

Guidelines for Exporters

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Change history

Version	Author	Description

1 Presentation of the Cotecna Group

COTECNA INSPECTION S.A. is a limited liability company independent of any activity associated with financing, manufacturing, selling and/or marketing of products. The registered office of the company is located in Geneva, Switzerland.

COTECNA INSPECTION S.A. was established in 1974, following identification of the need by several Governments to protect their foreign exchange resources. At a very early stage, COTECNA concentrated its activities on the Pre-Shipment "Customs type" inspection of equipment, machinery, electrical products and industrial plants to assess whether all specifications complied with the appropriate contractual specifications and conditions. As the Company developed, the field of activities was extended to include steel products, basic commodities, chemical products, petroleum and oil products as well as agricultural food- and foodstuffs.

Since then, COTECNA INSPECTION S.A. has founded numerous subsidiaries throughout the world and its network is now well established in North and South America, Europe, Africa, the Middle East and Asia.

Currently, the COTECNA Group has been a combined workforce of about 4,000 employees and agents in 100 offices around the world.

COTECNA's continuous success is due to an innovative and dedicated team of highly experienced personal with extensive knowledge in dealing with:

Risk Management	Customs Valuation Assistance
Destination Inspection	Pre-Shipment Inspection
Container Scanning Services	Post-Clearance Verification & Audit
Monitoring of Special Customs Regime	Decision-making Support Tools for Governments
Bonded Warehouse Management	Vehicle, Ship & Container Tracking
Port Management Advisory Services	Country of Origin Verification
Supply Chain Security	Social Compliance Monitoring
Collateral Management Agreement	Standard Conformity
Technical Audits and Internal Aid Monitoring	Sustainable Development Audit and Certification
Agriculture, Mineral, Petroleum, Chemicals & Consumer goods inspection	Counterfeit Detection.

This has been possible mainly through its professionalism, its commitment to achieving the most cost effective results for its clients, its readiness to support modernisation efforts in the Customs area and its personalised approach consisting in offering tailor made services to meet specific requirements of an increasing number of customers.

2 List of abbreviations

ACV:	Agreement on Customs Valuation
BDV:	Brussels Definition of Value
CFR:	Cost and Freight
CRF:	Clean Report of Findings
EMP:	Export Market Price
FCL:	Full Container Load
FOB:	Free on Board
GATT:	General Agreement on Tariff and Trade
HS:	Harmonized System
IFIA:	International Federation of Inspection Agencies
LCL:	Less than Full Container Load
WTO:	World Trade Organization
PSI:	Pre-shipment inspection
RFI:	Request For Information
ROF:	Report of Findings

3 Introduction to the Import Verification Program

The import verification program requested by some governments is based on the principle of Pre-shipment Inspection (PSI).

3.1 Objectives of the Import Verification Program

The main objectives of the Import Verification Program include:

- > Conformity of the inspected goods with contract specifications:
The objective of the physical inspection is to verify that the goods presented for inspection conform to the specification detailed (including any standards defined) in the contract or pro-forma invoice.
- > Validation of the invoiced prices.
To ensure that the invoiced prices are in accordance with the relevant valuation methods, meaning that there are no over or under invoicing and/or that the customs classification of the goods is adequate.

There are basically two types of PSI contracts.

- Foreign exchange contracts and
- Custom's assistance contracts.

A mix of the two types is also possible.

3.1.1 Foreign Exchange (FOREX) contracts

The mandate of Cotecna is to detect the over-invoicing of goods as a result of the following:

- the importer tends to circumvent exchange control regulations through collusion with the seller (for example, the seller agrees to pay the difference between the export market price and the invoice price, to the importer's bank abroad);
- the exporter includes unofficial commissions in the price at the request of the importer (for example: the exporter agrees to fix an export price at the request of the importer which includes a commission that is transferred by the exporter to the importer's foreign bank account). This is frequent for public purchases; the exporter pays non-repatriable commissions to a third party outside the country of importation;
- the seller deliberately overcharges the importer by taking advantage of the importer's lack of knowledge of the export market price. As a consequence, over-invoicing could result in potential losses of foreign exchange and corporate taxes.

3.1.2 Customs Assistance contracts

The mandate of Cotecna is to establish the correct value of goods for Customs purposes and their classification in the national tariff codes of the importing country. The main concern of the country is to detect whether the appropriate customs duties and taxes are paid on the imported goods. For example, the importer might be tempted to reduce payment of customs duties and taxes by declaring a lower value of the goods in collusion with the exporter and/or through the incorrect classification of the goods in a tariff code attracting a lower tax rate. Goods sold at a price below their customs value could also be an indication that:

- the exporter intends to sell below the export market price in the country of supply to gain a competitive advantage in the domestic market;
- the exporter intends to sell below the export market price in the country of supply in order to export more goods or goods with a superior value, to give the importer a competitive advantage (i.e. unfair competition to other importers) which also results in problems for local manufacturers of the same goods.

3.1.3 Combined FOREX and Customs assistance contracts

In practice, PSI contracts are often a combination of FOREX contracts and Customs assistance contracts. Indeed, the detection of over-invoicing can also be attractive for reasons other than curbing the flight of foreign exchange: it could also serve to detect tax evasion.

For example, multinational companies could transfer profits from one country with high corporate taxes to a country with low corporate taxes in order to reduce the company's global tax liability. This may be achieved by adjusting invoiced prices on inter-company sales.

Over-invoicing could also be an indication of a misrepresentation of foreign investments in joint venture companies. Foreign investors may overstate their participation in the partner company by inflating the value of the goods supplied.

Furthermore, state-owned (or public) companies in developing countries are tempted to ask financial compensatory commissions off-shore by inflating prices when purchasing goods abroad.

3.2 The WTO

The World Trade Organization came into being in 1995. One of the youngest of the international organizations, the WTO is the successor to the General Agreement on Tariffs and Trade (GATT) established in the wake of the Second World War.

So while the WTO is still young, the multilateral trading system that was originally set up under GATT is well over 50 years old.

The system was developed through a series of trade negotiations, or rounds, held under GATT. The first rounds dealt mainly with tariff reductions but later negotiations included other areas such as anti-dumping and non-tariff measures. The last round (the 1986-94 Uruguay Round) led to the WTO's creation.

3.2.1 The WTO Agreement on Pre - Shipment Inspection

The WTO Agreement on Pre-Shipment inspection requires inspection companies engaged in such activities, contracted or mandated by Governments, to follow certain procedures when inspecting goods in the WTO member countries which are destined to other WTO member countries.

Cotecna is committed to carrying out inspection in accordance with this Agreement which relates to: execution of inspections in a non-discriminatory and transparent manner, site of inspection, inspection standards, execution of the inspections in a transparent manner, protection of confidential business information, avoidance of conflicts of interest, avoidance of delays, price verification procedures for establishing the export market price, and appeals procedures.

Exporters who feel that Cotecna has not complied with this Agreement are entitled to complain or appeal to the Cotecna office which carried out the inspection. After appeal to Cotecna, the exporter is also entitled to refer the matter to an Independent Review. (See "applicable procedures in case of problems between the exporter and Cotecna" below – Section G)

3.2.2 The WTO Agreement on customs valuation

In the frame of PSI contracts signed between Cotecna and country, WTO member and applying the WTO agreement on customs valuation (ACV), Cotecna provides an opinion of the customs value based on the methodology as described in detail under section F of the guideline.

However, some developing countries, already members of the WTO, may postpone the implementation of the agreement on customs valuation (ACV) after becoming members. Thus, for information on whether ACV, or another valuation method, is in force in a particular country, please refer to the respective country datasheet, available on our website. (www.cotecna.com)

3.3 The IFIA

Cotecna Inspection S.A. is a member of the International Federation of Inspection Agencies (IFIA) and as such respects and applies the IFIA code of practice, stipulating the obligations of an inspection company when performing services mandated by a government country.

The main requirements under the IFIA Code of Practice are as follows:

- > Execution of inspections in a non-discriminatory manner
- > Execution of inspections in a transparent manner
- > Site of inspection
- > Inspection standards
- > Protection of confidential business information
- > Delays
- > Independent review process

The IFIA code of practice is based on the WTO agreement on Pre-shipment inspection and on the WTO agreement on customs valuation. The IFIA code of practice is available on our web site (www.cotecna.com) – Reference info.

3.4 Cotecna's Compliance Principles

COTECNA, as a member of the International Federation of Inspection Agencies (IFIA) ensures that its business activities are in compliance with the IFIA Compliance Code and its other sector specific codes.

Compliance Principles

COTECNA shall strictly abide by these Compliance Principles by ensuring that they are reflected in its own programs, which shall be implemented based on the requirements of its Compliance Rules.

- > Integrity
 - Cotecna's work shall be carried out in a professional, independent and impartial manner.
 - Cotecna's work shall be carried out honestly with no influence tolerated in respect to any deviation from either the Cotecna approved methods and procedures or the reporting of accurate results.
 - Data, test results and other material facts shall be reported by Cotecna in good faith and will not be improperly changed.
 - All reports and certificates issued by Cotecna shall correctly present the actual findings, professional opinions or results obtained.
 - Cotecna shall treat all information received in the course of the provision of its services as business confidential to the extent that such information is not already published, generally available to third parties or otherwise in the public domain.
- > Fair Marketing
 - Cotecna shall
 - conduct marketing (including comparisons with, or references to, competitors, competitors' services or third parties) in a manner that is truthful, not deceptive or misleading or likely to mislead, and is consistent with applicable laws; and
 - present itself in a fair manner; and
 - ensure presentational information, including descriptions of such Member's network and affiliations, resources employed and the services provided, is accurate and unambiguous.

> Anti-bribery

Cotecna shall prohibit

- the offer, gift, or acceptance of a bribe in any form, including kickbacks, on any portion of a contract payment, or
- the use of other routes or channels for provision of improper benefits to, or the receipt of improper benefits from, customers, agents, contractors, suppliers or employees of any such party or government officials.

The Cotecna Compliance Code (Principles and Rules) are published on www.cotecna.com and copies of the Code are available from any of Cotecna's offices.

Enquiries, complaints or feedback from relevant interested parties may be made via the web site, by e-mail to compliance@cotecna.ch or to the General manager of each of Cotecna's office.

4 Cotecna's Responsibility

Under PSI Cotecna is required to perform the following activities:

- > The Cotecna Liaison office in the country of import performs the initial legality checks of information contained in the inspection order, the pro-forma invoice and any other relevant documents.
- > Dispatch same to Cotecna's issuing unit (IU) responsible for the inspection of goods in the designated country of supply.
- > Request exporters to provide the information necessary to carry out Pre-Shipment Inspection (PSI).
- > Perform a physical inspection on goods to be exported.
- > Ensure that the goods inspected correspond to the specification as stipulated in the contracts and/or invoice as well as to the National/international standards (where applicable)
- > Establish that the prices invoiced by exporters are in line with the export market prices from the country of supply.
- > Provide an opinion on the correct customs classification to apply to the goods inspected.
- > Establish a dutiable value for Customs purposes.
- > Compute when necessary, the application amount of Duty and Taxes payable, in order to assist the customs authorities to collect the appropriate amount of import Tax.
- > Affix a "Security Label" on the final invoice for payment purpose upon the request of the exporter, when appropriate.
- > Issue in the country of importation a clean report of findings (CRF) to the importer.

5 Importer's Responsibilities

Importers are required to discharge the following duties of responsibility under PSI:

- > Establish whether or not the goods contracted to be imported are subject to PSI.
- > Advise potential suppliers of PSI requirements covering imported goods.
- > The importer must complete an import declaration form and remit this document accompanied by two copies of the exporter's pro-forma invoice, the contract when applicable and any other requested document as stipulated in the respective datasheet for exporters of the importing country.
- > At the end of the PSI process (if the quality and quantity of the goods are in conformance with the specifications and/or pro-forma invoice) Cotecna's Liaison office in the importing country, will provide directly to the importer, or the relevant official entity, a certificate (mainly called CRF – Clean Report of Findings, or ADV – Attestation de Vérification of CI – Constancia de Inspeccion). The importer is obliged to include the original of this document as a supporting document to the Customs Declaration when paying import duties and taxes and clearing the goods through Customs.

6 Exporter's Responsibilities

In the frame of Pre-shipment inspection programs, all exporters are required to comply with the following requirement:

- > Provide the Cotecna Issuing Unit (IU) in the country of export with at least three (3) working days notice prior to the proposed date of physical inspection of the goods.
- > Provide Cotecna with all documents relevant to performing PSI. Details of all documentation required are listed on Cotecna's RFI.
- > Make arrangements at the exporters own cost for the handling, presentation, sampling and shop testing of goods for the purpose of Inspection.
- > Where applicable, make arrangements to ensure that the physical inspection and the loading of full containers (FCLs) is witnessed by a Cotecna inspector who will affix to the container a Cotecna seal.
- > If deemed necessary by Cotecna, allow the drawing of samples for reference purposes and for the purposes of carrying out analytical and laboratory tests.
- > In instances where a discrepancy is identified, the exporter is required to modify the shipment to comply with the specifications in the contract/pro-forma invoice, unless the importer would agree on this discrepancy.
- > Upon satisfactory inspection and price comparison submit a final invoice to Cotecna together with transport documents. The final invoice must contain a clear description of all goods, their origin and where possible, the respective customs code (HS) pertaining to each product.
- > Provide Cotecna with all necessary price justification whenever required.

Whenever necessary, one copy of the final invoice will be returned to the exporter with a Cotecna security label affixed to the reverse thereof and must be submitted by the exporter as part of the documents necessary to obtain payment for the goods.

The exporter is advised that Cotecna's intervention does not relieve the parties from their contractual obligations to the transaction and therefore does not affect the rights of the buyer for whom Cotecna is not acting and does not relieve the exporter from his contractual obligations.

7 The Physical Inspection

7.1 The Place of Inspection

In the framework of the pre-shipment inspection programs and following the IFIA's recommendations, all physical inspection activities, shall be performed in the Customs territory from which the goods are exported or, if the inspection cannot be carried out in that Customs territory given the complex nature of the products involved, or if both parties agree, in the Customs territory in which the goods are manufactured.

Goods will be inspected as much as possible in exporter's or supplier or manufacturer's premises. It might be necessary to perform the inspection during production phase or to witness test of performance at manufacturer's premises. Infrastructure to perform such test should be made available to Cotecna representative. In case of bulk shipment, the inspection will take place as much as possible at loading place, during the loading phase of the goods onto the vessel.

7.2 The Date of Inspection

As soon as a transaction notification has been received from the Liaison Office of the country of importation, Cotecna undertakes to contact as quickly as possible the exporter so as to mutually agree for an adequate date to perform the physical inspection of the goods. An advance notification of three (3) days is however necessary to schedule the inspection. In case of emergency, Cotecna will try to accommodate such requests by performing an inspection on an earlier date.

7.3 Presentation of Goods to Physical Inspection

The exporter is invited to present the goods in adequate condition so as to enable the Cotecna representative to perform a professional inspection, carry out analysis and witness test in the best possible manner. The exporter will provide at its own costs all necessary and required resources during the whole duration of the inspection. In case of a second visit, Cotecna reserves the right to charge the exporter directly for cost of the second inspection resulting from the non-availability of the goods or inadequacy of presentation of the goods during the initial visit.

7.4 Inspection Procedures

7.4.1 Request for Information (R.F.I.)

On receipt of the inspection order from the Liaison office in the importing country, the IU responsible for carrying out PSI in the country of supply will immediately send a Request for Information (RFI) to the exporter. The RFI requests the exporter to provide the essential information and documents required by the IU to carry out PSI.

Exporters can greatly assist the PSI process by completing and returning the RFI as soon as possible. The information requested relates to:

- > the place and time the goods will be available for inspection (Cotecna needs to receive this at least 3 working days before the proposed date of physical inspection) and
- > to the specifications and price of the goods (which should also be provided as early as possible, particularly where the exporter requires Cotecna to issue a preliminary price opinion (see separate note) in advance of the physical inspection of the goods).

Finally, it should be noted that Cotecna is required to complete the physical inspection as soon as possible after the exporter has notified Cotecna that the goods are available for inspection.

7.4.2 Physical Inspection

7.4.2.1 Criteria for Inspection

On receipt of the completed RFI from the exporter, Cotecna's IU will allocate the inspection of the goods to an inspector based near the place of inspection. The inspector will contact the place of inspection nominated by the exporter to agree the date and time when the physical inspection will be performed. The objective of the physical inspection is to verify that the goods presented for inspection conform to the specifications (including any standards defined) in the contract or proforma invoice. The inspection is primarily a visual inspection, it being left to Cotecna's discretion whether to witness testing or carry out an analysis of the goods.

7.4.2.2 Physical Inspection Report

The inspector will, following the inspection, issue to the exporter a written Physical Inspection Report which confirms the results of the physical inspection. This report refers only to the physical condition of the goods and does not cover Cotecna's opinion on the price and therefore should not be confused with the CRF, subsequently issued to the importer, or with the "Security Label" affixed on the final invoice to facilitate payment for the goods. The report will indicate one of six results, namely **satisfactory**, **conditional**, **discrepancy**, **rejected**, **deferred** or **abortive**.

A **satisfactory** result advises the exporter that in Cotecna's opinion the goods comply with the contract terms. A **conditional** result advises that the exporter must still provide additional information, such as a test certificate or a certificate of analysis, and will be converted to a satisfactory result on receipt of acceptable documents or information.

A **discrepancy** result advises the exporter that the goods do not conform to the pro-forma/contract documentation such as short quantities. The **discrepancy** result may subsequently be converted to a satisfactory one where, for instance, the importer accepts partial shipments of the goods.

A **rejected** result indicates that the inspector found some discrepancy between the goods inspected and the goods specified in the contract and which the exporter or supplier has refused to correct.

A **deferred** result means that the scheduled inspection is cancelled by the exporter and not re-arrange or when an appointment with place of inspection cannot be fixed.

An **abortive** result is when the inspector is on the site but goods are not ready for inspection.

7.4.2.3 Discrepancies

Where the inspector discovers any discrepancies during the inspection, he will give the exporter or supplier an opportunity to correct the discrepancies. Where the exporter or supplier refuses to correct all the discrepancies, and these are not acceptable to Cotecna, the inspector's Physical Inspection Report will state that the goods have been rejected. This will result in Cotecna issuing a Non-Negotiable Report of Findings (NNRF) instead of the CRF and certified final invoice which will effectively block the export transaction. Where goods have been rejected by the inspector, the exporter can subsequently correct the discrepancy and request a second inspection. Cotecna reserves the right to charge the exporter directly for cost of the second inspection resulting from the non-availability of the goods or inadequacy of presentation of the goods during the initial visit.

7.4.2.4 Sampling

Depending on the type of goods inspected, and whenever considered necessary by the inspector, samples may be taken by the latter. Samples will be then subject to an appropriate analysis and will be kept for a period of 3 months. Then they will either returned to the exporter, provided such a request was made to Cotecna or, in the absence of such request, disposed of.

7.4.2.5 Price analysis

Cotecna will perform a price analysis on the basis of the exporter's final documents (pro-forma invoice, copy of the contract and final invoice) depending on the valuation method applied by each importing country. For detailed information about valuation methods in each country (BDV, ACV, EMP), please refer to the respective Datasheet for Exporters.

For a detailed explanation about the valuation principles, please refers to section: "Price comparison and customs classification."

7.4.2.6 Preliminary Price Opinion

The IU will attempt to complete the price verification quickly and, if possible, before the physical inspection of the goods and particularly where (in accordance with Article 2.17 of *The Agreement*) the exporter requires Cotecna to issue a Preliminary Price Opinion (PPO). This will only be possible where either the contract/pro-forma invoice, or the RFI, when completed and returned by the exporter, gives sufficient information to enable the price evaluator to complete the task. Therefore exporters are advised to complete fully the RFI and return it, together with the requested documents, to Cotecna as early as possible.

When specifically requested by the exporter, Cotecna will issue a PPO in writing before physical inspection on the basis of available information. Once issued the PPO will not be withdrawn unless the physical inspection reveals that the goods do not conform to the specification in the contract/pro-forma invoice.

7.4.2.7 Customs Classification

The customs classification of goods consist of checking whether the tariff code assigned to goods corresponds to the description given in the tariff code on the basis of documentary evidence and physical inspection of goods. The purpose of this exercise is to calculate the correct import duty for a given merchandise.

The classification of goods in Custom Codes is generally based on the Harmonised Commodity Description and Coding System (commonly known as the Harmonised System (HS) Code) prepared by the World Customs Organisation (WCO) in Brussels.

7.4.2.8 Clean Report of Findings (CRF)

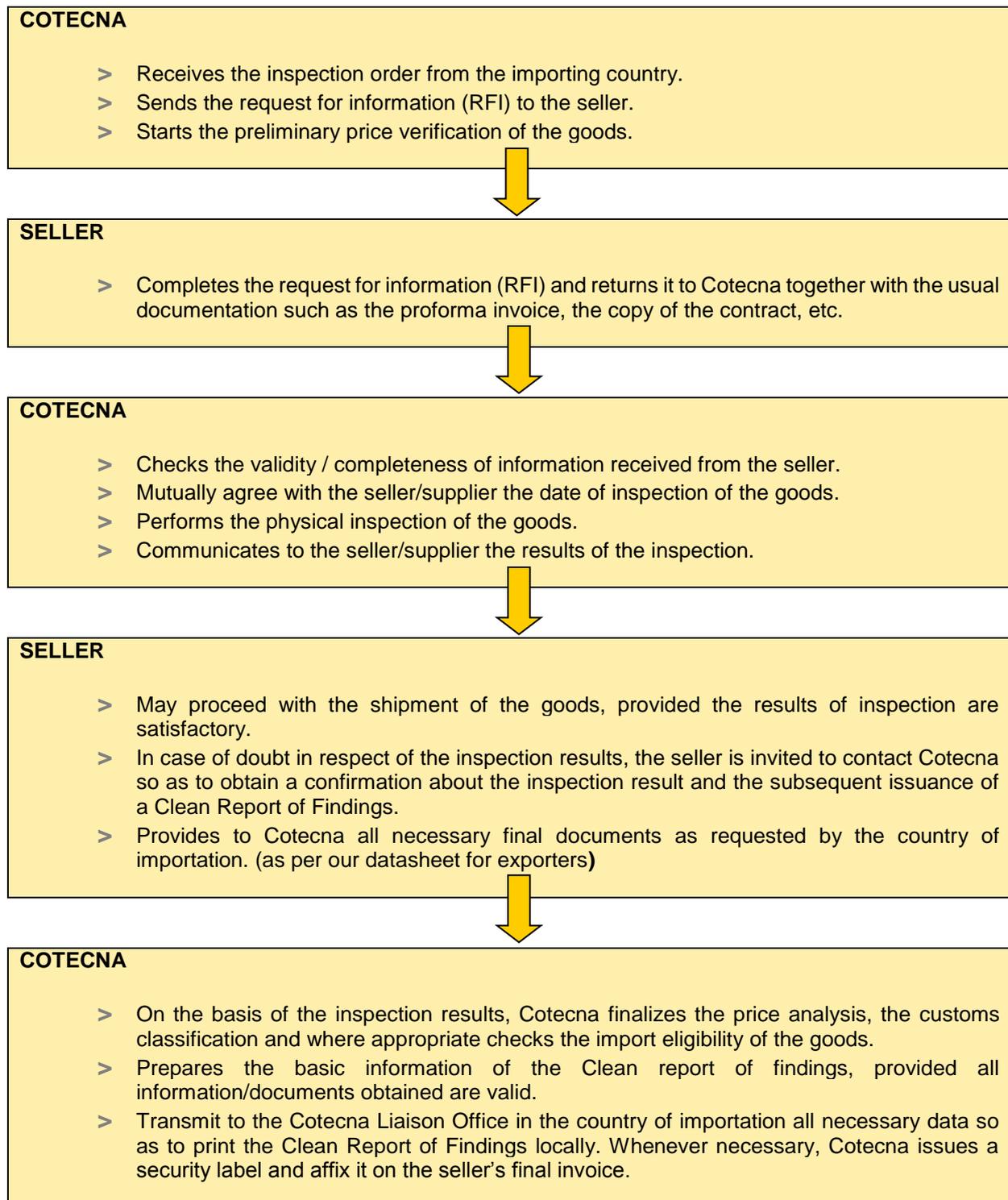
Upon completion of the physical inspection process, price verification and customs classification, and provided all aspects have been considered satisfactory, Cotecna will issue to the importer a document called Clean Report of Findings or any similar terminology applicable in the importing county. This document will enable the importer to proceed with the customs clearance of the goods.

7.4.2.9 Security label

Whenever requested in the terms of a Letter of Credit, a certified Final Invoice may be necessary for the negotiation of the Letter of Credit. A certified Final invoice consists of an original Cotecna security label affixed to an exporter's final invoice by the IU that conducted the PSI.

7.5 Flow Chart of an Inspection

Details of an inspection process



7.6 Cost of Inspection

Exporters are required to make arrangements, at their own cost, for the presentation, handling, testing and sampling of goods as deemed necessary by Cotecna during the inspection process and the witnessing, stuffing and sealing of FCL's by the Cotecna Inspector. Whilst the importer pays Cotecna's fees for the PSI service, Cotecna is authorized by the Government and reserves the right, to recover the cost of repeated inspection visits where the goods were not available for inspection on the inspection date agreed between the exporter and Cotecna.

8 Price Comparison and Customs Classification

VALUATION METHODS

The Valuation Methods commonly applied by User Governments are:

- > WTO Agreement on Customs Valuation
- > Brussels Definition of Value
- > Export Price

When forming an opinion of value for Customs purposes or foreign exchange purposes, using one of the above valuation methods, Cotecna shall apply the following principle procedures to the extent that they are not contrary to the requirements of the User Government.

8.1 WTO Agreement on Customs Valuation (“ACV”)

8.1.1 Basis

The basic principles of Customs Valuation as per the WTO Agreement described in the following pages should be used only as a guideline. The following official authoritative publications should be consulted for full details:

- > The WTO "Agreement on Implementation of Article VII of GATT (1994)" commonly known as the Agreement on Customs Valuation ("ACV") (formerly GATT Valuation Code).
- > The WTO "Decision 6.1 regarding cases where Customs administrations have reasons to doubt the truth or accuracy of the declared value".

8.1.2 Methodology

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 secondary methods (2 to 6) in hierarchical order of preference.

8.1.2.1 Method 1: Transaction Value of the Imported Goods:

The Customs Value should be the **Transaction Value**, i.e. the price actually paid or payable after adjustment, where applicable by **Adjusting Factors** (see Article A.9 below) and subject to:

- > Compliance with the **Transaction Valuation Conditions** (see Article A.4 below) and
- > Customs being satisfied with the truth or accuracy of the declared Transaction Value

If the Transaction Valuation Conditions are not fulfilled, or if Customs have doubts concerning the truth or accuracy of the declared information, the valuation shall be carried-out by one of the other methods in the following hierarchical order of application:

8.1.2.2 Method 2: Transaction Value of Identical Goods:

based on customs values, previously accepted in conformance 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.

8.1.2.3 Method 3: Transaction Value of Similar Goods:

based on customs values, previously accepted in conformance 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.

8.1.2.4 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.) arrive at the CFR price at point of entry.

8.1.2.5 Method 5: Computed Value:

based on cost of materials, fabrication and profit in country of production.

8.1.2.6 Method 6: Fall - back:

based on the previous methods but with greater flexibility (e.g. for identical or similar goods: at or about the same time may be flexibly interpreted or goods produced in other countries may be used as a basis).

NOTE 1:

As per ACV Article 7, no customs value shall be determined under the provision of Method 6 on the basis of:

- > The selling price in the country of importation of goods produced in such country
- > A system which provides for the acceptance for customs purposes of the higher of two alternative values
- > The price of goods on the domestic market of the country of exportation
- > The cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Method 5
- > The price of the goods for export to a country other than the country of importation
- > Minimum customs values or
- > Arbitrary or fictitious values

8.1.2.7 Role of Pre - Shipment Inspection:

The main role of Cotecna in the context of ACV, is to provide technical advice to the Customs administration of the User Government by supplying them with a valuation opinion or valuation advice in the Report of Findings, which:

- > Indicates if there is compliance with the Transaction Valuation Conditions, including relationships between buyers and sellers as per Article A.4 below (ACV Article 1)
- > Indicates applicable Adjusting Factors (e.g. *commissions, royalties and assists*) as per Article A.9 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 of ACV (*Transaction Value of Identical Goods or Similar Goods*)

NOTE 2: Normally, PSI activities only cover Methods 1, 2 and 3. However, technical assistance in respect of the other methods may be provided upon request of Customs in the importing country.

8.1.3 Transaction Valuation Conditions

- > The transaction Value Method may only be used if the conditions stated in the Table 1 below, in according with ACV Art. 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

Cotecna shall proceed to A.5 to

- Verify the Declared Transaction Value and
- For related buyers and sellers: verify that the relationship has not influenced the price.

NOTE 3 : In accordance with ACV Art.1.2b,if the buyer and seller are related, buyers (importers) are, at their initiative, entitled to request Customs that the DTV be compared with the Customs Value established by the Deductive or Computed Value Methods: in such situations, Customs may request technical assistance from Cotecna.

- Non-compliance with any conditions:
Cotecna shall proceed to Valuation methods 2 or 3 (see Article A.6. below).

Table		1
CONDITIONS	EXCEPTIONS	
1. No restrictions on use or disposition of the goods by the buyer	1. Restrictions: <ul style="list-style-type: none"> - Imposed by law in importation country - Limiting geographical area of resale - Not affecting the value of the goods 	
2. 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.)	2. Conditions or considerations relating to production or marketing of the goods	
3. No part of the proceeds of the subsequent resale, disposal or use of the goods disposal or use of the goods accrues to the seller.	3. Unless adjustment made as per Adjusting Factors (see Point A.9)	
4. Buyer & seller are not related (see Article 1.5.4)	4. If related: the relationship should either not influence the price or the value should approximate to valuation by Methods 2,3,4 or 5 (see Point A.5 (ii) below).	

8.1.4 Verification of the Declared Transaction Value (“DTV”)

Cotecna shall, where possible, establish if either there are reasonable doubts concerning the DTV* or, in the case of related buyers and sellers, whether the relationship influenced the price, by "testing" it against Cotecna's price data bank of:

- > Other transactions with the country of importation, of identical or similar goods of the same country of origin, 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.

NOTE 4: * For practical purposes, the DTV will be assumed to be the value stated in the sellers commercial invoice presented to Cotecna during PSI.

Cotecna shall, when carrying-out the above mentioned test, take into account, where applicable:

- > Adjusting Factors (see A.9 below)
- > Differences in Commercial Level and Quantity

If the DTV is:

- > at the same level or higher than the lowest price in the range of identical or similar goods, the DTV will be accepted by Cotecna as the Customs Value (dutiable value).
- > below the lowest price in the range, Cotecna shall request the seller for additional information to explain the price. If satisfactory information is received, the DTV will be accepted by Cotecna as the Customs Value.
- > in the absence of satisfactory information, Cotecna shall confirm that it has reasonable doubts about the truth or accuracy of the DTV by stating in the Report of Findings either a:
 - **Valuation Opinion:** based on other transactions of identical or similar goods or
 - **Valuation Advice:** based on non-transactional data of identical or similar goods.

In the absence of any information concerning identical or similar goods, in price data bank of Cotecna, the latter shall accept the DTV.

8.1.5 Transaction Values of Identical Goods (Method 2) or Similar Goods (Method 3)

If the Transaction Valuation Conditions, as per Article 5.4.4 above, are not satisfied, Cotecna shall, where possible, form a Valuation Opinion of the goods based on a comparison with the lowest price in the range of previously accepted transactions, 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 shall be made for differences in commercial level and/or quantity.

In the absence of information on other transactions, Cotecna will indicate this in the ROF so that Customs may decide to proceed to the Deductive Value Method.

8.1.6 The Report of Findings (“ROF”)

For the guidance of Customs, Cotecna shall issue the ROF stating:

(i) The Declared Transaction Value (DTV): adjusted by applicable Adjusting Factors and, where applicable, one of the following:

(ii) A Valuation Opinion: which is Cotecna’s opinion of value based on other transactions of identical or similar goods. This opinion is given when either:

- > the Transaction Valuation Conditions are complied with but Cotecna has reasonable doubts about DTV.
NOTE 5: In the absence of satisfactory evidence from the importer to support the truth or accuracy of the DTV, Customs may decide to proceed to Valuation Methods 2 or 3.

or

- > the Transaction Valuation Conditions are not complied with.

NOTE 6: Customs may proceed to the Valuation Methods 2 or 3 using Cotecna’s Valuation Opinion for guidance.

(iii) A Valuation Advice: which is either:

- > Cotecna’s advice based on non-transactional data of identical or similar goods as per Article 5.4.5 above. This may provide Customs with reasonable doubts about the DTV.

NOTE 7: In the absence of satisfactory evidence from the importer to support the truth or accuracy of the DTV and in the absence of information on other transactions thereby preventing valuation by Methods 2 or 3, Customs may decide to proceed to the Deductive Value Method (Method 4).

or

- > An advice that no information about other transactions is available: thereby preventing Cotecna from establishing a value based on Methods 2 & 3.

NOTE 8: Customs may decide to proceed to the Deductive Method.

8.1.7 The Deductive, Computed and Fall - back Methods of Valuation

In cases where it is necessary for Customs to proceed to the Deductive, Computed or Fall-back Value Methods, Cotecna may, upon request of Customs, provide technical assistance.

8.1.8 A.9. Adjusting Factors

(i) Definition Under the ACV, 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.

(ii) 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 :

(a) 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:

- (i) Commission and brokerage, except buying commissions;
- (ii) The cost of containers which are treated as being one for Customs purposes with the goods in question;
- (iii) The cost of packing whether for labour or materials;

- (b) "Assists": the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
- (i) Materials, components, parts and similar items incorporated in the imported goods;
 - (ii) Tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) Materials consumed in the production of the imported goods;
 - (iv) Engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;
- (c) Royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

(iii) Adjusting Factors Applicable if Legislation of the Country of Importation so Provides:

The following adjusting factors may be taken into consideration, wholly or in part, as provided in the laws and regulations of the country of importation:

- (a) The cost of transport of the imported goods to the port or place of importation.
- (b) Loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (c) The cost of insurance.

(iv) Exclusions

No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Section. In particular, the following elements shall not be taken into account:

- (a) All discounts except retrospective discounts
- (b) The following charges, even if included in the commercial invoice, provided they are separately declared:
 - (i) Interest charges for deferred payment
 - (ii) Post-importation charges (*e.g. inland transportation charges from the port or place of entry to the final destination, installation or erection charges, etc.*)
 - (iii) Duties & Taxes in the country of importation.

(v) Objective and Quantifiable Data

Additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

8.2 Brussels Definition of Value (“BDV”)

8.2.1 Definition

The value for Customs purposes shall be the normal price, that is to say, the price which the goods would fetch on sale in the open market between a buyer and a seller independent of each other.

8.2.2 Procedure for establishing the opinion of value for Customs purposes

Cotecna establishes an opinion of a value for Customs purposes by comparing the seller's invoice price with the prices at which identical or similar goods are sold or offered for sale to the country of importation taking into account, where applicable:

- > The conditions for determining the normal price: see Article B.3.
- > The Adjusting Factors: see Article B.4.

In the event that the seller's invoice price is:

- > Within the range of export prices of identical or similar goods:
 - the seller's invoice price will be utilised as the basis for Cotecna's opinion of the value for Customs purposes.
- > Outside the range of export prices of identical or similar goods:
 - Cotecna may request the seller to provide additional information to explain the price.
 - In the absence of satisfactory information, Cotecna's opinion of value for Customs purposes will be based on the prices of identical or similar goods

8.2.3 Conditions for the determination of the normal price

- > Assumptions:
 - The goods are delivered to the buyer at the port/place of introduction into the country of importation.
 - The seller bears all costs, charges and expenses incidental to the sale and to the delivery of the 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 pre-supposes 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, 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:
 - Section (ii) above is not complied with or
 - The price is lower (unless the variation in price is slight or corresponds with 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.

8.2.4 Adjusting Factors

8.2.4.1 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.

8.2.4.2 B.4.2. Dutiable 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 brokerage 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) 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

8.2.4.3 Non - dutiable Factors:

The following Adjusting Factors are non-dutiable and, if applicable and not already excluded from the price, shall 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.)

8.2.4.4 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

8.3 Export Market Price

The procedure for establishing an opinion of an export price for Customs purposes shall be identical to the procedure set out in Article 2.20.1 of WTO agreement on PSI except that, subject to the requirements of the User Government, interest charges for deferred payment and post-entry charges are non-dutiable and may be deducted from the opinion of export price.

8.4 Customs Classification

The importer is required to indicate the customs classification code for customs purposes which applies to the goods to be imported. Cotecna is required to provide customs authorities of the importing country with an opinion as to accuracy of this code. This check is performed on the basis of the physical inspection and the description of the goods as detailed in the pro-forma invoice and the final document received from the exporter. The majority of PSI user's governments use the Harmonised System (HS) nomenclature.

9 Exporters' Rights & Applicable Procedures in case of problems between the exporter and Cotecna

The Cotecna Group will carry out the pre-shipment inspection service in accordance with the provisions of the WTO Agreement on Pre-shipment Inspection. Where an exporter has a complaint concerning Cotecna's performance of the PSI service or wishes to appeal against Cotecna's opinion on any aspect of an export transaction, the following actions can be taken.

9.1 Complaint / Claims Procedure

Exporters with complaints about Cotecna's performance in executing PSI are requested to adhere to the following procedure in order to resolve the issue expeditiously and effectively. Exporters are, in the first instance, requested to discuss the matter with the appropriate department manager of the Cotecna Issuing Unit responsible for performing the PSI activity.

9.2 Internal appeal Procedure

Should the exporter feel that the outcome of such a discussion is unsatisfactory the exporter may formally lodge an appeal as follows:

Complete a "Cotecna Internal Appeal Form". (See the specimen "Internal Appeal form" at the end of these guidelines). This specimen may be photocopied and utilized, or copies may be requested from the Cotecna Issuing Unit which performed the PSI activity.

The General Manager or, in case of absence, his or her deputy will give sympathetic consideration to the exporter's grievance and render a decision thereon in writing as soon as possible.

Where possible a decision will be rendered within two working days of receipt of the appeal. In the absence of such a decision a written response will be issued within two days stating the reason for the delay and the expected date when a final decision will be issued.

Where an exporter is not satisfied with the outcome of the internal appeal or Cotecna is taking too long to respond then the exporter can request an independent review of the grievance provided it relates to a breach of the provisions of the Agreement.

9.3 Independent Review

The objective of the Independent review is to assist exporters and Cotecna to mutually resolve disputes. To this end an exporter can only lodge a request for an independent review two working days after an internal appeal has been submitted to Cotecna. A request for an independent review is made to the Independent Entity set up under Article 4 of the IFIA Agreement and further details are available upon request from the Cotecna Inspection Office.

9.4 Further Queries or Clarification

An exporter who feels that this booklet does not address any particular matter relating to the PSI process, or who feels that further clarification is required on any PSI subject, is invited to contact Cotecna at the following e-mail or postal address:

e-mail: cotecna.geneva@cotecna.ch

Cotecna Inspection S.A.
58, rue de la Terrassière
P.O. Box 6155
1211 GENEVA 6
Switzerland

Tel.: +41 22 849 6900
Fax: +41 22 849 6969

NOTES :

- > Exporters with complaints about pre-shipment inspection (PSI) activities are, in the first instance, requested to discuss the matter with the appropriate department manager of the COTECNA office responsible for performing the PSI activity ("COTECNA office"). If, following discussions, an exporter is dissatisfied with the result, he is invited to appeal to the Managing Director at the COTECNA office, by completing and submitting this form.
- > The Managing Director 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 within 10 working days.

(These procedures take into consideration the WTO Agreement on Pre-shipment Inspection, Article 2.21)

COTECNA Pre-shipment Inspection Internal Appeal Form

<p>1. EXPORTER <i>Company Name:</i></p> <p><i>Address</i></p> <p><i>Telephone No.:</i> <i>Fax No.:</i> <i>E-mail:</i> <i>Contact Person</i></p>	<p>2. EXPORTER'S COMPLAINT DISCUSSIONS</p> <p>Prior to completion of this form, the complaint should already have been discussed with the COTECNA office staff. Please advise COTECNA office location :</p> <hr/> <p><i>Person with whom complaint was discussed</i> <i>Mr. / Mrs.</i></p> <hr/> <p>3. REFERENCE NUMBERS <i>Inspection Order Reference No.:</i> <i>(As advised by Cotecna or Importer)</i></p> <hr/> <p><i>Contract/Order/Proforma Invoice/Final Invoice No.</i></p> <hr/> <p><i>(Delete as applicable)</i></p>
<p>4. DESCRIPTION OF THE GOODS</p> 	

If you wish to appeal that the action of COTECNA is not in accordance with the WTO Agreement on Pre-shipment Inspection, please complete Section 5 below. If not applicable, please proceed to Section 6.

5. NATURE OF GRIEVANCE WITH THE COTECNA OFFICE
Please indicate, by marking an "x" in the appropriate box(es) below, which articles of the WTO Agreement on Pre-shipment Inspection ("API") have, in your opinion, not been complied with by the COTECNA office.

Category	API Article No.	Category	API Article No.
• Non Discrimination	2.1	• Delays	2.15
• Site of inspection	2.3		2.16
• Standards	2.4		2.17
• Transparency	2.5	• Price Verification (For export market price: Not customs valuation purposes)	2.18
	2.6		2.19
	2.7		2.20 (a)
• Protection of Confidential Business information	2.9		2.20 (b)
	2.11		2.20 (c)
	2.12		2.20 (d)
• Conflict of Interest	2.14 (a)	• Appeals Procedures	2.20 (e)
	2.14 (b)		2.21
	2.14 (c)		2.21 (a)
			2.21 (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 COTECNA office, in accordance with Article 4 of the WTO Agreement on Pre-shipment Inspection. Further details are available from COTECNA upon request.

COTECNA Pre-shipment Inspection Internal Appeal Form

6. SUMMARY of GRIEVANCE

Please advise the facts of the case and summarize the reasons why, in your opinion, the decision or conduct of the COTECNA 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 authorized employee of the exporter
- B. The information contained here is, to the best of my knowledge, correct

FULL NAME:

POSITION:

COMPANY NAME:

SIGNED

DATE: ____/____/20__

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