Content

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Content：

Chapter I General Principle

Article 1

This Regulations Governing the Establishment and Management of Customs Brokers is defined and enacted under the provisions of Article 22 paragraph 3 of the Customs Act.

Article 2

The term customs broker herein refers to a profit-making establishment engaging in the import and export cargo customs clearance and tariff payment processing agency operations.

The term customs broker employee herein referred also includes the responsible person of the customs broker.

Chapter II Establishment

Article 3

For establishment of a customs broker firm, applicant is obliged to submit the name, address, type of organization, capitalization, the full name of the responsible person, the full name and special qualification examination and qualifying test certificate number of the customs clearance agent to the competent district customs authority or its branch office for evaluation and approval before filing an application for company registration or business registration.

A customs broker is required to have a minimum capitalization of Five Million NT Dollars; moreover, broker should employ at least one duly licensed customs clearance agent.

The responsible person of the customs broker should have at least three years of customs clearance processing experience; however, broker may forego this requirement upon the employment of a duly authorized manager to handle its customs brokerage operations. Manager should possess at least three years of experience in customs brokerage operations.

A customs broker located at an outer island and conducting customs brokerage operations in said outer island area is required to have a minimum capitalization of One Million NT Dollars and should employ at least one duly licensed customs clearance agent. The responsible person or authorized customers brokerage manager should also meet the requirements provided in the foregoing paragraph.

The customs broker should be equipped with computer and related online link facilities to process customs brokerage matters. Customs brokers located in special zones or districts may ignore this requirement upon the special authorization of the customs authority.

Article 4

For establishment of a customs broker firm, applicant should present the following documents to the competent district customs authority or its branch office for applying for a customs broker business permit:

1. Application form: Form should contain the name, business administration numbers, address, capitalization, and type of organization of the customs broker; the full name, date of birth, address, profession, and citizen's ID no. of the responsible person and authorized customs brokerage manager; as well as other required supporting documents.

2. Where the customs broker is a partnership, the roster of business partners should be attached; where customs broker is a company, a roster of the company shareholders (but in the case of a limited-liability company, a roster of the Board of Directors and Supervisors) should be submitted.

3. A roster of the customs clearance agents, their respective special qualification examination or qualifying test certificates.

4. Membership identification card of the local customs brokers association: Where the county or city where the customs broker is located has no organized customs brokers association, customs broker may submit a sponsor membership card from the customs brokers association of another city or county under which customs broker is a member.

A customs broker applying for the issuance of a new customs broker's permit or replacement certificate pursuant to the provisions of Article 9 paragraph 2 or Article 11 paragraph 1 is obliged to submit the membership identification card stated in paragraph 1, subparagraph 4.

Article 5

Customs brokers operating within one same customs district should present the customs broker operating license issued by the competent district customs authority or its branch office and apply for registration, as well as designate a customs clearance personnel as its liaison person with the government authorities.

A customs broker granted approval for establishment may only establish one business office within a county or city jurisdiction area. Should additional offices be required, the customs broker should apply for proper customs authorities approval before a branch may be set up. Each branch office should have its own designated liaison person with the government authorities.

A customs broker granted approval for establishment should lease a declaration form holding mailbox from the competent district customs

authority or its branch office. Guidelines for the lease and management of the declaration form holding mailbox are subject to the discretion of the Customs Administration.

A customs broker granted approval for establishment should lease a declaration form holding mailbox from the customs office or its branch office. Guidelines for the lease and management of the declaration form holding mailbox are subject to the discretion of the Directorate General of Customs (DGC).

Article 6

A customs broker granted approval for establishment planning to establish operations in another customs district should separately apply for customs broker operating license issuance at the competent district customs authority or its branch office. The customs broker may use a customs broker operating license issued by any customs office to apply for a cross-jurisdiction area online declaration processing and appointed a liaison person with the government authorities.

The procedure for the implementation of the cross-jurisdiction area online declaration processing mentioned in paragraph 1 is subject to the instruction of the Customs Administration after Cargo Clearance Automation conditions are determined.

Article 7

The responsible person of the customs broker or his/her authorized customs brokerage manager is prohibited from taking part-time positions in other customs brokers.

Article 8

Under one of the following circumstances, a customs broker establishment application from the responsible person of the customs broker or his/her authorized customs brokerage manager should be denied; where establishment is approved, no customs broker operating license should be issued; where a customs broker operating license is issued, license should be amended within ten days, otherwise, said customs broker operating license should be cancelled.

1. Subject of a bankruptcy declaration and rights have not been restored;

2. Subject of a tax evasion penalty and case is still unresolved;

3. Has a prior record of major customs tariff related law violation, thereby making party an untrustworthy candidate for customs brokerage

operations;

4. A previous civil service employee dismissed on penalty charges and the employment ban period is still ongoing;

5. Lacks capacity or possesses limited capacity;

6. Customs broker previously under his/her responsibility committed a violation against the customs regulations serious enough to cause a cancellation of its customs broker operating license, and the prohibition period of two years has not yet elapsed;

7. Has served an imprisonment term of at least one year due to a conviction on fraud, breach of faith, embezzlement, or a violation of business management laws, and period of release from prison is under two years.

8. Has a serious loss of financial credibility, and matter is still unresolved or although matter is resolved, the two-year period has not yet elapsed.

Article 9

The customs authority issues a customs broker operating license to all approved customs broker establishment applications; moreover, the customs authority shall conduct a calibration procedure every five years. The presentation of a calibration stamp or documents from the local customs brokers association is required during the calibration procedure.

In the event that a customs broker should lose its operating license, broker is required to apply for a replacement license.

Article 10

A customs broker whose customs broker operating license is cancelled by the customs authority is prohibited from applying for the custom broker establishment under the same name within a period of two years from date of cancellation.

Chapter III Management

Article 11

Prior to the event of any of the following circumstances, a customs broker granted approval for establishment is required to submit a notification letter to the customs authorities to its effect. A change of registration applications should be processed with the related government authorities; within thirty days following the official date of said change of registration, custom broker should process its change registration and

license replacement applications with the customs authorities:

1. Change of responsible person;

2. Change of organization structure or business partners;

3. Change of address,

4. Capital increment or reduction, and

5. Change of business name.

Under one of the following circumstances, the customs broker is required to send a notification letter to the customs authorities within thirty days following the date of its event:

1. Change of authorized customs brokerage manager;

2. The demise of the responsible person or the authorized customs brokerage manager of the customs broker.

Article 12

A customs broker receiving a customs clearance processing assignment from an importer or exporter is required to present a power of attorney establishing such appointment. Where customs broker has a long-standing authorization arrangement with the importer or exporter, customs broker should first present its power of attorney for the registration of the customs authorities; thereafter, customs broker needs only state the official customs registration number in its future customs declaration or transshipment application form; the registration number shall have the same effect as the power of attorney.

The aforementioned power of attorney should be executed under the standard format of the customs authorities. The customs broker should fill out the form truthfully and accurately, as well as properly file such document in its records. During the official file preservation period, the customs authorities may at any time demand for the presentation or examination of such document. In the event that the customs broker is unable to present or does not possess a power of attorney, or that power of attorney contains inaccurate or false statements, customs broker shall be subject to the provisions of related regulations.

The power of attorney mentioned in paragraph 1 may be in the form of an electronic document executed pursuant to the Electronic Signature Act regulations.

Article 13

A customs broker commissioned to process customs clearance matter should strictly conform to the provisions of the Customs Act, Enforcement Rules of the Customs Act, Regulations for Export Cargo Clearance, Inspection and Release and other related customs laws and regulations. Moreover, customs broker should factually fill out and present all customs declaration related forms and supporting documents; as well as attend to all cargo clearance related matters.

As provided in related customs related laws and regulations, the customs authorities advises the customs broker of the matters requiring its attention and processing, and the customs broker should carefully attend to such duties.

Article 14

The customs broker should process import cargo clearance matter pursuant to the provisions of the Regulations Governing the Prior Release of Cargo.

Article 15

In the matter of cargo subject for cargo inspection or document examination before release, the customs broker should retain the duplicate or the electronic file of the Import and Export Declaration it has submitted to the customs authorities, as well as keep such duplicate or electronic file on file during the required record preservation period. The customs authorities are entitled to check or peruse the Import/Export Declaration duplicate or its electronic file at any time.

In case of the cargoes eligible to be released through C1(bypassed) customs clearance mode, or in case where the customs authorities have informed the customs broker of duty payment or cargo release instead of requesting it to submit the verifying documents through online notice or electronic data transmission prior to C1 cargo release, the hard copy of the Customs Declaration and its supporting documents or electronic files should be properly filed in the customs broker's records within the required record preservation period provided in the related customs tariff regulations. The customs authorities may demand the submission or verify such documents at the broker's premises whenever such shall be deemed necessary :

1. Commissioned and handled the line of cargo imported / exported and declared and based on it to declare relevant document of the customs: goods since release their one year from next day.

2. Written declaration form and declare file or their computer file at the customs in accordance with the time limit of the tariff law stipulates.

Where the foregoing Customs Declaration procedures are processed offline,

documents should be stamped with the official customs broker seal and the chop of the responsible person or authorized customs brokerage manager.

Article 16

The customs clearance agent is required to pass the Qualification Examination for Professional and Technical Personnel in the category of Customs Clearance Agent. The customs clearance agent passing the Customs Clearance Agent Qualification Examination held by the customs authorities may continue to practice his/her profession.

Article 17

The customs clearance agent may only practice in a customs broker within the same customs district. However, where customs broker has applied for cross-jurisdiction area online declaration processing under Article 6 of the Regulations, the customs clearance agent may also attend to cross-jurisdiction operations.

The customs broker employer of the customs clearance agent should submit the special qualification examination or qualifying test certificates of the customs clearance agent to the customs office, thereby facilitating the registration of the customs clearance agent and the application of his/her customs broker identification card. The application form should clearly state the following information:

1. Full name, sex, date of birth, citizen's ID no. and address of the customs clearance agent;

2. Customs clearance agent special qualification examination or qualifying test certificate number;

3. Name and address of the customs broker employer;

4. An oath expressing the customs clearance agent's commitment to comply with the provisions of the Regulations; and

5. A declaration stating the absence of the circumstances presented in Article 8.

Upon the resignation of a customs clearance agent, his/her customs broker employer is required to process his/her customs registration cancellation with the local customs office and thereafter cancel his/her customs broker identification card. In addition, the customs clearance agent may process his/her cancellation by providing relevant supporting documents to the Customs.

Article 18

Under one of the following circumstances, the customs clearance agent is not allowed to practice; where agent is registered to practice, registration should be cancelled. Moreover, a notification letter should be issued to the customs broker employer who is required to conduct an amendment of registration within forty-five days:

1. The presence of one of the circumstances provided in Article 8;

2. Customs registration status is cancelled by the customs authorities under penalty conditions and the three-year period has not elapsed;

3. The agent is a civil service employee or an employee in a state-owned enterprise;

4. The agent is a part-time employee of another customs broker; and

5. Acquired his/her practice registration using forged, fabricated, or other false documents and the customs authorities have duly established fact of such violation.

Article 19

In event of a change of customs district of service or customs broker employer, the customs clearance agent is required to apply for a new registration and customs broker identification card with the local customs office.

Article 20

The responsibilities of the customs clearance agent are as follow:

1. Evaluate all the customs declaration, cargo release and other related documents of the customs broker for presentation to the customs authorities;

2. Evaluate and sign the Import and Export Declaration processed by the customs broker;

3. Evaluate all the application forms executed by the customs broker for submission to the customs authorities; and

4. See to the submission of signed Import and Export Declarations and their related supporting documents to the customs authorities.

The customs clearance agent processing the foregoing procedure should observe the governing customs duty and tariff regulations, properly

evaluate the Import and Export Declaration and other related documents, and at the same time, execute the online declaration procedure. During declaration, the customs clearance agent should make sure that the data contained in the "online customs declaration" are consistent with the data stated in the related customs declaration documents.

The customs clearance agent processing the evaluation and approval matters provided in paragraph 1 is required to declare his/her full name and customs broker identification card number on the related documents, and at the same time affix his/her signature. This requirement is not applicable to the Import and Export Declaration documents of online customs declarations.

Where customs authorities should have doubts or questions regarding the customs clearance agent signed Customs Declaration Form and/or online customs declaration or other related documents, the customs authorities may issue a notice requiring the presence and explanation of the customs clearance agent at the customs office.

A customs clearance agent receiving a notification letter from the customs authorities to attend the further education seminars organized for customs clearance agent by the customs office or its authorized independent establishment, is required to comply with such request unless otherwise excused for valid reasons.

Article 21

The customs clearance agent should desist from the following behavior:

1. Lending his/her name or lending his/her customs authorized online access card or password to the use of another party for processing customs related matters;

2. Using his/her status as a customs clearance agent to execute fraudulent approvals;

3. Demanding compensatory arrangements or accepting illegal commission payments;

4. Soliciting business through illegal or wrongful means;

5. Failing to require or institute corrections despite full awareness of inaccuracies or errors contained in the Declaration Form filed;

6. Affixing his/her signature and chop on blank Declaration Forms, or other acts similar in nature;

7. Disclosing contents of trading documents or business secrets of the customers to other parties; and

8. Other actions in violation of customs and tariff related laws and regulations.

Article 22

Under one of the following circumstances, the customs clearance agent should refuse to approve import/export declaration forms, as well as should report matter to the customs authorities:

1. The customer or the customs broker employer demands that the agent sign a fraudulent or false declaration form.

2. The customer or the customs broker employer intentionally refused to provide factual or the necessary information or documents.

3. Other acts of suppression or deception of the customer or the customs broker employer making it impossible to accurately evaluate and sign a declaration form.

Article 23

The customs broker should prepare enough manpower and temporary workers to attend to the cargo moving, unpacking, crate removal, packaging restoration and other procedures necessary to facilitate the cargo inspection procedure of the customs authorities.

Article 24

With the exception of the customs clearance agent who is required to first acquire a customs broker identification card under Article 17 and Article 19 of this Regulations, the customs broker should ensure that the employees hired to attend to its customs brokerage operations should be duly registered with the customs authorities for customs broker identification card issuance; thereafter, upon the resignation of said employee, the customs broker is required to report matter and return the employee's identification card for invalidation to the customs authorities within thirty days after resignation.

The procedures for the aforementioned identification card application and return for invalidation may be submitted to the customs brokers association, which shall then forward such case to the customs authorities for processing.

A customs broker employee processing customs related matters inside the Customs area of jurisdiction should also carry his/her customs broker identification card, as well as strictly observe and accept the legitimate

instructions of Customs authority personnel. When processing customs declaration or duty payment matters with Customs, said employee serves as a representative of the customs broker, as such, the represented customs broker shall be held liable for whatever actions said employee may take. However, where the customs broker has taken all the necessary measures and caution during the employment of such employee or during the supervision of the employee's action, the custom broker shall be indemnified from the aforementioned liability.

Article 25

The customs broker should desist from the following behaviors:

1. Disclosure of the customer trade documents or business secrets acquired from the customer;

2. Collaborate with their customers to commit corruption;

3. Demand, make compensatory arrangements, bribe or provide other illegal benefits affecting the behaviors of customs personnel or functions of customs offices;

4. Pad customs fees charged to customers, commit fraud or embezzlement, or intentionally delay the declaration, duty payment and clearance of import or export cargoes;

5. Taking part-time employment at another customs broker (this restriction does not apply to temporary laborers); and

6. Other actions in violation of customs and tariff related laws and regulations.

Article 26

The customs broker fees and charges to be collected for customs brokerage services rendered should be pursuant to the approved fee schedule of the local customs brokers association under which broker belongs. A copy of the fee schedule should be forwarded to the customs authorities. The condition shall apply to future fee schedule amendments.

Article 27

The customs broker should post the fee schedule at a visible position within its business premises. Fees and chargers should be collected as stated in the fee schedule. Customs broker is not authorized to alter fee rates arbitrarily or on account of extra expenses. An official invoice or official receipt should be issued for fee payments received; said invoice

or receipt should state in detail, the fees and charges collected.

Article 28

The customs broker should have an annual journal that contains a log of the Import and Export Declaration form numbers. The customs authorities may, after notifying customs brokers association, request to audit the related accounts journal invoices, receipts, or other computer files, whenever such is deemed necessary.

The aforementioned journal may be recorded by computer and stored into a floppy disk, magnetic tape, CD or other storage medium. Moreover, the customs broker is required to cooperate with the audit requirements of the customs authorities and submit a hard copy of such records.

Article 29

A customs broker discovering an error or miscalculation in the customs duty payable amount stated in the payment form should immediately report such error to the customs authorities for amendment. In the event that discovery is made after payment, but within the deadline provided in Article 65 of the Customs Act, the customs broker should notify the customs authorities of the payable shortfall amount and advise the duty-payer to pay for the shortfall. In the event of a payment surplus, the customs broker should notify the duty-payer, thus enabling the duty-payer to request for a refund payment from the customs authorities.

Article 30

The customs broker is prohibited from lending its name to the use of another party for the operation of import and export cargo customs clearance related agency operations; moreover customs broker is prohibited from using the name of another customs broker in the processing of its import and export cargo customs clearance related agency operations.

Article 31

Where the customs broker has dissolved or voluntarily closed operations, an official notification letter should be submitted to the customs authorities; license of said customs broker shall be cancelled within five days from the incidence date of the fact. In the event of a custom broker closure due to the cancellation of its customs broker operating license, broker is required to return the customs broker operating license issued by the customs authorities within five days following its license cancellation.

A customs broker under operation suspension is required to notify the customs authorities of such suspension in writing; the same will be true upon the resumption of operations. A broker that processes customs clearance and customs duty payment matters during the period of suspension shall be regarded as having resumed operations.

The aforementioned operation suspension period or a continuous period of no business activity record should not exceed six months. A one-time extension may be granted to customs brokers under special circumstances; maximum period of such extension is six months.

Article 32

The customs authorities shall issue certificate of appreciation or commendation to a customs clearance agent that has complete at least three years of customs brokerage work and complies with the conditions of the related regulations.

The regulations for the foregoing matter are subject to the discretion of the Customs Administration, Ministry of Finance.

Article 33

Where a customs broker meets the regulated conditions, the customs authorities may reduce the random inspection ratio of the cargo which customs clearance is processed by said broker.

Conditions to be met in the foregoing shall be determined at the discretion of the Customs Administration, Ministry of Finance.

Chapter IV Fine and Penalty

Article 34

Where a customs broker violates the provisions of Articlen 5 paragraph 2, Article 9, Article 11, Article 12, Article 13 paragraph 2, Article 15, Article 18, Article 23, Article 28, and Article 31, the customs authority are entitled to issue a warning under the provisions of Article 84 of the Customs Act and require the broker of necessary improvements within a given deadline, or impose a penalty fine of Six Thousand to Thirty Thousand NT Dollars, depending on the gravity of the offense. Penalties and repeated penalty fines may be imposed. Where an offender continues to commit the same offense after three penalties have been imposed, license may either be suspended for a maximum period of six months or cancelled.

Article 35

Where a customs broker violates the provisions of Article 13 paragraph 1, Article 25, and Article 30, the custom authority is entitled to issue a warning under the provisions of Article 84 of the Customs Act and require the broker of necessary improvements within a given deadline, or impose a penalty fine of Six Thousand to Thirty Thousand NT Dollars, depending on the gravity of the offense.

Where the customs broker violates the provisions of Article 25 subparagraph 2, subparagraph 3 or Article 30, in addition to being penalized under the provisions of the preceding paragraph, repeated penalty fines may be imposed. Where an offender continues to commit the same offense after three penalties have been imposed, the customs authority shall suspend the brokerage privileges of said customs broker for a period of not more than six months. Where the responsible person or authorized customs brokerage manager is sentenced to an imprisonment for not less than one year, his/her customs broker business permit will be repealed without being limited by the consecutive imposition of fines for three times.

Article 36

Where a customs broker violates the provisions of Article 17 paragraph 3, Article 19, Article 24, and Article 27, the custom authority is entitled to issue a warning under the provisions of Article 84 of the Customs Act and require the broker of necessary improvements within a given deadline, or impose a penalty fine of Six Thousand to Twenty Thousand NT Dollars, depending on the gravity of the offense.

Article 37

Where a customs clearance agent violates the provisions of Article 17 paragraph 1, Article 20 paragraph 5, Article 21, and Article 22, the customs authority is entitled to issue a warning under the provisions of Article 84 of the Customs Act and require the customs clearance agent of necessary improvements within a given deadline, or impose a penalty fine of Two Thousand to Five Thousand NT Dollars, depending on the gravity of the offense.

Where a customs clearance agent violates the provisions of Article 21 subparagraph 3, in addition to being penalized under the provisions of the preceding paragraph, repeated penalty fines may be imposed. Where an offender continues to commit the same offense after three penalties have been imposed, his/her broker evaluation and approval license may be suspended for a maximum period of six months or his/her registration may be repealed.

Article 38

Where a customs clearance agent violates the provisions of Article 20 paragraphs 3 and 4, or within one particular month, committed evaluation and approval errors on at least six forms during the execution of procedures or matters provided in Article 20 paragraphs 1 and 2, and the ratio of such errors comprises 1% of the total forms issued by the customs broker, the customs authority is entitled to issue a warning under the provisions of Article 84 of the Customs Act and require the institution of necessary improvements within a given deadline, or impose a penalty fine of Two Thousand to Five Thousand NT Dollars, depending on the gravity of the offense. Repeated penalty fines may be imposed. Where an offender continues to commit the same offense after three penalties have been imposed, his/her broker evaluation and approval license may either be suspended for a maximum period of six months.

Article 39

Where the customs authorities shall discover and factually establish that a customs broker has acquired its customs broker operating license through forged, fabricated or other false document(s), the customs authority are entitled to cancel said broker's customs broker operating license under the proviso of Article 84 of the Customs Act immediately.

Where the customs broker falsely declaring the name of the importer or exporter in its customs clearance application, or presenting a forged power of attorney, or committing a fraud or other illegal acts, the customs authority is entitled to issue a warning and require the broker of necessary improvements within a given deadline, or impose a penalty fine of Ten Thousand to Thirty Thousand NT Dollars. Repeated penalty fines may be imposed. Where an offender continues to commit the same offense after three penalties have been imposed, the customs authority shall suspend the brokerage privileges of said customs broker for a period of not more than six months or cancel the brokerage license of the customs broker under the provisions of Article 84 paragraph 1 of the Customs Act.

Chapter V Addenda

Article 40

Upon the approval or rejection of the customs broker establishment application or the cancellation of the customs broker operating license of a customs broker, the customs authority is obliged to notify the customs broker concerned and business registration authority; moreover a copy of the notice should be furnished to the local custom brokers association for information purposes.

Article 41

Processing fee for the customs broker operating license issuance or

replacement license issuance applied pursuant to the Regulations are as provided in the Customs Fees and Charges Regulations.

Article 42

This Regulations takes effect immediately upon its enactment. NOTE In case of any discrepancy between the English version and the Chinese text of this Statute, the Chinese text shall govern.

NOTE

Where there are discrepancies between the English and Chinese versions of these Regulations, the latter shall prevail.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System