



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES



MEMORANDUM OF UNDERSTANDING

BETWEEN THE

WORLD CUSTOMS ORGANIZATION (WCO)

AND THE

FEDERATION OF NATIONAL ASSOCIATIONS OF

SHIP BROKERS AND AGENTS (FONASBA)



MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WORLD CUSTOMS ORGANIZATION¹
AND
THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND AGENTS

This Memorandum of Understanding (hereinafter the “MOU”) is concluded between the WORLD CUSTOMS ORGANIZATION (hereinafter the “WCO”) and the FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND AGENTS (hereinafter “FONASBA”).

The WCO and FONASBA may also be individually referred to as “Party”, or collectively as “Parties”.

HAVING REGARD to the Revised Kyoto Convention on the simplification and harmonization of Customs procedures,

HAVING FURTHER REGARD to other WCO instruments and tools such as the SAFE Framework of Standards to Secure and Facilitate Global Trade, the WCO Data Model, and the Revised Arusha Declaration that mutually benefit Customs and Trade,

RECOGNIZING that Customs-Business partnerships and initiatives are crucial for managing and supporting the international movement of goods and services,

BELIEVING it is necessary to have close cooperation to achieve mutual benefits, including a balance between security and facilitation,

RECALLING the already established partnership between FONASBA and WCO,

RECOGNIZING the MOU between the Parties dated 23 November 1993 concerning combating Customs fraud and drug smuggling,

RECOGNIZING FONASBA’s role as the united voice of the global ship agents and broking professions,

RECOGNIZING FONASBA’s contribution to trade and transport security and trade facilitation,

RECOGNIZING that offences against Customs laws are prejudicial to economic, social, fiscal and security interests of States and to the interests of all parties involved in international trade, and that such offences may involve the use of any transportation mode and its cargo,

NOTING that ship agents have a vital role to play in the provision of information on vessels, cargoes and other related data to Customs authorities in relation to goods moved by water,

¹ Established in 1952 as the Customs Cooperation Council.

NOTING ALSO that ship agents are directly involved in the provision of such information to the Customs authorities on a daily basis and therefore have detailed knowledge and current experience of the procedures being applied in specific ports,

NOTING ALSO that ship agents are required to pass on to the authorities in utmost good faith information about the cargo that they have received from other parties, the accuracy of which they are themselves unable to independently verify,

NOTING ALSO that FONASBA members are bound by their Code of Conduct to cooperate with and contribute to the efforts of the appropriate authorities to combat all illegal activities such as, but not limited to, maritime fraud and the trade in banned drugs,

AWARE that the effective application of Customs laws is vital in ensuring the efficient movement of cargoes by water,

BELIEVING that increased cooperation between Customs authorities and shipbrokers and agents could significantly assist in the gathering of information and the development of appropriate, relevant and appropriate international, regional and national Customs laws,

BELIEVING ALSO that, in the general context of economic globalization, increased cooperation between the Parties could significantly assist Customs authorities in meeting their core objectives and in facilitating legitimate trade and contribute to better efficiency of international trade by water while globally promoting and facilitating compliance,

The Parties agree that such objectives can be pursued through:

ARTICLE I – GENERAL COOPERATION

- 1.1. The Parties agree to strengthen further the mutual cooperation and endeavour to adopt mutually relevant guidelines on the development and operation of technical arrangements and initiatives.
- 1.2. The Parties shall endeavour to formalize, maintain and update such agreed upon standards in line with current or future procedures to be defined by the Parties.
- 1.3. The Parties shall also strive to promote, to the extent possible, the implementation and widespread use of the agreed upon standards and procedures.
- 1.4. The Parties may consult each other, as needed, on matters of common interest for the purpose set forth in this MOU.
- 1.5. The Parties will examine and develop ways in which cooperation and consultation between Customs authorities and ship brokers and agents could be improved across all areas of interaction.
- 1.6. The Parties will seek to ensure a better understanding by ship brokers and agents of Customs authorities' tasks and problems and vice versa, thereby facilitating a productive exchange of information between the two Parties.
- 1.7. The Parties will consider practical ways in which FONASBA and its members might assist Customs authorities in the detection of Customs offences.
- 1.8. The Parties will develop and implement Guidelines aimed at assisting FONASBA members in detecting and preventing the carriage of illicit goods.
- 1.9. The Parties will provide each other with a formal point of contact and their respective email address and telephone number to facilitate communication.
- 1.10. The Parties may decide to exchange information in fields and projects of mutual interest, in accordance with the aims and provisions of this MOU.

- 1.11. The Parties agree that, in order to safeguard confidentiality of any information to be mutually disclosed, the signature of a preliminary confidentiality agreement may be required.
- 1.12. The Parties further agree that all administrative matters linked to the execution or operational feasibility of this MOU shall be decided and formalized in documents to be agreed upon later by the Parties, as the case may be.

ARTICLE II – ASSISTANCE PROVIDED BY FONASBA

FONASBA will to the extent possible:

- 2.1. Attend such WCO meetings as are open to observers and intervene, as appropriate, to share its members' views or explain their interests.
- 2.2. Furnish the WCO with its Annual Report and up-to-date members' lists.
- 2.3. Send representatives to such specialist WCO Working Groups or other ad hoc groups as may be open to them and relevant to FONASBA's interests.
- 2.4. Foster and encourage consultation and cooperation at national and regional levels with WCO member administrations and their regional associations.
- 2.5. Encourage trade experts to attend and participate in WCO meetings at which such expertise may be helpful to the discussions.
- 2.6. Identify its relevant expertise to assist in WCO research and capacity building carried out in cooperation with the WCO.
- 2.7. Enhance integrity at the Customs, trade and transport interface by promoting the principles embodied in relevant WCO instruments.
- 2.8. Use the FONASBA website and publications, as well as routine internal communications to focus members' attention on Customs priorities, including but not limited to trade facilitation, security, anti-smuggling, and revenue collection.

ARTICLE III – ASSISTANCE PROVIDED BY WCO

The WCO will to the extent possible:

- 3.1. Send representatives to relevant FONASBA meetings to explain the ways in which it expects members to assist in priority Customs objectives and to discuss the ways in which such Customs concerns can be best related to international trade operations by water.
- 3.2. Help ensure appropriate opportunities for inclusion of FONASBA's expertise in WCO research and capacity building.

ARTICLE IV – MISCELLANEOUS

- 4.1. Notwithstanding any provisions to the contrary in this MOU, this MOU constitutes an expression of mutual good faith and is not intended to create legally binding obligations on either Party. This MOU does not commit either of the Parties to enter into or provide

support for any specific activity or project/programme. This MOU does not represent any commitment on the part of either Party to give preferred treatment to the other in any matter contemplated under this MOU.

- 4.2. Any specific activities identified under this MOU as opportunities for cooperation between the two Parties will be the subject of additional written agreements entered into in accordance with the internal and respective objectives, functions, policies and procedures, funding constraints and the formal approval of the Parties' relevant decision-making bodies, as appropriate.
- 4.3. In keeping with the administrative nature of these arrangements, no provision of this MOU will be construed to interfere in any way with the independent decision-making autonomy of the two Parties with regard to their respective affairs and operations.
- 4.4. Nothing in this MOU shall be construed as creating a joint venture, an agency relationship, or a legal partnership between the Parties or an exclusive commitment for either Party.
- 4.5. Nothing in this MOU is intended to be, or should be construed as a waiver of the privileges and immunities of either Party or its officers and employees, which privileges and immunities are hereby specifically reserved.
- 4.6. This MOU shall enter into force on the date of its signature by both Parties.
- 4.7. This MOU shall be reviewed upon the request of either the Secretary General of the WCO or the General Manager of FONASBA and may be amended by mutual agreement in writing.
- 4.8. Either Party may terminate this MOU at any time by giving the other Party written notice of three months.

The Parties hereby agree that this MOU shall complement the MOU previously signed by the Parties on 23 November 1993 concerning combating Customs fraud and drug smuggling as well as any extensions or amendments thereof.

In witness whereof, the Parties have concluded the present MOU in 2 (two) originals in each of the English and French languages and appended their signatures thereto.

Signed in Brussels on 27 May 2014.

**FOR THE WORLD CUSTOMS
ORGANIZATION**

**FOR THE FEDERATION OF NATIONAL
ASSOCIATIONS OF SHIP BROKERS AND AGENTS**

Kunio Mikuriya,
Secretary General.

Marygrace Collins,
President.