



INTERNATIONAL ANTI-CORRUPTION CONFERENCE (IACC)

Programme

Papers

Organisers

Sponsors

8th INTERNATIONAL ANTI-CORRUPTION CONFERENCE

The Papers

Practical Measures to Promote Integrity in Customs Administrations

[Lima Declaration](#)

John Crotty
Chief Tax Administration Division
Fiscal Affairs Department
International Monetary Fund

The purpose of this paper is to outline an approach to promoting integrity (reducing corruption) in customs administrations. While it outlines some of the general factors that lead to corruption, the paper does not deal at length with the reasons for or causes of corruption nor the economic impact of such practices. It accepts, as a given, that the incentives and opportunities exist in all revenue-collecting agencies to engage in corrupt practices and, based on this premise, attempts to provide the framework for the legal and administrative procedures that are necessary to detect, punish, and reduce such undesirable behavior.

The paper draws upon the experiences of the Tax Administration Division of the Fiscal Affairs Department. In this respect, it reflects not only the technical assistance advice provided to various countries but also the experiences of staff of the division in dealing with issues of corruption in the management of revenue departments in their own countries.^[1] Its central theme is that there is no easy or quick solution to the issue of integrity in customs administrations (e.g., higher salaries or computerization) but that a comprehensive approach is necessary to put the required measures in place and to ensure that they operate effectively over time. Following a brief summary of the principal causes of corruption, the paper acts out the main elements of a plan to promote integrity in the customs administrations, namely: a clear, well understood policy framework; simple, transparent procedures; a professional customs administration; performance standards; code of conduct; effective internal audit; and administrative autonomy. In support of these elements, there should also be an atmosphere that encourages members of the trade community to come forward and discuss issues with the administration, an independent, honest judicial system, and a press that is interested, able, and allowed to raise issues of corruption.

Causes of corruption

In reviewing the causes of corruption, it is important to address not only the overall factors which may lead to corrupt practices but also the specific nature and causes of corruption in customs administrations. General factors include: extensive intervention of the Government in the economy; cultural norms and practices that influence the behavior of administrators; centralized decision making; excessive discretionary power in the hands of administrators; lack of supervision and guidance; lack of accountability, and inadequate control systems. In addition to these general factors, incentives and opportunities to engage in corrupt practices exist far more in revenue administrations than in many other administrations. Nobody likes to pay taxes. Therefore, the taxpayer will take every opportunity and make every effort to reduce the tax burden, including, if necessary, the bribing of a revenue official. In the case of customs transactions, the incentive goes beyond just the desire to reduce the tax burden, as the importer is also interested in obtaining the goods as fast as possible and may take the opportunity to "facilitate" their release.

The most important factors that lead to lack of integrity in the administration of duties and taxes include:

- **complex and restrictive tax and foreign trade systems that lead to rent seeking and corrupt behavior**-- The rules may be so complex that importers and exporters have no choice but to meet face-to-face with an official to seek an

explanation or the exercise of the discretionary power that the official may possess. This is often compounded by the lack of information that allows importers and exporters to determine their liability and comply voluntarily with the law.

- **high tax and tariff rates**-- The higher the tax rates, the greater the incentive to engage in corrupt practices to reduce this burden. A dramatic example of this is in the area of "IR" excises, particularly on tobacco and alcohol, where organized crime is involved in the bribery of revenue officials, resulting in widespread illegal production and smuggling of these goods.
- **exemptions**--In addition to exemptions that are provided for in the law, discretionary exemptions that can be granted by the Ministers and/or the head of the customs administration, create the opportunity to engage in corrupt practices. They undermine the fairness of the system and may create, in the mind of the importers who are paying the duties and taxes, a doubt about the reasonableness of continuing to comply.
- **complex and bureaucratic procedures**--Instead of making it easy for importers and exporters to voluntarily comply and pay the taxes multiple forms and steps are often introduced that require stops at many desks and visits to many offices each one associated with a "fee" to facilitate processing.
- **weak control systems**--Too little attention is paid to the implementation of Systems that make it difficult for officials to engage in corrupt practices. Individuals take into account the perceived threat of being detected when they decide to engage in corrupt practices and, if the risk is low, many more will be willing to take the risk.
- **lack of effective disciplinary measures**--Sanctions are an important factor in deterring corrupt behavior. If the penalties are not severe enough and applied each time that inappropriate behavior is detected, they will not be effective in reducing corruption.
- **lack of professionalism**--Too often employment in customs administrations is seen as an opportunity to work for a short period of time to enrich oneself and not as a long-term professional career.

Building a system to promote integrity

Building a system to promote integrity in customs administration requires not only the effort to put in place the necessary measures to combat corruption but also on-going vigilance to ensure that the measures continue to operate as intended. Even in those countries that are considered to have the most efficient and honest administrations, considerable effort is still invested to ensure that the controls continue to operate and that corrupt behavior is detected and dealt with. Threats are always present. For example, in countries with generally low tax and tariff rates, criminals involved in drug smuggling have the ability to pay large amounts of money to a customs officer to allow a shipment to proceed without inspection.

It can't happen here

In one country that has a reputation for integrity in its public service, in general, and the customs administration, in particular, recent cases of collusion with organized crime have been detected related to the smuggling of goods with high excises. When this was discovered, there was, on the one hand, shock that such practices had taken place, and on the other hand, satisfaction that the systems were in place to discover the corrupt behavior.

In order to deal effectively with corruption, at the outset, there must be a commitment from the Government to address the problem. This goes beyond mere statements that corruption will not be tolerated to the actual actions of Ministers and other high ranking government officials. Too often these officials believe and act as if they are above the law and demand special treatment from customs officials (e.g., proceeding through customs without paying duty). Given this atmosphere a Government cannot, in all honesty, expect a customs administrator to collect duties and taxes from every other importer. Once the commitment has been made, there are certain essential actions that must be undertaken to build a system that has integrity and that will produce the returns expected by the Government. Most of these involve designing measures to reduce the incentives and opportunities to engage in corrupt practices and, at the same time, creating organizations that are interested and committed to doing a good job.

1. Clear, well understood policy framework

Simplification of the tax system (e.g., reducing the number of rates to the minimum and restricting exemptions) is not only good economic policy but it also reduces the opportunities for corruption. From a customs administrator's point of view, simple, clear legislation creates the framework for the development of systems and procedures that are easily understood by both the trade community and the officials. This policy framework should be based on the following principles:

- **minimum number of rates**--Rationalization of tax and tariff rates and clear definitions of how and when different rates apply reduce the need for interpretation by administrators and the face-to-face negotiations that may result in the exchange of money for a favorable ruling.

One administrator's experience

- **low rates**--If it is generally perceived that the system is fair which means, among other things, that the rates of tax are reasonable, there is less incentive to become involved in fraudulent activities.

In response to a question concerning the impact of the newly implemented VAT on customs administration, the head of one local office in an eastern European country responded, "The tax is easy to administer because there is only one rate and the exemptions are provided for in the law. There is no room for negotiation."

- **minimum exemptions**--While it is virtually impossible to eliminate all exemptions, tax legislation should be written to include exemptions in the law and to eliminate the discretionary power of Ministers or government officials to grant exemptions.
- **minimum non tariff barriers to foreign trade**--The need for numerous approvals for foreign trade licenses and multi-agency authorization to import and export, creates the opportunity and incentive to engage in corrupt practices.
- **effective penalty system**--A good penalty system should provide the administrator with the ability to impose administrative penalties for minor offences. This may include fines, for example, for broken seals on vehicles transporting goods in-transit and presentation of declarations with an unacceptable level errors. Serious cases of fraud, including the bribing of revenue officials, would result in more serious actions, including criminal prosecution.

- **provide an independent appeal mechanism**--Every tax law, no matter how well written, is capable of being interpreted differently. In order to preserve the independence of the officials and the integrity of the system, it is important that taxpayers have the ability to challenge decisions and be assured of a fair and equitable hearing and that decisions are widely publicized

In addition to a clear and simple policy framework, there is also the need to separate the setting of policy from its administration. The policy makers should engage in whatever dialogue is necessary during the design of the policy and the drafting of legislation, including discussions with the trade community. However, once the policy has been established and provided for in the law, there must be a clear separation between the policy makers and the administrators. It must be clear that the law, as interpreted by the administrators, will be applied and that it is not possible to obtain more favorable treatment through the influence of the policy makers. It should not be the responsibility of senior policy makers or Ministers to review and rule on individual cases. Among others, the customs administrations in the United States and the United Kingdom, have clearly established rules supporting this separation of responsibilities.

2. Simple, transparent procedures

It is the responsibility of the customs administrators to put in place simple, easily understood systems and procedures. The reasons for this approach are twofold. Firstly, it reduces the compliance costs for the importers and exporters and, secondly, it reduces the opportunities for corruption.

The most important principle in the design of simple, straight forward customs procedures is self-declaration. Importers should have the capability of determining their duty and tax liabilities and, based on their understanding of the law, presenting to the customs administration a declaration that includes a calculation of the amount owing. This must be supported by documentation and information as requested by the administration and is, of course, subject to verification, either at time of presentation or later through post-release review. To be effective and to reduce the opportunities for corruption, the self-declaration system should be based on the following:

- **one step process**--A customs declaration should be lodged at the reception counter of the customs office and the paperwork processed by the administration with no further need for contact, until that processing has been completed.
- **minimize the information and documentation requirement**--Customs administrations must define their information and documentation needs in a way that minimizes administrative requirements upon the importers and exporters. For example, the customs declaration can be used for multiple purposes (e.g., calculation and payment of duties and taxes and preparation of foreign trade statistics).
- **consistent interpretations**--Importers can only be expected to self-declare their liabilities in an environment where the interpretation of the laws is consistent and procedures are standardized, with each transaction treated in the same way as the previous one,
- **computerization**--The introduction of computerized support for the processing of customs documents, perhaps more than any other change, provides the opportunity to implement standardized procedures that leave little to the discretion of the officials. A properly designed system ensures that the correct rates of duties and taxes are applied; exemptions are only granted to authorized organizations and for authorized goods and services; the required information and documentation is presented; timeframes for payment are met; and those who do not comply with filing and payment

timeframes are identified and follow-up action is taken, In addition, the system can provide useful management information including, for example, identifying transactions that do not meet time standards for processing or individual officers who undertake actions that are out of the ordinary (e.g., physically inspecting too many shipments).

3. Professional customs administrations

The development of professional Customs administrations is important, not only to improve the effectiveness of these administrations¹ but, at the same time, to address issues of corruption. Too often, governments are unwilling to provide the authority to the administrations to enforce the laws or to invest the resources necessary to build and provide ongoing support for efficient and effective administration, Experience in developed countries has shown that the best way of ensuring fairness and neutrality in the administration of the tax system is to develop professional administrations with clearly defined responsibilities and accountability for performance, including:

- **professional management**--It is important that the customs administrations include skilled, knowledgeable supervisors and managers. Too often the senior officials in the administrations change as governments change and individuals with little or no knowledge of legislation, regulations, systems, and procedures are put in charge of collecting the revenue. In these circumstances, staff may perceive that they have limited career opportunities in the organization, little, if any, "loyalty" to the organization and, perhaps, consequently be more open to corruption. FOT those who join a customs organization for the term of a new government, working in that organization may be seen as a reward and an opportunity to enrich themselves, through the provision of exemptions and other concessions to the business community.

Unexpected benefit

In one country, foreign experts were hired to work with the local customs administration, to set up and operate anti-smuggling teams. Not only has large scale smuggling been detected but, in addition, specific cases of corrupt officers and offices have also been detected.

Management controls are an essential component of well-run customs administrations. This includes: a clear statement of goals and objectives; well documented operating procedures; supervision of day-to-day activities; and a regular review of the outputs of employees. Management will also consider the results of its internal audits, feedback from importers and exporters, and the views of its employees in evaluating the operations of an office.

- **compensation and working conditions**--Customs administrators must be provided with sufficient compensation to reduce the incentive to engage in corrupt practices. While civil service pay can never be at a level that will discourage all corrupt behavior (e.g., there are many reported cases of well paid customs officers in developed countries who have accepted tens of thousands of dollars to allow a shipment of drugs to pass through the border), compensation can be set at a level that provides a good standard of Living and eliminates the need to accept "facilitation fees". In recognition that it may not be possible to address low civil service pay in general, some countries have implemented special pay scales and incentives for staff in revenue agencies.

The provision of appropriate working conditions is also important. This includes proper office space, equipment (e.g., telephones, computers, and transportation), and supplies. The administration should not have to rely on importers, exporters, or their agents to provide any facilities or equipment which could imply that a favor is expected in return.

- **staff rotation**--Any regulatory agency is better able to carry out its functions in an impartial manner if it remains at arms length from those it is charged with regulating. Revenue agencies are no different in this regard. Accordingly, it is important that staff rotations take place on a regular basis to reduce opportunities for collusion.

- **staff rotation**--Part of the plan to develop professional customs administrations should be clearly defined, including the education and experience of those entering the administration, because of restrictive civil service rules, are often unable to obtain the skills and experience required for a complete understanding of the law and the operation of the system. For example, the creation of a separate organization for the collection of duties and the separation of responsibilities--The creation of a separate organization for the collection of duties and the separation of responsibilities--individual officers are assigned the responsibility for all activities related to the needs of staff. In addition to improving the capabilities, training, responsibility, and loyalty of the staff, the system is built on the basis of merit, and as a result of the need for responsibility and loyalty of the staff, officers are promoted by different offices or organizations, thereby promoting integrity.

- **complaint handling**--Administrations should have a clearly defined career path and promotion policy that is based on merit. Each individual must feel that there is an opportunity, based on hard work, to advance and that to engage in inappropriate behavior may jeopardize this opportunity (and lead to dismissal in serious cases).

4. Performance standards^[2]

rotation schedule only after the officer has reported for work.

Building on a base that includes transparent legislation and clearly articulated, simple procedures, customs administrations should put in place performance standards that enable policy makers, management, and the public to measure how well an administration is performing. This has several advantages. Firstly, it enables the policy makers including Ministers to hold heads of administrations accountable, if agreed standards are not met. Secondly it enables management to measure the performance of offices and individuals and to identify potential problems. Thirdly, it makes very clear to the employees that there are expectations and that their performance will be measured against these expectations. Fourthly, the public is aware of what is expected and, therefore, should be willing and encouraged to bring to the attention of management cases where the standards have not been met.

Too often, the only performance standard established for the administrations is the requirement to meet certain revenue targets. This is not enough, particularly if corruption is a problem. The most corrupt revenue administration in the world may, over the short term, be able to meet revenue targets. However, this may do little to ensure that the law is applied in the same manner to all taxpayers and that the collection of expected revenue from new policy initiatives will be achieved. Performance standards, in revenue administrations, should include the following:

- **revenue targets**--Customs administrations should participate in discussions leading to the setting of revenue targets. The administrators should also be invited to provide an assessment of the practicability of policy proposals being considered by Government, and the feasibility of collecting projected revenues. Once overall targets for a customs administration have been agreed, it is the responsibility of the administrations to establish the targets for each of its offices and to put in place the mechanism for monitoring performance against these targets.
- **service standards**--In customs administrations, there should be clearly articulated standards for the various functions that are performed. For importers, it is very important that they know the time that the goods will be under customs control, as this can significantly impact estimates of inventory requirements. By establishing service standards and making them known to staff and to importers and exporters, an administration can establish monitoring mechanisms to identify transactions, offices, and officers that do not meet the required standards. Reports from the monitoring system may also help to identify areas that should be investigated for potential corrupt practices.
- **post-release review**--an effective post-release review program^[3] should include performance standards that assist in the monitoring of these activities.

5. Code of conduct

It is important that employees and importers and exporters be aware of the conduct that is expected of both parties. By clearly articulating expectations, customs administrators can hold employees accountable for performance and take appropriate action when these standards are not met. Many administrations publish a 'code of conduct' with these expectations. For such a code to be effective; it must also include a description of the disciplinary actions that will be taken if unacceptable behavior is discovered (to be effective, disciplinary actions must be taken on a regular, consistent basis). The political and social context of a particular country is important in establishing the rules for acceptable conduct and the rules guiding participation of tax and customs officials in activities outside their official responsibilities will vary from country to country. However, the code would normally include the following:

- **maintaining integrity**--The acceptance of gifts, favors, or benefits to influence decisions is not permitted. Disciplinary action up to and including dismissal is normally taken in cases where employees accept a gift of any significant value.
- **confidentiality of information**--information from customs declarations as well as that obtained from post-release reviews is confidential and, as such, must not be used by employees nor disclosed in an unauthorized manner.
- **conflict of interest**--Employees would normally be prohibited from engaging in activities that are in clear conflict with their official position. For example, a customs officer would not be permitted to own a customs brokerage business or to engage in any business that involves extensive import and export activities. Many administrations also have a requirement that employees disclose their assets at time of hiring, and update this information on a regular basis so that their managers can detect, at an early stage, that an employee has accrued assets that are inconsistent with the level of compensation received by the employee.
- **appearance and conduct**--Standards for appearance and conduct normally include: observing the hours of duty; dressing appropriately; dealing courteously with the taxpaying public; prohibiting the use of intoxicants in the work place; and using government equipment, including vehicles, only for business purposes.

6. Effective internal audit

While it is the overall responsibility of management to monitor performance and to ensure that operational policies are being followed and performance standards are being met, this must be supplemented by effective internal audit. Usually, the internal audit department reports to the head of the administration and is responsible for carrying out regular reviews of all operations in the organization. It is often the internal auditors in customs administrations who are the first to detect instances of corruption when reviewing compliance with procedures.^[4] Serious cases of corruption, involving violations of the law, are usually turned over to law enforcement officials for criminal prosecution. internal audit activities normally include the following:

- **compliance with operational procedures**--Based on clearly defined procedures which would normally be laid out in manuals or procedure guides, an auditor reviews the actual operation of the customs offices. This would include, for

example, reviews of declaration processing and procedures for the selection of shipments for physical inspection.

- **expenditure/use of government funds/assets**--There are opportunities in the administration of large government departments to mis-appropriate funds and it is one of the roles of internal audit to review activities related, for example, to the purchasing of supplies, awarding of contracts, and hiring personnel (e.g., some countries have a serious problem with "ghost-workers" on the payroll).

7. Administrative autonomy

In recent years, one strategy that has been followed by a number of countries for improving the effectiveness of customs administration and to address, among other issues, corruption, has been to increase the autonomy of the administration. While there are a number of alternatives to providing greater autonomy, most share the following common features: a degree of financial independence, in the sense that the administrations are able to allocate budget funds as they deem appropriate, administrative independence, meaning that the administrations are provided the authority to formulate their own administrative policies and objectives; and independence from general civil service requirements, meaning that the administrations are responsible for their own recruitment, salary structure, career path and training, and establishing performance standards and codes of conduct.

Notes and References

[1] This paper draws extensively on two previous papers of the staff of the Tax Administration Division: "Integrity in Customs: Action Program for Policy Makers and Customs Administrators", A. Goonnan, presented to the Customs Cooperation Council (CCC), 1993 and "Corruption in Tax Administration", P. Dos Santos, presented to the Inter-American Center of Tax Administrators (CITA), 1995.

[2] For more information on performance standards see "Performance Standards in Tax Administration" a paper presented by Mr. John Crotty to the 1996 CITA meeting.

[3] Post-release reviews are undertaken after the goods have been released from Customs' control by specialists who typically review valuation, tariff classification, origin, and any other conditions that determine the amounts of duties and taxes payable.

[4] In some administrations, there is also a separate organization (e.g., Internal Affairs) that is responsible for dealing with specific cases of alleged corruption, such as the misappropriation of funds. If management or internal audit uncovers cases of corruption, they are turned over to this organization.

return to [table of contents](#)