CHAPTER 13

THE AGREEMENT ON PRESHIPMENT INSPECTION

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I. Introduction

A number of developing and transition economy countries require imported goods to be inspected for customs and/or foreign exchange purposes in the country of exportation prior to shipment. This Preshipment Inspection (“PSI”) is carried out by private companies under contract with, or mandate\(^1\) from, the government of the importing country. The Agreement on Preshipment Inspection (“API”), which is designed to ensure that PSI is carried out in a fair and non-discriminatory way, is one of the shortest and least controversial of the Uruguay Round Agreements. Negotiation of the Agreement was not particularly contentious, and the Agreement has not been the subject of any dispute resolution proceedings under the WTO.

The PSI programs were originally designed for foreign exchange purposes. The first program was introduced in the Democratic Republic of Congo (Zaire) in 1965, and was aimed at preventing capital flight caused either by exporters swindling importers with inferior or overpriced goods or by importers colluding with exporters to overprice the goods and pay the balance into a foreign bank account on behalf of the importers. The Zaire program required the PSI company to inspect the goods prior to shipment in the country of supply by verifying the quality, quantity and the price of the goods. If satisfactory, the PSI company would issue a Clean Report of Findings (“CRF”) which was one of the documents needed by the exporter to receive payment for the goods. If discrepancies were detected and were not rectified by the exporter, the PSI company would issue a Non-Negotiable Report of Findings which prevented the exporter from receiving payment. Similar foreign exchange programs were introduced in other developing countries in the 1970s and 1980s.

In 1985, the first PSI program for Customs purposes was introduced in Indonesia. It was designed to facilitate trade by improving the speed and efficiency of customs clearance procedures, ensuring uniform application of import regulations and customs valuation and classification, encouraging foreign investment by guaranteeing transparency and predictability of import procedures, and facilitating the collection of import duties and taxes.

Originally, only one company provided government-mandated PSI services, the Geneva-based SGS Société Générale de Surveillance S.A., but in 1984 other companies followed suit.

In the 1980s the expansion of foreign exchange PSI programs provoked concern from some exporters who were unhappy about their contract prices being reviewed and claimed that PSI acted as a trade barrier. In Germany the Government issued a regulation requiring PSI companies to obtain a licence from the Government. In the USA, some Florida trade associations petitioned the U.S. Government demanding that action be taken against several Latin American and Caribbean Governments which had introduced PSI to prevent capital flight. A compromise was reached whereby the U.S. Government undertook to pursue bilateral discussions with the countries concerned, raise the question of PSI within GATT, and to request the United States International Trade Commission (“USITC”) to undertake an investigation\(^2\). The International Chamber of Commerce (“ICC”), based on the concerns of their members, held discussions with the International Federation

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\(^1\) The term “mandate” is usually used for those programs where there is no contract *per se*, and the PSI entity is authorized or accredited to perform PSI by a decree promulgated by the government.