International Trade Procedures Working Group (ITPWG)

PRE-SHIPMENT INSPECTION IN INTERNATIONAL TRADE

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INTRODUCTION

This document has been submitted to the UN/ECE CEFACT ITP Working Group by the UK delegation, via the UN/ECE Secretariat. This paper proposes the deletion of the current text contained in UN/ECE Recommendation No. 18 concerning Pre-shipment Inspection with the development of a new Recommendation in respect of not only Pre-Shipment Inspection (PSI), but other similar inspection procedures in international trade as well.

The purpose of the new Recommendation is to discourage the adoption of such procedures where they are not necessary, and, where it is considered that they are, to ensure that they are only adopted as a short term measure. In this regard this document:

- identifies the weaknesses of PSI and other inspection procedures;
- draws attention to the additional burdens and costs which such procedures introduce and the detrimental effect which they have in both the country of exportation and importation, but particularly the latter, and;
- considers alternatives to PSI type procedures.

Whilst it is recognised that such inspection procedures may have a role in the short-term, it is suggested that they should only be relied upon for a maximum of five years, during which time the opportunity should be taken to train staff in the appropriate administrations and introduce appropriate modern control systems and techniques.

In working towards this objective, countries using PSI should seek assistance from relevant international organisations, such as the World Customs Organisation (WCO), and from countries who are experienced in advanced import and export control techniques. Indeed, there is in fact no substitute for properly applied controls in the country of importation.

BACKGROUND

PSI has been a part of international trade for many years. It was originally introduced to assist developing countries with their implementation of customs procedures at importation - to ensure that imported goods were of the stated merchantable quality and quantity, were...
fairly priced - both commercially and for customs the valuation for purposes, and that they met the importing country’s required safety and quality standards.

Under PSI, inspection agencies are employed to carry out checks on behalf of the importing country prior to exportation. Once the inspection has been completed a document, in the form of a “Clean Report of Findings”, is issued and accompanies the consignment to its destination.

Over the years PSI has become more widespread as global trading and industry has developed. Whereas inspections used to involve brief physical and documentary checks, these checks have been extended both in terms of the countries which have been encouraged to introduce them and the requirements which have been built into the checking procedures themselves.

In light of the increased use of PSI, a number of other world organisations have produced statements, recommendations and initiatives aimed at highlighting the potential burdens and costs of PSI to international trade. These international organisations include the General Agreement on Trade and Tariffs (GATT) and its replacement body the World Trade Organisation (WTO).

The “Agreement on Pre-Shipment Inspection” was introduced into the GATT agreement in 1994 and placed a number of obligations on users of PSI. In particular it emphasised that PSI should be applied:

- in a non-discriminatory manner;
- that the procedures shall be transparent;
- that confidential business information shall be protected;
- that delays in carrying out the procedures shall be avoided;
- that the price verification shall be based on the price of identical or similar goods in the country of exportation, shall not be based on the price of goods offered to different countries of importation and the exporter shall be given the opportunity to explain the price charged, and;
- that the inspection agencies establish appeals procedures and that the findings of those procedures be made available to other exporters.

Whilst the document did not directly discourage the use of PSI it highlighted the potential costs to the importing country of the procedures, but recognised that there was a potential valid use for PSI as a “short term” measure.
ADOPTION OF A NEW RECOMMENDATION

With the increase globalisation of trade, progressive reductions in duty rates, more effective and legitimate policing and new methods of control, the Secretariat considers that PSI is becoming increasingly inappropriate in international trade. With a concerted effort being made to reduce controls and therefore delays during the movement of goods and to replace such controls with audit based methods and post-verification checks on goods, the application of PSI is clearly counter productive.

As a consequence of these conclusions, whilst understanding the apparent attractiveness of PSI to developing countries as a method to protect their government revenues and to overcome the lack of integrity in both commercial and official circles, discourages the unnecessary growth of PSI and similar procedures for the reasons outlined below.

Burdens and Cost of PSI

PSI increases burdens and costs in international trade and can be counter-productive for the country of importation and its traders. This is particularly the case if it is adopted as a long term strategy.

Any additional costs incurred by the exporter during the export process, whether directly, in the form of charge levied by the inspection company, or indirectly, in the form of additional obligations to arrange for the inspection, make goods available and the subsequent delays which often occur are ultimately passed onto the buyer. This has two implications:

- the cost of products in the country applying PSI are increased, both for its home consumers and its industry. These costs must be subsequently passed on and may even have a detrimental effect on the importing country’s exports;
- PSI can be perceived as a non-tariff barrier to trade and this may result in other countries adopting similar counter measures.

In light of the burdens, it is strongly recommended that where PSI and similar procedures are implemented they should only remain in place as a short term measure. In order to progress, a review needs to be undertaken every twelve to eighteen months, with the objective of withdrawing or limited the procedure and freeing the movement of goods. Any implementation of PSI beyond a six year period should, in the Secretariat’s opinion, undergo close and radical scrutiny and other methods considered for its replacement.

Overall the increased burden and cost of PSI runs contrary to trade facilitation and the objective of reducing costs and it is in the interests of exporters, imports and sponsoring countries to limit its application if burdens and costs are to be minimised.
Scope of the Procedures

Where such procedures are considered necessary by the country of importation, their scope should be restricted to the minimum required to fulfil its purpose.

PSI should not interfere with commercial practice or agreed and binding contractual obligations. Instead, where it is perceived to be necessary, it should be restricted to valuation and classification of the goods for customs purposes and quality and health verification for safety reasons.

Equally, concerning the scope of the procedures, where possible they should be applied on a risk based approach by commodity sector generally and companies specifically. For example, if there are commodities sectors which are low risk then PSI should not be applied to these areas and they should be excluded from the procedures. This will keep costs to a minimum and ensure that the measures cannot be regarded as a general non-tariff barrier.

Application of PSI Controls

If PSI is adopted certain policies and standards should be applied to the controls to limit the burdens to trade. Firstly, the recommendations in the WTO Agreement on PSI are endorsed, should be incorporated in any PSI contract and applied by the inspection agencies. Further, traders should be informed of their rights under this agreement.

At a macro level the controls must be carried out fairly and without discrimination on grounds of national origin or place of supply. Moreover, the application of controls should not be applied on the basis that similar goods are available from within the country’s own industry - this would be equivalent to using the PSI system as a non-tariff barrier to trade.

At a more detailed level, any application of control should be performed on a risk basis. The perceived risk of a consignment should be assessed, based on the compliance record of the trader supplying and receiving the goods. Where the reputation and compliance of both is high, then PSI controls should either not apply, or should be restricted to a small percentage of consignments.

Further, countries using PSI could authorise certain traders to be exempt entirely from the PSI procedures. Following an initial audit by the inspection agency, companies could be authorised to export without having to undergo transaction based inspections. This type of approach would substantially reduce the burdens and cost of PSI to exporters.

Composition of an Inspection

The composition of the PSI inspection should be kept to a minimum.

Whilst this area of obligation is often at the discretion of the PSI agency, countries adopting PSI should emphasise that the obligations and burdens on the exporter should be kept to the minimum required to satisfy the PSI agency of the integrity of the information and the goods. In particular, inspection agencies should not be required to provide photographic evidence
of any stage of the inspection and where possible, they should only inspect a percentage of
the overall consignments with the minimum quantity of samples being taken.

Confidentiality of Information

The Secretariat considers that countries who use PSI should apply the WTO Agreement on
PSI (Article 2 (9 - 13)) standards. These require that:

- all information is treated as confidential
- no confidential information shall be divulged to any other party, save the
governments which are employing them, and that these governments shall also
treat the information as confidential
- information on the following matters must not be requested by the inspection
agencies:
  a) manufacturing information related to patented, licensed or
     undisclosed processes;
  b) unpublished technical information;
  c) internal pricing, including manufacturing costs;
  d) profit levels;
  e) the terms of contracts between exporters and their suppliers.

Any areas of the exporter’s processing or establishment which are identified as being
especially confidential and to which access has been denied, should be treated with respect
by the inspection agencies. Information regarding such restrictions and locations should also
be treated as confidential.

Alternatives to PSI

Whilst alternatives to PSI exist, it is important to carry out a long term strategy based on the
proper training and monitoring of control staff. This can be undertaken with the assistance
of customs and similar authorities in other countries.

In addition to training, other methods can also be used to improve control techniques. Audit
based controls carried out at traders’ premises in the country of importation have been
identified as being extremely effective and efficient. This enables access to information held
by the importer which would not normally be available through inspections at the frontier.
CONCLUSION

It is recommended that countries contemplating the adoption of PSI type procedures should consider the consequences carefully before progressing. There is no substitute for properly applied controls and PSI can only ever be a temporary short-term measure.