

PRE-SHIPMENT INSPECTION PROGRAMME

GUIDELINES FOR EXPORTERS



ROYAUME DU MAROC

Programme de Vérification de la Conformité (VOC)





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1. INTRODUCTION

FOREWORD

Pre-shipment inspection (PSI) programmes worldwide play a significant role in facilitating trade through expedited customs' clearance and the limitations on unfair competition between importers and local industry. This has continually encouraged exports and contributed to the expansion of foreign investment.

The purpose of this document is to outline exporters with a general overview of the Pre-shipment inspection (PSI) programme established by Applus Fomento Contrôle for its implementation on behalf of governments requiring verification of their country's imports prior to entry.

The content of this guideline is based on the information prevailing at the time of publication and does not cover every situation which might arise. Since some of the procedures vary according to the specific requirements of the country of importation, Applus Fomento Contrôle has also prepared "Data Sheets for Exporters" available upon request.

SCOPE AND OBJECTIVES

Depending upon the requirements of the user government, the scope of the PSI may include the verification of the goods in respect to quality, quantity, export market price, Customs classification and import eligibility.

The quality and quantity inspection may be used for the purpose of verifying that the goods conform to contractual specifications and/or the value and Customs tariff code.

The result of the inspections are presented within the Report of Findings.

The principal objectives of PSI include:

- ✓ Allow for the correct determination of import duties and taxes.
- ✓ Enhance customs clearance.
- ✓ Limit unfair competition to the local industry.
- ✓ Improve the transparency and application of procedures to encourage foreign investment.
- ✓ Protection of importer's interests.
- ✓ Conservation of foreign exchange.

THE WORLD TRADE ORGANIZATION (WTO) AGREEMENT ON PSI

The World Trade Organization (WTO) on Pre-shipment inspection has established requirements and procedures for all companies engaged in the provision of these services as contracted by User Governments.

Applus Fomento Contrôle is committed to comply with the requirements established within the WTO agreement within all aspects of the provision of this service.

Exporters with any appeals or claims regarding a lack of compliance with this agreement may direct the complaint to the Applus Fomento Contrôle office providing the service using the Internal Appeal Form included in the annex to this guideline.

THE WORLD TRADE ORGANIZATION (WTO) AGREEMENT ON CUSTOMS VALUATION

WTO Member countries are required to implement the WTO Agreement on Customs Valuation, "ACV", (officially entitled the Agreement on Implementation of Article VII of GATT 1994).

In general, Applus Fomento Contrôle performs its price verification for Customs purposes based on the ACV methodology outlined within Section 4 of this guideline except for those countries where another valuation method is enforced. Please refer to the Data Sheets for Exporters for information regarding the valuation method in force in a particular country.

THE TESTING, INSPECTION AND CERTIFICATION (TIC) COUNCIL

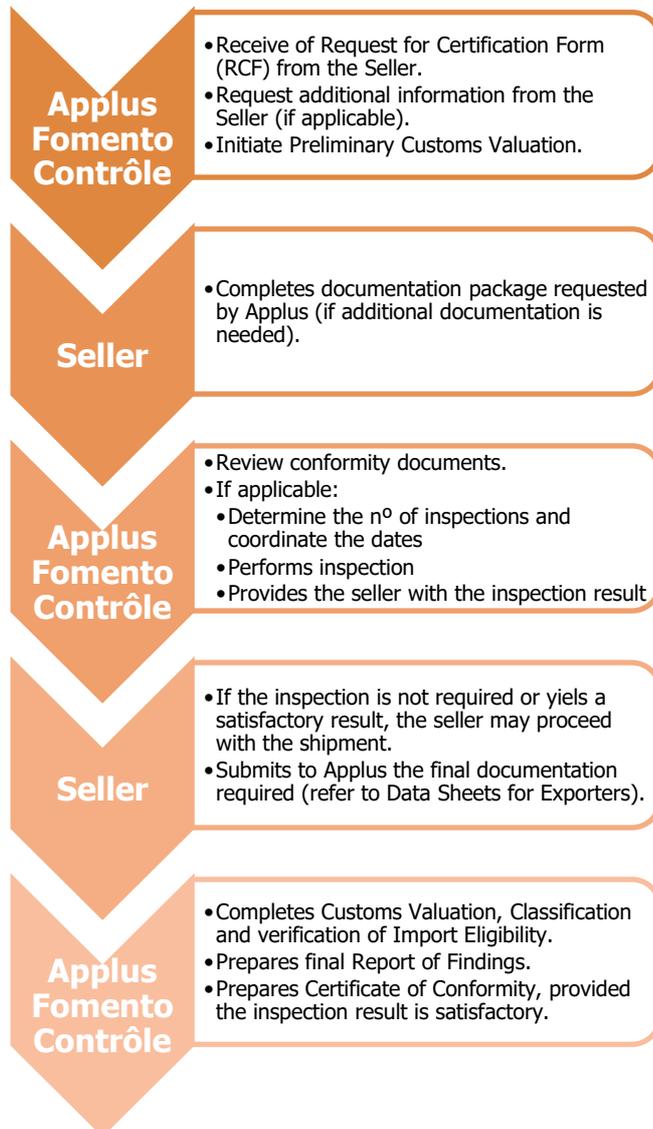
Applus is currently a member of the Testing, Inspection and Certification (TIC) Council (former International Federation of Inspection Agencies or IFIA) as such, all employees providing PSI services are required to comply with the latest version of the Code of Practice for Pre-shipment Inspection Mandated by Government. A copy of the Code of Practice is available through the TIC Council website (<https://www.tic-council.org/>).

INSPECTION FEES

Applus Fomento Contrôle's for the provision of Pre-shipment inspection fees are defined by either the Government of the importing country, the exporter or the importer as stipulated within the "Data Sheets for Exporters". Applus Fomento Contrôle reserves the right to invoice the seller for any of the following situations:

- ✓ In the event of abortive inspection visits, idle time or prolonged duration of inspection due to non standard process of container vanning; or
- ✓ If, by agreement with the seller, Applus Fomento Contrôle carries out inspection but does not subsequently receive a valid Service Request/Import Licence from the country of importation; or
- ✓ If the exporter agrees to settle the inspection fee on behalf of the importer and obtain subsequent reimbursement.

OUTLINE OF THE PSI PROGRAMME



2. ADMINISTRATIVE PROCEDURES

REQUEST FOR CERTIFICATION

The PSI activities are initiated by the request from either the importing country or the seller that a particular commodity needs to be inspected. These two cases are summarized below:

- ✓ Request received from the importing country:

In most cases, Applus Fomento Contrôle receives the request from the importing country, the PSI activities will be initiated once the RCF is received. This may include the Importing Licence which references, where applicable, information regarding the description and value of the goods, the name and address of the seller and importer, the country of supply of the goods and the importer's declaration of customs code.

In such cases, Applus Fomento Contrôle evaluates the conformity documentation received along with the RCF and requests additional information (if needed). The RCF request documentation such as: copies of the documents relating to the export transaction, valuation information, product datasheets, packing lists, test certificates and quality documentation, price lists, information on location of goods, and date requested for inspection.

The Request for Certification Form (RCF) is available through Applus Fomento Contrôle website.

- ✓ Request received from the seller:

On some occasions, the Seller may contact Applus Fomento Contrôle directly at the respective office covering the country where the goods need to be inspected. Applus Fomento Contrôle will verify the details of the request with the Importing Country to confirm that an inspection is required so that it can be scheduled.

In cases where an inspection needs to be performed without the arrival of official confirmation from the Importing Country, the inspection may proceed as long as there is prior written authorization from the Importing Country and sufficient guarantee that the fees will be covered.

The Seller may use the Request for Certification Form (RCF) is available through Applus Fomento Contrôle website.

PRELIMINARY CUSTOMS VALUATION

Upon receipt of the RCF, Applus Fomento Contrôle undertakes, where possible, a preliminary price verification, based upon the RCF and the supplemental contractual documents received. If necessary, Applus Fomento Contrôle will contact the seller to obtain additional information or explanation to facilitate price verification or to support the seller's price.

Depending upon the regulations of the importing country (please refer to "Data Sheets for Exporters"), a verification is performed in order to establish an opinion of:

- ✓ An export market price; and/or
- ✓ A value for customs purposes.

The valuation is performed with the methodologies established within Section 4 of this guideline.

Additionally, if requested by the seller, prior to physical inspection, Applus Fomento Contrôle will issue an Advice of Preliminary Price Verification indicating, where applicable:

- ✓ That the seller's price and/or exchange rate will be accepted, provided the goods presented for inspection conform with the documents on which the preliminary price verification was based.
- ✓ The Applus Fomento Contrôle's opinion of value for Customs purposes. Such Advice will be subject to receipt of the relevant contractual documentation (sales contract, proforma invoice, RCF, etc.). Disclaimer: An opinion for the guidance of the Customs Authorities is

not necessarily the value which will be accepted for Customs duty purposes in the country of importation.

CUSTOMS CLASSIFICATION

If required by the Importing Country, Applus Fomento Contrôle may form an opinion on the Customs Classification Code based upon the Customs Tariff Book and Rules of Classification which determines the tariff rate for import duties.

CONTRACTUAL SPECIFICATION COMPLIANCE

If required by the Importing Country, Applus Fomento Contrôle will verify the compliance of the specification of the goods presented for inspection with respect to the contractual documentation, proforma invoice and the RFC.

Some Importing Countries may prescribe that certain goods comply with particular Standards or requirements. The inspection does not relieve the Sellers of their required compliance with contractual obligations.

IMPORT REGULATION COMPLIANCE

If required by the Importing Country, Applus Fomento Contrôle will verify the compliance of the imported goods with respect to their import regulations, which may include:

- ✓ Product labelling requirements.
- ✓ Expiry dates and shelf-life requirements.

PHYSICAL INSPECTION

Depending on the inspection route applicable to the imported goods, PSI may include physical inspection to verify the compliance of the goods with the documents provided with respect to the description of the goods, quantities, specification, and import regulations.

In general, the PSI physical inspection is performed on every shipment. Traditionally, this inspection is performed on every shipment. Nevertheless, depending on the requirements of the importing country, the necessity to examine every shipment may be reduced by using risk profiling techniques. These are either determined by the user government, or based on a quality assurance inspection programme under which Applus Fomento Contrôle carries out quality assurance audits of the manufacturer's premises and/or distribution centres.

Applus Fomento Contrôle systematically informs the seller of the physical inspection requirements.

Further details are to be found under Section 3 of this guideline. Specific country requirements are contained in the Applus Fomento Contrôle Data Sheets for Exporters.

FINAL PRICE VERIFICATION AND CLASSIFICATION

Based on the results of inspection and appropriate final documents, Applus Fomento Contrôle finalises the price

verification and the Applus Fomento Contrôle opinion of Customs classification code.

When the preliminary price verification has not resulted in any unresolved questions, and the inspection result and other documents received are consistent with the preliminary documentation, Applus Fomento Contrôle will not normally require any additional information. The main exception would be if the terms of sale require reference to prices at the date of shipment.

SHIPMENT OF THE GOODS

The seller is advised to check with Applus Fomento Contrôle prior to shipment if the physical inspection results have been satisfactory.

If unsatisfactory, the results are either conditional or rejected. In both instances the seller should endeavor to solve the problem with Applus Fomento Contrôle.

TYPES OF REPORTS OF FINDINGS

Upon completion of the PSI inspection Applus Fomento Contrôle' opinion is expressed in a Report of Findings which falls into two categories:

- ✓ Satisfactory result. Applus Fomento Contrôle issues:
 - A Clean Report of Findings (CRF) which, where applicable, is complemented by
 - A Certificate of Conformity (CoC) for seller's L/C negotiation/payment purposes.
- ✓ Unsatisfactory result. Applus Fomento Contrôle issues:
 - A Discrepancy Report or
 - A Non-Negotiable Report of Findings (NNRF).

CLEAN REPORT OF FINDINGS

Issuance: The CRF, or equivalent, is normally issued within 2 working days (1 day for airfreight or exports to neighbouring countries) of receipt of the necessary correct final documents and a satisfactory result in all aspects of the inspection.

- ✓ Requirements:

The final documents required vary according to the import requirements of each country, but always include a copy of the seller's final Commercial Invoice and, frequently, may require a copy of the Bill of Lading or Air Waybill. Details are contained in the Applus Fomento Contrôle country Data Sheets for the Trade which also advise whether the documents may be sent by the exporter to the Applus Fomento Contrôle office handling the inspection, or by the importer to the Applus Fomento Contrôle Liaison Office in the country of importation. In order to avoid delays in the issuance of the CRF it is recommended that the documents be submitted to Applus Fomento Contrôle as soon as available.

- ✓ Dispatch:

The original CRF is generally provided to the importer for Customs clearance purposes.

Upon request, Applus Fomento Contrôle will issue to the seller, for information purposes, a copy of the CRF.

SECURITY LABEL CONFIRMATION OF ISSUANCE OF CRF

When required for L/C negotiation/ payment purposes, Applus Fomento Contrôle returns to the seller a copy of the seller's final invoice on which has been affixed a Security Label confirming that a CRF has been issued.

DISCREPANCY REPORT

If an inspection results in discrepancies which cannot be promptly rectified, thereby preventing a CRF from being issued, Applus Fomento Contrôle will issue a "Discrepancy Report", giving reasons for non-issuance of the CRF, normally within either 2 working days of receipt of final documents or 1 month of the inspection, whichever is sooner. In such cases, Applus Fomento Contrôle will be happy to advise exporters of the steps which need to be taken, where applicable, in order for a CRF to be issued.

NON-NEGOTIABLE REPORT OF FINDINGS

The regulations of some importing countries require Applus Fomento Contrôle to issue a Non- Negotiable Report of Findings" (NNRF) instead of a Discrepancy Report. The NNRF cannot be used for payment purposes without the approval of the authorities of the importing country.

COMPLAINTS AND APPEALS

Applus Fomento Contrôle is committed to execute Preshipment inspections, on behalf of governments, in accordance with the procedures outlined in this "Guidelines for Exporters" and the WTO Agreement on Pre-shipment Inspection. Any exporter who feels that these procedures have not been complied with is invited to contact the Applus Fomento Contrôle office which performed the inspection as per the following procedure:

- ✓ **Complaints:**
 - In the first instance, exporters with complaints about Pre-shipment inspection activities should contact the Managing Director, Governments and Institutions Services (GIS) at the Applus Fomento Contrôle office concerned.
 - The GIS Manager undertakes to investigate the complaint and respond promptly.
 - If the exporter is dissatisfied with the response, he may proceed to an Appeal as per point 10.2 below.
- ✓ **Appeals:**
 - Exporters with grievances that have not been resolved by discussion with the GIS Manager, under the complaints procedure of point 10.1

above, may appeal to the Managing Director of the Applus Fomento Contrôle affiliate in the country concerned, by completing and submitting a "Pre-shipment Inspection Internal Appeal Form". A specimen of this form is to be found in the Annex to this brochure. For convenience, this specimen may be photocopied and filled out or, alternatively, may be obtained from the Applus Fomento Contrôle website.

- The Applus Fomento Contrôle Managing Director undertakes to investigate the grievance and responds to the exporter, normally within two working days of receipt of a completed "Pre-shipment Inspection Internal Appeal Form", by either:
 - (I) giving the result of the appeal, or
 - (II) advising that further investigation is required and that the result will follow as soon as possible, but within 10 working days.

INDEPENDENT REVIEWS

In accordance with the WTO Agreement on Pre-shipment Inspection, Article 4, exporters who are of the opinion that Applus Fomento Contrôle has not carried out the Pre-shipment inspection in compliance with its obligations under the provisions of the Agreement may, at least two working days after submission to Applus Fomento Contrôle of a completed "Pre-shipment Inspection Appeal Form", as per point 10.2a) above, refer the dispute to an Independent Review. Details are contained in a separate publication available upon request from the Applus Fomento Contrôle Office in your country.

3. PHYSICAL INSPECTION PROCEDURES

REQUEST FOR PHYSICAL INSPECTION

Inspection request from seller:

Upon receipt from the seller of any additional information requested or advice providing details of the location of the goods and date on which the inspection is required, Applus Fomento Contrôle contacts the person indicated by the seller in order to finalise the inspection arrangements.

If the Applus Fomento Contrôle office receiving the additional information requested or inspection request is not the country of inspection of the goods, it will be transferred to the office in the country of inspection.

Disclaimer: Some importing countries appoint different inspection companies for different geographical areas. In such cases it may be necessary to transfer the file to another inspection company responsible for the country in which the goods will be inspected.

Place of inspection:

The physical inspection is normally carried out by the Applus Fomento Contrôle office in the Country of exportation/supply of the goods and, whenever possible, in the manufacturer's or supplier's premises. Inspection of bulk cargoes is usually undertaken at time of loading of the ocean vessel. Occasionally, it may be necessary for Applus Fomento Contrôle to carry out inspections during production or witness tests at the manufacturer's premises. Sellers should liaise with Applus Fomento Contrôle in advance if there is any doubt concerning the suitability of the proposed inspection location.

Date of inspection:

In order to facilitate inspection planning Applus Fomento Contrôle normally requests sellers to give, whenever possible, 3 working days' advance notice of the date on which they wish the inspection to be carried out.

Nevertheless, in cases of emergencies, every effort will be made by Applus Fomento Contrôle to undertake the inspection earlier. Once an inspection date has been agreed by Applus Fomento Contrôle and the seller, Applus Fomento Contrôle undertakes to carry out the inspection on that date unless the inspection is rescheduled by mutual agreement, or the inspector is prevented from carrying out the inspection by the seller/inspection site, or by force majeure.

PRESENTATION OF GOODS FOR INSPECTION

Sellers are responsible for ensuring that:

- ✓ The goods are presented to Applus Fomento contrôle in a satisfactory location to facilitate a proper inspection and, where applicable, sampling or testing. Goods should be presented in operational condition where functional testing is relevant.
- ✓ Reasonable facilities and assistance are provided to the Applus Fomento Contrôle inspector(s), where applicable, such as sufficient labour to handle the goods including unpacking or repacking, facilities to weigh the goods, witness manufacturer's tests, conduct Applus Fomento Contrôle tests, etc.

INSPECTION STANDARDS

Unless the government of the importing country stipulates to the contrary, Applus Fomento Contrôle will execute quality and quantity inspections in accordance with the standards defined by the seller and the buyer in the purchase agreement or, in the absence of such standards, relevant international standards.

LABORATORY ANALYSIS AND TESTING

In addition to witnessing manufacturer's tests, where applicable, Applus Fomento Contrôle may request from sellers copies of the manufacturer's or independent test/laboratory analysis certificates. Applus Fomento Contrôle may also, where appropriate, submit samples to a Applus Fomento Contrôle or independent laboratory for analysis or testing.

SAMPLES

Samples will only be taken and retained in accordance with customary quality control procedures, it being the seller's responsibility to replace any samples drawn. Applus Fomento Contrôle will store samples for three months; thereafter they will be disposed of unless the seller requests in writing that they be returned.

INSPECTION AND SEALING OF FULL CONTAINER LOADS

The authorities of some countries require that Applus Fomento Contrôle witness the stuffing and carry out the sealing of "Full Container Loads" (FCL).

In such cases, sellers may be required to give advance notice to Applus Fomento Contrôle of container stuffing arrangements. Where appropriate, the date of inspection will be scheduled to coincide with the container stuffing. For advice on applicability, please consult the Applus Fomento Contrôle Data Sheets for Exporters.

Note: The seller shall be responsible for ensuring the proper preparation of the inspected goods to guarantee proper controls and accessibility during the inspection.

CAPITAL PROJECTS

For capital projects, it may be necessary for Applus Fomento Contrôle to carry out inspections during production and to witness the manufacturer's tests. In such cases, Applus Fomento Contrôle will liaise with sellers so that the inspections can be planned to fit-in with the manufacturer's schedules.

SECOND-HAND GOODS

Some countries do not allow imports of second-hand goods, reconditioned goods or goods which are in a "not new" condition without a special licence or permission: please refer to the Applus Fomento Contrôle Data Sheets for Exporters for further information.

In any case, Applus Fomento Contrôle cannot accept goods in a not new condition unless indicated in the Service Request and/or proforma invoice and/or contract, or unless the importer subsequently confirms in writing his acceptance of the goods.

Where appropriate, Applus Fomento Contrôle may be required to see the goods in running condition and, consequently, sellers are advised to check with Applus Fomento Contrôle, where applicable, before dismantling and packing.

PHYSICAL INSPECTION RESULTS

When the physical inspection is completed, the inspector submits his report to the Applus Fomento Contrôle office, then the result of inspection will be communicated to the seller and, where applicable, at the place of inspection. The result will state: satisfactory, conditional or unsatisfactory.

The seller is welcome to present his views in writing to Applus Fomento Contrôle, in the event of any query regarding the issuance of a conditional or unsatisfactory inspection result.

Satisfactory Result:

This confirms that the result of physical inspection is satisfactory provided the seller proceeds with shipment within 2 months of the date of inspection, unless a shorter validity period is stipulated. Nevertheless, the seller is advised to check with Applus Fomento Contrôle if there are any doubts concerning the acceptance of the consignment in respect of price or import eligibility.

Conditional Result:

This implies that the result is acceptable, subject to certain conditions such as a satisfactory laboratory test/analysis, or the submission of an acceptance test certificate or other relevant document. In all other respects, the conditions as per a satisfactory result apply (9.1 above).

Unsatisfactory Result:

An unsatisfactory result implies that a Clean Report of findings cannot be issued without a rectification of the discrepancy or advice of acceptance from the country of importation.

The two main types of unsatisfactory results are:

- ✓ Quality and quantity:
 - Any discrepancies identified by the inspector with regard to quantity and/or quality will be indicated. Such discrepancies may be resolved either by: (I) the seller rectifying the discrepancies, or (II) Applus Fomento Contrôle receiving, usually via the Applus Fomento Contrôle Liaison Office in the country of importation, the importer's confirmation of acceptance subject to this being in conformity with the import regulations. In some cases, an amendment to the Service Request may also be required.
 - If re-inspection is required at a later date, the seller should make arrangements for another inspection. If the seller is in disagreement with the inspector's findings he may immediately contact the Applus Fomento Contrôle office.
- ✓ Eligibility:

In those cases where the government of the importing country requires Applus Fomento Contrôle to check that the consignment conforms with certain import regulations, such as labelling, health requirements, etc., Applus Fomento Contrôle will advise the seller for appropriate action if the inspection reveals a discrepancy.

4. PRICE VERIFICATION METHODOLOGY

PURPOSE

Applus Fomento Contrôle undertakes price verification of the goods in order to provide technical advice or opinions to the government of the importing country on either:

- ✓ A Value for Customs Purposes to facilitate the assessment by Customs of the dutiable value, which will be used as a basis for the payment of import duties and taxes by the importer, and/or
- ✓ An Export Market Price which is used for foreign exchange or government information purposes.

VALUATION METHODOLOGIES

Applus Fomento Contrôle follows the Customs Valuation methodologies and requirements of the importing countries (as per WTO Agreement on PSI, Article 2.20, footnote 4) which are normally based on either:

- ✓ The WTO Agreement on Customs Valuation (ACV) or
- ✓ The Brussels Definition of Value (BDV).

A few countries require Applus Fomento Contrôle to give an opinion based on the export market price. The Applus Fomento Contrôle country Data Sheets for the Trade advise the particular valuation methodology for each country concerned.

The provision by Applus Fomento Contrôle of a technical advice on a Value for Customs Purposes does not interfere with the price contracted between buyer and seller: no revision to the commercial invoice is required.

WTO AGREEMENT ON CUSTOMS VALUATION

Reference publications:

The basis of ACV is:

- ✓ The WTO "Agreement on Implementation of Article VII of GATT (1994)" commonly referred to as the "Agreement on Customs Valuation" (ACV) and formerly known as GATT Valuation Code.
- ✓ The WTO Ministerial "Decision regarding cases where Customs administrations have reasons to doubt the truth or accuracy of the declared value".

Although these authoritative publications, may be consulted for full details at www.wto.org, the following text serves as guideline based on Applus Fomento Contrôle interpretation.

Methodology Overview:

The ACV sets forth six different methods of valuation in order of preference. The first method should be used unless certain conditions are not complied with; in such case one proceeds to the other methods (2 to 6) in hierarchical order of preference.

Method 1. Transaction Value of the Imported Goods

- The Customs Value should be the Transaction Value, i.e. the price actually paid or payable when sold for export but subject to:
 - Compliance with the Transaction Valuation Conditions and
 - Adjustment, where applicable by Adjusting Factors
- Customs being satisfied with the truth or accuracy of the declared Transaction Value (as per the WTO Ministerial Decision).
- This method is not applicable if :
 - There is no export sale and hence no transaction value (e.g. goods sent free of charge, goods sent on a consignment basis, goods on hire)
 - The Transaction Valuation Conditions are not fulfilled
 - Customs have doubts about the truth or accuracy of the declared information.
- In such cases, the valuation shall be carried out by one of the other methods in the hierarchical order of application described in the within this section

Method 2. Transaction Value of Identical Goods

- Based on customs values, previously accepted in conformity with Method 1, of other transactions of identical goods sold for exportation to the country of importation at or about the same time taking into account, where applicable, differences in commercial level, quantity and cost of transport.

Method 5. Transaction Value of Similar Goods

- Based on cost of materials, fabrication and profit in the country of production.

Method 6. Fall-back

- Based on the previous methods but with greater flexibility (e.g. for identical or similar goods: flexibly interpreted or goods produced in other countries may be used as a basis.¹)

Method 3. Transaction Value of Similar Goods

- Based on customs values, previously accepted in conformity with Method 1, of other transactions of similar goods sold for exportation to the country of importation at or about the same time taking into account, where applicable, differences in commercial level, quantity and cost of transport.

Method 4. Deductive

- Based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity, at or about the same time, to unrelated persons with deductions (e.g. transport costs in country of importation, commissions or profit and expenses, customs duties, etc.) to arrive at the CFR price at point of entry.

Role of Pre-Shipment Inspection:

The main role of Applus Fomento Contrôle, in the context of ACV, is to provide technical advice to the Customs Administration by supplying valuation opinions/information in the Report of Findings, that:

- ✓ Indicates if there is compliance with the Transaction Valuation Conditions, including relationships between buyers and sellers as per 2.2.4 below (ACV Article 1);
- ✓ Indicates applicable Adjusting Factors (e.g. commissions, royalties and assists) as per 2.2.8 below (ACV Article 8);
- ✓ May give reasons to doubt the truth or accuracy of the declared transaction value thereby enabling Customs to focus on those transactions which may be worthy of further examination;
- ✓ Is a source of reference for other transactions of identical or similar goods in conformance with valuation Methods 2, 3 & 6 of ACV.2

Transaction Valuation Conditions:

- ✓ Method 1 may only be used if certain conditions stated under ACV Article 1.1 are complied with.
- ✓ In the event of:
 - Compliance with all Transaction Valuation Conditions, or
 - Compliance with all Transaction Valuation Conditions except a relationship between buyer and seller: Applus Fomento Contrôle proceeds to 2.2.5 to
 - Verify the Declared Transaction Value (DTV), and
 - For related buyers and sellers: verify that the relationship has not influenced the price.³
 - Non compliance with any conditions Applus Fomento Contrôle proceeds to provide information based on Methods 2, 3 or 6.

Conditions	Exceptions
<ul style="list-style-type: none"> • No restrictions on use or disposition of the goods by the buyer. • The sale or price is not subject to a condition or consideration for which a value cannot be determined (e.g. the sale is conditional upon the buyer also buying other goods, etc.) • No part of the proceeds of the subsequent resale, disposal or use of the goods accrues directly or indirectly to the seller. • Buyer & seller are not related (as defined in ACV Article 15.4) 	<ul style="list-style-type: none"> • Restrictions: <ul style="list-style-type: none"> • limiting geographical area of resale • not affecting the value of the goods • Conditions or considerations relating to production or marketing of the goods. • Unless adjustment made as per Adjusting Factors • If related: the relationship should either not influence the price or the value should approximate to valuation by Methods 2, 3, 4 or 5

Information under Method 1: Verification of the Declared Transaction

- ✓ Applus Fomento Contrôle establishes if either there are reasons to doubt the DTV or, in the case of related buyers and sellers, whether the relationship influenced the price, by “testing” it against the Applus Fomento Contrôle price data base of:
 - Other transactions with the country of importation, of identical or similar goods, taking into account, where applicable, the Valuation Decisions received from the Customs Administration or Appeal Body in Country of Importation.
 - In the absence of information on other transactions, non-transactional data (e.g. quotations, prices lists, information from trade experts) relevant to the country of importation, of identical or similar goods of the same country of origin.
- ✓ When carrying out the above mentioned test, Applus Fomento Contrôle takes into account, where applicable:
 - Adjusting Factors
 - Differences in commercial level and/or quantity and/or cost of transport.
- ✓ If the DTV is:
 - At the same level or higher than the lowest price in the range of identical or similar goods the DTV is accepted by Applus Fomento Contrôle as the Customs Value (dutable value).
 - Below the lowest price in the range:
 - Applus Fomento Contrôle requests the seller for additional information to explain the price. If satisfactory information is received, the DTV is accepted by Applus Fomento Contrôle as the Customs Value.

- In the absence of satisfactory information, reasonable doubts about the truth or accuracy of the DTV will have to be established.

Information under the other Methods

If the Transaction Valuation Conditions, as per 2.2.4 above, are not satisfied, Applus Fomento Contrôle, where possible, forms a Valuation opinion of the goods based on Methods 2, 3, or 6 in order of preference. If required, Applus Fomento Contrôle may also provide technical assistance to Customs on Methods 4 or 5.5.

- ✓ Methods 2 or 3: by comparison with the lowest price in the range of previously accepted transactions, which are still acceptable, at or about the same time, to the same country of importation, of identical goods or, if not available, similar goods of the same country of origin. Where applicable, adjustments are made for differences in commercial level and/or quantity and/ or cost of transport.
- ✓ Methods 4 & 5: upon request of Customs Applus Fomento Contrôle may also provide technical assistance.
- ✓ Method 6: by applying methods 2 or 3 more flexibly including transactions to the country of importation from other countries of origin.

The Report of Findings

Applus Fomento Contrôle issues the ROF stating the Applus Fomento Contrôle Valuation Opinion (VO), for the guidance of Customs, which will reflect one of the following:

- ✓ The Declared Transaction Value (DTV), taking into consideration the Adjusting Factors where necessary, or
- ✓ A reason to doubt the truth or accuracy of the DTV, or 6
- ✓ If the Transaction Valuation Conditions are not complied with: an opinion based on Methods 2, 3 or 6 depending upon the availability of information. (Additionally, information on Methods 4 or 5 if required by Customs.)

Adjusting Factors:

- ✓ Definition:

Adjusting Factors are the various elements, such as commission, costs of packing, and buyer assists, that must be added to the price actually paid or payable for the imported goods to arrive at the Transaction Value of those goods.

- ✓ Adjusting Factors Applicable in All Cases In determining the Transaction Value, there shall be added to the price actually paid or payable for the goods:
 - The following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - Commission and brokerage, except buying commissions;
 - The cost of containers which are treated as being one for Customs

goods to the port or place of introduction, which are hence included in the normal price.

- ✓ A sale in the open market between a buyer and seller independent of each other presupposes that:
 - The price is the sole consideration.
 - The price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, other than the relationship created by the sale itself.
 - No part of the proceeds of any subsequent resale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person associated in business with him.
- ✓ The declared price will not be accepted as an open market price when:
 - The price is influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, other than the relationship created by the sale itself.
 - The price is lower (unless the variation in price is slight or corresponds to trade practice) than those of identical goods from the same seller to any importer in the country of importation; or
 - The price is considerably lower than those of:
 - Identical goods being sold by other sellers in the same country of exportation to any importer in the country of importation; or
 - Similar goods being sold by sellers in the same country of exportation to any importer in the country of importation; or
 - Identical or, failing this, similar goods being sold by sellers in other countries for exportation to any importer in the country of importation but taking into account, where applicable, variations in the costs of the factors of production in the countries of exportation.

Adjusting Factors:

- ✓ Definition: Adjusting factors are the various elements, such as discounts, interest charges, commissions, advance payments, etc., which must be taken into account by addition or deduction, where applicable, in determining the normal price or value for Customs purposes.
- ✓ Dutiable Adjusting Factors: The following adjusting factors are dutiable and, if applicable and not already included in the price, should be added to arrive at the normal price:
 - Carriage and Freight

- Insurance
- Commissions (including buying commissions) and broker age costs, charges and expenses of drawing up, outside the country of importation, documents incidental to the introduction of the goods into the country of importation, including consular fees.
- Duties and taxes outside the country of importation except those from which the goods have been exempted or have been or will be relieved by means of refund.
- Costs of containers, excluding those which are treated as separate articles for the purpose of levying duties of Customs, cost of packing (whether for labour, materials or otherwise)
- Charges in respect of the right of use of a patent, design or trade mark in respect of the goods.
- Not freely available discounts (discounts not available to any buyer at the commercial level of sale) e.g. sole agent's discounts, special/abnormal discounts, etc.
- Retrospective discounts and advance payment discounts
- Advance payments
- The value of "Free of charge" goods or samples
- Seller's expenses paid by the buyer
- ✓ Non-dutiable Adjusting Factors: The following adjusting factors are nondutiable and, if applicable and not already excluded from the price, should be deducted to arrive at the normal price:
 - Discounts freely available to anyone (e.g. quantity discounts, cash discounts, etc.)
 - Interest charges for deferred payment
 - Post-entry charges (e.g. inland transportation charges from the port or place of entry to the final destination, installation or erection charges, etc.)
- ✓ Other Adjusting Factors: In determining the normal price other adjusting factors, including but not limited to the following, are taken into account where applicable:
 - Quantity/unit size
 - Quality/specifications/trade mark
 - Packaging
 - Commercial level
 - Seasonal influences
 - Delivery periods and conditions

Sources of Price information:

Other transactions, contracts, offers for sale, quotations, price lists, market reports, trade journals, etc. providing prices for export applicable to the country of importation.

EXPORT MARKET PRICE

Purpose:

Applus Fomento Contrôle establishes, where applicable, an opinion of the export market price in line with the price verification procedures of the WTO Agreement on Pre-

shipment Inspection (Article 2.20 (a) to (e)) which is used either for foreign Exchange purposes, government information purposes or, in certain countries, for Customs purposes.

Principles:

- ✓ Applus Fomento Contrôle compares :
 - The seller's invoice price taking into account the terms and conditions of sale, quantity, quality/specification, packing and additional services; with
 - The Applus Fomento Contrôle opinion of the export market price.
- ✓ Applus Fomento Contrôle establishes if the seller's invoice price is in line with or above or below the Applus Fomento Contrôle opinion of the export market price.
- ✓ For countries with foreign Exchange regulations: in order to conserve foreign exchange reserves, funds may only be released equivalent to the seller's invoice value accepted by Applus Fomento Contrôle in the CRF.

When the initial Applus Fomento Contrôle opinion of the Export Market Price differs from seller's invoice price, Applus Fomento Contrôle will contact the seller to request additional information. If after taking all known facts into consideration, the Applus Fomento Contrôle opinion of the Export Market Price is below the seller's invoice price, Applus Fomento influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, other than the relationship created by the sale itself.

Establishing an Export Market Price:

Applus Fomento Contrôle establishes an opinion of an export market price by:

- ✓ Determining a base price by reference to various sources of information, including, but not limited to:
 - Applus Fomento Contrôle Price Databanks based upon other shipments inspected
 - Published market reports
 - Trade association publications
 - Sellers' or manufacturers' export price lists
 - Information from physical or futures markets
 - Market information available to Applus Fomento Contrôle from other sources
- ✓ Adjusting the base price by the following aspects, where applicable, to reflect all the terms, conditions and services of the transaction:
 - Adjusting Factors
 - Ancillary Charges
 - Ocean/Air Freight
 - Post Entry Charges

Adjusting Factors:

Adjusting factors taken into account include but are not limited to :

- ✓ Delivery periods
- ✓ Delivery conditions (ex works, FOB, CFR, etc.)

- ✓ Firm price or price subject to specified fluctuations
- ✓ Fluctuating exchange rates
- ✓ Quality specifications/product brand
- ✓ Shipping or packing requirements
- ✓ Special unit packaging
- ✓ Quantity
- ✓ Discounts
- ✓ Commercial level
- ✓ Current or obsolete goods
- ✓ Brand new or second hand/not new condition
- ✓ Spot sales
- ✓ Seasonal influences
- ✓ Licence/intellectual property fees
- ✓ Capital projects (plant projects/turnkey projects)
- ✓ Relevant economic factors pertaining to country of importation versus the country or countries used as a basis of price comparison
- ✓ Repatriable amounts
- ✓ Any other commercially acceptable
- ✓ Factors identified and justified by the seller.

Ancillary Charges:

The following ancillary charges, which are additional to the FOB value, will be taken into account where applicable and permissible under the regulations of the importing country: buying agents or confirming fees, finance or interest charges, transport insurance.

Please refer to the Applus Fomento Contrôle Data Sheets for Exporters concerning any specific requirements of the country of importation.

Freight Charges:

Applus Fomento Contrôle bases its opinion of the freight charge on the going market rate, taking into account the terms of the contract.

Post-entry Charges:

Post-entry charges are those included in the seller's invoice in respect of services to be rendered after importation of the goods e.g. installation, erection, commissioning, etc. Depending upon the regulations of the importing country, Applus Fomento Contrôle may be required to review these charges.

Date of Reference:

The date of reference for verifying the export market price is the date of the contract, or in the absence of a contract, the date of the proforma invoice except for:

- ✓ Contracts stipulating that prices may vary in accordance with certain conditions (e.g prices ruling at date of despatch) provided they are consistent with customary commercial practice and permitted under the regulations of the importing country.
- ✓ Sales by International Tender when the date of closing of the Tender is used.

Fluctuating Exchange Rates:

- ✓ For fixed price contracts in a specific currency, no adjustment to the price due to fluctuating exchange rates is acceptable.
- ✓ In examining the export price market, conversion from known market prices in one currency to the currency in which the price is invoiced will be made on the basis of the Exchange rates valid on the reference date used by Applus Fomento Contrôle for price comparison.
- ✓ Conversions by commission agents from the currency of price to the currency of payment shall be made on the basis of the exchange rates valid on the date of the settlement invoice provided that the invoice is issued within a reasonable period of time from the date of shipment.
- ✓ Where credit is given, the applicable forward rate of exchange at the date of contract shall be applied.

Capital Projects:

In determining the total value of the project, Applus Fomento Contrôle will take into account as appropriate the following factors:

- ✓ Design and engineering charges (e.g. Civil Works Design, Project Design/Consultancy)
- ✓ Project planning
- ✓ Project management and co-ordination
- ✓ Research and Development
- ✓ Know-how
- ✓ Installation/erection (including transportation & depreciation of installation machinery/equipment)
- ✓ Commissioning
- ✓ Export Credit/Guarantee risks (e.g. COFACE, ECGD, etc.)
- ✓ Financing
- ✓ Procurement/Expediting
- ✓ Royalties and
- ✓ Training

5. CONTACT DETAILS

For further information regarding the Pre-Shipment Inspection Services provided by Applus Fomento Contrôle please refer to the contact list provided in our website.

Annex A Preshipment Inspection Internal Appeal Form

NOTES :

A Exporters with complaints about preshipment inspection (PSI) activities are, in the first instance, requested to discuss the matter with the appropriate department manager of the IFIA PSI Member's office responsible for performing the PSI activity ("PSI office"). If, following discussions, an exporter is dissatisfied with the result, he is invited to appeal to the IFIA PSI Member's Senior Manager, at the PSI office, by completing and submitting this form.

B. The IFIA PSI Member's Senior Manager undertakes to investigate the grievance and will respond to the exporter, normally within 2 working days of receipt of this form fully completed, by either (a) giving the result of the appeal or (b) advising that further investigation is required and that the result will follow as soon as possible but in any case within 10 days.

(These procedures take into consideration the WTO Agreement on Preshipment Inspection, Article 2.21)

1. EXPORTER Company Name :	2. EXPORTER'S COMPLAINT DISCUSSIONS Prior to completion of this form, the complaint should already have been discussed with the PSI office staff. Please advise PSI office location :
Address : Telephone No. :	Person with whom complaint discussed :
Telefax No. :	3. REFERENCE NUMBERS Inspection Order Reference No.: (as advised by PSI office or importer)
Telex No. :	Contract/Order/Proforma Invoice/Final Invoice No. (delete as applicable)
Contact person :	4. DESCRIPTION OF GOODS

If you wish to appeal that the action of the PSI office is not in accordance with the WTO Agreement on Preshipment Inspection, please complete Section 5. If not applicable, please proceed to Section 6.

5. NATURE OF GRIEVANCE WITH THE PSI OFFICE

Please indicate, by marking an "x" in the appropriate box(es) below, which article of the WTO Agreement on Preshipment Inspection ("API") have, in your opinion, not been complied with by the PSI office.

Category	API Article No.:		Category :	API Article No.:	
* Non-discrimination	2.1		* Delays	2.15	
				2.16	
* Site of inspection	2.3			2.17	
				2.18	
* Standards	2.4			2.19	
			* Price Verification		
* Transparency	2.5		(For export market	2.20 (a)	
	2.6		Price : not customs	2.20 (b)	
	2.7		Valuation purposes)	2.20 (c)	
* Protection of Confidential				2.20 (d)	
Business Information	2.9			2.20 (e)	
	2.11				
	2.12		* Appeals Procedures	2.21	
				2.21 (a)	
* Conflicts of Interest	2.14 (a)			2.21 (c)	
	2.14 (b)				
	2.14 (c)				

Notes : If your grievance :

(i) Does not concern the above mentioned categories, please proceed to Section 6.

(ii) Concerns the above mentioned categories and also relates to PSI carried out in a WTO member country of goods for importation into a WTO member country: you are entitled to submit the dispute to an Independent Review, at least two working days after submission of this form to the PSI office, in accordance with Article 4 of the WTO Agreement on Preshipment Inspection. Further details are available from the PSI office upon request.

6. SUMMARY of GRIEVANCE

Please advise the facts of the case and summarise the reasons why, in your opinion, the decision or conduct of the PSI office is not acceptable. Please attach copies of relevant documents.

7. PROPOSED SOLUTION TO THE GRIEVANCE

Please state your proposed solution to the grievance.

8. EXPORTER'S DECLARATION

I hereby declare that :

- a. I am an authorised employee of the exporter
- b. The information contained here is, to the best of my knowledge, correct.

FULL NAME:	POSITION:
COMPANY NAME:	
SIGNATURE:	DATE: __/ __/ __

Please return this form to the PSI office responsible for performing the Preshipment inspection