

International Delivery Risks: The Case of Delivered Duty Paid in Australia

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Abstract: *The choice of delivery terms in international contracts has significant impact on both physical and financial risks for importers and exporters. This paper considers implications resulting from a recent Australian tribunal case involving transactions based on Delivered Duty Paid (DDP) terms (Incoterms). This case highlights how importers may become exposed to unexpected financial penalties caused by incorrect processes from foreign suppliers that result in duty and taxation payment shortfalls. The discussion focuses on the risk elements related to DDP for importers and the interpretation of legislation and policy documents. A chronological timeline of events is provided to explain the changes in policies and interpretation related to ownership as defined by Australian customs legislation. The conclusion is that, due to customs considerations and the decision of the tribunal in this case, DDP may no longer be a viable option for international trade transactions, not only in Australia, but also in other nations.*

Key words: international delivery terms, delivery risks, customs policy, fraudulent invoices, incorrect customs declarations, Incoterms

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References

- Băluță, Radu Nicolae. (2012). International rules for merchandise delivery - delivery conditions Incoterms and RAFTD the title. *Annals of Eftimie Murgu University Resita*, 2, 187-196
- Bergami, Roberto. (2006). Risk management for exporters: the case of Incoterms 2000. In D. Kantarelis (Ed.), *Global Business & Economics Anthology 2006* (Vol. II, pp. 361 - 370). Danvers, MA, USA: Business and Economics Society International
- Bergami, Roberto. (2011). Incoterms 2010: comment on the new revision of delivery terms. *The Vindobona Journal of International Commercial Law and Arbitration*, 15(1), 157-170
- Bergami, Roberto. (2013a). *International trade: a practical introduction*. Melbourne, Victoria, Australia: Eruditions Publishing
- Bergami, Roberto. (2013b). Managing Incoterms 2010 risks: tension with trade and banking practices. *International Journal of Economics and Business Research*, 6(3), 324-338
- Blanco, Edgar E, & Ponce-Cueto, Eva. (2015). Modeling the cost of international trade in global supply chains. *Massachusetts Institute of Technology EDS Working Paper Series, ESD-WP-2015-05(March)*, 1-22

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- Burns, P. G. (2000). *Australian Customs Notice No. 2000/30 Free Into Stores Transaction (DDP/DDU)*. Canberra, ACT, Australia: Australian Government.
- Căruntu, Constantin, & Lăpăduși, Mihaela Loredana. (2010). Complex issues regarding the role and importance of internationally codified rules and Incoterms. *Petroleum-Gas University of Ploiesti Bulletin, Economic Sciences Series, LXII(1)*, 98-110
- del Rosa, Ignacio (2013). Delivery terms in international trade: some evidence for Spain. *Applied Economics Letters(20)*, 606-610
- Deutsch, Paul. (1965). "Incoterms" as an instrument for the allocation of risks in foreign trade. *Management International, 5(1)*, 19-26
- Eldovića, Ema, Vukašinovića, Milica, Tešića, Marija, & Bijelić, Stefan. (2015). *International commercial terms- Incoterms 2010*. Paper presented at the 2nd Logistics International Conference, Belgrade, Serbia.
- Frischen, Ilka, Rod, Jakob, & Thompson, Stephen. (2007). Contracts for the international sale of goods. *AMPLA YEARBOOK*, 314-331
- Gavrila, Simona Petrina, & Rosu, Angelica. (2011, May 13-14). *The implications of the modernization of international transactions: Incoterms 2010*. Paper presented at the 6th International Conference on European Integration - Realities and Perspectives, Galati, Romania
- International Chamber of Commerce. (1999). *Incoterms 2000*. Paris, France: ICC Publishing, S.A. International Chamber of Commerce. (2010). *Incoterms 2010*. Paris France: ICC Services Publications Lazăr, Anca. (2011). The Incoterms rules and their importance *Juridical Tribune, 1(1)*, 143-151
- Ndlovu, Portia. (2011). Incoterms 2010: a consideration of certain implications of the amendments to the traditional Incoterms 2000. *Comparative and International Law Journal of Southern Africa, 44(2)*, 204 to 224
- Nyakuengama, Sharon. (2014a). *Australian Customs and Border Protection Notice No. 2014/36 Revocation of Australian Customs Notice No. 2000/30 - Free Into Store Transactions (DDP/DDU)*. Canberra, ACT, Australia: Australian Government.
- Nyakuengama, Sharon. (2014b). *Australian Customs and Border Protection Notice No. 2014/43 Good and Services Tax on Delivered Duty Paid (DDP) transactions*. Canberra, ACT, Australia: Australian Government.
- Nyakuengama, Sharon. (2014c). *Australian Customs and Border Protection Notice No. 2014/50 Delivered Duty Paid (DDP) transactions*. Canberra, ACT, Australia: Australian Government.
- Popa, Ioan, Belu, Mihaela Gabriela, & Paraschiv, Dorel Mihai. (2013). Global logistics, competitiveness and the new Incoterms. *Annals of the University of Oradea, Economic Science Series, 22(1)*, 159-166
- Roos, Pieter. (2011). *Incoterminology 2010: manual for the practical use of Incoterms* Rotterdam, The Netherlands: NT Publishers
- Schwenzer, Ingeborg, Hachem, Pascal, & Kee, Christopher. (2012). *Global sales and contract law*. Oxford, UK: Oxford University Press
- Stapleton, Drew M, Pande, Vivek, & O'Brien, Dennis. (2013). EXW, FOB OR FCA? Choosing the right Incoterm and why it matters to maritime shippers. *Journal of Transportation Law, Logistics & Policy, 81(3)*, 227-248
- Studio Fashion (Australia) Pty Ltd and Chief Executive Officer of Customs, [2015] AATA 366 C.F.R. (2015).
- Stapleton, Drew M, Pande, Vivek, & O'Brien, Dennis. (2013). EXW, FOB OR FCA? Choosing the right Incoterm and why it matters to maritime shippers. *Journal of Transportation Law, Logistics & Policy, 81(3)*, 227-248
- Studio Fashion (Australia) Pty Ltd and Chief Executive Officer of Customs, [2015] AATA 366 C.F.R. (2015).