



Trade Guide: WTO PSI

WTO AGREEMENT ON PRESHIPMENT INSPECTION

What is this Agreement and what does it do?

The Agreement on Preshipment Inspection of the World Trade Organization (WTO) provides that the preshipment inspection process should not give rise to unnecessary delays or unequal treatment. It establishes an agreed set of transparent procedures, including deadlines, for these inspections and creates an independent, impartial review body to resolve disputes between importers and preshipment inspection companies.

Preshipment inspections are used by many developing countries to inspect prospective imports before they are shipped from the exporting country. The private companies that carry out the inspections verify that the price, exchange rate, financial terms, quantity, quality and customs classification of the transaction are consistent with what was ordered.

The WTO Website contains information on what Members use pre-shipment inspection. The latest available information can be found under a search of the [Working documents of the Committee on Customs Valuation on Preshipment Inspection](#). The latest issue of the “Committee on Customs Valuation - Preshipment inspection - Note by the Secretariat” to include any “Revisions” will contain the full list.

All [WTO members](#) are parties to this Agreement. The Agreement entered into force on January 1, 1995. It has no expiration date.

The WTO Trade Facilitation Agreement’s Article 10.5 establishes that once the agreement is in force Developed Members immediately and Developing Members according to their schedule of commitments shall not require the use of preshipment inspections in relation to tariff classification and customs valuation. Additionally, [the agreement](#) encourages WTO Members not to introduce or apply any other types of new preshipment inspection requirements.

Who benefits from this Agreement?

Any American company exporting to a WTO member country that requires preshipment inspections can benefit from this Agreement.

How can this Agreement help my company?

Generally, when you receive an order from a buyer in a country that requires preshipment inspections (PSI), you will be notified that you must contact a specified PSI company to arrange for the inspection. When you contact that company, ask if it is aware of the PSI Agreement and if it will follow its provisions. Under the PSI Agreement, the company must provide you with a specific list of what it will be seeking in the inspection and what criteria it will follow. You and the company should also agree on an inspection date.

Problems that can arise

Chances are that your relationship with the PSI company will be a satisfactory one. Many exporters, however, have encountered difficulties arising from the use of PSI companies. These have included:

- delays on the part of PSI companies in undertaking and completing inspections, thus slowing down the entire exporting process;
- delays by PSI companies in issuing the required Report of Findings, without which the customs authorities in the importing country will not authorize the goods to be unloaded;
- arbitrary adjustments in the price of a shipment;
- arbitrary disqualification of a shipment, frequently without an explanation of why the shipment does not comply with the country's customs regulations; and
- demands by PSI companies for unneeded confidential and proprietary business information.

When such problems arise, the WTO Agreement spells out the rights of exporters and provides a means of redressing abuses.

How the Agreement can help

The Agreement seeks to improve the preshipment inspection process by laying out fair and understandable procedures and time schedules, and by making the governments of importing countries responsible for the actions of the PSI companies that they use.

The Agreement requires inspections to be carried out on the date agreed upon by the exporter and the PSI company. It states that the exporter must receive from the PSI company — within 5 working days of the inspection — either a Clean Report of Findings (which indicates approval of the shipment) or a detailed explanation, in writing, of why such a Report could not be issued. The Agreement requires that price verification must follow prescribed guidelines. PSI companies are not to request certain business proprietary information and must ensure that any confidential business information is not released.

The WTO Agreement further protects American and other exporters by requiring all PSI companies:

- to apply criteria and procedures used in preshipment inspections to all exporters in an equal, nondiscriminatory manner;
- to provide exporters with a list of all the information necessary for them to comply with inspection requirements;
- to give exporters information on the procedures and criteria used in their inspection and valuation procedures;
- to follow the specific price-verification criteria laid out in the Agreement;
- to treat all information received from exporters as confidential unless the information is already available to the general public;
- not to divulge any confidential business information except to the government contracting for the PSI services, and then only if that information is customarily required for customs, import licensing, exchange

- control or payment forms; and
- not to request from exporters information related to patented, licensed, or undisclosed processes, or information on manufacturing costs, internal pricing and profit levels;
- to request the terms of the contract only if the preshipment inspection cannot be properly conducted without that information.

How do I use the Dispute Settlement Provisions of this Agreement?

If you have a problem or a disagreement with a preshipment inspection, the first thing to do is to contact the PSI company and attempt to work out the problem directly. The Agreement requires the PSI company to appoint an appeals official to handle all exporters' complaints. When dealing with a PSI company's appeals official, you should refer to the guidelines contained in the Agreement and make sure that he or she is also familiar with the Agreement's requirements.

The WTO Agreement established a review body — the Independent Entity (IE) - to hear exporters' complaints. The Director of the Independent Entity is a professional staff member of the World Trade Organization.

Exporters may request an IE review of their case two days after submitting a written appeal to the PSI company. If you want to request an IE review, you must submit a completed Standard Application form to the IE, in care of the WTO Secretariat, no later than 90 days after a PSI company either issues a Clean Report of Findings or notifies you of its refusal to issue a Report. Copies of the Standard Application form are available via email from the Trade Agreements Negotiation and Compliance at the U.S. Department of Commerce.

Copies of all documents that you consider to be relevant to the dispute should either accompany the application or be submitted immediately thereafter. You may also make an oral presentation to the panel. Preparation and timeliness in the review process are crucial, however, as the IE panel must make a decision within eight working days of the review's request.

You should be aware that to date no complaint has ever been brought to the Independent Entity. As a result, no body of precedent yet exists for this dispute settlement process. Reasons for the lack of formal complaints, according to exporters, include: fear of retaliation by the PSI company or the country which uses it; the lack of any assurance that a decision rendered by the IE in a particular case would be binding on the PSI company in the future; and the high cost of filing a complaint. Since the operation of the Independent Entity is not financed by the WTO, exporters must submit a deposit in the amount of 17,500 Swiss francs (approximately \$12,500), which must accompany the Standard Application. All unused funds submitted to pay for panel costs will be returned.

The Agreement does not address the awarding of damages or compensation to an exporter who files a complaint with the IE. The IE panel could recommend damages, but since no cases have been filed, there is no certainty about the outcome of such a finding. The IE does have authority to apportion the cost of the review, so that most, or even all, of the expenses involved are assumed by the person or entity acting in non-compliance with the Agreement.

Before filing a formal complaint with the Independent Entity, you may wish to [email](#) the Office of Trade Agreements Negotiation and Compliance at the U.S. Department of Commerce to discuss the matter further and determine whether alternative options exist in your case.

Can the U.S. Government help me if I have a problem?

Yes. If you have a problem with a preshipment inspection, contact the Office of Trade Agreements Negotiations and Compliance's [hotline](#) at the U.S. Department of Commerce. After discussing your problem with you and explaining your rights under the Agreement, the Center can — with your concurrence — contact the PSI company to discuss your concerns. If appropriate, we can also raise the particular facts of your situation with the government of the other country involved. Under the WTO Agreement, governments of importing countries are responsible for ensuring that the PSI companies working for them comply with the provisions of the Agreement.

How can I get more information?

The complete text of the WTO Preshipment Inspection Agreement is available from the Office of Trade Agreements Negotiations and Compliance's [WTO Agreements database](#).

If you have questions about this Agreement or how to use it, you can [e-mail](#) the Office Trade Agreements Negotiation and Compliance which will forward your message to the Commerce Department's Designated Monitoring Officer for the Agreement. You can also contact the Designated Monitoring Officer at the following address:

Designated Monitoring Officer

WTO Preshipment Inspection Agreement

Trade Agreements Negotiations and Compliance

Enforcement and Compliance

International Trade Administration

U.S. Department of Commerce

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