



Global Sourcing

Hoe de juridische, logistieke en financiële kost reduceren?

K.Vanheusden
Expert Reglementering
Agentschap voor Buitenlandse Handel
<http://www.abh-ace.org>
koen.vanheusden@ABH-ACE.org
Hasselt 09/06/2009



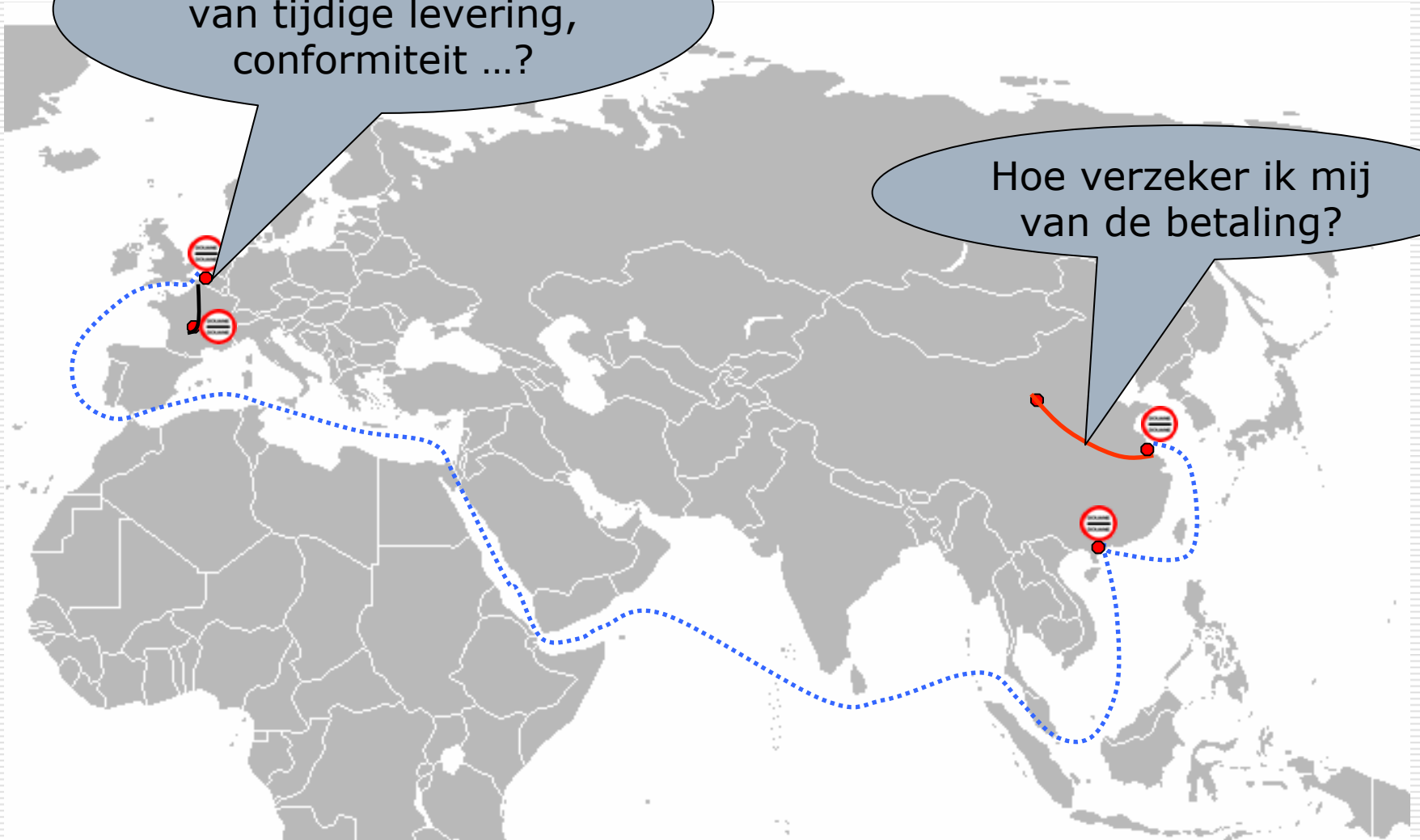
**VO
KA** Kamer van
Koophandel
Limburg



agentschap voor buitenlandse handel
agence pour le commerce extérieur
belgian foreign trade agency

Hoe verzeker ik mij
van tijdige levering,
conformiteit ...?

Hoe verzeker ik mij
van de betaling?



Vervoerder
Transport

verzekeringsmy
Verzekering

Douaneagent
Douane

Conformiteit

Overeenkomst

offerte – bestelbon – factuur ...

Bank
Betaling (L/C, ...)

Documenten
VOKA, ...

Verpakking & etikettering

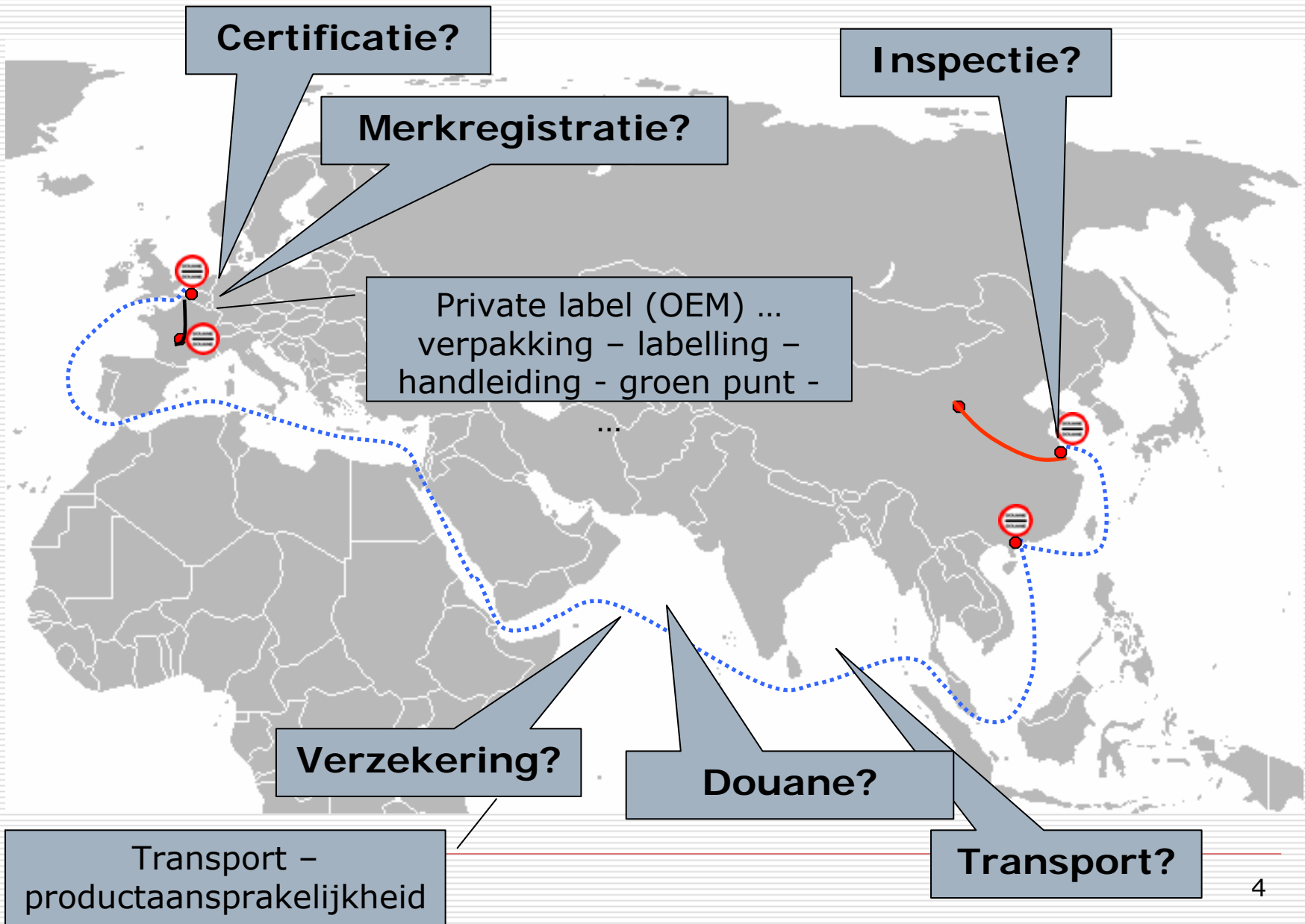
Terminal operator
Opslag en behandeling

Geschillenbeslechting

Inspectie
Inspectiemy

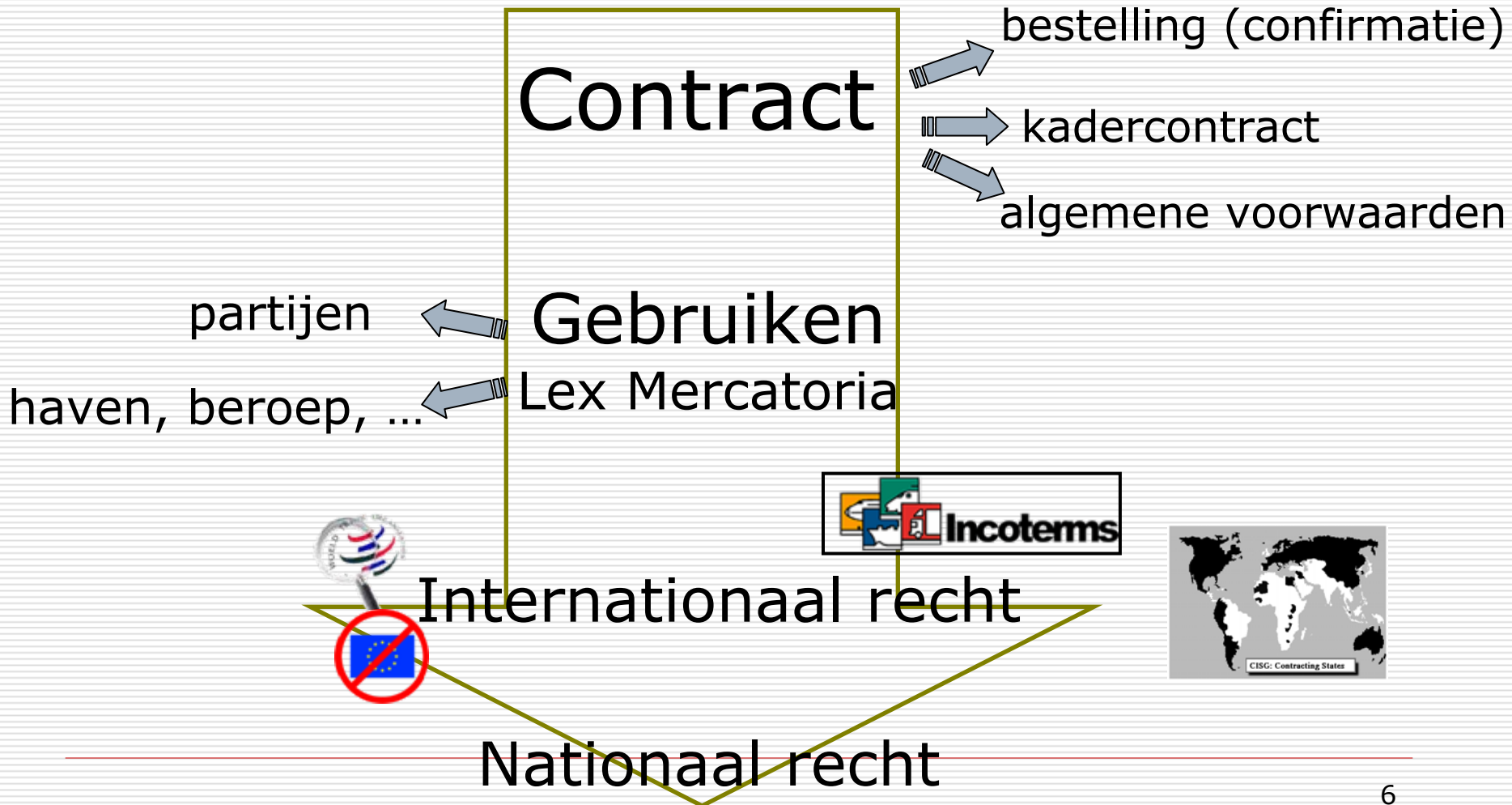
Eigendom – BTW – accounting,
economisch eigendom





Een goed contract

Risicomangement in internationale contracten



Internationale documenten – MATRIX

- United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) - UN Layout Key (UNLK)
 - <http://www.unece.org/etrades/unedocs/layout.htm>
 - <http://www.unece.org/etrades/unedocs/V04/index.htm>

UNeDocs

United Nations Economic Commission for Europe



United Nations electronic Trade Documents

Welcome

Digital Paper for Trade

UNeDocs

Digital Paper for Trade

**International
Document**

Set V04

Select A Document

[Invoice](#)

[Order](#)

[Quotation](#)

[Consignment Document Despatch Notice](#)

[International Consignment Note](#)

[Certificate of Origin](#)

[Export Customs Declarations](#)

[Shipping Instructions](#)

[Non-negotiable Sea Waybill](#)

[IMMTA Non-negotiable Transport document](#)

[IMMTA Negotiable Transport document](#)

[Forwarding Instructions](#)

MASTER

Sender		Invoice date		Invoice No.	
Agent in place of shipping		Our order date		Our order No.	
Consignee		Your order date		Your order No.	
Notify address		Buyer (if other than consignee)			
		Country of origin		Country of destination	
Domestic carriage by		from		Terms of delivery	
Pre-carriage by		from		Time of delivery	
Main-carriage by		Port of loading		Terms of payment	
On-carriage from		Final destination		Insurance value	
Shipping marks, container No.		Number and kind of packages, goods description		Commodity No.	
				<input type="checkbox"/> covered by us <input type="checkbox"/> covered by you	
				Quantity	
				Value	
				Gross weight	
				Cube	
Quantity ordered		Item/Art. No.		Article	
				Quantity delivered	
				Unit price	
				Total amount	
Freight payment		Docs. attached		Costs	
		<input type="checkbox"/> Export decl. <input type="checkbox"/> Invoice copy <input type="checkbox"/> Invoice specific. <input type="checkbox"/> Freight doc.		Included above Not incl. above	
Doc. sent to		Banker		Buyer	
Invoice		Orig. Copy		Orig. Copy	
Bill of lading					
Ins. policy					
Certificate of origin					
Additional receiver of documents					
Name of bank		Freight to be paid at			
Other information		No. of original Bs/L			

Wat regelen?

- Contractpartijen
- Rechten en verplichtingen van de partijen
- Regeling bij wanprestatie

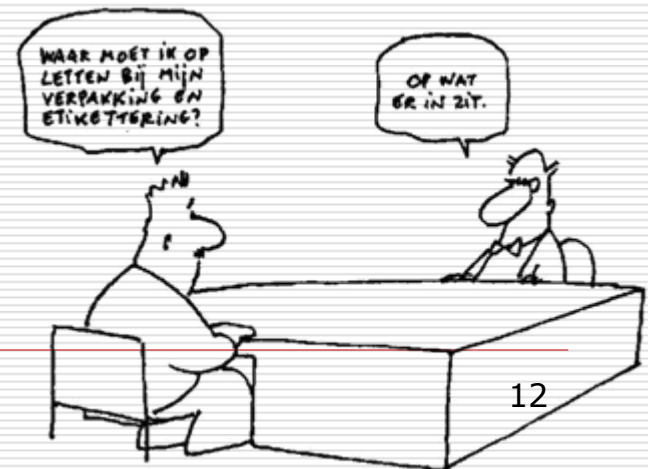
- Slotbepalingen
 - rechtskeuze
 - geschillenbeslechting

Rechten en verplichtingen van de partijen

- Communicatie
 - **E-agreement**; confirmatie; voorwaarden; ...
- Omschrijving goederen of prestatie
 - Conformiteit (gedetailleerd – algemeen, ...)
 - **Inspectie** van de goederen – **normen**
 - **Keuringen en certificaten** (wie – kosten)
 - Garantiebepalingen
 - Productaansprakelijkheid
- Prijs
 - Wanneer (prijsherziening) – **munt** (conversie) - ...
 - Betaling – kosten – **betalingswijze** - ...
 - Zekerheden (eigendomsvoorbehoud - consignatie)

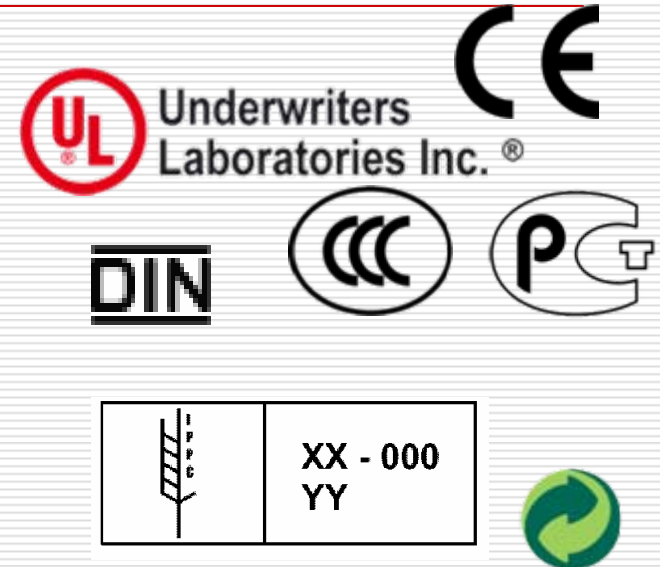
Rechten en verplichtingen van de partijen

- Levering
 - Termijn
 - Plaats
 - Verzekering
 - Verpakking en merken
 - Oplevering - montage en installatie
 - Documenten
- Belastingen
- Confidentialiteit
- ...



Omschrijving goederen of diensten

- Gedetailleerd – algemeen
- E&OE
- Criteria
 - Ca. – CIF outturn weights ...
 - Verpakking
 - Normen (CE ...)
 - Productaansprakelijkheid
 - Intellectuele eigendom
 - ...



3. Quality and condition of the delivery.

3.1 The Seller guarantees that the delivery:

- is of good quality and free from defects and in the case of services rendered that they are performed by skilled personnel and that new materials are used;
- corresponds exactly with the provisions of the agreement, the specifications listed and the reasonable expectations of Buyer regarding the characteristics, quality and reliability of the delivery;
- is suitable for the purpose for which it is intended by its very nature or which is evident from the order;
- complies with legal requirements applicable in Belgium and other (international) Government regulations;
- complies with the statutory European Directives regarding CE marking and the EU declaration of conformity or the “declaration by the manufacturer” respectively. The Seller shall provide the declaration of CE conformity.

3.2 If reference is made in the agreement to technical, safety, quality or other regulations and documents not attached to the agreement, the Seller shall be deemed to have knowledge of these unless Buyer is informed to the contrary in writing immediately. Buyer shall then provide the Seller with further information on these regulations and documents. The Seller shall bear the costs related to, and obtain the necessary permission, permits or licenses in good time required for carrying out of the agreement and for complying with the conditions stipulated therein.

4. Intellectual property rights; licenses.

4.1 If intellectual property rights apply to the delivery or accompanying documentation, Buyer shall be entitled to the legal use thereof free of charge by means of a non-exclusive, worldwide, perpetual license.

4.2 The Seller guarantees that the delivery does not infringe on any intellectual property rights of third parties. The Seller shall defend, indemnify and hold harmless the Buyer or any of its customers for the goods from and against any and all expenses, loss or damages arising out of any claim made or threatened for infringement of any patent, utility model, design, trademark, copyright or other title right of any third party resulting from the importation, possession, use or resale of the goods or any part thereof in any country.

11. Liability.

11.1 The Seller warrants for one (1) year from the shipment date that goods are of first quality and are free from defect in material, design and workmanship, that they are merchantable and fit for any use to which they are normally put and that they are fit for any particular use of which Buyers has given notice to Seller.

11.2 Seller shall, at Buyers sole option, restore or repair the goods to the same state and level as warranted herein, or replace the goods with conforming goods, at Seller's sole cost and expense, and Seller shall indemnify and hold Buyer and Buyer's customers harmless from and against any loss, damage, claim, cost, expense and liability, including all indirect, incidental and consequential damages, which may be incurred by or asserted against Buyer or Buyer's customers arising out of or related to Seller's breach of warranty.

11.3 The Seller shall completely indemnify Buyer against claims by third parties for damages resulting from the circumstances mentioned above.

11.4 If the Seller continues to default on its guarantee obligations, Buyer has the right to proceed to replace, repair or re-execute the order at the Seller's expense, with or without help from third parties. Buyer shall notify the Seller of the exercise of this right in advance where possible.

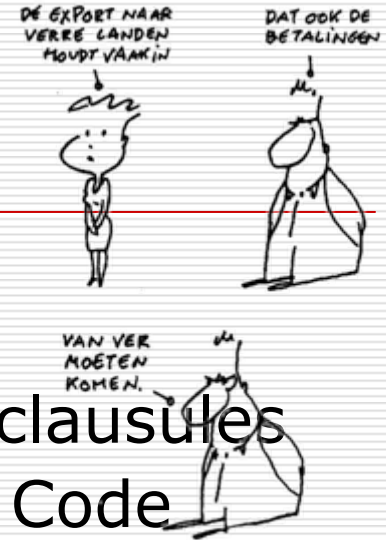
11.5 A guarantee as described above shall apply afresh to replaced, repaired or re-executed parts of a delivery.

12. Product Liability.

Seller shall defend, indemnify and hold harmless Buyer and/or any of its customers for the goods from and against any and all costs, expenses, losses, damages or liabilities arising out of or in relation to any claim made or threatened to be made by any third party based on any death, bodily injury or property damage occurring or suspected to occur directly or indirectly out of the goods (collectively the "Liabilities"), including without limitation, a claim based on the "Product Liability Directive 85/374/EEC of 25 July 1985 (as amended)" as enacted in national law by the member states of the European Union.

Prijs

- Bedrag – munt
 - prijsherzieningsclausules – wisselclausules
 - ISO 3-Letter Alphabetic Currency Code (ISO 4217-1995)
 - <http://www.unece.org/cefact/rec/rec09en.htm>
- Leverancierskrediet vs. koperskrediet
- Kortingen - Cash discounts (... valuta)
- Kosten



Price revision

Should any change occur in the cost of the relevant materials and/or wages during the performance of the contract, the agreed prices shall be subject to revision on the basis of the following formula :

$$P1 = P_0/100 (a + b M1/M_0 + c S1/S_0)$$

where :

P1 = final price of invoicing.

P₀ = initial price as stipulated in the contract and as prevailing at the date of _____.

M1 = prices (or price indices) for (type of materials concerned) _____ over the period _____.

M₀ = prices (or price indices) for the same materials at the date stipulated above for P₀.

S1 = wages (including social charges) or relevant indices in respect of _____ (specify categories of labour and social charges) over the period _____.

S₀ = wages (including social charges) or relevant indices⁸ in respect of the same categories at the date stipulated above for P₀.

a, b, c, represent the contractually agreed percentage of the individual elements of the initial price, which adds up to 100. (a+ b+ c=100)

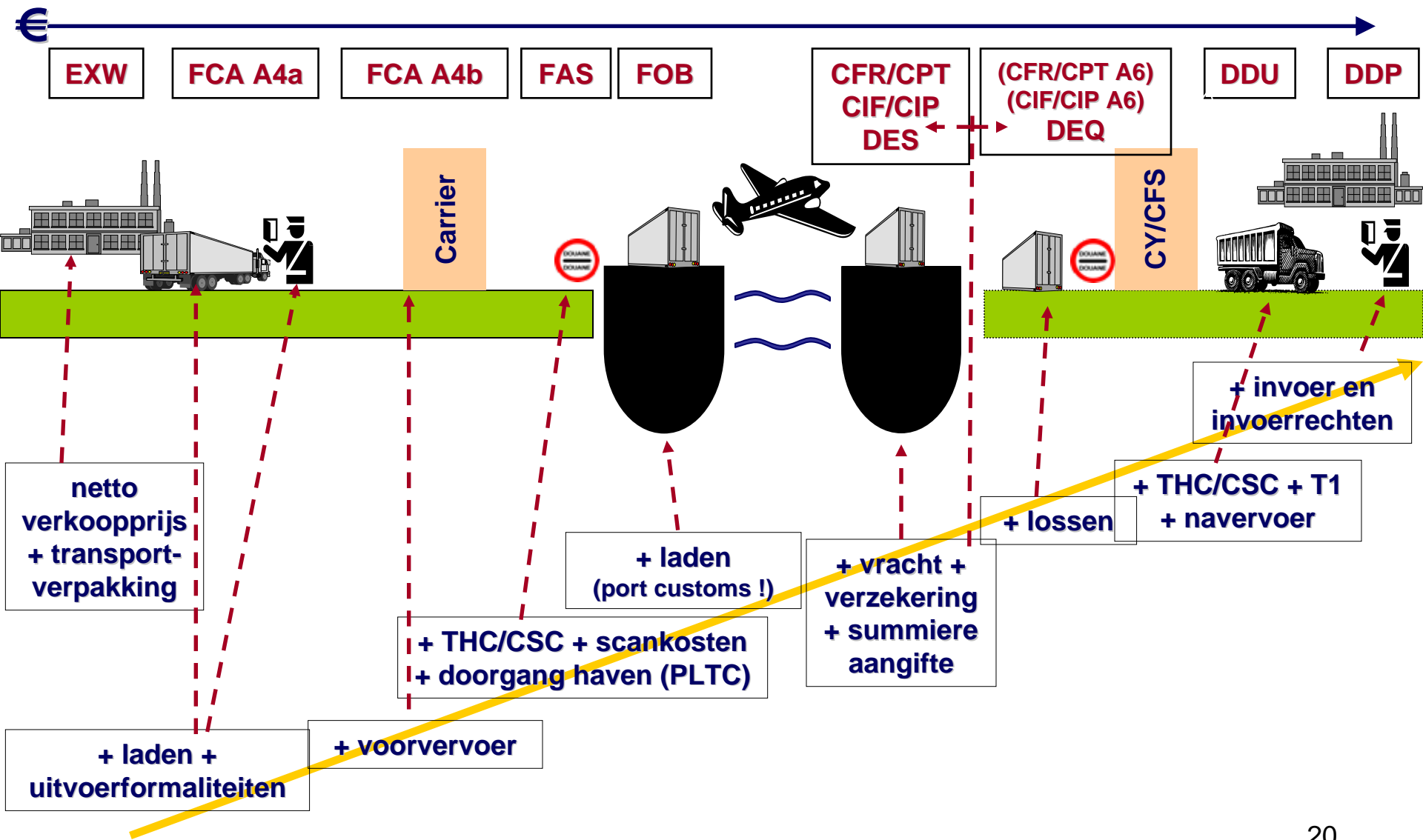
a = fixed proportion = _____.

b = percentage proportion of materials = _____.

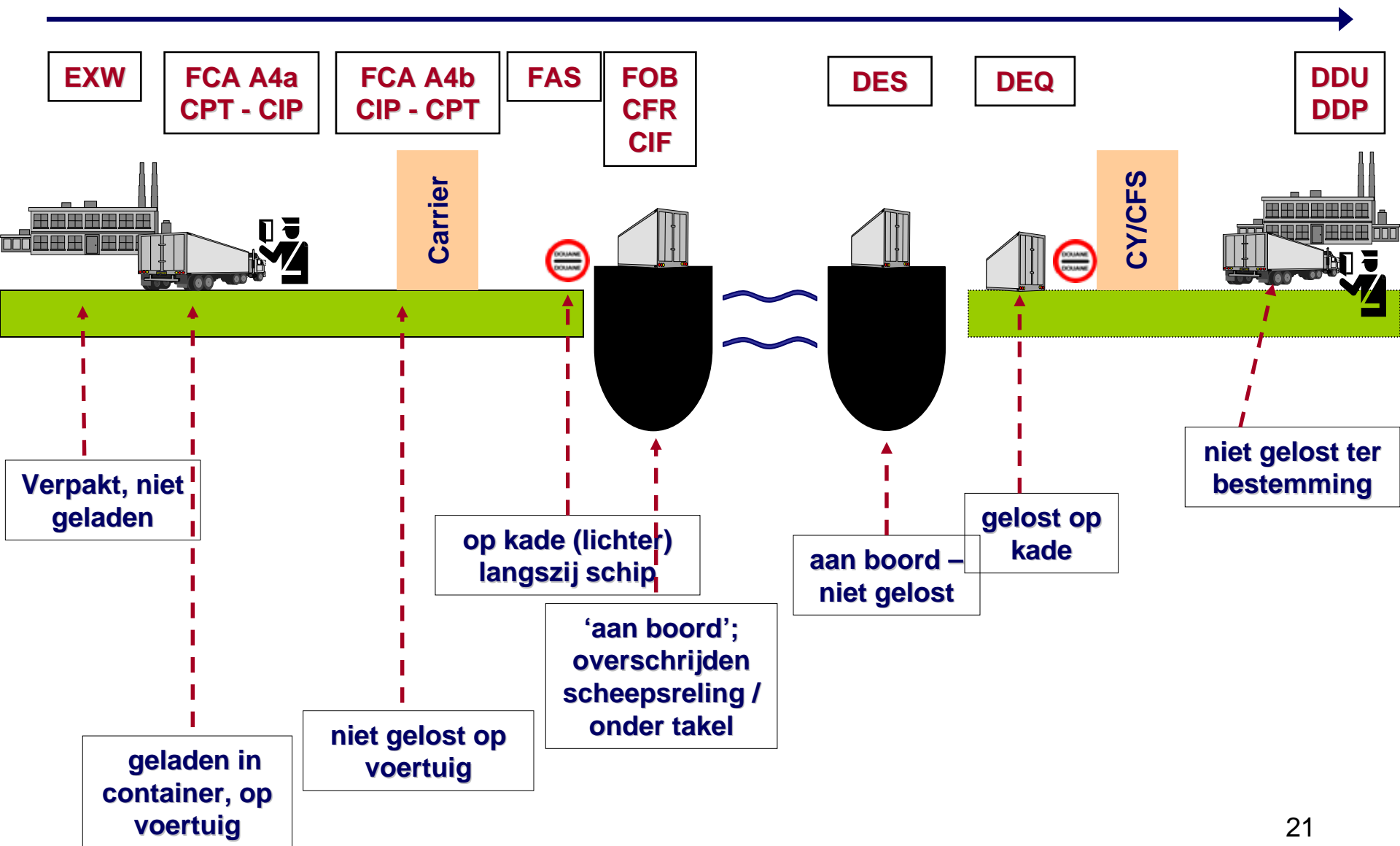
c = percentage proportion of wages (including social charges) = _____.

logistieke organisatie

Incoterms en kostenverdeling



Incoterms en risico-overgang



Documenten

APOSTILLE	
(Convention de La Haye du 5 octobre 1961)	
1. Country: The Netherlands	This public document
2. has been signed by	
3. acting in the capacity of:	
4. bears the seal/stamp of:	
Authenticated	
5. at UTRECHT	6. on
7. by the clerk of the District Court	
10. Signature	
8. no.	
9. Seal/Stamp	

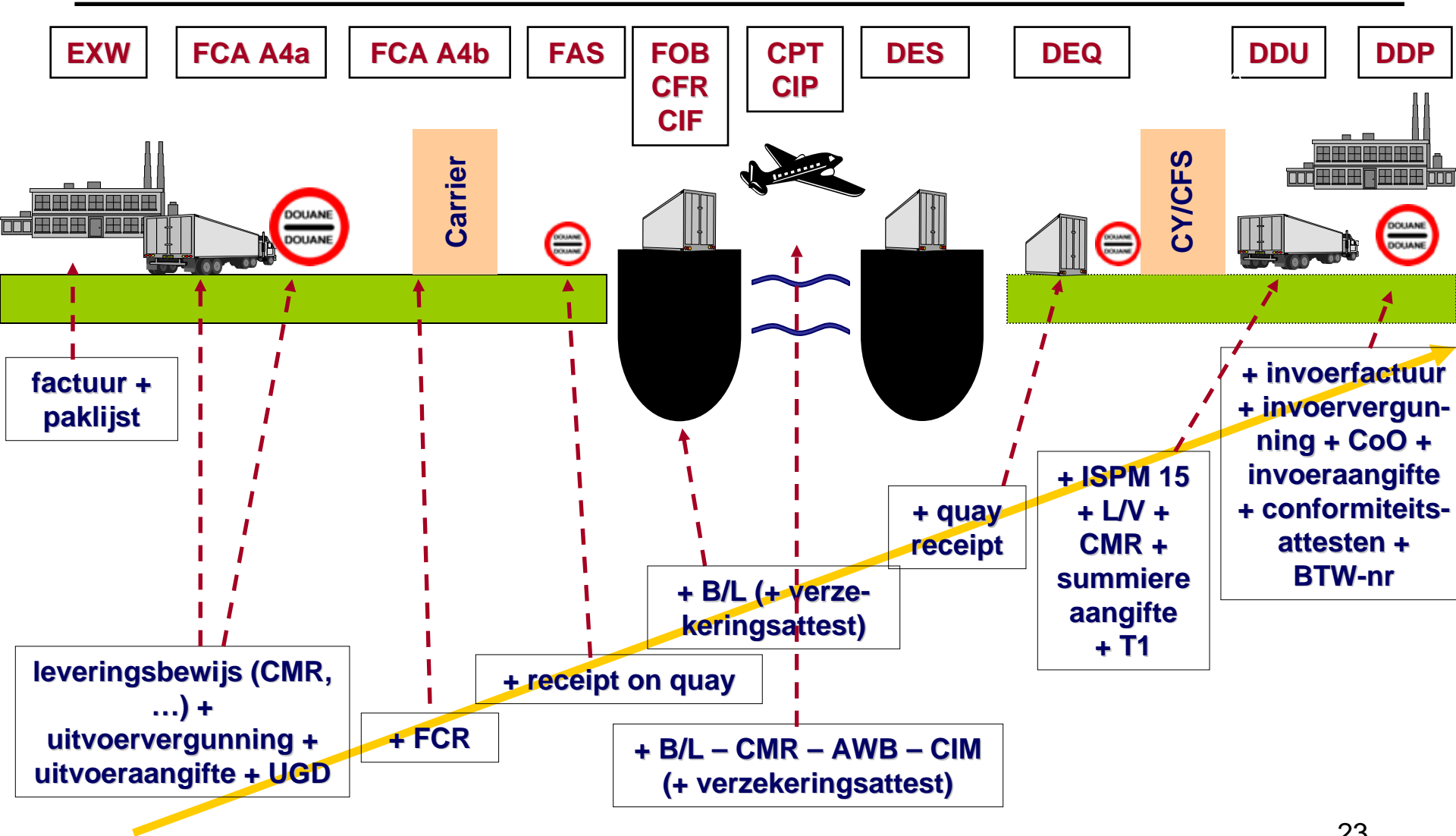


6	DOCUMENTEN
Vermeld hier de documenten die de verkoper moet overleggen.	
0 Handelsfactuur _____ exemplaren (duid eventuele bijzondere vermeldingen aan)	
0 Transportdocument (vermeld welk type van transportdocument)	
0 Paklijst	
0 Certificaat van oorsprong (vermeld welk type; preferentieel / niet-preferentieel)	
0 Inspectiecertificaat (autocertificatie; derdencertificatie ...)	
0 Verzekeringsattest (minimal cover; maximum cover)	
0 Overige:	
<ul style="list-style-type: none">• Administratieve documenten: gezondheidscertificaat, fyto-sanitair certificaat, plantenpaspoort, stralingscertificaat, dioxinecertificaat, MDC, technisch dossier...• Technische documenten: handleiding, montage-instructies, ...	
Duid aan welke documenten moeten worden gelegaliseerd, vertaald, aantal exemplaren....	

Declaration of Conformity	
Application of Council Directive(s) _____	
Conformity Declared to Standard(s) _____	
Manufacturer _____	
Manufacturer's Address _____	
Importer (if applicable) _____	
Importer's Address _____	
Name & Description of Equipment _____	
Model No. _____	
Serial No. (optional) _____	
Year of Manufacture (optional) _____	
The undersigned declares that the above named equipment conforms to the above Standard(s) and Directive(s).	
Date _____	Signature _____
Company _____	Name _____
	Position _____

- Wie doet wat ?
- Wie betaalt wat ?
- Uitvoer - invoer

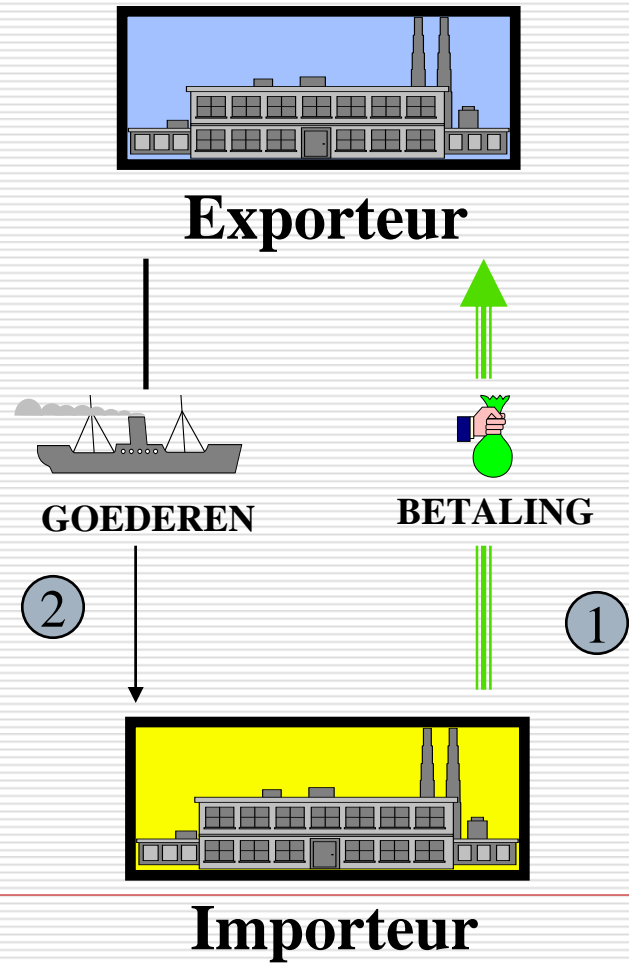
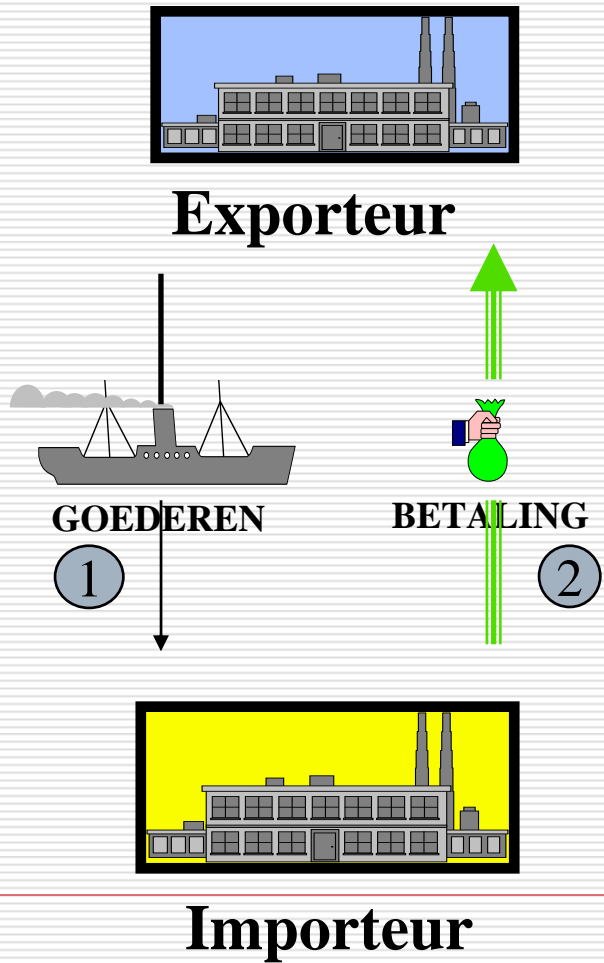
Incoterms en documenten ten laste van verkoper (+ bijstandsplicht)



De betaling

Betaling – contractuele afspraak

3	PAYMENT CONDITIONS	
<p>0 Payment on open account Time for payment (if different from general conditions) _____ days from date of invoice other:</p> <p>0 Open account backed by bank guarantee or standby letter of credit</p> <p>0 Payment in advance Date: 0 Total price 0 _____ % of the price</p> <p>0 Documentary Collection 0 D/P Documents against payment 0 D/A Documents against acceptance % of the price</p> <p>0 Other (cheque, bill of exchange, electronic transfer ...) 0 special conditions (bv. proof of importation ...)</p>	<p>0 Irrevocable documentary credit 0 Confirmed 0 Unconfirmed</p> <p>Credit available: 0 By payment at sight 0 By deferred payment at _____ days 0 By acceptance of drafts at _____ days 0 By negotiation</p> <p>Partial shipments: 0 allowed 0 not allowed</p> <p>Transshipment: 0 allowed 0 not allowed</p> <p>Date on which the documentary credit must be notified to seller 0 _____ days before date of delivery 0 other:</p> <p>Documents to be presented under documentary credit 0 As per 8 0 Additional documents</p>	

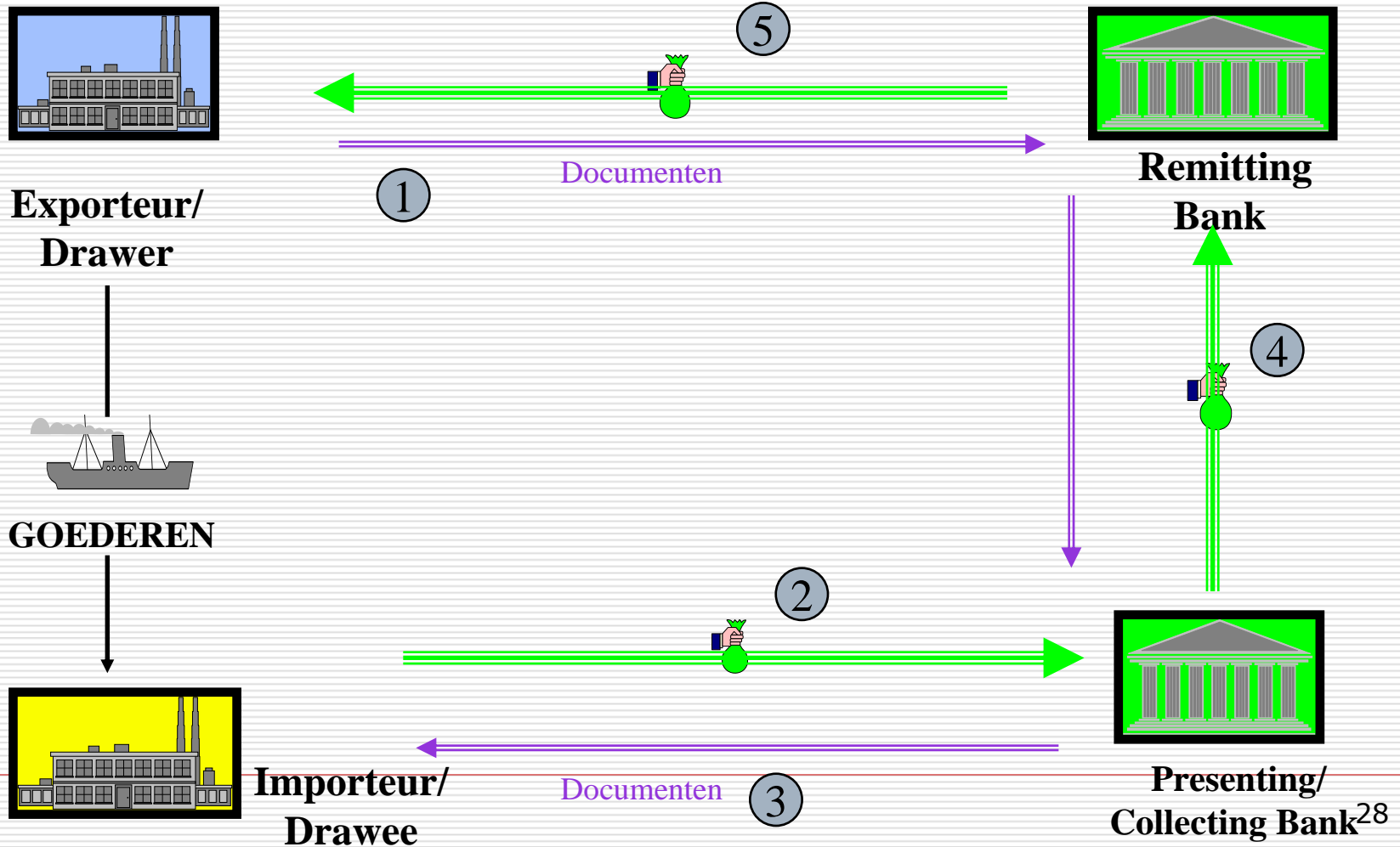


Clean payments

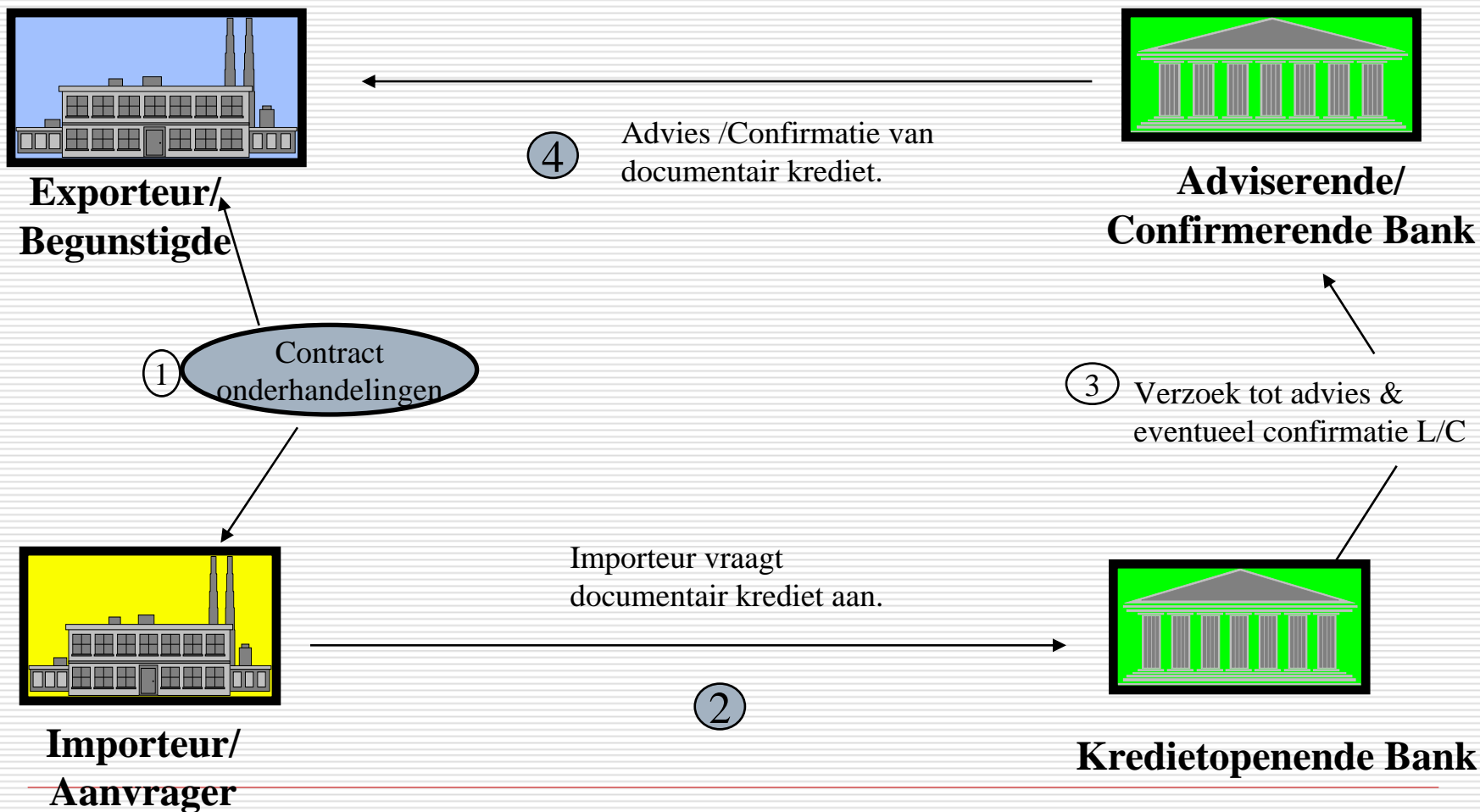
- Verkoper kan risico beperken
 - Verzekering van het kredietrisico (kredietverzekering)
 - Betalingsgarantie / borg (Payment bond)
 - Letter of comfort (\neq garantie)
 - Levering onder rembours (cash on delivery - COD)
 - Zakelijke zekerheden: eigendomsvoorbehoud ($> <$ consignatie), pand, consignatierekening ...
- Koper kan risico beperken
 - Verzekering (resiliatierisico)
 - Advance payment bond (voorafbetalingsgarantie)



Documentaire Collectie:

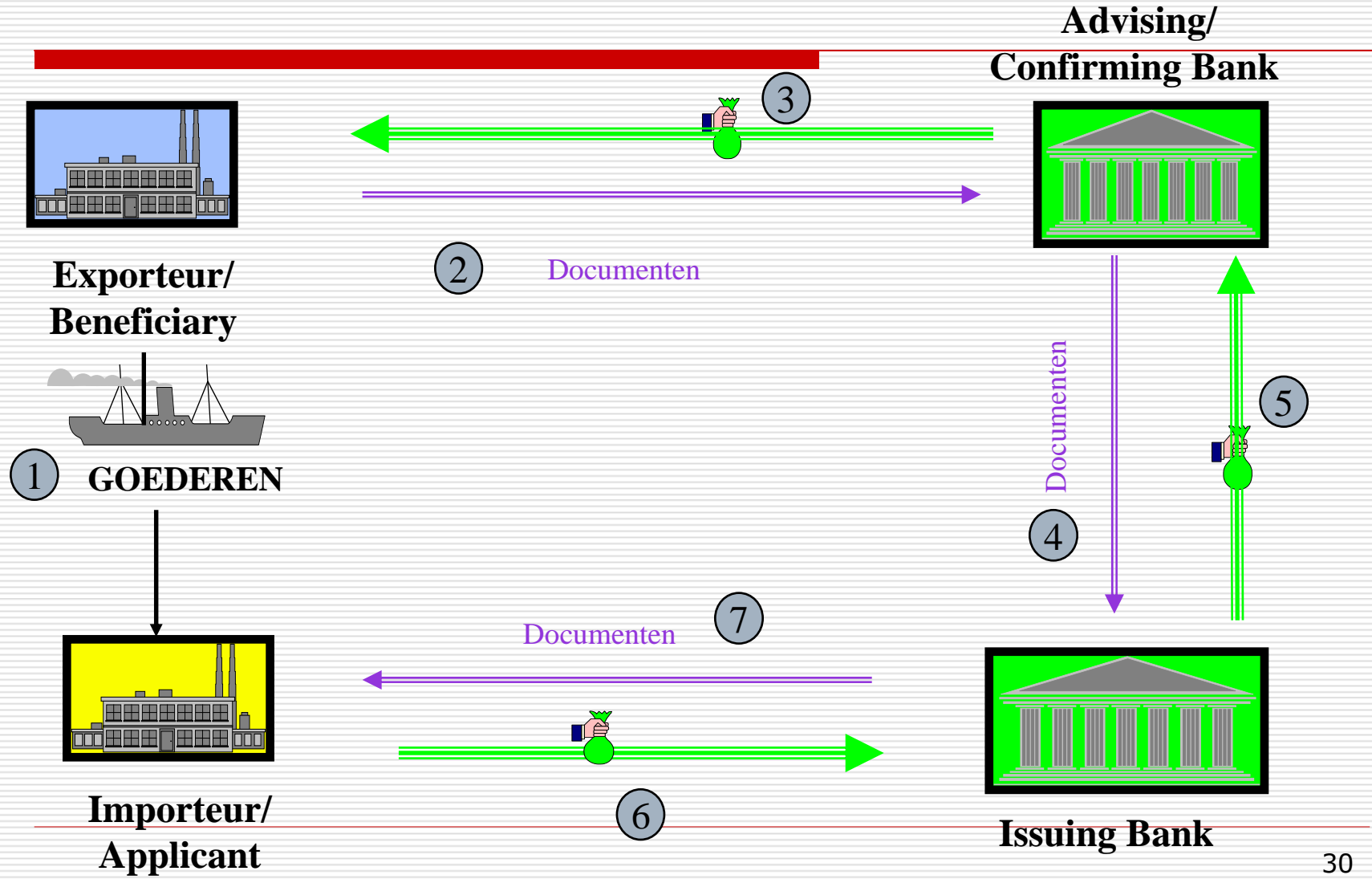


Documentair Krediet: *uitgifte*



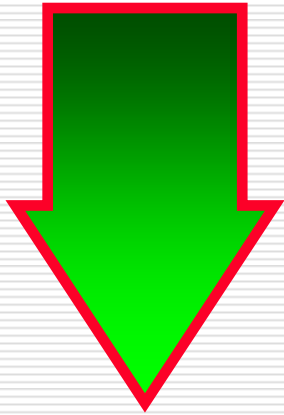
**FOB
CIF**

Documentair krediet



RISICO SPECTRUM

**HOOGSTE
RISICO
EXPORTEUR**



**LAAGSTE
RISICO
EXPORTEUR**

- **Rekening courant**
- **Documentair Incasso**
 - ⊗ Documents Against Acceptance
 - ⊗ Documents Against Payment
- **Documentair krediet**
 - ⊗ Niet geconfirmeerd
 - ⊗ Confirmeerd
- **Voorafbetaling**

**LAAGSTE
RISICO
IMPORTEUR**



**HOOGSTE
RISICO
IMPORTEUR**

L/C – Kredietverzekering

The diagram features two callout boxes. One labeled 'Koper' (Buyer) points to the 'L/C' part of the title. The other labeled 'Verkoper' (Seller) points to the 'Kredietverzekering' (Credit Insurance) part of the title. A red horizontal line is positioned below the title.

Garantie/Letter of Credit

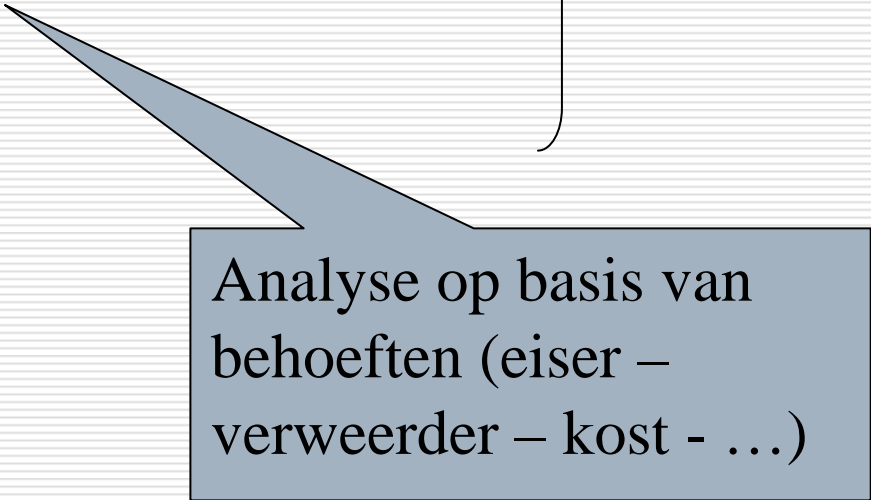
Kredietverzekering

Betaling:	Onmiddellijk	Na een zekere wachtermijn (zie polis - 45 tot 180 dagen na wanbetaling)
Opeising:	Op schriftelijk verzoek	Op schriftelijke aangifte na onderzoek
Criteria betaling:	Objectief - Abstract	Appreciatie verzekeringsmaatschappij
Verweer:	Onvoorwaardelijke afstand van ieder verweer m.u.v. fraude	Verweer kan bestaan
Niveau van dekking:	100% dekking P&C risico	Beperking dekking (meestal 80-95% dekking) P of C
Kosten:	Eerder duur: premie dekt landenrisico en klantenrisico	Goedkoper – maar risicospreiding
Markt:	Niet altijd beschikbaar (land – klant)	Ook beschikbaar op moeilijke landen

Contract & naleving

Geschillenbeslechting

- Onderhandelingen / Negotiation
 - Verzoening / Mediation
 - Arbitrage
 - Rechtbanken
- } } ADR



Analyse op basis van
behoeften (eiser –
verweerder – kost - ...)

Geschillenbeslechting



	Verzoening - onderhandelingen	Bemiddeling	Bindende derdenbeslissing	Arbitrage	Rechtbank
Derden interventie	Neen / Ja	Ja	Ja	Ja	Ja
Beslissingsbevoegdheid	Partijen	Partijen	Derde partij	Derde partij	Derde partij
		Dispute review board	Dispute adjudication board	(Arbiter - arbitragecommissie)	(Rechtbank)
Afdwingbaarheid	Vrijwillig	Vrijwillig	Vrijwillig	Gedwongen uitvoering na exequatur	Gedwongen uitvoering
				Internationaal: New York 1958	Internationaal: Verdragen Brussel I
Debat	Ja	Ja en Neen	Ja (en Neen)	Ja	Ja
Procedureregels	Ad hoc	Ad hoc	Ad hoc	Vrij te bepalen regels	Strikte regels
Schuldvraag	Secundair	Ondergeschikt	Secundair	Primair	Primair
Waarheidsonderzoek	Secundair	Ondergeschikt	Secundair	Primair	Primair
Contractuele basis	Ja	Ja	Ja	Ja	Niet vereist



Informatie

□ Europese Unie

http://ec.europa.eu/taxation_customs/common/data_bases/index_en.htm

Binding tariff information, quota, TARIC, VIES

<http://exporthelp.europa.eu/>

http://ec.europa.eu/taxation_customs/common/links/customs/index_en.htm

□ World

<http://mkaccdb.eu.int> - third countries (tariffs + import formalities) EU-server

<http://www.doingbusiness.org>; <http://www.wto.org>

*"Experience is a hard teacher
because she gives the test first,
the lesson afterwards"*