



## **INCOTERMS® 2020 FCA and CPT: Best practice for shipping containers through ports<sup>1</sup>**

### **Introduction**

This guidance paper responds to a key issue in port practice highlighted in a 2023 worldwide survey carried out by the ICC Commission on Commercial Law and Practice on use of the Incoterms® rules in major ports internationally: the frequent mismatch between the chosen Incoterms® rule and the practical realities of shipping goods in containers through ports. This guidance paper is relevant to users of the Incoterms® 2020 rules shipping goods in containers through ports anywhere in the world.

### **Guidance paper**

The survey reveals that the **top 2 considerations for traders when selecting an Incoterms® rule** are

1. Controlling **freight costs**
2. Clarifying **risk transfer**

**Where goods are shipped in containers through a port at departure and/or at arrival, the Incoterms® 2020 rules FCA and CPT provide the best matching point to delineate freight cost and transfer risk:**

'FCA container terminal [port of departure] Incoterms® 2020'

'CPT container terminal [port of arrival] Incoterms® 2020'

The traditional maritime Incoterms® rules **FOB, CFR and CIF have an on-board point of delivery that is not suitable for containers since users have in practice no control over the start of freight cost and over transfer of risk up to or after this point.** This mismatch has for years given rise to additional costs, Terminal Handling Charges (THC) overcharge/double charging in ports, uncertainty, and disputes.

- The trading community will benefit greatly by shifting practice away from the traditional maritime terms FOB, CFR and CIF and replacing them with the Incoterms® 2020 rules which are far more suitable for containers → FCA, CPT and CIP
- **FCA and CPT (or CIP if insurance cover is agreed) are in reality the “updated” maritime Incoterms® rules for containers, identifying what *actually* happens to containers, rather than pretending that the old maritime terms adequately describe the container trade.** The FCA/CPT/CIP rules are designed to control freight cost and risk transfer for all goods shipped in containers through a port since they define the appropriate point to transfer freight costs and risk.

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<sup>1</sup> This guidance paper was drafted by the Co-chairs and the Special Adviser of the ICC Incoterms® 2020 Drafting Group -- Christoph Martin Radtke, David Lowe, and Charles Debattista -- together with Professor GAO Xiang, Executive Chair of the ICC China Commission on Commercial Law and Practice.