

# **REGIONAL LOGISTICS EXPO 2019**

**“Innovative & Sustainable Solutions for Freight Logistics.”**

**The Model Customs Agency and Freight Forwarders  
Management Bill 2017. What solutions does it present to the  
economy?**

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**UFFA**

# Acronyms

“EACFFPC”	The East Africa Customs Freight Forwarding Practicing Certificate
“FIATA”	The International Federation of Freight Forwarders Associations
“PIFFA”	The Pakistan International Freight Forwarders Association
“SLA”	Singapore Logistics Association
“THE BILL”	The Model Customs Agency and Freight Logistics Management Bill 2017
“UCIFA”	Uganda Clearing Industry and Forwarding Association
“UFFA”	Uganda Freight Forwarders Association
“URA”	Uganda Revenue Authority



It is the beginning of wisdom when you recognize that the best you can do is choose which rules you want to live by, and it's persistent and aggravated imbecility to pretend you can live without any.

— Wallace Stegner, *All the Little Live Things*

# The Industry

Logistics services broadly consists of Freight Forwarding Services and Customs Clearance Services.

According to the FIATA Model Rules for Freight Forwarding Services, freight forwarding services are defined as follows:

**“services of any kind relating to the carriage, consolidation, storage, handling, packing or distribution of the Goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the Goods for official purposes, procuring insurance of the Goods and collecting or procuring payment or documents relating to the Goods.”**

**1. Customs Clearance** on the other hand is the preparation and submission of documents required to export or import products into the country. It involves customs examinations, assessments, duty payments and delivery from customs after clearance. Every port in every country puts cargo through a customs clearance process.

**Logistics services are the BACKBONE of many sectors facilitating delivery of goods/products to where they are needed and from the definition it entails;**

- Carriage (Shipping, Trucking, Railway, Airfreight)
- consolidation
- storage
- handling
- packing
- distribution
- Customs Brokerage
- Advisory services

## **Players**

- Truckers
- Clearing agents,
- Forwarders
- Shipping lines/Agent
- Customers

# Role the Sector Plays

TRADE FACILITATION

COMPETITIVENESS

EMPLOYMENT

REVENUE COLLECTION



# Brief History of the Industry in Uganda

Uganda's freight and logistics industry started with the "introduction" of cash crops in Uganda by the Colonialists and subsequent construction of the Uganda Railway in the 1920s target though was Copper in Kasese, Cotton in Eastern Uganda, Tobacco in West Nile. Marking the shift from predominantly a subsistence economy



Another major milestone was the formation of the East African Community (EAC) creating a single territory with enabling entities like East African Airlines, East African Railways and Harbors among others until it's collapse of EAC in 1977 going under with these institutions.



## East African Community

One People, One Destiny

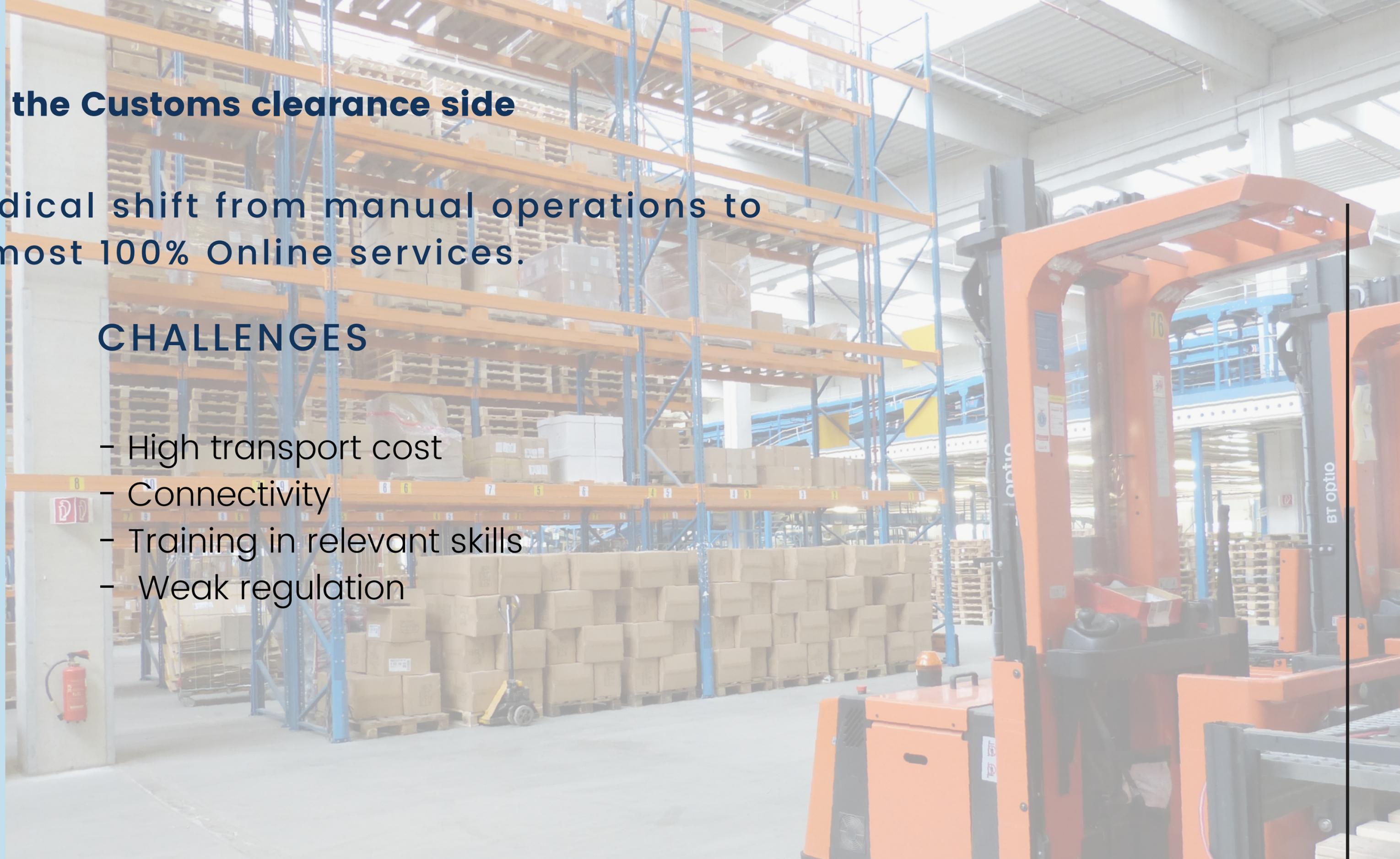
Rail transport has since not fully recovered from its past glory which has led to the growth of the Trucking sector collapse.

## On the Customs clearance side

Radical shift from manual operations to almost 100% Online services.

### CHALLENGES

- High transport cost
- Connectivity
- Training in relevant skills
- Weak regulation



# Who regulates freight forwarders and the industry?

- Customs, Ministries of trade / Industry/Transport, self-regulation.
- Several transport and customs related agencies are involved in the industry without a clear leading institution.
- In the absence of a leading institution or sector specific laws voluntary associations sometime take the lead.
- Whether governments or voluntary associations or not, a regulator ideally should be politically strong entity to coordinate agencies and the entity with good technical capabilities and adequate human and financial resources.

# The Need for Legislation

Logistics services regulations tend not to be well defined and as a result, the regulatory frameworks for this industry are often non-existent or vague.

Regulation is usually of two kinds;

- Statutory regulations
- Self-regulation by industry associations.

It is common that both types of regulations coexist with different enforcement capacity e.g the UFFA Code Conduct alongside the Customs licensing guidelines/requirements.

Statutory regulations possess power to enforce its compliance.

Industry associations, as self-regulators, establish their rules and monitor their implementation but do not have legal power for sanctions and penalties

Industry Associations are mainly formed for a lobbying purpose.

## Self-Regulation by industry association

In most countries associations serve the freight forwarding industry as regulators, who establish unique rules for members to follow and supervise its implementation. The primary mandates and the role of industry associations are to serve their members to promote business and represent the industry to lobby government.

**Singapore Logistics Association (SLA)** is the one of the few Associations has been successful in regulating the industry, in coordination with Government through the ministry of trade (Trade Development Board).

The **Pakistan International Freight Forwarders Association (PIFFA)** on the other hand has not been not been that successful because absence of relevant laws. They don't have legal enforcement power against incompliance.

Key differentiator between SLA and PIFFA lies in the enabling environment support from the governments or lack of it.

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# The Model Customs Agents and Freight Forwarders Management Bill 2017

The logistics industry is becoming very competitive and sophisticated with shippers' needs changing rapidly. Service providers must as of necessitate timely adapt to these changes if they have to remain relevant and competitive.

It therefore became necessary to look at best practices elsewhere in the world in particular areas with similar business environment but mindful of the unique regional peculiarities.

- The first major response was training – the 6 months course (EACFFPC) which has registered tremendous success.
- Next was a Policy Framework for accreditation and self-regulation of the Industry which it was evidently not have force of law.
- This is what led to the birth of “The Model Clearing Agents and Freight Forwarders Management Bill 2017”

This model bill was to act as a template aimed at guiding the EAC countries in developing national customs agents and freight forwarders bills in their respective countries. The bill covers aspects considered critical by a spectrum of industry stakeholders in ensuring a genuinely professional customs agents and freight forwarders sector like other professions.



# **THE EAST AFRICAN COMMUNITY**

## **THE MODEL CUSTOMS AGENTS AND FREIGHT FORWARDERS MANAGEMENT BILL 2017**

A Bill for an Act of East African Legislative Assembly to provide for the training, certification, registration, professional development, and conduct of customs agents and freight forwarders, and for other related matters. This Act shall apply to customs agents and freight forwarders certified and registered under this Act.

This Act shall be cited as The Model Customs Agents and Freight Forwarders Management Act.

### **PART I PRELIMINARY PROVISIONS**

### **PART II ESTABLISHMENT OF THE REGULATORY BOARD**

### **PART III CERTIFICATION AND REGISTRATION**

### **PART IV OBLIGATIONS AND CONDUCT OF REGISTERED CUSTOMS AGENTS AND FREIGHT FORWARDERS**

### **PART VI OFFENCES AND PENALTIES**

### **PART VII DISCIPLINARY PROCEEDINGS**

### **PART VIII APPEALS**

### **PART IX MUTUAL RECOGNITION AGREEMENTS**

### **PART X FINANCIAL PROVISIONS**

### **PART XI MISCELLANEOUS**

**FIRST SCHEDULE – Constitution of the Board**

**SECOND SCHEDULE – The Code of Conduct**

**THIRD SCHEDULE – Forms, Certificate of registration**

It seeks to establish:

- A Regulatory Board.
- Technical qualification and continuous professional development.
- Certification and Registration.
- Obligations and conduct of registered Customs Agents and Freight forwarders.
- The code of conduct, offences and penalties, disciplinary proceedings, appeals.
- Mutual recognition agreements.
- financial provisions.

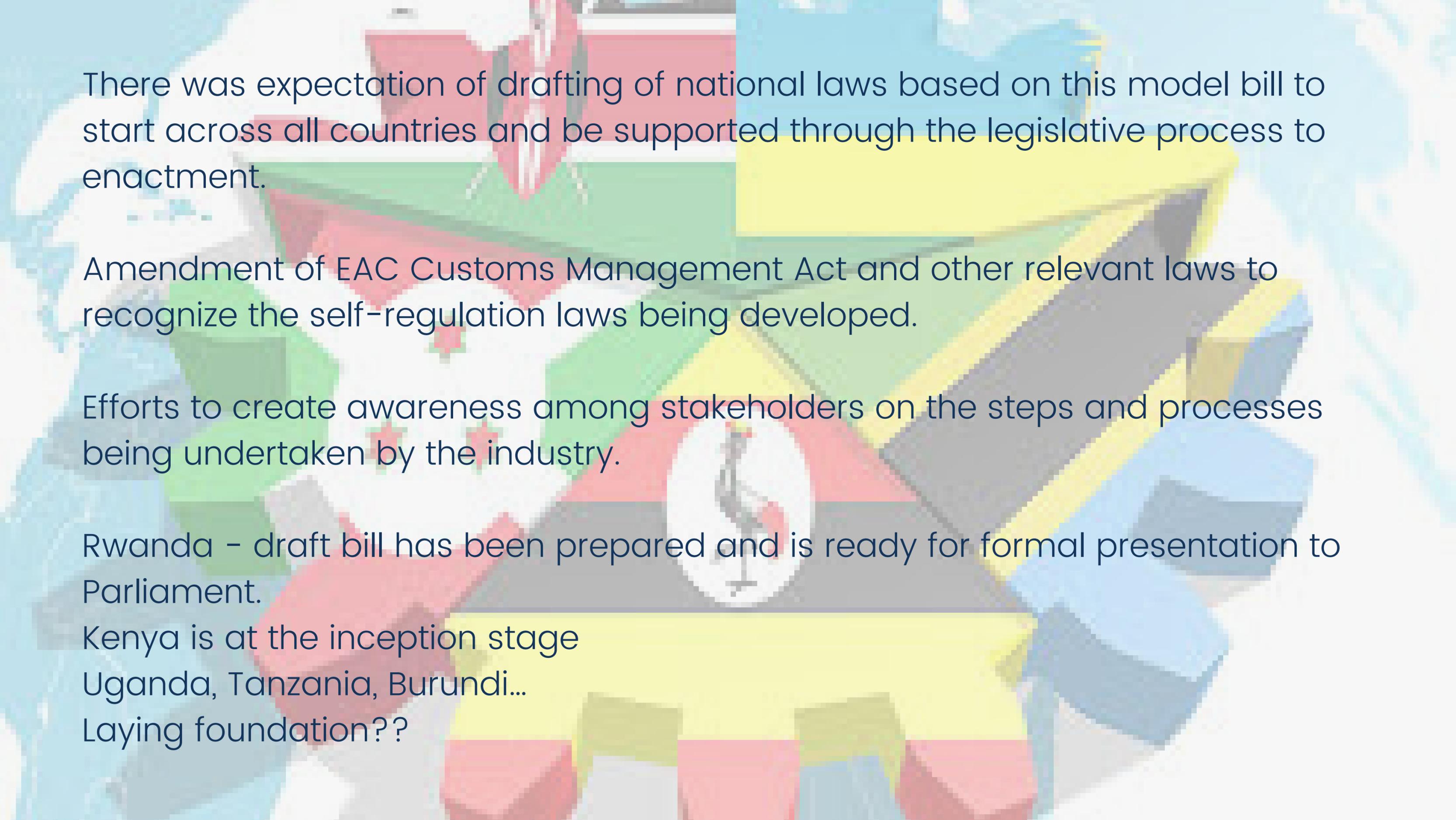
The Preamble of the Code of Conduct more or less summarizes what the Bill intends to achieve once enacted into law;

## Preamble

- Having as one of its primary objectives, the promotion of ethical, efficient and professional practice among customs agents and freight forwarders
- Recognizing that unethical, unprofessional or illegal conduct by any customs agents and freight forwarders has adverse repercussions on the reputation and functioning of the industry as a whole;
- Embracing it's the Board's mandate to achieve and maintain uniformly high professional and ethical standards throughout the customs clearing and freight forwarding industry in Eastern Africa.

### Key:

**\*Accreditation, \*Certification & \*Registration**



There was expectation of drafting of national laws based on this model bill to start across all countries and be supported through the legislative process to enactment.

Amendment of EAC Customs Management Act and other relevant laws to recognize the self-regulation laws being developed.

Efforts to create awareness among stakeholders on the steps and processes being undertaken by the industry.

Rwanda - draft bill has been prepared and is ready for formal presentation to Parliament.

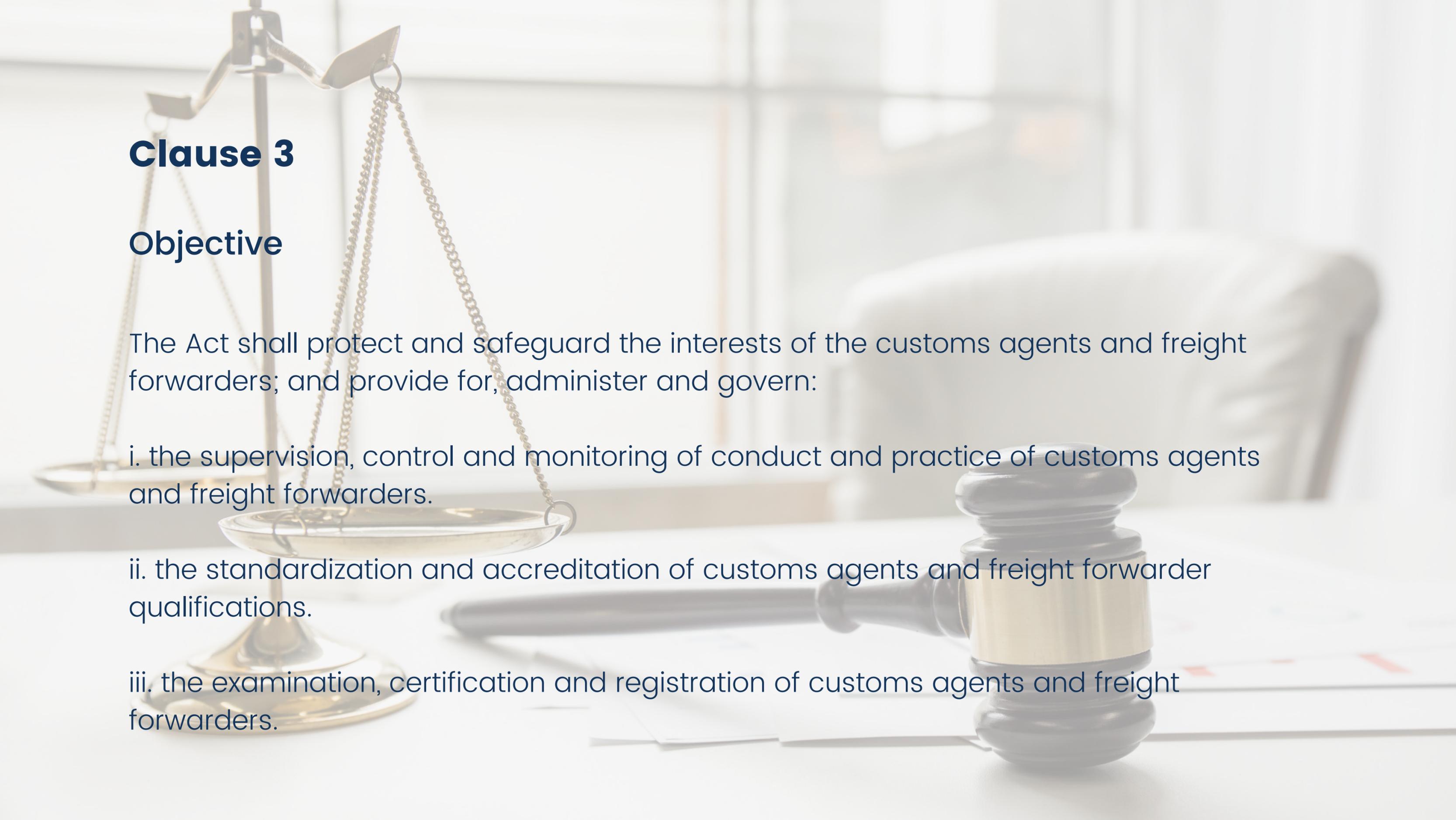
Kenya is at the inception stage

Uganda, Tanzania, Burundi...

Laying foundation??

A golden scale of justice stands on the left side of a white desk. To its right, a wooden gavel with a brass band lies on a stack of papers. The background is a blurred office setting with a window and a chair.

# **Selected Highlights of The Bill**



## Clause 3

### Objective

The Act shall protect and safeguard the interests of the customs agents and freight forwarders; and provide for, administer and govern:

- i. the supervision, control and monitoring of conduct and practice of customs agents and freight forwarders.
- ii. the standardization and accreditation of customs agents and freight forwarder qualifications.
- iii. the examination, certification and registration of customs agents and freight forwarders.

## Clause 4

### Establishment of the Regulatory Board.

- i. There is hereby established a Regulatory Board to be known as Customs Agents and Freight Forwarders Regulatory Board here in after referred to as “the Board’
- ’ii. The Board shall be a body corporate with perpetual succession and a common seal in its corporate name, and be capable of;
  - a) suing and being sued;
  - b) borrowing and lending money;
  - c) entering into contracts;
  - d) subject to the provisions of this Act be capable of holding, purchasing or acquiring in any other way, any movable or immovable property, and of disposing of any of its properties.; and,
  - e) performing any other acts for the furtherance of the provisions of this Act.

## Clause 6

### Powers and Functions of the Board.

The Board shall carry out the following functions:

Provide strategic direction to the industry;

- ii. Establishment of the committees provided for under Section 7, their terms of reference and appointment of their members;
- iii. Developing, supervising and enforcement of the Code of Conduct;
- iv. Accreditation and recognition of training institutions for training of customs clearing agent and freight forwarders;
- v. Setting standards for training and continuous professional development;
- vi. Certification, registration, and de-registration;
- vii. Determine the fees structure chargeable under this Act;
- viii. Maintenance and publication of the register;
- ix. Dissemination of relevant information to registered customs agents and freight forwarders;

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- A golden scale of justice is positioned on the left side of the frame, and a wooden gavel with a silver band is on the right. The background is a blurred office setting with a window and a chair.
- x. Advisory role to government on behalf of the customs agents and freight forwarding industry,
  - xi. Advocacy on behalf of the industry;
  - xii. Dispute resolution, and;
  - xiii. Any other duties incidental to the achievement of the above functions.
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  - xi. Advocacy on behalf of the industry;
  - xii. Dispute resolution,
  - xiii. Any other duties incidental to the achievement of the above functions.

## Clause 9

### The Registrar and the Secretariat.

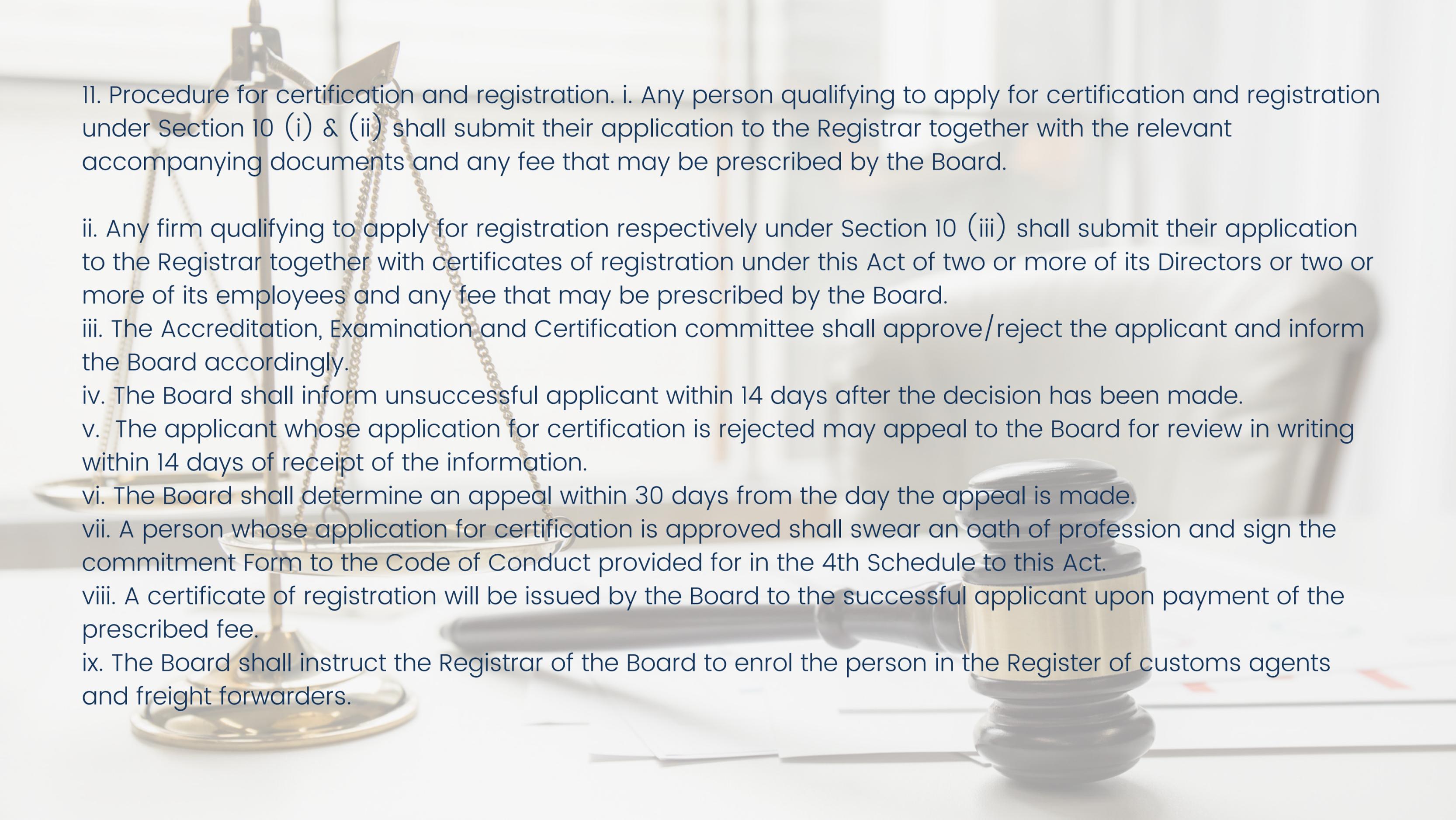
- i. There shall be a Registrar who shall be appointed by the Board through a transparent and competitive recruitment process.
- ii. The Registrar shall be responsible to the Board for the day to day administration and management of the Secretariat and affairs and functions of the Boardiii. A person shall be eligible for appointment as Registrar to the Board if that person:
  - a) is competent in managing board affairs;
  - b) is experience/conversant in the field of freight logistics.iv. The Secretariat shall be appointed by the Board through a transparent and competitive recruitment process.

# Clause 10

## Certification and Registration

Qualifications for certification and registration.

- i. A person shall be certified as a customs agent and/or freight forwarder under this Act if he/she:
  - a. possesses academic or professional qualification that is recognized by the Board; or
  - b. satisfies the Board that he/she has experience in the customs clearing and freight forwarding industry for a number of years as prescribed by the Board, and is recommended by his/ her employer.
- ii. A person shall be registered as a customs agent and/or freight forwarder under this Act after certification under Section 10 (i) above.
- iii. A firm shall be registered under this Act if:
  - a) two or more of its Directors; or
  - b) two or more of its employees, are certified and registered under this Act.; and; c) is a member of a recognized relevant association.



11. Procedure for certification and registration. i. Any person qualifying to apply for certification and registration under Section 10 (i) & (ii) shall submit their application to the Registrar together with the relevant accompanying documents and any fee that may be prescribed by the Board.

ii. Any firm qualifying to apply for registration respectively under Section 10 (iii) shall submit their application to the Registrar together with certificates of registration under this Act of two or more of its Directors or two or more of its employees and any fee that may be prescribed by the Board.

iii. The Accreditation, Examination and Certification committee shall approve/reject the applicant and inform the Board accordingly.

iv. The Board shall inform unsuccessful applicant within 14 days after the decision has been made.

v. The applicant whose application for certification is rejected may appeal to the Board for review in writing within 14 days of receipt of the information.

vi. The Board shall determine an appeal within 30 days from the day the appeal is made.

vii. A person whose application for certification is approved shall swear an oath of profession and sign the commitment Form to the Code of Conduct provided for in the 4th Schedule to this Act.

viii. A certificate of registration will be issued by the Board to the successful applicant upon payment of the prescribed fee.

ix. The Board shall instruct the Registrar of the Board to enrol the person in the Register of customs agents and freight forwarders.



**\*The East Africa Customs Freight Forwarding Practicing Certificate (EACFFPC)**

**Clause 13**

**Recognition of the Certificate.**

The certificate of registration issued under Section 11, shall be a prerequisite to licensing of customs agents and freight forwarders by the relevant authorities in the EAC region.

**Clause 32**

**Mutual Recognition Agreements**

Pursuant to Section 13 of this Bill, the Board shall sign mutual recognition agreements between certified and registered customs agents and freight forwarders in the Partner States.

# Benefits

- Improved quality of service – standardization
- Accountability
- Discipline – playing by the rules
- Reduced cost of doing business
- Employment opportunities within & without
- Ease of access to regional markets – mutual recognition of certifications
- Increased revenue collection



# Way Forward

Awareness

Solicitation of further input

Ratification

Domestication

*Thank You!*

