

## **Five Quick Facts About Incoterms 2010**

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Incoterms 2010 have now been effective for nearly three months, and contracting parties should be familiarizing themselves with the changes that were made from the 2000 to the 2010 version. While some of those changes are seemingly minor (such as the reorganization of the Incoterms rules into two categories according to the mode of transport used instead of by initial letter), others are more substantial. To assist those parties, Dinsmore & Shohl has identified five areas where the changes to the rules have been important to its clients:

1. Four terms (DAF, DEQ, DES, DDU) have been eliminated and have been replaced by two new rules: Delivered at Place (DAP) and Delivered at Terminal (DAT). The two new terms were intended to allow the parties some flexibility as to the place where seller's obligation is complete when choosing the "D" terms.
2. Each of the Incoterms rules now allocates parties' responsibility to obtain or provide information for security-related clearances. Each rule also allocates responsibility for terminal handling charges, in an attempt to eliminate double-charges for those items.
3. The rules and the comments to the rules have been drafted to make clear that the rules can be used internationally, as well as domestically. Where the rules address import and export formalities, the rules make clear that the parties bear those responsibilities "where applicable."
4. The parties' obligations to provide contract documents may be fulfilled by providing electronic records if the parties have agreed or if providing electronic records is customary in the industry. Thus the rules may adapt as industries move towards wider acceptance of electronic records.
5. The rules now allow for string sales, in which the seller's obligation is fulfilled not by shipping goods but by procuring goods already shipped.

As parties continue to use the new rules and contract documents and transactions are adapted to account for them, they are encouraged to contact a member of Dinsmore & Shohl's International Practice Group with questions.