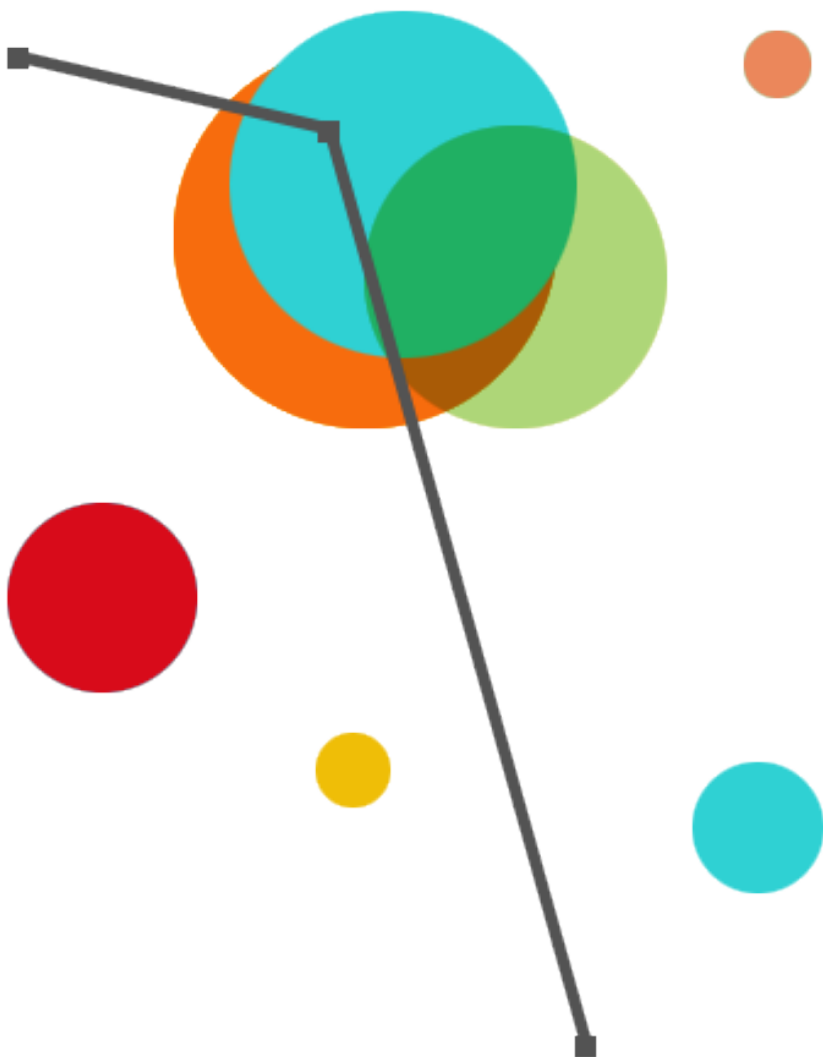


# 睿 库 研 究



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## 世界海关组织报关代理研究报告(中英对照) WCO Study Report on Customs Brokers





# **WCO Study Report on Customs Brokers**

## **世界海关组织报关代理研究报告（中英对照）**

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# Executive Summary

## 摘要

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.

报关代理是在清关过程中，作为海关当局和进出口商的中介而存在的一个行业。海关当局和报关代理在监管/许可要求、角色和职责、费用与收费以及合作机制方面有着一系列的业务往来。

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.

为了明确各成员海关就报关代理的角色、体制框架、监管/许可要求、所面临的机遇和挑战以及经验教训方面的职责，并经政策委员会授权，在必要时进一步向各成员海关提供指导方针，世界海关组织特此编写了《报关代理研究报告》。

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.

该报告主要基于世界海关组织的总体问卷调查结果和秘书处开展的调查研究，其中包括一份各成员海关在报关代理监管方面的工作的详细分析。

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.

该报告首先介绍了一般背景和报关代理在供应链中的角色概述，然后解释了相关国际标准、公约及技术工具。

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.

根据各成员海关的反馈，该报告强调分析了世界海关组织调查的主要结果。同时探讨了多个海关当局和报关代理的潜在合作机会以及如何开展持续提升报关代理技能和能力建设的协调工作，并提出了报关代理在促进贸易便利和安全方面的作用。

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.

最后，该报告在附录 I 中就报关代理的管理，从政策和体制方面，提出了一些建议性建议。附录 II 是基于各成员海关的反馈和经验给出的许可/监管报关代理所需的审核清单模板以及相关政策建议，旨在供正在考虑建立或调整报关代理许可或监管政策的成员海关参考。



# I. Introduction

## 简介

### i. Background 背景

1. Customs brokers<sup>1</sup> 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.

总体来说，报关代理是在清关过程中作为贸易商和海关当局的中介而存在的一个行业。除了在贸易供应链方面的工作经验，报关代理了解熟悉海关法律和程序也有益于贸易商和海关当局。一方面，报关代理通过提交所有必需单证并办理货物清关相关手续为贸易商提供便利；另一方面，报关代理也可以使得海关及其他监管机构的规定得到更好遵守，确保关税和税款的合理收取，从而维护政府利益。

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.

为响应当前海关改革的要求，并进一步提升其服务质量，一些报关代理正在向更加全面的咨询、顾问角色转变，而不再仅仅局限于提交通关所需要的申报文件和单证。此外，作为贸易商的代理，报关代理与贸易供应链中的其他参与者，例如货运代理、承运商/代理商、仓库运营商和运输商也存在着合作关系。在某些情况下，报关代理甚至会代理供应链中许多其他服

务，例如货物装卸、仓储、多式联运、包装、装运整合、保险、交货以及法规和纠纷处理的咨询。

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.

随着加入《修订后的京都公约》，越来越多的成员海关开始允许贸易商自行选择是否通过报关代理处理通关业务。然而，在很多国家，强制使用持照报关代理的做法仍然很普遍，例如美洲/加勒比地区的成员海关或者一些非洲国家。在这些非洲国家，除了一些特点的商品，例如私人轿车，所有进出口商品的清关均必须由持照报关代理办理。而一些亚洲海关对通过报关代理办理的报关业务会给予优先处理。

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*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.*

世界海关组织“国际海关条款术语”将通关代理定义为代表他人直接向海关当局办理货物清关的代理商。

1. *Examples of Customs clearing agents are Customs agents, Customs brokers and freight forwarders.*

例如海关代理、报关代理和货运代理均属于通关代理。

2. *Some countries require that Customs clearing agents or Customs brokers be approved or licensed by Customs.*

一些国家规定通关代理或报关代理需由海关当局批准或许可。

3. *See also the term "Third party" (Chapter 2 of the GA to the RKC).*

参见术语第三方（《修订后的京都公约》总附约第2章）。

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.

与上述强制委托报关代理的行为相反，其他国家遵循的是自由市场原则。即是否选择报关代理由贸易商自己决定。影响这一决定的主要因素有成本效益和报关代理的服务质量。

5. There are varied licensing and regulatory models adopted by Customs administrations to authorize legal and/or natural persons to act as Customs brokers. Many administrations have specific licensing requirements to act as a broker, while others simply allow anyone to establish a free business and take up the job of a clearing agent on behalf of others. There are also practices, for example in Asia, where some administrations make concessions from the use of licensed brokers when a person transacts any business solely on his own account.

各海关当局在授权法人和/或自然人成为报关企业方面有着不同的许可和监管模式。许多海关对于成为报关企业有着特定的许可要求，而另一些海关则允许个人或公司代理贸易商的清关业务。还有一些海关，例如在亚洲，在处理贸易商自行申报和通过报关代理代理申报的报关业务时，会给予后者一些优惠便利政策。

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.

一些成员海关允许持有执照但不属于任何报关单位的报关代理以个人名义向海关当局办理报关业务，而其他一些成员海关则仅允许获得许可的报关企业向海关当局办理报关业务。有些成员海关规定执照需进行定期（例如每年、五年或十年）续签或重审，而有些则规定执照长期有效，除非因特定原因被临时中止或撤销。还有一些成员海关向报关单位颁发指定港口执照和身份证，报关单位在不同港口办理报关业务时均需出具对应的 ID 卡和/或执照背书。

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.

各成员海关对报关单位的评审和许可要求各不相同，但一般均包括：熟知海关法律及其他监管要求；在安全和其他法规方面的无违规记录；财务清偿能力—担保债券，保证金；报关代理最低学历要求；具体工作经验；某些还要求参加书面和/或口头考试，甚至还要求最短培训时间。有些海关还规定了报关代理在职业道德和行为规范、对客户尽职尽责和/确保所提供信息准确等方面的要求。

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.

许多成员海关对报关代理的许可和/或监管制定了相关的标准。报关单位需经过特定的程序获得许可，并向海关当局或相关的政府许可部门提交其各项审核证明，然后才能办理报关业务。海关当局可定期对注册登记的报关单位的各项审核证明进行审核和检查，以确保被许可单位遵守其标准并对遵守情况不佳的单位严加监管。

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.

对于很多海关当局来说，将考试纳入报关代理许可要求对检验申请人对相关知识的了解是有帮助的。可通过考试对提出申请的报关单位进行首轮筛选。申请人需对海关法律有一定的了解才能通过考试，因此会提高报关单位对相关法规的遵守程度。一种可能性是海关当局、报关代理协会及其他相关政府部门共同拟写一份综合性试题，来检测申请人对清关、申报及其他要求所适用的所有法规的了解程度。

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.

一些海关当局已经提供或已开始研究为报关代理提供培训支持。还有一些海关当局提供涉及报关相关知识和技能（例如电子申报）的培训，并传授报关单位新的相关知识和技能，这些都在提高报关代理专业标准方面发挥了重要作用。此外，报关代理和货运代理协会也自行或与海关当局合作采取各种举措，提升报关企业的专业能力，进而提高清关效率。海关当局和报关代理协会也会定期为报关单位提供进修课程来使其掌握最新的知识和技能。

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.

缺乏专业精神和培训经常会导致货物报关和清关过程的延误，因此许可要求、考试和培训是

对海关当局和报关代理双方都有益的举措。对海关程序以及相应的单证缺乏了解，对协调制度的知识欠缺均会导致原本可以避免的错误，浪费有限的海关人员，造成通关业务的挤压和延误。因此，我们建议任何形式的海关改革或现代化建设，均应包括向报关代理提供所需的资料 and 培训。

## ii. Scope and objectives 范围和目标

12. At its 72<sup>nd</sup> 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.

在 2014 年 12 月 8 日至 10 日在巴西累西腓举行的第七十二届会议上，世界海关组织政策委员会就“报关代理—机构框架和安排”进行了讨论。该议题得到了各成员海关的高度重视，提出了多个报关代理监管模式。会议还决定对这一议题进行全面研究。会上向所有成员分发了一份问卷调查（参见该报告附录 II），以了解各成员海关在报关代理许可要求、处罚、义务、限制、合作和挑战方面的做法。

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.

根据问卷结果和秘书处的调查研究，该研究报告对各成员海关在报关代理监管方面的工作进行了详细分析，汇总了调查结果以及成员海关分享的一些成功做法。通过问卷调查了解到，对于报关代理的监管存在着多种模式。有的国家还未出台相关政策，有的则有特定的许可标

准并强制贸易商通过持照报关单位进行报关。该报告概述了海关和报关代理潜在的合作机会，为海关当局就报关代理许可标准提供了审核清单模板及其他政策方面的建议，如果成员海关希望建立这样的许可制度或需要对现存制度进行审查，可参考相关章节。该报告还就如何确保海关当局和报关代理的合作有助于促进贸易安全和便利给出了建议性的指导方针。

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.

该研究报告的局限性主要包括其中的数据大部分经过了整合性处理，各成员海关提供的信息也可能存在误差。尽管对各成员海关的不同做法进行同化和综合处理存在着缺陷，但仍可反映这一制度的总体状况和各自的独特性。

## II. International Standards and Frameworks

### 国际标准和框架

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.

世界海关组织通过的《京都公约修订本》（以下简称《京都公约》）规定进/出口商可选择是否委托报关代理来办理相关报关业务。《京都公约》总附约（以下简称总附约）第 8.1 条规定，相关进/出口商可自行办理报关业务，也可指定第三方代理。总附约第 8.2 条要求各缔约国应通过立法来明确第三方需具备的条件、在关税和税款方面的责任以及如有任何违反海关规定的违规行为所应承担的责任。总附约进一步指出，对报关代理的许可要求应当做到透明、非歧视、正当合理。

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.

总附约第 8.3 条规定，对于自行而未委托第三方办理特定或全部报关业务的进/出口商，海关当局不得对其提出严于常规的要求。此外，第 8.4 条规定，对于与报关业务相关的事项，受委托的第三方与委托人享有同样的权利。

#### **Box 1. Chapter 8 of the GA to the RKC**

#### **《京都公约》总附约第八章**



### **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.

### **8.1**

相关进/出口商可自行办理报关业务，也可指定第三方代理。

### **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.

### **8.2**

缔约国应立法来明确代理报关业务的第三方所需具备的条件，并指出其在关税和税款方面的责任以及如有任何违规行为所应承担的责任。

### **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.

### **8.3**

与委托第三方代理报关业务的进/出口商相比，对于自行办理报关业务的进/出口商，海关当局不应歧视或对其提出更加严格的要求。

### **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.

### **8.4**

对于与报关业务相关的事项，受委托的第三方与委托人享有同样的权利。

### **8.5. Standard**

The Customs shall provide for third parties to participate in their formal consultations with the trade.

### **8.5**

海关当局应允许受委托的第三方参与其与进/出口商的正式磋商。

### **8.6. Standard**

The Customs shall specify the circumstances under which they are not prepared to transact business with a third party.

### **8.6**

海关当局应明确其不接受第三方代理报关业务的情形。

### **8.7. Standard**

The Customs shall give written notification to the third party of a decision not to transact business.

### **8.7**

如不予办理报关业务，海关当局应书面通知第三方。

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.

《京都公约》总附约第 3 章明确了报关代理相关监管标准。其中第 3.6 条规定了各成员国必须通过立法明确谁有权申请成为报关代理以及报关代理需具备的条件。第 3.7 条指出任何有权处置货物的人均可成为报关代理。《京都公约》指南进一步阐明，为了促进贸易便利，报关

代理不应仅被视为是货物所有人，而应该根据国家立法尽可能扩大其所指范围，应包括代表货物所有人办理业务的多个第三方，例如承运人、收货人、运输代理或者报关单位和送货上门快递人员等。

### **Box 2. Chapter 3 of the GA to the RKC**

#### **《京都公约》总附约第 3 章**

#### **3.6. Standard**

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

#### **3.6**

国家立法应明确成为报关代理的条件。

#### **3.7. Standard**

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

#### **3.7**

任何有权处置货物的人都有权成为报关代理。

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.

世界贸易组织《贸易便利化协定》第 10.6 条规定，协议生效后，成员国不得强制贸易商委托报关代理办理报关业务。第 10.6 条还要求成员国的许可要求应做到透明和客观。

### **Box 3. Article 10.6 of the WTO TFA**

#### **世界贸易组织《贸易便利化协定》条款 10.6**

#### **Use of Customs Brokers**

是否选择报关代理

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.

目前在一些成员国中，报关代理起着特殊的作用。在不损害这些国家重要政策的前提下，从本协定生效起，成员国不得强制贸易商委托报关代理办理报关业务。

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.

各成员国应向委员会报告并公布其对报关代理的监管政策。任何后续的修改都应及时报告并公布。

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

各成员国对报关代理的许可要求应做到透明和客观。

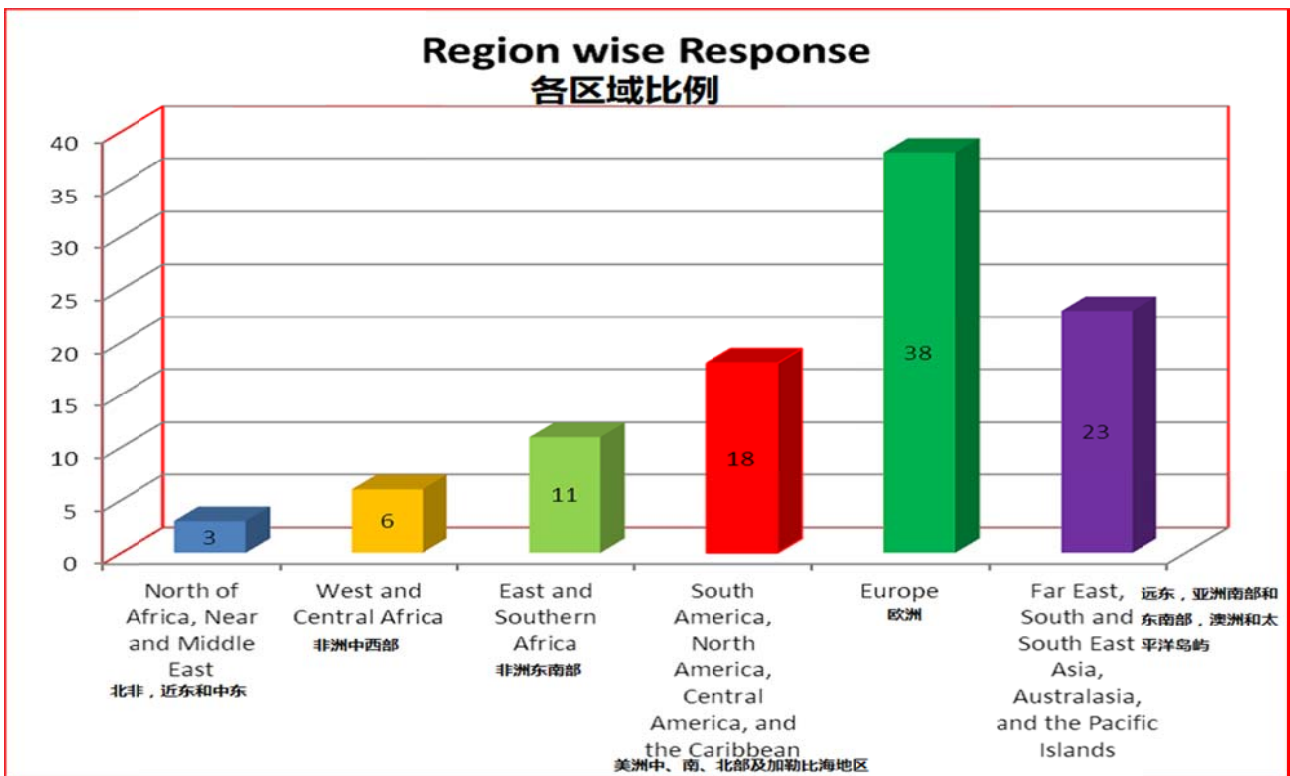
### III. Survey Findings

#### 问卷调查结果

##### i. General Information 基本信息

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.

2015年10月，世界海关组织99个成员海关（占成员总数55%）回应了问卷调查。以下是各地区参与问卷调查的比例。

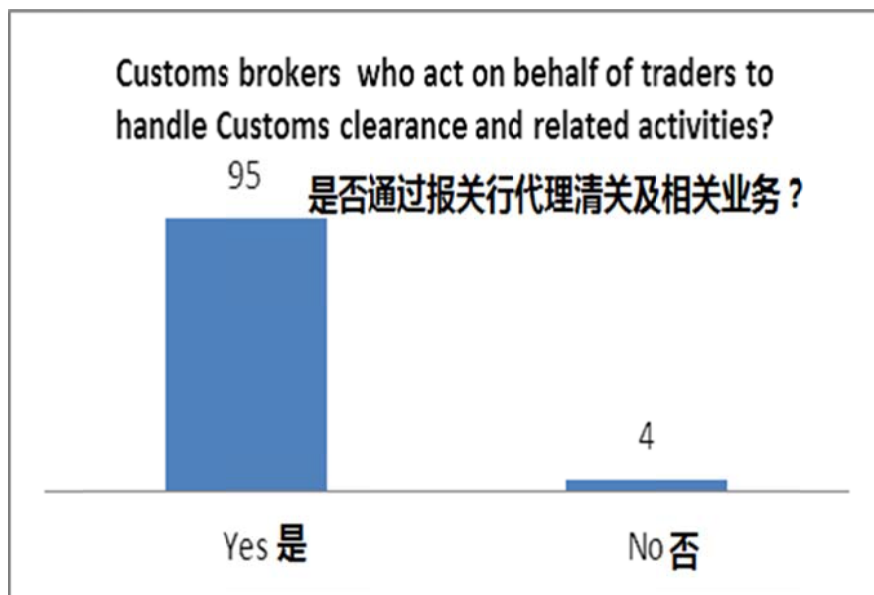


20. 95 Members (96%)<sup>2</sup> stated that their country has Customs brokers/agents/ representatives/third parties who act on behalf of traders to handle Customs clearance and related activities. Only 4 Members stated to have no Customs brokers.

95个成员海关称其有报关代理/报关中介/报关代理商/第三方代表贸易商办理清关及相关业务。只有4个成员海关称其没有报关代理。

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

整篇报告中的百分比数字（%）均表示相关问题的实际回答比例。

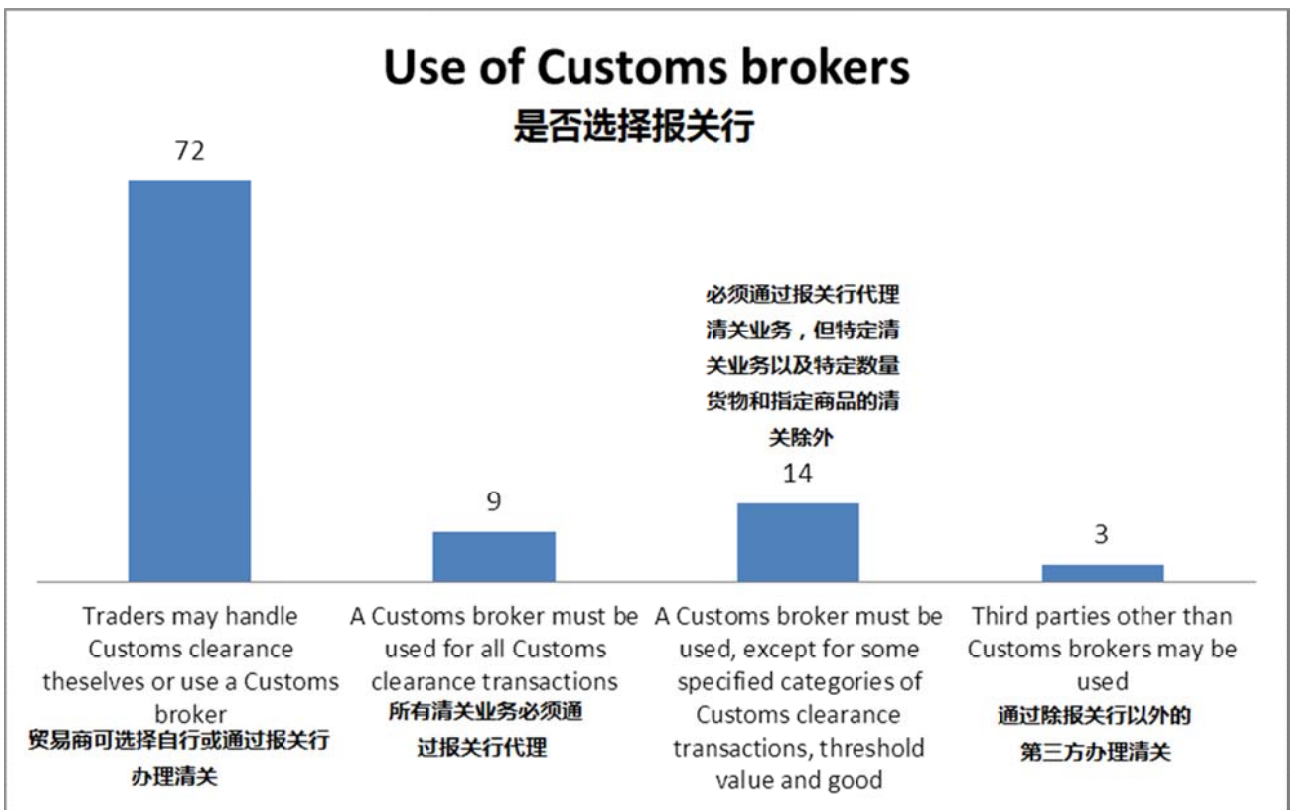
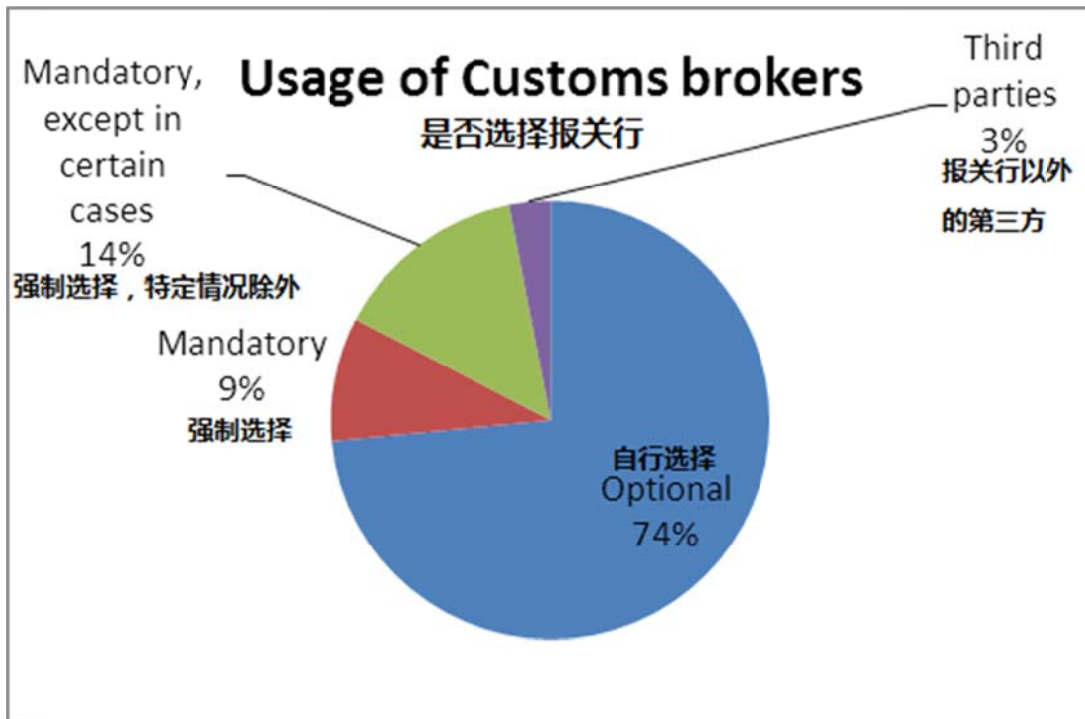


## ii. Institutional Framework and Arrangements 机构框架和安排

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.

关于是否通过报关代理来代理清关业务，72 个成员海关（73%）认为贸易商可自行选择是否找报关代理代理，这也符合《京都公约》对是否选择报关代理的规定。然而，9 个成员海关（9%）表示他们要求贸易商必须委托报关代理代理所有清关业务。与此同时，14 个成员海关（14%）表示，他们也要求必须通过报关代理办理通关，但某些特定清关业务除外，例如特定数量货物的清关和家居用品、二手车、非商业样品和邮寄物品等商品的清关。还有 3 个成


员海关（3%）则表示他们允许除报关代理以外的第三方代理清关业务。



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.

成员海关对报关代理的管理模式多种多样，其中相当部分规定了进出口商可自主选择是否委托报关代理办理清关业务，报关代理的注册和许可要求也相对简单；而另一些成员国则强制要求必须通过报关代理清关，并对报关代理的资格标准以及考核设定了较为详尽严格的要求。

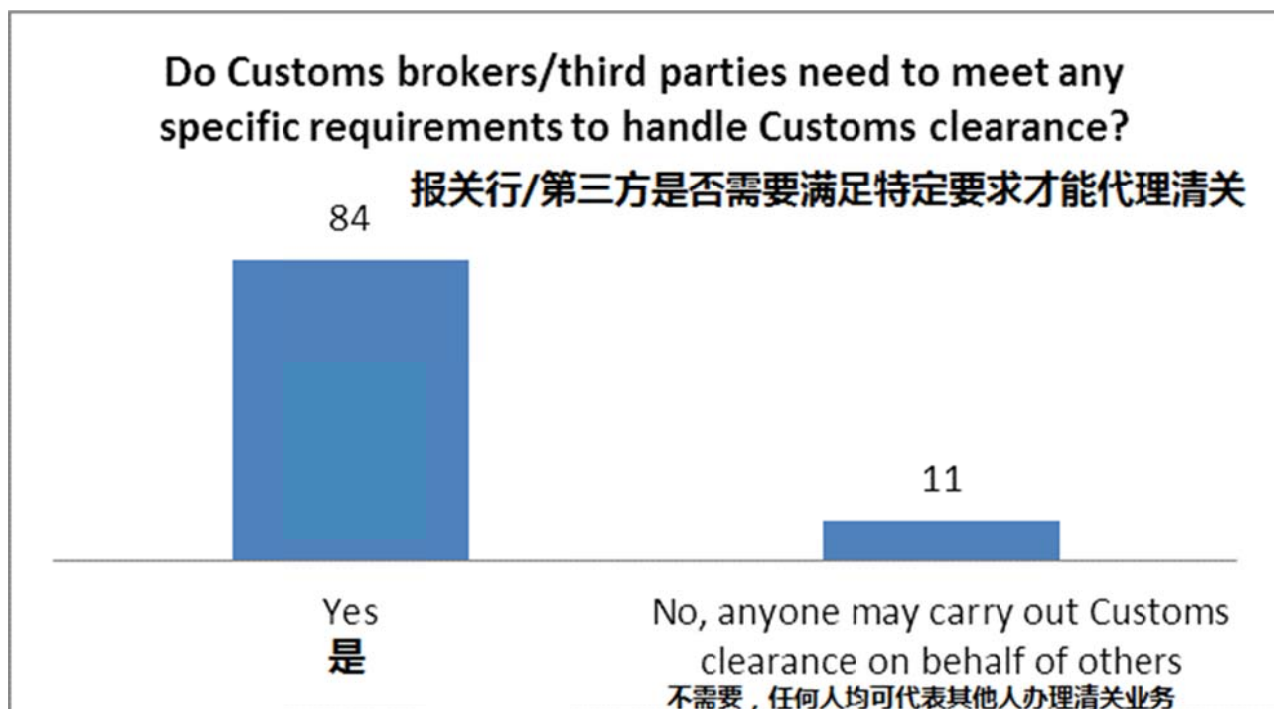
<b>Restriction 强制性</b>	<b>Regulations in Licensing of Customs brokers 报关代理许可规则</b>		<b>Example of Countries 实施国家</b>
<b>Low 低</b>  <b>High 高</b>	No prerequisites. 无要求		Germany, Hong Kong China, Macau China and Switzerland. 德国，中国香港、澳门，瑞士
	Traders may conduct their own Customs formalities or utilize the services of a Customs broker. (Optional) 贸易商可自行或委托报关代理办理通关手续（可选）	Professional examinations are required for the licensing of Customs brokers and traders. 报关代理和贸易商的许可均需通过专业考试	US, Luxembourg, Malaysia, Nigeria, India, Singapore, Morocco 美国，卢森堡，马来西亚，尼日利亚，印度，新加坡，摩洛哥
	Customs broker engagement is mandatory except for specific circumstances. 除指定情况以外，必须通过报关代理办理通关手续	Professional examinations for the licensing of Customs brokers are required. 报关代理许可需通过专业考试	Botswana, Cameroon, Chile, Congo, Costa Rica, Guatemala, Kuwait, Peru, South Africa, Trinidad and Tobago, Uganda, Uruguay. 博茨瓦纳，喀麦隆，智利，刚果，哥斯达黎加，危地马拉，科威特，秘鲁，南非，特立尼达和多巴哥，乌干达，乌拉圭
	Customs broker engagement is mandatory. 必须通过报关代理办理通关手续	Professional examinations for the licensing of Customs brokers are required. 报关代理许可需通过专业考试	Bangladesh, Haiti, Mongolia, Mozambique, Papua New Guinea, Philippines, São Tomé and Príncipe, Sri Lanka, Tanzania 孟加拉国，海地，蒙古，莫桑比克，巴布亚新几内亚，菲律宾，圣多美和普林西比，斯里兰卡，坦桑尼亚

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



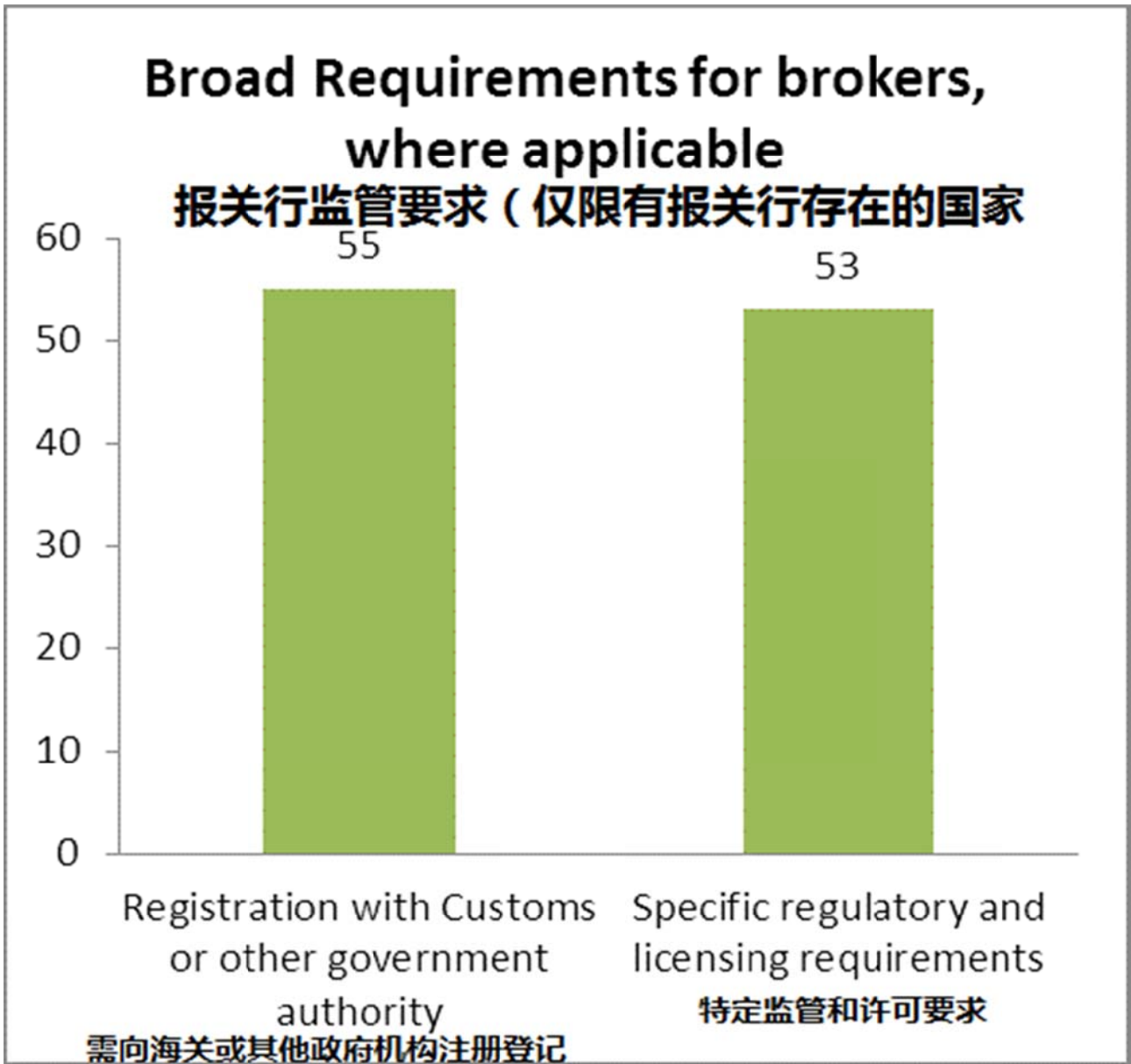
out Customs clearance work on behalf of other (s).

多数成员海关（84 个，88%）称报关代理以及个别国家的第三方代理需满足特定要求方可接受委托，办理代理报关事项。而其余的 11 个成员海关（12%）则对报关代理没有任何资格要求，任何人均可代表其他人办理清关业务。



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.

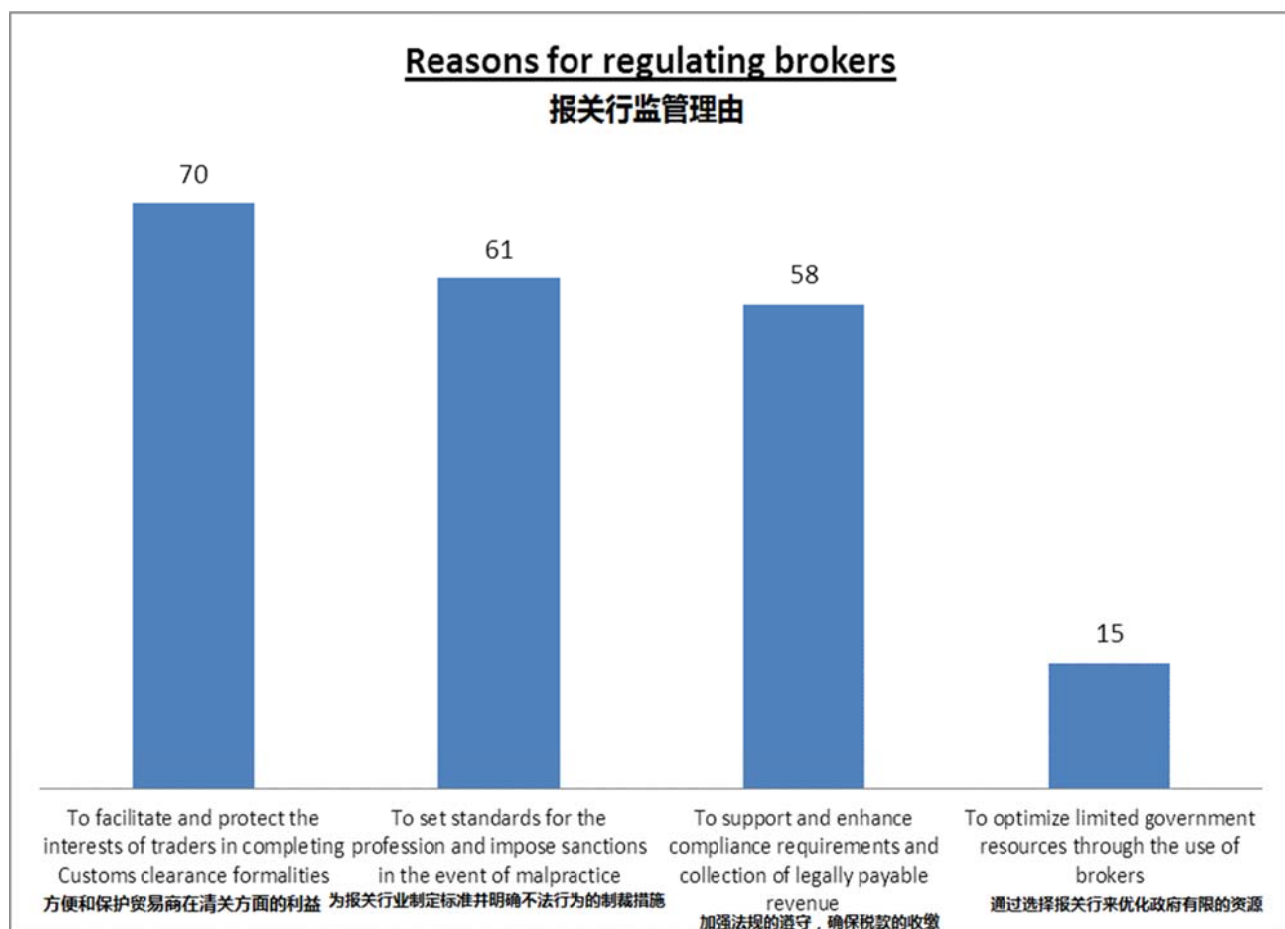
上述回答“是”的 84 个成员海关中，55 个称对报关代理最普遍的要求是其需向海关当局或其他相关政府部门注册登记。此外，53 个成员海关表示，他们国家的报关代理必须满足特定的监管和许可要求，在某些情形下还要满足特定的注册要求。另有一个成员海关表示，非专业的报关代理作为第三方协助进出口商处理通关业务的，必须实现获得当事人书面授权并仅限于偶尔为之且不得收取任何报偿及费用。



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.

各成员海关对其报关代理监管（或不监管）都有各自的理由。为了尽可能全面地了解这些理由，参与问卷调查的成员海关就相关事项作了进一步阐述或对有关提问给出多个不同的答复。70 个成员海关表示，他们监管报关代理的目的是方便贸易商办理清关手续，保护其相关利益。61 个成员海关认为，需要监管制度来明确报关代理职业行为准则，对其不当行为和不法行为给予惩罚和制裁。此外，58 个成员海关通过监管来加强和确保报关代理遵守海关相关法规，保证关税和税款的征收。15 个成员海关指出，对报关代理的监管有助于优化他们国家有限的政府行政资源。很显然，各成员海关在监管报关代理方面存在着一些共同的因素和理由。其中大部分海关监管报关代理是为了方便和保障贸易商的利益，确保关税的征收和报关代理的职业精神以及对海关法规的遵守。



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**Example 事例: 1****Korea Licensed Customs Broker Act 1995 as a stand-alone legal basis (not part of the Customs Act) 独立于《海关法》而单独存在的韩国《报关代理许可法案 1995》**

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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.

《报关代理许可法案 1995》：为获得认证的报关代理建议一个机构，以此来确保关税纳税人的便利和清关程序的高效，进而促进国民经济的增长。

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.

该法案规定了成为报关代理需具备的条件，报关代理的工作范围、权利和义务、注册和工作程序，如何经营一个报关单位以及处罚条例等。

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).

如果一个人通过了报关代理认证考试，他/她将被授予“报关代理资格证书”（该证书长期有效）。

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.

获得资格证书的报关代理需到韩国海关总署注册登记并向署长报告，然后才能开始代理报关业务。



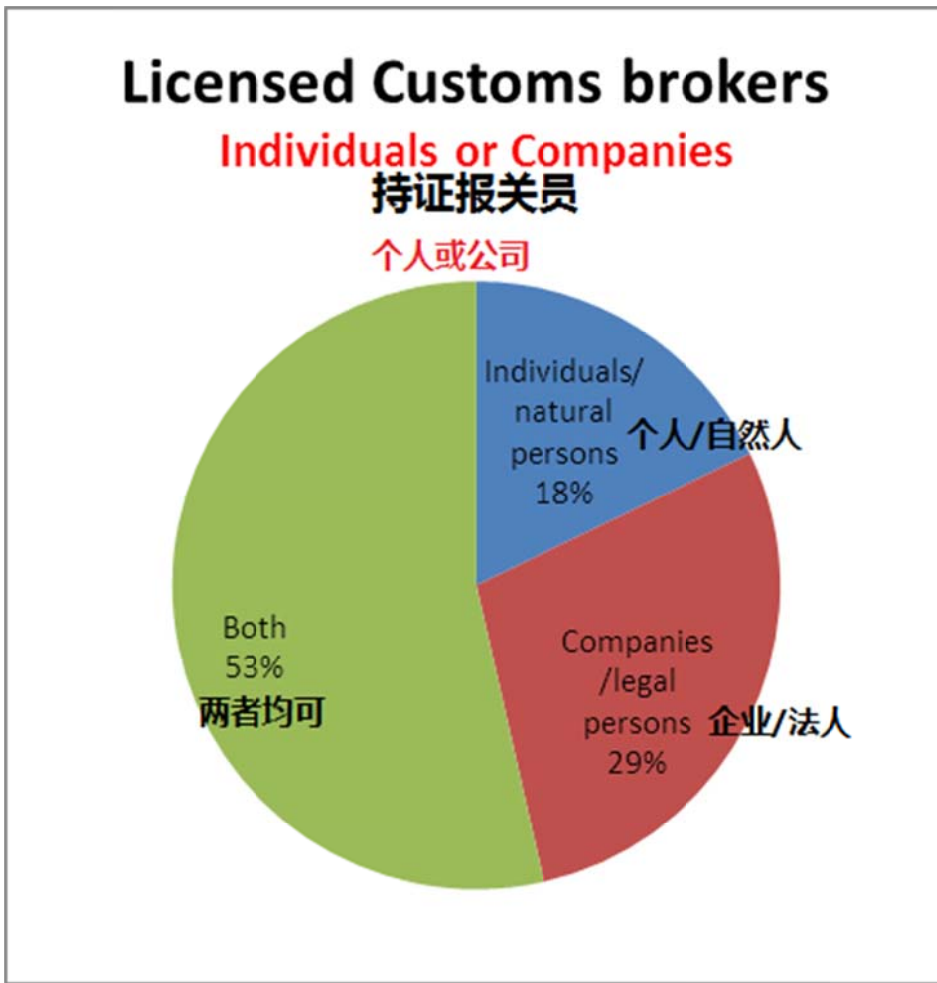
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**Licensed Customs brokers – individuals and/or companies 持照报关代理—自然人和/或公司**

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

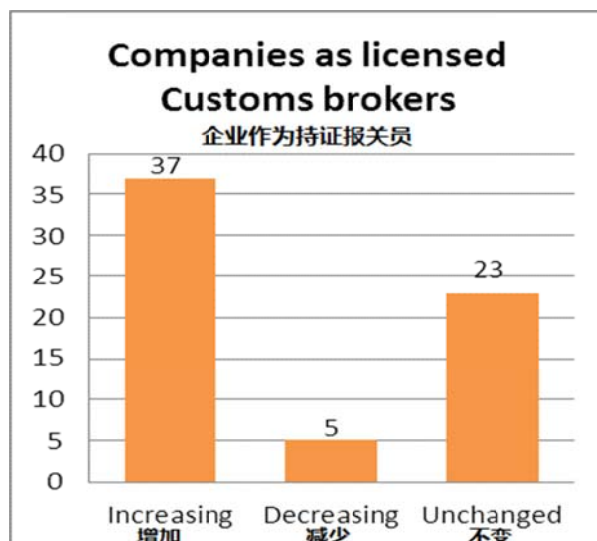
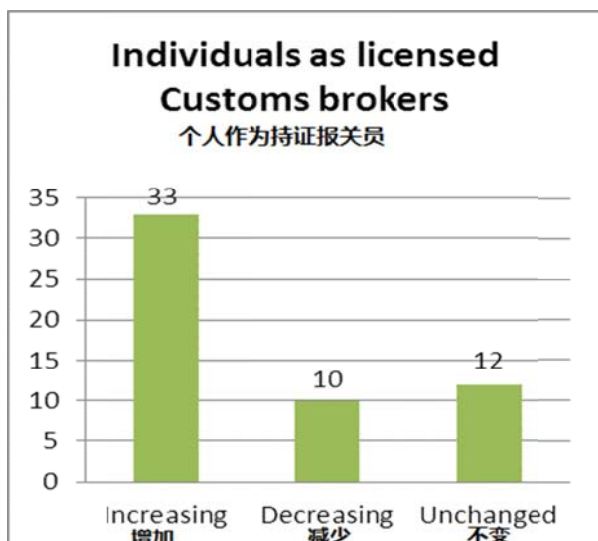
Members (29%), only companies or legal persons can become licensed Customs brokers. At the same time, in 15 Member administrations (18%) licensed Customs brokers are solely individuals or natural persons. Apparently, more Members have corporate entities as licensed Customs brokers than individuals, though 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.

从事持照报关代理服务的可以是自然人或公司。有 45 个成员海关（53%）称，在他们各自的管辖范围内，持照代理报关可以是个人或者企业。24 个成员海关（29%）规定只有公司或者法人才能从事持照代理报关。15 个成员海关(18%)则规定只有个人或自然人才能成为持证报关员。显然，允许企业作为持证报关员的成员海关数量要多于允许个人作为持证报关员的数量，但在许多情况下，这些企业需至少聘用一名专业的报关代理或关务专员。一些成员海关也允许退休或前海关官员在特定条件下担任报关代理，例如在韩国，当前 54%的报关代理是前海关官员。（译者注：世界海关组织的问卷调查显然没有将 Customs Broker 以及 Licensed Customs Broker 做出清晰的界定，导致的结果是成员国答卷人对这个 Licensed Customs Broker 的概念理解发生差异，一部分将其理解为持照报关行，另一部分则理解为持照报关员，后面的 15 个成员海关显然属于如此理解，本报告其他几个地方亦有类似情况。）



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.

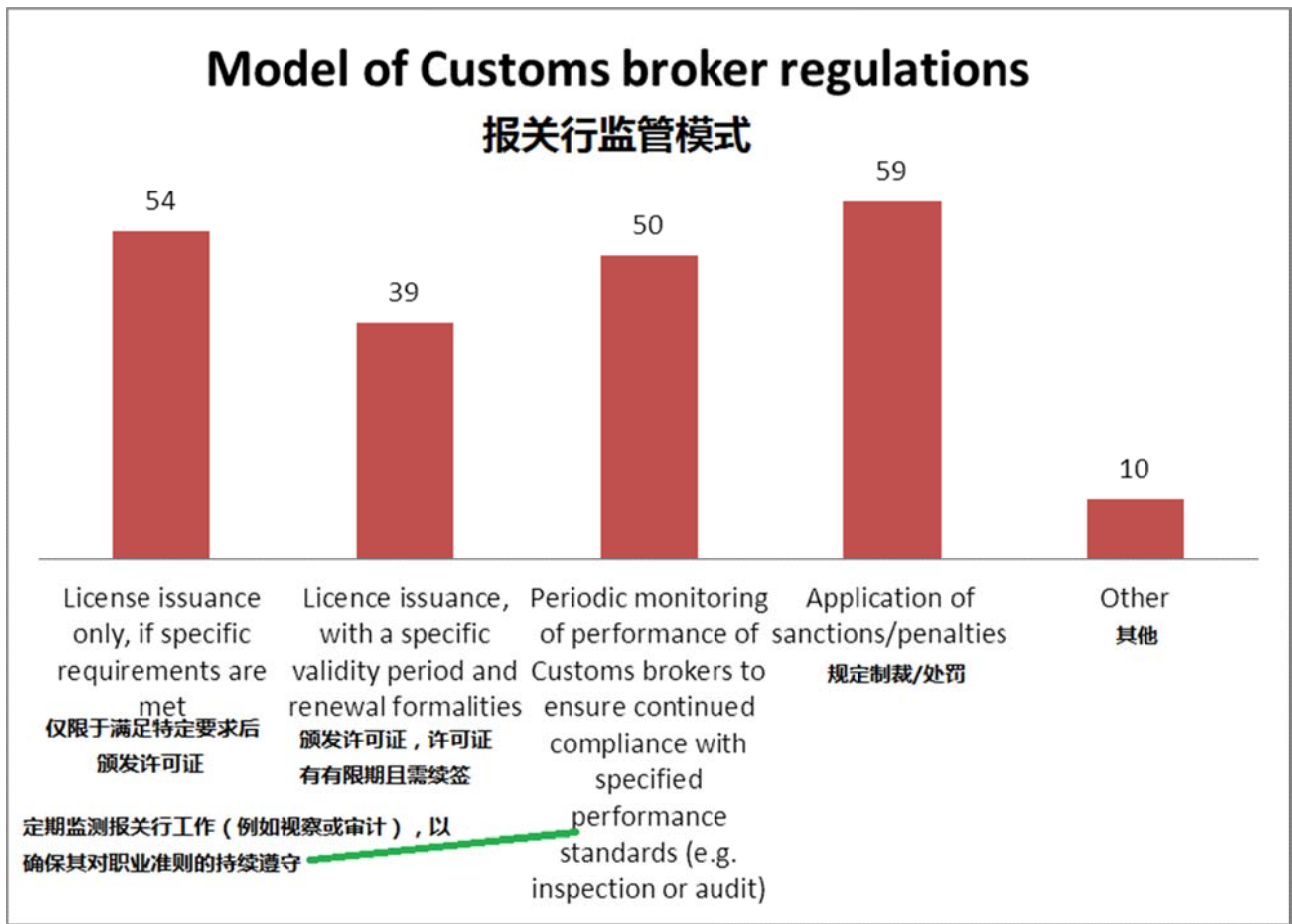
在允许个人作为持证报关员的成员海关中，有 33 个指出获得报关代理资格证的个体数量在不断增加，有 10 个则表示这一数量在不断减少，12 个基本保持不变。在允许企业作为持证报关员的成员海关中，有 37 个称获得报关代理资格证的企业数量在不断增加，只有 5 个表示这一数量在不断减少，23 个基本保持不变。



### iii. Regulatory and Licensing Criteria for Customs Brokers 报关行许可和监管标准

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.

就报关代理监管模式而言，成员海关都采取多个监管模式/标准并存（仅限于有监管制度的成员海关）。例如，有 54 个成员海关称其监管模式的一个重要手段是对于满足特定要求的申请者颁发执照，该执照在被终止或临时中止前一直有效。有 39 个成员海关也将执照颁发作为一个监管手段，但执照均有有效期（例如在乌拉圭是 12 年，印度是 10 年），且需进行定期审核。有 50 个成员海关表示将定期进行审计和考核，以此确保报关代理对相关法规的持续遵守。有 59 个成员海关的监管模式还包括对报关代理的制裁和处罚。有 10 个成员海关指出，他们的监管模式采取其他手段，例如注册登记并颁发执照；如满足特定要求便可加入报关代理名单，并为个体持证报关员提供后续的职业发展支持。

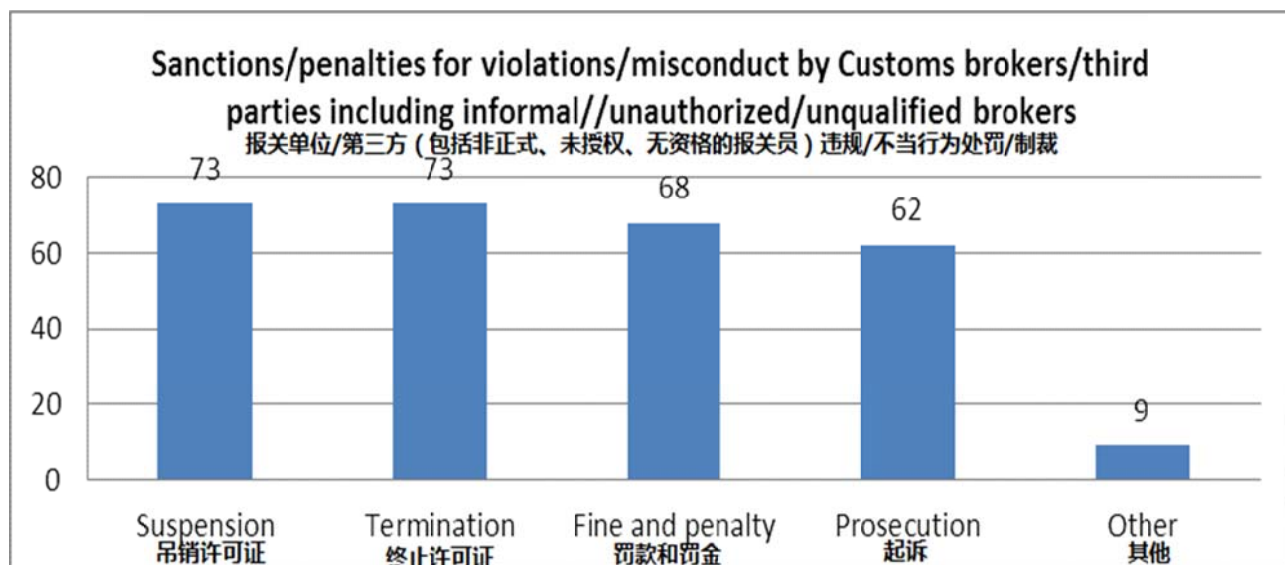


29. According to regulations of Members, suspension, termination, fine and penalty, and prosecution are all potential sanctions that could be imposed on Customs brokers/third parties for violations/misconduct. 73 Members stated that Customs brokers in their country could be suspended for violations or 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, reprehension and ineligible for future broker activities.

就目前的监管模式下, 成员海关均将临时中止或撤销执照, 罚款, 罚金和起诉等制裁手段作为处罚报关企业或第三方的违规和不当行为。有 73 个成员海关认为, 他们国家的报关人员如有违规或不当行为的, 将被临时中止执照。同样还有 73 个成员海关指出, 在特定情形下 (例如刑事犯罪), 甚至可以撤销报关企业的执照。有 68 个成员海关对其国内报关企业的不当行为处以罚款或罚金处罚。最后, 有 59 个成员海关称, 可以对报关企业的严重失当行为和不法



行为进行起诉。9 个成员海关还采取了一些其他制裁手段，例如从注册表或报关企业清单中除名，训诫，谴责以及不得再申请代理报关业务。



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.

问卷调查结果表明，成员海关可以采取多种制裁制度并行的监管模式，而不是相互排斥。通常来说，制裁取决于违规行为的轻重程度。例如，对于轻微违规，加拿大边境服务署只是向报关单位提供建议和指导，来帮助他们纠正错误。

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### **Example 事例: 2**

**Canadian Border Services Agency (CBSA) 加拿大边境服务署**

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Sanctions and penalties for violations and misconduct include:

违规和不当行为的处罚和制裁条例包括：

1. Suspension 临时中止执照

2. Termination 撤销执照

3. Fine and penalty 罚款和罚金

4. Prosecution 起诉

5. In case of minor infractions or compliance issues, the Canadian Border Services Agency would provide advice and guidance to correct the issues. 对于轻微违规或违纪现象，加拿大边境服务署只是向报关单位提供建议和指导，来帮助他们纠正错误

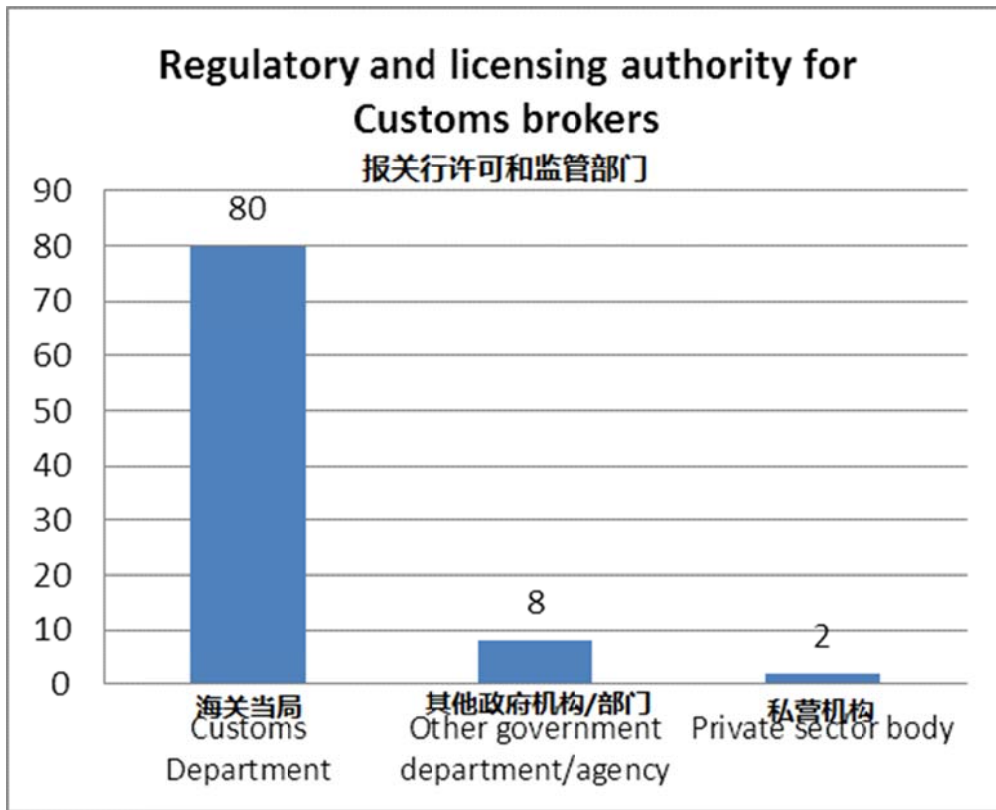


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### **Regulatory and licensing authority 许可和监管部门**

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).

各成员国海关有不同的报关代理许可和监管部门。在大多数成员国（80, 91%），由海关相关部门负责这一职责。有 8 个成员海关则称，他们国家负责这一职责的是另一个政府部门，例如在摩尔多瓦是经济部，在菲律宾是专业监管委员会。对于经济共同体和关税同盟的国家来说，该职责属于各自的共同体和同盟（例如中非国家经济共同体（CEMAC））。在另外 2 个成员国，由一个私营机构—贸易协会或海关代理商会来负责报关代理许可和监管（例如英国的英国国际货运协会（BIFA））。

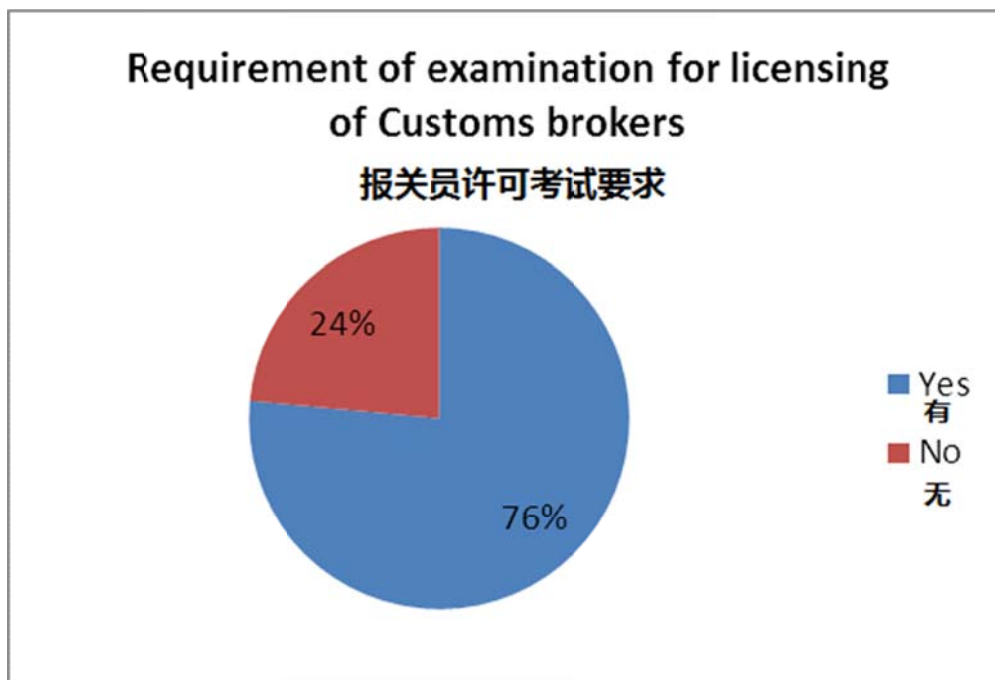


### Requirement of examination for licensing of brokers 报关员许可考试要求

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.

有 65 个成员海关(76%)表示，他们在授予报关员证书前有一个考试，用以测试报关员对海关及其相关法律法规的了解。其他 20 个成员海关（24%）则表示没有考试要求。还有 10 个成员海关，其中包括几个没有考试要求的国家，还采用其他附加手段来检测报关员的海关知识，例如澳大利亚和刚果民主共和国就是通过面试来进行检测。其他许可要求还包括：完成“经审批的学习课程”（澳大利亚）；海关文凭（斐济）；指定培训项目（马耳他）；5 年海关事务工作经验（墨西哥）以及基于教育背景、工作经验和行业知识进行的“从业资格评估”（塞舌尔）。

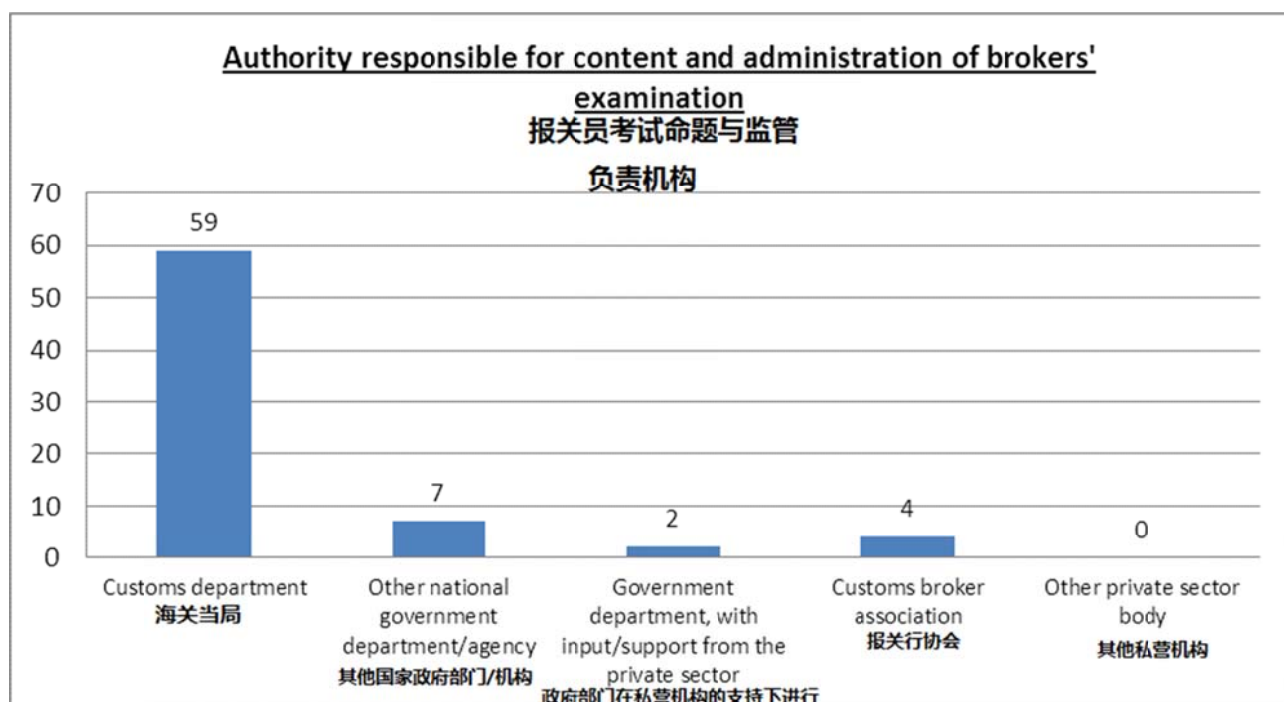
尔)。



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.

在 59 个将考试作为许可要求一部分的成员海关所在国家，由海关相关部门负责考试内容的编写以及报关员的监管。7 个成员海关所在国家则由其他国家政府部门/机构负责上述职责，例如多米尼亚共和国财政部下属的培训机构；韩国的人力资源开发署；拉脱维亚里加工业大学

的国际商务与海关学院；乌拉圭的由分别来自经济财政部、海关总署和报关协会的一名代表组成的特别委员会；特立尼达和多巴哥的报关代理董事会。还有 2 个成员海关所在国家是由一个政府部门在私营机构的支持下负责上述职责（例如菲律宾的专业监管委员会在报关代理理事会的支持下履行上述职责）。来自远东、南亚和东南亚；澳大拉西亚和太平洋岛屿；北非、近东和中东；南美、北美、美洲中部和加勒比地区以及欧洲的成员海关中，每一区域有一个成员海关（共 4 个）所在国将上述职责委托给了报关协会，显然是为了优化有限的政府资源。



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.

报关员许可要求因国而异（限于有此要求的成员海关），取决于各国立法和政治。然而，根据问卷调查结果，各成员海关的许可要求大体上包括以下一项或几项要求：海关及相关法律知识；与贸易有关的运输及金融方面的知识；良好的合规性评价记录；财务能力或偿付能力；

最低学历；最低工作经验；最低培训时数；电子报关能力；财务担保（担保债券，保证金）以及属于本国注册企业或本国公民或居民。

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### **Example 事例: 3**

#### **Guatemala Customs 危地马拉海关**

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- Guatemala has licensing requirements, necessitating all of the stated requirements.

危地马拉有许可要求，报关代理需满足所有要求。

- To be a licensed broker, applicants must not work for the government.

必须是非政府职员才能申请许可。

- With such demanding requirements, licensed Customs brokers are allowed the full scale of listed scopes of practice as described below.

鉴于上述要求的严格性，凡持证报关员均有权代理下列所有业务。

- Guatemala is one of the few Members that allow their Customs brokers these many functions.

危地马拉是为数不多的允许其报关代理代理如此多业务的成员海关之一。

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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.

以下是关于许可要求进一步的细节：有 73 个成员海关要求持证报关员应具备良好的海关及相关法律知识，而 36 个成员海关还将良好的贸易运输和金融知识也作为重要的许可标准。有 40 个成员海关认为持证报关员必须有良好的合规性评价记录。有 36 个成员海关的许可要求还包括报关代理的财务/偿付能力证明，这在一定程度上与另外 49 个成员海关的财务担保要求（例如担保债、保证金或银行担保）相吻合。上述许可要求的目的是确保关税和税款的缴纳以及对海关及其他监管要求的持续遵守。

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.

有 43 个成员海关对最低学历进行了规定，有的要求是高中文凭或同等学历，有的要求是本科学历，还有的是海关相关领域的特定学位。还有 25 个成员海关对持证报关员的最低工作年限作了规定。例如墨西哥和喀麦隆要求的最低工作年限是 5 年，安哥拉、博茨瓦纳及塞浦路斯则要求 2 年报关代理助理经验，而其他一些成员海关，例如阿富汗、日本和美国则没有工作年限要求。一些海关当局表示，如果申请者能顺利完成海关培训项目，他们可以不要工作年限。

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#### **Example 事例: 4**

#### **Cyprus Customs and Excise 塞浦路斯海关**

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##### **Individuals 个人:**

- be graduates of a recognized secondary school or holder of an equivalent academic qualification,  
被认可中等学校的毕业生或持有同等学历文凭,
  - have two years' experience,  
2 年工作经验,
  - be over the age of 20,  
年满 20 岁,
  - pass a written and oral examination on Customs legislation and the procedures related to the import and export of goods, and  
通过有关海关法律和进出口货物相关程序的考试及面试,
-

- 
- Be a person of good character.

品行良好。

#### Legal entities 法人实体：

- must be a company/organization registered in the Republic of Cyprus,  
必须是塞浦路斯共和国注册的公司或组织，
- the Article of Association shall state the import or export of goods or Customs clearing as one of the company' s activities, and  
公司章程应明确货物进口或出口或者清关属于公司的业务之一，
- 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.  
报关业务由获得授权的报关代理办理，该报关代理可以是董事会成员、董事、合伙人或公司雇佣的任何其他职工。

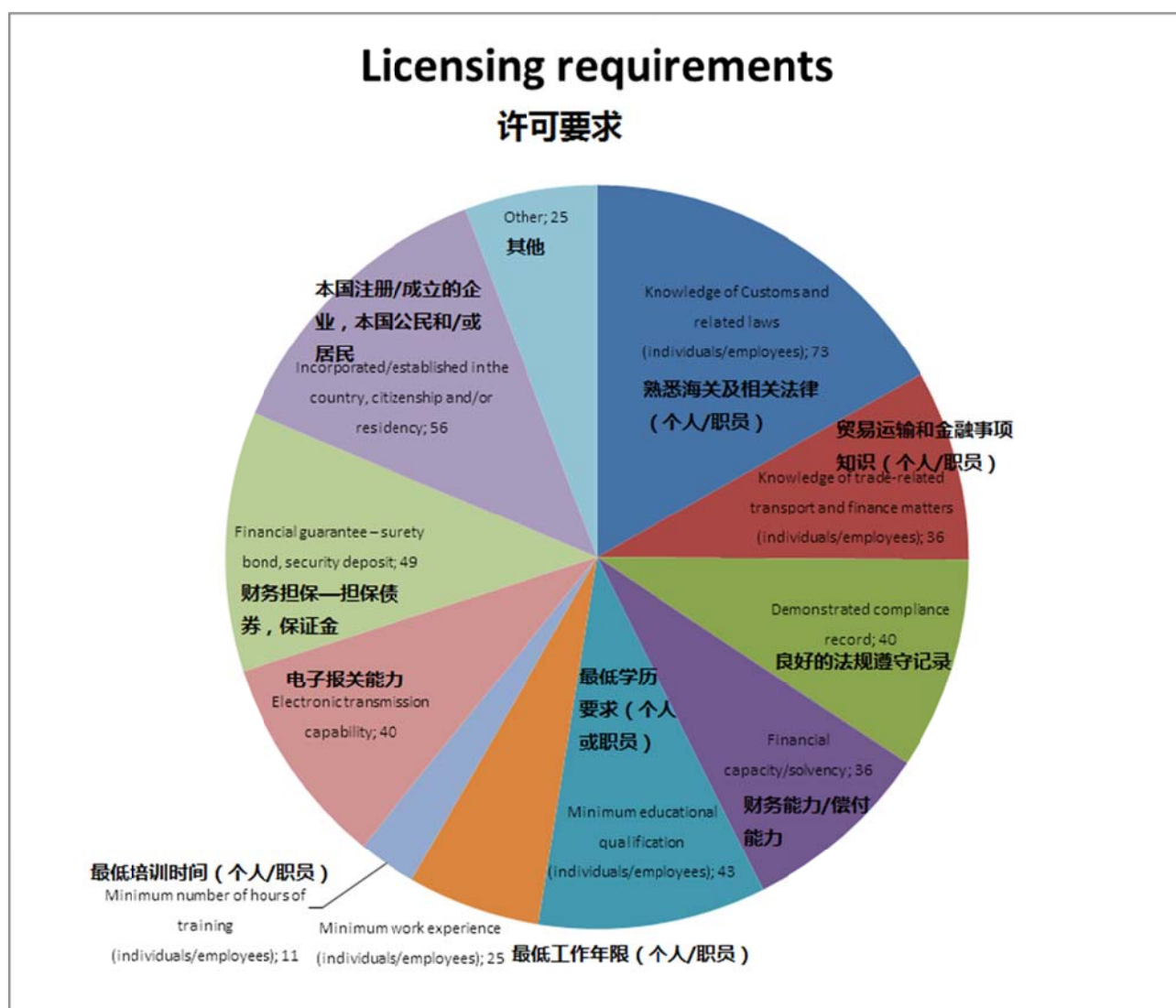
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37. 11 Members require a minimum amount of training as part of the licensing requirements, ranging from 40 hours to 18 months. Such training requirement is expected to provide potential brokers with valuable insight on how Customs work, thus improving 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).

有 11 个成员海关将最低培训时间作为许可要求的一部分，具体要求从 40 小时到 18 个月不等。这种培训旨在向申请者介绍海关工作流程，进而提高他们日后的清关效率，减少清关相关单证的错误。40 个成员海关要求他们国家的持证报关员必须具备电子报关能力。随着信息通信技术和单一窗口的发展，这一要求变得越来越重要。56 个成员海关要求持证报关员必须是在他们国家注册的企业或他们国家的公民或居民。25 个成员海关还列举了其他要求，包括面试，对所在国官方语言的了解以及申请者的道德品质。还有一个欧盟的成员海关称，申请登记注



册的报关企业必须在欧盟或挪威境内，并具有海关备案号（EORI）。



### Scope of Practice of Customs brokers 报关代理的工作范围

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.

各成员海关所在国家的报关代理的职责差别很大，参与调查的成员海关对各自报关代理的工作范围进行了描述。92个成员海关允许报关代理代表贸易商准备海关放行和清关的相关单证。同等数量的成员海关允许报关代理向海关当局提交申报及其他信息。85个成员海关授权报关代理代表贸易商缴纳关税和税款，与此同时，67个成员海关甚至允许报关代理代表贸易商处理税款退款和调整。59个成员海关允许报关代理负责货物的结算和入境。在67个成员海关所在国家，报关代理还负责与其他政府机构联络以代理许可、执照申请及其他业务。35个成员海关允许持证报关代理协助货物放行后的稽查。56个成员海关允许报关代理代表贸易商解决纠纷争议。63个成员海关要求报关代理向贸易商提供咨询或建议服务，帮助后者满足各种监管要求。还有3个成员海关称，视贸易商和报关代理达成的协议而定，报关代理可代表贸易商行使任何职能，包括在提交报关单前抽取样本。

## Scope of practice of Customs brokers

### 报关员工作范围



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 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.

在代表贸易商办理许多业务的同时，持证报关代理必须履行其所在国家法律法规规定的义务和责任（仅限于有此相关法律法规的国家）。74 个成员海关称，报关代理必须按照贸易商的授权或与贸易商签订的协议开展工作。62 个成员海关国家的报关代理有义务就各种法规要求向贸易商提供建议。24 个成员海关要求其持证报关代理查证核实所代理贸易商之前的业务是否合法。74 个成员海关所在国家的法律法规要求持证报关代理需竭力确保所提供信息或单证的准确性。70 个成员海关认为持证报关代理对所代理贸易商应支付的关税、税款及其他费用负有共同连带责任。67 个成员海关所在国家要求持证报关代理将相关清关记录在特定时长内保存完好，用于海关审计和检查。与此同时，58 个成员海关要求其持证报关代理保持高度的专业标准和职业道德，做到透明化和高效化。9 个成员海关还补充了报关代理其他义务，例如不得向其他人或代理商转让、出租或出借执照，全力配合海关当局，按规定形式向海关当局提交报告以及满足与贸易商所签合同规定的其他条件。

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### **Example 事例: 5**

#### **Botswana Unified Revenue Service (BURS) 博茨瓦纳统一税务局**

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A licensed Customs broker - 持证报关代理

• shall not transfer/ lease out or lend a license to another person or agent;

不得向其他人或代理商转让、出租或出借执照；

• shall keep the license displayed in a prominent place all the time;

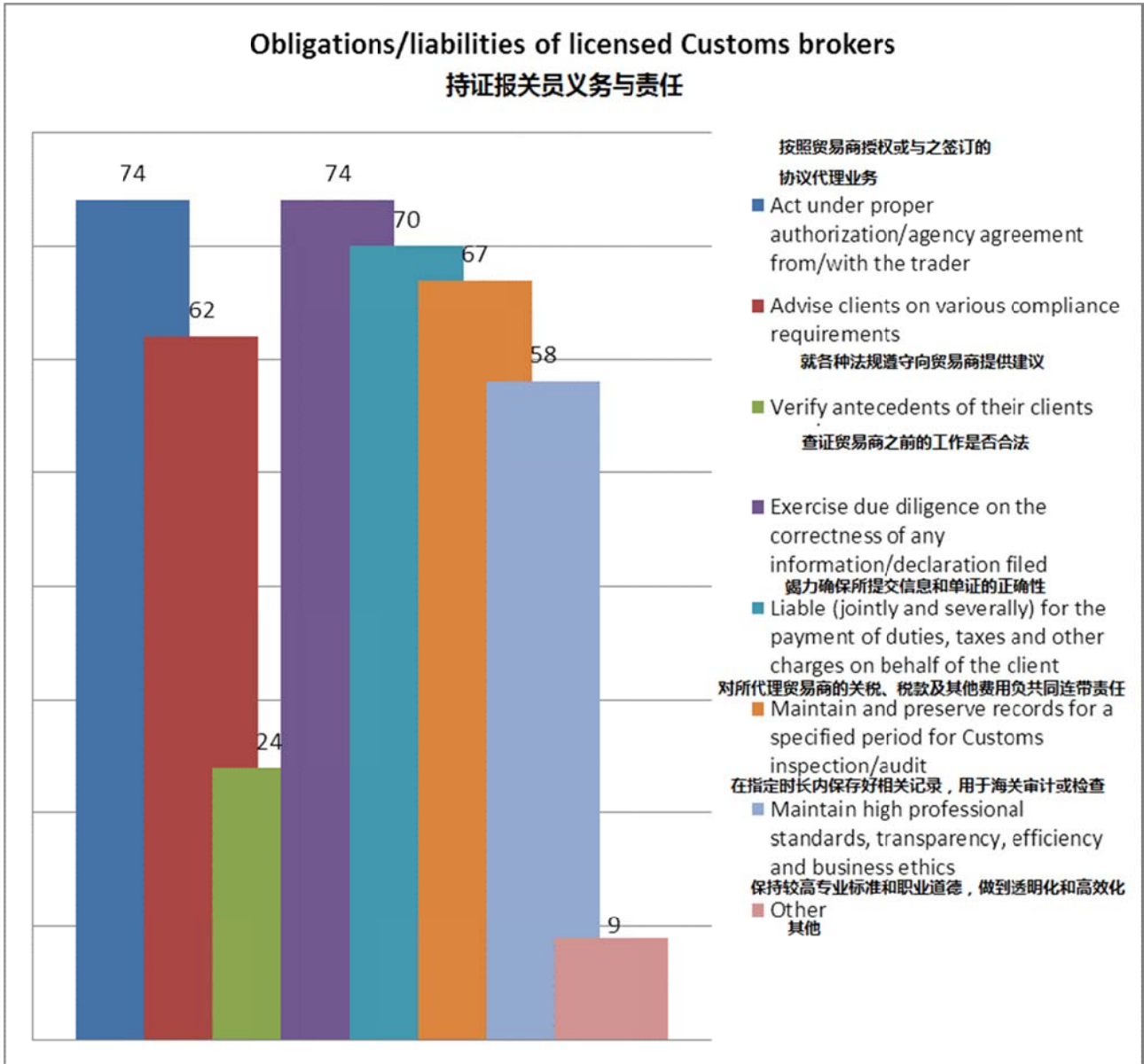
应将执照始终摆放在显眼位置；

• shall not permit its name or Customs assigned number to be used by any other person (TIN);

不得允许其他任何人使用其名字或海关许可号；

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- shall not perform any act of a Clearing Agent unless he holds a valid clearing agent license;  
不得从事任何清算代理商的业务，除非持有清算代理商执照；
- must produce a written authority that allows him to transact business on behalf of others.  
必须有书面授权才能代表别人办理业务。

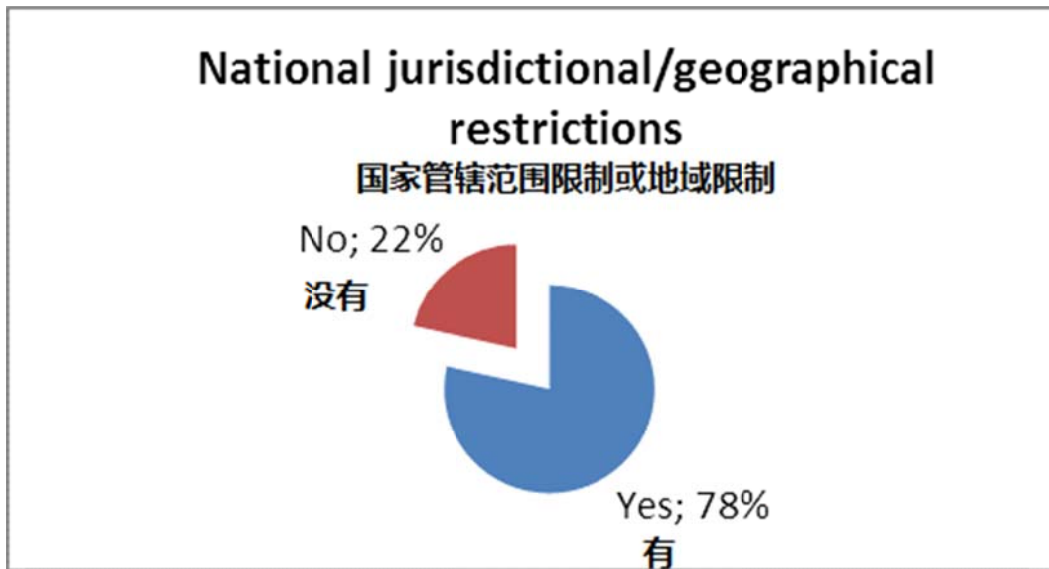


**Geographical restrictions 地域限制**

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).

一般而言，报关代理只能在国家管辖范围内或地域限制范围内代理业务。73 个成员海关(78%)指出，在他们各自所在国家，报关代理只能在国家管辖范围内提供服务，还有些国家（主要来自亚洲和美洲）仅允许报关单位在指定港口/海关或指定海关区域内（登记并提交特定保证金也可延伸至其他港口）代理业务。20 个成员海关（22%）表示，他们所在的国家对报关代理的服务区域没有任何限制，报关单位可以在一个区域共同体—海关联盟或经济联盟内自由提供服务，例如欧盟（EU）、中非经济和货币共同体（CEMAC）和东非共同体—单一税区（EAC-SCT）。在欧盟，某国报关代理如希望在另一个成员国内代理报关业务，其需按照该国法律登记其活动（例如在电子报关系统中进行认证）。也有少数成员海关指出，报关代理提交的文件必须存放在本国管辖范围内，如放于其他国家，海关必须通过其他方式（例如电子传输）查看这些文件。



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.

报关代理商业道德和职业行为的监督机构也因国而异（仅限于有此机构的成员海关）。大多数成员海关（64 个）将海关相关部门作为报关代理商业道德和职业行为的监督机构。33 个成员海关由报关协会负责监督，其中有 12 个成员海关由海关当局和报关代理协会同时负责监督，（后者负责监督报关代理的职业行为）。仅 2 个成员海关表示，在他们国家由另外一个国家政府部门或机构行使这一职责，例如塞舌尔的税务代理和海关代理董事会以及特立尼达和多巴哥的报关代理董事会。6 个成员海关分别由另一个私营机构负责监督，例如英国的英国国际货运协会（BIFA），瑞典的北欧货运代理人协会出台的标准协议，意大利的报关代理国家委

员会，莫桑比克的报关代理协会以及拉脱维亚的拉脱维亚物流协会。

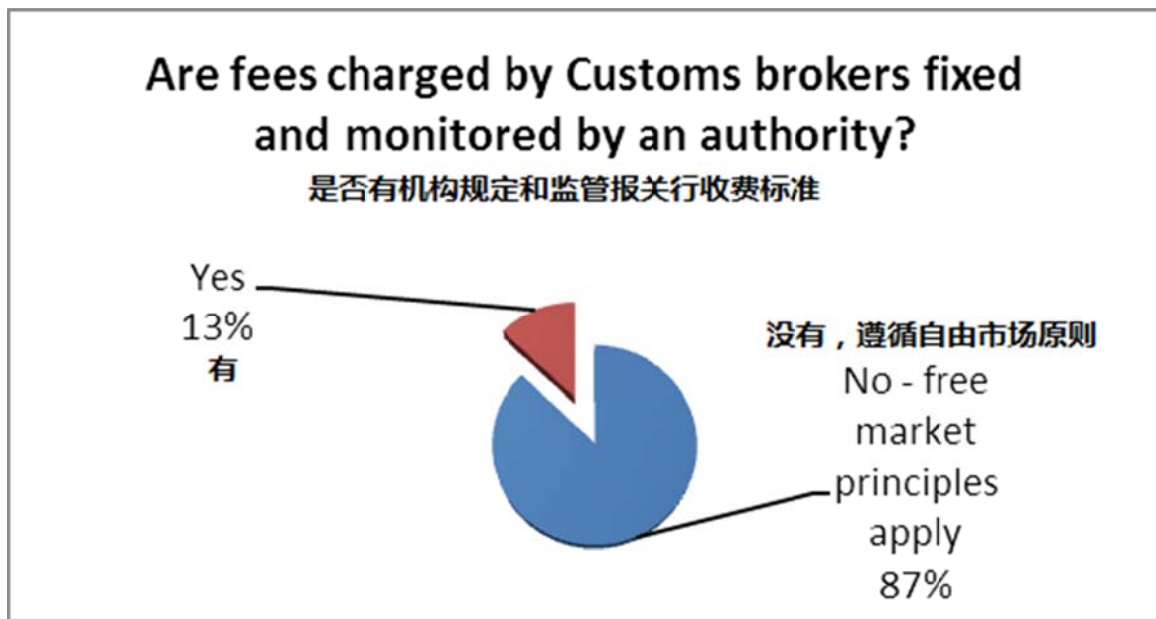


### Customs brokers' fees and charges 报关代理费用标准

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).

对于报关代理的收费标准，81 个成员海关（87%）指出，他们所在的国家遵循自由市场原则，不加于干涉。只有 12 个成员海关（13%）所在国家的报关代理费用标准由专门的政府部门，主要是海关总署（有些是海关总署与一个私营机构一起），来设置或以某种形式监管（例如规定最低费用）。





### Customs clearance by traders on their own account 贸易商自行清关

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 clearance formalities in respect of their own goods.

如前所述，部分成员海关允许贸易商自行办理清关业务。自行办理清关的贸易商，取决于各国的法律法规，大体上遵循与报关代理同样的要求。19个允许贸易商自行办理清关手续的成员海关所在国对贸易商无任何要求。因此，这些国家的贸易商如果愿意，可自行办理清关手续，政府或海关当局不作要求。而有些成员海关所在国仅允许制造商和政府机构享有上述权利。47个成员海关要求贸易商需先向政府登记其业务，然后才能办理相应货物的清关手续。

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#### **Example 事例: 6**

#### **Seychelles Customs 塞舌尔海关**

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- Traders may handle their own Customs clearances if they wish.

贸易商如果愿意可自行办理清关

- Traders must first apply for access to the Automated System for Customs Data (ASYCUDA).

贸易商必须先申请海关数据自动化系统的访问权

- 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.

如准予访问，贸易商则被称作是准入贸易商（DTI），可以开始准备并直接向海关当局进行申报

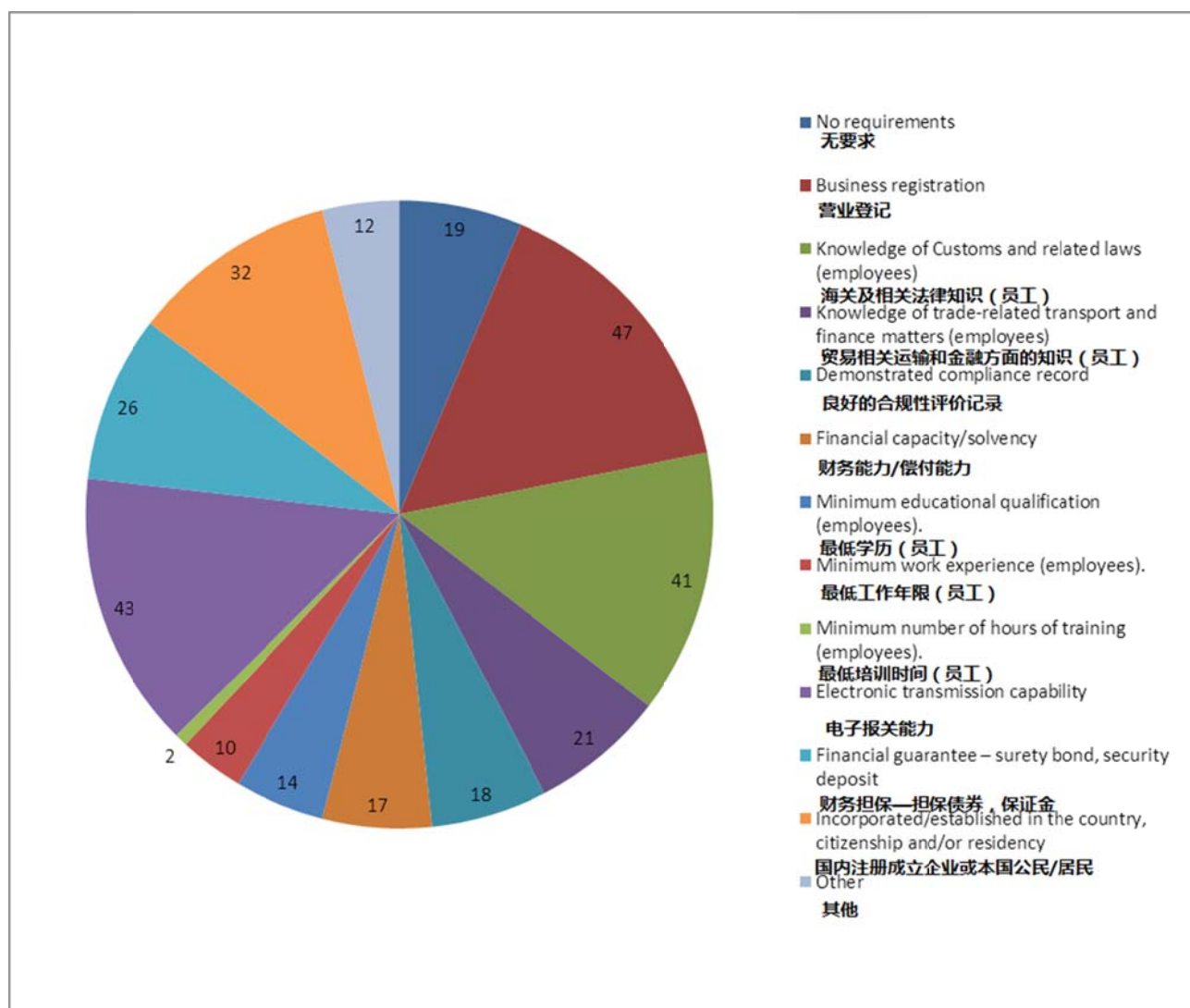


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44. Knowledge of Customs and Customs-related laws and knowledge of trade transport and finance matters are other key respective requirements for traders in 41 and 21 countries. 18 Members necessitate that traders in their country who wish to handle 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.

41 个成员海关所在国家还将海关及海关相关法律知识作为对贸易商的关键要求，还有 21 个成员海关所在国则要求贸易运输和金融方面的知识。18 个成员海关要求其国内贸易商如想自

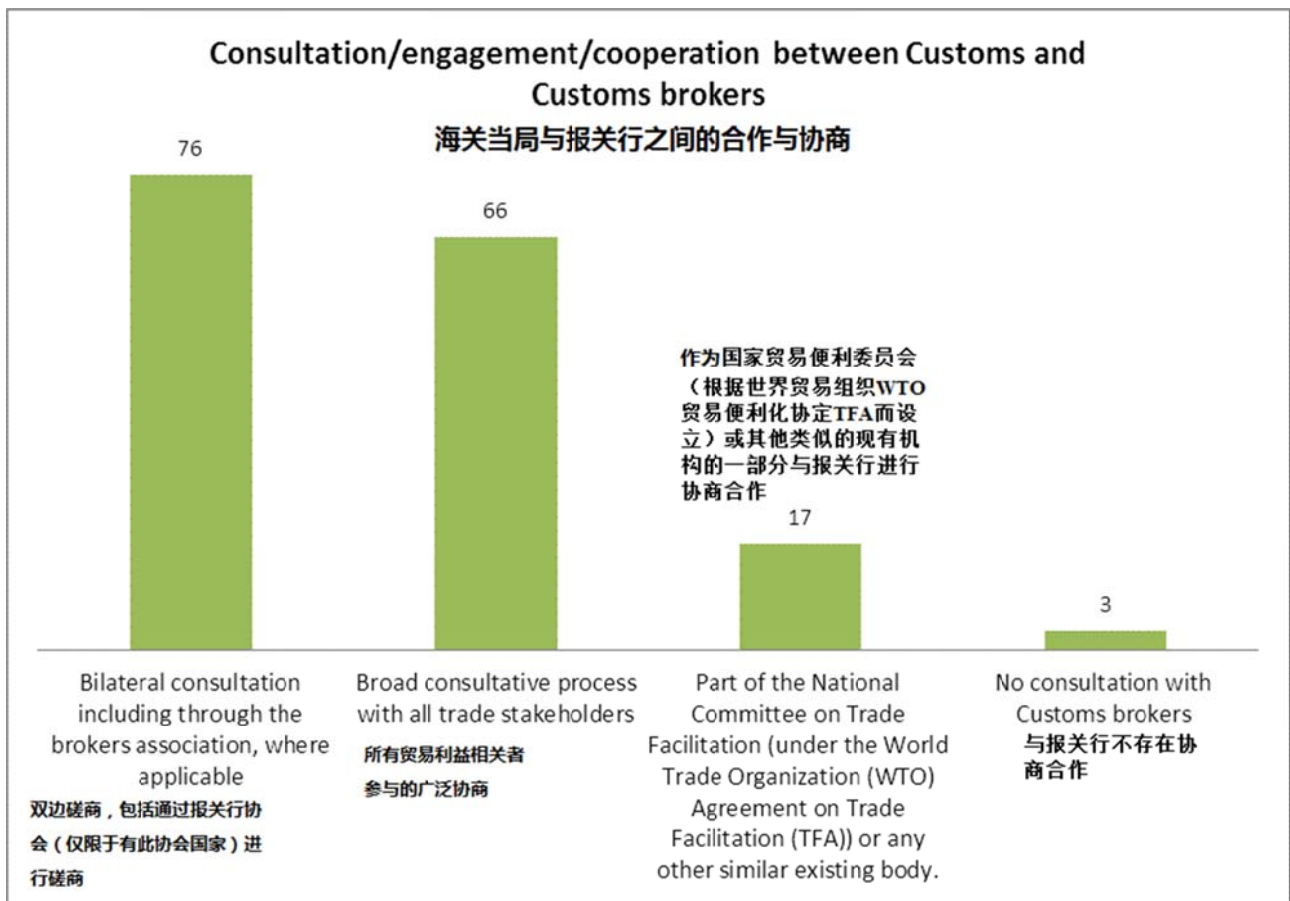
行办理清关手续，必须要有良好的合规性评价记录。17 个成员海关要求贸易商出具财务能力/偿付能力证明。26 个成员海关需要自行办理清关的贸易商提供特定的财务担保。14 个成员海关对自行办理清关的贸易商所雇佣职工的最低学历有要求，10 个则要求其最低工作年限，还有 2 个则要求最低培训时间。随着商业和政府工作越来越多地使用信息通信技术（ICT），许多成员海关（43 个）开始要求电子报关能力。此外，32 个成员海关表示该类贸易商必须为国内或经济/海关共同体内注册成立的企业或为所在国家的公民或居民。12 个成员海关所述的其他要求主要包括：最低股本；最低年营业额；全职正式员工或一名公司正式授权的清关代表；电子报关系统（及申报系统）的访问许可权；至少需有一名持有海关总署颁发的报关代理资格证书的员工；具有海关备案号（EORI 号）。



#### iv. Cooperation/Engagement between Customs and Customs Brokers 海关当局和报关代理之间的合作关系

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.

海关当局和报关代理之间存在着多种形式的合作关系。76 个成员海关（77%）指出，双边磋商，包括通过报关代理协会进行磋商（少数情况下会有谅解备忘录 MOU，例如在不丹、摩尔多瓦和乌拉圭）是最普遍的合作机制。66 个成员海关（67%）采取更加广泛的多方磋商，包括所有进出口贸易利益相关者，其中也包括报关代理。仅 17 名成员海关表示他们允许报关代理加入国家贸易便利委员会（根据世界贸易组织世界贸易组织《贸易便利化协定》TFA 而设立）或其他类似的现有机构（例如阿富汗的国家海关和贸易协商委员会，喀麦隆的国际海运便利化全国委员会，波兰的海关服务咨询委员会和爱尔兰的海关咨询委员会），并与之保持合作磋商关系。美洲、欧洲和北非中东地区各有 1 个成员海关（3%）称他们与报关代理之间不存在协商合作关系。



### Areas of Cooperation 合作领域

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 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.

成员海关在多个领域与报关代理通过多种方式进行合作。88 个成员海关（89%）与报关代理共同致力于海关现代化和贸易便利化，相关举措包括新政策与新技术的引入，例如自动化、“经认证经营者”（AEO），“协调边境管理”（CBM）以及“电子化单一窗口”。63 个成员海关（64%）通过与报关代理的合作，确保对海关及其他政府机构的法规得到遵守，其中包括恪尽职守以及保证报关数据的正确性。40 个成员海关（40%）通过与报关代理协商来促进双边或多边协议，例如《自由贸易协定》（FTAs）或者世界贸易组织《贸易便利化协定》的充分、高效实施。在能力建设和联合培训方面，54 个成员海关（55%）通过与报关代理合作来提高报关代理的商业道德和专业素质。52 个成员海关（53%）表示他们与报关代理的合作旨在加强供应链安全。24 个成员海关（24%）与报关代理合作进行绩效考核，例如货物放行时间调查。5 个成员海关反映了其他领域的合作，包括：确定报关代理服务费率/收费标准；定期举行会议讨论常规程序问题和其他双方关心的问题。还有一位成员海关表示其报关代理协会的代表参与新报关企业许可审查委员会。在与贸易商，包括报关企业的广泛合作中，另一个成员海关与报关代理就包括体制、程序和立法在内的大量问题上进行协商。有些成员海关与报关代理协会之间还签有谅解备忘录 MOU。

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### **Example 事例: 7**

#### **US Customs and Border Protection (CBP) 美国海关与边境保护局**

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- 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.

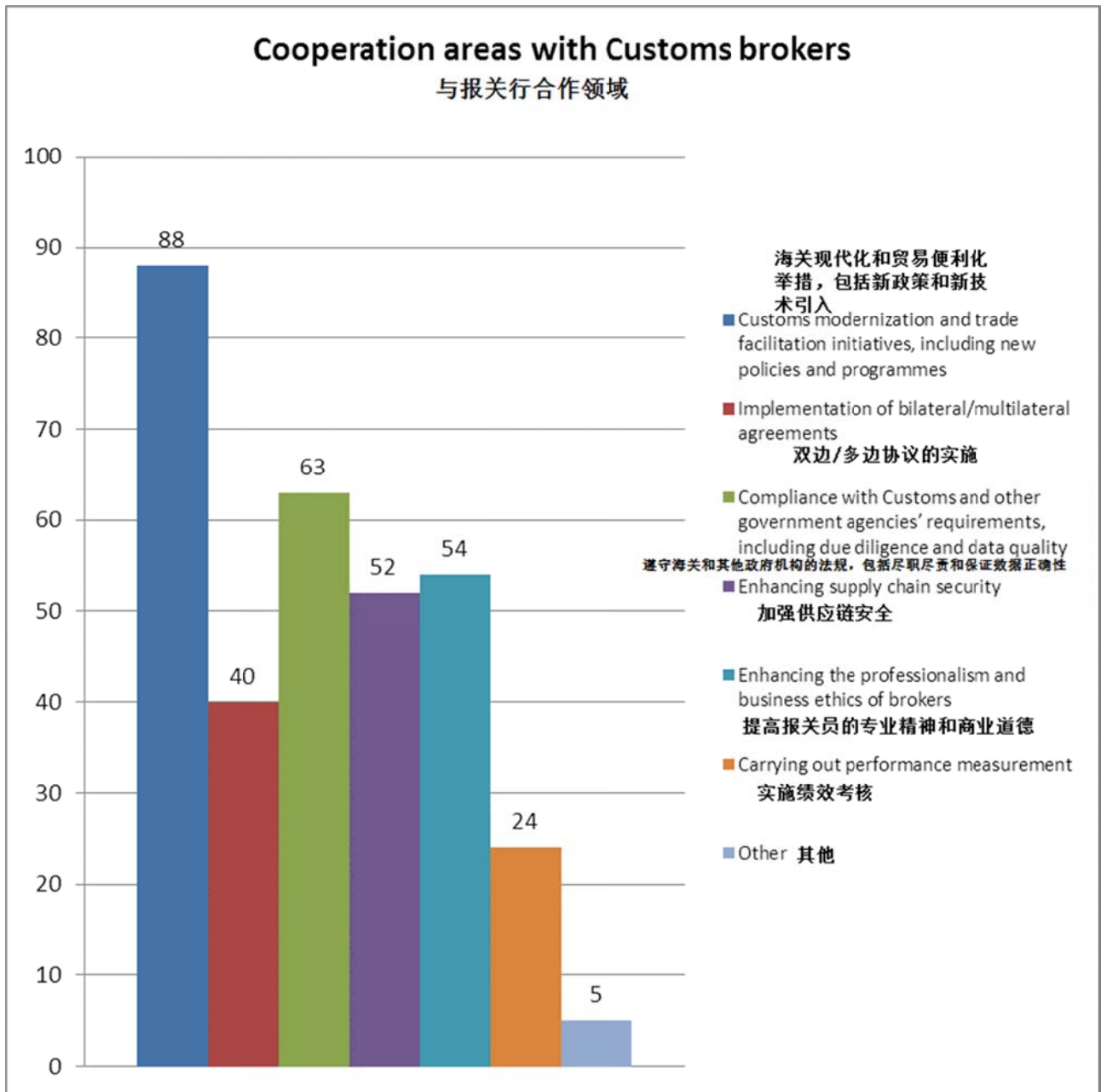
根据联邦咨询委员会法案 1972（FACA）设立了包括报关代理在内的多个贸易利益相关方组成的商业营运咨询委员会（COAC），负责在特定问题上向美国海关与边境保护局提出建议：

- Current subcommittees of the COAC are:

商业运用咨询委员会下属委员会包括：

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- One U.S. Government at the Border  
边境单一政府机构
  - Global Supply Chain  
全球供应链
  - Trade Modernization  
贸易现代化
  - Trade Enforcement and Revenue Collection  
贸易执法与征税
  - Exports  
出口
  - Trusted Trader  
诚信贸易商
-



### Customs brokers as AEOs/Trusted Traders 报关企业作为“经认证的经营者 AEO”/诚信贸易商

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.

各成员海关一直在通过与越来越多的利益相关者合作来促进“经认证的经营者”计划（以下简称 AEO）的实施。有 58 个成员海关已经开始实施 AEO/诚信贸易商/合规性评价计划，并将报关代理纳入了这些计划。这些计划向报关代理提供的优惠政策因国而异，例如在日本，报关代理可在货物到达前提交进口报单，在货物放行后再缴纳关税。其他成员海关向报关代理提供的优惠政策包括：减少申报数据项的汇总报关；简化清关手续；申报自我评估；培训和试点项目特权；工作时间外服务；降低财务担保标准；设立协调员等。到目前为止，有 29 个成员海关（5 个已实施 AEO 计划）表示没有将报关代理纳入各自的 AEO/诚信贸易商/合规性评价计划。

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### **Example 事例: 8**

#### **Japan Customs 日本海关**

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- Implemented AEO Customs brokers programme in April 2008.

于 2008 年 4 月开始“经认证经营者—报关代理”项目。

- 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 报关企业应至少有 3 年工作经验，没有违反海关相关法律，有更加严格的规则和制度。

- AEO Customs brokers are allowed to file an import declaration before goods arrive in the Customs area.

允许 AEO 报关企业在货物未到达海关区域前提交进口报单。

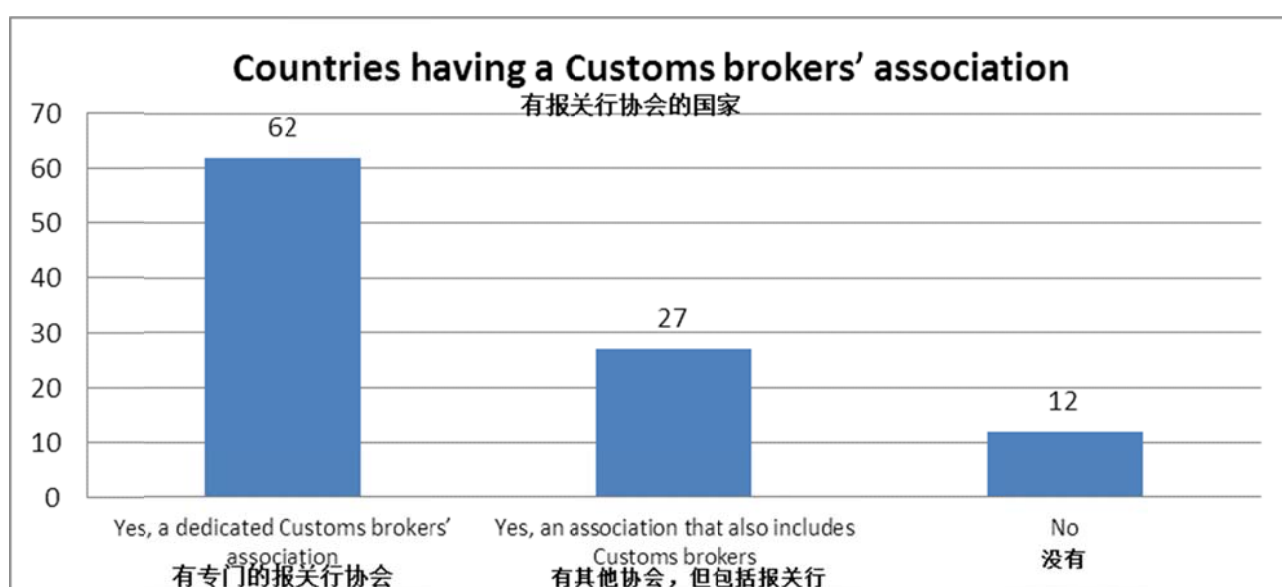
- AEO Customs brokers are also granted the facility to pay applicable duties after the release of the cargo. AEO 报关企业可在货物放行后再缴纳相应关税。
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#### **Customs brokers associations 报关代理协会**

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.

鉴于报关代理协会可以成为海关当局了解各报关单位情况的一个可靠的信息来源，同时可以通过提供培训和建议来支持其会员，因此这个社会组织对海关当局和报关代理企业而言都颇具价值。62 个成员海关（63%）表示有专门的报关代理协会，但不强制报关企业加入。27 个成员海关（27%）称有一个专业商会，其中包括报关代理。仅 12 个成员海关（12%）表示没有报关代理协会。

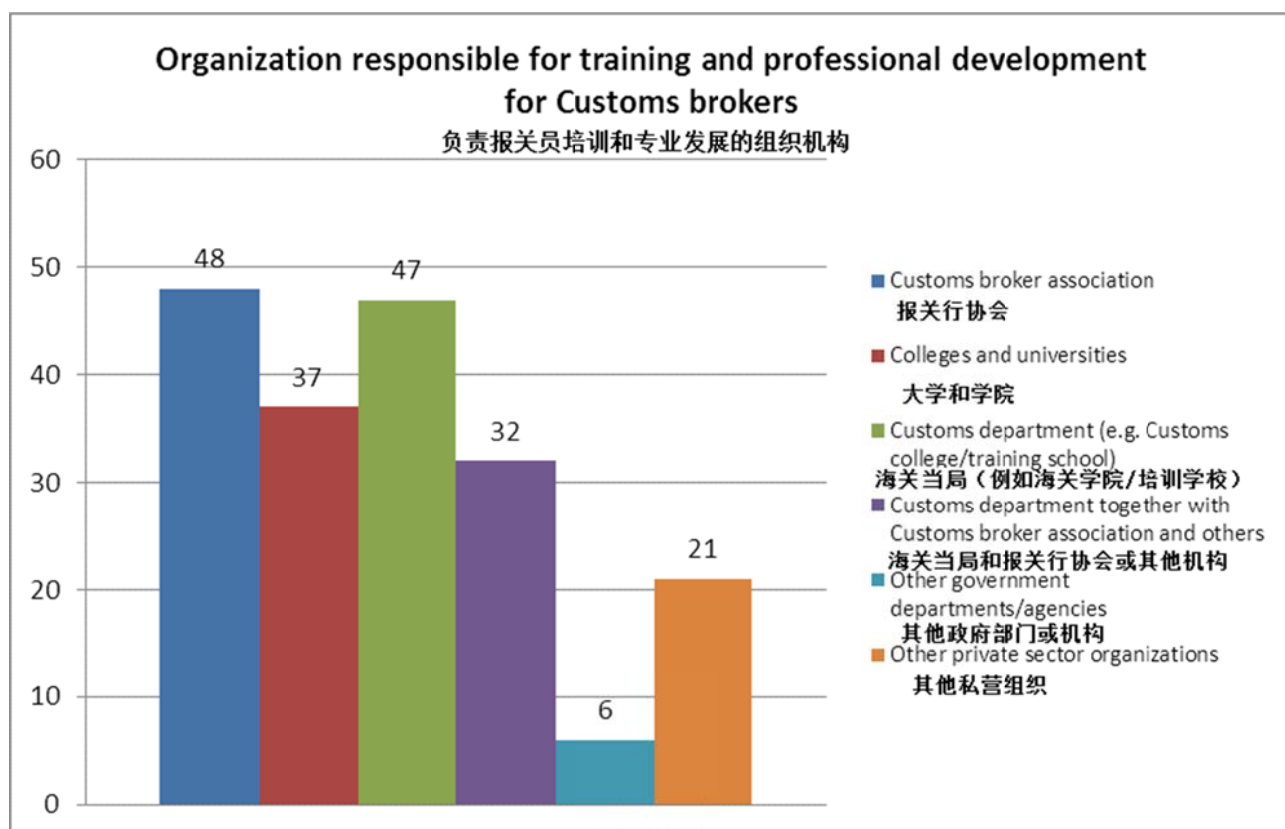


### Capacity Building of brokers 报关代理能力建设

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.

就报关代理能力建设而言，47 个成员海关（47%）已经设立专门的海关学院和培训学校来提升报关代理的专业技能。48 个成员海关（48%）所在国则通过报关代理协会来提供培训和专业技能提升。32 个成员海关（32%）所在国由海关当局和报关代理协会或私营机构合作来向报关代理提供培训。6 个成员海关（6%）所在国则由其他政府部门或机构负责这一职责，例如塞舌尔的信息通信技术部负责海关数据自动化系统（ASYCUDA）数据录入培训；匈牙利的国家专项培训（OKJ）；不丹的国家环境委员会；斯里兰卡的港务局或者百慕大的教育部。21 个成员海关（21%）表示能力建设培训由其他私营机构提供支持，例如卢森堡、斯洛文尼亚和特立尼达和多巴哥的商会。36 个成员海关（36%）所在国的学院、大学或某些国家的专项培训学校（例如哈萨克斯坦和乌拉圭的报关代理培训学校）也会向报关代理提供培训课程。



## v. Other Findings 其他发现

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.

82 个成员海关（92%）表示没有对委托报关代理清关的贸易商和自行清关的贸易商各自的合规率进行评估。7 个进行上述评估的成员海关（8%）表示两者的差异不是很明显。但是他们发现有些报关代理的诚信水平和合规率（申报信息正确率）都很低。还有一个进行上述评估的成员海关表示报关代理的和贸易商自行填写的报单的错误率没有明显差异。

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.

同样的，85 个成员海关（93%）表示没有对委托报关代理清关的贸易商和自行清关的贸易商各自的货物放行时间进行评估。6 个进行上述评估的成员海关（7%）得出了不同的结果，一些海关发现委托报关代理的货物清关和运输更快一些，而另一些则发现自行清关更加快捷，成本更低。还有一个成员海关则称没有区别。由于各成员海关的自身特性，商业环境和评估方法差异，这些结论毫无疑问具有相当的局限性。

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

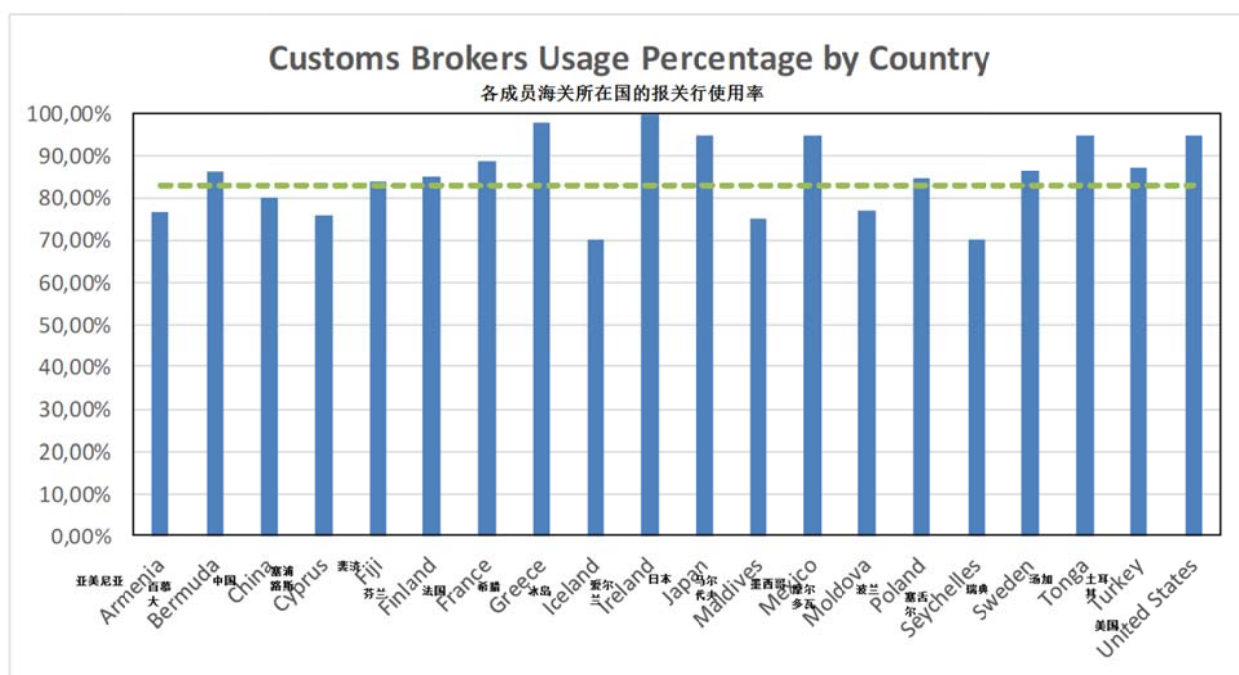
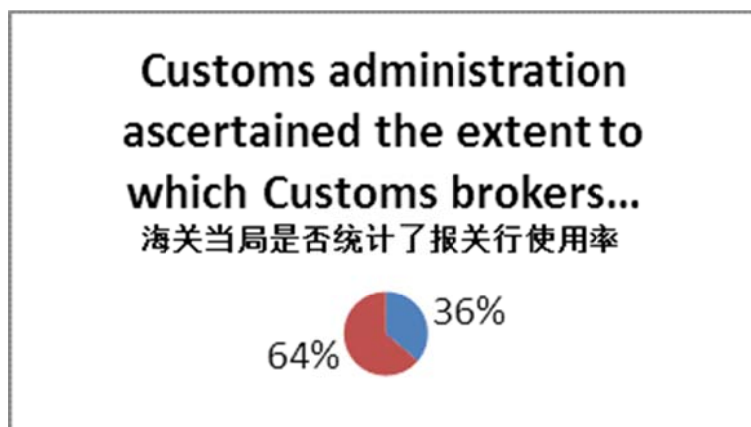
Member stated that they had grouped Customs brokers based on historical infringement data to assess their compliance level. Another Member publishes the ranking results on the risk level of brokers, as guidance for users and traders. A Member also shared that classifying Customs brokers and publishing 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.

84 个成员海关（90%）称未通过任何形式的研究评估对报关企业的专业水平和服务质量进行评级排名。9 个进行此项研究评估的成员海关（10%）表示，遵循专业标准、努力提供更好服务的报关企业往往更加熟悉并遵守海关规则、规章和程序。还有一个成员海关表示，他们会根据历史违规行为数据对报关企业进行分组，进而评估他们的合规等级。另一个成员海关则通过公布排名靠后的报关企业来提醒用户和贸易商。还有一个成员海关也对报关企业进行分类排名，并通过公布排名结果来促使各报关企业提高其服务质量。事实上，对持照报关代理采取“质量标签”的做法（即根据合规率等相关标准对报关代理进行排名）最初没有取得预期的效果。被海关当局评选为一流的报关企业指出，他们的业务反而因此受到了影响，因为一些进口商显然更倾向于找一个愿意规避相关法规的报关企业。因此，实行该政策的成员海关对这一做法进行了修改，在与经营者签订的绩效合约框架中规定了要对与其合作的报关企业进行培训。这样一方面有利于一流报关企业进一步提升其专业水平，另一方面，由于这些报关企业可以帮助委托公司的绩效合约要求的充分实现，其建议也受到大公司更多重视。

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 85.26%.

33 个成员海关（36%）对报关代理的使用率进行了统计，58 个成员海关（64%）未进行此项

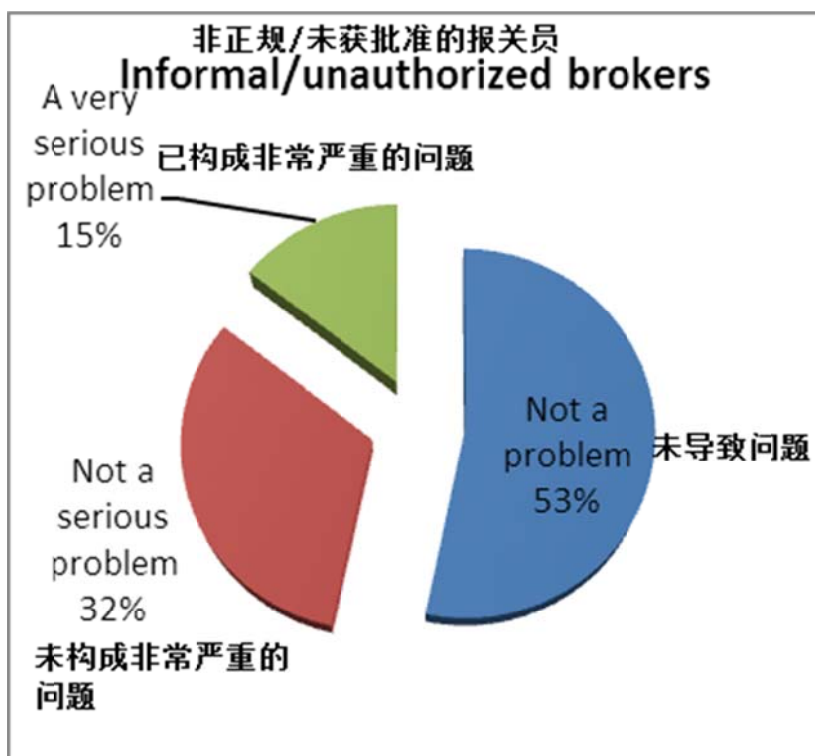
统计。对于进行统计的成员海关来说（不包括强制使用报关代理的国家），报关代理平均使用率是 85.26%。



54. Asked about informal or unauthorized Customs brokers<sup>3</sup>, 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 ‘hired’ a licence number from a licensed broker in order to lodge declarations and perform other related work. In terms of measures being taken against such practices, 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.

对于非正规或未获批准的报关代理<sup>3</sup>，48 个成员海关（53%）表示他们国家没有这一问题。29 个成员海关（32%）表示上述问题不是很严重。主要来自西非和中非，南北美、中美、加勒比地区，远东、南亚和东南亚，澳大拉西亚和太平洋岛屿的 13 个成员海关（15%）表示上述问题在他们国家很严重。还有一个成员海关称非正规报关代理以黑手党方式行事。他们经常从持证报关员那里“租用”一个执照号来代理报关及其他相关工作。在针对这一问题所采取的措施方面，据称一个成员海关试图通过要求制服和身份证（ID），旨在净化港口操作，以及实行制裁和处罚来限制非正规报关代理的进入。另一个成员海关表示，他们会与税务机构进行交叉核对，以核实向报关代理发放单证的人是否有权这样做。



<sup>3</sup> 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.

非正规或未获批准的报关代理指使用/租用持证报关员的执照来代理清关及其他相关工作，或者指不遵守任何通常情况下特定国家需要被遵守的法规的报关代理。



## IV. Conclusions/Summary of findings

### 调查结果总结

#### i. General conclusions 总论

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, goods below a specified threshold) in 14 Members.

就《京都公约》中进出口商可自行选择是否使用报关代理的规定而言，调查发现大多数调查对象，71 个成员海关（73%），不强制要求贸易商使用报关代理。在整个世界海关组织区域内，仍有 23 个成员海关（23%）强制要求使用报关代理，但其中 14 个成员海关也有一些例外情况（例如某些特定商品、个人物品、规定价值一下的商品清关）。

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.

84 个成员海关（88%）表示，报关代理（仅限于有此行业的国家）必须遵守特定的要求，例如向海关当局注册以及一些较具体的、旨在为报关代理设立行业标准并对其违规和不当行为进行罚款或制裁的许可要求。

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.

相关成员海关对报关代理实行监管的因素或原因有很多。大多数成员海关（仅限于有监管要求的）监管报关代理是为了促进和保护贸易商的利益，并确保税款的收缴以及报关代理的合规性和专业精神。也有少数成员海关指出，监管报关代理对于优化政府有限的资源同样是必要的。

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.

80 个成员海关（91%）所在国将海关相关部门作为报关员的许可和监管机构。有 65 个成员海关（76%）将考试作为许可要求之一。除考试外，一些海关当局还通过面试等其他附加手段来检查申请者的海关知识。59 个将考试作为许可要求之一的成员海关还负责各自考试的命题和监管。

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.

64 个成员海关所在国将海关相关部门作为报关员职业道德和职业行为规范的管理机构。33 个成员海关所在国由报关代理协会负责这一职责，其中有 12 个国家是由海关当局和报关代理协会共同负责。

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.

对于有许可资格要求的成员所在国，其许可标准大致包括以下 10 条：海关及相关法规知识；与贸易相关的运输和金融事项知识；良好的合规性记录；财务能力或偿付能力；最低学历；最低工作经验年限；最低培训时间；电子报关能力；财务担保—担保债券，保证金；属于国内注册成立的企业或本国公民或居民。对于有许可要求的成员所在国，73 个成员海关（87%）中的大多数都将海关及相关法规知识作为最重要的许可标准。确定海关当局在颁发执照前应检查申请者海关知识的规章要求很有必要。显然，将海关知识作为报关代理执照颁发的前提条件会减少非正规报关代理的数量。平均而言，成员海关采取了上述 10 条标准中的 5 条。

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.

对于强制使用报关代理的 22 个成员海关而言，只有 5 个指出存在非常严重的非正规/未经授权报关代理问题。有 13 个成员海关称存在严重的非正规报关代理问题。

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.

对于是否将最低学历作为报关员许可要求之一，各成员海关存在着不一样的做法。41 个成员海关（49%）未将最低学历作为许可要求之一，43 个成员海关（51%）则对最低学历有要求，例如需具备大学或高中文凭。

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.

成员海关还要求个人申请者必须是本国公民和/或居民，公司申请者必须为国内注册或成立的企业。随着越来越多海关同盟和/或经济共同体的出现，成员海关对居住地的要求也开始采用更加区域化的方法。越来越多的成员海关趋向于允许报关代理在其所属的海关或经济共同体内提供代理服务。随着成员海关加入或形成更多这样的区域组织，这将是一个很重要的政策发展方向。

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.

成员海关介绍了报关代理的各种业务，包括准备货物放行和清关的单证；向海关当局提交报关单及其他信息；货物结算/货物入境；与其他政府部门（例如负责许可、资格证、执照或其他业务）联络；关税和税款的支付；关税退款及调整；货物放行后稽查；就如何满足各类监管要求提供咨询和建议服务；代表解决纠纷。

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.

报关代理必须履行授予其执照的国家的法律法规所规定的义务和职责，最重要的是要经法定程序获得授权，并就各种合规要求给予贸易商建议。此外，报关代理还对其代理贸易商应付的关税、税款及其他费用负有连带责任。

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.

就报关代理收费标准而言，81 个成员海关（87%）所在国遵循自由市场原则。仅有 12 个成员海关（13%）所在国通过一个政府部门对收费标准做出限定或进行监管，该政府机构主要是海关相关部门，有些国家是海关和一个私营机构共同负责。

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;

报关代理能力建设和培训获得了政策委员会的极大关注，因此也是本次问卷调查的主要内容。各成员海关所在国提供培训和能力建设的机构的平均数量是 2 个。在海关；海关与报关代理协会；报关代理协会；大学/学院；其他政府部门/机构；其他私营机构等各类培训组织中，没有一个成员存在四个或四个以上同时提供培训机会的情况。

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 up to 99.99%. This brings to light the possibility of eliminating any "mandatory" usage of brokers to comply with the RKC and let their usage be decided by traders/individuals based on market principles like other professional services. This also makes a good business case for those countries, which are apprehensive of social and political issues around the elimination of the mandatory use of brokers.

对报关代理使用率进行过统计的成员海关指出，尽管报关代理的使用是“可选的”，但绝大多数申报还是由报关代理提供或提交的。就统计过报关代理使用率的成员海关而言，报关代理平均使用率为 82.55%，在某些情况下甚至高达 99.99%。这也显示了取消强制使用报关代理，进而达到《京都公约》相关条款要求的可能性。取消强制使用就意味着像其他专业服务机构一样，允许贸易商或个人依照自由市场原则自行选择是否使用报关代理。以上数据也为

那些对与消除强制使用报关代理相关的社会和政治问题感到担忧的国家提供了一个很好的商业案例。

## ii.Challenges 挑战

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.

一些成员海关也提到了存在的挑战，尤其是在报关代理诚信和合规问题上。成员海关已经发现了没有执照和 ID 卡却代理业务的非正规报关代理的存在。这些非正规报关代理通常通过从持证报关代理那里“租用”证照/身份识别号来代理清关及其他相关工作。这一做法不仅损害了专业报关代理和贸易商的利益，也对合规性要求构成了威胁。42 个成员海关（47%）认为这是一个问题，其中 13 个成员海关（15%）认为这已经是一个相当严重问题。

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.

对一些成员海关来说，同样具有挑战性的是更改有关强制使用报关代理的法规。此外，还有一些成员海关缺乏改革现行做法并吸收好方法新技术的能力。成员海关指出，上述挑战在某种程度上可以通过增加 ICT 使用，在适当情况下采取示范制裁和处罚以及通过与报关代理和贸易商不断对话交流来克服。但是，如果不加强自身能力，海关当局将无法对报关代理的违规行为实施处罚和制裁，也无法在必要时进行相应的立法/行政改革。

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.

没有一个放之四海皆准的解决方案。大多数成员海关已经建立了非常适合其国家需要和需求的报关代理管理制度，只需对这些制度进行适当的调整便可适应新的机遇和新的挑战。但是，根据他们的自我评估，一些成员海关，特别是正在考虑建立报关代理管理制度和/或需对现存制度进行更改的成员，可能会受益于其他成员海关的有效做法和本报告提及的一些关键成果和建议事项。

### iii. Areas of Cooperation between Customs Administrations and Customs brokers 海关当局和报关代理合作领域

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.

像所有关系网中的利益相关者一样，海关当局也最好是与报关代理定期进行有建设意义的接触，因为报关代理往往是贸易商和海关当局之间的第一座及桥梁。除了准备单证，人工或电子提交单证，结算以及经常性的代付关税和税款以外，他们还能在促进海关当局或政府机构与进出口商的沟通方面发挥积极作用。《京都公约》总附约条款 8.5 和条款 1.3 规定海关当局应与贸易商建立并维持协商关系，要求海关当局允许报关代理之类的第三方参与海关和贸易商之间的正式磋商。

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.

在一些领域，与报关代理和/或报关协会建立良好关系对各海关当局而言十分有益。根据国际性倡议，例如《京都公约》和《全球贸易安全及便利标准框架》（SAFE）以及相关举措，例如“经认证的经营者”计划，协调边境管理和电子化单一窗口，海关当局可就海关现代化和贸易便利化举措与报关代理进行磋商。正如一些成员海关所称，与报关代理进行磋商有助于业务流程重组和IT系统的设计/升级。依照世界贸易组织《贸易便利化协定》第23.2条款设立的国家贸易便利委员会与报关代理进行上述类型的磋商和进一步的合作也是有可能的。

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.

海关当局可将报关代理看做是沟通桥梁和助推器，利用报关代理来提高合规率。同时，报关代理也是遏制假冒/盗版商品等非法贸易以及确保遵守其他政府机构监管要求的潜在合作伙伴。

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.



海关当局还可就双边/多边协议的高效、充分实施，强化供应链安全和开展绩效考核（例如放行时间调查）与报关代理进行合作，并通过定期联合培训和能力建设来提高报关代理的专业精神和商业道德。就绩效考核而言，报关代理可就他们所代理的清关手续提供准确和及时的数据。

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.

还应该考虑报关代理在提高报关数据质量方面的积极作用。数据质量对海关有效、高效的分析和问题发现至关重要。人们可能认为，与报关代理相比，贸易商或许对报关单及他相关信息的准确性有更好的了解和更直接的责任，但报关代理可提高贸易商对数据质量重要性的认识并促使其提高数据的准确性和充分性。随着电子数据传输的进一步整合和运用，海关当局将有一个更加有效的数据收集系统，同时为报关代理提供最先进的信息录入工具，从而提高数据质量。

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.

报关代理商业道德和职业行为的监督机构因国而异。不过，成员海关可以探讨报关代理协会在确保报关代理专业水平方面的作用。报关代理协会可向其会员提供商业道德和专业水平方面的培训。东非共同体（EAC）就有在区域一级实行上述培训的事例。海关清关和运输协会、税务局以及 EAC 海关理事会正在考虑制定一个用于清关和货运代理人认证和自我监管的政策框架。制定该政策旨在提高该行业的服务质量，加强其专业水平，确保其自我监管。欧洲货运代理和物流服务供应商协会（CLECAT）在为报关代理制定行为准则方面发挥着重要作用。该行为准则包括行为原则、价值观以及规则，鼓励报关代理遵循高道德标准，依照适当标准履行职责，进而保护客户及其行业的权利，并维护会员国及整个欧盟的财政利益。尽管报关代理协会和其他相关私营机构提供了支持，但海关当局对报关代理商业道德和职业行为仍保留最高监督权，在必要情况下，可实施制裁和处罚。

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.

海关当局和报关代理合作的一个重要潜在领域可以是为报关代理提供培训。根据问卷调查结

果,有些海关当局已经单独或与报关代理协会合作开始提供培训。通过为报关代理提供培训,海关当局可以明确他们的期望和监管法规,报关代理也可以获得上述第一手资料,进而确保得到更好的遵守。海关当局可以考虑为参加培训的报关代理颁发培训结业证书(或类似证书),以此来激励他们参加培训,这也可能使他们在自由市场体系中具有一定的竞争优势。可通过各种组织或机构来提供培训:报关代理协会、学院和大学、海关相关部门(例如海关学院/培训学校)或海关相关部门和其他机构合作提供。其他相关政府机构和私营组织也可提供海关当局没有涵盖的技能深化培训。这些培训加强了报关代理对海关及其他边境机构法规的理解,进而可以提高报关代理的合规率。

79. Other areas for cooperation between Customs administrations and brokers could potentially include:

其他海关当局和报关代理的潜在合作领域包括:

- 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.

实施“经认证的经营者”计划被证明是促进海关现代化以及供应链安全和便利的有效措施。成员海关应努力实施包含报关代理在内的“经认证经营者”计划和/或合规计划,以此来增加双方之间的合作,进而提高贸易安全和便利。海关当局应为属于 AEO 的报关代理提供切实的优惠政策,以此来吸引更多报关代理加入 AEO。

- 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.

双边或多边协议，例如《自由贸易协定》和世界贸易组织《贸易便利化协定》的实施，均需要海关当局和报关代理（以及其他利益相关者）的协调合作。没有上述多方的支持，这些协议的实施可能面临很多挑战，不仅对增加收益如此，遏制潜在的滥用和欺诈行为方面同意如此。因此，海关当局和报关代理应尽早对相关协定共同开展讨论，并就如何最好地实施这些协定提出解决方案或机制。

- 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.

各海关当局与其政府机构还可通过通知或教育报关代理有关其他政府机构的法规和要求来向报关代理提供进一步的支持，尤其是有关恪尽职守和数据质量方面的法规要求。随着电子化单一窗口的最终实施，报关代理申报将便利化，但要想实现所有相关机构的有效、高效办公，就必须提高数据质量。高质量数据可以为海关当局和其他相关政府机构提供所有必要的和充分的信息，进而可以提升贸易安全的同时简化货物通关流程。

- 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.

供应链安全仍然是一个重要的目标，因此海关当局和报关代理之间的沟通交流

应做到公开、透明。报关代理可以并且应该成为海关当局防止非法贸易的第一道防线。

- 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.

建立或确认一个全国性的报关代理协会也是一个积极的建议，因为该协会不仅可以为其会员提供帮助，也同样能够支持海关当局的工作。报关代理协会除了可以提供有价值的培训、能力建设外，还能建立实施行业管理，以支持或补充海关当局在这些方面的资源短缺。

- 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.

成员海关也可考虑与报关代理协会和报关代理合作，定期对委托报关代理代理清关和自行清关的贸易商的合规率、货物放行时间及其他程序进行评估。这些评估可以提供有关报关代理作用和职责以及进一步改善贸易环境方面的宝贵见解。

- 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.

总之，根据各海关当局的需求和实际情况，有各种不同的协商合作机制。在有些成员海关所在国，已经将报关代理纳入了国家级和地方级的海关和贸易联合委员会。在此基础上，海关当局和报关代理协会也可签订正式的谅解备忘录，当然其他不太正式的合作方式也是可行的。

#### iv. Policy Considerations 政策考虑

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.

鉴于成员海关所提供的广泛的工作经验或工作模式，放之四海而皆准的报关代理管理制度显然并不存在。目前，大多数成员海关已经建立了十分适合其国家情形和需求的报关代理管理制度，但对有意通过评估和比较，进一步完善本国报关代理管理制度的成员企业而言，其他成员海关的最佳实践以及本报告提及的一些关键成果和建议事项（包括用于报关代理许可的检查清单模板）。

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

就报关代理监管政策和监管机构的建议考虑事项请参见附录 I。

#### v. Model Checklist for licensing of Customs Brokers (where applicable) 报关代理许可检查清单模板（仅限于有许可要求的国家）

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.

《京都公约》明确规定允许贸易商自行或通过报关代理或第三方办理报关。鼓励成员海关将报关代理服务可选化是世界海关组织的一贯政策。最理想的是，是否使用报关代理是贸易商自己的商业决定。而成本效益和专业服务质量是影响这一决定的关键因素。

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.

根据其国家要求和政策决定，成员海关可以对报关代理/第三方设定许可/监管要求。《京都公约》总附约条款 8.2 要求缔约国立法明确第三方需具备的条件，并规定其在关税和税款方面的责任以及违反海关要求应承担的责任。总附约进一步规定，报关代理许可要求应做到公平合理、透明、非歧视。世界贸易组织《贸易便利化协定》条款 10.6 同样要求成员海关的许可规则透明、客观。

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.

基于成员海关的回答和经验，附录 II 给出了许可/监管报关代理的检查清单模板，希望能为正在考虑建立/修改报关代理许可/监管体制的成员海关提供参考。

## **Appendix I - SUGGESTED CONSIDERATIONS ON CUSTOMS BROKERS' REGIMES**

### **附录 I—报关代理监管体制建议考虑事项**

- 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.

报关代理的使用应该是“可选的”，这也符合《京都公约》的规定。同时在考虑国家、社会和经济形势的前提下，像其他专业服务机构一样，对报关代理的管理遵循自由市场原则也应纳入考虑范围。

- 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.

报关代理收费标准不应由某一机构指定或监管，而应由市场决定。但是，取决于国家的具体要求，可能会需要政府/海关当局—有时还包括报关代理协会或其他私营机构进行一般监督，以此来保护贸易商的利益。

- 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.

对于有许可要求的成员国家来说，个人（自然人）和企业（法人）均应被允许申请成为持证报关代理，以此确保社会成员都有平等的机会，同时拓宽报关代理的选择范围。

- 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.

由于报关代理的工作内容主要是清关，因此应尽可能将海关部门作为报关代理的许可和监管机构（仅限于有许可和监管要求的国家）。对于有报关代理考试要求的成员国来说，也应将这一职责交给海关部门负责。如有必要，海关部门或是与报关代理协会或任何其他私营机构一起应作为报关代理商业道德和职业行为的监督机构。

- 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.

许可和监管标准（仅限于有此标准的成员国）应做到简单透明、非歧视，除了检查清单模板中提到的项目，还可以明确处罚和制裁标准（例如临时中止、撤销执照，罚款，罚金以及起诉），以此来监管报关代理的违规违法行为，同时还应包括非正规/未经授权报关代理处理条例，进而确保对海关及其他政府机构的要求得到有效遵守。

- 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.

对于制定出台自行清关贸易商许可要求的成员国来说，这些许可要求不一定要与报关代理许可要求一样严格；但是，可以规定一些最低限度的前置条件，例如海关及相关法律知识，良好的合规记录和财务偿付能力。

- 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.

为了检测报关代理的海关知识并确保其及时了解最新动态，海关当局可以考虑制定适当的评估/审核系统，例如书面或口头考试。

- 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.

报关代理义务和责任可以包括：在取得适当授权后再代表客户办理业务；就各种合规要求向客户提供建议；在任何情况下不得出借或允许任何其他人或机构使用其执照；对代理客户应支付的关税、税款及其他费用负有连带责任。

- 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.

由报关代理导致的一些问题，包括非正规/未经授权报关代理，在某种程度上可以通过增加 ICT 使用，在适当情况下采取示范制裁和处罚以及通过与贸易商和问题报关代理的不断对话交流来解决。

- 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).

海关当局和报关代理的合作机会可能包括：海关现代化和贸易便利化举措；双边/多边协定（例如自由贸易协定，世界贸易组织《贸易便利化协定》）的实施；遵守海关及其他政府机构的要求，包括恪尽职守和提交数据的质量；加强供应链安全；提高报关代理商业道德和专业精神（例如能力建设和联合培训）以及开展绩效考核（包括货物放行时间统计）。

- 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.

应将报关代理纳入“经认证的经营者”/“诚信贸易商”计划，并出台明确的、切实的优惠政策。在适当情况下，还可允许报关代理加入依照世界贸易组织《贸易便利化协定》设立的国家贸易便利委员会。

- 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.

也可考虑建立或认可一个全国性或区域性的报关代理协会，因为该协会不仅可以为其会员提供支持，也可协助海关当局完成其许可/监管的职责。考虑到有些海关当局有限的资源，报关代理协会还可提供有价值的培训、能力建设和行业管理规范，进而增强报关代理的整体实力。海关当局应当积极支持报关代理以及报关代理协会及时获得海关及其他政府机构的法规和规范要求。

- 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.

对委托报关代理代理清关和自行清关的贸易商的合规率以及货物放行时间统计评估也应纳入考虑范围。定期进行这些统计评估可以提供有关报关代理作用和职责以及进一步改善的潜在领域的宝贵见解。

- 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.

应考虑开展清关过程中报关代理使用比例的统计分析工作。许多成员海关指出，尽管报关代理的委托在其管辖范围内是“可选的”，这一百分比仍然很高。这些统计结果表明在调整许可要求和建立有效的监督和能力建设机制方面可能有必要进行政策调整。

## Appendix II - MODEL CHECKLIST FOR LICENSING OF CUSTOMS BROKERS

### 附录 II—报关代理许可检查清单模板

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.

在适当情况下，为了支持和提高合规率，需要建立一个简单透明的报关代理许可/监管体制。成员海关可根据其所在国家的国家要求和政策决定制定各自的报关代理许可/监管标准。以下检查清单旨在为上述目的提供指导和参考。

Sr No 序列号	Element 项目	Yes/No是/否
1	<b>Optional Use of Customs brokers</b> 报关代理使用是否可选	
	• Legal persons - companies 法人—企业	
	• Natural persons - individuals 自然人—个人	
2	<b>Key elements of licensing/regulatory framework</b> 许可/监管框架主要因素	
	• Licensing criteria 许可标准	
	• Process of verification - examination (written and/or interview) 审核过程—考试（书面和/或面试）	
	• Scope and remit of Customs brokers' service 报关代理服务范围	
	• Customs brokers' responsibilities and obligations 报关代理责任和义务	
	• Re-assessment/audit 重新评估/审计	
	• Sanction/penalties 制裁/处罚	
	• License validity 许可证有效期	
• Geographical restrictions (e.g. country, region)		

	地域限制 (例如国家、地区)	
	• Capacity Building/training 能力建设/培训	
3	<b>Licensing criteria</b> <b>许可标准</b>	
	• Knowledge of Customs and related laws 海关及相关法律知识	
	• Knowledge of trade-related transport and finance matters 贸易相关运输和金融事项知识	
	• Demonstrated compliance record 良好的合规记录	
	• Financial capacity/solvency 财务能力/偿付能力	
	• Minimum educational qualification 最低学历	
	• Minimum work experience 最低工作年限	
	• Minimum hours of training 最低培训时间	
	• Electronic transmission capability 电子报关能力	
	• Financial guarantee - surety bond/security deposit 财务担保—担保债券/保证金	
	• Incorporated/established in the country, citizenship, and/or residency 国内注册成立企业或本国公民和/或居民	
4	<b>Customs administration' responsibilities</b> <b>海关当局职责</b>	
	• Regulatory/licensing authority 许可/监管机构	
	• Content of administration of brokers' examination 报关代理考试命题和监管	
	• Brokers' professional conduct 报关代理职业行为	
	• Fees and charges 费用和收费	
5	<b>Scope and remit of Customs brokers' service</b> <b>报关代理服务范围</b>	
	• Preparation of documents related to release and clearance 货物放行和清关相关单证的准备	
	• Filing/submission of the declaration and other information with Customs 向海关当局提交报关单和其他信息	
	• Accounting for goods/entry of goods 货物结算/入境	
	• Liaison with other government agencies (e.g. Licenses,	

	<p>Certificates, Permits, and Others) 与其他政府机构联络（例如获取许可证件、资格证、牌照及其他）</p> <ul style="list-style-type: none"> <li>• Payment of duties and taxes 关税和税款支付</li> <li>• Refunds and adjustments 退款及税费调整</li> <li>• Post clearance audit 货物放行后审计</li> <li>• Consultancy/advice to meet various regulatory requirements 对各种监管要求提供咨询/建议</li> <li>• Representation in dispute resolution 代表解决纠纷</li> <li>• Others, as stipulated in the agreement between the Customs broker and the trader 贸易商和报关代理签订协议中规定的其他事项</li> </ul>	
6	<p><b>Customs brokers' responsibilities and obligations</b> <b>报关代理责任和义务</b></p> <ul style="list-style-type: none"> <li>• Maintain high standards of professional conduct and business ethics 保证商业道德和职业行为的高标准</li> <li>• Act under proper authorization from clients 在客户适当的授权下开展业务</li> <li>• Advise clients on various compliance requirements 就各种合规要求向客户提供建议</li> <li>• Verify antecedents of clients 查证客户之前的行为是否合法</li> <li>• Exercise due diligence on the correctness of any information/declaration filed 竭力保证所提交信息/报关单的正确性</li> <li>• Be liable (jointly and severally) for the payment of duties, taxes and other charges on behalf of the client 对代理客户应付关税、税款和其他费用负有连带责任</li> <li>• Maintain and preserve records for a specified period for Customs inspection/audit 在特定时长内保证相关记录的完好性，以备海关部门检查和审计</li> </ul>	
7	<p><b>Sanctions/penalties</b> <b>制裁/处罚</b></p> <ul style="list-style-type: none"> <li>• Administrative advisory/warning 行政指导/警告</li> <li>• Suspension 临时中止执照</li> <li>• Fine and penalty 罚款和罚金</li> <li>• Termination</li> </ul>	

	撤销执照	
	• Prosecution 起诉	







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