

*“MONITORUL OFICIAL”
No 87-89, August 12, 1999,
page 49 - 57*

**DECREE
ON IMPLEMENTATION OF
PRE-SHIPMENT INSPECTION OF IMPORTED GOODS**

In order to implement provisions of the Law on Customs Tariff No 1380 – XIII of November 20, 1997 (Monitorul Oficial, 1998, No 40-41, page 286), and to improve the mechanism of Customs valuation of goods, statistics, quality and conformity verification of the imported goods, the Government of the Republic of Moldova DECIDES:

1. To implement pre-shipment inspection of imported goods.

2. To approve:

Regulation on the Committee for implementation and monitoring of the pre-shipment inspection of imported goods as specified in Appendix No 1;

Personal composition of the Committee for implementation and monitoring of pre-shipment inspection of imported goods as specified in Appendix No 2;

Conditions for participation in the tender for pre-shipment inspection of imported goods as specified in Appendix No 3;

Criteria for selection of companies to provide pre-shipment inspection of imported goods as specified in Appendix No 4;

Action plan for implementation of pre-shipment inspection of imported goods as specified in Appendix No 5.

3. To set that pre-shipment inspection operations shall start within 2 months of announcement of the awarded company.

4. To authorize the chairman of the Committee to sign the agreement between the Government of the Republic of Moldova and the awarded company.

Prime Minister of the Republic of Moldova

Ion STURZA

Countersigned:

Vice Prime Minister, Minister of Economy and Reforms

Minister of Finance

Minister of Justice

Alexandru MURAVSCHI

Anatol ARAPU

Ion PADURARU

Chisinau, August 3, 1999
No 747

REGULATIONS
on the Committee for Implementation and Monitoring of the Pre-shipment
Inspection of Imported Goods

1. The Committee for Implementation and Monitoring of Pre-shipment Inspection of Imported Goods (hereinafter "the Committee") is the Government Authority in charge of implementation of the Pre-shipment inspection and monitoring of its execution.
2. The Committee activity abides the Constitution of the Republic of Moldova, Decrees of the President of the Republic of Moldova, Decisions of the Parliament and of the Government of the Republic of Moldova and the present Regulation.
3. The Committee has the following main objectives:
 - Preparation and review of documents related to introduction of pre-shipment inspection of imported goods;
 - Co-ordination and audit of the performance of contractual parties involved in execution of pre-shipment inspection.
4. The Committee has the following functions:
 - Elaboration and publication of the action plan in the field of pre-shipment inspection program;
 - Preparation of the Terms of Reference of the Tender;
 - Assessment of the participants of the Tender;
 - Announcement of the tender in the press media;
 - Co-ordination of co-operation with companies that have declared interest in the Tender aimed at collection of information needed for participation in the Tender.
 - Evaluation of the Bid documents;
 - Announcement of the Awarded Bidder;
 - Organization of the conferences, seminars, consultations and meetings on issues related to pre-shipment inspection;
 - Approval of the Agreement;
 - Monitoring of the discrepancies reported to the Government by the pre-shipment inspection company (hereinafter "the Company"), economic agents or other organizations.
5. The Committee is formed of the Chairman, secretary and members.

The Committee holds its meeting quarterly or more frequently if needed. The Secretary of the Committee is responsible for preparation of the working documents for meetings of the Committee.

**PERSONAL COMPOSITION
of the Committee for Implementation and Monitoring
of Pre-shipment Inspection of Imported Goods**

| | |
|---------------------|---|
| MURAVSCHI Alexandru | - Deputy Prime Minister, Minister of Economy and Reforms (Chairman of the Committee) |
| ARAPU Anatol | - Minister of Finance (Deputy Chairman of the Committee) |
| TROFAILA Corneliu | - Consultant – Referent, State Customs Department of the Ministry of Finance (Secretary of the Committee) |

MEMBERS OF THE COMMITTEE

| | |
|------------------|---|
| BACALU Veronica | - Vice President of the National Bank of Moldova |
| BODIU Zosim | - Deputy Minister of Agriculture and Processing Industry |
| PANFILII Ion | - Deputy Minister of Industry and Trade |
| CHICU Valeriu | - Deputy Minister of Health |
| CIMPOIES Dumitru | - General Director, Moldovastandard |
| STRATAN Andrei | - General Director, State Customs Department of the Ministry of Finance |
| BOBEICA Valentin | - Deputy Minister of Environment |

CONDITIONS
**for Participation in the Tender for Selection of Companies to Provide Pre-
Shipment Inspection of Imported Goods**

1. Bidders shall submit:

Evidence of capability and experience in realization of pre-shipment inspection programs of imported goods from Governments;

Description of the management, organization structure, branches and activities;

Description of capabilities of information technology and laboratories, CV's of responsible representatives who will be involved in execution of the program;

Evidence of financial stability of the Company - profit and loss statements, balance sheets and auditor's reports for the last five years;

Evidence of incorporation of the Company in the country of domicile;

Evidence of incorporation and description of activities of the Company's affiliate in the Republic of Moldova;

Information about any present or potential legal case in which the Company is or may be one of the parties involved.

2. Amendment of documents on organization and execution of the Tender

At any time prior to the deadline for submission of respective bids, the Committee has a right, for any reason - upon its own initiative or in response to a clarification requested by a prospective Bidder – to amend the documents on the Tender.

Amendment shall be notified in writing or by telex, e-mail or fax to all prospective bidders, who have received on organization and execution of the Tender.

If the Committee issues an amendment within a three-day period before the deadline for the submission of bids than, in order to provide prospective Bidders with a reasonable time needed for incorporation of such amendment in their bids preparation, the Committee shall extend the deadline for the submission of bids by three (3) or more working days.

3. Language of bids

Bids prepared by participant of the Tender, communication between the bidders and the Committee as well as documents on organization and execution of the Tender shall be in English. Any literature that would be forwarded by the bidder in other

language(s) shall be sent together with the respective English translation. For interpretation of such documents the English translation shall govern.

4. Period of validity of bids

Bids shall remain valid for 30 days after the date of the bids opening. Bids with shorter term of validity shall be declared by the Committee as non-complying and rejected. In exceptional circumstances, the Committee may request the bidder to promulgate validity of his bid. The respective request and the bidder's response shall be made in writing (forwarded by telex or e-mail). It shall be understood that the bidder, providing agreement with promulgation of validity of his bid, shall not request and will not be allowed to make any amendmend of his original Tender document.

5. Form of presentation and signing of bids

The bidder shall prepare two copies of the bid and clearly marked them as "ORIGINAL BID", and "COPY OF BID", respectively. In the event of any discrepancy between both documents the original bid shall govern.

The original and the copy or copies of the bid shall be typed or written in indelible ink and shall be signed by the bidder or duly authorized person(s). Authorization shall be made by the bidder in written form. All pages of the bids, except for printed literature, shall be signed by the person or persons who will sign the bid.

The Bid shall contain no interliniation, erasures or other writing except for necessary corrections of errors made by the Bidder. Such corrections shall be signed by the person or persons who will sign the bid.

6. Sealing and Marking the Bids

The bidder shall seal the original and each copy of the bid into two separate (inner and an outer) envelopes, duly marked as "ORIGINAL" and "COPY".

The inner and outer envelopes shall contain:

- a/ Reference to application for pre-shipment inspection of imported goods
No / 1999
- b/ Address of the recipient:
Republic of Moldova, Chisinau,
Ministry of Finance,
Cosmonautilor str., MD 2005
- c/ reference with number of the Tender invitation and the remark "DO NOT
OPEN BEFORE 5 p.m., 30 October, 1999".

The inner envelope shall also indicate the name and address of the Bidder to enable the bid to be returned in case it is declared as "late".

If the outer envelope is not sealed and marked as required in this Clause, the Committee will assume no responsibility for the bid's misplacement or premature opening.

7. Deadline for Submission of Bids

Bids must be received at the address specified in above Clause 6. point b/ no later than 5 p.m., October 30, 1999.

The Committee may, at its discretion, extend this deadline for the submission of bids by amending the bidding documents in accordance with Clause 2. In this case all rights and obligations of the Committee and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

8. Late bids

Any bid received by the Committee after the deadline for submission of Bids as set in the above Clause 7., will be rejected and returned unopened to the Bidder.

9. Amendment and withdrawal of Bids

The Bidder may amend or withdraw his bid after the bid's submission, provided written notice of the amendment or withdrawal is received by the Authority prior to the deadline prescribed for submission of bids.

The Bidder's amendment or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions as set in the above Clause 7. A withdrawal notice may also be sent by telex or e-mail, but shall be accompanied by forwarding of a duly signed and confirmed copy, with the postal stamp bearing the dispatch date not later than the deadline for submission of bids.

No bid shall be amended after the deadline for submission of the bids.

10. Clarification of Bids

To assist in the examination, evaluation & any comparison of Bids, the Committee may, at its discretion, ask the Bidder for clarification of his Bid. The request for clarification and the response shall be in writing. No changes of the price proposal or of any substance of the bid shall be sought, offered, or permitted.

11. Contacts with the Committee

In line with the above Clause 10, no Bidder shall contact the Committee regarding any matter related to his bid.

Any attempt from a Bidder to influence the Committee during the evaluation of the bids, the comparison of the bids or the process of adoption of the decision, that would be aimed at winning of the contract, may result in the rejection of the Bidder's bid.

12. Award Criteria

The Committee will award the contract to the Bidder whose bid has been evaluated as the most appropriate and the best from the point of view of capabilities to serve the contract as well as fulfillment of requirements set in the above Clause 1.

13. Notification of Award

Prior to the expiration of the period of the bid validity, the Committee will notify the winning Bidder in writing by registered letter or by e-mail or by telex about its decision.

After the notification, the contract shall be finalized with the winning bidder.

The contract shall be signed by the the Chairman of the Committee and the winning bidder within 30 days after the notification.

CRITERIONS
for Selection of Companies to Provide Pre-shipment Inspection
of Imported goods

1. Disqualifying Pre-conditions

Certain basic requirements described below should be satisfactorily demonstrated before any Company can be confirmed as qualified for the operation of a Government mandated pre-shipment inspection program. If one of the following conditions is not met, the applicant shall be immediately disqualified.

1.1. Independence from Trade and Industry

The verification that is to be carried out on behalf of mandating Government must be impartial and objective. Results of verification must not be influenced by existence of special relations between the inspection agencies and other entities who might be interested in results of the verification. Therefore, the inspection agency shall be able to prove the absence of conflict of interests. In particular, evidence must be provided that the inspection agency is not a member of a group of companies having trading and/or industrial activities. The agency shall be disqualified if it conducts such activities directly or has a corporate affiliation with companies involved in trade or industry.

1.2. Financial Standing

Inspection agencies shall have sufficient financial resources to implement the assigned services and to meet any demands that might arise in the course of performance of the mandate. It is suggested that the financial resources of the inspection agency shall not be less than ten times the expected annual fee, but in any case, it shall have a paid-in capital of at least the equivalent of 5 million US dollars. The agency must submit financial statements for the last 5 years and it is therefore important that it be a public company with an obligation to publish account and comply with public standards of operation and management.

1.3. Experience in Verification of Imported Goods

Applicants shall be accredited in the National System of Certification, shall be members of the PSI Committee of the International Federation of Inspection Agencies – (IFIA) and shall prove that they have an experience needed to carry out various operations linked with execution of import verification programs. At least 10 years of practical experience in providing quantity/quality verification of all types of goods, particularly those imported by the mandating country, shall be demonstrated and considered as essential for determination of professional capacity to conduct physical inspection or other required verification in respect of all the country's imported goods. At the same time, the mandating government shall require that inspection agencies submit an evidence of at least 5 years experience in the field of

performance of classification and price verification (verified prices are to be understood as export market prices prevailing in the exporting country for exports into the importing country), e.g. Customs classification and valuation. In the absence of such minimum experience, the inspection agency shall be disqualified for not having sufficient professional ability to perform such complex services.

1.4. Inspection Network

To be able to perform import verification in a satisfactory manner, the inspection agencies should have a comprehensive network of fully-owned and/or controlled affiliates and offices, covering the majority of points of supply to mandating country. This can ensure the appropriate and uniformed application of verification standards. Applicant shall be directly present on all continents with their own facilities and be able to submit an evidence that they will not need to sub-contract more than 10% of the volume of goods to be inspected to the third parties (agents, representatives, etc.).

2. Criteria for evaluation of inspection agencies that have met the pre-qualification conditions

Once it has been determined that selected agencies are capable of performing import verification for the mandating government, further evaluation shall take place that shall take into account the major advantages offered by each agency.

2.1. Experience & capability in import verification (30 %)

In order to determine the most experienced inspection agencies, one needs to consider the number of import verification contracts in terms of quality, quantity, customs classification and valuation that are currently operated by the agency (as well as past contracts), number of years of experience, number of certificates issued within such mandates during the past calendar year, and recommendation from Governments, the World Bank, IMF or other internationally recognized organizations. Inspection companies shall therefore provide this information, especially in respect of their import verification contracts that include Customs valuation and classification. Pre-shipment inspection agencies shall be accredited to ISO/IEC 17020 standard or other equivalent internationally recognized standards.

2.2. Global import verification network (35 %)

The more comprehensive the international inspection network of an agency, the more it is likely to provide a uniform and efficient service, which is essential to insure high quality in the performance of such a mandate. To evaluate the strength of an agency's network, the following elements shall be taken into account: the number of countries where the agency is directly present (and where its operations under its direct control), the number of offices, the number of permanent staff and the number of testing laboratories. The agencies shall provide addresses of all these offices and laboratories and shall not include agents or sub-contractors whose operations they do not control directly.

2.3. Financial Resources (5 %)

As mentioned earlier, the strength of an inspection agency and its ability to face its obligations in the course of its mandate is determined by the financial resources at its disposal. This also determines the ability of the agency to invest in the extension of existing facilities if needed to meet the needs of the importing country.

2.4 Financial Offer (20 %)

The mandating authorities of the country of import will obviously evaluate proposals to a significant extent on the basis of the potential cost of the program. Two main elements shall be considered when evaluating the level of fees proposed: the general rate as a percentage of the CIF value of the goods to be inspected, as well as the minimum fee (in US dollar equivalent) per intervention when the ad valorem rate gives a lower result.

2.5 Additional Services / Transfer of Technology (10 %)

Evaluation of proposals shall take into account the eventual provision of additional services such as Customs training, computerization, pre-shipment inspection techniques, etc.

DISQUALIFYING PRE-CONDITIONS

| | | |
|---|----|------------|
| 1.1 Independence from Trade & Industry | | |
| The agency does not conduct direct trading and/or industrial activities and has no corporate affiliation with companies involved in trade or industry | OK | DISQUALIFY |
| 1.2 Financial Standing | | |
| The financial resources of the agency are over ten times the expected annual fee. | OK | DISQUALIFY |
| The paid-in capital is at least the equivalent of 5 million US dollars. | OK | DISQUALIFY |
| The agency publishes its financial accounts in line with generally accepted standards for operations and management. | OK | DISQUALIFY |
| 1.3 Import Verification Experience | | |
| The agency has more than 10 years experience in the quality and quantity inspection of: | | |
| • Agricultural & food products | OK | DISQUALIFY |
| • Minerals, chemicals & fertilizers | OK | DISQUALIFY |
| • Petroleum & petrochemical products | OK | DISQUALIFY |
| • Industrial goods and plant projects | OK | DISQUALIFY |
| • All types of consumer goods | OK | DISQUALIFY |
| The agency has over 5 years experience in all the elements of Import Verification Programs: | | |
| • Quality | OK | DISQUALIFY |
| • Quantity | OK | DISQUALIFY |
| • Customs valuation | OK | DISQUALIFY |
| • Customs classification | OK | DISQUALIFY |
| 1.4 Inspection Network | | |
| The agency has fully-owned inspection facilities on all continents: | | |
| • North America | OK | DISQUALIFY |
| • Central & South America | OK | DISQUALIFY |
| • Eastern & Western Europe | OK | DISQUALIFY |
| • Africa & Middle East | OK | DISQUALIFY |
| • Asia & Australia | OK | DISQUALIFY |
| The agency can handle over 90% of the total inspection volume with its facilities (not through agent, representatives, sub-contractors). | OK | DISQUALIFY |

**CRITERIONS FOR EVALUATION OF INSPECTION AGENCIES
THAT HAVE MET THE PRE-QUAFICATION CONDITIONS**

Maximum

| | | |
|--------------|---|------------|
| 2.1 | Experience in Import Verification | 30 |
| 2.1.1 | number of current contracts for government-mandated Import verification (number of contracts divided by highest figure and multiplied by 15) | 15 |
| 2.1.2 | Years of experience (number of years divided by highest figure and multiplied by 5) | 5 |
| 2.1.3 | Number of reports of Findings issued in the last calendar year in the performance of Import verification programs (number of ROFs divided by highest figure and multiplied by 5) | 5 |
| 2.1.4 | accreditation to ISO/IEC 17020 or any equivalent international standards | 5 |
| 2.2 | Import Verification Network | 35 |
| 2.2.1 | Number of countries where inspection agency is directly present with fully-owned facilities (number of countries divided by highest figure and multiplied by 10) | 10 |
| 2.2.2 | Number of offices worldwide controlled by agency (number of offices divided by highest figure and multiplied by 2,5) | 2,5 |
| 2.2.3 | Number of qualified permanent staff directly employed worldwide by inspection agency (number of employees divided by highest figure and multiplied by 5) | 5 |
| 2.2.4 | Number of accredited testing laboratories worldwide that are under direct control of the inspection agency (number of laboratories divided by highest figure and multiplied by 5) | 5 |
| 2.2.5 | Experience of work with adequate State Bodies in the mandatory country. | 2,5 |
| 2.2.6 | Permanent activity of at least 4 years of inspection agency's affiliate registered in the mandatory country. | 10 |
| 2.3 | Financial Resources | 5 |
| | Turnover of the last calendar year (value divided by highest figure and multiplied by 5) | 5 |
| 2.4 | Financial Offer | 20 |
| 2.4.1 | Rate of verification fees as percentage of CIF value of goods to be inspected (lowest figure divided by proposed rate and multiplied by 15) | 15 |
| 2.4.2 | Minimum inspection fee per intervention in USD equivalent (lowest figure divided by proposed minimum fee and multiplied by 5) | 5 |
| 2.5 | Additional Services | 10 |
| | Free appreciation for training, computerization, etc... 10 % to the most interesting proposal. | 10 |
| TOTAL | | 100 |

ACTION PLAN
for Implementation of Pre-shipment Inspection
of Imported Goods

| Action | Term | Responsible |
|--|-------------|--|
| Identification of Groups of Goods subject to Pre-shipment Inspection | 25.08.99 | Ministry of Finance together with Ministries and Departments |
| Identification of Groups of Goods subject to Quality Control | 25.08.99 | Moldovastandard together with Ministries and Departments |
| The first Meeting of the Committee | 03.08.99 | Committee Secretary |
| Announcement of the Bid in the mass-media | 06.08.99 | Committee Secretary |
| Announcement of Awarded Bidder | 30.10.99 | Committee Secretary |
| Negotiations and Agreement Drafting | 11.11.99 | Ministry of Finance |
| Agreement signature with the Awarded Bidder | 12.11.99 | Chairman of the Committee |
| Presentation of the Quarter Reports on the PSI Program performance to the Government | quarterly | Ministry of Finance |