

Suggested considerations on Customs brokers regimes (where applicable)

- a. Usage of Customs brokers should be made 'optional' in line with the provisions of the RKC, and could potentially be governed by free market principles like other professional service keeping in mind the national social and economic situation;
- b. Fees and charges for Customs brokers should not be fixed nor regulated by an authority and be left to be determined by the market. However, depending on national-specific requirements, general oversight may be required by the government/Customs - sometimes together with brokers' associations or other private organizations - to protect the interest of traders;
- c. Both - individuals (natural persons) and companies (legal persons) should be allowed to become licensed brokers, where there are such licensing requirements. This is to ensure equal opportunities to everyone and also to have a wider availability of brokers;
- d. Due to the sheer nature of activities being carried out by Customs brokers which are primarily related to Customs clearance, Customs should, to the extent possible, be the regulatory and licensing authority for Customs brokers, where applicable. The responsibility of conducting examinations for brokers, where applicable, may also be entrusted to Customs. They could together with brokers' associations or any other private body, where needed, also be entrusted with the oversight authority for business ethics and professional conduct of Customs brokers.
- e. Regulatory and licensing criteria, where applicable, should be transparent and simple, which may specifically include besides others as mentioned in the model template, sanctions and penalties for misconduct and violations by Customs brokers (e.g suspension, termination, fine and penalty and prosecution), including provisions dealing with informal/unauthorized brokers, to ensure effective compliance with Customs and other government agencies' requirements.
- f. Where licensing requirements, if any, are foreseen for traders who are allowed to carry out Customs formalities for clearance of their own goods, they need not necessarily be as stringent as the licensing requirements for Customs brokers, but some minimum prerequisites such as knowledge of Customs and related laws, good compliance record and financial solvency could be prescribed.
- g. In order to test the Customs knowledge of brokers and to ensure that they keep themselves abreast of the latest developments, Customs administrations should consider designing suitable assessment/verification systems, for example, an examination, either theoretical or practical.
- h. Obligations and liabilities of brokers may include representing under proper authorization by clients; advising their clients on various compliance

requirements and not lending or permitting any other person or agent to use their license under any circumstances, while also being jointly and severally liable for the payment of duties, taxes and other charges on behalf of their clients.

- i. Challenges posed by some brokers including informal/unauthorized brokers 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 such brokers.
- j. Cooperation opportunities between Customs and brokers could include Customs modernization and trade facilitation initiatives; 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) and carrying out performance measurement (including conducting Time Release Studies).
- k. The remit of AEO/ trusted trader programmes should be expanded to include brokers with well identified tangible benefits. Where appropriate, Customs brokers could also be involved in the National Committee on Trade Facilitation set up/maintained under the WTO TFA;
- l. Consideration could also be given to establishing/recognizing a brokers' association at the national/regional level as such associations can provide support to their members while assisting Customs administrations in their regulatory/licensing responsibilities. These associations can also provide valuable training, capacity building and an oversight framework which, given the limited resources some administrations may have, might add to overall capacity of brokers. However, Customs administrations should support Customs brokers including through brokers' associations by informing/educating them about the regulations and requirements, including, where appropriate, of other government agencies.
- m. Consideration could also be given to measuring the compliance rates of traders who use a Customs broker against those who do not, together with studies that measure release times of traders who use a Customs broker against the traders who do not use one at regular intervals. Such studies could provide valuable insights in the role and responsibilities of Customs brokers and potential areas for further improvement. And
- n. Consideration could also be given to ascertaining the extent to which Customs brokers are used or otherwise in Customs clearance process, which, as indicated by several Members, showed a high percentage of usage of brokers despite being 'optional'. This could potentially necessitate policy changes not only in terms of adjusting licensing requirements but also setting up an effective oversight and capacity building mechanism.