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## **CUSTOMS ETHICAL ISSUES: THE CASE OF THE REPUBLIC OF MACEDONIA**

### **Abstract**

Customs Administrations throughout the world perform a number of vitally important tasks on behalf of their respective Governments. Fulfilling those tasks Customs officials face a range of ethical issues regarding professional integrity. Integrity can be defined as a positive set of attitudes which foster honest and ethical behavior and work practices. It involves developing and maintaining a positive set of attitudes and values which give effect to an organization’s aims, objectives, and the spirit of its integrity strategy. It is, therefore, a prerequisite for the proper functioning of a Customs Administration. Customs Administrations play a key role in trade facilitation, revenue collection, community protection and national security. The lack of integrity and presence of corruption can severely limit Customs capacity to effectively accomplish its mission. It can distort trade and investment opportunities, undermine public trust in government administration and ultimately jeopardize the well being of all citizens.

The subject of the study is the presence of ethical issues regarding professional integrity in Customs Administration. The goals of the study are to detect and analyze

the current situation and identify solutions which fit the culture, needs, resources and operating environment of the country. The results of the study provide an introduction to the nature of the corruption problem in customs and describe some important considerations to take into account when framing an effective anti-corruption strategy for customs.

**Key words:** customs, Customs Administration, ethical issues, integrity, corruption.

## INTRODUCTION

Broadly speaking, integrity can be defined as a positive set of attitudes which foster honest and ethical behavior and work practices.

The special position of the Customs authorities within the international trade supply chain, requires a high degree of professional integrity on the part of Customs officials.

To assist Customs authorities to deal with ethical issues regarding integrity, the World Customs Organization (WCO) has produced a number of helpful tools for use by its members. In addition, WCO has spent a considerable amount of time promoting the concept of integrity within Customs. These efforts resulted in the adoption by WCO members of what is now known as revised Arusha Declaration on Integrity in Customs. The Declaration commits Customs Administrations to maintain a high standard of integrity throughout their management and operational spheres by the introduction of national integrity programs.

Integrity in customs also play its part from a trade facilitation perspective. A Customs Administration suffering from a lack of integrity will normally be less effective and certainly inefficient resulting in little or no trade facilitation due to mismanagement, bad governance and flourishing corruption. It thus remains imperative or all stakeholders in the international trade environment to fully support all efforts to introduce a culture of integrity throughout the goods supply chain.

## CUSTOMS ETHICAL ISSUES: THE CASE OF THE REPUBLIC OF MACEDONIA

In many developing countries, high levels of corruption drastically reduce the effectiveness of key public sector agencies. Customs Administrations are no exception and are frequently cited as among the most corrupt of all government agencies. Given the vitally important role customs plays in revenue collection, trade facilitation, national security, and the protection of society, the presence of corruption in customs can severely limit a nation's economic and social prospects and national development ambitions.

Over the past few years, Macedonian customs has seen significant progress, particularly with the introduction of the integrated border management and a separate functional central system of video surveillance at the border crossings and customs checkpoints, which operates continuously. In addition, new bylaws were adopted that lay down the standards for conduct of customs officials in different circumstances and a mobile system of internal control was also introduced.

But still there are some figures that indicate that the customs remains a high risk area in terms of corruption (European Commission 2011).

### **Forms of corruption**

The customs services operating at entry and exit points from and into the Republic of Macedonia which control the passengers, their luggage and various goods transferred through the boundaries of the Republic of Macedonia have been identified as high-risk points in terms of vulnerability to corruption. Although it is indisputable that most of the customs operations are covered with prescribed procedures, problems still tend to appear during the practical implementation of the procedures. This is especially the case when it comes to allowing entry to the country of heavy vehicles with a load exceeding the statutory maximum, or products with short shelf-life or delicate products that can lose weight during transport.

Cross-frontier goods flows are of three types: imports, exports and transits. All have to comply with customs requirements. Private operators prepare a legal document called the *customs declaration* in which they customarily give consignment details, including the nature of the goods, their quantity, their origin, their value and their destination. They may also be required to produce a number of documents such as invoices and origin certificates to support this information. The declaration is the key document in customs release and clearance as it establishes a legal relationship between the operator and the customs. The following text concentrates on customs processing of imports, as this is more comprehensive and complex than for export or transit.

There is an impression of inconsistency in terms of implementation of the existing procedures which in itself raises doubts that certain actions are taken by the customs officials to obtain personal gains. There has been a long-standing perception of existence of corruption among the customs officials.

The practices observed in the Republic of Macedonia show that each step of the customs clearance procedure can present an opportunity for a corrupt act. While all such acts involve the use of public office for private gains they vary in nature. They may be of three forms (OECD Development Centre 2001):

- *Routine corruption*: private operators pay bribes to obtain a normal or hastened completion of customs operations.

Observing Macedonian customs (Customs Administration of the Republic of Macedonia 2014) identified some examples of practices that fall under the category of routine corruption. For instance, the initiation or completion of actions by officials will be delayed until a favor is given or promised. Officers use different “techniques” to create these delays: the files of those who have given bribes are

attended first; officers turn out being absent or elsewhere when the requested action is much needed; the hearing of seizure cases is prolonged; etc. Another situation of routine corruption is when officers create or threaten to create excessive difficulties in the customs clearance process. Those will conduct examinations in excessive detail, ask for documents difficult to produce, threaten to stop the operations or to send the merchandise for further controls, etc. Situations in which officers threaten to submit exaggerated assessments or audit findings coupled with recommendation for punitive measures to extort certain sums have also been observed.

- *Fraudulent corruption*: operators try to pay less tax than due or no tax at all, by not accomplishing properly the customs clearance process. They pay bribes to buy customs officers' blind eye or their active co-operation.

Observing Macedonian Customs (Customs Administration of the Republic of Macedonia 2014) exposed a number of typical smuggling techniques. The most frequent technique is misdeclaration: importers provide erroneous information on their customs declaration regarding the nature of the merchandise, its quantity, its origin or its value. Operators also try to obtain abusively concessionary or exemptions notifications. As these are much lighter than for commercial operators, smugglers abuse customs procedures for passengers to pass in important quantities of merchandise. Goods are taken out of warehouses without the due accomplishment of customs procedures. Goods meant for transit are dropped in the country, etc.

- *Criminal corruption*: operators pay bribes to permit a totally illegal, lucrative operation (drug trafficking, weapon trafficking, etc.).

Corruption also accompanies other illegal activities, such as money laundering, drug trafficking, weapon trafficking etc.

### **Problems and risk factors for occurrence of corruption**

The key problems observed in the operation of the customs, which is seen to be vulnerable to various forms are related to:

*Consistent compliance with the prescribed procedures and determining the rules for action in specific circumstances such as in cases of passive bribery, collecting relevant evidence of corrupt conduct, self-assessment of high-risk processes.*

The Customs Administration of the Republic of Macedonia has made significant strides in setting the standard operating procedures for the customs offices in all segments under its authority. However, the absence of effective, systemic controls over the strict application of the standardized procedures by the customs officers creates space for corruption.

The lack of firm guarantees for consistent implementation of the operating

procedures creates legal and factual uncertainty among the citizens and the customs employees alike. This problem is particularly evident in the cases of disregard of the turnaround time for certain customs procedures, thus creating space for arbitrary decision making. This in itself brings suspicion of existence of corruption, nepotism or any other conflict of interest situation for the purpose of generating illegal personal benefits.

*Lack of assessment of the risk of corruption in the Customs Administration in all its activities and work processes.*

There is no effective system of assessment of the corruption risk points in the operating system of the customs authorities. Such assessments are likely to significantly narrow down the corruption space and allow for introduction of mechanisms for oversight and control for effective prevention, but also detecting of the cases of corruption.

In this respect, institutional and individual integrity must be systematically created, upgraded and monitored as part and parcel of the necessary professional and technical capacities of the customs service. It is therefore essential for the Customs Administration to continuously improve its capacities for monitoring and control over the operation of the customs officers and make the system of integrity effective.

*Insufficiently developed system of communication and cooperation with the public.*

The degree of negative public perception of the customs services is partly a result of the lack of communication with the public, which has to be urgently addressed through various forms of direct and objective information-sharing with the citizens and establishment of effective cooperation with the civil society organizations.

### **Measures and activities to prevent corruption**

Attempts to deal with corruption in the past have often been frustrated by well-intentioned but totally ineffective calls for the adoption of industrial countries' standards of administrative honesty, effectiveness, and efficiency. To effectively tackle the problem of corruption in customs, a comprehensive and sustainable approach that addresses the underlying causes and consequences is required. There are no quick fix solutions. Rather, a pragmatic and situation-specific approach is necessary—one that draws on the lessons learned from previous efforts around the world and that takes into account the fundamental issues of motive and opportunity.

Landmark documents, including the Arusha Declaration drafted by the WCO, the IMF Integrity Paper and the conclusions of the Working Group on Customs Ethics in Central and Eastern European countries, have convergent views on needed measures to prevent corruption. These institutions recommend the following changes in customs administration:

Organization of Customs Operations:

- define targets and standards of service quality;
- segregate functions strategically and build checks and balances;
- frame customs procedures so as to reduce to a minimum the inappropriate exercise of discretion;
- computerize customs operations;
- minimize the requirements of information and documentation from traders.

Staff Rules:

- develop a code of conduct and explain its implications to customs officers;
- define corruption and related offences in legal texts and in the customs internal rules;
- set corresponding sanctions at a reasonably dissuasive level (including in internal disciplinary measures the possibility of dismissal).

Internal Culture:

- promote customs service standards and ideals;
  - Develop an “esprit de corps”, based on a sense of loyalty and pride in the customs service.
- Information Production and Investigation:
- give line-managers the prime responsibility for identifying weaknesses in working methods and in the integrity of the staff;
  - set up internal audit mechanisms;
  - conduct regular external audits;
  - set up an internal affairs unit with the specific task of investigating all cases of suspected malpractice, in complement to internal audit;
  - allocate examinations of customs officers randomly;
  - take measures to allow feedback from private operators;
  - follow the employees’ assets, by organizing disclosure.

Human Resource Management:

- adopt an objective recruitment process, immune from interference, based on knowledge and standards of personal ethics;
- adopt an objective promotion process, immune from interference, merit-based and jeopardized by inappropriate behavior;
- relocate regularly the staff;
- provide professional training to customs officers throughout their careers, including on ethics and integrity issues.

- provide a remuneration sufficient to afford a decent standard of living, including, in certain circumstances social benefits such as the health care and housing facilities.
- set up incentive payments.

Relations with Customs Brokers and the Business Community:

- facilitate access of private operators to information on regulations and procedures;
- organize liaison committees with the business community;
- make appealing against customs decisions, with, in the final instance, recourse to independent adjudication, possible.

In addition, all three study papers link the reduction of corruption with broader policy measures, at the national level. Import tariffs should be reduced where possible and the number of rates limited. Administrative regulation of trade should be reduced to an absolute minimum and exemptions to the standard rules should be as few as possible. Additionally, the customs administration should enjoy sufficient autonomy and should notably be insulated from the interference of politicians, whose influence should be limited to definition of the customs mandate. It is important to outline these elements of remedial action, answering to a diagnosis of organizational defects and those characteristics of the broader environment that are conducive to widespread corruption, but much additional information and guidance is required to set up a full-fledged strategy.

The Arusha Declaration and the IMF Paper identify several essential conditions for successful reform. Both stress the importance of “a firm commitment at the highest political and administrative levels” (Arusha Declaration) or in the terms of the IMF Paper “a clear and unequivocal commitment from the Government”. The IMF paper goes further and points out three supplementary conditions: an atmosphere where importers and exporters will come forward and discuss the decisions that are being made and the existence of an independent judiciary and a free press.

Analysis of the Macedonian customs operating environment complements these assertions. In the light of the identified problems and risk factors of corruption there are several activities and measures (State Commission of Prevention of Corruption 2011) to be taken:

1. Strengthening the capacities of the internal control and creating a system of regular and extraordinary controls over the work of the customs officers in order to ensure that the standard operating procedures are consistently respected and implemented;

Improving the capacities of the internal control unit, together with the measures to strengthen the individual integrity, are the main drivers for consistent



compliance with the standard procedures and the established deadlines. Therefore, it is necessary to strengthen the controls at border crossings and customs checkpoints; implement continuous training for effective implementation of the Code of Conduct for the Customs Officials and undertake all the legal measures to detect and punish the cases of corruption.

2. Implementing a system for corruption risk assessment in the customs services, with measures to strengthen the individual and institutional integrity; Customs Administration should assess the risk of corruption in all aspects of the customs operations, with measures to strengthen the individual and institutional integrity. That will contribute to preventing the possible forms of corruption, while helping to improve the organization of work and the utilization of the existing resources.

3. Introducing a more efficient system for communication with the public. The introduction of a more efficient system of communication with the public will allow for the institutions to open for the citizens and publicize all the necessary documents for all customs services. In this manner, conditions will be created for more efficient service delivery to the citizens, improved cooperation in identifying the bottlenecks in the work of the customs services as a source of corruption, as well as more active cooperation by the citizens in recognizing and preventing corrupt behavior.

## CONCLUSION

Customs plays a central role in every international trade transaction and is often the first window through which the world views a country. The implications of corruption in customs on a nation's capacity to benefit from the expansion of the global economy are obvious.

Analysis of the Macedonian customs throws up three key conclusions.

The first is the need to recognize the main forms of corruption. They are:

- routine corruption, in which private operators pay bribes to obtain a normal or hastened completion of customs operations;
- fraudulent corruption, in which the trader or agent seeks "blind eye" or active, collusive customs treatment in order to reduce fiscal obligations or enlarge external earnings;
- criminal corruption, in which criminal operators pay bribes to permit a totally illegal, lucrative operation (drug trafficking)

The second highlights the need to identify those points in the customs process that afford special opportunities for customs to seek irregular payments and for

traders and agents to offer them.

Customs legislation should be clear and precise. Import tariffs should be moderated where possible. The number of duty rates should be limited. Administrative regulation of trade should be reduced to the absolute minimum and there should be as few exemptions to the standard rules as possible. Customs procedures should be simple and consistent. Automation is a powerful tool against corruption, and its utilization should have priority. This is of utmost importance in the international trade environment today and the benefits of a proper system far outweigh the cost of development and installation.

Finally, the analyses of the Macedonian customs underlined several activities and measures to prevent corruption:

- Strengthening the capacities of the internal control and creating a system of regular and extraordinary controls over the work of the customs officers in order to ensure that the standard operating procedures are consistently respected and implemented;
- Implementing a system for corruption risk assessment in the customs services, with measures to strengthen the individual and institutional integrity;
- Introducing a more efficient system for communication with the public.

These Study should draw intergovernmental and global business attention to this crucial economic, political and social problem of customs corruption. The government need to perceive and correct customs malpractices which diverge from primary political aims to encourage inward investment, reduce the cost of imported goods and enhance export performance. They should be encouraged to take a critical look at the ways in which customs corruption can undermine and frustrate economic development.

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