

Actual development in customs legislation and forwarding practise

**WKO-Business Breakfast
Europeum Business Centre, Bratislava**

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1. Modernised customs code (MCC)

2. E-communication – mandatory tool

3. Other news imposed by MCC

4. E-Customs and MCC

5. New obligations 2011

6. Incoterms 2010

7. Questions

- **publication** in the O.J. on 4 June 2008 Nr. 450/2008
- **enter into force**: 24 June 2008
- **application**: once the implementing provisions (MCCIP) are applicable - 24 June 2013 at the latest,
- MCC and MCCIP **shall be applicable in 24 June 2013.**
- last version of MCCIP „TAXUD/MCCIP/2010/100-2“

LANSKY, GANZGER + partner

Modernised customs code (MCC)



- establishes electronic communication as a mandatory tool

Advantages:

- speeds up formalities,
- quick release of goods as a rule,
- less controls, but more effective,
- centralised customs procedure- doing formalities from one place
- single window- lodging data only once for different authorities
- the same level of controls throughout the Community,

Modernised customs code (MCC)

- establishes electronic communication as a mandatory tool

Burdens on the side of declarant:

- **necessity to impose managed electronic communication inside company- requires investments in IT system, human resources**
- **possible solution: Outsourcing of customs services**

Burdens on the side of customs:

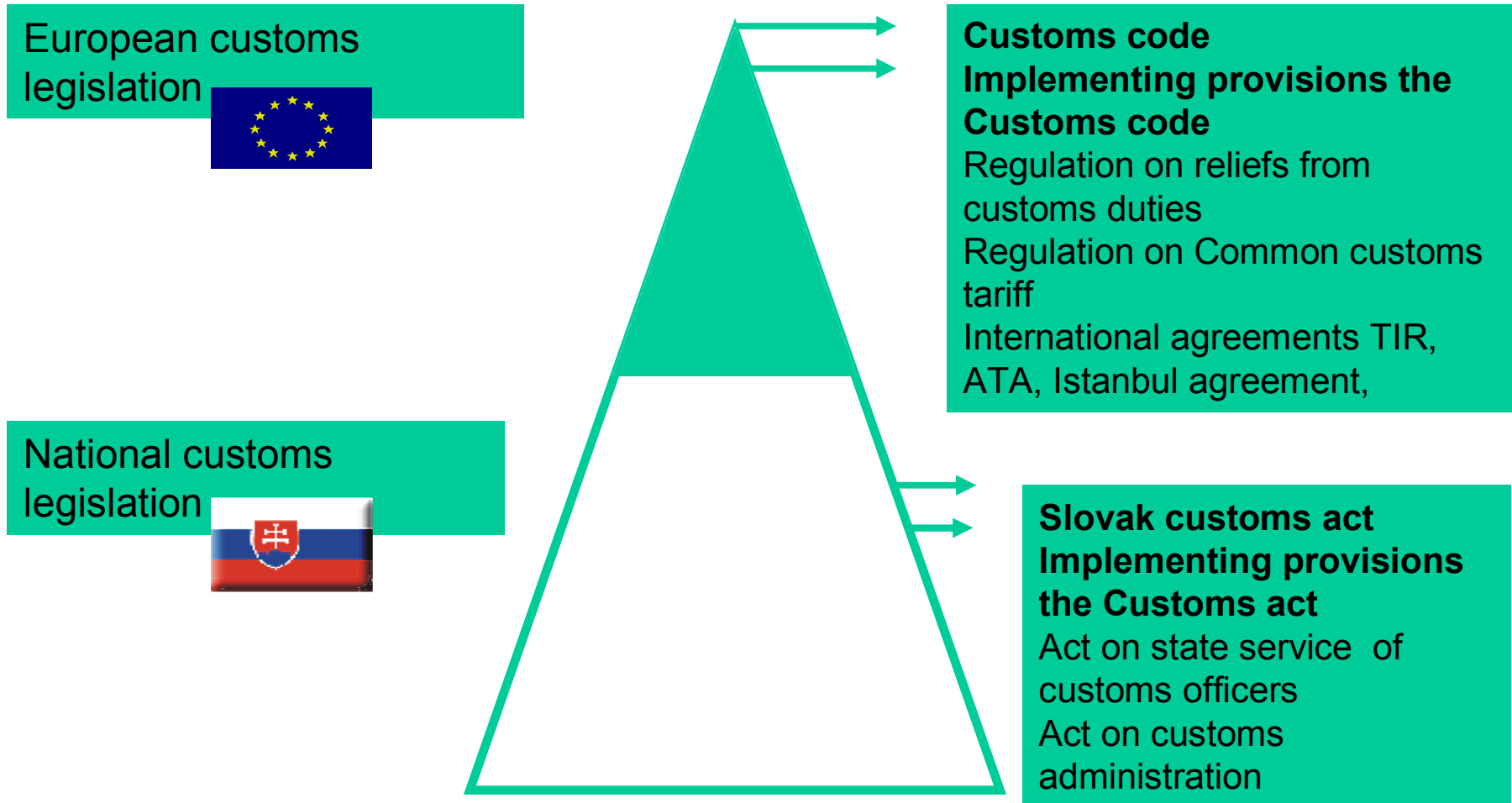
- different national technical specifications
- obligation to communicate in all official languages of EU
- different requirements for electronic signature
- not harmonised rules in tax and customs area

Modernised customs code (MCC)

- establishes common rules for decisions as official acts of different customs authorities (common interpretation)
 - time limits for decisions making,
 - when a decision takes effect,
 - communication of grounds of the decision in advance,
 - proportionate and dissuasive penalties (no customs dept if penalty is based on the customs dept),
 - right for representation without restrictions (customs agent)

- problems with common interpretation
 - art. 2 CC (Art. 1 MCC): „Customs code shall apply uniformly throughout the customs territory of the Community.“

Customs legislation in Slovak republic



Customs legislation in Slovak republic

- problems with a proper interpretation

For example:

- concept „**no serious or repeated infringements of customs rules...**“ (art. 14h, 290b, 454a CCIP)
- concept „**exceptional circumstances**“ (art. 294 (3), 899 CCIP),
- interpretation of art. 253 (4) CCIP,
- concept „**obvious negligence**“ in art. 239 CC, art. 294 (3), 859 and 899 CCIP

Possible solution: legal support (communication with customs, jurisdiction of ECJ, supporting interpretation documents of EC)

MCC: puts an emphasis on a „good faith“ instead of „negligence“

Modernized customs code (MCC)

- puts an emphasis on Authorised economic operator (AEO) status
 - AEO: status of more reliable operators
 - 3 types of status AEO:
 - customs simplifications
 - security facilitations
 - combined
- customs office of Žilina – 36 certificates (in EU 7062 certificates)

Modernized customs code (MCC)

- puts an emphasis on Authorised economic operator (AEO) status

Advantages:

- when an AEO operator applies for further simplifications, only specific criteria will need to be checked,
- taking into account during risk analysis for selection of customs control,
- prior notification if the customs control is to be carried out,
- reduced particulars in entry summary declaration,
- less physical controls,
- if controlled, controlled in preference,
- waver of security of customs dept,
- using of procedure with economic impact with release before authorisation is granted

Modernized customs code (MCC)

- reforms the customs procedures
 - **free circulation**
 - **transit** (external, internal)
 - **storage** (temporary storage, customs warehousing, free zones)
 - **specific use** (temporary admission, end-use)
 - **processing** (inward processing, outward processing)
 - **export**

(PCC, IP – drawback system, free warehouses cancelled)

- reforms further provisions

e- Customs and MCC

- consignor, exporter or carrier has to lodge customs declaration or summary declaration in electronic way:
 - electronic transit customs declaration since 6st December 2008
 - electronic export customs declaration since 1st July 2009 (export control system)
 - entry summary declaration since 1st January 2011
 - exit summary declaration since 1st January 2011
- EORI- unique customs identification number since 1st July 2009,
- AEO- authorised economic operator since 2006 (in SR 36 certificates issued)

New Obligations in 2011

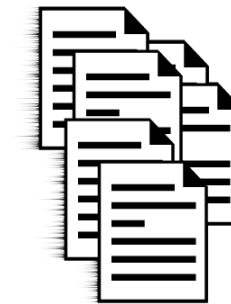
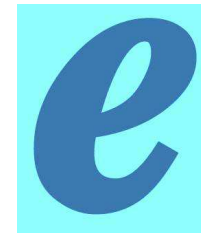
- to lodge entry and exit summary declaration in advance (since 1st January 2011)
- when?
 - road- 1 hour before entering/exiting customs territory
 - rail- 2 hours before reaching the customs office of entry/2 hours before leaving the customs office of exit
 - air- 4 hour before reaching the first airport in EU (or at time of departure - short flights)/30 minutes before departure the airport in EU
 - sea- containers in standard case 24 hours before loading

New Obligations in 2011

- to lodge entry summary declaration

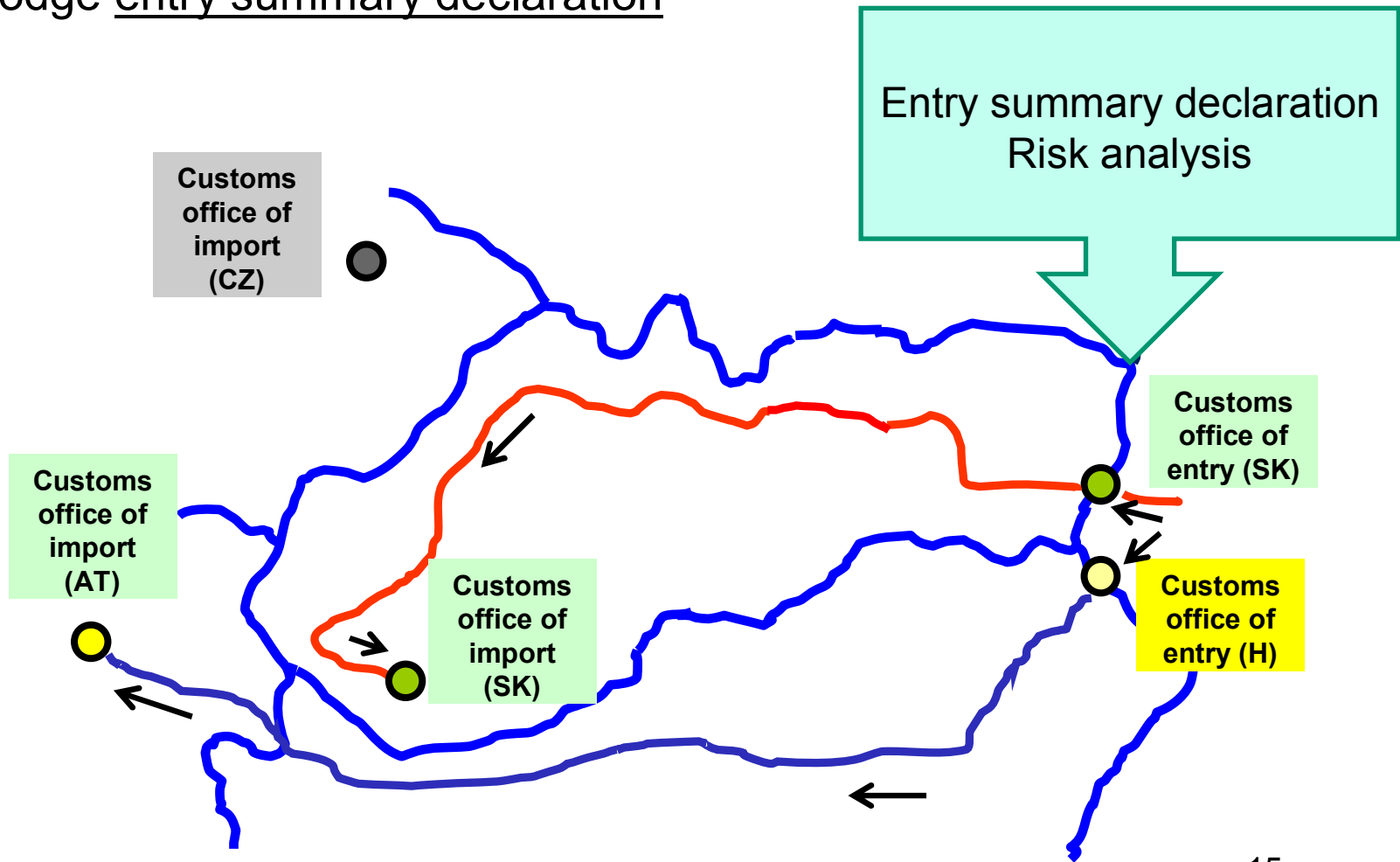
- whom to?
 - customs office of entry
 - customs office of lodgement with reference to customs office of entry

- how ?
 - in electronic way
 - in paper way only with customs office approval



New Obligations in 2011

To lodge entry summary declaration



New Obligations in 2011

- to lodge exit summary declaration
- who?
 - **exporter**
 - person, who transport the goods on the border
- whom to?
 - **customs office of export**
 - customs office of exit
- how?
 - as a part of export customs declaration
 - in electronic way

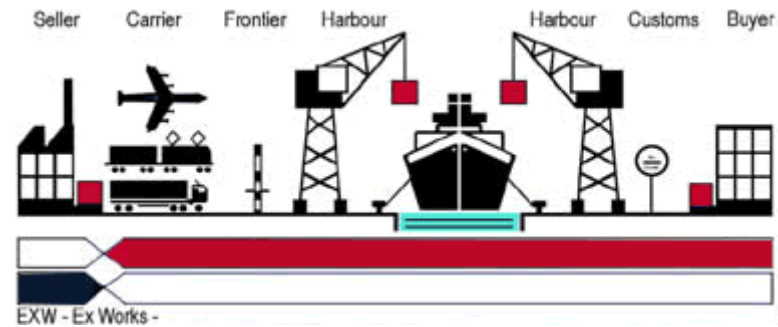
Incoterms 2010

- **since 1st January 2011**
- **new division of the Incoterms 2010**
 - incoterms for all modes of transport (EXW, FCA, CPT, CIP, DAT, DAP, DDP)
 - incoterms for sea transport and inland waterways (FAS, FOB, CFR, CIF)
- **11 instead of 13** (4 rules cancelled – **DAF, DES, DEQ, DDU**, 2 rules are new – **DAT, DAP**)
- **some interpretation problems removed**
(f.e. Pursuant to Incoterms 2010, for clauses FOB, CFR and CIF, goods are regarded as having been delivered as soon as they are on board the ship, and not as previously, at the reeling of the ship)

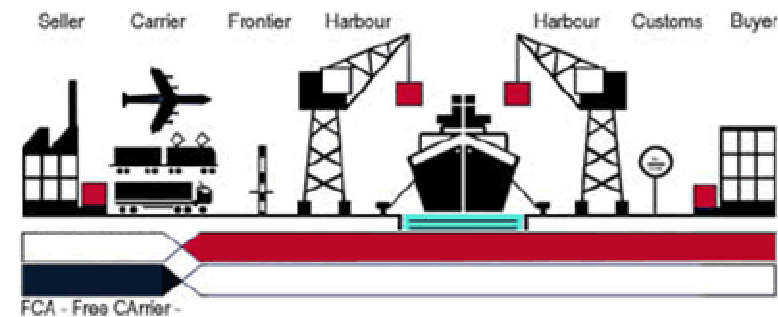
Incoterms 2010

a) all modes of transport Incoterms 2010 :

➤ EXW - ex works

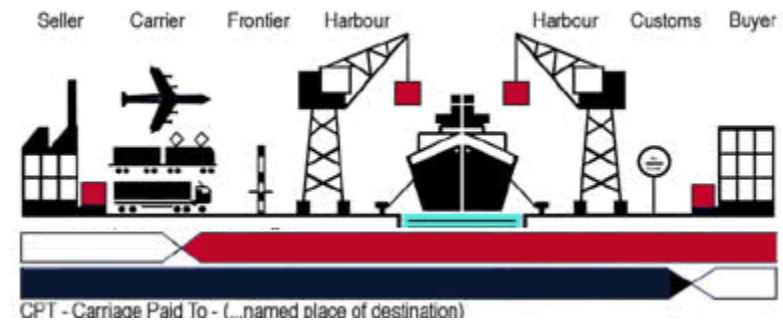


➤ FCA free carrier

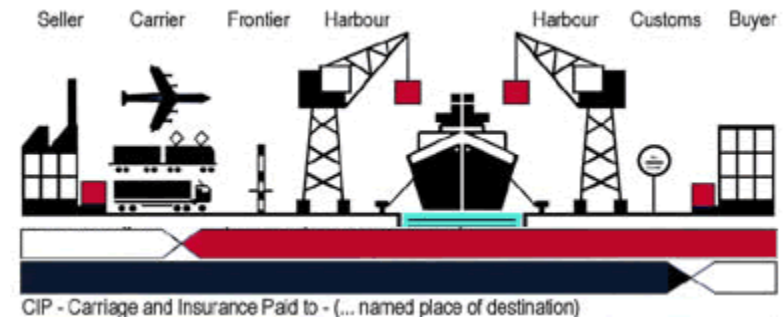


Incoterms 2010

- CPT carriage paid to

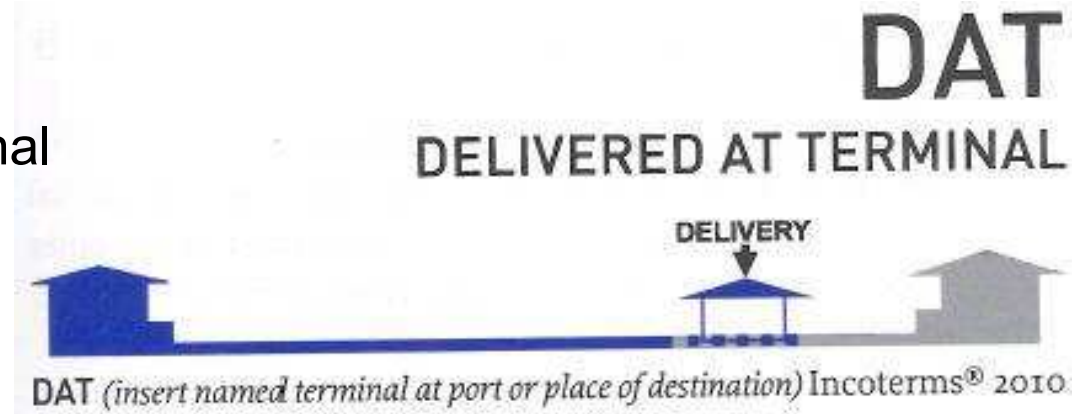


- CIP carriage and insurance paid to



Incoterms 2010

- DAT delivered at terminal
NEW

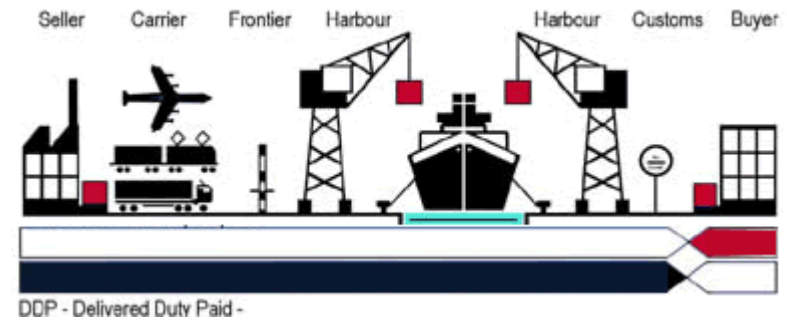


- DAP delivered at place
NEW



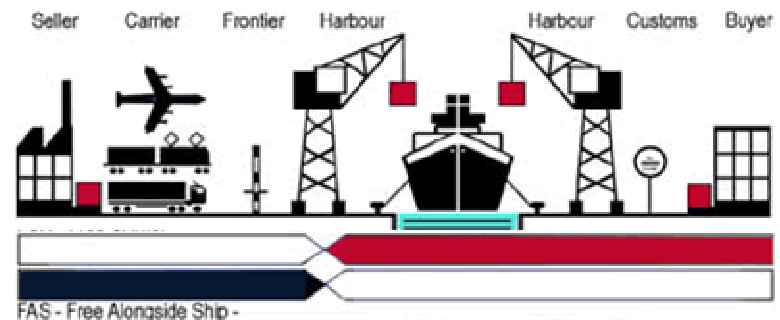
Incoterms 2010

- DDP - delivered duty paid



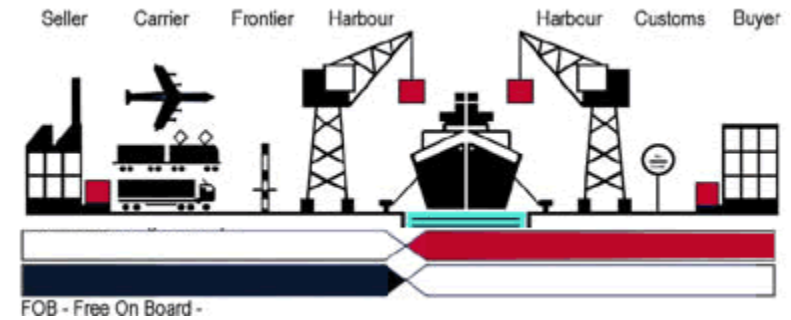
b) sea transport and inland waterways Incoterms 2010

- FAS - free alongside ship

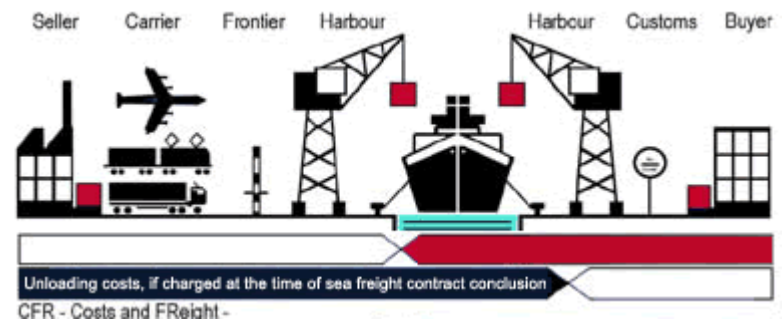


Incoterms 2010

➤ FOB - free on board

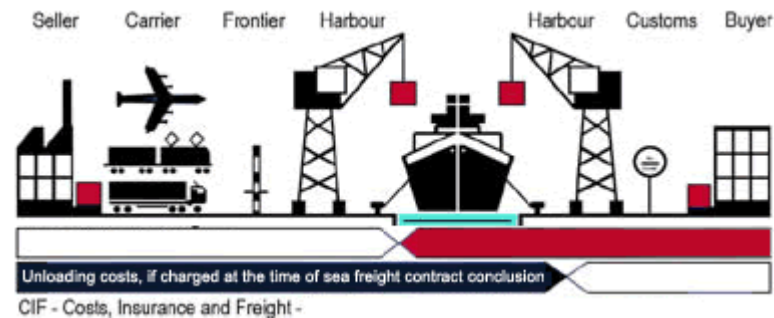


➤ CFR - cost and freight



Incoterms 2010

- CIF - cost, insurance and freight



DAF, DDU, DEQ and DES were canceled

Thank you for your Attention!

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