# Table of Contents

I. Introduction ........................................................................................................................................... 1  
   i. Background ......................................................................................................................................... 1  
      ii. Scope and objectives ......................................................................................................................... 3  

II. International Standards and Frameworks .......................................................................................... 4  

III. Survey Findings ................................................................................................................................... 6  
   i. General Information .............................................................................................................................. 6  
      ii. Institutional Framework and Arrangements ....................................................................................... 7  
         Licensed Customs brokers – individuals and/or companies .............................................................. 10  
      iii. Regulatory and Licensing Criteria for Customs Brokers .................................................................. 11  
         Regulatory and licensing authority .................................................................................................... 12  
         Requirement of examination for licensing of brokers ......................................................................... 13  
         Scope of Practice of Customs brokers ................................................................................................. 15  
         Geographical restrictions .................................................................................................................... 18  
         Customs brokers’ fees and charges ...................................................................................................... 20  
         Customs clearance by traders on their own account ........................................................................... 20  
      iv. Cooperation/Engagement between Customs and Customs Brokers .................................................. 21  
         Areas of Cooperation ............................................................................................................................ 22  
         Customs brokers as AEOs/Trusted Traders .......................................................................................... 24  
         Customs brokers associations ................................................................................................................ 25  
         Capacity Building of brokers ............................................................................................................... 25  
   v. Other Findings ..................................................................................................................................... 26  

IV. Conclusions/Summary of findings ....................................................................................................... 28  
   i. General conclusions ............................................................................................................................... 28  
      ii. Challenges ........................................................................................................................................ 30  
      iii. Areas of Cooperation between Customs Administrations and Customs brokers .............................. 30  
      iv. Model Checklist for licensing of Customs Brokers (where applicable) ........................................... 31  

Appendix I - Model Checklist for licensing of Customs brokers .............................................................. 35  
Appendix II- Questionnaire ........................................................................................................................ 37
I. Introduction

i. Background

1. Customs brokers\(^1\) generally act as an intermediary between traders and Customs in Customs clearance processes. Brokers’ knowledge of Customs laws and processes in addition to their work experience in the trade supply chain can be useful for both traders and Customs. While Brokers support traders by providing all necessary documentation and undertaking formalities related to cargo clearance, Customs brokers are also expected to maintain government interests by ensuring compliance with Customs and other regulatory requirements and the collection of appropriate duties and taxes.

2. In line with ongoing Customs reforms and to further enhance their service delivery, some Customs brokers are transitioning towards a more comprehensive consultancy and advisory role, rather than being confined to merely filing declarations/documents for Customs release and clearance. They also collaborate with other actors in the supply chain on behalf of traders, such as freight forwarders, carriers/agents, warehouse operators and transporters. In some cases, Brokers have even expanded to provide many other services in the supply chain, such as cargo handling, warehousing, multi-modal transport carriage, packaging, consolidation, insurance coverage, delivery services, as well as providing consultancy in compliance and dispute resolution.

3. With accession to the RKC, more and more Members are making the use of Customs brokers’ service “optional”. However, mandatory use of licensed brokers’ services is still prevalent in many countries, for example in the WCO Americas/Caribbean Region or in some African countries, the latter following rules that only licensed brokers are allowed to process all import/export clearance, except for some specified goods such as personal cars. Some administrations in Asia provide for priority processing for Customs brokers.

4. In contrast to mandatory broker regimes, other countries follow free market principles where the engagement of Customs broker services or otherwise is a commercial decision of traders. Cost effectiveness and quality of professional service are key factors influencing such a decision.

---

1 The WCO “Glossary of International Customs Terms” defines the Customs clearing agent as a person who carries on the business of arranging for the Customs clearance of goods and who deals directly with the Customs for and on behalf of another person.
1. Examples of Customs clearing agents are Customs agents, Customs brokers and freight forwarders.
2. Some countries require that Customs clearing agents or Customs brokers be approved or licensed by Customs.
3. See also the term “Third party” (Chapter 2 of the GA to the RKC).
5. There are varied licensing and regulatory models adopted by Customs administrations to authorize legal and/or natural persons to act as Customs brokers. Many administrations have specific licensing requirements to act as a broker, while others simply allow anyone to establish a free business and take up the job of a clearing agent on behalf of others. There are also practices, for example in Asia, where some administrations make concessions from the use of licensed brokers when a person transacts any business solely on his own account.

6. Some Members permit a licensed Customs broker as an individual to operate and practice his/her profession without having any linkage to a Customs brokerage entity, whereas some others only allow the licensed brokerage entity to carry out such activities. In some cases, a periodic (such as annual, five or ten years) renewal/validation of the licence is required, while in other cases the licence remains valid until suspended/revoked on specific grounds. It is also seen that some administrations issue port-specific licences and identity cards to brokers to transact business. They need to have an ID and/or endorsement of their licence for each of the ports where they want to transact business.

7. Licensing/accreditation requirements vary, but in general include sound knowledge of Customs laws and other regulatory requirements; clean track records in terms of security and other compliance matters; financial solvency – surety bond, security deposit; minimum educational qualification; specified working experience; in some cases a written and/or oral examination and even minimum hours of training. Some administrations also prescribe certain licensing obligations for brokers in respect of business ethics and professional conduct; due diligence on clients; and/or correctness of information provided.

8. Several Members use some kind of regulatory and/or licensing criteria for Customs brokers. By obtaining license/permission through a specified process, Customs brokers are allowed to practice while enabling Customs administrations, or the relevant licensing government agency, have a complete list of brokers with their verified credentials. Audits/checks of this list of registered Customs brokers at prescribed intervals, ensure that those who are licensed have maintained their standards and therefore, administrations can focus on those brokers with poor compliance record.

9. An examination as part of licensing requirements of a Customs broker seems to be useful for several administrations to test the knowledge of the applicants. This examination can act as an initial screener of Customs brokers, which could increase compliance rates because of the level of knowledge of Customs law required to pass the exam. One opportunity could consist of Customs administrations, Customs brokers associations, and other relevant government agencies collaborating together to produce a comprehensive examination that will evaluate the knowledge of the applicants to all the applicable and pertinent laws concerning Customs clearance, declaration, and requirements.

10. Some Customs administrations are already providing, or have started to look into providing training support for Customs brokers. They are playing a significant role in
enhancing professional standards of Customs brokers, among others by providing training that challenges their relevant knowledge and skills (e.g. electronic filing of declarations), while also teaching brokers new relevant knowledge/skills. Likewise, a number of initiatives are being taken by Customs brokers and freight forwarders associations by themselves and/or in collaboration with Customs administrations to enhance the capacity of brokers and thus the effectiveness of clearance processes. Customs and brokers associations are also focusing on re-training/re-fresher courses for Customs brokers at regular intervals to keep their knowledge and skills up to date.

11. Licensing requirements, examinations, and training all support both Customs brokers and Customs administrations because a lack of professionalism and training often leads to delays in the goods declaration and Customs clearance processes. The lack of knowledge in Customs procedures, necessary documents, insufficient knowledge of harmonized systems, can lead to avoidable errors that ultimately wastes limited Customs administrations’ personnel and creates backlogs and delays. It is recommendable that any reform or modernization of Customs includes providing the necessary information and training to Customs brokers.

ii. Scope and objectives

12. At its 72nd session held in Recife, Brazil from 8 to 10 December 2014, the WCO Policy Commission discussed the topic: “Customs Brokers – Institutional Framework and Arrangements”. Noting the high degree of interest among Members in the topic and a wide range of models regarding Customs brokers and with a view to develop a comprehensive study on the topic, a questionnaire (Appendix II to this report) was circulated to all Members for ascertaining Members’ practices concerning Customs brokers – licensing requirements, sanctions/penalties, obligations, restrictions, cooperation and challenges.

13. Based on survey results and research carried out by the Secretariat, the study report includes a detailed analysis of Members’ practices and key outcomes at the aggregate level with some best practices as shared by Members. Recognizing that there are varied models of Customs brokers regimes from no regulation to a mandatory use of Customs brokers with specified licensing criteria, this study report outlines potential cooperation opportunities between Customs and brokers, and suggests a model template for brokers’ licensing criteria for Customs administrations, should they wish to establish such a licensing system or review an existing one. It also suggests a set of guidelines on how to ensure that the involvement between Customs administrations and Customs brokers helps to enhance compliance and facilitation.

14. Limitations of the study report primarily include use of data at the aggregate level, gaps in the response/information provided by Members and difficulties in assimilation of a very wide range of Members’ practices. There are limitations in assimilation of data at the aggregate level while still reflecting specific peculiarities/scenarios.
II. International Standards and Frameworks

15. The WCO Revised Kyoto Convention (RKC) makes the usage of broker services “optional” for the importer/exporter. Standard 8.1 of the General Annex (GA) to the RKC provides that persons concerned shall have the choice of transacting business with Customs either directly or by designating a “third party” to act on their behalf. Standard 8.2 to the GA to the RKC calls for the national legislation to specify the conditions for persons to act as third parties and to stipulate their liability for any duties and taxes and for any irregularities in compliance with Customs requirements. It further stipulates that licensing requirements for Customs brokers should be transparent, non-discriminatory and reasonable.

16. Standard 8.3 of the GA to the RKC requires Customs not to impose more stringent requirements on anyone preferring to deal directly with Customs rather than employing a third party for any particular transaction or in general. Additionally, Standard 8.4 states that a person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with Customs.

<table>
<thead>
<tr>
<th>Box 1. Chapter 8 of the GA to the RKC</th>
</tr>
</thead>
</table>
| **8.1. Standard**  
Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf. |
| **8.2. Standard**  
National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities. |
| **8.3. Standard**  
The Customs transactions where the person concerned elects to do business on his own account shall not be treated less favourably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party. |
| **8.4. Standard**  
A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Customs. |
| **8.5. Standard**  
The Customs shall provide for third parties to participate in their formal consultations with the trade. |
| **8.6. Standard**  
The Customs shall specify the circumstances under which they are not prepared to transact business with a third party. |
| **8.7. Standard**  
The Customs shall give written notification to the third party of a decision not to transact business. |
Further, Chapter 3 of the General Annex to the Revised Kyoto Convention sets out standards regarding the declarant. Standard 3.6 stipulates that national legislation must prescribe who is entitled to be a declarant and the conditions under which the person can act as a declarant. Standard 3.7 provides that any person who has the right to dispose of the goods can act as declarant. The RKC Guidelines further elaborate that in order to facilitate trade, this should not be taken as referring solely to the owner of the goods, but should be interpreted as broadly as possible, in accordance with national legislation, to include third parties acting on behalf of the owner such as the carrier, the consignee, a forwarding agent or a Customs broker, express courier in door-to-door services, etc.

Box 2. Chapter 3 of the GA to the RKC

3.6. Standard
National legislation shall specify the conditions under which a person is entitled to act as declarant.

3.7. Standard
Any person having the right to dispose of the goods shall be entitled to act as declarant.

Article 10.6 of the WTO Agreement on Trade Facilitation (TFA) provides that, from the entry into force of the Agreement, Members shall not introduce the mandatory use of Customs brokers. Article 10.6 of the WTO TFA also requires that Members shall apply transparent and objective rules for licensing.

Box 3. Article 10.6 of the WTO TFA

Use of Customs Brokers

6.1 Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

6.2 Each Member shall notify the Committee and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.

6.3 With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.
III. Survey Findings

i. General Information

19. As of August 2015, 96 Members (53% of the WCO Membership) have responded to the survey questionnaire. Replies by region are indicated below.

20. 92 Members (96%)\(^2\) stated that their country has Customs brokers who act on behalf of traders to handle Customs clearance and related activities. Only 4 Members stated to have no Customs brokers.

\(^2\) Figures in % throughout the document indicate the percentage of actual responses to the relevant question.
ii. Institutional Framework and Arrangements

21. Concerning the requirements for the use of a Customs broker to handle Customs clearance, a majority of 70 Members (73%) have provided for an optional usage of Customs brokers, which is aligned with the RKC provisions for an “optional” engagement of brokerage services. However, 9 Members (9%) stated that they have a mandatory requirement of using Customs brokers for all Customs clearance transactions. At the same time, 13 Members (14%) indicated that in their respective country, the usage of Customs brokers is mandatory except for certain specified categories of Customs clearance transactions, threshold values and goods. 4 Members (4%) also stated that they allow third parties other than Customs brokers to be used for Customs clearance.

<table>
<thead>
<tr>
<th>Usage of Customs brokers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optional</td>
</tr>
<tr>
<td>Mandatory, except in certain cases</td>
</tr>
<tr>
<td>Mandatory</td>
</tr>
<tr>
<td>Third Parties</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use of Customs brokers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traders may handle Customs clearance themselves or use a Customs broker</td>
</tr>
<tr>
<td>A Customs broker must be used for all Customs clearance transactions</td>
</tr>
<tr>
<td>A Customs broker must be used, except for some specified categories of Customs clearance transactions, threshold value and goods</td>
</tr>
<tr>
<td>Third parties other than Customs brokers may be used</td>
</tr>
</tbody>
</table>

22. There is a wide range of models among Members regarding the use of Customs brokers. While many of them have an optional regime with simplified registration/licensing requirements, others provide for a mandatory use of Customs brokers with a detailed licensing criterion usually verified/tested among others through an examination.
23. A majority of 80 Members (89%) responded that Customs brokers, and wherever applicable, third parties, had to meet certain requirements before being allowed to handle Customs clearance. However, 10 Members do not have any requirements in place, as a result anyone may carry out Customs clearance work on behalf of others.

<table>
<thead>
<tr>
<th>Restriction</th>
<th>Regulations in Licensing of Customs brokers</th>
<th>Example of Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>No prerequisites.</td>
<td>Germany, Hong Kong, China, Macau China and Switzerland.</td>
</tr>
<tr>
<td></td>
<td>Traders may conduct their own Customs formalities or utilize the services of a Customs broker. (Optional)</td>
<td>Professional examinations are required for the licensing of Customs brokers and traders. US, Luxembourg, Malaysia, Nigeria, India, Singapore, Morocco</td>
</tr>
<tr>
<td>High</td>
<td>Customs broker engagement is mandatory except for specific circumstances.</td>
<td>Professional examinations for the licensing of Customs brokers are required. Botswana, Cameroon, Chile, Congo, Costa Rica, Guatemala, Kuwait, Peru, South Africa, Trinidad and Tobago, Uganda, Uruguay.</td>
</tr>
<tr>
<td></td>
<td>Customs broker engagement is mandatory.</td>
<td>Professional examinations for the licensing of Customs brokers are required. Bangladesh, Haiti, Mongolia, Mozambique, Papua New Guinea, Philippines, São Tomé and Principe, Sri Lanka, Tanzania</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Do Customs brokers/third parties need to meet any specific requirements to handle Customs clearance</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image_url" alt="Bar chart" /></td>
</tr>
</tbody>
</table>

Yes 80
|
| No, anyone may carry out Customs clearance on behalf of others 10 |
24. Of the 80 “yes” responses, 51 Members stated that a broad requirement for Customs brokers was to register with Customs or another relevant government authority. Additionally, 49 Members said that Customs brokers in their country have to meet specific regulatory and licensing requirements, in some cases together with registration requirements.

25. Each Member has its own rationale for regulating (or not regulating) Customs brokers. In an effort to capture the broad spectrum of these rationales and reasons, Members were requested to further elaborate on their background in the question, multiple replies were possible. 66 Members regulate Customs brokers to facilitate and protect the interests of traders in completing Customs clearance formalities. 57 Members feel that regulation is required to set standards for the Customs broker profession and impose sanctions on malpractices and misconducts. In addition, 55 Members have regulations to ensure and enhance compliance requirements and collection of applicable duties and taxes. 14 Members indicated that the regulation of Customs brokers helped optimizing their country’s limited government resources. It clearly emerged that Members have a combination of factors/reasons for regulating Customs brokers. As such, most of those Members who regulate Customs brokers, do to facilitate and protect the interests of traders and to ensure revenue collection, compliance and professionalism amongst brokers.
Licensed Customs brokers – individuals and/or companies

26. Licensed Customs brokers could be individuals, companies, or both. In 42 Members’ jurisdictions (52%), licensed Customs brokers can be either individuals or companies. In case of 24 Members (30%), only companies or legal persons can become licensed Customs brokers. At the same time, in 15 Member administrations (18%) licensed Customs brokers are solely individuals or natural persons. Apparently, more Members have corporate entities as licensed Customs brokers than individuals.

27. For Members who allow individuals to be licensed Customs brokers, 31 Members noted that the number of individuals holding a Customs broker license is increasing, whereas 11 Members found that the number is decreasing. In 12 Members their number is broadly unchanged. In case of companies being licensed as Customs brokers, 35 Members stated that the number of businesses holding a Customs broker license is increasing and only 4 Members found that the number is decreasing, while 21 Members noticed that the number is unchanged.

Example:
Korea Licensed Customs Broker Act 1995 as a stand-alone legal basis (not part of the Customs Act)

- Licensed Customs Broker Act 1995: to establish an institution for certified Customs brokers to ensure the convenience of duty payers and the efficiency of Customs clearance procedures, thereby contributing to the growth of the national economy.
- Prescribes the qualifications required to become a Customs broker, the scope of the brokers’ work, their rights and duties, procedures for registering and practicing as a broker, how to run a Customs brokerage, penalties, etc.
- If a person passes the licensing examination for certified Customs brokers, he or she will be qualified as a certified Customs broker (no specific expiration date is set).
- To commence services as a Customs broker, a certified Customs broker needs to register with the Commissioner of the Korea Customs Service, and report commencement of services to the head of the Custom house.
iii. Regulatory and Licensing Criteria for Customs Brokers

28. In response to the model of Customs broker regulations, Members identified a combination of several models/criteria in their respective regulations (wherever applicable). For instance, 53 Members responded that one key aspect of their regulation respective regulation covered the issuance of a license if specific requirements are met. 39 Members also used license issuance as a regulating factor, but with a specific validity period and renewal formalities. 48 Members said that periodic monitoring through regular audits and inspections were used as part of the regulation of Customs brokers to ensure continued compliance. 58 Members also prescribed sanctions/penalties on Customs brokers under their regulations.

<table>
<thead>
<tr>
<th>Model of Customs broker regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>License issuance only, if specific requirements are met</td>
</tr>
<tr>
<td>Licence issuance, with a specific validity period and renewal formalities</td>
</tr>
<tr>
<td>Periodic monitoring of performance of Customs brokers to ensure continued compliance with specified performance standards (e.g. inspection or audit)</td>
</tr>
<tr>
<td>Application of sanctions/penalties</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Models</th>
<th>Increasing</th>
<th>Decreasing</th>
<th>Unchanged</th>
</tr>
</thead>
<tbody>
<tr>
<td>53</td>
<td>53</td>
<td>11</td>
<td>12</td>
</tr>
<tr>
<td>39</td>
<td>35</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>48</td>
<td>48</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>58</td>
<td>58</td>
<td>5</td>
<td>22</td>
</tr>
</tbody>
</table>
29. According to regulations of Members, suspension, termination, fine and penalty, and prosecution are all potential sanctions that could be imposed on Customs brokers/third parties for violations/misconduct. 70 Members stated that Customs brokers in their country could be suspended for violations or misconduct. Almost the same number of Members (69) can even terminate the license of Customs brokers in appropriate cases. 65 Members impose fines and penalties for misconduct by Customs brokers. Finally, 59 Members stated that Customs brokers could also be prosecuted for grave misconducts or malpractices.

30. These replies reflect that Members can resort to a combination of these actions, not mutually exclusive to each other. Usually, the nature of a sanction would depend on the gravity of an offence. For example, in case of minor infractions, the Canadian Border Services Agency (CBSA) Canada would simply provide advice and guidance to brokers to rectify them.

**Regulatory and licensing authority**

31. Who is the regulatory and licensing authority for Customs brokers, varies among Members. In most Members (77, 89%) countries, the Customs department has the responsibility of such an authority. 8 Members indicated that this authority is vested with another government department or agency, such as the Ministry of Economy, while in case of 2 Members a private sector body -
a trade association or a Customs Agent Chamber, is the regulatory and licensing authority.

**Requirement of examination for licensing of brokers**

32. 63 Members (76%) stated that they have an examination system, either theoretical or practical for verifying/testing their knowledge of Customs and related laws/regulations, prior to licensing Customs brokers. The other 20 Members (24%) noted that they do not have an examination requirement.

33. 56 Members that do have an examination as part of the licensing process delegated the responsibility of the examination’s content and administration to their Customs department. Another 6 Members have other national government departments/agencies responsible for this, for instance the Ministry of Finance in the Dominican Republic and the Human Resource Development Service in Korea. 1 Members stated that in their country, a government department is responsible with the input and support from the private sector. 2 Members, one each one each from Far East, South and South East Asia, Australasia and the Pacific Islands and North Africa, Near and Middle East regions have given this responsibility to a Customs brokers association, apparently to optimize limited resources of government.
34. Licensing requirements for Customs brokers, where applicable, vary from one country to another and depend on national legislation and domestic agendas. However, according to the replies to survey, Members’ licensing requirements broadly included a combination of the following requirements: knowledge of Customs and related laws, knowledge of trade-related transport and finance matters, demonstrated compliance record, financial capacity or solvency, minimum educational qualification, minimum work experience, minimum number of hours of training, electronic transmission capability, financial guarantee (surety bond, security deposit), and being incorporated or established in the country/citizenship or residency.

35. In order to provide some further details: 71 Members require that licensed Customs brokers should have a sound knowledge of Customs and related laws, while 34 Members equally require knowledge of trade transport and finance as an important licensing criterion. 39 Members feel that licensed brokers must have an exemplary compliance record. Licensing requirements of 34 Members also include brokers’ demonstrated financial capacity/solvency which is partly supported by the requirement of financial guarantees (e.g., surety bond, security deposit/bank guarantee) in 47 Member jurisdictions. The reasoning behind is to secure duties and taxes as well as to ensure continued compliance with Customs and other regulatory requirements.

36. 40 Members require a minimum educational qualification, which varies from a high school diploma or equivalent to a specialized degree in a Customs-related field. A minimum amount of work experience has also been prescribed for licensed Customs brokers by 21 Members. For example, Mexico requires a minimum work experience of 5 years, while some other Members, such as Afghanistan, Japan, and the United States, do not require any minimum work experience. Some Customs administrations indicated that they could waive the minimum work experience requirement if the applicant successfully completed a Customs training programme.

37. 10 Members require a minimum amount of training as part of the licensing requirements, ranging from 40 hours to 18 months. Such training requirement is expected to provide potential brokers with valuable insight on how Customs work, thus improving clearance times and reducing the number of errors on Customs related documents. 37 Members mandate electronic transmission capability for licensed Customs brokers in their country. This requirement is becoming increasingly vital with the ICT and single window developments. 55 Members require that a licensed Customs broker must be incorporated/established in their country or have a citizenship/residency. 19 Members also listed out other requirements ranging from an oral interview to the moral character of the applicant, to one Member of the EU stating that for registration, the Customs broker...
must be situated in the EU or in Norway and have an Economic Operators Identification and Registration system (EORI-number).

Scope of Practice of Customs brokers

38. The function of a Customs broker also varies greatly among Members. A wide spectrum of Customs brokers’ activities have been reported by Members. 89 Members allow Customs brokers to prepare documents related to release and clearance on behalf of
traders. An equal number of Members permit Customs brokers to file declarations and other information with Customs. Custom brokers are authorized to pay duties and taxes on behalf of traders in 82 Members, at the same time 65 Members mandate Customs brokers to even deal with refunds and adjustments on behalf of traders. 57 Members let Customs brokers be responsible for the accounting of goods and the entry of goods. In case of 61 Members, Customs brokers also liaise with other government agencies for licenses, permits and other requirements. Licensed brokers in 34 countries assist in post clearance audits. 53 Members allow Customs brokers to represent their client in dispute resolutions. In 59 countries, Customs brokers are stated to be providing consultancy/advice to traders in order to meet various regulatory requirements. It was also mentioned by 2 Members that representatives of the trader may perform any function on behalf of the trader, depending on what is agreed between the trader and the broker, including taking samples before the lodging of a Customs declaration.
While performing several activities on behalf of traders, licensed Customs brokers, where applicable, have to meet several obligations and liabilities depending on national legislation and regulations of a country in which they are licensed. 73 Members stated that licensed Customs brokers may act only under the proper authorization or agreement from/with the trader. Licensed Customs brokers in 60 countries are obliged to advise their clients on various compliance requirements. 24 Members require licensed Customs brokers to verify the antecedents of their clients. Regulations/legislations in 73 Members’ jurisdictions prescribe that licensed Customs brokers should exercise due diligence on the correctness of any information or declaration filed. 67 Members also hold licensed Customs brokers liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of their clients. Licensed brokers are also obliged to maintain and preserve records for a specified period of time for Customs audit/inspection in 63 countries, at the same time Customs brokers are also expected to maintain high professional standards, transparency, efficiency, and business ethics under the regulations of 52 Members. 6 Members described some additional obligations for Customs brokers such as no transfer/leasing out or lending a license to another person or agent and the obligation to submit reports to Customs authorities in a pre-described way as well as meeting additional conditions, if any, mentioned in the contract between the Customs broker and the trader.

Example:
Botswana Unified Revenue Service (BURES)
A licensed Customs broker -
▪ shall not transfer/lease out or lend a license to another person or agent;
▪ shall keep the license displayed in a prominent place all the time;
▪ shall not permit its name or Customs assigned number to be used by any other person (TIN);
▪ shall not perform any act of a Clearing Agent unless he holds a valid clearing agent license;
▪ must produce a written authority that allows him to transact business on behalf of others.
Geographical restrictions

40. Customs brokers often have national jurisdictional or geographical restrictions wherein they can provide services. 75 Members (83%) identified that in their respective country, Customs brokers are restricted to provide services within national jurisdiction, and in some cases (mainly from Asia) brokers are licensed to operate only at specified port(s) or Customs district(s) (which could be extended to other ports based on registration and submission of a prescribed security deposit. 15 Members indicated to not have any national restrictions on the services provided by Customs brokers - they are free to provide their services within a
regional community - Customs Union/Economic Union, for example the European Union (EU), the Central African Economic and Monetary Community (CEMAC) and the East African Community – Single Customs Territory (EAC-SCT). In case of the EU, a representative (Customs broker) who wishes to declare in another Member State will need to register his activity in that Member State (e.g. for accreditation purposes in the electronic declaration system), based on that Member State’s domestic laws.

41. The oversight authority for business ethics and professional conduct of Customs brokers, where applicable, differs from country to country. A majority of 62 Members have their Customs department as the oversight authority for Customs brokers’ ethics and professional conduct. 30 Members have Customs brokers associations responsible for the oversight of Customs brokers, which included 12 Members where the Customs administration and a brokers association have joint/shared oversight responsibilities, (the latter being responsible for conduct of its members). Only 3 Members indicated that this responsibility was exercised by another national government department or agency in their countries, for example a Tax Agent & Customs Agent Board in the Seychelles and a Customs Broker’s Board in Trinidad & Tobago. 4 Members have another private sector body responsible for the ethics and professionalism of brokers in their respective countries, for instance the British International Freight Association (BIFA) in the UK; the competent Nordic federation (Nordiskt Speditörförbunds Allmänna Bestämmelser, NSAB) through a standard agreement in Sweden; the National Council of Customs Brokers in Italy and the Latvian Logistics Association in Latvia.

<table>
<thead>
<tr>
<th>Oversight authority for business ethics and professional conduct of Customs brokers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs department</td>
</tr>
<tr>
<td>Other national government department/agency</td>
</tr>
<tr>
<td>Customs broker association</td>
</tr>
<tr>
<td>Other private sector body</td>
</tr>
</tbody>
</table>
**Customs brokers’ fees and charges**

Concerning fees charged by Customs brokers, 79 Members (88%), note that free market principles apply in their respective countries. Only in case of 11 Members (12%) fees are either fixed or monitored by a government authority, mainly the Customs department (and in some instances together with a private sector body).

**Customs clearance by traders on their own account**

As stated before, a number of Members allow traders to handle their own Customs clearance formalities. Depending on the country’s legislation and regulations, these traders are subject to requirements broadly similar to those of Customs brokers. 19 Members who allow traders to handle their own Customs formalities do not have any requirements for traders in their respective country. Therefore, traders in these countries may, if they wish, handle their own Customs formalities with no requirements from the government/Customs. In some cases, though, such facility is restricted to manufacturers and government agencies only. 46 Members require that traders need to register their business with government before they can handle their Customs clearance formalities in respect of their own goods.

Knowledge of Customs and Customs-related laws and knowledge of trade transport and finance matters are other key respective requirements for traders in 38 and 19 countries. 18 Members necessitate that traders in their country who wish to handle their own Customs formalities are to have a good compliance record. 16 Members require traders to demonstrate financial capacity/solvency. 25 Members need some kind of financial guarantees from such traders. A minimum education qualification for employees of traders is required in 14 countries, while 8 Members also demand that traders’ employees must possess a minimum amount of work experience. One Member also stated that they require a minimum number of hours of training for employees of such traders. With increasing usage of ICT in business and government working, electronic transmission capability is required by a number of Members (41). Additionally, 33 Members state that these traders must be incorporated/established in the country or Economic/Customs Union or hold citizenship/residency. Other requirements stated by 7 Members primarily include full-
time regular employees or a representative duly authorized by the company to represent before Customs; authorized access to the electronic Customs Systems (i.e. declarations systems); at least one employee having a Customs Brokers Certification issued by Customs; and having an EORI number.

iv. Cooperation/Engagement between Customs and Customs Brokers

45. Customs administrations and Customs brokers cooperate and collaborate in a variety of ways. Bilateral consultation, including through a brokers association, is the most prevalent mechanism stated by 73 Members (76%). 65 Members (68%) have a broad consultative process involving all trade stakeholders, which also includes Customs brokers. Only 15 Members (16%) stated to consult Customs brokers as part of the National Committee on Trade Facilitation established under the World Trade Organization Agreement on Trade Facilitation (WTO TFA) or any other similar existing body. 3 Members (3%) one each from South America, North America, Central America and the Caribbean region, Europe region and North Africa, Near and Middle East region stated that their administrations do not consult or engage with Customs brokers.
Areas of Cooperation

46. Members engage with Customs brokers in numerous areas adopting a multilayered approach. 85 Members (89%) engage with Customs brokers in the areas of Customs modernization and trade facilitation initiatives, including new policies and programmes, such as automation, Authorized Economic Operators (AEOs), Coordinated Border Management (CBM), and the implementation of a Single Window. 57 Members (59%) work together with Customs brokers to ensure compliance with Customs and other government agencies’ requirements, including due diligence and data quality. 38 Members (40%) consult Customs brokers for effective and efficient implementation of bilateral or multilateral agreements, such as Free Trade Agreements (FTAs) or the WTO TFA. Related to Capacity Building and joint training activities, 51 Members (53%) collaborate with Customs brokers to enhance the brokers’ business ethics and
professionalism. 50 Members (52%) indicated that they engage Customs brokers on enhancing the supply chain security. 22 Members (23%) work with Customs brokers to carry out performance measurement, for example Time Release Studies. Other areas of cooperation as indicated by 5 Members (5%) include the determination of brokerage service rates/charges; periodic meetings to discuss general processing issues and issues of mutual concern. One Member also stated that representatives of Customs brokers associations participate in the committee responsible for licensing of new Customs brokers. Under the broad cooperation with trade, including Customs brokers, another Member engages with brokers on a broad range of issues including systems, procedures and legislation. Some Members also have an MoU with the brokers association.

Example:

**US Customs and Border Protection (CBP)**

- The Advisory Committee on Commercial Operations (COAC), a group made up of multiple stakeholders including brokers, has been set up under the Federal Advisory Committee Act (FACA) of 1972 to advise the U.S. Customs and Border Protection on specific issues.

- Current subcommittees of the COAC are:
  - One U.S. Government at the Border
  - Global Supply Chain
  - Trade Modernization
  - Trade Enforcement and Revenue Collection
  - Exports
  - Trusted Trader
**Cooperation areas with Customs brokers**

- Customs modernization and trade facilitation initiatives, including new policies and programmes
- Implementation of bilateral/multilateral agreements
- Compliance with Customs and other government agencies’ requirements, including due diligence and data quality
- Enhancing supply chain security
- Enhancing the professionalism and business ethics of brokers
- Carrying out performance measurement
- Other

**Customs brokers as AEOs/Trusted Traders**

47. Members have been working towards the implementation of an AEO programme by involving more and more stakeholders. 57 Members (59%) who have implemented an AEO/Trusted Trader/Compliance programme also include Customs brokers in such programmes. The benefits extended to Customs brokers in these programmes vary from one country to another, for instance in case of Japan benefits include the pre-arrival filing of an import declaration and the facility to pay duties after the release of the cargo. 27 Members (5 out which having an AEO

Example:

**Japan Customs**

- Implemented AEO Customs brokers programme in April 2008.
- AEO brokers should have at least 3 years of experience, no violations of Customs related laws, and have their own, more stringent, set of rules and standards.
- AEO Customs brokers are allowed to file an import declaration before goods arrive in the Customs area.
- AEO Customs brokers are also granted the facility to pay applicable duties after the release of the cargo.
programme) have so far, not included Customs brokers in their respective AEO/Trusted Traders/Compliance programmes.

**Customs brokers associations**

48. Customs brokers associations could be a valuable resource for Customs administrations and brokers alike, as the association can provide insights from and about its members to Customs, while supporting its members with advice and training. 57 Members (59%) stated that had a dedicated Customs brokers association and 27 Members (28%) that a professional business association which also included Customs brokers. Only 11 Members (15%) stated that they did not have a Customs brokers association.

![Countries having a Customs brokers’ association](image)

**Capacity Building of brokers**

49. Concerning Capacity Building of Customs brokers, it can be noted that 42 Customs administrations (44%) support training and professional skill development of Customs brokers through their Customs colleges and training schools. In 45 Members countries (47%), Customs brokers associations provide training and professional development programmes. In 28 countries (29%), Customs administrations work collaboratively with either a Customs brokers association
or other private sector bodies to provide brokers with training. 5 Members (5%) have other government departments or agencies in place, for example in the Seychelles Department of Information Communications Technology, for ASYCUDA World data entry training; Special National Trainings (OKJ) in Hungary; National Environment Commission in Bhutan, or the Department of Education in Bermuda. 16 Members (17%) noted that such training programmes are supported by other private sector organizations, such as Chambers of Commerce. In 36 Members, colleges and universities also offer courses to Customs brokers.

v. Other Findings

50. 79 Members (92%) stated that they have not measured the compliance rates of traders who use a Customs broker against those who do not. 7 Members (8%) who have conducted such a study did not indicate any clear finding whether the compliance rate was better with the use of brokers or otherwise. However, they noticed doubtful integrity level and poor compliance rate (discrepancy/errors in declarations) among some brokers. One Member who conducted such a study did not notice any significant difference between the percentage of errors in declarations made by Customs brokers and traders directly.

51. In a similar vein, 82 Members (94%) noted that they had not measured release times of those who use a Customs broker against those who do not. 5 Members (6%) who carried out such studies had mixed results. Some Members found that clearance of goods and means of transport with the use Customs broker was quicker, where some others noted that declarations without a broker were faster and less costly. One Member stated that there was no difference. These results are undoubtedly having their own limitations in terms of national specificities, business environment and methodologies adopted by Members.

52. 80 Members (89%) did not carry out any study to rank Customs brokers in terms of their professional standards and service delivery. 9 Member (11%) who conducted such a study concluded that Customs brokers who follow professional standards and try better service delivery are generally more compliant and familiar with Customs rules, regulations, and procedures. One Member stated that they had grouped Customs brokers based on historical infringement data to assess their compliance level. Another Member shared that classifying Customs brokers and publishing the ranking results led them to improve the quality of their services. In fact, initially when a “quality label” was introduced (in that Member) for licensed Customs brokers, who were ranked by Customs on the basis of criteria related to compliance levels, it did not yield the desired result - brokers whose names appeared on the Customs’ list of top-rated brokers reported that their business had suffered as a result, because some importers were obviously looking for a broker who was willing to circumvent the rules. Therefore, that Member modified its approach by introducing, in the framework of its performance contracts with operators, training for the Customs brokers who worked with those operators. This had helped the top-rated brokers to further improve their professionalism, and their advice
was now more valued by major companies in terms of helping them to secure the validation of their performance contracts.

53. 31 Members (36%) have ascertained the extent to which Customs brokers are used, whereas 56 Members (64%) did not carry out such an exercise. For those who have conducted such a study (excluding the countries with a mandatory engagement of Customs brokers), the average percentage of broker usage was 82.55%.

54. Asked about informal or unauthorized Customs brokers, 46 Members (54%) said that there was no such problem in their country. 27 Members (32%) indicated that it was not a very serious problem. 12 Members (14%), mainly from West and Central Africa; South America, North America, Central America and the Caribbean and Far East, South and South East Asia, Australasia and the Pacific Islands stated that it was a very serious problem in their country. One

---

3 This includes those who use/hire the licence of a licensed broker for handling Customs clearance and other related work, against a consideration or those who operate without following any requirements, which would normally need to be followed in a given country.
Member stated that informal brokers act in a mafia-style way. They frequently ‘hired’ a licence number from a licensed broker in order to lodge declarations and perform other related work. In terms of measures being taken against such practices, Customs is reportedly trying to limit such entry of informal brokers by insisting on uniform and ID cards, using in order to sanitize operations in Customs ports as well as using penalties and sanctions. Another Member indicated that Customs was also cross-checking with tax authorities to verify that the person who issues the bill for broker services, is authorized to do so.

**IV. Conclusions/Summary of findings**

1. **General conclusions**

55. In line with the RKC’s “optional” engagement of broker services for importers/exporters, it is noticed that a majority of Members (73%) do not mandatorily require traders to use Customs brokers. 22 Members (23%) spread over all WCO regions still require the mandatory engagement of broker services, albeit with some exclusions (e.g. specified commodities, personal effects) in 13 Members.

56. 80 Members (89%) indicated that Customs brokers, where applicable, were required to meet certain requirements, for instance registration with Customs and some more specific licensing requirements primarily with a view to set standards for the Customs broker profession and levy penalties/sanctions on malpractices and misconducts.

57. Members have indicated a combination of factors/reasons for regulating Customs brokers. Most Members regulate Customs brokers, where applicable, to facilitate and protect the interests of traders and to ensure revenue collection, compliance and professionalism amongst the brokers. A few Members also indicated that the regulation of Customs brokers is equally necessary to optimize the government’s limited resources.

58. In 77 Members countries (89%), Customs department is the regulatory and licensing authority for Customs brokers. An examination either theoretical or practical is a requirement for licensing of Customs brokers in 63 Members (76%). Some administrations also have additional means of verifying a candidate’s Customs knowledge such as conducting an interview. 56 Members (83%) who do have an examination as part of the licensing process have also delegated the responsibility of the examination’s content and administration to their Customs department.

59. A majority of 62 Members have their Customs department as the oversight authority for Customs brokers’ ethics and professional conduct. 30 Members have Customs brokers associations responsible for the oversight of Customs brokers, which included 12 Members where the Customs administration and the brokers association have joint/shared oversight responsibilities.
Where there are licensing requirements, Members identified 10 broad licensing criteria: knowledge of Customs and related laws; knowledge of trade-related transport and finance matters; demonstrated compliance record; financial capacity/solvency; minimum educational qualification; minimum work experience; minimum number of hours of training; electronic transmission capability; financial guarantee – surety bond, security deposit; incorporated/established in the country, citizenship and/or residency. Where applicable, in the majority of 71 Members (88%), knowledge in Customs and related laws is one of the most important licensing criterion. It is imperative to set a standard that calls for prospective Customs brokers to demonstrate their Customs knowledge before receiving a license from the Customs administration. Apparently, Members that require this knowledge as a prerequisite for a Customs broker license have fewer problems with unauthorized brokers. On the average Members applied 4.9 criteria out of these 10.

Only 5 of the 22 Members, who require the mandatory engagement of broker services, identified the problem of informal/unauthorized brokers in their administration as a very serious problem. 12 Members identified the usage of informal brokers as a serious problem.

Members’ practices are divided on whether or not a minimum educational qualification should be used as a licensing requirement for Customs brokers. While 41 Members (51%) do not list a minimum educational qualification as a licensing requirement, 40 Members (49%) do have such a requirement, for example a university degree or high school diploma.

Members also require that the applicant must have citizenship and/or residency and companies must be incorporated or established in the country. With the emergence of more and more Custom Unions and/or Economic Unions, Members are adopting a more regional approach towards the residency requirement. There are increasing tendencies among Members to allow their Customs brokers to provide their services within the Customs/Economic Union they belong to. This will be an important policy consideration in future, as Members join or form more such regional groupings.

Members described a wide spectrum of activities which are handled by Customs brokers such as preparation of documents related to release and clearance; filing of the declaration and other information with Customs; accounting for goods/entry of goods; liaison with other government agencies (e.g. Licenses, Certificates, Permits and Others); payment of duties and taxes; refunds and adjustments; post clearance audit; consultancy/advice in order to meet various regulatory requirements; and representation in dispute resolution.

Brokers have to meet several obligations and liabilities depending on national legislation and regulations of a country in which they are licensed, most important being representing under proper authorization and advising their clients on various compliance requirements, while also being jointly and severally liable for the payment of duties, taxes, and other charges on behalf of their clients.
Concerning fees charged by Customs brokers, 79 Members (88%) noted that free market principles apply in their respective countries. Only in 11 Members (12%) fees are either fixed or monitored by a government authority, in such case mainly the Customs department, and in some instances in cooperation with a private sector body.

Capacity Building and training of Customs brokers received a lot of attention in the Policy Commission and as such, was a key element covered by the survey. The average number of organizations which offer training and development is 2, with no Member having more than 4 organizations out of the following: Customs Department; Customs together with Customs brokers associations; Customs brokers associations; Colleges and Universities; other government department/agencies; other private sector organization.

Members who have ascertained the percentage of Customs declarations handled by Customs brokers, state that a vast majority of the declarations are produced/filed by brokers despite the brokers’ engagement being “optional”. For those who were able to provide figures on this topic, the average percentage of broker usage was found to be 82.55%, in some cases even reaching up to 99.99%. This brings to light the possibility of eliminating any “mandatory” usage of brokers to comply with the RKC and let their usage be decided by traders/individuals based on market principles like other professional services. This also makes a good business case for those countries, which are apprehensive of social and political issues around the elimination of the mandatory use of brokers.

**ii. Challenges**

Some Members mentioned challenges, in particular on the issue of compliance and integrity of brokers. The appearance of informal brokers who operate with no licence and ID has been observed. Those informal brokers usually “hire” the licence/ID number from a licensed broker, for lodging declaration and other related work, against a consideration. This practice is not only deleterious to professional brokers and traders, but it also raises concern from a compliance perspective. 39 Members (46%) have noticed this as a problem area, among which 12 Members (14%) have noted it as a very serious problem.

Equally challenging for some Members is to change the legislation relating to the mandatory use of brokers. Additionally, some Customs administrations lack the capacity needed to reform current practices and incorporate best practices and new technology. As indicated by Members, such challenges could be met to some extent by increased use of ICT, application of demonstrative sanction and penalties in appropriate cases and through constant dialogue with traders and brokers. However, without enhancing capacity, Customs administrations will be unable to enforce sanctions and penalties for violations by brokers and make necessary legislative/administrative changes, wherever needed.
There is ‘no size fits all’ solution. Most Members have established Customs brokers’ regime that are already well suited to their national demands and needs, which may require some adjustments to leverage new opportunities and to meet emerging challenges. However, based on their self-assessment, some Members especially those who are considering establishing a broker regime and/or making changes in an existing system, may benefit from best practices of other Members and some of the key outcomes and considerations mentioned in this study.

iii. Areas of Cooperation between Customs Administrations and Customs brokers

Like in all stakeholder relations, Customs should ideally have a regular constructive engagement with brokers, as often brokers are the first line of interface between Customs and traders. Beyond the preparation of documents, manual/electronic submissions, the calculation and often payment of duties and taxes, they can play an active role in facilitating communication between Customs/government authorities and importers/exporters. Standard 8.5 of the GA to the RKC, along with Standard 1.3, provides for Customs to establish and maintain consultative relationships with the trade, by requiring Customs to include third parties such as brokers in their formal consultations.

There are several areas where a good relationship with Customs brokers and/or brokers associations can be of benefit for Customs administrations. Brokers may be consulted regarding support of Customs modernization and trade facilitation initiatives in line with international instruments such as the RKC and the SAFE Framework of Standards and the related initiatives like AEO programmes, Coordinated Border Management and Single Window. As indicated by some Members, consultation with brokers could be useful in business process re-engineering and IT system design/upgradation. Such consultation and potential further involvement could also be envisaged for the National Committee on Trade Facilitation provided for under Article 23.2 of the WTO TFA.

Customs could leverage the role of brokers as a communicator and force multiplier to improve compliance. Likewise, they are potential partners in curbing illicit trade including counterfeited/pirated goods, as well as in ensuring compliance with regulatory requirements of other government agencies.

Brokers can be equally engaged in an efficient and effective implementation of bilateral/multilateral agreements, enhancing supply chain security, carrying out performance measurement (e.g. Time Release Study) and also improving their professionalism and business ethics through regular joint training and Capacity Building measures. In the context of performance measurement, Customs brokers can play an important role is accurate and timely data collection, where clearances are done through them.

Thought could also be given to the role of brokers in enhancing the quality of data submitted to Customs. Obviously, quality of data is crucial for effective and efficient risk
analysis. One may argue that usually the trader has better knowledge of, and clearer responsibility for, the accuracy of the information set out in the declaration or other submission to Customs than the broker. However, brokers can sensitize and encourage their customers to improve data quality in terms of accuracy and adequacy. With further integration and the usage of electronic data transfer, Customs will have a more effective system of collecting data while providing Customs brokers with a streamlined tool for inputting the necessary information, thereby improving data quality.

The oversight authority for business ethics and professional conduct of Customs brokers vary from country to country. However, Members could explore the role of Customs brokers association in ensuring professionalism of Customs brokers. Customs brokers associations can provide their members with training in business ethics and professionalism. One example of such efforts on a regional level can be found in the East African Community (EAC). Customs clearing and forwarding associations, Revenue Authorities and the EAC Directorate of Customs are considering the development of a Policy Framework for accreditation and self-regulation of Customs clearance and freight forwarding agents. The objective of developing the policy is to improve service delivery, enhance professionalism and ensure self-regulation of the industry. The European association of freight forwarders and logistics service providers (CLECAT) is also playing an important role in developing code of conduct for Customs brokers, which establishes principles, values and rules of conduct, encouraging Customs brokers to adopt high ethical standards and to perform their duties to an appropriate standard, thereby protecting the rights of customers and their own profession, as well as the financial interests of individual Member States and the European Union as a whole. While leveraging the support of brokers associations and other relevant private bodies, Customs administrations can still retain power as the overall oversight authority on conduct and ethics, wherever needed and impose penalties and sanctions.

An important potential area of cooperation between Customs administrations and Customs brokers could be the provision of training for brokers, which is already being done by some Customs administrations on its own and/or together with brokers associations, as indicated in survey responses. By offering training for Customs brokers, Customs administrations can be transparent regarding their expectations and regulations and Customs brokers can acquire this first-hand information to ensure further compliance. Brokers who participate in the training could be considered for a certificate of completion (or something similar) as an incentive to attend trainings which may give them a competitive edge in the free market system. Training for Customs brokers can come from a variety of sources. Customs brokers associations, colleges and universities, Customs department (e.g. Customs college/training school), or a joint collaborative effort of the Customs department and others. Other relevant government agencies and private sector organizations could also provide in-depth training of skills that may not otherwise be covered by Customs administrations. These trainings could help increase the compliance of brokers by enhancing the understanding of requirements of Customs and other border agencies.
Other areas for cooperation between Customs administrations and brokers could potentially include:

a. Implementing an Authorized Economic Operator (AEO) programme is one of the proven Customs modernization and supply chain security and facilitation measures. Members may endeavor to implement an AEO and/or compliance programme that encompasses Customs brokers to increase cooperation between brokers and Customs administrations, with the aim of improved security and facilitation. Customs administrations should identify specific tangible benefits for AEO brokers to make the programme attractive for brokers.

b. The implementation of bilateral or multilateral agreements, such as Free Trade Agreements and the WTO TFA, requires collaboration between Customs administrations and Customs brokers (as well as other stakeholders). Without the support of both parties, implementation of these agreements could be challenging not only in extending the benefits but also curbing potential misuse/frauds. Therefore, Customs administrations and brokers should engage in early discussions about trade agreements and come up with solutions/mechanisms on how to best implement those agreements.

c. Customs administrations together with respective government agencies can further support Customs brokers by informing/educating them about the regulations and requirements of other government agencies, especially in the areas of due diligence and data quality. With the eventual adoption of a single window, declarations will be facilitated for brokers, but the data quality has to improve for an efficient and effective processing by all agencies. Improved data quality will provide Customs and other relevant government agencies with all the necessary and sufficient information to streamline the clearance of cargo without compromising security and other risks.

d. Supply chain safety and security remains an important target and communication between Customs administrations and Customs brokers should be open and transparent in this regard. Customs brokers can be an administration’s first line of defense against illicit trade.

e. Thoughts could be given to establish/recognize a brokers association at the national level as such associations can provide support for their members, but also assist Customs administrations. These associations can also provide valuable training, capacity building and oversight framework which might support/supplement the limited resources some administrations may have available for such purpose.

f. Members, in collaboration with Customs brokers associations and Customs brokers, may consider measuring the compliance rates of traders who use a Customs broker against those who do not, together with studies that measure
release times and other procedures of traders who use a Customs broker against the traders who do not use one, at regular intervals. Such studies could provide valuable insights about the role and responsibilities of Customs brokers and potential areas for further improvement.

g. In summary, there are various different cooperation and consultation mechanism options depending on a Customs administration’s needs and circumstances. In some Members, brokers have been part of Joint Customs/Trade Committees at national and local level. Such cooperation might also be supplemented by a formal Memorandum of Understanding (MOU) between Customs and brokers associations, while recognizing that cooperation can equally take place in a less formalized way.

iv. Model Checklist for licensing of Customs Brokers (where applicable)

80. The RKC provisions are clear allowing traders to lodge declarations with or without using a Customs broker/third party. It has been consistent policy of the WCO to encourage Members towards the optional use of brokerage services. Ideally, the engagement of Customs broker services or otherwise should be a commercial decision of traders. Cost effectiveness and quality of professional service are key factors influencing such a decision.

81. Depending on their national requirements and policy decisions, Members may need to regulate/license Customs brokers/third parties. Standard 8.2 to the GA to the RKC calls for the national legislation to specify the conditions for persons to act as third parties and to stipulate their liability for any duties and taxes and for any irregularities in compliance with Customs requirements. It further stipulates that licensing requirements for Customs brokers should be transparent, non-discriminatory and reasonable. Article 10.6 of the WTO TFA also requires that Members shall apply transparent and objective rules for licensing.

82. Based on Members’ responses and experiences, a model checklist for licensing/regulating brokers is at Appendix I, which is expected to serve a reference point for Members who are considering establish/adjust a licensing/regulatory regime for brokers.
# Appendix I - Model Checklist for licensing of Customs brokers

A simple and transparent Customs brokers’ licensing/regulatory regime, wherever applicable, is required to support and enhance compliance requirements. Depending on national requirements and policy decisions, Members may devise their own criteria for brokers’ licensing/regulatory regime. The following checklist may provide a guiding reference in this domain.

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Element</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Optional Use of Customs brokers</td>
</tr>
<tr>
<td></td>
<td>- Legal persons – companies</td>
</tr>
<tr>
<td></td>
<td>- Natural persons- individuals</td>
</tr>
<tr>
<td>2.</td>
<td>Key elements of licensing/regulatory framework</td>
</tr>
<tr>
<td></td>
<td>- Licensing criteria</td>
</tr>
<tr>
<td></td>
<td>- Process of verification – examination (written and/or interview)</td>
</tr>
<tr>
<td></td>
<td>- Scope and remit of Customs brokers’ service</td>
</tr>
<tr>
<td></td>
<td>- Customs brokers’ responsibilities and obligations</td>
</tr>
<tr>
<td></td>
<td>- Re-assessment/audit</td>
</tr>
<tr>
<td></td>
<td>- Sanction/penalties</td>
</tr>
<tr>
<td></td>
<td>- License validity</td>
</tr>
<tr>
<td></td>
<td>- Geographical restrictions (e.g. country, region)</td>
</tr>
<tr>
<td></td>
<td>- Capacity Building/training</td>
</tr>
<tr>
<td>3.</td>
<td>Licensing criteria</td>
</tr>
<tr>
<td></td>
<td>- Knowledge of Customs and related laws</td>
</tr>
<tr>
<td></td>
<td>- Knowledge of trade-related transport and finance matters</td>
</tr>
<tr>
<td></td>
<td>- Demonstrated compliance record</td>
</tr>
<tr>
<td></td>
<td>- Financial capacity/solvency</td>
</tr>
<tr>
<td></td>
<td>- Minimum educational qualification</td>
</tr>
<tr>
<td></td>
<td>- Minimum work experience</td>
</tr>
<tr>
<td></td>
<td>- Minimum hours of training</td>
</tr>
<tr>
<td></td>
<td>- Electronic transmission capability</td>
</tr>
<tr>
<td></td>
<td>- Financial guarantee – surety bond/security deposit</td>
</tr>
<tr>
<td></td>
<td>- Incorporated/established in the country, citizenship, and/or residency</td>
</tr>
<tr>
<td>4.</td>
<td>Customs administration’ responsibilities</td>
</tr>
<tr>
<td></td>
<td>- Regulatory/licensing authority</td>
</tr>
<tr>
<td></td>
<td>- Content of administration of brokers’ examination</td>
</tr>
<tr>
<td></td>
<td>- Brokers’ professional conduct</td>
</tr>
</tbody>
</table>
5. **Scope and remit of Customs brokers’ service**

- Preparation of documents related to release and clearance
- Filing/submission of the declaration and other information with Customs
- Accounting for goods/entry of goods
- Liaison with other government agencies (e.g. Licenses, Certificates, Permits, and Others)
- Payment of duties and taxes
- Refunds and adjustments
- Post clearance audit
- Consultancy/advice to meet various regulatory requirements
- Representation in dispute resolution
- Others, as stipulated in the agreement between the Customs broker and the trader

6. **Customs brokers’ responsibilities and obligations**

- Maintain high standards of professional conduct and business ethics
- Act under proper authorization from clients
- Advise clients on various compliance requirements
- Verify antecedents of clients
- Exercise due diligence on the correctness of any information/declaration filed
- Be liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of the client
- Maintain and preserve records for a specified period for Customs inspection/audit

7. **Sanctions/penalties**

- Administrative advisory/warning
- Suspension
- Fine and penalty
- Termination
- Prosecution
Appendix II- Questionnaire

Questionnaire

Members are kindly invited to submit their response to this questionnaire on Customs brokers by 29 May 2015 to the following e-mail address: Brokers@wcoomd.org

For any further information, please contact Mr P. N. Pandey, Technical Officer in the WCO Compliance and Facilitation Directorate (Tel: +32-22099355, e-mail: pn.pandey@wcoomd.org).

I. General

1. Name of Member Administration/Country or Customs Union.

2. Does your country have Customs brokers who act on behalf of traders to handle Customs clearance and related activities?
   - □ Yes
   - □ No

   If no, is your Administration considering the creation of a Customs broker regulatory framework?
   - □ Yes
   - □ No

4 The WCO “Glossary of International Customs Terms” defines a Customs clearing agent as a person who carries on the business of arranging for the Customs clearance of goods and who deals directly with the Customs for and on behalf of another person.

Notes:
1. Examples of Customs clearing agents are Customs agents, Customs brokers and freight forwarders.
2. Some countries require that Customs clearing agents or Customs brokers be approved or licensed by the Customs.
3. See also the term “Third party” (Chapter 2 of the General Annex (GA) to the Revised Kyoto Convention (RKC)).
### II. Customs Brokers – Institutional Framework and Arrangements

#### 3. What are the requirements regarding the use of a Customs broker to handle Customs clearance in your country?

- [ ] Traders may handle Customs clearance themselves or use a Customs broker
- [ ] A Customs broker must be used for all Customs clearance transactions
- [ ] A Customs broker must be used, except for some specified categories of Customs clearance transactions, threshold value and goods (Please specify):

  ________________________________________________________________________

- [ ] Third parties other than Customs brokers may be used (Please specify):

  ________________________________________________________________________

#### 4. Do Customs brokers/third parties need to meet any specific requirements to handle Customs clearance in your country?

- [ ] Yes
- [ ] No, anyone may carry out Customs clearance on behalf of others

If yes, what are the broad requirements?

- [ ] Registration with Customs or other government authority (Please specify):

  ________________________________________________________________________

- [ ] Specific regulatory and licensing requirements

- [ ] Other (Please specify):

  ________________________________________________________________________
5. Why does your country regulate Customs brokers (if relevant)? (Please check all applicable boxes):

- □ To facilitate and protect the interests of traders in completing Customs clearance formalities
- □ To set standards for the profession and impose sanctions in the event of malpractice
- □ To support and enhance compliance requirements and collection of legally payable revenue
- □ To optimize limited government resources through the use of brokers
- □ Other (please specify):

________________________________________________________________________

6. Licensed Customs brokers in your country are:

- □ Individuals/natural persons
- □ Companies/legal persons
- □ Both

7. If individuals are licensed as Customs brokers in your country:

How many individuals currently hold Customs broker licences? ____________

Is the number of individuals holding a Customs broker licence:

- □ Increasing?
- □ Decreasing?
- □ Unchanged?

8. If companies are licensed as Customs brokers in your country:

How many businesses currently hold Customs broker licences? ____________

Is the number of businesses holding a Customs broker licence:
III. **Customs Brokers - Regulatory and Licensing Criteria**

<table>
<thead>
<tr>
<th>9. How would you describe the model of Customs broker regulations in your country? (Please check all applicable boxes):</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Licence issuance only, if specific requirements are met</td>
</tr>
<tr>
<td>□ Licence issuance, with a specific validity period and renewal formalities</td>
</tr>
<tr>
<td>□ Periodic monitoring of performance of Customs brokers to ensure continued compliance with specified performance standards (e.g. inspection or audit)</td>
</tr>
<tr>
<td>□ Application of sanctions/penalties</td>
</tr>
<tr>
<td>□ Other (Please specify):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. What sanctions/penalties are provided in the regulations of your country (if relevant) for violations/misconduct by Customs brokers/third parties including informal/unauthorized/unqualified brokers? (Please check all applicable boxes):</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Suspension</td>
</tr>
<tr>
<td>□ Termination</td>
</tr>
<tr>
<td>□ Fine and penalty</td>
</tr>
<tr>
<td>□ Prosecution</td>
</tr>
<tr>
<td>□ Other (Please specify):</td>
</tr>
</tbody>
</table>
11. Who is the regulatory and licensing authority for Customs brokers in your country?

- [ ] Customs department
- [ ] Other government department/agency (Please specify):
  
  _______________________________________________________________________
- [ ] Private sector body (Please specify):
  
  _______________________________________________________________________

12. Is there an examination (theoretical/practical) for licensing of Customs brokers?

- [ ] Yes
- [ ] No
- [ ] Any other means of verifying Customs knowledge (Please specify):
  
  _______________________________________________________________________

13. If there is a Customs broker licensing examination, who is responsible for its content and administration?

- [ ] Customs department
- [ ] Other national government department/agency (Please specify):
  
  _______________________________________________________________________
- [ ] Government department, with input/support from the private sector
- [ ] Customs broker association
- [ ] Other private sector body (Please specify):
  
  _______________________________________________________________________
14. What are the licensing requirements in your country? (Please check all applicable boxes):

- □ Knowledge of Customs and related laws (individuals/employees)
- □ Knowledge of trade-related transport and finance matters (individuals/employees)
- □ Demonstrated compliance record
- □ Financial capacity/solvency
- □ Minimum educational qualification (individuals/employees). (Please specify):

____________________________________________________________________

- □ Minimum work experience (individuals/employees). (Please specify):

____________________________________________________________________

- □ Minimum number of hours of training (individuals/employees). (Please specify):

____________________________________________________________________

- □ Electronic transmission capability
- □ Financial guarantee – surety bond, security deposit
- □ Incorporated/established in the country, citizenship and/or residency
- □ Other (please specify):

____________________________________________________________________

15. What is the scope of practice of Customs brokers in your country (i.e. what functions does a Customs broker perform on behalf of traders)? (Please check all applicable boxes):

- □ Preparation of documents related to release and clearance (including classification, admissibility and release of goods)
- □ Filing of the declaration and other information with Customs
- □ Accounting for goods/entry of goods
- □ Liaison with other government agencies (e.g. Licenses, Certificates, Permits and Others)
- □ Payment of duties and taxes
- □ Refunds and adjustments
16. What are the obligations/liabilities of a licensed Customs broker under your country’s regulations/legislation? (Please check all applicable boxes):

- □ Act under proper authorization/agency agreement from/with the trader
- □ Advise clients on various compliance requirements
- □ Verify antecedents of their clients
- □ Exercise due diligence on the correctness of any information/declaration filed
- □ Liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of the client
- □ Maintain and preserve records for a specified period for Customs inspection/audit
- □ Maintain high professional standards, transparency, efficiency and business ethics
- □ Other (please specify): __________________________________________________________

17. Are there any jurisdictional/geographical restrictions on the services provided by Customs brokers?

- □ Yes. For example within national jurisdiction, specified ports/entry/exit points (Please specify):
  
  ___________________________________________________________________________

- □ No. For example, Customs brokers can provide services within the regional community, Customs Union or Economic Union (Please specify):
  
  ___________________________________________________________________________
18. Who is the oversight authority for business ethics and professional conduct of Customs brokers in your country?

- [ ] Customs department
- [ ] Other national government department/agency (Please specify):
  __________________________

- [ ] Customs broker association
- [ ] Other private sector body (Please specify):
  __________________________

19. Is the fee charged by Customs brokers fixed and monitored by an authority?

- [ ] No – free market principles apply
- [ ] Yes
  
  If yes, by which authority?

- [ ] Customs department
- [ ] Other government department/agency (Please specify):
  __________________________

- [ ] Private sector body (Please specify):
  __________________________

20. If traders in your country are allowed to handle their own Customs clearance formalities, are there any requirements be met by them/their employees? (Please check all applicable boxes):

- [ ] No requirements
- [ ] Business registration
- [ ] Knowledge of Customs and related laws (employees)
- Knowledge of trade-related transport and finance matters (employees)
- Demonstrated compliance record
- Financial capacity/solvency
- Minimum educational qualification (employees). (Please specify):
  __________________________________________________________
- Minimum work experience (employees). (Please specify):
  __________________________________________________________
- Minimum number of hours of training (employees). (Please specify):
  __________________________________________________________
- Electronic transmission capability
- Financial guarantee – surety bond, security deposit
- Incorporated/established in the country, citizenship and/or residency
- Other (Please specify):
  __________________________________________________________

### IV. Customs – Brokers Engagement/Cooperation

#### 21. How does your Administration consult/engage/cooperate with Customs brokers? (Please check all applicable boxes):

- Bilateral consultation including through the brokers association, where applicable
- Broad consultative process with all trade stakeholders
- Part of the National Committee on Trade Facilitation (under the World Trade Organization (WTO) Agreement on Trade Facilitation (TFA)) or any other similar existing body. (Please specify):
  __________________________________________________________
- No consultation with Customs brokers

Kindly share details of any formal consultative mechanism, for example a Memorandum of Understanding (MoU). Please feel free to add any further information/comments:

________________________________________________________________________
22. In what areas does your Administration engage/consult/cooperate with Customs brokers? (Please check all applicable boxes):

- [ ] Customs modernization and trade facilitation initiatives, including new policies and programmes (e.g. automation, Authorized Economic Operators (AEOs), Coordinated Border Management, Single Window)
- [ ] Implementation of bilateral/multilateral agreements (e.g. Free Trade Agreements (FTAs), WTO TFA)
- [ ] Compliance with Customs and other government agencies’ requirements, including due diligence and data quality
- [ ] Enhancing supply chain security
- [ ] Enhancing the professionalism and business ethics of brokers (e.g. capacity building and joint training activities)
- [ ] Carrying out performance measurement (e.g. Time Release Study)
- [ ] Other (Please specify):

__________________________________________________________________________

23. Does your Administration’s AEO/Compliance programme encompass Customs brokers?

- [ ] Yes
- [ ] No

If yes, what benefits are extended to Customs brokers? (Please specify):

__________________________________________________________________________

24. Does your country have a Customs brokers’ association?

- [ ] Yes, a dedicated Customs brokers’ association
- [ ] Yes, an association that also includes Customs brokers
- [ ] No
25. Which organizations offer training and professional development for Customs brokers? (Please check all applicable boxes):

☐ Customs broker association

☐ Colleges and universities

☐ Customs department (e.g. Customs college/training school)

☐ Customs department together with Customs broker association and others

☐ Other government departments/agencies (Please specify):

__________________________________________________________________________

☐ Other private sector organizations (Please specify):

__________________________________________________________________________

26. Have you ever measured compliance rates of traders who use a Customs broker against those who do not?

☐ Yes

☐ No

If yes, what were the lessons learned?

__________________________________________________________________________

27. Have you ever measured release times or any other procedures of those who use a Customs broker against those who do not?

☐ Yes

☐ No

If yes, what were the lessons learned?

__________________________________________________________________________
28. Have you ever ranked Customs brokers in terms of their professional standards and service delivery?

- Yes
- No

If yes, what were the lessons learned?
___________________________________________________________________________

29. Has your Administration ever ascertained the extent to which Customs brokers are used?

- Yes
- No

If yes, what was the average percentage of Customs declarations handled by Customs brokers in a given period?
___________________________________________________________________________

30. How serious is the problem of informal/unauthorized brokers\(^5\) in your Administration?

- Not a problem
- Not a serious problem
- A very serious problem

If a very serious problem, please mention briefly the measures taken to address it:
___________________________________________________________________________

\(^5\)It includes those who use/hire the licence of a licensed broker for handling Customs clearance and other related work, against a consideration or those who operate without following any requirements.
V. Other Information

31. Are there any further comments/thoughts you would like to share?

___________________________________________________________________________

___________________________________________________________________________

32. If possible, please provide a link to your country’s laws/regulations relating to Customs brokers or attach a document/file to this questionnaire.

___________________________________________________________________________