



Brussels, 31 August 2015.

CUSTOMS BROKERS

Draft Study Report on the situation of and cooperation with Customs Brokers

- Outcomes of the WCO survey on Customs Brokers

(Item VI.a on the Agenda)

I. Introduction

1. At its 72nd Session held in Recife (Brazil) from 8 to 10 December 2014, the Policy Commission discussed the topic “Customs Brokers - Institutional Framework and Arrangements”, which included a wide range of institutional frameworks and experiences within Members on the use of Customs brokers (Doc SP0497).
2. Noting the high degree of interest on this topic, the Policy Commission tasked the Permanent Technical Committee (PTC) to carry out further work with a view to preparing a study - based on Members’ experiences, success stories and lessons learned - on cooperation with Customs brokers, and guidance on how to ensure that the involvement of Customs brokers helped to enhance compliance.
3. At its 207th/208th Sessions held from 3 to 6 March 2015, the PTC discussed various licensing requirements/criteria and cooperation opportunities between Customs and brokers to enhance trade facilitation and improve compliance, including joint training and capacity building in that domain.
4. Members elaborated on their regulatory requirements (wherever applicable) on licensing/registration, eligibility criteria, professional qualification, fees, periodic inspection/audit, obligations/liabilities and penal provisions for misdemeanour, etc. They also deliberated on various cooperation mechanisms with brokers, in particular active engagement and consultation with them in the implementation of various trade facilitation measures such as AEO, Coordinated Border Management and Single Window.
5. The PTC decided to continue the work intersessionally with a view to developing a detailed study based on Members’ varied experiences, including by carrying out a survey

to ascertain Members' practices on brokers' role, institutional framework, regulatory/licensing requirements, challenges, opportunities and lessons learned.

6. A detailed questionnaire was circulated to Members in April 2015. At the time of drafting this document, 96 Members have responded to the questionnaire, which again underscores the large interest on this topic.
7. Based on the survey results at an aggregate level and further research carried out by the Secretariat, a draft study report including a detailed analysis of Members' practices and proposed considerations (Annex I to this document) has been prepared.

II. Survey Outcomes

8. Some of the key outcomes of the survey are outlined below :
 - 92 Members (96%)¹ stated that their country has Customs brokers who act on behalf of traders to handle Customs clearance and related activities.
 - A majority of 70 Members (73%) have provided for an optional usage of Customs brokers, in line with the RKC provisions for an "optional" engagement of brokerage services.
 - 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, only 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.
 - 80 Members (89%) indicated that Customs brokers and third parties (wherever applicable) are 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. On the other hand, 10 Members (11%) do not have any requirement, as a result anyone may carry out Customs clearance work on behalf of other(s).
 - 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. In the majority of 71 Members (74%), knowledge in Customs and related laws is one of the most important licensing criteria. On an average Members applied 5 criteria out of 10.
 - Brokers are found as having to meet several obligations and liabilities depending on national legislation and regulations of a country in which they are licensed, most

¹ Figures in % throughout the document indicate the percentage of actual responses to the relevant question.

important being represented under proper authorization from their clients and advising them 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.

- 31 Members (36%) have ascertained the extent to which Customs brokers are used, where a majority of 56 Members (64%) did not carry out such an exercise. Members that 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 brokers' engagement being "optional". For those that have conducted such a study (excluding the countries with a mandatory engagement of Customs brokers) the average percentage of broker usage was found to be 82.55%, in some cases even reaching up to 99.99%.

III. Suggested Considerations

9. Given the wide range of working experiences/models described by Members, it is clear that there is 'no size fits all' model for Customs brokers' regime. Most Members have established a Customs brokers' regime that is already well suited to their national demands and needs. However, based on their self-assessment, some Members especially if considering establishing a brokers' regime and/or making changes in an existing system, may consult best practices of other Members and some of the key outcomes and considerations including the model template for licensing of Customs brokers/traders mentioned in this study.
10. Some suggested policy as well as organizational considerations are set out at Annex II to this document.

IV. Action Requested

11. The PTC is requested to:
 - examine and discuss the draft study report and its key outcomes together with suggested considerations (which could potentially become part of the executive summary of the study report), and come up with recommendations, if any, in particular on the Customs Brokers' role in trade supply chains, regulatory and licensing frameworks and potential opportunities of cooperation between Customs and Customs brokers;
 - provide further guidance in terms of possible improvements of the draft study, before its presentation to the Policy Commission in December 2015; and
 - share more best practices and working experiences on the usage of Customs brokers; licensing/certification criteria and the involvement of Customs Brokers in enhancing compliance and facilitation.

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