

**FAS | Free Alongside Ship
(named port of shipment)
Incoterms® 2020 [UPDATED]**



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The FAS (Free Alongside Ship) rule goes back to the days of sailing ships, and requires the seller to place the goods alongside the vessel nominated by the buyer.

FAS is rarely used these days but still might be appropriate typically in shipments of heavy machinery which is brought to the wharf or barged up to the alongside the vessel, in both cases to be loaded on board by the buyer or its vessel's equipment. The goods are not delivered

until the vessel is available in the port of shipment for the goods to be next to it. The seller must carry out export formalities and the buyer must carry out import formalities. The buyer contracts for carriage therefore the shipper on the bill of lading should be the buyer not the seller. The seller will most likely require at least a mate's receipt or some other form of evidence of export such as a copy of the bill of lading for their VAT/GST purposes.

FAS Seller and Buyer Obligations

FAS 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.

FAS A2 / B2: DELIVERY

A2 (Delivery)

The seller has to place the goods alongside the vessel nominated or provided by the buyer on the agreed date, or within the agreed period as notified by the buyer, or if there is no such time notified then at the end of that period.

The way in which the goods are delivered will be dependent on the nature of the goods and the custom of the port. For example, the goods might be, say, rolls of aluminium sheet in which case they will likely have an outer sheath and strapping, they could be granite slabs strapped to pallets, they could be timber logs, they could be a large item of complex machinery or some other product. They could be sitting on the quay or they could be barged downriver to the vessel. But the critical point is that the vessel must be present to be alongside of. Placing the goods on the quay for example before the vessel berths is not delivery under FAS.

B2 (Delivery)

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

FAS 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 of where and when the vessel will be presented or if the vessel fails to arrive on time, or it fails to take the goods, so that the seller cannot deliver, then the buyer bears the risk of loss or damage to the goods from the agreed date or at the end of the agreed period.

FAS A4 / B4: CARRIAGE

A4 (Carriage)

The seller has no obligation to contract for carriage. If the buyer requests the seller it must provide the buyer, at the buyer's risk and cost, any information known by the seller, including transport-related security requirements, that the buyer needs to arrange carriage.

If agreed, the seller must contract for carriage on the usual terms, which are usually agreed in the contract or determined by previous dealings between the parties, at the buyer's risk and cost.

The seller must comply with any transport-related security requirements but only up to delivery.

B4 (Carriage)

The buyer must contract for carriage, which includes the loading on board, from the port of shipment, except if it is agreed that the seller makes the contract of carriage as described in A4.

FAS A5 / B5: INSURANCE

A5 (Insurance)

The seller does not have the risk beyond the delivery point so it has no obligation to the buyer to arrange a contract of insurance. However, if the buyer requests, at its risk and cost, the seller must provide the buyer with information in its possession that the buyer needs to arrange its insurance.

B5 (Insurance)

Despite having the risk of loss or damage to the goods from the delivery point, the buyer does not have an obligation to the seller to insure the goods. Whether the buyer chooses to insure the goods or bear the risk themselves is entirely their choice.

FAS A6 / B6: DELIVERY / TRANSPORT / DOCUMENT

A6 (Delivery / Transport Document)

The seller, at its own cost, must provide the buyer with the usual proof that the goods have been delivered in accordance with A2. What form it takes is likely to be agreed in the contract of sale having regard to whether the goods are placed on the quay or brought to the vessel's side by a barge and the nature of the goods.

Unless this proof is a transport document, then the seller must assist the buyer, at the buyer's request, risk and expense, to obtain a transport document.

B6 (Delivery / Transport Document)

The buyer must accept the proof of delivery provided by the seller.

A7 (Export/ Import Clearance)

This rule, like all the multimodal rules, is suitable for both domestic and international transactions.

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.

The seller has no obligation to arrange any transit/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 transit or import such as permits or licences; security clearance for transit/import; pre-shipment inspection required by the transit/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.

Where applicable, the buyer must carry out and pay for all formalities required by any country of transit and the country of import. These include licences and permits required for transit; import licences and permits required for import; import clearance; security clearance for transit and import; pre-shipment inspection; and any other official authorisations and approvals. They are the buyer's responsibility because they occur after delivery by the seller.

At first glance it might seem strange that both seller and buyer have responsibility for pre-shipment inspections. To clarify, the seller is responsible if it is a requirement of the country of export, and the buyer is responsible if it is a requirement of the country of transit/import.

FAS 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.

FAS A9 / B9: ALLOCATION OF COSTS

A9 (Allocation of Costs)

The seller must pay all costs until the goods have been delivered under A2, meaning alongside the vessel for FAS and loaded on board the vessel for FOB, except any costs the buyer must pay as stated in B9.

The seller has to pay any costs involved in providing the usual proof that the goods have been delivered, so if the contract between the parties states that proof as being a bill of lading then any document fee is for the seller.

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

If the buyer is requested by the seller to provide information or documents to assist the seller in their export formalities, 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 loading on board, carriage, import formalities, insurance and the transport document, then the buyer must reimburse the seller's costs.

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

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 nominate the vessel, or the vessel fails to take the goods from the seller, or closes for cargo earlier than when the buyer notified the seller.

FAS A10 / B10: NOTICES

A10 (Notices)

The seller must give the buyer sufficient notice that the goods have been delivered alongside the buyer's vessel, or that the vessel failed to take delivery once they were made available. This could occur for example where the vessel departed without loading the goods from the quay or the barge. While this rule does not make the requirement anywhere, it would be logical to include in the seller's notice any specific requirements the buyer's vessel might need to make to take delivery of the goods and load them onto the vessel. These matters would usually be specified in the sales contract between the two parties.

B10 (Notices)

The buyer must give sufficient notice to the seller of any transport-related security requirements and the vessel's name and loading point within the port of loading. These would usually be specified in the contract.

Free Alongside Ship (FAS): Advantages and Disadvantages

First published in the original Incoterms® 1936, in common usage its origins go back in time probably to the days of sailing ships. This first version was silent about export formalities. In the 1953 rules it was made clear that the seller had to render the buyer assistance in obtaining an export licence and authorisation to export the goods. This continued in the 1990 version, but in Incoterms® 2000 the responsibility for carrying out export formalities switched quite logically to the seller.

FAS, because of its origins, is only suitable where the seller can actually place the goods alongside the vessel, either on the quay (wharf) or on a barge brought to the vessel's side. It should not be used for shipment of containers, whether FCL or LCL, as the goods are typically delivered by the seller to the carrier at an inland point such as a container yard (CY for FCLs) or container freight station (CFS for LCL consolidations).

This rule gives the seller the advantage to simply place the goods alongside the vessel which is to take the goods.

The potential disadvantage to the seller is that it may have scheduled the goods to be put alongside on a particular date only to get there and find no vessel to be alongside of. Possibly the vessel's berthing was delayed due to congestion at the load port or possibly the vessel was delayed in transit by bad weather. Nevertheless, until the vessel is in a position for the goods to be truly considered as alongside, the risk of loss or damage to the goods remains the seller's.

Another disadvantage for the seller is that unless the parties agree that the seller will be given a transport document, typically the bill of lading, the seller has to assist the buyer in obtaining the transport document. So if all the seller receives is a mate's receipt, then he would have to tender that to have a bill of lading issued to the buyer.

If the bill of lading is issued to the seller, it should ideally endeavour to check if it is entitled to be named as the consignor/shipper under the contract of carriage, to avoid any unforeseen consequences. Such a bill of lading would more correctly be a "received for shipment" bill of lading as there is no requirement for the seller to load the goods on board the vessel.

The advantage to the buyer is that it provides the vessel to load, and is in control from that point on. The buyer needs to ensure that the vessel has the means to load the goods from the quay or barge, or that suitable lifting equipment is available on the quay or barge. Loading is at the buyer's risk and cost.

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. There could be complications if the issuing authority in the seller's country will only show a registered company in that country as the exporter/shipper/

consignor as the seller is only the exporter but not the shipper or consignor.

Paying for an FAS shipment by letter of credit could be problematic if there is no arrangement made for the buyer to receive a bill of lading which has been issued as marked "on board". If the parties do not expect the loading to occur on the same day as the goods are alongside, then they should be careful to allow a margin on the latest shipment date.

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

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Trade Finance Global (TFG) has published a comprehensive Commentary on the Incoterms® 2020 rules. This is meant to be used in conjunction with The International Chamber of Commerce's (ICC) new book, Incoterms® 2020.

The Commentary on the Incoterms® 2020 rules is authored by Bob Ronai CDCS, a member of the ICC's Incoterms® 2020 Drafting Group, in partnership with Trade Finance Global (TFG).

This 94 page e-book is designed to provide an Article by Article overview and commentary of the Incoterms® rules, in plain simple English.

- Written by a Member of the ICC Incoterms® 2020 Drafting Group
- Introduction to why Incoterms® 2020 Rules were written and the process
- Article-by-article (A1-A10 and B1-B10) explanation of the rules
- Any mode and sea / inland transport rules
- Includes updates on EXW, FCA, CPT, CIP, DAP, DPU, DDP, FAS, FOB, CFR and CIF
- Advantages and disadvantages of each Incoterms® Rule and how they might work with a Letter of Credit
- Conclusions and top tips for using Incoterms® 2020 Rules

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