

선적전 검사(Preshipment Inspection)협정 해설

개 요

○ 선적전 검사 개념

- 수입물품 검수, 관세 평가 등의 통관 기능이 취약한
- 주로 개도국이
- 위 기능을 대행하는 전문 회사와 계약하여
- 자국으로 수입되는 물품이
- 각 수출국에서 선적되기 전에
- 수량, 품질, 가격 등에 대한 각종 검사 업무를 수행하게 하는 것

○ 필요성

- 취약한 통관 기능 보완
- 직접 수행시 예상되는 통관 지연, 불편, 오심 사전 회피
- 자국으로의 수출 편의 도모

○ 협정 구조

- 선적전 검사 회사 사용국의 의무
- 수출국의 의무

○ 특징 및 실효성

- 사용국에 대한 의무 압도적
- 통관 관련 각종 규범 준수 주체는 선적전 검사 회사
- 사용국은 동 준수 보장(ensure) 의무
- 보장 수단은 사실상 부재, 불보장시의 제재 수단 부재
- 동 협정 위반 시비 사례는 희소

Article 1 Coverage - Definitions

1. .. applied to all preshipment inspection activities carried out on the territory of Members
2. "user Member" means a Member contracts for or mandates the use of preshipment inspection activities.
3. Preshipment inspection activities are all activities relating to the verification of
 - quality, quantity, price, exchange rate and financial terms, customs classification of goods
 - to be exported to the territory of the user Member.
4. "preshipment inspection entity" is any entity contracted or mandated by a Member to carry out P.I

Article 2 Obligations of User Members

Non-discrimination

1. .. shall ensure that P.I ..carried out in a non-discriminatory manner, and
 - that procedures+criteria ..objective+equal to all exporters
 - shall ensure uniform performance of inspection by P.I entities contracted

Governmental Requirements

2. .. shall ensure GATT 3.4조(내국민대우) be respected

Site of Inspection

3. .. shall ensure that all P.I activities are performed in 수출국 or,
in 제조국 if 특수 사정 or 합의시

Standards

4. ..shall ensure that 수량/물질 검사 performed in accordance with the standards in 계약서 and that, in the absence of such standards, relevant international standards

Transparency

5. .. shall ensure that ..conducted in a transparent manner.
6. .. shall ensure that, P.I entities provide all information for the exporters to comply with inspection requirements

- P.I entities shall provide the actual information when so requested by exporters.

This information shall include 사용국의 P.I 관련 법규, and

검사 절차 및 기준 for inspection,

for price, exchange-rate verification,

수출자 권리 vis-à-vis the entities, and

appeals procedures

추가 요건 및 기존 요건 변동 사항 not be applied

- unless the exporter is informed at 검사일 결정시점

- , in emergency situations of 일반예외/안보예외 GATT, 추가/변경 요건 may be applied before the exporter has been informed.

7. ..shall ensure that the information referred to in paragraph 6 is made available to exporters, and that P.I entities office serve as **관련 정보 입수처**

8. ..shall publish P.I **관련 법규**

- promptly,

- in a manner to enable **타국 정부/traders** to become acquainted with

Protection of Confidential Business Information

9. ..shall ensure that P.I entities treat all information received in the course of P.I

- as confidential if, not already published, available to third parties, or in the public domain

that P.I entities maintain **관련 절차**

10. ..shall provide information to Members on request on the measures of para 9.

any Member not required to disclose confidential information

- which would jeopardize the effectiveness of P.I programmes or

would prejudice the legitimate commercial interest of particular enterprises

11. ..shall ensure that P.I entities do not divulge confidential business information to any third party,

- but P.I entities may share with **사용국 정부기관**

that C.B information received from P.I entities is adequately safeguarded

P.I entities shall share C.B information with **사용국 정부**

- only when required for L/C, payment, customs, import licensing or exchange control purposes.

12. ..shall ensure that P.I entities do not request information regarding:

- (a) manufacturing data related to patented, licensed or undisclosed processes, or to processes for which a patent is pending;
- (b) unpublished technical data other than necessary;
- (c) internal pricing, manufacturing costs;
- (d) profit levels;
- (e) the terms of contracts

13. 상기 정보 수출자 임의 제공 무방

Conflicts of Interest

14. .. shall ensure that P.I entities maintain procedures to avoid conflicts of interest:

- (a) between P.I entities and their related entities,
 - including any entities 상호간 have a financial or commercial interest,
 - 선적전 검사 대상 물품 선적사;
- (b) between P.I entities and 선적전 검사 대상사;
- (c) with P.I entities의 검사 담당 부서외 부서

Delays

15. ..shall ensure that P.I entities avoid unreasonable delays in inspection
that the inspection be conducted on 검사 예정일,
16. ..shall ensure that P.I entities, 검사후 5일 이내 either issue a Clean Report of Findings, or
provide explanation for non-issuance
that, in the latter case, P.I entities give exporters 소명 기회 and
arrange re-inspection, if requested
17. ..shall ensure that, whenever requested, P.I entities undertake a preliminary verification of
 - price, exchange rate, invoice and, application for import authorization.. shall ensure that a price/rate accepted in preliminary verification is not withdrawn,
 - providing the goods conform to the import documentationthat, after a preliminary verification, P.I entities immediately inform
 - either price/rate acceptance or
 - reasons for non-acceptance
18. ..shall ensure that P.I entities send to exporters C.R. Findings expeditiously
19. ..shall ensure that, if a clerical error in CRF, P.I entities forward the corrected CRF expeditiously

Price Verification

20. ..shall ensure that price verification be conducted according to the following:

(a) P.I entities shall only reject a contract price ...on a verification process in conformity with (b)~(e);

(b) price comparison ..on the price(s) of identical or similar goods offered for export
from the same country of exportation
at or about the same time,
under competitive and comparable conditions of sale,
in conformity with customary commercial practices

Such comparison shall be based on the following:

(i) only prices providing a valid basis of comparison shall be used;

(ii) shall not rely upon the price of goods offered
- for export to different countries of importation
- to arbitrarily impose the lowest price;

(iii) shall take into account the elements listed in (c);

(iv) the exporter shall be provided with an opportunity to explain the price;

(c) .. P.I entities shall appropriately consider terms of the sales contract and
generally applicable adjusting factors;

- commercial level and quantity of the sale, delivery periods and conditions, price escalation clauses, quality specifications, special design features, special shipping or packing specifications, order size, spot sales, seasonal influences, licence or other intellectual property fees, services rendered as part of the contract; certain elements relating to the exporter's price, such as the contractual relationship between the exporter and importer;

(d) 운송비 shall be verified with the agreed price of the mode of transport in 수출국;

(e) the following shall not be used:

(i) 수입국내 생산된 상품의 수입국내 판매 가격;

(ii) the price of goods for export from a country other than 수출국;

(iii) the cost of production;

(iv) arbitrary or fictitious prices or values.

Appeals Procedures

21. ...shall ensure that P.I entities establish 수출자 항변 접수, 심사, 판정 절차, and

that information concerning such procedures is made available to exporters

that the procedures are developed & maintained following guidelines:

(a) P.I entities shall designate official(s) to receive, consider and render decisions on exporters' appeals or grievances;

(b) exporters shall provide to the official(s) facts, nature of the grievance and a suggested solution;

(c) official(s) shall afford sympathetic consideration to exporters' grievances and render a decision ASAP

Derogation

22. 소액 상품은 선적전 검사 대상에서 제외 가능(위 조항들 부적용), 동 가액은 수출자에게 공지

Article 3

Obligations of Exporter Members

1. ..shall ensure that their PI 관련 법규 are applied in a non-discriminatory manner.
2. ..shall publish promptly all 관련 법규 in such a manner 타국 정부/traders to become acquainted
3. ..shall provide technical assistance to 사용국, if requested

Article 4

Independent Review Procedures

1. 수출자의 시비 제기 2일후, PI entity 및 수출자 may refer the dispute to independent review. 각국은 review 관련 아래 사항 준수 의무:

(a) administered by an independent entity constituted jointly

- by PI사 대표 기구 and 수출자 대표 기구;

(b) independent entity in (a) shall establish a list of experts, nominated by PI., 수출자 기구, I.E 자체

- geographical distribution, updated annually, publicly available, notified to WTO and circulated to all Members;

(c)~(h) 수출자, PI사 패널 설치 요청- 3명 패널 설치-nominated list에서 각 1명 등 패널 구성, 운영, 판결 준수 등 운영 내용

Article 5~9 관련 법규 통보, 협의, 분쟁 등 행정 조항