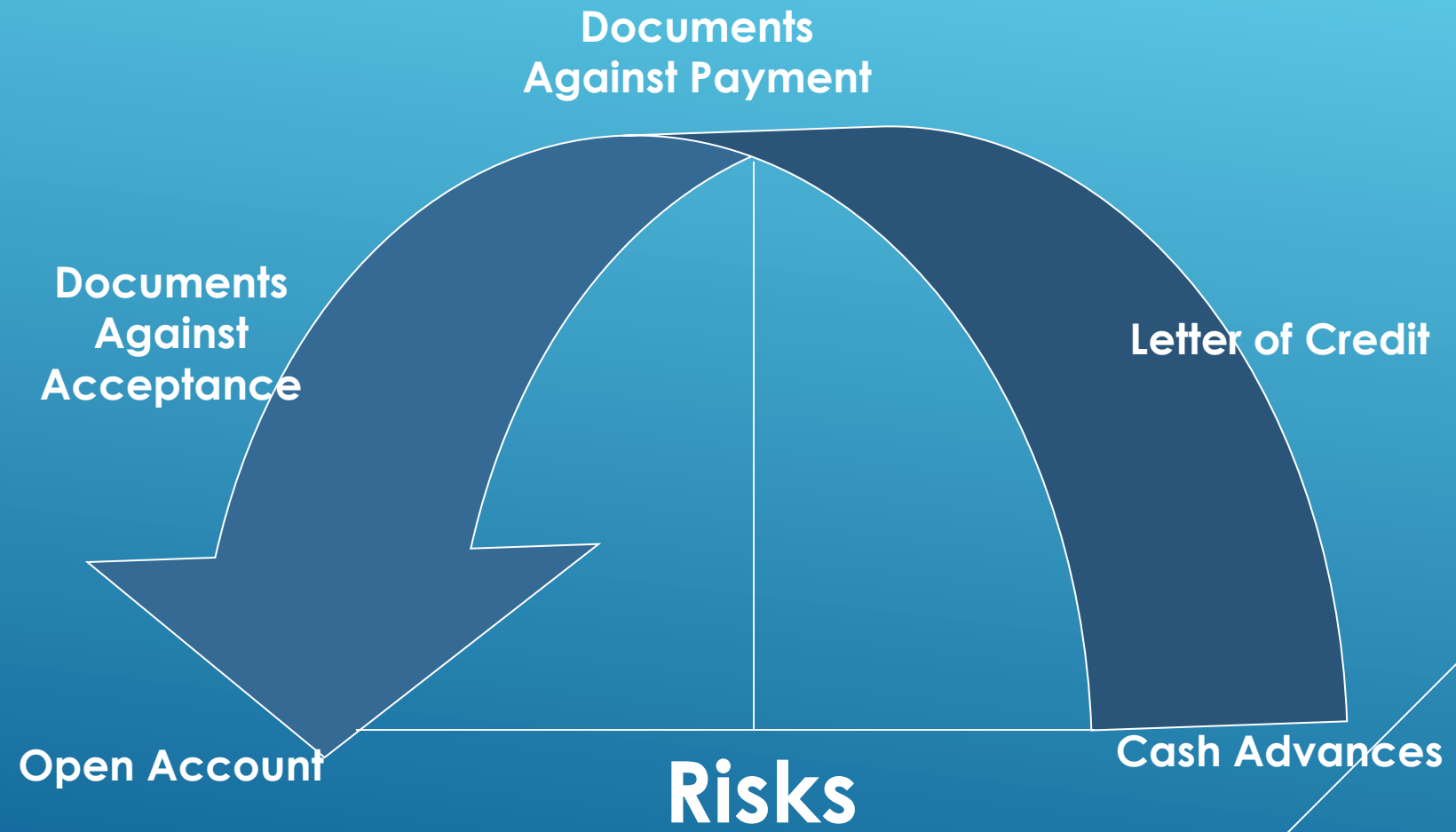
 - EXW 338 Main St., Tualatin, OR (Incoterms 2020)

 - FOB Bangkok (Incoterms 2020)

 - CIF Portland (Incoterms 2020)

 - DPU 123 Oak St., Portland, OR (Incoterms 2020)

Terms of Payment



What is the U.C.C.?

- ▶ Uniform Commercial Code
- ▶ Created in 1951; last revised in 1962
- ▶ Article 2 of the UCC applies to buyer and seller in a **domestic** (United States) contract for the sale of tangible goods
- ▶ UCC is NOT law, but has the force of law if enacted by states (all states but Louisiana have adopted Article 2 of the UCC)

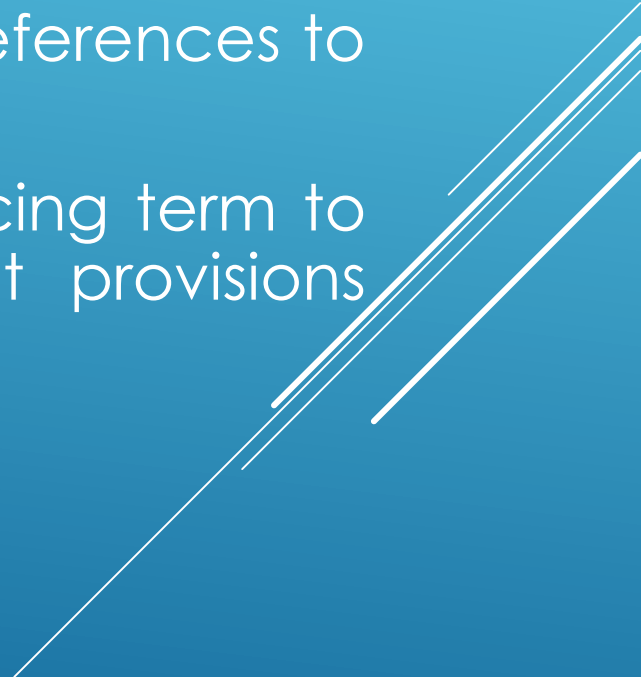
What Does the UCC Do?

UCC is utilized in the United States for the sale of goods and provides a set of domestic laws, which buyers and sellers operate under, to achieve an understanding, among other things, of:


- ▶ Who does what (Obligations)
- ▶ Who pays for what (Costs)
- ▶ Where does risk and title transfer (Risks)

UCC is much broader than Incoterms – UCC governs all aspects of sell of goods (warranties, title to goods, delivery or shipment terms, risk of loss, etc.)

What the U.C.C. is NOT

- ▶ Specific – the FOB term has been expanded to include all means of transportation as well as shipment and delivery contracts and freight collect and freight prepaid transportation.
 - ▶ Self-contained – there are many references and sub-references to other official UCC articles.
 - ▶ Well understood – FOB is usually used merely as a pricing term to indicate freight payment without regard to default provisions affecting responsibility, title and payment.
 - ▶ Understood internationally
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Why Use Incoterms Domestically?

- ▶ Clarity - specifies obligations of buyer and seller in a transaction
 - ▶ Simplicity - more terms, but recommend that business use limited number of terms
 - ▶ Currency - revised at least every 10 years to follow trade practice
 - ▶ Uniformity - one set of terms to understand for domestic and international trade
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