CIP

CARRIAGE AND INSURANCE PAID TO

(... named place of destination)

"Carriage and Insurance paid to..." means that the seller delivers the goods to the carrier nominated by him but the seller must in addition pay the cost of carriage necessary to bring the goods to the named destination. This means that the buyer bears all risks and any additional costs occurring after the goods have been so delivered. However, in CIP the seller also has to procure insurance against the buyer's risk of loss of or damage to the goods during the carriage.

Consequently, the seller contracts for insurance and pays the insurance premium.

The buyer should note that under the CIP term the seller is required to obtain insurance only on minimum cover[1]. Should the buyer wish to have the protection of greater cover, he would either need to agree as much expressly with the seller or to make his own extra insurance arrangements.

"Carrier" means any person who, in a contract of carriage, undertakes to perform or to procure the performance of transport, by rail, road, air, sea, inland waterway or by a combination of such modes.

If subsequent carriers are used for the carriage to the agreed destination, the risk passes when the goods have been delivered to the first carrier.

The CIP term requires the seller to clear the goods for export.

This term may be used irrespective of the mode of transport including multimodal transport.

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[1] Refer to Introduction paragraph 9.3.

THE TERMS

(9.3 of the **Incoterms 2000** Introduction**)**

The "C"-terms require the seller to contract for carriage on usual terms at his own expense. Therefore, a point up to which he would have to pay transport costs must necessarily be indicated after the respective "C"-term. Under the CIF and CIP terms the seller also has to take out insurance and bear the insurance cost. Since the point for the division of costs is fixed at a point in the country of destination, the "C"-terms are frequently mistakenly believed to be arrival contracts, in which the seller would bear all risks and costs until the goods have actually arrived at the agreed point. However, it must be stressed that the "C"-terms are of the same nature as the "F"-terms in that the seller fulfils the contract in the country of shipment or dispatch. Thus, the contracts of sale under the "C"-terms, like the contracts under the "F"-terms, fall within the category of shipment contracts.

It is in the nature of shipment contracts that, while the seller is bound to pay the normal transport cost for the carriage of the goods by a usual route and in a customary manner to the agreed place, the risk of loss of or damage to the goods, as well as additional costs resulting from events occurring after the goods having been appropriately delivered for carriage, fall upon the buyer. Hence, the "C"-terms are distinguishable from all other terms in that they contain two "critical" points, one indicating the point to which the seller is bound to arrange and bear the costs of a contract of carriage and another one for the allocation of risk. For this reason, the greatest caution must be observed when adding obligations of the seller to the "C"-terms which seek to extend the seller's responsibility beyond the aforementioned "critical" point for the allocation of risk. It is of the very essence of the "C"-terms that the seller is relieved of any further risk and cost after he has duly fulfilled his contract by contracting for carriage and handing over the goods to the carrier and by providing for insurance under the CIF- and CIP-terms.

The essential nature of the “C”-terms as shipment contracts is also illustrated by the common use of documentary credits as the preferred mode of payment used in such terms. Where it is agreed by the parties to the sale contract that the seller will be paid by presenting the agreed shipping documents to a bank under a documentary credit, it would be quite contrary to the central purpose of the documentary credit for the seller to bear further risks and costs after the moment when payment had been made under documentary credits or otherwise upon shipment and dispatch of the goods. Of course, the seller would have to bear the cost of the contract of carriage irrespective of whether freight is pre-paid upon shipment or is payable at destination (freight collect); however, additional costs which may result from events occurring subsequent to shipment and dispatch are necessarily for the account of the buyer.

If the seller has to provide a contract of carriage which involves payment of duties, taxes and other charges, such costs will, of course, fall upon the seller to the extent that they are for his account under that contract. This is now explicitly set forth in the A6 clause of all “C”-terms.

If it is customary to procure several contracts of carriage involving transhipment of the goods at intermediate places in order to reach the agreed destination, the seller would have to pay all these costs, including any costs incurred when the goods are transhipped from one means of conveyance to the other. If, however, the carrier exercised his rights under a transhipment – or similar clause – in order to avoid unexpected hindrances (such as ice, congestion, labour disturbances, government orders, war or warlike operations) then any additional cost resulting therefrom would be for the account of the buyer, since the seller's obligation is limited to procuring the usual contract of carriage.

It happens quite often that the parties to the contract of sale wish to clarify the extent to which the seller should procure a contract of carriage including the costs of discharge. Since such costs are normally covered by the freight when the goods are carried by regular shipping lines, the contract of sale will frequently stipulate that the goods are to be so carried or at least that they are to be carried under "liner terms". In other cases, the word "landed" is added after CFR or CIF. However, it is advisable not to use abbreviations added to the "C"-terms unless, in the relevant trade, the meaning of the abbreviations is clearly understood and accepted by the contracting parties or under any applicable law or custom of the trade.

In particular, the seller should not – and indeed could not, without changing the very nature of the "C"-terms - undertake any obligation with respect to the arrival of the goods at destination, since the risk of any delay during the carriage is borne by the buyer. Thus, any obligation with respect to time must necessarily refer to the place of shipment or dispatch, for example, "shipment (dispatch) not later than...". An agreement for example, "CFR Hamburg not later than..." is really a misnomer and thus open to different possible interpretations. The parties could be taken to have meant either that the goods must actually arrive at Hamburg at the specified date, in which case the contract is not a shipment contract but an arrival contract or, alternatively, that the seller must ship the goods at such a time that they would normally arrive at Hamburg before the specified date unless the carriage would have been delayed because of unforeseen events.

It happens in commodity trades that goods are bought while they are at sea and that, in such cases, the word "afloat" is added after the trade term. Since the risk of loss of or damage to the goods would then, under the CFR- and CIF-terms, have passed from the seller to the buyer, difficulties of interpretation might arise. One possibility would be to maintain the ordinary meaning of the CFR- and CIF-terms with respect to the allocation of risk between seller and buyer, namely that risk passes on shipment: this would mean that the buyer might have to assume the consequences of events having already occurred at the time when the contract of sale enters into force. The other possibility would be to let the passing of the risk coincide with the time when the contract of sale is concluded. The former possibility might well be practical, since it is usually impossible to ascertain the condition of the goods while they are being carried. For this reason the 1980 United Nations Convention on Contracts for the International Sale of Goods article 68 stipulates that "if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage". There is, however, an exception to this rule when "the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer". Thus, the interpretation of a CFR- or CIF-term with the addition of the word "afloat" will depend upon the law applicable to the contract of sale. The parties are advised to ascertain the applicable law and any solution which might follow therefrom. In case of doubt, the parties are advised to clarify the matter in their contract.

In practice, the parties frequently continue to use the traditional expression C&F (or C and F, C+F). Nevertheless, in most cases it would appear that they regard these expressions as equivalent to CFR. In order to avoid difficulties of interpreting their contract the parties should use the correct Incoterm which is CFR, the only world-wide-accepted standard abbreviation for the term "Cost and Freight (... named port of destination)".

CFR and CIF in A8 of Incoterms 1990 obliged the seller to provide a copy of the charterparty whenever his transport document (usually the bill of lading) contained a reference to the charterparty, for example, by the frequent notation "all other terms and conditions as per charterparty". Although, of course, a contracting party should always be able to ascertain all terms of his contract – preferably at the time of the conclusion of the contract – it appears that the practice to provide the charterparty as aforesaid has created problems particularly in connection with documentary credit transactions. The obligation of the seller under CFR and CIF to provide a copy of the charterparty together with other transport documents has been deleted in Incoterms 2000.

Although the A8 clauses of Incoterms seek to ensure that the seller provides the buyer with "proof of delivery", it should be stressed that the seller fulfils that requirement when he provides the "usual" proof. Under CPT and CIP it would be the "usual transport document" and under CFR and CIF a bill of lading or a sea waybill. The transport documents must be "clean", meaning that they must not contain clauses or notations expressly declaring a defective condition of the goods and/or the packaging. If such clauses or notations appear in the document, it is regarded as "unclean" and would then not be accepted by banks in documentary credit transactions. However, it should be noted that a transport document even without such clauses or notations would usually not provide the buyer with incontrovertible proof as against the carrier that the goods were shipped in conformity with the stipulations of the contract of sale. Usually, the carrier would, in standardized text on the front page of the transport document, refuse to accept responsibility for information with respect to the goods by indicating that the particulars inserted in the transport document constitute the shipper's declarations and therefore that the information is only "said to be" as inserted in the document. Under most applicable laws and principles, the carrier must at least use reasonable means of checking the correctness of the information and his failure to do so may make him liable to the consignee. However, in container trade, the carrier's means of checking the contents in the container would not exist unless he himself was responsible for stowing the container.

There are only two terms which deal with insurance, namely CIF and CIP. Under these terms the seller is obliged to procure insurance for the benefit of the buyer. In other cases it is for the parties themselves to decide whether and to what extent they want to cover themselves by insurance. Since the seller takes out insurance for the benefit of the buyer, he would not know the buyer's precise requirements. Under the Institute Cargo Clauses drafted by the Institute of London Underwriters, insurance is available in "minimum cover" under Clause C, "medium cover" under Clause B and "most extended cover" under Clause A. Since in the sale of commodities under the CIF term the buyer may wish to sell the goods in transit to a subsequent buyer who in turn may wish to resell the goods again, it is impossible to know the insurance cover suitable to such subsequent buyers and, therefore, the minimum cover under CIF has traditionally been chosen with the possibility for the buyer to require the seller to take out additional insurance. Minimum cover is however unsuitable for sale of manufactured goods where the risk of theft, pilferage or improper handling or custody of the goods would require more than the cover available under Clause C. Since CIP, as distinguished from CIF, would normally not be used for the sale of commodities, it would have been feasible to adopt the most extended cover under CIP rather than the minimum cover under CIF. But to vary the seller's insurance obligation under CIF and CIP would lead to confusion and both terms therefore limit the seller's insurance obligation to the minimum cover. It is particularly important for the CIP-buyer to observe this: should additional cover be required, he should agree with the seller that the latter could take out additional insurance or, alternatively, arrange for extended insurance cover himself. There are also particular instances where the buyer may wish to obtain even more protection than is available under Institute Clause A, for example insurance against war, riots, civil commotion, strikes or other labour disturbances. If he wishes the seller to arrange such insurance he must instruct him accordingly in which case the seller would have to provide such insurance if procurable.