

WCO STUDY REPORT ON

CUSTOMS BROKERS

JUNE 2016



WORLD CUSTOMS ORGANIZATION

WCO Study Report on Customs Brokers

World Customs Organization

June 2016



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Executive Summary

Customs brokers act as intermediaries between traders and Customs in the clearance process. There are several practices in terms of regulatory/licensing requirements, roles and responsibilities, fees and charges, cooperation mechanism between Customs and brokers.

In order to provide wide a clear understanding of a wide spectrum of Members' practices in terms of brokers' role, institutional framework, regulatory/licensing requirements, challenges, opportunities and lessons learned, and to further provide guidance to Members, where needed, as mandated by the Policy Commission, the WCO developed a comprehensive Study Report on Customs Brokers.

This Report is primarily based on WCO survey results at an aggregate level and research carried out by the Secretariat, which, among others things, includes a detailed analysis of Members' practices.

The Report starts with providing an introductory general background and overview of Customs brokers' role in the supply chain and moves on to explaining related international standards, instruments, and tools.

The Report analyses and highlights key outcomes of the WCO survey based on Members' responses. It also examines several potential cooperation opportunities between Customs and Customs brokers as well as collaborative work on skill up-gradation and capacity building of brokers, on a sustained basis, noting their role in improving trade facilitation and compliance.

Finally, the Report provides some suggested policy and organizational considerations on Customs broker regimes at Appendix I. Based on Members' responses and experiences, a model checklist for licensing/regulating brokers is also provided in Appendix II, which together with suggested policy considerations is expected to serve a reference point for Members who are considering to establish/adjust a licensing/regulatory regime for brokers.

I. Introduction

i. Background

1. Customs brokers¹ 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.
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

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).

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 checklist for brokers' licensing criteria for Customs administrations together with other policy considerations, 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. There are limitations in assimilation and synthesis of a very wide range of Members' practices 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.

Box 1. Chapter 8 of the GA to the RKC

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.

17. 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.

18. 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.

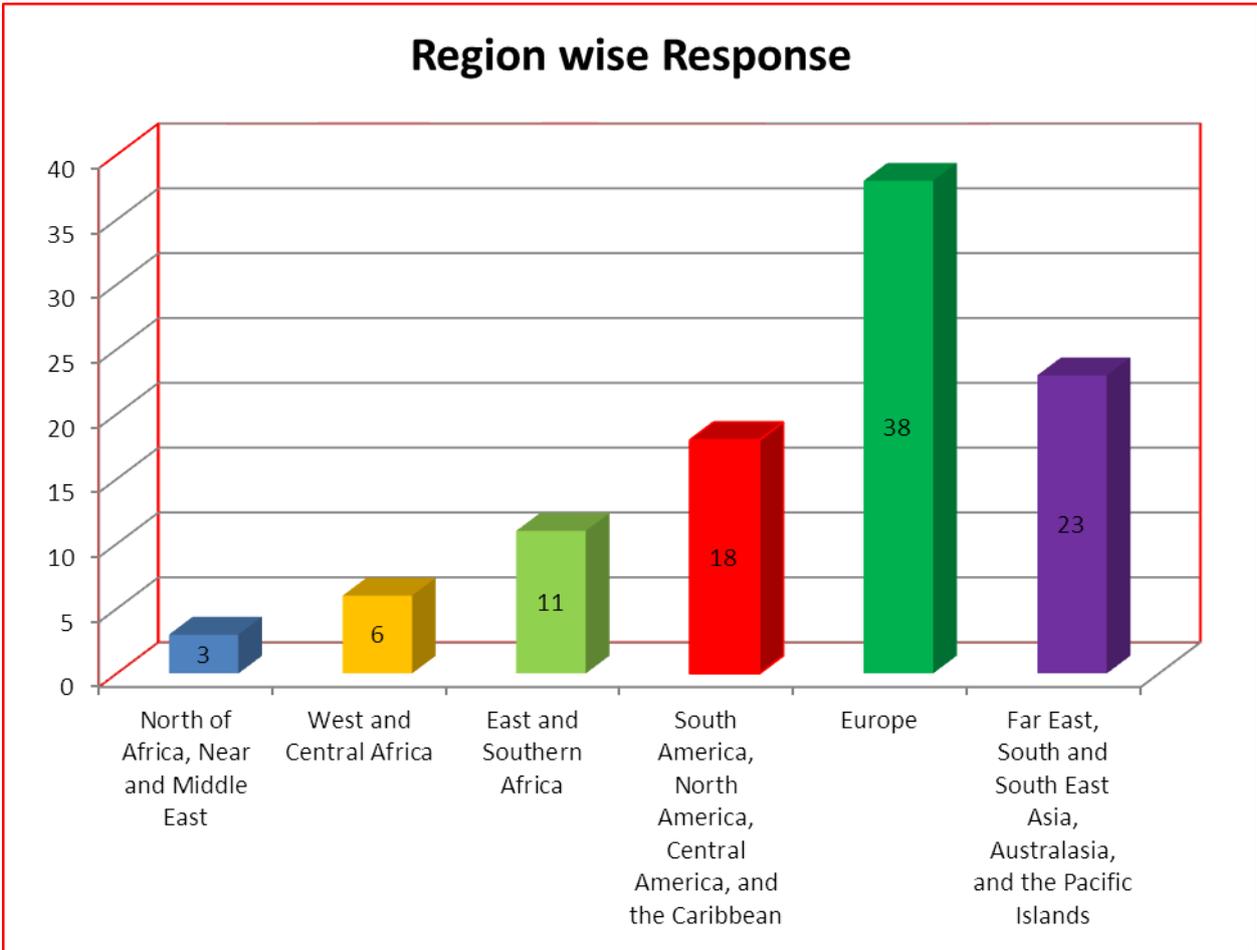
6.2 Each Member shall notify the Committee and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.

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

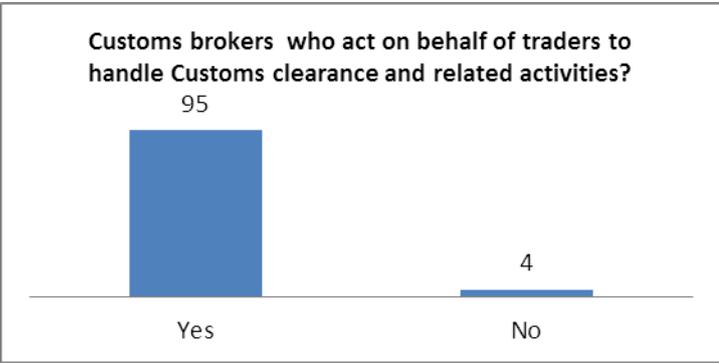
III. Survey Findings

i. General Information

19. As of October 2015, 99 Members (55% of the WCO Membership) have responded to the survey questionnaire. Replies by WCO region are indicated below.



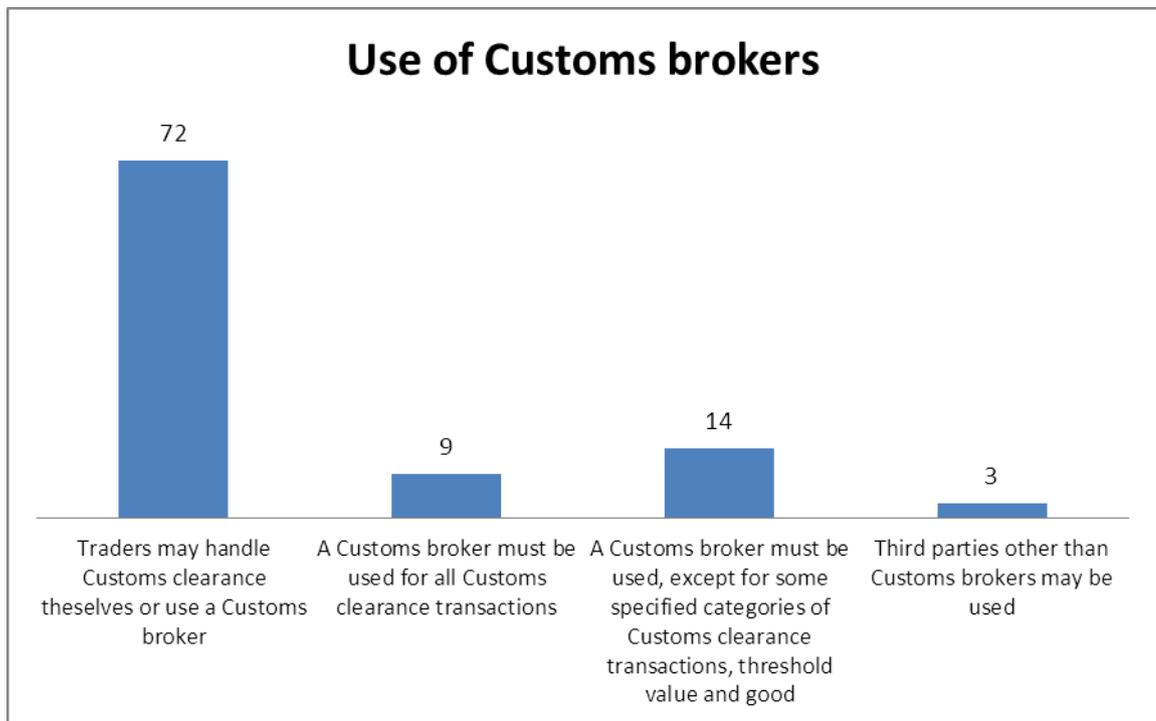
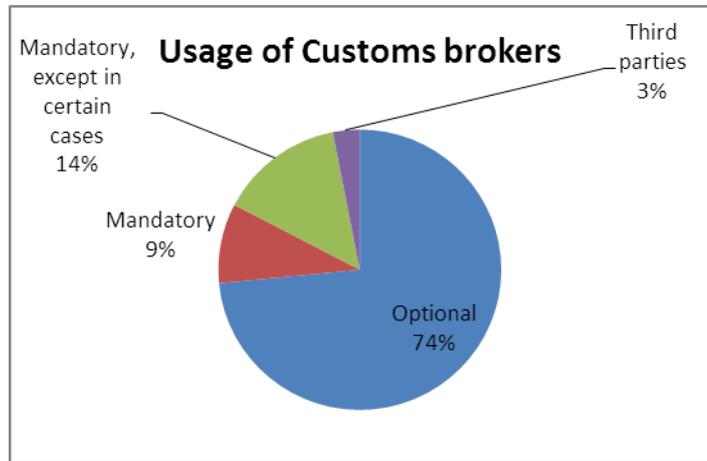
20. 95 Members (96%)² stated that their country has Customs brokers/agents/representatives/third parties who act on behalf of traders to handle Customs clearance and related activities. Only 4 Members stated to have no Customs brokers.



² Figures in % throughout the document indicate the percentage of actual responses to the relevant question.

ii. Institutional Framework and Arrangements

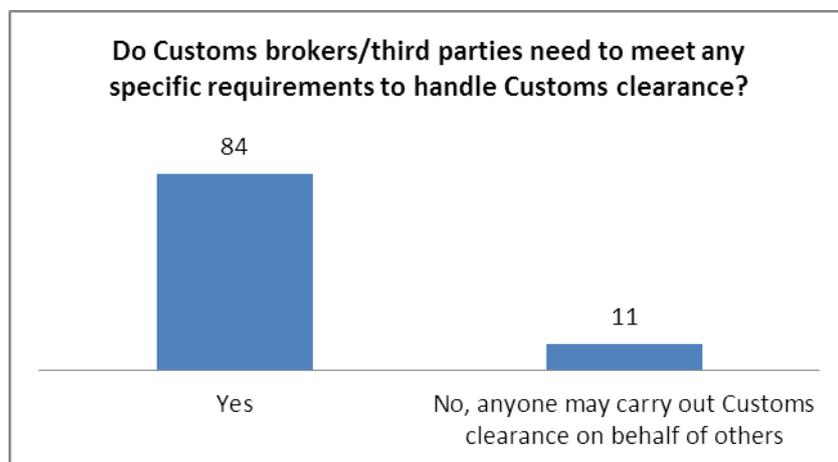
21. Concerning the requirements for the use of a Customs broker to handle Customs clearance, a majority of 72 Members (73%) have provided for an optional usage of Customs brokers, which is aligned with the RKC provisions for an “optional” engagement of brokerage services. However, 9 Members (9%) stated that they have a mandatory requirement of using Customs brokers for all Customs clearance transactions. At the same time, 14 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 - household goods, used cars, non-commercial samples and postal items were given as examples. 3 Members (3%) also stated that they allow third parties other than Customs brokers to be used for Customs clearance.



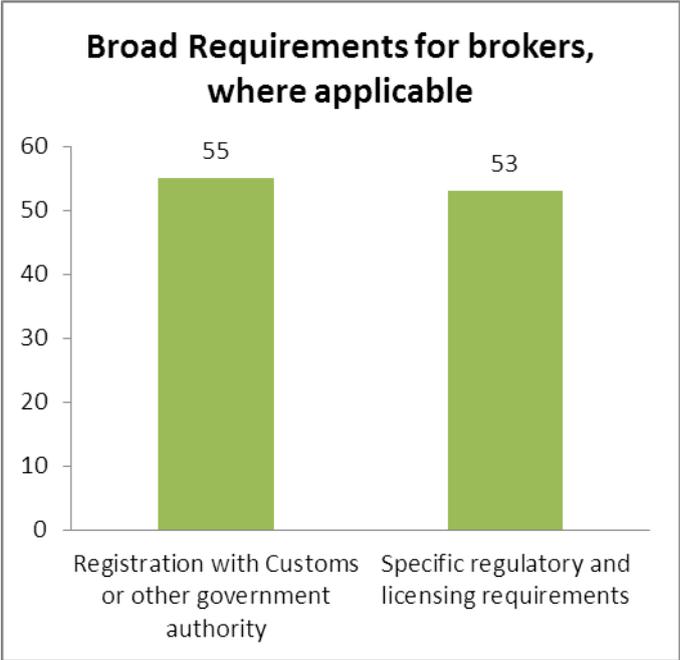
22. There is a wide range of models among Members regarding the use of Customs brokers. While many of them have an optional regime with simplified registration/licensing requirements, others provide for a mandatory use of Customs brokers with a detailed licensing criterion usually verified/tested among others through an examination.

Restriction	Regulations in Licensing of Customs brokers		Example of Countries
Low  High	No prerequisites.		Germany, Hong Kong China, Macau China and Switzerland.
	Traders may conduct their own Customs formalities or utilize the services of a Customs broker. (Optional)	Professional examinations are required for the licensing of Customs brokers and traders.	US, Luxembourg, Malaysia, Nigeria, India, Singapore, Morocco
	Customs broker engagement is mandatory except for specific circumstances.	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.
	Customs broker engagement is mandatory .	Professional examinations for the licensing of Customs brokers are required.	Bangladesh, Haiti, Mongolia, Mozambique, Papua New Guinea, Philippines, São Tomé and Príncipe, Sri Lanka, Tanzania

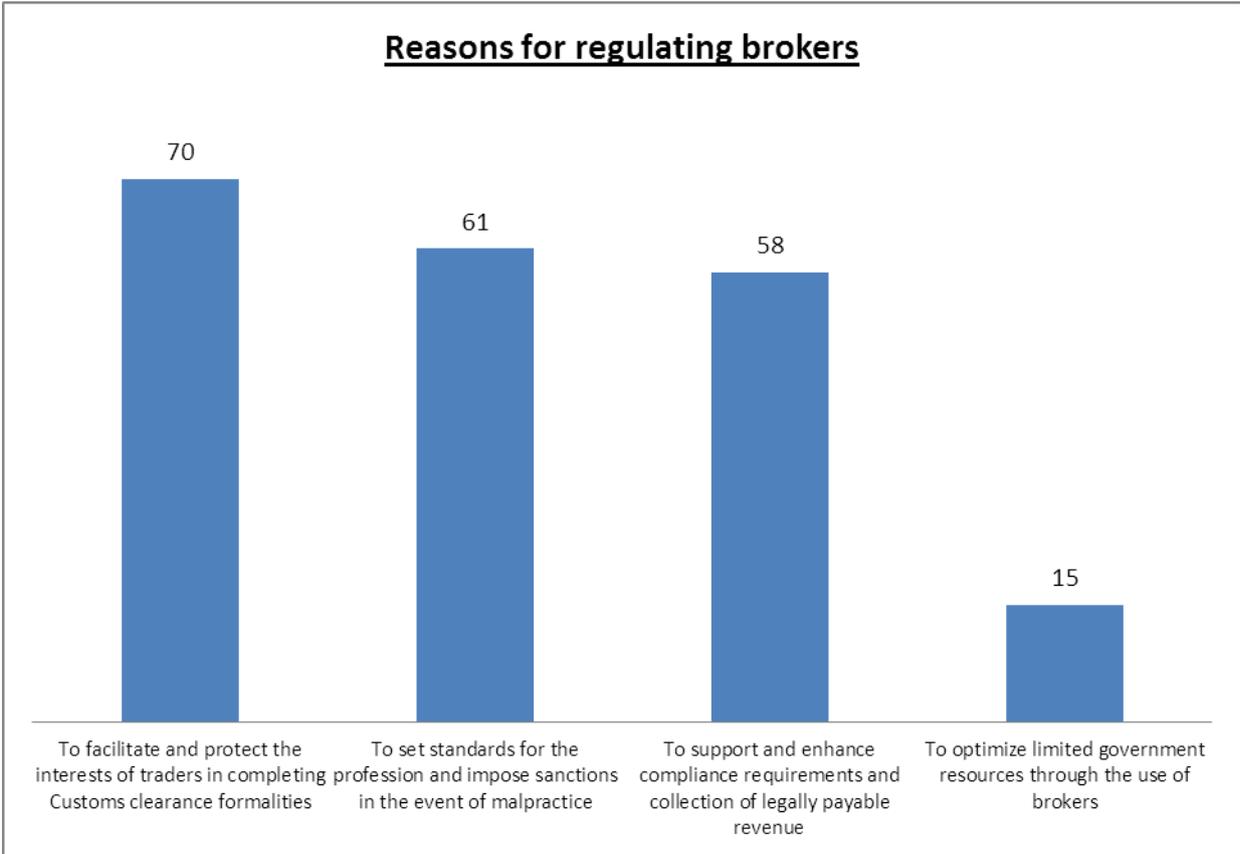
23. 84 Members (88%), a majority, responded that Customs brokers, and wherever applicable, third parties, had to meet certain requirements before being allowed to handle Customs clearance. However, 11 Members (12%) do not have any requirements in place, as a result anyone may carry out Customs clearance work on behalf of other (s).



24. Of the 84 “yes” responses, 55 Members stated that a broad requirement for Customs brokers was to register with Customs or another relevant government authority. Additionally, 53 Members said that Customs brokers in their country have to meet specific regulatory and licensing requirements, in some cases together with registration requirements. One Member noted that while Customs brokers need to be licensed, third parties must have written authorization from the importer/exporter of the goods to act on their behalf and must do so only on a casual basis without any compensation or fee.



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. 70 Members regulate Customs brokers to facilitate and protect the interests of traders in completing Customs clearance formalities. 61 Members feel that regulation is required to set standards for the Customs broker profession and levy penalties/sanctions on malpractices and misconducts. In addition, 58 Members have regulations to ensure and enhance compliance requirements and collection of applicable duties and taxes. 15 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 so to facilitate and protect the interests of traders and to ensure revenue collection, compliance and professionalism amongst brokers.



Example: 1

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.

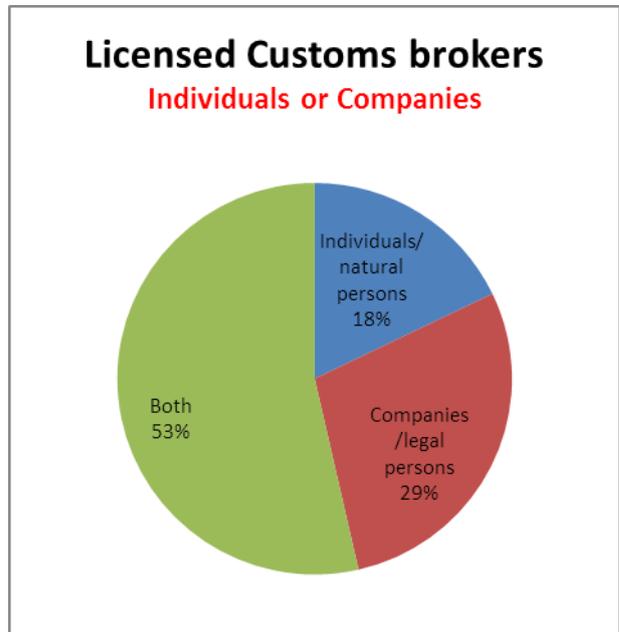
If a person passes the licensing examination for certified Customs brokers, he or she will be qualified as a certified Customs broker (no specific expiration date is set).

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.

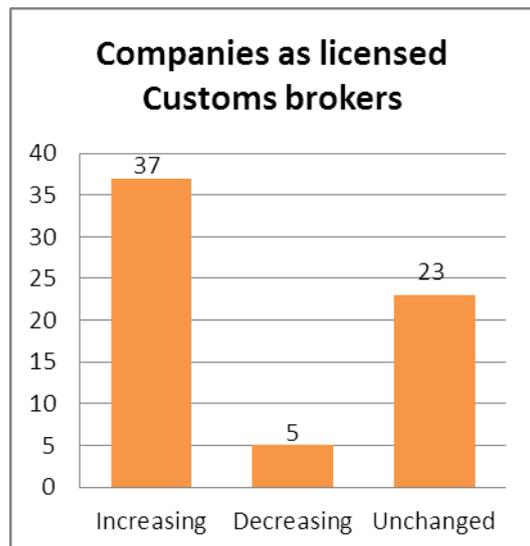
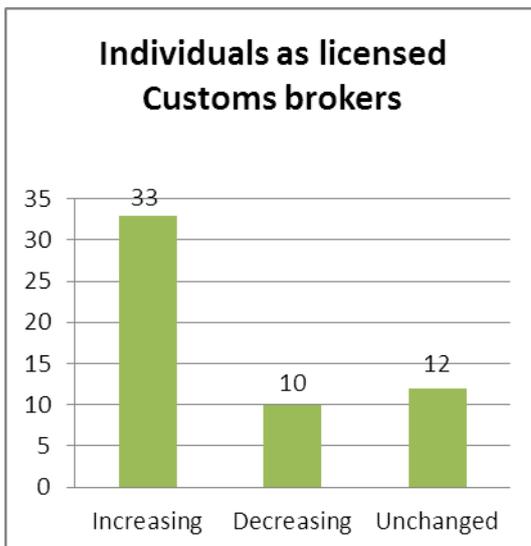


Licensed Customs brokers – individuals and/or companies

26. Licensed Customs brokers could be individuals, companies, or both. In 45 Members’ jurisdictions (53%), licensed Customs brokers can be either individuals or companies. In case of 24 Members (29%), 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, though in many cases these companies need to assign at least one Customs broker/Customs specialist. Retired/former Customs officers are also allowed to act as brokers by some Members subject to specified conditions, for example in Korea 54% brokers currently are former Customs officers.

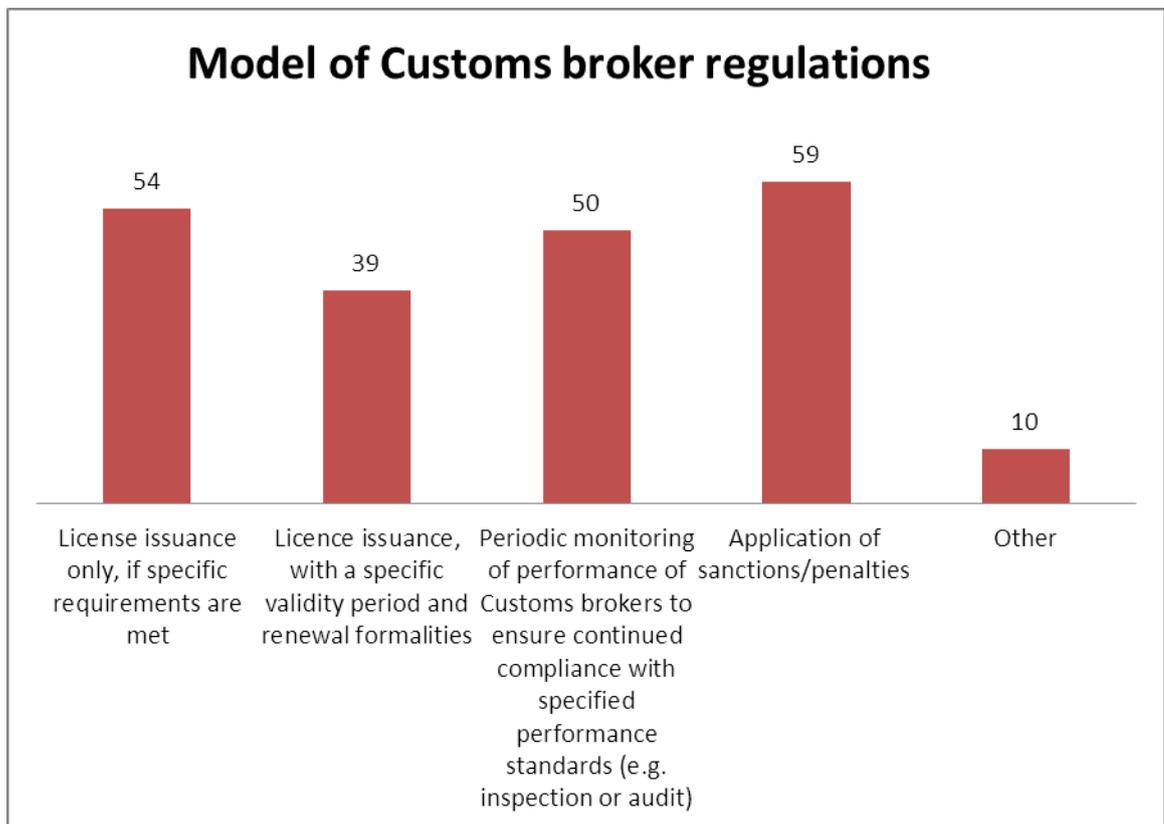


27. For Members who allow individuals to be licensed Customs brokers, 33 Members noted that the number of individuals holding a Customs broker license is increasing, whereas 10 Members found that the number is decreasing. In 12 Members their number is broadly unchanged. In case of companies being licensed as Customs brokers, 37 Members stated that the number of businesses holding a Customs broker license is increasing and only 5 Members found that the number is decreasing, while 23 Members noticed that the number is unchanged.



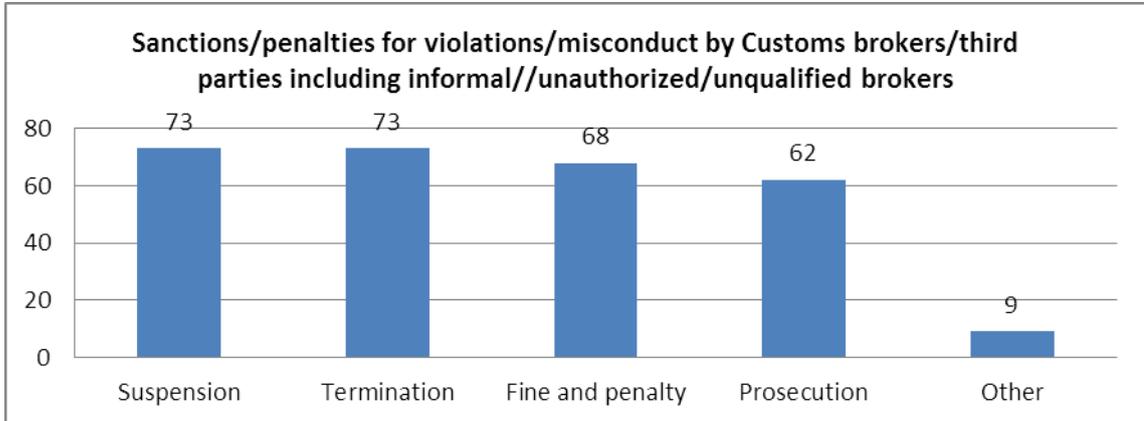
iii. Regulatory and Licensing Criteria for Customs Brokers

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, 54 Members responded that one key aspect of their respective regulation covered the issuance of a license if specific requirements are met, valid until terminated or surrendered. 39 Members also used license issuance as a regulating factor, but with a specific validity period (e.g. 12 years in Uruguay, 10 years in India) and renewal formalities. 50 Members said that periodic monitoring through regular audits and inspections were used as part of the regulation of Customs brokers to ensure continued compliance. 59 Members also prescribed sanctions/penalties on Customs brokers under their regulations. 10 Members mentioned that their regulations include other aspects such as license issuance with registration; entry in the list of Customs agents, if specified requirements are met and continuing professional development for individual licensed Customs brokers.



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. 73 Members stated that Customs brokers in their country could be suspended for violations or misconduct. The same number of Members (73) can even terminate the license of Customs brokers in appropriate cases (e.g. criminal offences). 68 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. 9 Members also exercise some other sanctions, for example removal from the register or list of

Customs brokers/agents, reprimand, reprobation and ineligible for future broker activities.



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.

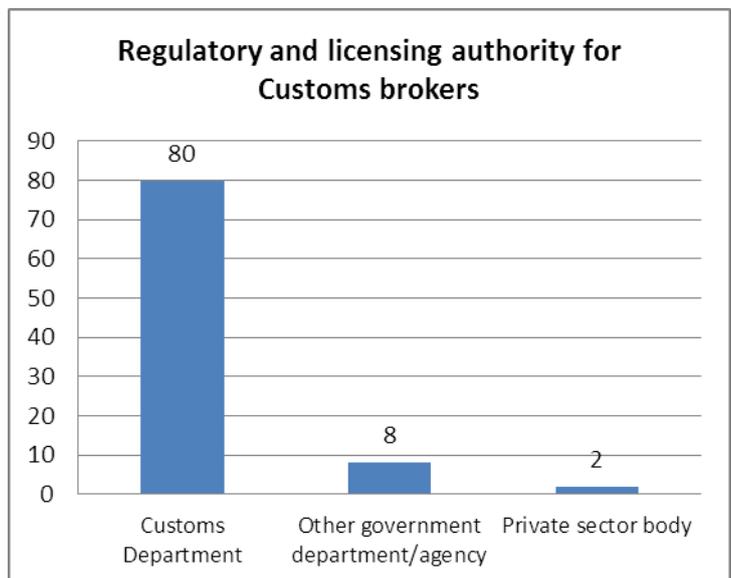
Example: 2
Canadian Border Services Agency (CBSA)

- Sanctions and penalties for violations and misconduct include:
 - Suspension
 - Termination
 - Fine and penalty
 - Prosecution
 - In case of minor infractions or compliance issues, the Canadian Border Services Agency would provide advice and guidance to correct the issues.



Regulatory and licensing authority

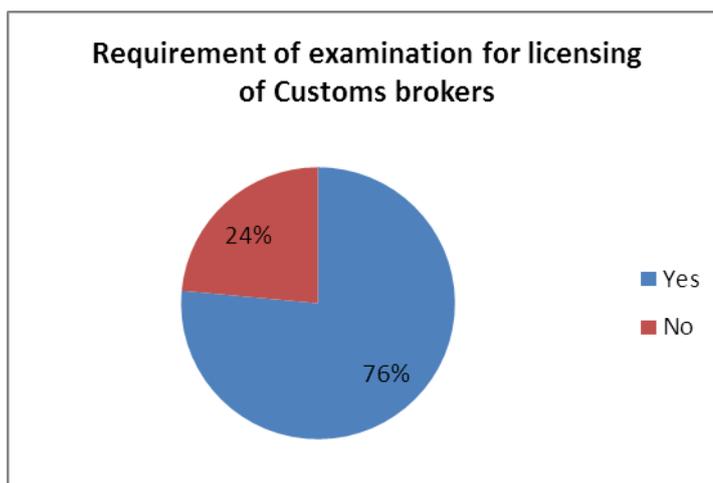
31. The regulatory and licensing authority for Customs brokers varies among Members. In most Members countries (80, 91%), the Customs department has the responsibility of such an authority. 8 Members (9%) indicated that this authority is vested with another government department or agency, such as the Ministry of Economy in Moldova and Professional Regulation Commission in Philippines. At the Economic Community/Customs Union level, such authority lies to the respective Community/Union



(e.g. The Economic Community of Central African States (CEMAC)). In case of 2 Members (2%), a private sector body - a trade association or a Customs Agent Chamber, is the regulatory and licensing authority (e.g. British International Freight Association (BIFA) in the UK).

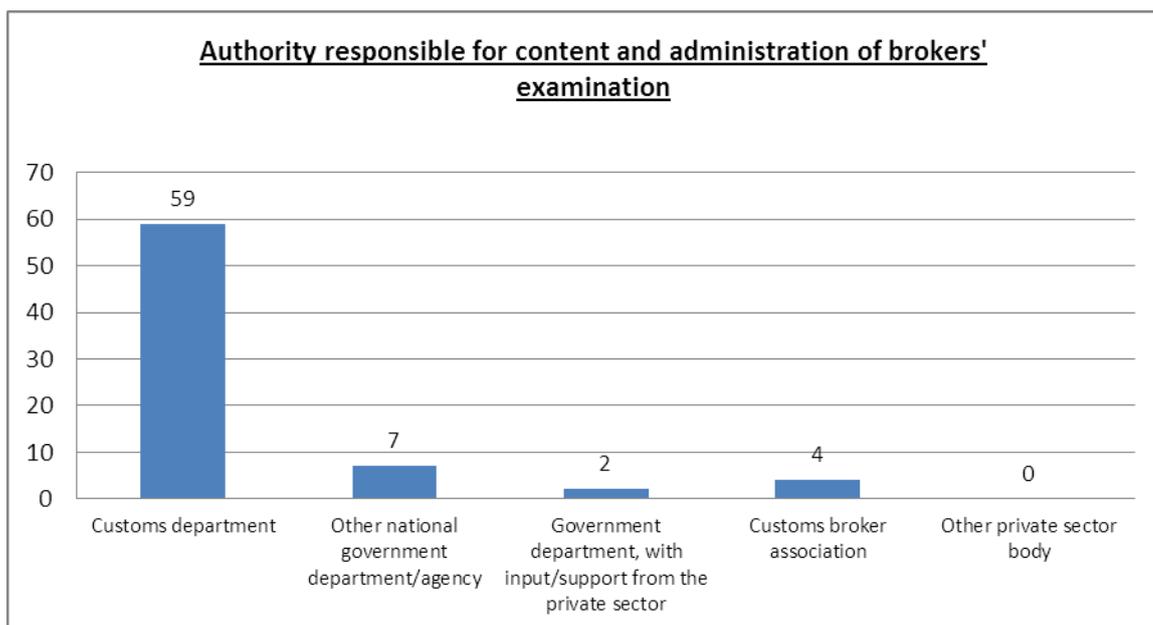
Requirement of examination for licensing of brokers

32. 65 Members (76%) stated that they have an examination system, 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. 10 Members including some who do not have an examination system, also employ additional means for verifying Customs



knowledge of brokers e.g. conducting interview in Australia and Democratic Republic of Congo. Completion of an 'approved course of study' (Australia), a Customs diploma programme (Fiji), a specific training programme (Malta), 5 years of work experience in Customs matters (Mexico) and a 'Fit and Proper Person Assessment' based on education, work experience and industry knowledge (the Seychelles) are some other examples of verifying brokers' knowledge for licensing.

33. 59 Members that do have an examination as part of the licensing process have delegated the responsibility of the examination's content and administration to their Customs department. 7 Members have other national government departments/agencies responsible for this, for instance the Ministry of Finance's Training Institute in the Dominican Republic; the Human Resource Development Service in Korea; International Business and Customs Institute of Riga Technical University in Latvia; a Tribunal comprising of one representative each from Ministry of Economy and Finance, Customs Directorate and the brokers association in Uruguay; and Customs broker's board in Trinidad and Tobago. 2 Members stated that in their country, a government department is responsible with the input and support from the private sector (e.g. Professional Regulation Commission with inputs from Chamber of Customs Brokers in Philippines). 4 Members, one each one each from Far East, South and South East Asia, Australasia and the Pacific Islands; North Africa, Near and Middle East; South America, North America, Central America, and the Caribbean; and Europe 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.

Example: 3
Guatemala Customs

- Guatemala has licensing requirements, necessitating all of the stated requirements.
- To be a licensed broker, applicants must not work for the government.
- With such demanding requirements, licensed Customs brokers are allowed the full scale of listed scopes of practice as described below.
 - Guatemala is one of the few Members that allow their Customs brokers these many functions.



35. In order to provide some further details: 73 Members require that licensed Customs brokers should have a sound knowledge of Customs and related laws, while 36 Members equally require knowledge of trade transport and finance as an important licensing criterion. 40 Members feel that licensed brokers must have an exemplary compliance record. Licensing requirements of 36 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 49 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. 43 Members require a minimum educational qualification, which varies from a high school diploma or its equivalent or a bachelor degree to a specialized degree in a Customs-related field. A minimum amount of work experience has also been prescribed for licensed Customs brokers by 25 Members. For example, Mexico and Cameroon require a minimum work experience of 5 years, while Angola, Botswana and Cyprus require 2 years of work experience as a Customs broker assistance, 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.

Example: 4

Cyprus Customs and Excise

Individuals:

- be graduates of a recognized secondary school or holder of an equivalent academic qualification,
- have two years experience,
- be over the age of 20,
- pass a written and oral examination on Customs legislation and the procedures related to the import and export of goods, and
- Be a person of good character.

Legal entities:

- must be a company/organization registered in the Republic of Cyprus,
- the Article of Association shall state the import or export of goods or Customs clearing as one of the company's activities, and
- Customs activities are carried out by a person authorized as a Customs agent, be it a member of the Board of Directors, a director, partner or any other officer employed by the company.

o functions.

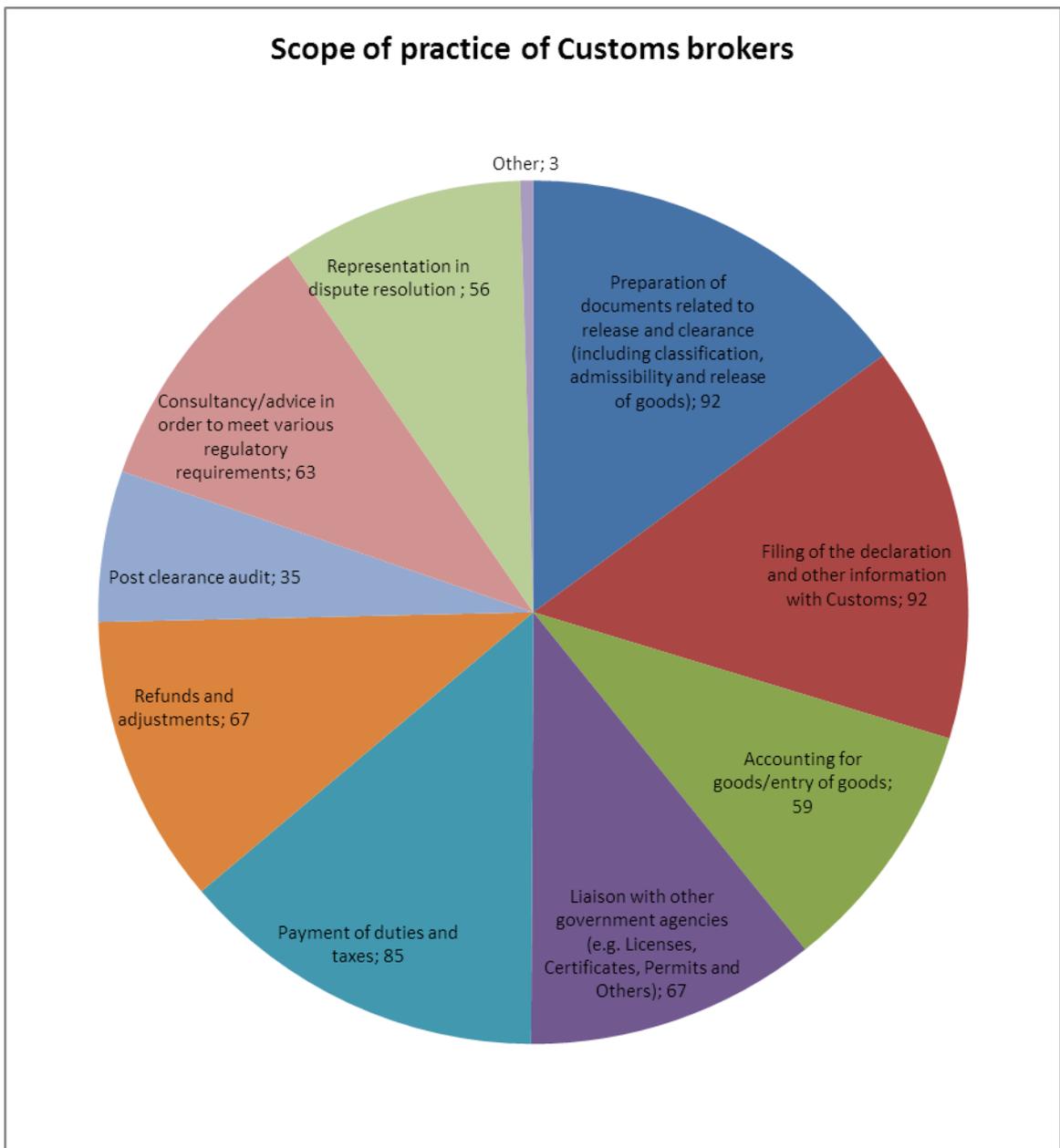
37. 11 Members require a minimum amount of training as part of the licensing requirements, ranging from 40 hours to 18 months. Such training requirement is expected to provide potential brokers with valuable insight on how Customs work, thus improving clearance times and reducing the number of errors on Customs related documents. 40 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. 56 Members require that a licensed Customs broker must be incorporated/established in their country or have a citizenship/residency. 25 Members also listed out other requirements ranging from an oral interview or knowledge of the national language 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).

Licensing requirements



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. 92 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 85 Members, at the same time 67 Members mandate Customs brokers to even deal with refunds and adjustments on behalf of traders. 59 Members let Customs brokers be responsible for the accounting of goods and the entry of goods. In case of 67 Members, Customs brokers also liaise with other government agencies for licenses, permits and other requirements. Licensed brokers in 35 countries assist in post clearance audits. 56 Members allow Customs brokers to represent their client in dispute resolutions. In 63 countries, Customs brokers are stated to be providing consultancy/advice to traders in order to meet various regulatory requirements. It was also mentioned by 3 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.



39. 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. 74 Members stated that licensed Customs brokers may act only under the proper authorization or agreement from/with the trader. Licensed Customs brokers in 62 countries are obliged to advise their

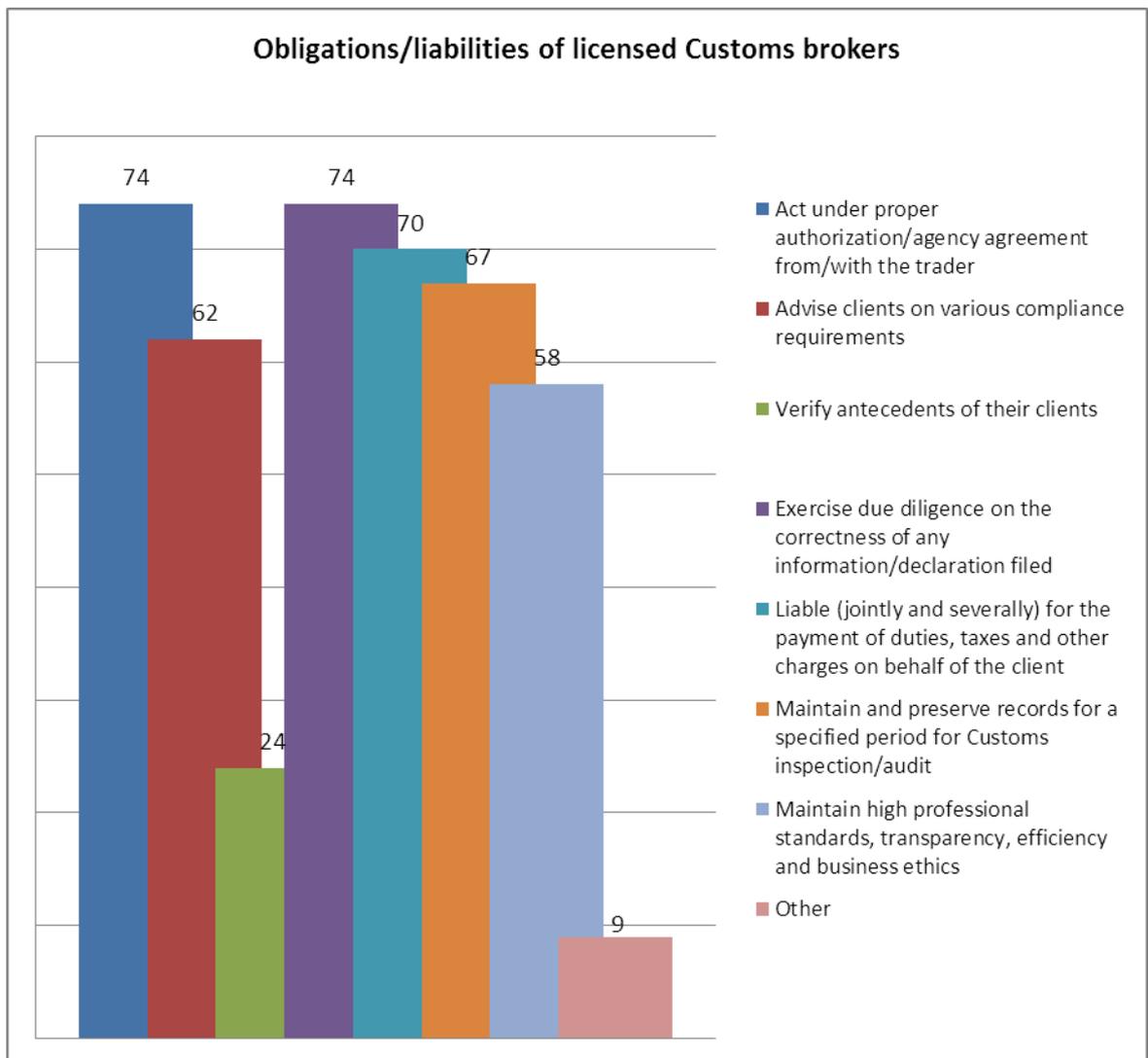
Example: 5

Botswana Unified Revenue Service (BURS)

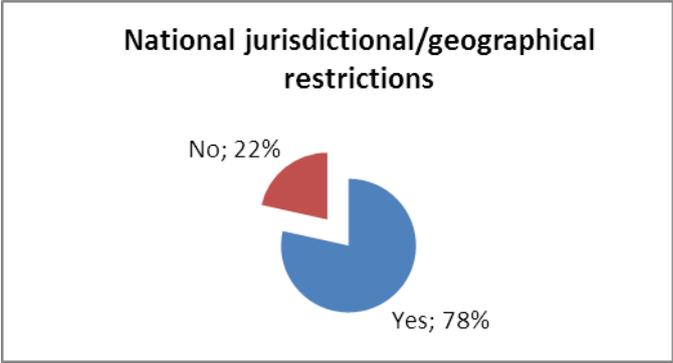
A licensed Customs broker -

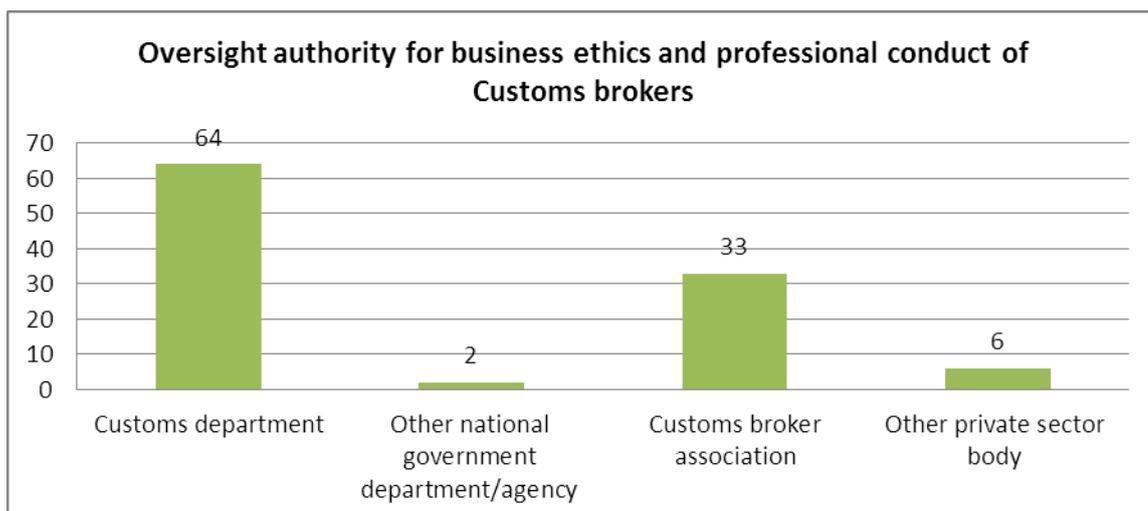
- shall not transfer/ lease out or lend a license to another person or agent;
- shall keep the license displayed in a prominent place all the time;
- shall not permit its name or Customs assigned number to be used by any other person (TIN);
- shall not perform any act of a Clearing Agent unless he holds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

clients on various compliance requirements. 24 Members require licensed Customs brokers to verify the antecedents of their clients. Regulations/legislations in 74 Members' jurisdictions prescribe that licensed Customs brokers should exercise due diligence on the correctness of any information or declaration filed. 70 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 67 countries, at the same time Customs brokers are also expected to maintain high professional standards, transparency, efficiency, and business ethics under the regulations of 58 Members. 9 Members described some additional obligations for Customs brokers such as no transfer/leasing out or lending a license to another person or agent, cooperation with Customs authorities 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.



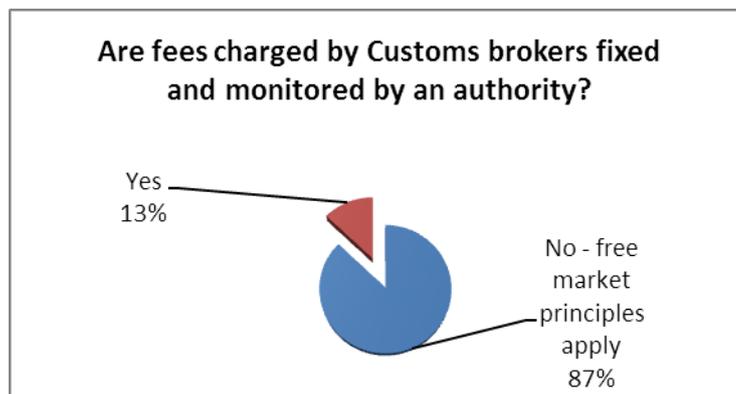
Geographical restrictions

40. Customs brokers often have national jurisdictional or geographical restrictions wherein they can provide services. 73 Members (78%) identified that in their respective country, Customs brokers are restricted to provide services within national jurisdiction, and in some cases (mainly from Asia and Americas) brokers are licensed to operate only at specified port (s)/designated Customs or Customs district (s) (which could be extended to other ports based on registration and submission of a prescribed security deposit). 20 Members (22%) 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. Few members also indicated that brokers' files must be kept within their national jurisdiction or when they are kept abroad, Customs must be given access to those files through other means (e.g. electronically).
- 
- | Response | Percentage |
|----------|------------|
| Yes | 78% |
| No | 22% |
41. The oversight authority for business ethics and professional conduct of Customs brokers, where applicable, differs from country to country. 64 Members, the majority, have their Customs department as the oversight authority for Customs brokers' ethics and professional conduct. 33 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 2 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. 6 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, the House of Brokers in Mozambique and the Latvian Logistics Association in Latvia.



Customs brokers' fees and charges

42. Concerning fees charged by Customs brokers, 81 Members (87%), note that free market principles apply in their respective countries. Only in the case of 12 Members (13%) fees are either fixed or monitored in some way (e.g. setting out minimum fees) 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

43. 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 a facility is restricted to manufacturers and government agencies only. 47 Members require that traders need to register their business with government before they can handle their Customs

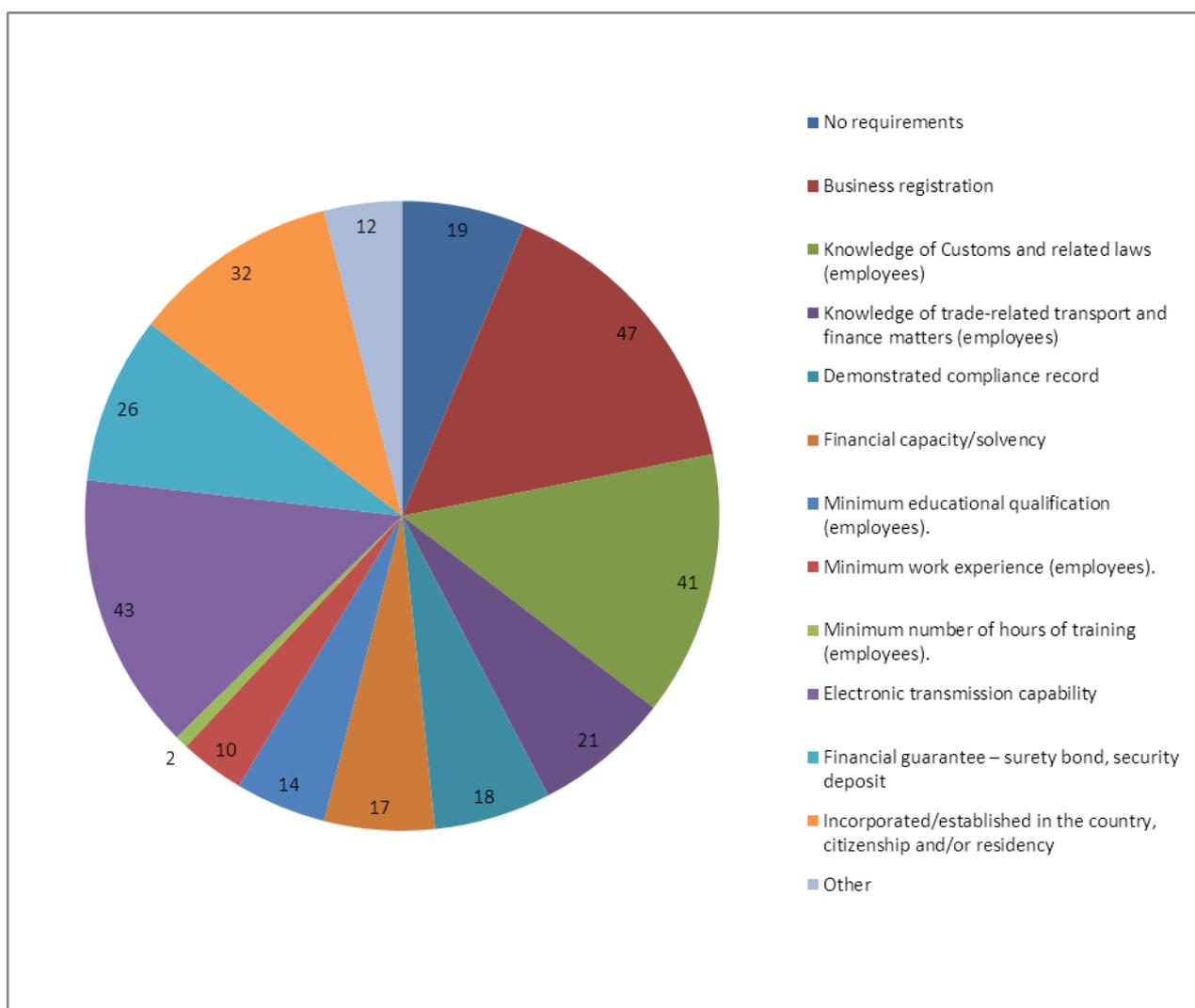
Example: 6 Seychelles Customs

- Traders may handle their own Customs clearances if they wish.
- Traders must first apply for access to the Automated System for Customs Data (ASYCUDA).
- If access is granted, such traders would be referred to as Direct Trader Input (DTI) and can then prepare and register their own declarations directly to Customs.



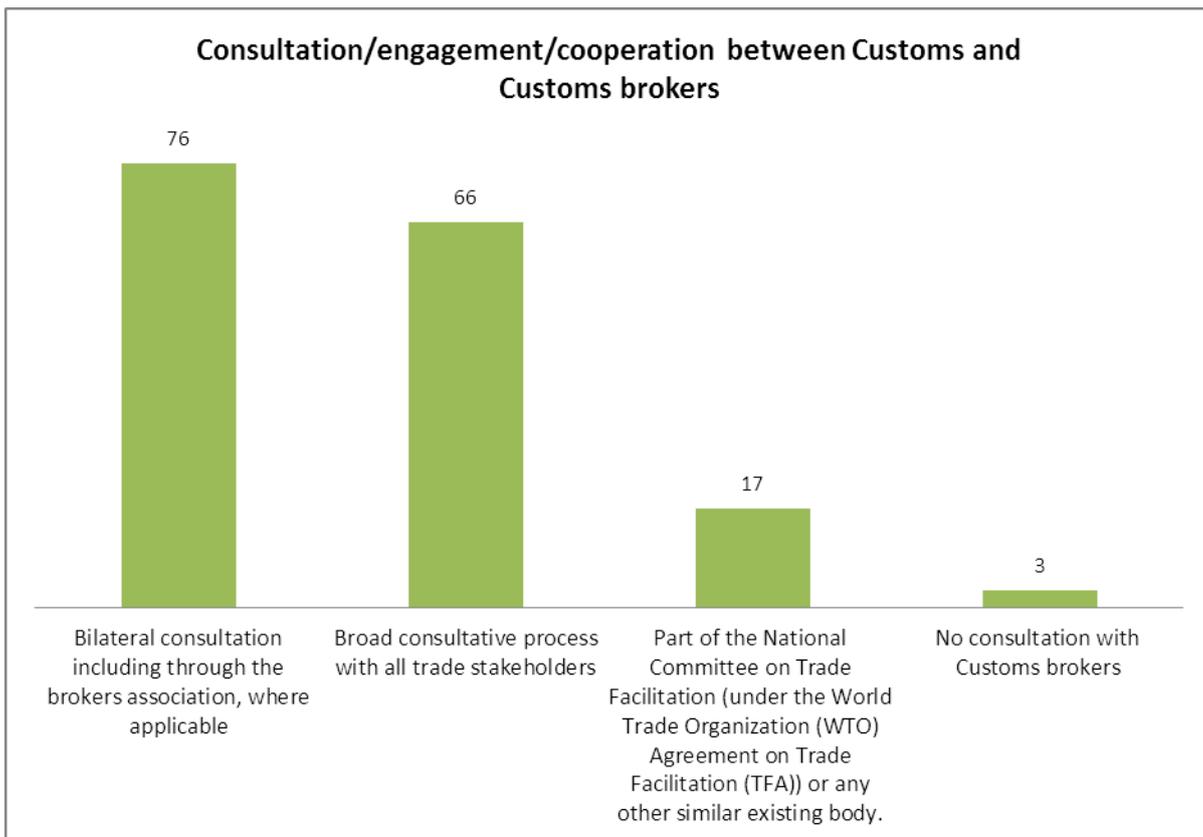
clearance formalities in respect of their own goods.

44. Knowledge of Customs and Customs-related laws and knowledge of trade transport and finance matters are other key respective requirements for traders in 41 and 21 countries. 18 Members necessitate that traders in their country who wish to handle their own Customs formalities are to have a good compliance record. 17 Members require traders to demonstrate financial capacity/solvency. 26 Members need some kind of financial guarantees from such traders. A minimum education qualification for employees of traders is required in 14 countries, while 10 Members also demand that traders' employees must possess a minimum amount of work experience. 2 Members 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 (43). Additionally, 32 Members state that these traders must be incorporated/established in the country or Economic/Customs Union or hold citizenship/residency. Other requirements stated by 12 Members primarily include a minimum share capital; a minimum annual turnover; 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 (in few cases having an MOU – e.g. Bhutan, Moldova and Uruguay), is the most prevalent mechanism stated by 76 Members (77%). 66 Members (67%) have a broad consultative process involving all trade stakeholders, which also includes Customs brokers. Only 17 Members (17%) 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 (e.g. National Customs and Trade Consultative Committee in Afghanistan, National Committee for Facilitation of International Maritime Traffic in Cameroon, Advisory Council of Customs service in Poland and Customs consultative Committee in Ireland). 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. 88 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. 63 Members (64%) work together with Customs brokers to ensure compliance with Customs and other government agencies' requirements, including due diligence and data quality. 40 Members (40%) consult Customs brokers for effective

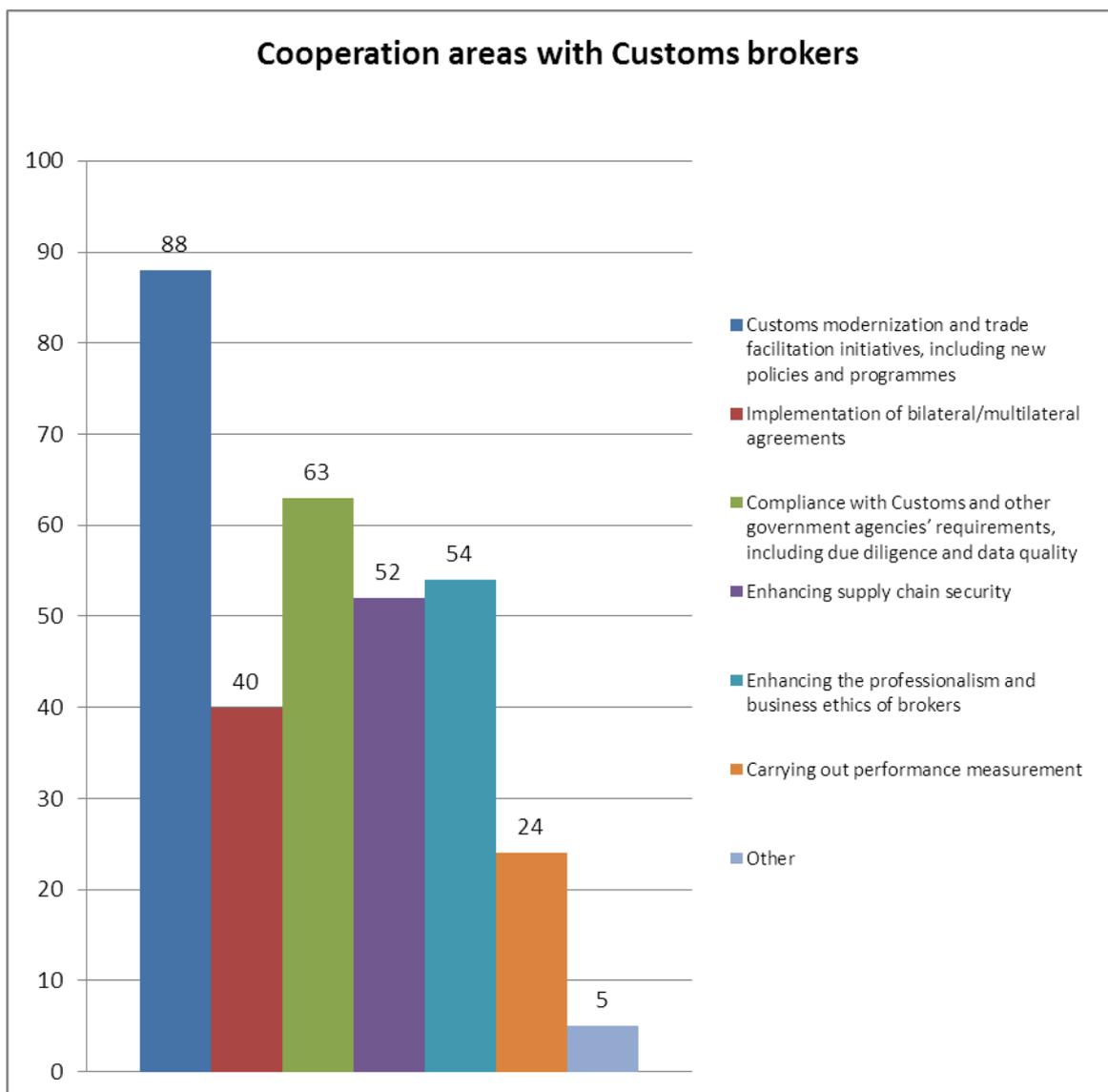
Example: 7

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



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, 54 Members (55%) collaborate with Customs brokers to enhance the brokers' business ethics and professionalism. 52 Members (53%) indicated that they engage Customs brokers on enhancing the supply chain security. 24 Members (24%) 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 brokers associations.



Customs brokers as AEOs/Trusted Traders

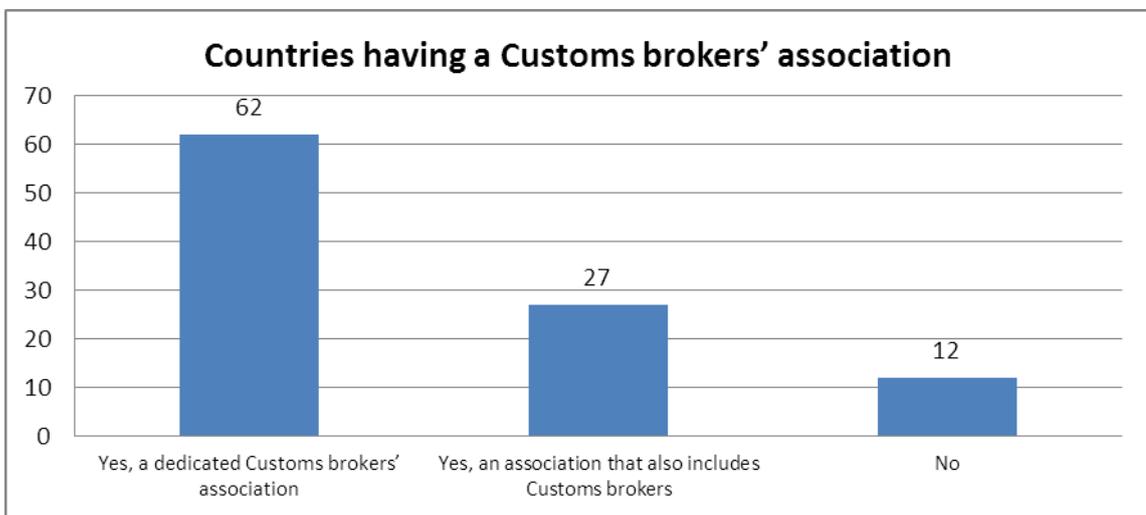
47. Members have been working towards the implementation of an AEO programme by involving more and more stakeholders. 58 Members who have implemented an AEO /Trusted Trader/Compliance programme also include Customs brokers in such programmes. The benefits extended to Customs brokers in these programmes 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. Benefits provided to such brokers in other Customs administrations include reduced data set for summary declaration, simplified clearance, self-assessment of declarations, privilege to trainings and pilot projects, service outside officer hours, reduced warranty/guarantee, and coordinator facility. 29 Members (5 out which having an AEO programme) have so far, not included Customs brokers in their respective AEO/Trusted Traders/Compliance programmes.

Example: 8 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.

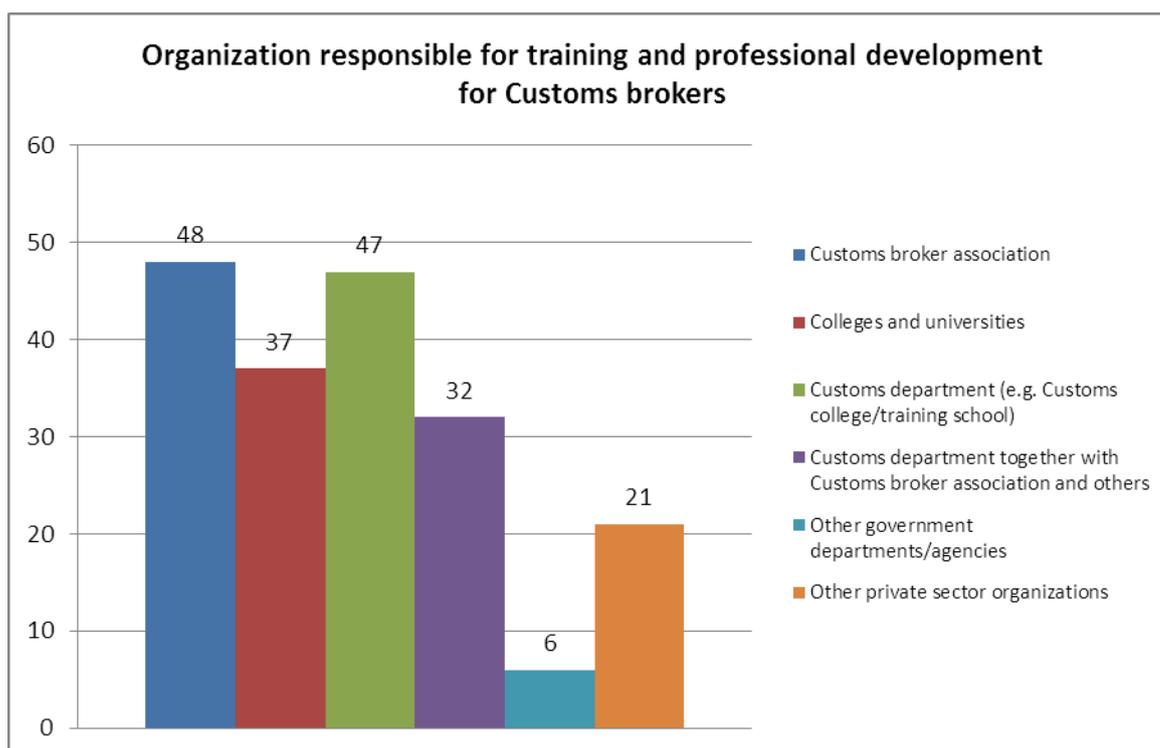
Customs brokers associations

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. 62 Members (63%) stated that had a dedicated Customs brokers association, noting that membership is not mandatory. 27 Members (27%) have a professional business association which also included Customs brokers. Only 12 Members (12%) stated that they did not have a Customs brokers association.



Capacity Building of brokers

49. Concerning Capacity Building of Customs brokers, it can be noted that 47 Customs administrations (47%) support training and professional skill development of Customs brokers through their Customs colleges and training schools. In 48 Members countries (48%), Customs brokers associations provide training and professional development programmes. In 32 countries (32%), Customs administrations work collaboratively with either a Customs brokers association or other private sector bodies to provide brokers with training. 6 Members (6%) 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, Sri Lanka Port Authority or the Department of Education in Bermuda. 21 Members (21%) noted that such training programmes are supported by other private sector organizations, such as Chambers of Commerce in Luxembourg, Slovenia and Trinidad and Tobago. In 36 Members (36%), colleges, universities and in some cases specialized training schools (e.g. Customs broker training school in Kazakhstan and Uruguay) also offer courses to Customs brokers.



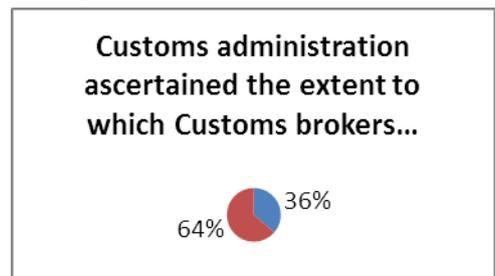
v. Other Findings

50. 82 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

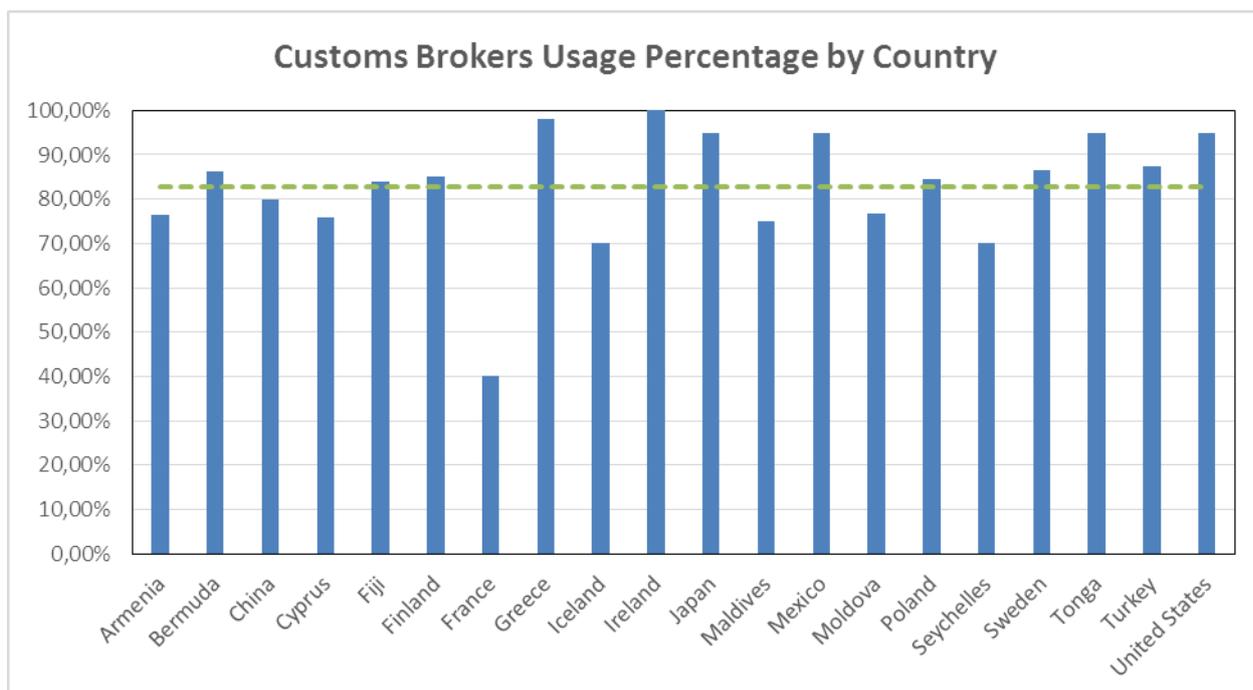
difference between the percentage of errors in declarations made by Customs brokers and traders directly.

51. In a similar vein, 85 Members (93%) noted that they had not measured release times of those who use a Customs broker against those who do not. 6 Members (7%) 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, whereas 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.

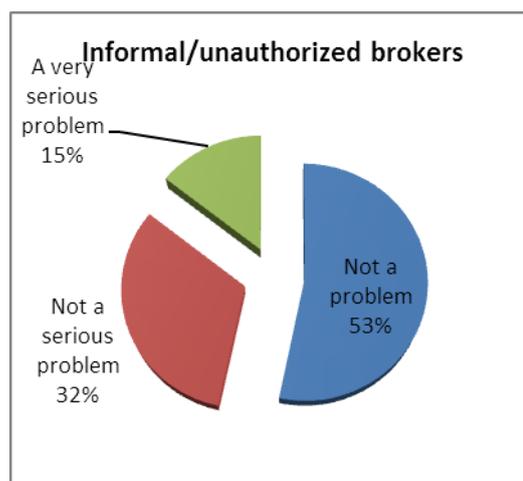
52. 84 Members (90%) did not carry out any study to rank Customs brokers in terms of their professional standards and service delivery. 9 Member (10%) who conducted such a study concluded that Customs brokers who follow professional standards and try better service delivery are generally more compliant 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 publishes the ranking results on the risk level of brokers, as guidance for users and traders. A Member also 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. 33 Members (36%) have ascertained the extent to which Customs brokers are used, whereas 58 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 brokers³, 48 Members (53%) said that there was no such problem in their country. 29 Members (32%) indicated that it was not a very serious problem. 13 Members (15%), 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 Member stated that informal brokers act in a mafia-style way. They frequently ‘hire’ 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, a Member is reportedly trying to limit such entry of informal brokers by insisting on uniform and ID cards, in order to sanitize operations in Customs ports as well as imposing 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.



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.

IV. Conclusions/Summary of findings

i. General conclusions

55. In line with the RKC's "optional" engagement of broker services for importers/exporters, it is noticed that 71 Members (73%), a majority of respondents, do not mandatorily require traders to use Customs brokers. 23 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, good below a specified threshold) in 14 Members.
56. 84 Members (88%) 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 80 Members countries (91%), Customs department is the regulatory and licensing authority for Customs brokers. An examination is a requirement for licensing of Customs brokers in 65 Members (76%). Some administrations also have additional means of verifying a candidate's Customs knowledge such as conducting an interview. 59 Members 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. 64 Members have their Customs department as the oversight authority for Customs brokers' ethics and professional conduct. 33 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.
60. 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 73 Members (87%), 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 5 criteria out of these 10.

61. 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. 13 Members identified the usage of informal brokers as a serious problem.
62. 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 (49%) do not list a minimum educational qualification as a licensing requirement, 43 Members (51%) do have such a requirement, for example a university degree or high school diploma.
63. 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.
64. 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.
65. 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.
66. Concerning fees charged by Customs brokers, 81 Members (87%) noted that free market principles apply in their respective countries. Only in 12 Members (13%) 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.
67. 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.

68. 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 upto 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

69. 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. 42 Members (47%) have noticed this as a problem area, among which 13 Members (15%) have noted it as a very serious problem.
70. 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.
71. There is 'no one 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

72. 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.

73. 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.
74. 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.
75. 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.
76. 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.
77. 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.

78. 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.
79. 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. Policy Considerations

80. Given the wide range of working experiences/models described by Members, it is clear that there is no "one size fits all" model for a Customs brokers' regime. Most Members have established a regime that is well suited to their national demands and needs. However, based on self-assessment and if Members are considering establishing a brokers' regime or making changes to their existing system, then the

best practices of other Members and some of the key outcomes and considerations (including the model checklist for the licensing of Customs brokers) mentioned in this Study would be useful to them.

81. Some suggested policy and organizational considerations on Customs broker regimes are set out at Appendix I.

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

82. 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.

83. 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.

84. Based on Members' responses and experiences, a model checklist for licensing/regulating brokers is at Appendix II, which is expected to serve a reference point for Members who are considering establish/adjust a licensing/regulatory regime for brokers.

Appendix I - SUGGESTED CONSIDERATIONS ON CUSTOMS BROKERS' REGIMES

- a. Use of Customs brokers should be made “optional” in line with the provisions of the RKC, and could potentially be governed by free-market principles as are other professional services, keeping in mind the national social and economic situation.
- b. Fees and charges for Customs brokers should be neither fixed nor regulated by an authority, and should 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 permitted to become licensed brokers, in cases where licensing is required. This is to ensure equal opportunities for everyone, and also to have a wider availability of brokers.
- d. Due to the nature of the activities 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. Responsibility for conducting examinations for brokers, where applicable, may also be entrusted to Customs. Where needed, Customs could - together with brokers’ associations or any other private body - also be entrusted with oversight authority in respect of the business ethics and professional conduct of Customs brokers.
- e. Regulatory and licensing criteria, where applicable, should be transparent, non-discriminatory and simple, and may specifically include, among other items mentioned in the Model Checklist, sanctions and penalties (e.g suspension, termination, fine and penalty and prosecution), for misconduct and violations by Customs brokers, including provisions dealing with informal/unauthorized brokers, in order to ensure effective compliance with Customs and other Government agencies’ requirements.
- f. Where licensing requirements, if any, are foreseen for traders who are permitted to carry out Customs formalities for the clearance of the own goods, they need not necessarily be as stringent as the licensing requirements for Customs brokers; however, 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 ensure that they keep themselves abreast of the latest developments, Customs administrations should consider designing suitable assessment/verification systems, for example, an examination which could be either written or oral.
- h. Obligations and liabilities of brokers may include representing their clients under proper authorization; advising their clients on various compliance requirements; and not lending their licence or permitting any other person or agent to use it under any circumstances. They may also be 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, the application of demonstrative sanctions and penalties in appropriate cases, and through constant dialogue with traders and with such brokers.
- j. Opportunities for cooperation 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 with the fulfilment of 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 the 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, those 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, alongside studies that measure the release times of traders who use a Customs broker against those of traders who do not. Such studies, conducted at regular intervals, could provide valuable insights into the role and responsibilities of Customs brokers, and identify potential areas for further improvement.
- n. Consideration could also be given to ascertaining the extent to which Customs brokers are used in the Customs clearance process. Several Members reported a high percentage of use of brokers despite this being "optional" in their jurisdiction. Outcomes of such studies might necessitate policy changes not only in terms of adjusting licensing requirements, but also in setting up an effective oversight and capacity building mechanism.

Appendix II - 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.

Sr No	Element	Yes/No
1.	Optional Use of Customs brokers	
	<ul style="list-style-type: none"> • Legal persons - companies 	
	<ul style="list-style-type: none"> • Natural persons - individuals 	
2.	Key elements of licensing/regulatory framework	
	<ul style="list-style-type: none"> • Licensing criteria 	
	<ul style="list-style-type: none"> • Process of verification - examination (written and/or interview) 	
	<ul style="list-style-type: none"> • Scope and remit of Customs brokers' service 	
	<ul style="list-style-type: none"> • Customs brokers' responsibilities and obligations 	
	<ul style="list-style-type: none"> • Re-assessment/audit 	
	<ul style="list-style-type: none"> • Sanction/penalties 	
	<ul style="list-style-type: none"> • License validity 	
	<ul style="list-style-type: none"> • Geographical restrictions (e.g. country, region) 	
	<ul style="list-style-type: none"> • Capacity Building/training 	
3.	Licensing criteria	
	<ul style="list-style-type: none"> • Knowledge of Customs and related laws 	
	<ul style="list-style-type: none"> • Knowledge of trade-related transport and finance matters 	
	<ul style="list-style-type: none"> • Demonstrated compliance record 	
	<ul style="list-style-type: none"> • Financial capacity/solvency 	
	<ul style="list-style-type: none"> • Minimum educational qualification 	
	<ul style="list-style-type: none"> • Minimum work experience 	
	<ul style="list-style-type: none"> • Minimum hours of training 	
	<ul style="list-style-type: none"> • Electronic transmission capability 	
	<ul style="list-style-type: none"> • Financial guarantee - surety bond/security deposit 	
<ul style="list-style-type: none"> • Incorporated/established in the country, citizenship, and/or residency 		
4.	Customs administration' responsibilities	
	<ul style="list-style-type: none"> • Regulatory/licensing authority 	
	<ul style="list-style-type: none"> • Content of administration of brokers' examination 	
	<ul style="list-style-type: none"> • Brokers' professional conduct 	

	<ul style="list-style-type: none"> • Fees and charges 	
5.	Scope and remit of Customs brokers' service	
	<ul style="list-style-type: none"> • Preparation of documents related to release and clearance 	
	<ul style="list-style-type: none"> • Filing/submission of the declaration and other information with Customs 	
	<ul style="list-style-type: none"> • Accounting for goods/entry of goods 	
	<ul style="list-style-type: none"> • Liaison with other government agencies (e.g. Licenses, Certificates, Permits, and Others) 	
	<ul style="list-style-type: none"> • Payment of duties and taxes 	
	<ul style="list-style-type: none"> • Refunds and adjustments 	
	<ul style="list-style-type: none"> • Post clearance audit 	
	<ul style="list-style-type: none"> • Consultancy/advice to meet various regulatory requirements 	
	<ul style="list-style-type: none"> • Representation in dispute resolution 	
	<ul style="list-style-type: none"> • Others, as stipulated in the agreement between the Customs broker and the trader 	
6.	Customs brokers' responsibilities and obligations	
	<ul style="list-style-type: none"> • Maintain high standards of professional conduct and business ethics 	
	<ul style="list-style-type: none"> • Act under proper authorization from clients 	
	<ul style="list-style-type: none"> • Advise clients on various compliance requirements 	
	<ul style="list-style-type: none"> • Verify antecedents of clients 	
	<ul style="list-style-type: none"> • Exercise due diligence on the correctness of any information/declaration filed 	
	<ul style="list-style-type: none"> • Be liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of the client 	
	<ul style="list-style-type: none"> • Maintain and preserve records for a specified period for Customs inspection/audit 	
7.	Sanctions/penalties	
	<ul style="list-style-type: none"> • Administrative advisory/warning 	
	<ul style="list-style-type: none"> • Suspension 	
	<ul style="list-style-type: none"> • Fine and penalty 	
	<ul style="list-style-type: none"> • Termination 	
	<ul style="list-style-type: none"> • Prosecution 	

Appendix III - QUESTIONNAIRE



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

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.

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2. Does your country have Customs brokers¹ 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

¹The 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:

- Increasing?
- Decreasing?
- Unchanged?

III. Customs Brokers - Regulatory and Licensing Criteria

9. How would you describe the model of Customs broker regulations in your country? (Please check all applicable boxes):

- Licence issuance only, if specific requirements are met
- Licence issuance, with a specific validity period and renewal formalities
- Periodic monitoring of performance of Customs brokers to ensure continued compliance with specified performance standards (e.g. inspection or audit)
- Application of sanctions/penalties
- Other (Please specify):

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):

- Suspension
- Termination
- Fine and penalty
- Prosecution
- Other (Please specify):

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
- Post clearance audit
- Consultancy/advice in order to meet various regulatory requirements
- Representation in dispute resolution
- Other (Please specify):

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 brokers² 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:

²It 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?

<hr/> <hr/> <hr/>

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.

<hr/>

x

x x

SUGGESTED CONSIDERATIONS ON CUSTOMS BROKERS' REGIMES

- o. Use of Customs brokers should be made “optional” in line with the provisions of the RKC, and could potentially be governed by free-market principles as are other professional services, keeping in mind the national social and economic situation.
- p. Fees and charges for Customs brokers should be neither fixed nor regulated by an authority, and should 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.
- q. Both individuals (natural persons) and companies (legal persons) should be permitted to become licensed brokers, in cases where licensing is required. This is to ensure equal opportunities for everyone, and also to have a wider availability of brokers.
- r. Due to the nature of the activities 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. Responsibility for conducting examinations for brokers, where applicable, may also be entrusted to Customs. Where needed, Customs could - together with brokers' associations or any other private body - also be entrusted with oversight authority in respect of the business ethics and professional conduct of Customs brokers.
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- t. Where licensing requirements, if any, are foreseen for traders who are permitted to carry out Customs formalities for the clearance of the own goods, they need not necessarily be as stringent as the licensing requirements for Customs brokers; however, some minimum prerequisites such as knowledge of Customs and related laws, good compliance record and financial solvency could be prescribed.
- u. In order to test the Customs knowledge of brokers and ensure that they keep themselves abreast of the latest developments, Customs administrations should consider designing suitable assessment/verification systems, for example, an examination which could be either written or oral.
- v. Obligations and liabilities of brokers may include representing their clients under proper authorization; advising their clients on various compliance requirements; and not lending their licence or permitting any other person or agent to use it under any circumstances. They may also be jointly and severally liable for the payment of duties, taxes and other charges on behalf of their clients.
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- x. Opportunities for cooperation 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).
 - y. 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.
 - z. 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 with the fulfilment of 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 the 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, those of other Government agencies.
 - aa. Consideration could also be given to measuring the compliance rates of traders who use a Customs broker against those who do not, alongside studies that measure the release times of traders who use a Customs broker against those of traders who do not. Such studies, conducted at regular intervals, could provide valuable insights into the role and responsibilities of Customs brokers, and identify potential areas for further improvement.
 - bb. Consideration could also be given to ascertaining the extent to which Customs brokers are used in the Customs clearance process. Several Members reported a high percentage of use of brokers despite this being "optional" in their jurisdiction. Outcomes of such studies might necessitate policy changes not only in terms of adjusting licensing requirements, but also in setting up an effective oversight and capacity building mechanism.
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WORLD CUSTOMS ORGANIZATION