



**DAP | Delivered at Place
(named place of destination)
Incoterms® 2020 [UPDATED]**

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DAP requires the seller to deliver to a place named by a buyer, typically the buyer's premises. The buyer is responsible for unloading the means of transport. The seller has to carry out any export formalities and the buyer has to carry out any import formalities. Like with CPT and CIP the seller contracts for carriage and risk transfers only upon delivery which now is at the buyer's premises. The seller has no obligation to the buyer to insure for its risk. This rule works well for transport of goods by land within the Europe/Central Asia landmass but strikes potential problems once there is a change in mode of transport along the way.

For example, if the shipment is by air and requires import clearance formalities in the destination country these must be carried out by the buyer while the goods sit at the airport. Once cleared the seller's carrier (typically a freight forwarder) must then be given whatever paperwork they require to move the cargo from the airport to its final destination. The same situation exists for

cross-ocean container shipments with the added complication that the empty container must be returned by the seller at its own expense.

It should be noted too that the buyer should not be the consignee on any air waybill or bill of lading, that should be the seller who has to arrange for its forwarder to take possession of the goods from the airline or shipping company and arrange local inland transport typically by truck.

If the goods are damaged or lost at any stage before the final destination then the seller will be unable to deliver and may well be in breach of contract, with the additional complication that the buyer will have already paid import duty and VAT/GST. If the buyer is unable to import clear the goods expeditiously then it might find that it bears the risk while the goods sit in customs control and is itself in breach of contract if the seller cannot deliver as contracted.

DAP Seller and Buyer Obligations

DAP A1 / B1: GENERAL OBLIGATIONS

A1 (General Obligations)

In each of the eleven rules the seller must provide the goods and their commercial invoice as required by the contract of sale and any other evidence of conformity such as an analysis certificate or weighbridge document etc that might be relevant and specified in the contract.

Each of the rules also provides that any document can be in paper or electronic form as agreed to in the contract, or if the contract makes no mention of this then as is customary. The rules do not define what "electronic form" is, it can be anything from a pdf file to blockchain or some format yet to be developed in the future.

B1 (General Obligations)

In each of the rules the buyer must pay the price for the goods as stated in the contract of sale.

The rules do not refer to when the payment is to be made (before shipment, immediately after shipment, thirty days after shipment, half now half later, or whatever) or how it is to be paid (prepayment, against an email of copy documents, on presentation of documents to a bank under a letter of credit, or other arrangement). These matters should be specified in the contract.

DAP A2 / B2: DELIVERY

A2 (Delivery)

The DAP and DDP rules require the seller to take on almost the maximum responsibility of placing the goods at the disposal of the buyer at the agreed destination place, or point within that place, but not unloaded from the arriving means of transport. This usually would be a truck but could be a train, a barge or even a ship and unlikely though it might be a chartered aircraft.

The DPU rule goes one step further, requiring the seller to unload the goods from the arriving means of transport. DPU is the old DAT rule but expanded to mean any place to avoid the misunderstanding of the 2010 rule where many took it literally from its title to just mean a terminal, even though it meant anywhere from an open field to a covered warehouse including the buyer's warehouse.

A common mistake with DAP and DDP especially is the reverse of the misunderstanding with the old DAT, to believe that the destination will always be the buyer's premises, but this need not be the case. The buyer could nominate say the site of a new factory they are building for their client, it could be the container terminal in the destination country, or somewhere else. If it is the buyer's premises or a site they have nominated then usually they would have the equipment on hand to unload the goods but sometimes the truck will have a crane mounted on it or even a forklift tucked into the rear of it, or the goods are so specialised that the seller would need to also provide the equipment to unload the goods making it DPU. If the destination is a terminal then it would be usual that the seller's carrier would unload the means of transport or arrange for that unloading, such as the container from the truck delivering it from the quay, the goods from the chartered aircraft and so on, again making it DPU not DAP.

The delivery must be made on the agreed date or within the agreed period.

B2 (Delivery)

The buyer's obligation is to take delivery when the goods have been delivered as described in A2.

DAP A3 / B3: TRANSFER OF RISK

A3 (Transfer of Risk)

In all the rules the seller bears all risks of loss or damage to the goods until they have been delivered in accordance with A2 described above. The exception is loss or damage in circumstances described in B3 below, which varies dependent on the buyer's role in B2

B3 (Transfer of Risk)

The buyer bears all risks of loss or damage to the goods once the seller has delivered them as described in A2.

If the buyer fails to inform the seller exactly to where it is to deliver the goods, or if the buyer fails to import clear the goods then it bears the risk of loss or damage to the goods from the agreed date or agreed period for delivery.

For example, if the seller despatches the goods to the buyer and they are held indefinitely by the importing country's authorities because the buyer failed to obtain the necessary import permit, then the buyer bears the risk.

DAP A4 / B4: CARRIAGE

A4 (Carriage)

The seller must arrange, or contract for, carriage to the named place of destination, and if there is an agreed point within that destination then to that point. Cost of this carriage is for the seller. As the seller has to arrange the carriage it needs to know from the buyer if there is a specific point in the place of delivery to which the goods must be transported. For example, if the destination is shown as simply "Budapest, Hungary" where in that large metropolis is the seller's carrier to leave the goods? It could be that it is to be the buyer's premises, or a particular location say in an empty building site, or the carrier's premises, or the airport, or the container yard, or a particular quay on the river... the exact point should be agreed upon. If it is not then it is the seller's choice to select the point that best suits its purpose, usually being the cheapest option such as a cargo terminal.

For DAP and DPU, if the delivery at the destination is to occur after the buyer completes any necessary import formalities then the cost of storage due to delays in those formalities being completed is for the buyer, always assuming the seller has provided the buyer with necessary documents in time. For DDP it is the seller who bears the cost of any storage due to delays in import clearance.

B4 (Carriage)

The buyer has no obligation to the seller to arrange a contract of carriage.

DAP A5 / B5: INSURANCE

A5 (Insurance)

Despite the seller having the risk of loss or damage to the goods up to the delivery point, the seller does not have an obligation to the buyer to insure the goods.

B5 (Insurance)

Because the seller has the risk of loss or damage to the goods up to the delivery point, the buyer does not have an obligation to the seller to insure the goods.

DAP A6 / B6: DELIVERY / TRANSPORT / DOCUMENT

A6 (Delivery / Transport Document)

The seller, at its own cost, must provide the buyer with any document the buyer needs to take over the goods. What form this document takes will depend on agreement in the contract, and might simply be in the form of a receipt which the buyer is to sign. However, it might, in the case of DAP and DPU where the buyer must import clear the goods, be a copy of the seller's transport document to evidence the export and the date of shipment.

B6 (Delivery / Transport Document)

The buyer must accept the document provided in A6 as it actually takes no part in the transport process.

DAP A7 / B7: EXPORT / IMPORT CLEARANCE

A7 (Export / Import Clearance)

Where applicable, the seller must at its own risk and expense carry out all export clearance formalities required by the country of export, such as licences or permits; security clearance for export; pre-shipment inspection; and any other authorisations or approvals.

Additionally, as the point of delivery in these rules is in the importing country, the seller must also carry out and pay for any formalities required by any country of transit before that delivery occurs.

The seller has no obligation to arrange any import clearances. However if the buyer requests, at its own risk and cost, the seller must assist in obtaining any documents and/or information which relate to formalities required by the country of import such as permits or licences; security clearance for import; pre-shipment inspection required by the import authorities; and any other official authorisations or approvals.

B7 (Export / Import Clearance)

Where applicable, the buyer must assist the seller at the seller's request, risk and cost, in obtaining any documents and/or information needed for all export-related formalities required by the country of export as well as any formalities required by any country of transit.

Where applicable, the buyer must carry out and pay for all formalities required by the country of import. These include licences and permits required for import; import clearance; security clearance for transit and import; pre-shipment inspection; and any other official authorisations and approvals.

DAP A8 / B8: CHECKING / PACKAGING / MARKING

A8 (Checking / Packaging / Marking)

In all rules the seller must pay the costs of any checking operations which are necessary for delivering the goods, such as checking quality, measuring the goods and/or packaging, weighing, counting the goods and/or packaging.

The seller must also package the goods, at its own cost, unless it is usual for the trade of the goods that they are sold unpackaged, such as in the case of bulk goods. The seller must also take into account the transport of the goods and package them appropriately, unless the parties have agreed in their contract that the goods be packaged and/or marked in a specific manner.

B8 (Checking / Packaging / Marking)

In all rules there is no obligation from the buyer to the seller as regards packaging and marking. There can in practice however be agreed exceptions, such as when the buyer provides the seller with labels, logos, or similar.

DAP A9 / B9: ALLOCATION OF COSTS

A9 (Allocation of Costs)

The seller must pay all costs until the goods have been delivered under A2, other than any costs the buyer must pay as stated in B9.

Transport costs resulting from the contract of carriage, including costs of loading the goods and any transport-related security, must be paid by the seller. The cost of providing to the buyer proof of the goods being delivered are also for the seller.

If the contract of carriage includes unloading at the agreed destination, the seller must pay these.

The seller must pay any costs involved in providing the usual proof that the goods have been delivered.

The seller pays any costs, export duties and taxes, where applicable, related to export clearance and any transit clearance.

If the buyer is requested by the seller to provide information or documents to assist the seller in their export formalities or arranging insurance, then the seller must pay the buyer for these costs.

B9 (Allocation of Costs)

The buyer must pay the seller all costs relating to the goods from when they have been delivered, other than those payable by the seller.

If the seller has been requested by the buyer to provide assistance in obtaining information or documents needed for the buyer to effect import formalities, then the buyer must reimburse the seller's costs.

Where applicable, the buyer pays any duties, taxes and other costs for import clearance.

The buyer pays for unloading costs unless they were paid by the seller under the contract of carriage.

Additionally, and provided the seller has advised that the goods have been clearly identified as the goods under the contract, the buyer pays any additional costs incurred if the buyer fails to give notice in accordance with B10.

DAP A10 / B10: NOTICES

A10 (Notices)

The seller must give the buyer any notice the buyer needs to receive the goods.

B10 (Notices)

If the parties agree in the contract, the buyer must give the seller sufficient notice of when, and the point within the place of destination, where they require delivery. The contract will usually detail how much notice is to be given, and this might vary with the mode/s of transport.

Delivery at Place (DAP): Advantages and Disadvantages

DAP was the new name given in the Incoterms® 2010 rules for the previous DDU (Delivered Duty Unpaid) which first appeared in the 1990 rules. That was a misleading name because transactions under the other rules other than DDP (Delivered Duty Paid) were duty unpaid at the time of delivery, yet DDU itself actually meant that delivery occurred after the buyer had import cleared the goods and paid the duty.

Also rolled into DAP were the old DAF (Delivered at Frontier, first appearing in Incoterms® 1967) and DES (Delivered Ex Ship, originally "EXS" Ex Ship in the 1953 rules) which like DDU provided for delivery not unloaded. These two were effectively redundant as by stating "at the named place of destination" in DDU it included at the frontier or on the ship.

The DAP Incoterms® 2020 rule does not specify that the place of delivery must be the buyer's premises even though that is the common usage. Delivery of the goods is to take place by the seller "placing them at the disposal of the buyer on the arriving means of transport ready for unloading at the agreed point, if any, at the named place of destination." This means that the seller and buyer need to agree on precisely where that delivery is to take place because without such agreement how can the seller know where precisely to deliver?

This rule is suitable for domestic trade as well as transactions within a customs union. It can be impractical and/or problematic for cross-ocean trade.

In cross-ocean transactions the buyer must import-clear the goods so typically they will be held in a customs bonded warehouse or terminal until those formalities have been completed. Up until the time they go into customs control in the importing country they are at the seller's risk, but while they are under customs control they are at the buyer's risk. If the buyer has a problem, say with an incorrectly issued import permit which delays clearance or even leads to a refusal to clear, the buyer's actions prevent the seller from delivering.

Once import clearance has been completed, and assuming the delivery point was not the customs warehouse or terminal where the goods were waiting for that clearance, the goods need to be released to the seller's carrier or its agent to then continue the goods' journey to the named destination.

Apart from when the goods are held waiting for import clearance the seller has the risk of loss or damage to the goods. The seller has no obligation to the buyer to provide insurance and the buyer has no insurable risk in the goods until delivery at the named place. The seller of course would be prudent to insure the goods but it can choose to self-insure meaning take the risk itself.

The seller needs to be very careful pricing a DAP sale, taking into account all possibilities and potential problems especially with transport within the buyer's country after release from the customs-

controlled warehouse or terminal.

If the buyer requires extra documents such as a certificate of origin, the seller must assist the buyer, at the buyer's request, risk and cost, to obtain it.

Unlike all the preceding rules, the DAP seller is also responsible for any formalities which might occur in any country of transit, particularly important if the sale is to a final destination in a land-locked country and the sea shipment initially goes to a port in an adjacent country.

The seller is not required to give the buyer any transport document, but where the shipment is containerised by sea the import authorities might require a transport document showing the date of export to calculate the value for duty in their local currency. This will be dependent on how that importing country values goods for import.

What advantages are there to the seller over say CIP? Probably none. The disadvantages to the seller are that the goods are at its risk right to the destination, except during any import clearance. If the goods are lost in transit then the seller, assuming they cannot replace the goods before the contracted delivery date, would be in breach of their contract. If the goods are damaged in transit the seller would likewise be in breach of contract if they cannot make good that damage, at their cost and risk, within the contracted delivery period. The contract might have hidden in it a rather onerous liquidated damages clause, the kind of thing about which many people's eyes glaze over and they disregard at their peril.

DAP transactions are largely incompatible with payment by the typical letter of credit. With delivery only occurring at the very end of the transport chain, an LC calling for presentation of say a bill of lading consigned to order and blank endorsed would be a contradiction to DAP. Even more so if the issuing bank was of the habit of requiring bills of lading consigned to their order which they then endorse to their applicant (the buyer) so the buyer can take hold of the goods. There is nothing to secure the seller's position of the buyer not taking hold of the goods until the issuing bank has honoured the drawing under the LC as, after all, the seller's truck is sitting in the buyer's nominated delivery place merely waiting for unloading. Imagine how totally strange it would be for the seller to arrive at the buyer's receiving dock, obtain some form of delivery receipt from the buyer, send it back to their office overseas, present it to their bank who sends it to the issuing bank who hopefully honours the presentation. In the meanwhile, the truck is sitting blocking the receiving dock for a couple of weeks with the driver having set up camp in the truck's cabin until his office back home tells him they have received payment and he can now let the buyer unload!

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Refer to ICC publication no. 723E for the text*



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