

Logistics for Europe Event



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Brussels, November 13, 2025

Shifting liabilities in complex supply chains: how can contracts support?

John Wolfs - Attorney

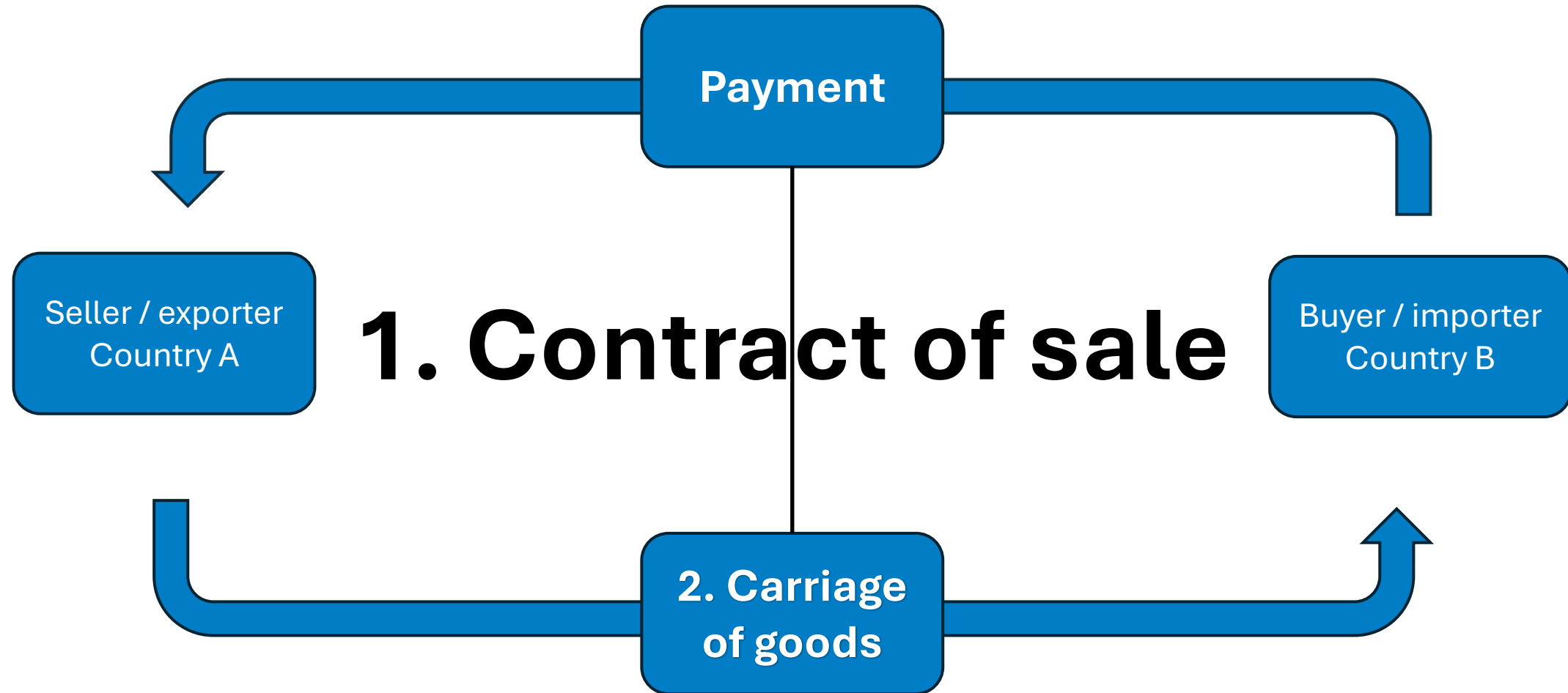
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CORE OF INTERNATIONAL SALE OF GOODS



CISG

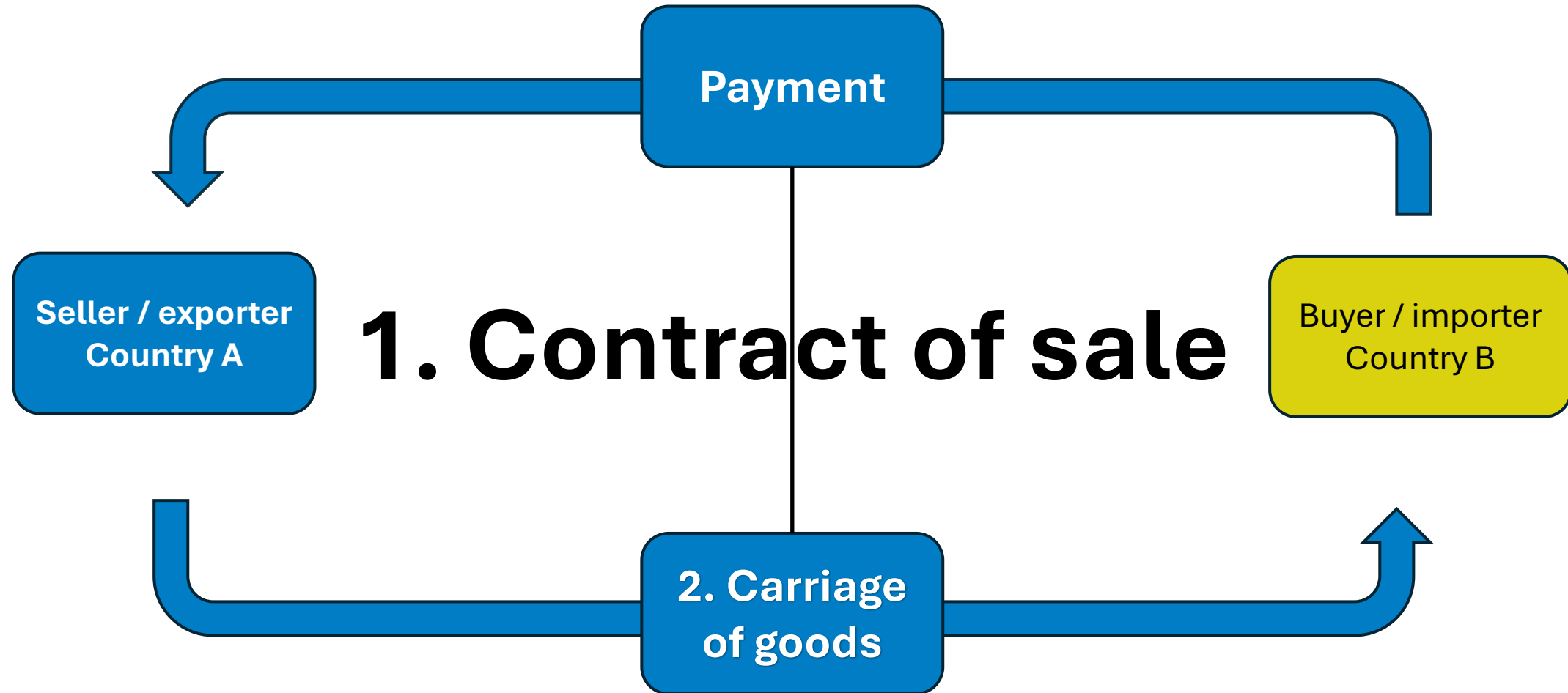
The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG)

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CISG

- Parties can opt out (Article 6 CISG)
- Main obligations Seller under CISG Part III
- Additional obligations
- Local law may differ to the benefit of the Seller—or not

CORE OF INTERNATIONAL SALE OF GOODS



Buyer and Seller

Shifting liability

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Seller preferred Incoterm

- Incoterm EXW (Ex Works)
- Risks with Buyer

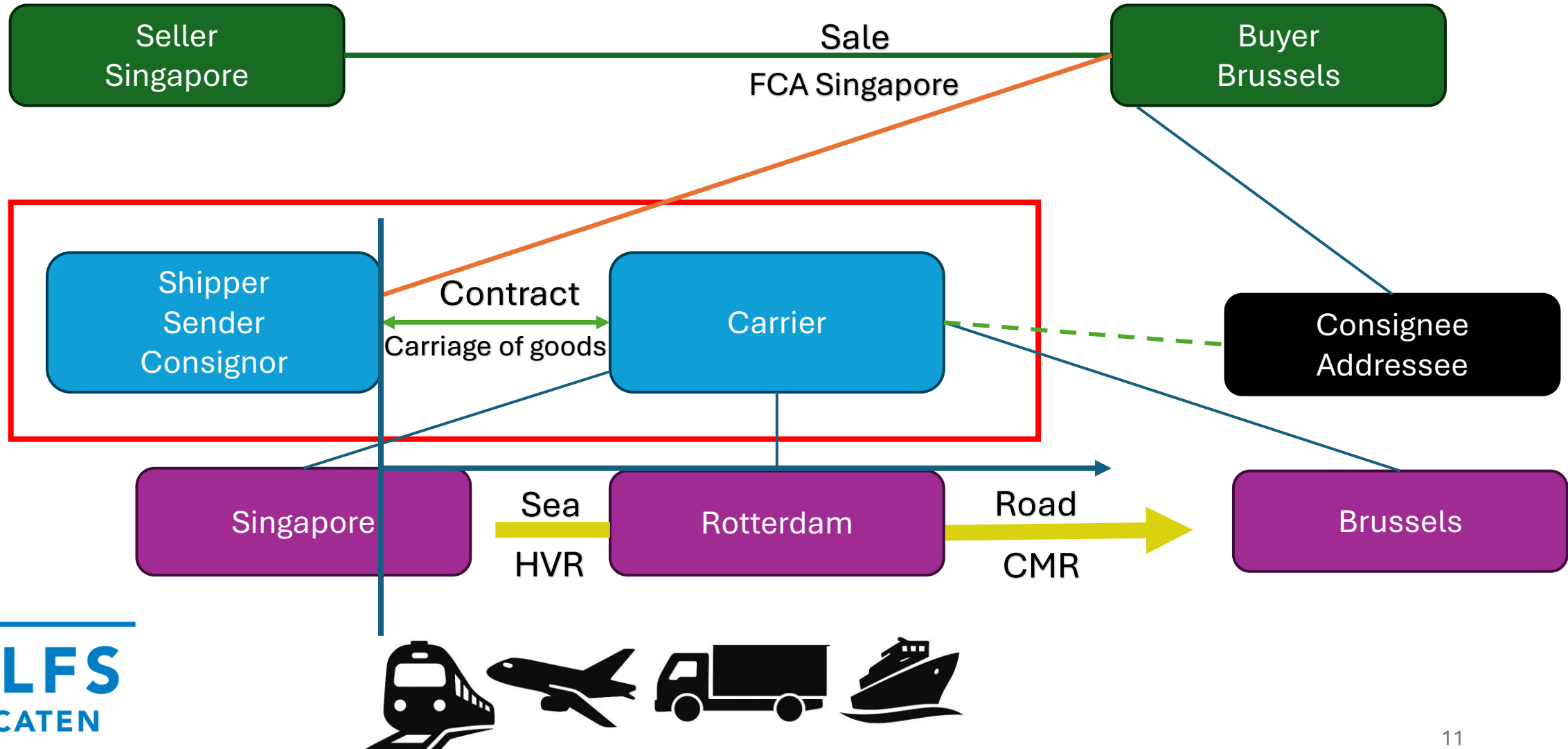
Buyer preferred Incoterm

- Risks with Seller
- Incoterm DDP (Delivery Duty Paid)
- Seller is responsible for customs formalities
- Insurance

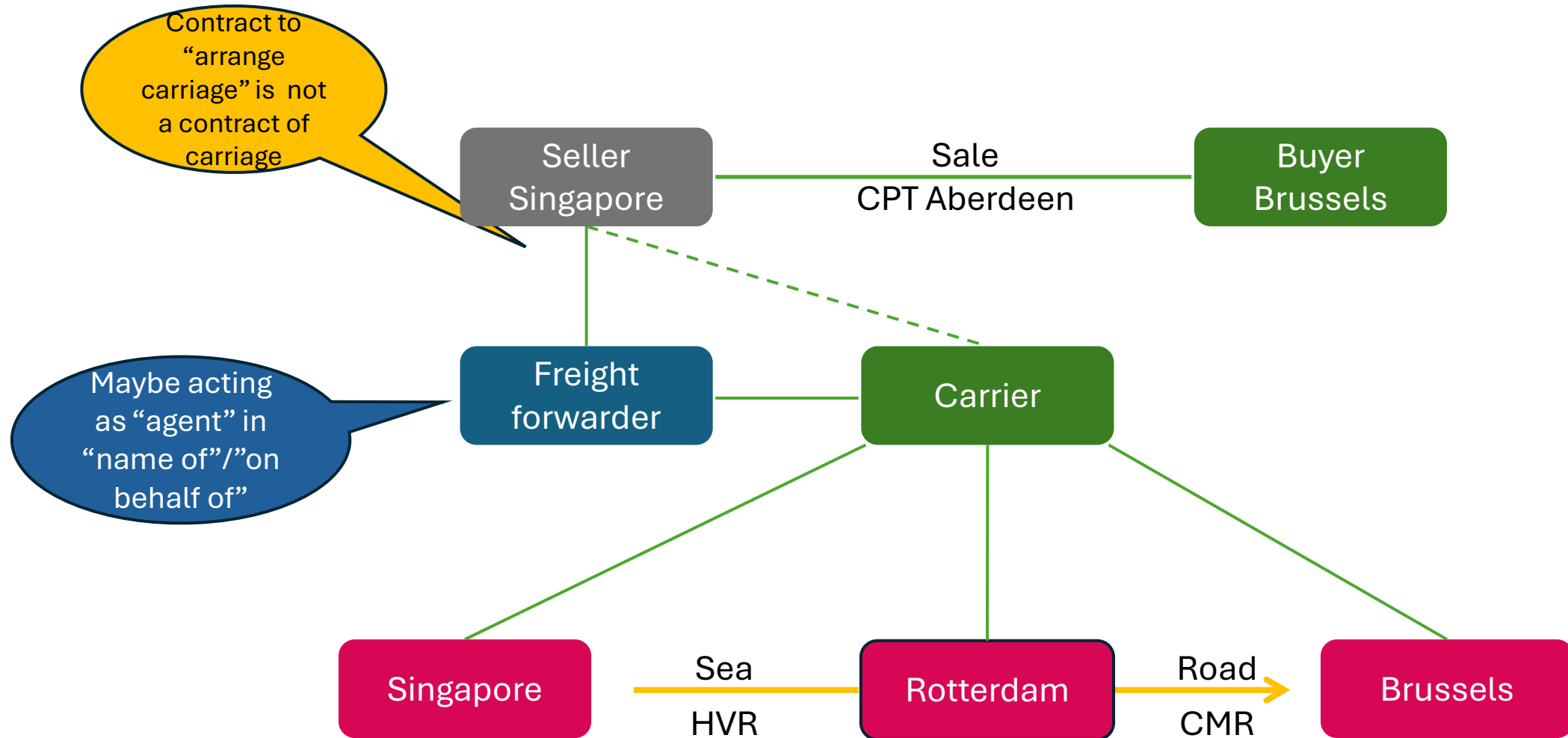
Carriage of goods & Actors

- Carrier
- Freight forwarder
- Shipper
- Consignee

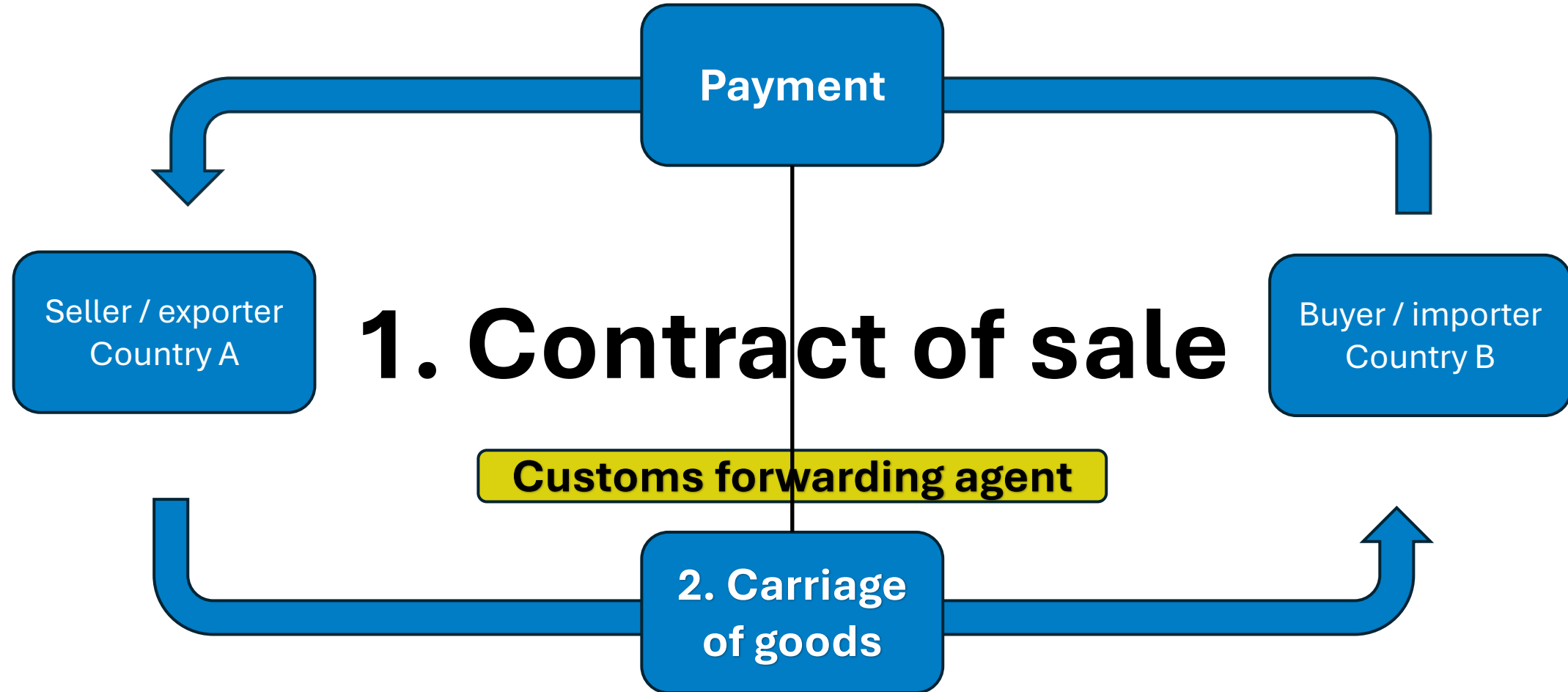
PARTIES CONTRACT OF CARRIAGE



CARRIAGE V FREIGHTFORWARDING



CORE OF INTERNATIONAL SALE OF GOODS



Liability under current European customs law

- Union Customs Code (UCC) 2016
- Amount of customs duties varies
- Debtor

Reform UCC I

- Reform UCC
- New definition of 'importer'
- Carbon Order Adjustment Mechanism (CBAM)

Influential Trade Aspects

- Anti slavery
- Child labour
- Sanctions
- Et cetera



Reform UCC II



- Solid agreements
- Single person liability

Customs (forwarding) agent

- Shifting customs debt liability
- Contract for services
- Additional agreements
- Dutch Forwarding Conditions 2018
- Belgian General Forwarding Conditions 2024
- General German Freight Forwarders' Standard Terms and Conditions 2017

FENEX conditions

- Excludes customs agent's liability largely
- Limitation of liability: 10,000 SDR per event
- Reimbursement clause: client reimburses agent
- Lien and retention of title

Points to include in a contract with the agent

- Responsibility commodity code classification
- Responsibility origin and documents
- Presence physical customs inspection
- Verification/customs inspection
- Dispute on representation
- Reimbursement by Customs



Take aways I

- **The contract remains the core instrument for allocating liability**
- **The CISG provides for a framework, but is not mandatory**
- **Applicable law and jurisdiction shape dispute outcomes**
- **Incoterms shift liability across the supply chain**

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Take aways II

- **Reform UCC changes who bears customs responsibility**
- **Written contracts between contracting parties are essential**
- **General terms and conditions offer -albeit limited- protection**
- **Work only with financially sound partners**
- **Define operational responsibilities explicitly**

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QUESTIONS?



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Thank you for your attention

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