

### Transfer of title and the effects of transfer

Several things hinge on the exact legal moment when the buyer takes ownership of the goods (in formal terms, when title passes or is transferred from you to the buyer).

**Risk** – the transfer of title affects the parties' rights in case of total or partial loss, damage or destruction of the goods.

**Rejection** – once it has occurred, transfer of title may preclude your buyer from rejecting the goods, despite valid complaints regarding quality, quantity or description.

**Price** – once your buyer takes title, you can sue him or her for the full unpaid price, rather than merely for the lost profit.

**Rights of Action** – after taking title, the buyer can enforce his or her property rights through court action or other methods.

### Delivering the goods

You must deliver the goods to your buyer in one of two ways:

- **Physically**, by delivering a legal document of title, such as a bill of lading; or
- **Symbolically**, by delivering, for example, the key to where the goods are stored.

Your contract should specify where the delivery will take place. In international matters, this is usually defined by using such International Commerce (INCO) terms as Cost, Insurance and Freight (CIF) or Free on Board (FOB).

Note that if the contract does not specify the place of delivery, then the place of delivery is understood to be your place of business. In this case, the delivery is considered complete when you deliver the goods to a carrier.

### Acceptance or refusal of goods

If you meet all the conditions of the contract, your buyer must accept the goods. Refusal to accept them without justification gives you the right to sue for damages. But if you breach a condition of the sale, the buyer can legally reject the goods.

Upon request, you must allow your buyer to examine the goods. The buyer can accept or reject them by:

- conveying his/her acceptance to the seller;
- acting in a manner that is inconsistent with the seller's ownership of the goods, e.g. by reselling the goods after they are delivered; or
- by keeping the goods without notifying the seller that he or she has decided to reject them.

Once any of these types of acceptance or rejection has taken place, the buyer can no longer refuse the goods, even if you have breached a condition of the contract.

### Unpaid seller's rights

Your best protection as seller is payment in advance or upon delivery. Next is payment by confirmed letter of credit (preferably irrevocable). If neither is possible, then you should take out security for the unpaid purchase price. This can take several forms, such as a written guarantee or a mortgage against real estate. The most common method is to reserve title or to take a secured interest in the goods.

#### PITFALL

**Rigid practices** – the exporter balks at modifying products in compliance with foreign regulations and cultural preferences.