

Lecture 30: The Agreement on Pre-Shipment Inspection

Dear students, in this class we are going to look into another very important agreement which is related to the customs valuation, that is the agreement on pre-shipment inspection. Why the pre-shipment inspection agreement is important and in the SPS class and the TBT class also, we have explained that there are so many consignments rejected from India. Why are they rejected? Because the main concern is with regard to the quality or the SPS measures or TBT measures. In some of the consignments it is found that it is filthy, in some of the consignments there were infection of salmonella, infestation of salmonella and also in certain cases pesticide residue was excess, in certain cases other problems, mainly the problems are relating to the quality.

CONCEPTS COVERED

- **The Agreement of Pre-Shipment Inspection**
- **The role of PSI**
- **Obligation of User members**
- **Prohibitions**
- **Indian Provisions on PSI**



So, here is this particular agreement which talks about pre-shipment inspection. So, the name itself says before shipment there must be an inspection by an accredited agency. So, that this pre-shipment inspection will prevent exporting of low quality materials, low quality products, low quality goods, but still there are sizable number of consignments rejected by countries. So, this is to be prevented. So, what is the role of pre-shipment inspection agencies and also what are the obligations of members and Indian provisions on pre-shipment inspection, and what are the Indian agencies also involved in pre-shipment inspection? We will look into it. So, the WTO agreement and the Indian practices we will look into in this particular class.

What is Pre-shipment Inspection

- **Pre-shipment inspection (PSI), also known as final inspection, is a quality control measure conducted by inspection agencies or quality control professionals before a shipment of goods leaves the manufacturer's facility or the supplier's premises.**
- **The purpose of pre-shipment inspection is to ensure that the products meet the quality standards and specifications agreed upon between the buyer and the seller.**



So, pre-shipment inspection and you can see that this is the final inspection before sending any product abroad, any product to a foreign country and this is with regard to not only quality, it is not only a quality control mechanism, but also quantity as well. So, the quality professionals before shipments, will inspect the particular goods. So, the purpose is very clear. So, the products should meet the quality standards and specifications which is prescribed by the seller. This is the objective of the pre-shipment inspection agreement, the PSI agreement, but still a number of our consignments are rejected. So, it shows our system, whether our system is foolproof or not. So, it is the duty of every country to impose the PSI obligations, pre-shipment inspection obligations and to come out with administrative mechanisms and also quasi-judicial mechanisms to deal with implementation of the obligations under the pre-shipment inspection.

Role of PSI Agencies

- **Initially used PSI Agencies for certification of quality & and quantity of product**
- **Assurance to importers that goods conform to technical specifications & quantities are correct**
- **Used by state-owned and government departments**
- **Since mid sixties also used for price verification**



And at the same time this cannot be done by the government. So, because there are so many consignments are going every day, exported to other countries. So, the government give accreditation of the pre-shipment agencies for certifying the quality and quantity of the product. So, this certification shows the assurances to the importers that the goods conform to the technical specifications and quantities which they are prescribed. So, every time, as I told you that, the goods which are exported from India, are not in accordance with the Indian standards, but the standard should be of importing country always, may be very high with regard to European Union or the US or any country where we are exporting the products. So, the standard must be in consonance with the requirement of the importer. So, there will be a quality verification, there will be a quantity verification and most importantly there will be a price verification with regard to the valuation of goods.

PSI

- **The practice of employing private companies to check shipment details such as price, quantity and quality of goods ordered overseas.**
- **The Agreement on PSI recognizes that principles of the GATT Agreement apply to such activities.**
- **The purpose is to safeguard national financial interests (prevention of capital flight and commercial fraud as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructures.**



So, mostly, the government deploys the services of private companies and private organizations to do this price check, quantity check, and quality check, and they issue a PSI, that is the PSI inspection certificate. So, the pre-shipment agencies, they do this actual checking of this particular goods. And the pre-shipment inspection agreement which follows the GATT provisions for example, in the case of national emergencies, national financial interest and also the compensation and appropriate administrative infrastructure to be made for the implementation of these PSI agreement.

Why PSI Required?

- **Pre-shipment inspections (PSI) are required when mandated by the government of the importing country.**
- **Governments assert that pre-shipment inspections ensure that the price charged by the exporter reflects the true value of the goods,**
- **prevent substandard goods from entering their country,**
- **and mitigate attempts to avoid the payment of customs duties.**



So, why is it required? Why government should? why it should be a government obligation rather than an exporter's obligation? Definitely it is an exporter's obligation plus government obligation, mandatory government obligation to do a pre-shipment inspection. So, most importantly they will look into the quality, the value of goods and also the quantity and price of the goods. And most importantly which we can again see that substandard goods are not entering another countries and it is a question of reputation of the exporting country, exporting destination as well as the importing destination. So, it is, basically, I would say that it is to maintain the export of quality products to other countries.

Why PSI Required?

- **Check the quantity and quality of the merchandise**
- **Check products for any defects**
- **Ensure that production complies with the governing specification, contract, or purchase order**
- **Ensure that the products are in full compliance with your specifications**
- **PSIs can help businesses streamline their supply chain operations and mitigate risks. For example, you can hold the final payment until you get the report and be certain that quality control is everything it should be**



So, here you can see that every agency, these private agencies hired, are looking into the quality of the product and also the quantity of the product. And also to check whether there are any defects and also to check, to ensure whether the production complies with the specifications or in accordance with the contract or the purchase order. So, the specifications, quantity, quality is mentioned in the purchase order. The pre-shipment inspection agencies they look into the order, the purchase order and see that those standards are complied with. So, this is very important with regard to saving the reputation of the exporting country. Also, it is very important for the customs valuation; it is very important for the final payment of the importer, and the quality and quantity are to be maintained for all exported goods.

Application

- **Pre-shipment inspection activities are all activities relating to the verification of the quality,**
- **the quantity,**
- **the price,**
- **including currency exchange rate and financial terms,**
- **and/or the customs classification of goods to be exported to the territory of the user Member.**



So, definitely pre-shipment inspection activities are started with an application, then a verification, verification of quality, quantity, price, then currency exchange rates, what are the financial terms, what is the specification of the goods and then customs classification, this is to be checked by the inspection agency. So, the HS codes or other codes of other countries harmonisation is already done to see that the sending product is the same which was in accordance with the purchase order. It is a duty of the pre inspection agency to make sure that it is the same product which is sent to the other country.

Agreement On Pre-shipment Inspection (PSI)

- **Negotiated in parallel with major agricultural trade negotiations**
- **Came into force in 1995**
- **Applies to all pre-shipment inspection activities carried out in the exporting country, whether contracted or mandated by the government or any government body of a member**
- **Covers all activities relating to verification of quality, quantity & price (including currency exchange rates & financial terms) &/or the customs classification of goods to be exported**



Then the agreement is negotiated with the agriculture agreement. So, the PSI came in effect in 1995 and mainly to look into the verification of quality, quantity, price, the price includes the exchange rates and then customs classification of goods.

PSI Agreement (Article 2) – Obligations of User Members

- **Non Discrimination – User Members shall ensure that PSI activities carried out in a non-discriminatory manner, procedures & criteria uniformly applied to exporters, & uniformly by all inspectors/agencies**
- **National Treatment – Laws, regulations & requirements applied equally to domestic producers**



What are the obligations of the members under this particular agreement? So, the universal principle of non-discrimination is applicable to pre-shipment inspection as well. So, here the members apply pre inspection procedures, irrespective of domestic producers and the foreign companies. So that means you should apply the procedures uniformly to the exporters as well as importers, it is not only to importers but to exporters as well - Non-discrimination. And the second is the National Treatment. So, one is the MFN clause, other is the national treatment principle. So, the regulations are applicable to exporters and importers uniformly.

Obligations of User Members Contd.

- **Standards – Quantity & quality of inspections to be in accordance with standards agreed b/w buyer/seller (in purchase agreement) & in their absence, international standards**
- **Site of Inspection – Pre-shipment activities & issuance of report to be carried out in exporting country & only if this is not feasible in country of manufacture**



Then the most important part is the standards, quality, quantity inspections. So, if there is no standards, if the purchase agreement or the purchase order does not mention about the quality, then it should be in accordance. So that means, if the standards are not mentioned or in the absence of standards, it may be in accordance with the international standards. International standards which we talked about is the codex standards and other international agency standards. And also you can see that the site of inspection or pre-shipment inspection activities usually happen in the country of export, country of manufacture and country of export.

Obligations of User Members Contd.

- **Transparency**
 - PIAs to provide all information required by exporters to comply with inspection requirements
 - Information to include laws/regulations/ procedures & criteria for inspection, price/currency exchange rate
 - User members to ensure that info is made available to exporters conveniently & psi entities maintain offices to serve as information points
 - User members to publish promptly all laws & regulations relating to PSI activities so that other governments & traders are acquainted with these



Then what are the other obligations of members? All the information relating to the product should be given to the pre-shipment agencies. This includes laws, regulations and criteria for inspection, price, currency exchange rate, etcetera, to be given to the pre-shipment inspection agencies. And then also to ensure that this information is made available to the exporters, through the pre-shipment inspection points in every country and the use of members to publish these rules and regulations promptly and efficiently. So, that the public and other governments can access these particular rules and regulations from everywhere, every 164 member countries of this world.

Obligations of User Members Contd.

- **Protection of Confidential Business Information**

- **ensure that PSI entities maintain procedures for treating information as confidential**
- **ensure that psi entity does not give confidential information to 3rd party (except govt entity that mandated them & only to extent necessary)**
- **ensure that confidential information is safeguarded**
- **Certain information not to be asked from exporter which includes: *manufacturing data relating to patents, unpublished technical data, internal pricing, profit levels, terms of contract b/w exporter & supplier, etc***



And what are the other obligations of members? Yes definitely this includes the protection of business information which we talked about, the protection of intellectual property. So, whatever the information is being given to the PSI agencies, that is to be kept confidential. So, it also ensures that, the provisions are also ensures that the pre-shipment inspection entities may need procedure for treating any information as confidential. The agency should not give confidential information to third party, except the governmental entity that mandates them and only to the extent necessary. That means, when you give this particular information to third parties you have to be very careful. At any cost the confidential information, trade secrets, intellectual property is to be safe guarded, to be protected. So, in certain cases, certain information should not be asked from the exporter. This is with regard to the manufacturing data on patents, unpublished technical data, internal pricing, profit level, terms of contract, these should not be asked, these will be considered as trade secrets or secret information. So, patent information you should not ask, you should not ask the manufacturing data and you should not ask unpublished technical data, you should not ask the internal pricing, you should not ask

profit levels and all these should be kept confidential and you need not disclose it to the pre-shipment agencies.

Obligations of User Members Contd.

- **Conflict of Interest** – User members to ensure that psi entities maintain procedures to avoid conflict of interest
- **Delays**
 - User members to ensure that psi entities avoid unreasonable delays in inspection of shipments; once fixed, date to be implemented
 - Once inspection complete, report within **5 working days**
 - Give opportunity to exporter for views in writing, and arrange re-inspection on request at earliest
 - If requested for by exporter, psi entity undertakes preliminary verification of price/ currency exchange rate & inform exporter in writing of acceptance or otherwise.



So, if there is a conflict of interest so, the PSI agencies have to disclose the conflict of interest, if any. And also at the same time the pre-shipment inspection agencies should avoid unreasonable delay in inspection of the shipment because if it is perishable good or non perishable good they should not take unreasonable time. So, the container should not be there in the port for more number of days. So, the inspection report should be ready within **5** working days and if reinspection is required then that can also be done. So, if request is done by the exporter then the agency or the entity those who go for verification of price, currency exchange and quality, quantity, will inform, and give a notice to the exporter in advance that they are going for inspection of these particular goods.

Obligations of User Members Contd.

- **Price Verification** – to ensure that psi's conduct price verification to prevent over/under invoicing or fraud
- **Price comparison for verification** to be based on export prices of similar goods, from same country, about same time, under competitive & comparable conditions of sale, etc
- **Verification of transportation charges only to exporting country**
- **Aspects not to be used for verification** – selling price of such goods produced in importing country, price in another country, cost of production, arbitrary or fictitious prices or values
- **Derogation** – Consignments of value less than a minimum value shall not be inspected



And also we said the quality should be checked, the quantity should be checked, the price also should be checked. So, price verification - this is mainly to prevent under-invoicing or over-invoicing which we talked about in the duties, the entire duties are dependent upon this particular valuation. And then price comparisons so, the same country the price comparisons to be made from the same country during the same course of time because otherwise, the prices may be very high for other form of products, it can be similar products, it can be the same products. So, the valuation should be done correctly. Then consignments of value less than minimum value shall not be inspected that means, in the case of *de- minimis* level it should not, consignments should not be inspected.

Transparency

- **Pre-shipment inspection entities provide to the exporters a list of all the information which is necessary for the exporters to comply with inspection requirements.**
- **the pre-shipment inspection offices maintained by pre-shipment inspection entities serve as information points where this information is available.**
- **Members shall publish promptly all applicable laws and regulations relating to pre-shipment inspection activities in such a manner as to enable other governments and traders to become acquainted with them.**



Transparency - One of the current principle of WTO rules are transparency. So, the pre-shipment inspection entities usually provide to the exporters a list of information which is necessary for the exporters to comply with the inspection requirements. So, it is for these agencies to provide sufficient information to the exporters for inspection requirements. So, it means that basically these inspection agencies should educate the exporters about the rules and regulations and formalities of pre-shipment inspection as well as the exportation. So, moreover the pre-shipment inspection agencies will act as information points where these particular informations are available. And also you can see that the members also publish promptly all applicable laws and regulating mechanisms, pre-shipment inspection activities. So, that every government, traders, exporters, importers can become acquainted with such kind of rules and regulations that means, every member country has to publish all the rules and regulations, all the laws related to pre-shipment inspection. So, that it is readily available to the countries.

Protection of confidential information

- **Pre-shipment inspection entities treat all information received in the course of the pre-shipment inspection as business confidential to the extent that such information is not already published, generally available to third parties, or otherwise in the public domain.**
- **Members shall ensure that pre-shipment inspection entities do not divulge confidential business information to any third party, except that pre-shipment inspection entities may share this information with the government entities that have contracted or mandated them.**



Then protection, we already talked about the confidential information or trade secret. The pre-shipment inspection agency should treat all the information submitted to them as confidential business information. So, and also third parties, those information given to the third parties also can be considered as a confidential business information. And all these private companies must keep it as a private confidential information, as intellectual property. And also at no point of time these agencies should divulge, releasing these information, these confidential business information to any entities, not even to third parties. Neither to private parties nor to the government. So, what does it mean? It means very clearly that it is the duty of the government to protect the confidential information.

Prohibitions

- **Members shall ensure that pre-shipment inspection entities do not request exporters to provide information regarding:**
- **manufacturing data related to patented, licensed or undisclosed processes, or to processes for which a patent is pending;**
- **unpublished technical data other than data necessary to demonstrate compliance with technical regulations or standards;**



What are the prohibitions? So, the members have certain obligations to do certain prohibitions. So, they should ensure that pre-shipment inspection entities do not request exporters to provide information regarding certain things. We already said that it is manufacturing data, details with regard to licenses or intellectual property or patents, details of undisclosed information or trade secrets, and details with regard to process. So, any information with regard to patents which are pending, then unpublished technical data or unpublished technical data which may be with the patent office you cannot ask for. So, the pre-shipment inspection agencies cannot ask for more data than what is required.

Prohibitions

- **internal pricing, including manufacturing costs;**
- **profit levels;**
- **the terms of contracts between exporters and their suppliers unless it is not otherwise possible for the entity to conduct the inspection in question. In such cases, the entity shall only request the information necessary for this purpose.**



Internal pricing, manufacturing cost you cannot ask, profit levels you cannot ask, then the terms of contracts and these agencies can request for necessary information only to the extent of, the pre shipment inspection agencies can only ask for inspection only for the purposes of the inspection.

Delays

- **Members shall ensure that preshipment inspection entities avoid unreasonable delays in inspection of shipments.**
- **Members shall ensure that, following receipt of the final documents and completion of the inspection, preshipment inspection entities,**
- **within five working days, either issue a Clean Report of Findings or provide a detailed written explanation specifying the reasons for non-issuance.**



And now the member should ensure that there should not be any unreasonable delay of containers in the ports. So, the final documents and completion of inspection, the inspection entities, all these have to be comply with the time frame. So, you can see the

other provisions as well. So, either you issue the report now or detailed explanation specifying for non-issuance of the certificate. So, 5 days is given to the pre-shipment inspection agencies for inspection. If you are not completing you have to give a written explanation.

Price verification

- **Members shall ensure that, in order to prevent over- and under-invoicing and fraud, pre-shipment inspection entities conduct price verification.**
- **inspection entity shall base its price comparison for the verification of the export price on the price(s) of identical or similar goods offered for export from the same country of exportation at or about the same time,**



So, we talked about price verification. So, the price verification - the member should ensure that in order to prevent over-invoicing and under-invoicing, over-invoicing is also not good, under-invoicing is also not good. So, they should make a price verification so, that it is not going undervalued or overvalued. Then the inspection agency shall make its price comparison. Price comparison is only to be made to find out the export price of identical goods or similar goods. If the transaction value method is not possible then they should use the identical goods or similar goods. From the same country of exportation, at the same time or from the same person, if the same person is not manufacturing then from a third person. So, these criteria are also to be maintained by the parties.

Prohibitions

- the following shall not be used for price verification purposes:
 - a) The selling price in the country of importation of goods produced in such country;
 - b) The price of goods for export from a country other than the country of exportation;
 - c) The cost of production;
 - d) Arbitrary or fictitious prices or values.

Then again as I told you the prohibitions many times we said, you cannot ask for, the prices shall not be used for price verification. In case of the selling price in the country of importation of goods produced in such country. The price of goods for export from the country other than the country of exportation. The cost of production arbitrary or fictitious prices or values. These cannot be asked by the pre-shipment inspection agencies.

Appeal, Revision & Dispute Settlement Procedures

- 3-tier mechanism to facilitate consideration of complaints & grievances
- Appeals Procedure – psi entities shall establish procedures to receive, consider & render decisions on grievances raised by exporters as per guidelines:
 - Designate officials to consider & decide on grievances
 - Exporters to give in writing to designated officers the nature of grievance, the facts & suggested solution
 - Designated official to give a sympathetic consideration & a quick decision

And there must be appellate review, appeal, revision, dispute settlement procedures. So, a three-tier mechanism. So, they shall consider the grievance redressal. So, they have to designate officials to consider and decide on grievances. And also you can see that these pre-shipment inspection agencies, if they take arbitrary decisions then there must be dispute settlement system, administrative machineries as well as quasi-judicial authorities to be appointed for dispute resolution mechanism, dispute settlement procedures. And also it is saying that the officers to give a sympathetic consideration for quick decisions.

Independent Review Procedures (Article 4)

- **Members to encourage mutual resolving of disputes, but either party may refer dispute for independent review**
- **Establishes an independent review entity (IRE) to which exporter & PSI entities can submit grievances**
- **Complaints to IRE to be examined by panel of 3 experts**
- **Exporter representative (International Chamber of Commerce), PSI rep (Int. Fed of Inspection Agencies) & independent expert from trade nominated by IRE(chair)**
- **Object of review to establish whether provisions of Agreement complied with**
- **Decision to be by majority vote, within 8 days**
- **Decision binding**

There must be independent review mechanism and procedures. The member should try to resolve their disputes by alternate dispute resolution mechanisms. So, they can use the independent review mechanism as well. And also establish an independent review entity and to which the exporter and the PSI entities can submit grievances. And compliance to these independent review entity has to be examined by the panel of three experts. So, exporter's representative, then inspection agency and also independent expert nominated by the independent review entity. So, this review mechanism, review committee can look into if any of the agreements, any of the provisions of these agreements are implemented or not implemented. And a decision to be taken within a period of 8 days and such decisions of the committee, so, the IRE, the independent review entity is binding on the parties.

Settlement Of Disputes Between Governments (Article 8)

- **Where either the user country or exporting country consider that their rights under the PSI Agreement are infringed, they could take disputes to WTO, for settlement**

And here all pre-shipment inspection disputes between countries are done in the WTO. They fight the cases in the WTO, by the member countries, the representative governments. So, no private agencies nor the parties can approach the WTO disputes settlement system only the respective countries can participate as the complainant and the respondents.

Notification (Article 5)

- **Members to submit to the Secretariat copies of Laws & Regulations by which this Agreement is put into force & other laws/regulations relating to psi**
- **No changes in laws/regulations to be enforced before these are officially published**
- **To be notified to secretariat immediately after publication**
- **Secretariat shall inform members of availability of these**

And every member country has to submit a copy of the laws, regulations and other procedures about the pre-shipment inspection to the WTO committee on pre-shipment

inspection. So, you can see that any kind of publications are to be notified to the WTO secretariat on PSI. And also, you should inform, the committee should inform the members when it will be publicly available.

Review (Article 6)

- **Review to be done at end of second year after entry into force and every 3 years thereafter**
- **Ministerial Conference to review provisions, operation & implementation of Agreement based on objectives and experience gained**
- **As a result of review, provisions may be amended**
- **In 1996, a Working Party established to conduct review – issued 3 reports – all approved by General Council**



And review to be done at the end of every second year after ending the force of three years thereafter. All these time, these transition periods are over. Now, no more period is available as transition periods to any WTO member countries. And in ministerial conferences from time to time, they review this and they come out with solutions. So, in 1996 working party had been established at that point of time and they conducted review, they submitted reports and all approved by the general council. So, if a committee does a good job then that will be accepted by the WTO General Council.

Consultation & Dispute Settlement

- **Article 7 (Consultation)** provides for consulting other members with respect to any matter affecting the operation of the Agreement
- **Article 8 (Dispute Settlement)** provides that all disputes be settled according to Article XXIII of GATT 1994 and the WTO understanding on Dispute Settlement
- **Article 9 on Final Provisions** requires
 - members to take necessary measures for implementation of this Agreement
 - that laws & regulations of members shall not be contrary to the provisions laid down



The dispute settlement provisions of the WTO-DSU is applicable to the agreement on pre-shipment inspection as well. So, the same process, consultation process then the panel, appellate body, all these provisions are applicable in the case of pre-shipment inspection as well.

Various country practices

- **Kuwait requires PSI for regulated products valued at more than \$3,000.**
- **Mexico requires a PSI for a variety of goods such as shoes, textiles, steel, and bicycles only if they do not qualify for NAFTA.**
- **Shipments to Saudi Arabia and Kuwait must contain a "certificate of conformity" for a small number of products.**



Then various country practices – practices differ from country to country as I told in all the agreements it is not the objective of WTO to come out with a uniform law among its member countries, but to put a uniform standard that is the objective of WTO agreement.

So, here in some of the practices we will see that the Kuwait requires the PSI for regulated products valued at more than \$3000. So, they put a certain cap, that is all. Mexico – for a variety of goods if traded through NAFTA then they do not require a certificate like shoes, textiles, steel, bicycles, so, variety of goods. Shipment to Saudi Arabia and Kuwait must contain a certificate of conformity for small number of products, very small number of products.

What are the key benefits?

- **Facilitate and promote transparency in trading activities**
- **Improve the collection of customs duties and taxes**
- **Identify dumping and subsidies**
- **Ensure that goods conform to contract specifications**
- **Provide authorities with effective means of overseeing and controlling foreign trade through accurate statistics**



And also the key benefits are to facilitate the transparency, promoting transparency in trading activities and improve the collection of customs duties and taxes. Even this inspection will lead to finding out about the dumping and subsidies or subsidized products. And the goods, they make sure that the goods conform to the purchase order, the quality of the product is in conformity with the purchase order. And provides authorities with an overseeing power, controlling power through accurate statistics. Accurate data - this is to be maintained.

Procedures

- **The importer lodges a pro-forma invoice with the International Agencies.**
- **Which passes it to the appropriate offices in the country of export.**
- **Agency conducts physical verification of goods**
- **Ensures that their description matches the information on the Pre-shipment Inspection order and pro-forma invoice.**
- **Makes final price analysis.**
- **Calculates the value for customs duty purposes in line with Customs regulations in the importing country.**



If you look into the procedures of pre-shipment inspection you can see that the importer has to launch a pro forma invoice with the agencies. And it will be passed on to the appropriate officers of the country of export then agency conducts a physical verification of goods. And then they ensure that their description matches the information which is given on the pre-shipment inspection order or pro forma invoice purchase order, then makes final price analysis then calculates the value, calculating the value with comparable prices.

Procedures

- 1) **The importer opens an import document or license.**
- 2) **The importer informs the inspection service in the country of import of a pending shipment, and either pays for the inspection up front or pays a percentage based on the value of the commercial invoice, depending on the terms of the importing country's inspection contract.**
- 3) **An inspection order is forwarded to the inspection company office in the country of export.**



Then the importer opens an import document or license, then the importer can inform the inspection services in the country of pending shipment. And the terms of each and every condition of inspection is different, inspection fees are also different, inspection contracts are also different. So, once the inspection order is forwarded, it should be forwarded to the inspection company office in the country of export. So, you have to give a notice before the inspection is done.

Procedures (contd.)

- 4) **The inspection company contacts the exporter to arrange date, time, and location for inspection. It also requests all required shipping documents and price information (invoices). The exporter must provide these documents in a timely manner to avoid demurrage or other penalties.**
- 5) **The inspection is performed.**
- 6) **If no discrepancies are noted during the inspection, and once all final documents are received from the importer and exporter, a “Clean Report of Findings” is issued confirming the shipment’s value, customs classification, and clearance.**

And also the inspection company contacts the exporter to arrange date, time, location of inspection. So, all the shipping documents, information, invoices and also documents. So, this submission of documents can avoid even delay. Then no discrepancies are noted during the inspection and once all final documents are received from the importer and exporter, the clear report of finding is to be issued. So, you should confirm the shipment value, customs classifications, quality, quantity, reputation, all these to be mentioned in the clearing certificates.



Procedures (contd.)

- 7) The goods are shipped to the importing country.
- 8) The importer uses the inspection report to get the imported goods released from customs.

If goods reach the border of the importing country without inspection, they usually have to be re-exported to a nearby country for inspection prior to re-entry or are subject to heavy penalties.

- 9) Discrepancy report.



Then goods are shipped to the importing country and where the importer uses the inspection report to get the imported goods and release it from customs. So, goods reach the border. So, without inspection usually they have to be re-exported to a nearby country for inspection before sending and then again re-entry subject to a heavy penalty otherwise you have to file a discrepancy report.

Indian provisions

- **Under the Export(Quality Control and Inspection) Act, 1963, amended in 1984.**
- **about 1000 commodities under the major groups of Food and Agriculture, Fishery, Minerals, Organic and Inorganic Chemicals, Rubber Products, Refractoriness, Ceramic Products, Pesticides, Light Engineering, Steel Products, Jute Products, Coir and Coir Products, Footwear and Footwear Products / Components are subject to compulsory pre-shipment inspection.**



Then we will see the Indian provisions. So, in India, there is Export (Quality Control and Inspection) Act, 1963 and it was amended in 1984 and the provisions of this particular

Act is applicable for pre-shipment inspection. So, here 1000 commodities are put in India mandatorily in pre-shipment inspection which includes food and agriculture, fisheries products, minerals, organic and inorganic chemicals, rubber products, then refractoriness, ceramic products, pesticides, light engineering, steel products, jute products, coir products, footwear. So, you can see 1000 products are put in the Indian mandatory list of export inspection, but still India is one of the country where the largest number of consignments are rejected from the US or from European Union.

Export Inspection Council of India

EIC is an advisory body to the Central Government, which is empowered under the Act to:

- Notify commodities which will be subject to quality control and/ or inspection prior to export,
- Establish standards of quality for such notified commodities, and
- Specify the type of quality control and / or inspection to be applied to such commodities.



So, what is the so, again you can see the Export Inspection Council of India, which is constituted under this particular Act, has a significant role in advising the members and doing these inspections. So, and also we talked about standard of quality. If you are adopting a higher standard you should inform it to all the members, then the quality must be very good otherwise the buyer is going to be troubled and seller also is going to be fined.

- **Certification of quality of food items for export through installation of Food Safety Management Systems in the food processing units as per international standards.**
- **Issue of different types of Certificates such as Health, Authenticity etc. to exporters under various product schemes for export.**
- **Issue of Certificates of Origin to exporters under various preferential tariff schemes for export products.**
- **Laboratory testing services.**



So, and also we can see that so, food safety mechanism, which we talked about, so, you can see that, it can be done during this kind of practices or this kind of time. Certification prices - then certification as of health, certification with regard to authenticity, certification with regard to other exporters under various provincial tariff schemes, laboratory testing services. So, all these are available in India.

- **Training and technical assistance to the industry in installation of Quality and Safety Management Systems based on principles of Hazard Analysis Critical Control Point (HACCP), ISO-9001: 2000, ISO: 17025 and other related international standards, laboratory testing etc.**
- **Recognition of Inspection Agencies as per ISO 17020 and Laboratories as per ISO 17025 and utilizing them for export inspection and testing.**
- **In rendering the above services, EIAs are backed by qualified technical manpower, having nearly forty years of diversified experience of quality control and inspection of notified commodities including their testing as per international standards/importing countries' standards or the foreign buyers' specifications.**



Then the HACCP control mechanisms, the principles of Hazard Analysis Critical Control Point (HACCP). So, India issues HACCP certificates, quality and safety management

systems. So, based on ISO, ISO standards are maintained by India and other laboratory testing is done by this council. Then inspection agencies - recognition of inspection agencies is done and laboratories also. So, for rendering, you can see that this is all managed by the technically qualified people manpower. Manpower with diversified experience in quality control and inspection notification. And it will be reported back to WTO. And important countries standards and the knowledge about the foreign laws of buyers and specifications are also very important with regard to pre-shipment inspection in India.

ISI and Agmark

- **Products having ISI Certification mark or Agmark are not required to be inspected by any agency.**
- **These products do not fall within the purview of the export inspection agencies network.**
- **The Customs Authorities allow export of such goods even if not accompanied by any pre-shipment inspection certificate,**
- **provided they are otherwise satisfied that the goods carry ISI Certification or the Agmark.**



And especially the BIS mark, the former ISI certification mark AGMARK. AGMARK for all agriculture products are mandatory and BSI mark for certain type of goods, like electrical goods is mandatory. But these are not mandatory; ISI certification marks AGMARK are not required to be inspected by the agency because ISI mark itself is an inspection agency, a certification agency. So, if there is a BIS certification or AGMARK there is no need to check it again. And also you can see that custom authorities must allow such export of such goods even if not accompanied by any pre-shipment inspection certificate. Only in the case of BIS certification and AGMARK because these already pass through one certification mechanism. So, BIS mechanism, BIS certification and AGMARK mechanism.

Procedures

- Depending upon the nature of products, goods meant for export are inspected for quality in the following manner:
- **Consignment to Consignment Inspection** Each individual consignment is inspected by the Export Inspection Agency, Commodity Board and certificate of inspection is issued.
- **ISO-9000** - The ISO-9000 is also the hallmark of a good quality- oriented system for suppliers and manufacturers.



Then again you can see that other international standards - we are adopting standards like ISO 9000. So, it is also the hallmark of a good quality. So, these inspection agencies must ensure that these standards, in certain cases these standards are followed for certain goods.

India

- **Export (Quality Control & Inspection) Act, 1963**
- **Export Inspection Council of India (EIC)**
- **Certification is mandatory in the areas of fish & fishery products, milk products, poultry products, egg products, meat & meat products and honey.**
- **Other products: gelatine, ayurvedic, siddha and unani products; sesame seeds; hops and hop products; animal feeds and non-basmati rice.**



So, the Act is 1963 Export Quality Control & Inspection Act. Then Export Inspection Council of India is the Government of India authority to manage and coordinate all these activities. And from India, certain products certification is mandatory for example, meat

and meat products, eggs products, poultry products and milk products, fishery products, fish and fishery products. So, there is n number of products; it was mentioned that for almost 1000 products, require an inspection certificate, whether it is Ayurvedic or Siddha or any other product; mandatory list requires an Export Inspection Council of India Report or the private agencies' reports.

Conclusion

- **The practice of employing private companies to check shipment details that include price, quantity and quality of goods ordered overseas.**
- **The agreement of PSI recognizes that principles of the GATT Agreement apply to such activities, because the purpose is to safeguard national financial interest as well as to compensate for inadequacies in administrative infrastructures.**



So, I would say that these private agencies, India hired a series of private agencies, international agencies are hired to issue these particular certificates. So, if I want to export certain things they will go to these particular agencies and get the product certified and then they send with the certificates. So, the shipments especially with regard to quality and quantity is very important because these if they stop, if the pre-shipment inspection agencies stop working then we will be exporting bad qualities, there will be more and more number of export rejections happening. And also the GATT principles - the GATT principles are followed by the pre-shipment inspection agreement. So, because there is a lot of finance is involved in export and import and the pre-shipment inspection mechanism is one of the finest systems all over the world, to send only quality products to check the quantity and also check the prices, and every country has administrative mechanism and quasi-judicial mechanism for review of the agencies, pre-shipment inspection agencies, the certification program. It is the duty of every country to make inquiry points so that all the rules and regulations will be circulated to the WTO member countries - transparency. Transparency is also a very important factor in pre-shipment inspection, and for certain goods, pre-shipment is mandatory. If you already have a BIS certification or AGMARK certification, then it is not mandatory. But the government should, India should focus more on exporting only quality products because it is a question of Indian reputation, reputation of the Indian products in the international

market. So, the inspection agencies to be strengthened or the inspection agencies – their working should be facilitated so that we can send more and more goods which will contribute to the economy.

So, we talked about in this particular agreement, the basic purposes, basic provisions of the pre-shipment inspection within the WTO agreement as well as the domestic authorities. What are the laws and regulations for domestic authorities to look into in this particular agreement? So, this is all about the pre-shipment inspection.

Thank you.