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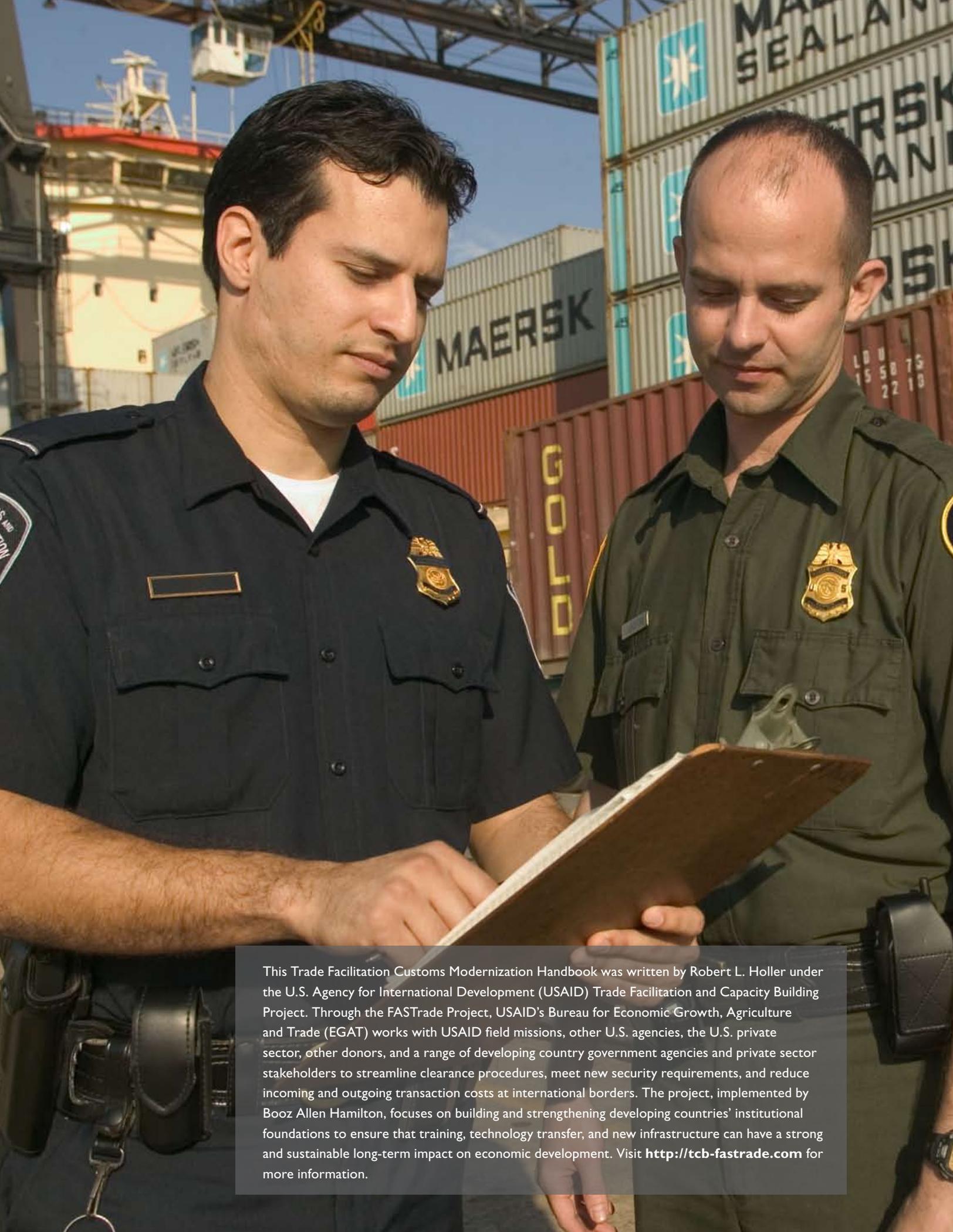
CUSTOMS MODERNIZATION HANDBOOK

ESTABLISHING AND IMPLEMENTING A CUSTOMS INTEGRITY PROGRAM



September 2005

This publication was produced for review by the United States Agency for International Development. It was prepared by Robert L Holler for Booz Allen Hamilton.



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ESTABLISHING AND IMPLEMENTING A CUSTOMS INTEGRITY PROGRAM

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Appendices 1–16: Sample Directives and Forms are available on the Handbook CD and are also available for downloading at: <http://tcb-fastrade.com/handbooks.htm>

DISCLAIMER

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ONE TEAM - ONE FIGHT!

MON - FRI
CARPOOLS
5 AM - 10 PM
3 OR MORE
↓

MON - FRI
CARRIAGES
5 AM - 10 PM
3 OR MORE
↓

↓ OPEN / ABIERTA

↓ OPEN / ABIERTA

↓ OPEN / ABIERTA

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INTRODUCTION

This handbook, part of a series of USAID FASTrade self-help handbooks, provides practical guidance to any Customs administration desiring to establish a comprehensive program to actively combat corruption and instill integrity within the workforce. It sets forth a comprehensive step-by-step strategy that will enable Customs managers to adapt and implement an effective Customs Integrity Program with minimal outside assistance.

Much has been written in the area of Customs corruption and integrity. The World Customs Organization (WCO) has published a very informative *Integrity Development Guide* that focuses on outlining an integrity self-assessment process as a practical tool toward integrity enhancement. This tool is an important element of the integrity strategy outlined in this document. Additionally, the recently published World Bank *Customs Modernization Handbook* includes an article that has a very informative discussion of Customs corruption and its consequence, as well as a briefly outlined strategy for reducing it.

Every effort has been made to ensure that this handbook is consistent with and complements accepted guidelines and current best practices related to this important revenue collection, trade facilitation, and national security issue. This handbook outlines a strategy that includes 16 separate but interrelated components. Each component is presented in a manner designed to provide sufficient guidance to allow Customs managers to adapt and implement the component without the necessity of on-site technical assistance. In addition, reference material such as samples of recommended documents is included on the Handbook CD and can also be downloaded from the FASTrade Web site at: <http://tcb-fastrade.com>.



COMPONENTS OF THE CUSTOMS INTEGRITY STRATEGY

The strategy outlined in this document consists of a number of equally important initiatives, or components. There is no “magic pill,” no single answer to fighting corruption. Implementing a Code of Conduct is one step, but that alone will not ensure compliance. Establishing an internal inspections unit is another step, but that too is insufficient by itself to create the changes required in employee behavior and public perception.

Customs administrations desiring to implement an effective anti-corruption program usually have good reason to do so – such as when there are internal and external perceptions that Customs is a corrupt organization with low expectations of Customs by the trade, by the Government, and by Customs officers themselves. Managers committed to modernization and reform are faced with the difficult task of changing these pervasive perceptions and attitudes. Management must clearly communicate its expectations to the workforce, to the trade, and to the public at large. This can be done in a variety of ways. The workforce and the trade must perceive that Customs is totally committed to changing the very nature of the organization and that failure on their part to support and participate in this change may result in serious professional or personal consequences.

Managing change is always difficult. It requires thorough planning, a consistent message, visible commitment from Customs management and higher level Government managers, training, perseverance, and continuing evaluation. As Customs is attempting to effect dramatic changes, implementation must be accomplished in a dramatic manner, purposely designed to capture and hold the attention of Customs staff, the trading community, Government, and the general public.

The components of this strategy must be energetically implemented over the shortest possible period of time without any real or apparent inactivity that might lead the workforce or the trade to think that Customs has lost interest or lacks strong motivation. There must be visible, tangible, and immediate changes. Various components in this strategy will call for placing posters in public areas, requiring officers to sign receipts acknowledging that they have received new guidelines, advising the public how to report unethical behavior, and if necessary changing the physical appearance of the officers. The message Customs must convey is that this is a new day and this is a new and improved Customs administration. An important part of this message is that the old ways of doing business are no longer acceptable.

The Customs Integrity Program strategy is not simply an internal effort; it requires a well-planned, proactive outreach and public relations effort. High-level Customs managers must make themselves available for media interviews, and for meetings with the trade. They must visit Customs offices near and far to promote this new initiative to the public and the Customs workforce. Many will be skeptical at first – both within and outside Customs. Questions will be asked and the answers will not always be easy, but the public, the trade, and the workforce must be convinced of unwavering commitment to this change by both Customs and the Government.

The components of the Customs Integrity Program are as follows:

- **Outreach** – Customs reaches out, both internally and externally, to educate, to gain cooperation and support, to improve compliance, and to change perceptions of Customs officers, the trading community, importers and exporters, and the public at large.
- **Public Service Charter** – Customs works in cooperation with the importing and exporting community to develop a public service charter that clearly establishes minimally acceptable levels of service that Customs will strive to meet.
- **Integrity Self-Assessment** – Customs conducts and documents a formal integrity self-assessment using an internationally accepted instrument developed by the World Customs Organization.
- **Conduct and Discipline** – Customs implements a concise and understandable Code of Conduct that is consistent with the WCO model and supplemented by (1) a Directive on Officer and Employee Conduct and Responsibility, and (2) a Code of Discipline.
- **Required Legal Authority and Coordination** – Customs and the Ministry or Department of which it is a part ensure that Customs has the authority and necessary cooperation of other Departments to properly administer an anti-corruption program.
- **Establishing an Internal Inspections Unit** – Customs fields a well-trained, well-equipped professional Internal Inspections Unit responsible for internal controls and internal ethics investigations.
- **Ethics Training** – Customs provides ethics training to every Customs employee as part of its initial training program and on a recurring annual basis.
- **Professionalism** – Customs reviews the appearance and quality of its uniforms and ensures that each officer presents a professional and workmanlike appearance. Customs develops brochures, pocket cards, and posters dealing with service standards and the code of conduct. Posters are placed in all Customs offices and public areas to educate the public and to stress the new emphasis on integrity and professionalism.
- **Reporting Mechanisms** – Customs establishes and publicizes mechanisms that encourage the reporting of allegations of misconduct by Customs officers and employees.
- **Asset Reporting** – Customs requires annual reporting and review of financial and other tangible assets by all Customs officers.
- **Internal Controls** – Customs implements internal controls that require periodic inspection and certification by appropriate managers and follow-up review by Internal Inspections Unit personnel.

- **Performance Incentives** – Customs designs and implements a performance incentive scheme appropriate to its needs and financial capabilities.
- **Simplified Procedures** – Customs simplifies commercial trade procedures in order to increase compliance levels and to reduce the incentives and opportunities for officers or traders to engage in corrupt practices.
- **Risk Management and Layered Enforcement** – Customs utilizes a layered enforcement approach and risk management to reduce the ability of any single officer to see that particular shipments are able to avoid appropriate scrutiny.
- **Human Resources Management** – Customs implements fair and impartial recruiting, vetting, training, performance measurement, merit promotion, and disciplinary practices.
- **Benchmarking** – Customs conducts benchmarking evaluations of the Customs Integrity Program annually in order to ascertain the effectiveness of the measures implemented in reducing instances of unethical behavior and improving public, private, and internal perceptions of the level of professionalism within Customs.





Managing Change

An effective integrity program requires the presence and contributions of certain key organizational components:

- *Program management,*
- *Human resources management,*
- *Training, and*
- *Internal controls and internal investigations.*

Individual Customs administrations will have evolved their own organizational structures. The purpose of this handbook is not to advocate one model over another. Nevertheless, the proper organizational placement of two key elements – a program management staff and an internal inspections unit - helps to ensure the successful implementation of an effective integrity program. It is recommended that these two units report directly to the Director of Customs.

Organizational change should not just happen; it must be managed. Customs administrations involved in reform and modernization all too often fail to establish an effective program management capability. Instead, responsibility for managing change either falls to the Director who generally does not have sufficient time in his or her schedule to do so, or it is delegated to a lower graded manager or staff officer who generally does not have clearly established responsibility, accountability, authority, and the requisite respect of field and headquarters managers and staff.

The success or failure of this strategy depends on the implementation of each of the inter-related components and on the active support of all managers within Customs. In the presentation of each of the components, recommendations are made as to which manager or office should be assigned primary responsibility and accountability using the above organizational components as a guide. An effective Program Management Staff, responsible to the Director, serves as his or her eyes and ears in monitoring the progress made by each action party, alerts the Director to unforeseen difficulties or delays encountered, and helps to identify the corrective actions necessary. Although Program Management is not the subject of this handbook, it is vital to the successful implementation of a multi-faceted anti-corruption/integrity enhancement strategy. Customs administrations desiring guidance and technical assistance in establishing and training effective program management may refer to the FASTrade Customs Modernization Handbook entitled Establishing and Implementing a Customs Program Management Process and request assistance through the nearest USAID mission.



COMPONENT I: Outreach

In implementing this integrity program and reducing the perception and reality of corruption within the organization, Customs managers encounter and are forced to deal with long-standing negative attitudes.

These perceptions, in some cases, may be far from accurate. Few people in this world enjoy their interactions with Customs. Customs tends to be viewed by the public not so much as a specific agency with important responsibilities but as the source of everything that can possibly go wrong as they attempt to enter or depart the country at its airports, seaports and land borders or as they attempt to import or export goods. Customs officers are traditionally viewed with suspicion and their integrity is routinely questioned. Customs managers must not only deal with corruption within the organization; they must also work to change the perceptions held by the trading community and the public in general. And, of course, Customs must also deal with the perceptions held by its workforce.

Effective Customs outreach efforts include both a well-coordinated public information campaign as well as an internal change management campaign. A clear and unmistakable message is delivered to the Customs workforce, the trade, and the general public: first that Customs is modernizing; and second that, as a key element of its modernization efforts, Customs demands ethical behavior on the part of its personnel as well as its clientele. This public relations campaign begins by issuing a press release and an open letter to all employees. *[Sample drafts of these documents are provided in the Handbook CD under Appendices 1 and 2.]*

The logical first step in combating corruption is for management to make it unmistakably clear to all concerned that corruption will not be tolerated. It accomplishes little to limit this information to Customs employees. In every corrupt act, there are at least two parties involved: the person who accepts the bribe, gratuity, or favor and the person who offers it. Both are equally guilty and both must be held equally responsible. When such gratuities or favors have been a part of doing business for years, the parties involved may not even view them as a breach of ethics. That perception must change. Customs must alert all parties as to what it expects from them and what they are entitled to expect from Customs: ethical and professional performance on both sides.

The workforce letter and the press release are followed up by personal appearances by the Director, and later by other high-ranking Customs managers, to deliver the message. Public perception is enhanced by the fact that the message is coming personally from the “men and women at the top.” These personal appearances must include television and radio interviews, brokers and trade association meetings, local town-hall type meetings, and any other opportunity where this critically important message can be delivered.

Equally important, Customs managers must take this message to the employees at their places of work. Management must literally look the workforce in the eye, explain the new

program to them, and answer their questions and concerns. Employees' belief in senior management's deep commitment to the integrity program is critical to its success. Issuing the letter to all employees is only the first step. The message must be reiterated in person by top management.

To help assure compliance, the workforce must be made to understand that old behaviors are no longer acceptable and that what may have been acceptable in the past will now result in severe consequences. Employees must understand these new expectations before they can be expected to comply with them. The message must be delivered consistently and repeatedly. It must be delivered over and over again until it has gained both public and internal acceptance. Unless Customs management follows up its words with visible actions, the entire effort will be viewed as a sham. Every manager must deliver this message not only by letter and word of mouth but also by his or her personal behavior, which serves as an example for subordinates and Customs clientele.

Customs is undertaking the difficult challenge of changing behaviors that may have existed for a long period of time. Even if those behaviors were not exactly condoned, they may have been tacitly allowed to exist. Behavioral change of this type within a large and geographically dispersed workforce will be difficult, but not impossible to achieve.

The workforce needs to view this program as a sincere effort to enhance Customs reputation, Customs effectiveness, and the professionalism of its officers. They cannot see it as just a disciplinary effort or, worse, simply a political publicity campaign with little to no resolve or sincerity. The desired transition from the old culture to the new, the reasons for it, and the consequences for failing to "get on board" must be made clear to managers, the workforce, and traders. The rank and file will test management's resolve, and management must be ready to meet that test.

Once the program is put into effect, "business as usual" after the implementation of the program becomes very different from business as usual before the transition. Managers at every level emphasize that Customs is undertaking a new program, with new rules and a new enforcement policy, and they deliver this message in a forceful and convincing manner. Even during the early stages where the necessary "behind the scene" staff work is being accomplished prior to implementation of the more visible elements of the integrity program, managers actively begin stressing the Code of Conduct and the new values of the Department to all officers and employees.

One potentially difficult policy issue is that of declaring an informal amnesty for minor acts of corruption that occurred prior to the implementation of the new program. This is what is called the "line in the sand" concept. That is, on a certain date when the new expectations and policies go into effect, a curtain comes down on minor corrupt or unethical practices of the past. Given the typical history of corruption within reforming Customs administrations and the historical lack of effective management action to curb it, a substantial number of officers and employees have likely done something in the past that

under the new program would call for disciplinary action. This can preclude them from coming forward in the future, for fear that an act of theirs in the past will come back to haunt them. For an anti-corruption program to succeed, internal inspections units need inside information from concerned officers. These officers may not speak up if their pasts are now potential threats to their careers.

Systemic corruption does not happen in a vacuum. Almost everybody knows about it, but nobody talks about it. If Customs wants its knowledgeable junior officers and staff to come forward with information that it needs, it must give them an incentive and immunity from past minor misdeeds. Otherwise why should they tell the new Internal Inspections Unit anything? Unless given some protection like this, they will all band together in silence.

In a harsher world, a reforming Customs administration might terminate all employees and replace them with new officers in order to start the program from an “integrity pure” position. Of course, in the real world this is totally impractical. No organization can afford such a loss of expertise, skills, and knowledge. So instead, Customs is forced to draw a line in the sand saying, in effect: “There will be no penalty imposed for minor acts of corruption that occurred before May 1st (*an arbitrary date when the program takes effect*), but for any act of corruption after that date, we will show no mercy.” Obviously, Customs needs to caveat this “no penalty/no mercy” policy with some conditions. The simple bribe taking or minor theft of goods can be overlooked, as distasteful as it may be for reform-minded managers. On the other hand, if violence, narcotics, weapons, or major financial corruption or other serious crimes were involved, that is an entirely different matter.

This approach may be controversial and may at first tend to give the impression of being “soft on corruption.” It is not. It creates a clean slate for almost all and clearly establishes a fair and balanced approach to dealing with any future corrupt acts. Customs must implement this “line in the sand” quietly, through internal meetings and correspondence, not through repeated public statements and poster campaigns. Whereas a very important element of an effective anti-corruption program is public outreach and publicity campaigns, this conditional immunity aspect of the program is internal and must remain so as much as possible. Customs managers should make this known to the officers and staff in face-to-face briefings and not through the media. The failure to use an approach like this is why many anti-corruption efforts fail.

Although the terms “corruption” and “anti-corruption” are used throughout this document, this new initiative is to be characterized as a *Customs Integrity Program*, designed to enhance Customs professionalism. This has a more positive connotation and allows Customs to characterize the anti-corruption efforts as but one element of its overall modernization and reform program. This offsets the perception that management intends only to punish employees and stresses the many positive efforts Customs is taking to improve working conditions.

Recommended Assignment of Responsibility

- The Customs Director assumes primary responsibility for the outreach effort and officially announces the implementation of the Professionalism Enhancement Program. Change requires effective and visible leadership at the highest level. The willingness of the Director to make himself or herself available to the press and to the employees is an important factor in changing both internal and external perceptions. This places a heavy burden, initially, on the Director's schedule. After the initial opening efforts, however, the Deputy or Assistant Directors are used to supplement the Director's efforts.
- The Program Management Staff is responsible for finalizing and issuing the press release and an open letter to all employees as well as for scheduling for the Director to speak at public and trade forums and to visit major Customs offices to meet with employees. At least one member of the Program Management Staff accompanies the Director on each personal appearance and thoroughly documents the presentation.
- Field office managers are brought to the headquarters and are briefed on the modernization and anti-corruption efforts and on their responsibilities. They are required to address the issue at local meetings with employees, traders, and interested organizations in their local communities and to report back to the Program Management Staff about each such presentation regarding who attended and how the presentation was received.
- The Program Management Staff reviews and analyzes each report of presentations by the Director and by subordinate managers to identify areas and/or locations where additional attention is warranted.

Resource Material:

Handbook CD - Appendix 1: Proposed Letter to All Customs Employees

Handbook CD - Appendix 2: Proposed Press Release to be Issued by Director





COMPONENT 2: **Public Service Charter**

The second component of a Customs Integrity Program is to establish and publish clear service standards in the form of a Public Service Charter, also called a Customer Service Charter or a Client Service Charter.

A Public Service Charter describes the minimal level of service a client can expect from a Government Department or Office. The Charter states Customs' commitment to providing services to its customers, includes a short mission statement and description of the services provided, defines service standards in clear terms and simple language, informs customers how to make a complaint or a suggestion (including, if appropriate, forms of external appeal), and includes the date of the Charter and contact details.

A Public Service Charter does not seek to cover everything a Department does. It instead focuses on what is important to its clients. Similarly, the Charter does not focus on internal processes or policies to achieve the service standards. It is more important that Customs clientele gain an understanding of the expected level of service rather than a detailed explanation of how Customs intends to achieve it.

Developing a Public Service Charter involves four stages:

- Consultation with customers/stakeholders,
- Commitment to service standards,
- Evaluation of performance, and
- Reporting on results.

A detailed guide on developing such charters has been prepared by the Public Service Modernization Division, Office of the Taoiseach, Government of Ireland. This guide, *Customer Charters – Guidelines for Preparation*, can be found on the Internet.

Additionally, a detailed guide on designing and conducting client service surveys has been developed by the United States Office of Management and Budget. This guide, *Resource Manual for Customer Surveys*, can also be found on the Internet.

[Two examples of Customs Public Service Charters are provided on the Handbook CD: The Australian Customs charter is provided in Appendix 3 and the Zambian Customs charter is provided in Appendix 4.]

Recommended Assignment of Responsibility

- The Director designates a senior manager to form a working group consisting of Customs headquarters and field officers as well as representatives of the trade (such as brokers or agents associations, freight forwarders association, Chamber of Commerce).

- Using the resource materials listed below as guidelines, this “partnership” working group mutually agrees upon service standards.
- The Director reviews the draft Charter, discusses it with the appropriate Minister, if necessary, and approves it.
- Once the Charter has been approved, the Program Management Staff is made responsible for ensuring that it is distributed and publicized and that Customs staff receive training.
- The Program Management Staff is assigned responsibility for monitoring Customs’ performance in meeting the established service standards and preparing annual performance reports.

Resource Material:

Customer Charters – Guidelines for Preparation, Public Service Modernization Division, Office of the Taoiseach, Government of Ireland, <http://www.bettergov.ie>.

Resource Manual for Customer Surveys, Statistical Policy Office, Office of Management and Budget, Executive Office of the President, October 1993, <http://www.customerservice.gov/resources.htm>



COMPONENT 3: Integrity Self-Assessment

Although this document offers a broad-based, comprehensive approach to implementing measures within Customs to curb corruption, it cannot address every area in which opportunities for improvement exist. Customs should, therefore, perform a close self-inspection of its current operational and administrative environment to identify areas where additional attention may be required. Fortunately, there is a standard internationally accepted instrument to guide Customs in conducting this self-assessment: the World Customs Organization’s *Integrity Development Guide – Self-Assessment and Evaluation*.

Customs should form a task force to conduct the assessment. The task force should be chaired by a high-ranking Customs manager, either at the Deputy or Assistant Director level with members selected from the headquarters and major field offices. Although this is a self-assessment, Customs should consider inviting one or more prestigious trade organizations, such as a Chamber of Commerce and Industry, to provide a representative who is experienced in international trade to participate. This inclusion of outside members builds upon the outreach activities described above by showing a willingness to work in partnership with the trade on substantive issues. It also provides a point of view and set of knowledge and experiences that the Customs members of the task force may not possess.

The self-assessment should include interviews and field observations of Customs operations at various offices. Every effort should be made to interview brokers, importers, and exporters who may be willing to provide information to which the task force would not otherwise have access. The inclusion of the trading community, as a member of the task force and in the interviewing process, will serve as an unmistakable indication of the seriousness with which Customs is addressing the issue of integrity.

The final written report will serve both as a snapshot of the integrity situation in Customs prior to implementation of the integrity program and as a supplement to this document in terms of additional actions which can and should be taken to enhance integrity within the Customs administration.

Recommended Assignment of Responsibility

- The Deputy or an Assistant Director should be assigned responsibility for planning and leading the Integrity Self-Assessment. A firm deadline should be established for completing the assessment (not more than 30–45 days). At the conclusion of the assessment, a written document should be made available to the Director and other interested parties detailing the findings and recommendations of the task force.
- The Program Management Staff should assume responsibility for overseeing the actions necessary to enact the recommendations.

Resource Material:

WCO Integrity Development Guide – *Self-Assessment and Evaluation*, found at: <http://www.wcoomd.org>. Select the Customs topics tab followed by Customs Modernization and Integrity and then WCO Integrity Program.



COMPONENT 4: Conduct and Discipline

The World Customs Organization also has developed a model Code of Ethics and Conduct as a guide for its member administrations. Customs administrations not having a code of conduct in place are encouraged to immediately draft one using the WCO model as a guide. Customs administrations already having a Code of Conduct in place take this opportunity to review the existing code using the WCO model as a point of reference. For the Code of Conduct to be an effective document, it must be clear and concise and avoid difficult legal phrasings. Customs officers and employees are then willing and able to read and understand it.

Once Customs is confident that its Code of Conduct meets these requirements, it is to be supplemented with two additional, related documents: first, a Directive on Officer and Employee Conduct and Responsibility and second, a Code of Discipline.

The Directive on Officer and Employee Conduct and Responsibility sets forth in greater detail, but still in the clearest possible language, Customs' expectations with respect to conduct, responsibilities, and prohibited practices. This document should identify and summarize the actual sections of law or regulations upon which sanctions would be based. *[A sample directive is provided in Appendix 5 on the Handbook CD.]*

The Code of Discipline clearly sets forth the consequences of failing to meet the expectations set out in the Code of Conduct and the Directive on Officer and Employee Responsibility. The Code of Discipline identifies the range of internal sanctions to be applied according to the nature and seriousness of the offense. It also provides for criminal offenses to be fully investigated and prosecuted and requires that any staff member charged with a criminal offense report the fact immediately to his or her manager. Finally, the Code of Discipline provides for a formal appeals process in all cases of misconduct. The design of the Code of Discipline must be consistent with the local civil service system rules, regulations, and practices. This requires coordination with and vetting by those governmental departments or agencies with human resource oversight authority. The finalized Code of Discipline is distributed to all Customs employees, and they must receive a minimum of eight hours of training annually. *[Appendix 6 on the Handbook CD provides guidance and examples.]*

The next step in implementing an effective disciplinary system is to develop the mechanism or organization that will administer discipline in a fair and uniform manner: a Disciplinary Review Committee. The Disciplinary Review Committee is necessary to ensure fairness and consistency in addressing cases of alleged serious employee misconduct. The primary function of the commission is to review reports of the investigations and propose the appropriate disciplinary or corrective action. *[A sample directive is presented as Appendix 7 on the Handbook CD.]*

Recommended Assignment of Responsibility

- The Director establishes a working group either to review and update an existing Code of Conduct or draft an entirely new Code of Conduct using the WCO model as a guide. The working group consists of representatives from the offices responsible for Human Resource Management and Internal Inspections, and several major field offices. Depending on the existence of a government-wide or ministry-wide Code of Conduct, a representative of the responsible office also may be invited to participate in an advisory capacity.
- The Human Resources Management office is the logical organization to be assigned responsibility for drafting both the Directive on Officer and Employee Conduct and Responsibility and the Code of Discipline. These drafts are vetted by other governmental entities as deemed necessary by the Director.
- The headquarters office responsible for procurement and services prints sufficient copies of the above documents and distributes them to all Customs employees. Each

employee is required to sign a receipt acknowledging that he or she has received a copy of the Code of Conduct, the Code of Discipline, and the Directive on Officer and Employee Conduct and Responsibility. These receipts are maintained in the employees' personnel folders at the headquarters.

- The Director establishes a Disciplinary Review Committee and implements procedures similar to those recommended.
- The Program Management Staff monitors progress and reports to the Director.

Resource Material:

WCO Model Code of Ethics and Conduct, found at: <http://www.wcoomd.org>. Select the customs topics tab followed by Customs Modernization and Integrity and then WCO Integrity Program.

Handbook CD - Appendix 5: Proposed Conduct and Officer/Employee Responsibilities Directive

Handbook CD - Appendix 6: Sample Code of Discipline

Handbook CD - Appendix 7: Proposed Directive on Disciplinary Review Committee



COMPONENT 5: **Required Legal Authority and Coordination**

Completing the first four components can generally be accomplished without difficulty within the existing authority granted to Customs by the Government.

Moving on to the next step, however, generally requires coordination with other governmental departments and ministries and can require memoranda of agreement or, possibly, new legislation giving Customs the authority to conduct its own internal investigations. In today's world, at least one or more governmental departments has been granted authority to deal with corruption. It may be the Police, it may be a central Anti-Corruption Department with responsibility for addressing corruption within all governmental departments, or it may be a special prosecutor.

Generally, identifying the appropriate agency is not difficult. It should be a matter of public knowledge and certainly well-known within the Government. If Customs is going to be successful in dealing with corruption, it requires the authority of Government to conduct internal investigations, either through specific legislation or by agreement or delegation. Customs generally will not have the authority to prosecute officers and employees and will have to work through other agencies.

Although the basic principles of internal investigations are almost universal, they must be synchronized with the legal system of the individual county. Customs must meet with those Ministries and Departments that have the basic required legal authority to deal with matters of corruption, whether in setting policy, conducting investigations, or prosecuting. The purpose of this coordination is first, to ensure that Customs has the support of these agencies and second, to ensure that Customs' internal investigations meet all existing legal and procedural requirements established by these Ministries and Departments. It may be that cases above certain thresholds have to be referred to a higher investigative authority or perhaps can be investigated in cooperation with that authority. It may be that Customs requires search warrants or other legal documents from the courts, or police assistance in querying criminal databases. It may be that Customs has to work with a particular prosecutor or court in pursuing its cases. Whatever the situation, Customs must ensure that it has the necessary authority and cooperation.

Recommended Assignment of Responsibility

- The Director briefs the appropriate Government Ministries and Departments on all aspects of the Customs Integrity Program and ensures that Customs has the necessary cooperation and legal authority, including memoranda of agreements if necessary.



COMPONENT 6: **Establishing an Internal Inspections Unit**

Establishing an Internal Inspections Unit in any law enforcement or regulatory agency is always controversial from the point of view of both the agency staff and the public. Agency employees tend to see the unit as a squad of “head hunters” either intent on finding everyone guilty of something or as a tool used by management to assail unpopular or vocal employees or, in the worst scenarios, to enforce corrupt practices in which senior management is involved. An additional but less serious problem is that managers often use the internal affairs unit to handle minor issues (tardiness, discourtesy, and similar minor acts) that they are unwilling to address themselves, thereby remaining the “good boss” and making the internal affairs unit the enemy in the eyes of the employee. The public often sees an internal investigative unit as an “in-house cover up” crew reluctant to pursue charges against their colleagues except in the most blatant and nefarious circumstances.

The issues involved in fighting corruption all hinge on credibility: the credibility of the Director of Customs, the credibility of the Internal Inspections Unit in responding to and pursuing allegations and issues regarding misconduct and criminal behavior, and the credibility of the Disciplinary Review Committee in fairly assessing reports of investigation and recommending appropriate responses. For an effective Integrity Program, the Director exerts strong leadership and, even though the detail work is delegated to subordinates,

remains personally involved in the process. The Internal Inspections Unit conducts itself in such a manner that it is seen by management and employees as fair and impartial. When conducting investigations into integrity allegations, the unit has not only the responsibility of identifying guilty officers but also the responsibility of clearing innocent ones. The Internal Inspections Unit will never be popular, but it must be respected.

New Internal Inspections staff must be carefully selected and well trained. Creation of an effective new organizational entity within a Customs administration involves five distinct phases: conceptualization, approval, set-up, deployment, and oversight.

- **Conceptualization.** Conceptualization is challenging, particularly when a manager knows what results he or she wants accomplished, but has little personal knowledge of the technicalities of bringing the new program into actual operation. This handbook is designed to assist Customs managers with the conceptualization necessary to implement an effective anti-corruption program based on the best practices of other Customs administrations and international organizations.
- **Approval.** Depending on governmental requirements and restrictions, revising an approved organizational structure to create a new sub-organization may require various levels of approval above the Director level. Customs managers are aware of the bureaucratic approvals required and ensure that all such approvals are obtained as part of the Set-up Phase. Additionally, the approval of commissions or agencies with government-wide anti-corruption responsibility may be required.
- **Set-up.** The following tasks need to be accomplished:
 - Ensure that the National Customs and Civil Service legislation provides sufficient authority for Customs to implement and manage an effective internal inspections program. This includes specific authority to conduct both administrative and criminal investigations and to manage an internal discipline program. The basic authorities required were discussed in Component Five.
 - Establish a budget and acquire office space and resources:
 - Assure essential security and control of access to facility space.
 - Secure investigative files and related administrative records. Provide locking file cabinets and a safe.
 - Provide desktop computers and a printer for processing and maintaining investigative reports and other documents and for conducting research.
 - Dedicate vehicles to the unit for performance of field investigations.
 - Provide vital communications capabilities (i.e., radio, mobile telephone, preferably both).

- Provide required tape recorders and still and motion video cameras.
- Determine whether those officers conducting criminal investigations will be authorized to carry firearms.
- Prepare supporting documentation:
 - Write a functional statement describing the duties and responsibilities of the new unit. [See the Handbook CD, Appendix 8 for an example.]
 - Determine the number and types of positions necessary to staff the new unit and write a functional description of work for each position.
 - Determine the desired qualifications for various types of positions. People should be of good character, possess good knowledge of Customs laws and procedures, and have corruption-free backgrounds.
 - Write a directive announcing the formation of the Internal Inspections Unit and outlining its authority and responsibilities. [See the Handbook CD, Appendix 9 for an example.]
- Recruit and select Internal Inspection Unit staff:
 - Issue a written notice announcing the new positions and qualifications, and invite employees to submit written applications (in accordance with existing human resource management rules and practices).
 - Form a small selection committee to screen and select applicants, based on review of qualifications, training requirements and possible conflicts of interest.
 - Conduct selection committee interviews of candidates in confidentiality, providing the candidate an overview of the prospective job and an opportunity to ask questions.
- Appoint and install a Unit Manager and subordinate employees.
- Enact a Non-Disclosure Policy:
 - When officers and other employees are selected, they are required to sign a legally binding non-disclosure statement not to communicate any information about matters being investigated to outside entities (i.e., the media, public, or other Government employees outside the Internal Inspections Unit).
 - The Disciplinary Review Committee also signs non-disclosure statements to ensure and/or affirm that all communication and information sharing about official investigations are conducted strictly on a need-to-know basis.

■ **Deployment.** Once the Department has substantially completed the Set-up Phase, technical support is required to train and deploy the Internal Inspections Unit staff. An experienced criminal investigator provides training. That trainer has in-depth experience both in conducting internal inspections and investigations and in managing internal inspections organizations. Possible sources of such expertise are the National Police, or another national agency with government-wide responsibility for integrity investigations, or donor-supported expert technical assistance. Formal classroom training is supplemented by informal mentoring, and it includes the following subjects:

- Ethics,
- Code of Conduct,
- Conduct and Officer/Employee Responsibilities Directive,
- Code of Discipline,
- Internal Inspection Unit-Mission and Role of Employees,
- Interview and Interrogation,
- Design and Implementation of Internal Controls,
- Investigative Methods,
- Principles of Accounting,
- Law Enforcement Authority,
- Confidential Sources/Informants,
- Case Management,
- Rules of Evidence,
- Rules of Criminal Court Procedures, and
- Graduation and Deployment of Personnel.

■ **Oversight.** The Program Management Staff oversees the implementation process and monitors the effectiveness of the Internal Inspections Unit.

Recommended Assignment of Responsibility

- The Director obtains the necessary approvals to establish an Internal Inspections Unit responsible for internal investigations of allegations of misconduct or unethical activities on the part of Customs officers and employees.
- The Program Management Staff establishes a written project plan covering the five distinct phases discussed above, establishing reasonable target dates for each of the activities. The Program Management Staff also is responsible for closely monitoring progress. Should unforeseen delays or obstacles be encountered, the Program Management Staff assists in overcoming them.

- The appropriate headquarters offices are assigned responsibility for establishing the budget, acquiring office space and resources, preparing supporting documentation, recruiting personnel, and designing and implementing the non-disclosure requirements. (Legal assistance may be required in the development of a legally binding non-disclosure document that contains specific criminal and administrative penalty provisions.)
- The Director contacts sources of assistance and schedules specialized training in investigative techniques.

Resource Material:

Handbook CD - Appendix 8: Recommended Functional Statements for Internal Inspections Unit

Handbook CD - Appendix 9: Proposed Directive Announcing the Formation Responsibilities and Authority of Internal Inspections Unit



COMPONENT 7: Ethics Training

Without a clear and consistent set of departmental values and the ethics code that flows from those values, no training program can be effective. Developing and publishing the Code of Ethics does not guarantee that employees will comply. It serves as notice to the employees that Customs has certain new expectations, but the burden is still on Customs management to ensure that the employees are aware that the new Codes of Ethics, Conduct and Discipline will be enforced. This is accomplished in a variety of ways, including by setting the proper example, ensuring that employees encounter Customs ethics expectations on a regular recurring basis, and providing formal training, and through repetition and reinforcement at every opportunity.

- The *first step* is to enlist management support for the ethics program. Employees' perception of management's commitment is one of the most important components of a successful program. Managers and supervisors set an example for others to follow by demonstrating ethical behavior at all times. Managers should actively participate in delivering the training, as described below.
- The *second step* is to ensure that every Customs officer and employee receives a personal copy of the:
 - Code of Conduct,
 - Officer and Employee Conduct and Responsibilities Directive, and
 - Code of Discipline.

Each employee is required to sign a form acknowledging that he or she has received these documents. Obtaining a signed receipt may later prove to be of value in responding to employee appeals of disciplinary actions imposed for infractions by eliminating the excuse of: “No one told me that this behavior or activity was not permitted.”

- The *third step* is to create a range of easily referenced materials for employees including pamphlets, posters, and wallet cards. This is important not only to reinforce the message, but also because different employees absorb information in different ways. Consider such things as having a contest inviting all Customs officers and employees to develop posters to be placed in each Customs office.
- The *fourth step* is to develop formal ethics training. This begins by incorporating ethics into managerial and new staff orientations to communicate to employees that ethics is an integrated part of the Customs culture. Each new officer and employee receives a copy of each of the three relevant documents as a part of his or her initial indoctrination and processing. Each staff member receives at least eight hours of formal training in the main elements of the ethics policy within the first 60 days of joining Customs. Refresher training is to be conducted annually. [A suggested model for that training is included in the Handbook CD - Appendix 10. This model is only an outline: it must be customized with provisions of the appropriate national legislation, including penalty provisions.] The training includes group discussions of hypothetical situations that an officer or employee might face. Interactive training results in considerably better retention than simple lecturing.

At a later date, Customs will consider training to specific job requirements; for example, by providing additional detailed training for its employees involved in purchasing. Obviously, the completed training program should be translated and presented in the country’s national language or languages. Training programs tend to be more effective if delivered in the local language by a well-respected employee or manager who is a national of the country or region.

For the initial training, an effective approach is a train-the-trainer or cascading process in which each manager trains those who report directly to him or her, beginning with the Director. Such a process ensures that all employees go through the training and demonstrates clear commitment from the top of the organization to the importance of a comprehensive ethics program. Although subsequent training can be assigned to the training staff, participation by managers as co-instructors is recommended.

- The *fifth step* is to evaluate the effectiveness of the training and to recognize and reward notable examples of ethical behavior in difficult circumstances. Evaluation is ongoing.

Recommended Assignment of Responsibility

- The Training Office develops an ethics training program based on the model provided in the Handbook CD - Appendix 10. This requires research of applicable legislation and implementing regulations and coordination.

- The Internal Inspections Unit and the Human Resource Management office provide assistance. If Customs does not have a fully staffed and functional training capability, an alternative is to appoint an ad hoc working group to develop the ethics training module.
- The office responsible for procurement of services arranges for the printing of sufficient copies of the above documents and distributes them to all Customs employees at the time of training. Each employee is required to sign a receipt acknowledging that he or she has received these documents. These receipts are maintained in the employees' personnel folders.
- The Program Management Staff schedules and monitors completion of the initial training. With the Director's approval, this includes a management staff meeting in which the Director personally presents the training to those managers reporting directly to him or her.
- The Training Office assumes responsibility for ensuring that the ethics program is effectively delivered, updated as necessary, and documented by creating a training file for every officer and employee listing training received and dates of training.

Resource Material:

Updated/Finalized *Code of Conduct*

Transparency International Corruption Perceptions Index Index 2005 available at:

<http://www.infoplease.com/ipa/A0781359.html>

The *WCO Arusha Declaration – Revised*, available at: **<http://www.wcoomd.org>**. Select the customs topics tab followed by Customs Modernization and Integrity and then WCO Integrity Program.

Handbook CD - Appendix 5: Directive on Officer/Employee Conduct and Responsibilities

Handbook CD - Appendix 6: Code of Discipline

Handbook CD - Appendix 7: Directive on Disciplinary Review Committee

Handbook CD - Appendix 9: Directive on Internal Inspections Unit

Handbook CD - Appendix 10: Suggested Outline for Ethics Training



COMPONENT 8: Professionalism

Customs delivers the message that it is a new day, a new Customs administration, and the old ways will no longer be accepted. In the outreach component, officers and employees are made to see this as an effort to increase their professional stature and respect rather than as a mere disciplinary program or a political publicity campaign with little or no resolve behind it. The transition must be clear. The intense public relations/outreach campaign is one element of clearly marking that transition. Additional steps are to be taken to ensure that no one underestimates Customs' commitment to increasing the level of professionalism and improving public perceptions.

- *First*, posters are designed and placed in all public areas. The posters are simple and concise, easy to read, and virtually impossible to misunderstand. They convey the message that Customs demands ethical behavior on the part of its workforce and provide information as to how to report allegations of misconduct. These are supplemented with posters advising of citizens' rights and of the Code of Conduct (in an abbreviated form). One way to engage the workforce is to have a contest where officers and employees can submit designs. Legislation and Government practice permitting, trade and tourist associations are approached to voluntarily assist in the printing of the posters. Likewise, international donor organizations are approached for assistance. As Customs is promoting a "professionalism" campaign, the posters are professional in design and execution. Posters can be supplemented by small laminated cards to be issued to each officer and employee. These cards are of a size suitable to be carried in a uniform shirt pocket or wallet. The cards summarize the most serious and common ethics violations, and list the major points of the code of conduct.
- *Second*, since Customs officers are among the first representatives of Government encountered by visitors, including traders and potential investors, Customs reviews its uniform standards and dress code to ensure that the uniformed officers present a professional appearance. Uniforms need not be elaborate or expensive, but they must be sufficiently distinctive to identify Customs officers in a crowd and to bring credit to the Customs administration. One alternative is dark pants of a specified color, material, and pattern; white shirts with button pockets and epaulet straps to allow the attachment of a Customs badge or insignia and rank indicators; and plain black shoes and belts. Another alternative is to adapt existing uniform items of other uniformed services. It is not necessary to incur the expense of creating new design patterns or engaging new suppliers. Customs can minimize cost by adopting readily available uniform items and distinguishing the uniform with Customs-specific insignia. Improving professional appearance requires not only professional uniforms, but also that reasonable dress standards are strictly enforced. Dress uniforms are appropriate for formal ceremonies, but the average uniformed Customs officer attends very few formal ceremonies. A practical working uniform is the uniform of the day. Desirable characteristics are a

permanent press, washable material that needs minimal ironing. Fabrics that are soil-resistant are also desirable.

- *Third*, each uniformed Customs officer is required to wear a unique identification on his or her outer garment. This allows anyone who wishes to file a complaint against that officer to easily identify the officer. There are two ways this can be done. The first is to require the officers to wear a law enforcement style badge with a unique stamped or engraved number. This badge number must be large enough that the average person can read it while standing at arm's length. The second is to require officers to wear distinctive name-tags on their outer garments. Customs officers also wear distinctive rank insignia identifying junior, mid-level, and senior officers.

Recommended Assignment of Responsibility

- The Director forms an ad hoc working group to design posters stressing integrity and providing information on how to report complaints. Consideration is given to a design contest open to all officers and employees.
- Once approved by the Director, the headquarters office responsible for procurement of services is responsible for printing and distributing the posters.
- The Director forms a working group consisting of a purchasing officer, one or more headquarters staff officers, and a number of officers currently assigned to field offices, to evaluate the current uniforms and, if necessary, to identify realistic alternatives for upgrading the uniform appearance of Customs officers. The committee is required to present a written report with recommendations, samples, and cost estimates to the Director. The working group also is required to recommend reasonable dress standards to be implemented and enforced.
- The Program Management Staff monitors progress and reports to the Director.
- The Director has the responsibility of resolving any financial considerations.



COMPONENT 9: **Reporting Mechanisms**

To enhance the effectiveness of the Integrity Program, Customs must provide simple and effective means for the public to report allegations of misconduct. These include regularly scheduled stakeholder and town-hall type meetings where interested parties can complain in person as well as a mechanism by which the public can report allegations anonymously or confidentially.

Sources of information, whether they are known, anonymous, or confidential, are essential for Customs to be effective in detecting, interdicting, and apprehending violators of the

law. Due to the hostility and violence associated with many smuggling operations, especially drug and weapon trafficking, citizens may often be intimidated, concerned for their safety, and reluctant to report information relating to smuggling activities or corrupt practices. Those doing business with Customs on a regular basis may be hesitant to report unethical behavior for fear of retribution by the officer involved or by his colleagues.

To counter such hesitancy and to assure confidentiality, Customs must establish a well-publicized direct telephone line for reporting information relating to the smuggling of drugs, weapons, or other prohibited goods; customs fraud; and unethical behavior. This telephone line is to be answered 24 hours a day, 7 days a week, and there is to be no charge for calling it. Designated Intake Officers are assigned to answer the hotline, following training on how to elicit complete information from callers, how to document calls, how to assign code numbers to anonymous callers, and how to process the information once it has been recorded. Establishing a hotline involves more than simply designating a telephone. Budgetary and staffing issue must be addressed, and if Customs cannot staff the hotline on a 24 hour-a-day basis, a reasonable alternative must be developed, such as answering the telephone from 08:00 to 20:00 and having an answering machine for the remaining hours.

In order to encourage the public to provide information regarding smuggling activities and corrupt practices affecting Customs, monetary rewards are often provided by Customs administrations for original information that results in an arrest, seizure, or indictment. Customs' ability to implement such a reward system is entirely dependent on national legislation and available funding sources. Even though establishing a system of compensating those who provide valuable information is not mandatory, it is desirable and should be given due consideration.

Typically, callers use the hotline to report not only information about smuggling and unethical behavior but also to complain about other Departments or about possible criminal activity that is not within the purview of Customs. Established guidelines direct the Intake Officers to refer those calls to the appropriate Departments.

[Three sample directives are provided to guide Customs in implementation of the necessary reporting mechanisms in the Handbook CD - Appendices 11, 12, and 13.]

Another potential source of information relating to unethical actions by officers is a transparent and well-publicized appeals system. Every tax law, no matter how well written, is capable of being interpreted differently. It is important that taxpayers have the ability to challenge decisions and be assured of a fair and equitable hearing by an impartial staff expert who does not supervise, work with, or report to the officer who took the action they are appealing. Appeals are monitored for signs of repetitive incorrect actions or decisions by specific officers. Although such repetitive mistakes may indicate only a need for further training, they could suggest unethical conduct.

Similarly, written complaints must be carefully reviewed to determine whether there are indications of improper or unethical conduct on the part of the officers. This is not to suggest that every complaint should be referred for investigation, but all complaints must at least be looked into administratively and responded to in writing. All complaints and responses are to be maintained and catalogued in a central office. [See the Handbook CD - Appendix 14 for a sample complaint handling system and postage paid reporting card.]

Recommended Assignment of Responsibility

- The Program Management Staff explores the feasibility of establishing a hotline, estimating costs, logistical considerations such as office and equipment needs, and staffing requirements. A plan is prepared and submitted to the Director.
- The Director identifies funding and resource availability and determines the extent to which Customs can establish and staff an intake office.
- The headquarters office responsible for processing penalties and appeals designs a printed brochure and posters explaining and promoting a formal appeals system.
- The Head of the Internal Inspections Unit finalizes the proposed directives and procedures (samples provided in the resource material for this section).
- The Program Management Staff monitors progress and reports to the Director.

Resource Material:

Handbook CD - Appendix 11: Sample Directive on Reporting Allegations of Employee Misconduct

Handbook CD - Appendix 12: Sample Directive on Customs Hotline

Handbook CD - Appendix 13: Sample Directive on Payment of Awards for Information

Handbook CD - Appendix 14: Sample Complaint Reporting System



COMPONENT 10: **Asset Reporting**

Requiring Customs employees to disclose their assets in writing deters unjust enrichment and provides investigators and auditors with a powerful instrument to detect corruption by identifying the existence of unexplained wealth. Financial reporting requirements must be strictly enforced and monitored. Failure to report or false reporting must be considered to be a serious breach of ethics. The United Nations Office of Drug Control's Anti-Corruption Toolkit recommends that sanctions against non-disclosure or false reporting be approximately as

severe as those against the underlying corruption, to include the possibility of dismissal or removal from office.

The Code of Conduct requires that before entering into any outside employment or business activity, officers and employees must obtain prior approval from Customs. Employees given approval to engage in outside employment must promptly advise their supervisors, in writing, if the approved employment terminates or of any other changes to their outside employment. Additionally, Customs must be made aware of any potential conflict of interest created by the employment of other family members. For example, if a Customs officer's wife, son, aunt, or brother works for a major Customs broker or freight forwarder, this has the potential to create a conflict of interest. For these reasons, outside employment by officers, employees and family members is to be included in the Asset Declaration.

Customs must establish specific deadlines for the filing of the Asset Declaration forms. New officers and employees are required to file an Asset Declaration at the time they apply for positions, and these declarations are reviewed prior to the actual offer of employment. Officers and employees transferring from other Government Departments are required to file an Asset Declaration form within a very short period of time, for instance, within 15 working days of reporting to Customs, regardless of whether or not they have filed such a report with their previous Department. All other employees are required to file an Asset Declaration at least once a year on a date established by Customs.

Recommended Assignment of Responsibility

- The Human Resources Management office and the Internal Inspections Unit collaborate to develop an Asset Declaration form that is satisfactory to both sections and is in compliance with local laws and civil service regulations. This requires coordination with legal counsel or with Government Departments with government-wide responsibility for anti-corruption activities [see the Handbook CD – Appendix 15 for a sample].
- Office supervisors are held accountable for ensuring that declarations are filed by every officer under their supervision in accordance with designated submission times. Office supervisors review each declaration for completeness. Incomplete or illegible declarations are returned to officers and employees to be corrected. Satisfactorily completed declarations are then forwarded in a sealed envelope to the Internal Inspections Unit for detailed review.
- The Internal Inspections Unit maintains all Asset Declarations in secure files and vigorously protects the confidentiality of the information disclosed on those declarations.

Resource Material:

Handbook CD - Appendix 15: Sample Asset Declaration/Financial Reporting form



COMPONENT II: Internal Controls

A system of well-defined internal controls is the primary method used to safeguard assets and other resources and to assure that those assets and resources are used as directed by management.

Effective internal controls rely on effective written procedural guidelines. The combination of effective guidelines and effective controls helps to reduce the opportunities for officers or employees to engage in corrupt activities and increases the likelihood of detection and punishment. Internal controls are used to check the accuracy and reliability of financial data, to promote operational efficiency, and to encourage adherence to prescribed managerial policies and applicable laws.

Managers at all levels should be required to regularly review work done by their subordinates to ensure that they are carrying out their duties in accordance with existing procedures and in accordance with the Code of Conduct. This ongoing, routine management oversight is supplemented by an effective internal controls system. Internal controls are the first line of defense in safeguarding assets and preventing and detecting errors and fraud.

Internal control systems should provide reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations, including using Department resources in a manner consistent with the agency mission and objectives, and safeguarding agency assets from waste, fraud, and mismanagement;
- Reliability of financial reporting, including reports on budget execution, collections, and financial statements;
- Compliance with applicable laws and regulations; and
- Safeguarding of assets.

The recommended internal controls system utilizes checklists that are completed by the managers of each Customs office on a monthly basis. Completed checklists are certified as correct in writing by the manager and forwarded to the Internal Controls Section of the Internal Inspections Unit. The Internal Controls Section reviews all internal control checklists received for thoroughness and to identify repetitive mistakes encountered among different Customs offices. The Internal Controls Section also carries out periodic unannounced on-site audits of different Customs offices.

In conducting both the reviews of certified controls and onsite audits, the Internal Controls Section also monitors performance measures and indicators by comparing and assessing actual performance data with performance goals and analyzing significant differences between the two. Significant discrepancies may indicate failure to follow

established procedures, unrealistic expectations, or corruption. In any case, the cause must be identified and corrected.

Even though the Internal Controls Section performs a significant monitoring role and provides consultation and advice, responsibility for developing and managing the internal control system lies with the Director and his or her senior managers. Senior managers are responsible for internal control policies and procedures specific to their offices.

Customs identifies the operational, administrative and fiscal procedures that carry a significant risk and develops internal control checklists to ensure that proper procedures are being followed. Checklists relating to operational processes are based on clearly defined procedures that are set forth in manuals or procedural guides. These include, for example, reviews of declaration processing and procedures for the selection of shipments for physical inspection. Included in this category are information processing controls to ensure that sensitive information such as commercial declaration data or information on specific traders is safeguarded from unauthorized disclosure, that access to resources and records is limited to specifically authorized individuals, and that accountability for their custody and use is appropriately assigned and maintained.

Checklists relating to the administrative processes, the collection of funds, and the expenditure or use of Government assets identify and counter potential opportunities to misappropriate funds or misuse Government resources. These include, for example, activities related to the collection of duties, the purchasing of supplies, awarding of contracts, and payroll issues. Physical controls are developed to secure and safeguard vulnerable assets such as cash, securities, inventories, and equipment that is vulnerable to risk or loss or unauthorized use.

In time, controls are developed for effective management of the workforce, focusing on hiring the right personnel for the job and providing the right training, tools, structures, incentives, and responsibilities.

The first step in establishing effective internal controls is the development of clearly defined procedures and their publication in manuals or procedural guides. By clearly defined, it is meant that standard operating procedures are written in a simple and concise manner that leads an inexperienced officer step-by-step through a given process. Existing written procedures are reviewed to determine if they meet that test. If not, they are revised and improved. Where written procedures do not exist for important Customs processes, they are created.

At a minimum, control activities are to be established and maintained in the following categories:

- Proper execution of transactions and events. Are transactions and processes conducted in accordance with written guidelines, standard operating procedures, or manuals?

- Accurate and timely recording of transactions and events. Are transactions promptly and accurately recorded to maintain their relevance and value to management in controlling operations and making decisions?
- Segregation of duties. Are key duties and responsibilities divided or segregated among different people to reduce the risk of error or fraud? Are transactions and other significant events executed only by persons acting within the scopes of their authorities?
- Risk management. Have managers and supervisors identified the areas of highest risk and are they focusing their attention and resources on those areas?
- Fiscal Control. Are duties being accurately determined, properly collected and secured, being accurately documented, and deposited in a timely manner? Are accounts reconciled on a timely basis and variances documented and resolved?
- Asset Control. Do inventory controls provide reasonable assurance regarding prevention or prompt detection of unauthorized acquisition, use, or disposition of Customs property or other assets?
- Appropriate Documentation. Are all internal controls clearly documented and readily available for examination?
- Human Resource Controls. Are the duties of both organizational units and individual officers and employees accurately described in writing? Have employees received adequate training to accomplish assigned duties in an effective manner? Are instances of substandard performance identified and addressed?

Recommended Assignment of Responsibility

- The headquarters office(s) responsible for writing and maintaining up-to-date policies and procedures and the Internal Controls Section conduct a joint review of all existing written standard operating procedures and manuals. Existing written guidelines that are procedurally sufficient are converted to a standard format. [Format examples may be found in the various recommended directives included in the Handbook CD Appendix section.] Existing written guidelines that are determined to be procedurally insufficient are referred to the appropriate headquarters section to be rewritten. Where it is determined that there is a need for a new procedural guideline, it is referred to the appropriate section. For example, a request to write a new guideline on the proper procedures for detaining undeclared goods and/or issuing administrative penalties is referred to the headquarters office responsible for processing penalties and appeals. Some policy guidelines require input from more than one section.
- The headquarters office(s) responsible for writing and maintaining up-to-date policies and procedures and the Internal Controls Section should draft checklists designed to ensure that the established procedures can be verified through the internal controls process.

Resource Material:

Handbook CD - Appendix 16: Sample Internal Controls Checklists



COMPONENT 12: Performance Incentives

Performance incentives support achievement of the goal of a well-trained, ethical, highly motivated, and productive workforce.

It is recommended that Customs administrations not having such a system develop and implement a performance incentive program that recognizes superior performance, special achievements (such as completion of a special project in an exemplary manner, the interdiction of a major smuggling attempt, or the detection of significant fraudulent attempts to circumvent Customs laws and requirements), and demonstrated high levels of integrity and professionalism.

The USAID-sponsored FASTrade project has developed and published an informative issue paper on performance incentives. This issue paper recommends that Customs administrations consider a mix of various types of monetary and non-monetary incentives and types of recognition for its officers. This mix consists of team-based annual bonuses, sustained superior performance awards, special act awards, adopted suggestion awards, and honorary awards. Recognizing that Customs' ability to implement such a program may be constrained by budgetary limitations, the paper suggests low-cost alternatives.

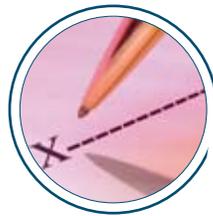
It is obvious that in order to reward performance, written performance standards must exist. The creation of realistic and meaningful performance plans for managers and employees does not prevent corruption, but it does help to better identify those employees who are not performing in a productive manner, so that management may intervene appropriately.

Recommended Assignment of Responsibility

- The Human Resources Management office evaluates any currently existing incentive awards program for effectiveness. In conducting this evaluation, that office researches the resource material, applicable civil service provisions relating to performance awards (if any), and performance awards systems in use by other governmental departments.
- Based on this research, Customs develops and implements a cost-effective performance award system or corrects any deficiencies noted in its existing system. An ad hoc group consisting of both headquarters and field managers and officers is appropriate for this effort.

Resource Material:

Performance Incentives for Border Control Officers: The Role of a Well-Motivated and Professional Workforce in Securing and Facilitating Trade. This issue paper was published by the USAID FASTrade project in August 2004 and is available on the project Web site, <http://tcb-fastrade.com>. Follow the link to “Issue Papers.”



COMPONENT 13: **Simplified Procedures**

Simplified, transparent procedures facilitate trade, reduce delays and costs, and help to increase compliance levels. Customs managers intent on curbing corruption also need to be aware that these simplified procedures deter corruption. By making it easier for a trader to comply with Customs laws, by reducing processing times, and by making delays the exception rather than the norm, Customs deprives corrupt officers of many opportunities to demand gratuities or favors for expediting shipments or overlooking minor technical errors.

Coupling simple, transparent procedures with automated systems reduces the degree to which Customs officers can misuse individual discretion by:

- Taking much of that discretion away from them,
- Reducing delays,
- Reducing face-to-face interactions between traders and officers only to essential personal contact, and
- Reducing the number of Customs personnel who are involved in reviewing and processing any given declaration.

Key elements of a simplified, transparent Customs declaration system* are:

- **One step process** - A customs declaration is lodged at the reception counter of the Customs office and the paperwork is processed by the administration with no further need for contact until that processing has been completed.
- **Information and documentation minimization requirement** - Customs administrations define their information and documentation needs in a way that minimizes administrative requirements upon the importers and exporters.

*Practical Measures to Promote Integrity in Customs administration, John Crotty, Chief Tax Administration Division, Fiscal Affairs Department, International Monetary Fund

- **Consistent interpretations** - Importers can be expected to self-declare their liabilities only 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 Customs officials.

Customs needs to establish a joint Trade Facilitation Committee, consisting of Customs personnel and representatives from the trade community, to work together in simplifying Customs procedures and making them more transparent and easier to comply with. Ample guidelines are available to assist in this effort including the WCO's *Revised Kyoto Convention*, the International Chamber of Commerce's *International Customs Guidelines*, and the World Bank's *Customs Modernization Handbook*. Customs also can seek the technical assistance of donor organizations, such as USAID, UNCTAD, or the WCO, or private consultants to facilitate this process.

The *Revised Kyoto Convention* (formally, the *International Convention on the Simplification and Harmonization of Customs Procedures*) is the WCO's key instrument containing modern principles for simplification of Customs procedures and serves as the blueprint of modern Customs procedures for Governments to implement effective controls and to facilitate legitimate trade. The *Convention* provides legal provisions covering core Customs functions (import, export, transit, and other procedures) and detailed implementation guidelines, including methods of application and best practices.

The ICC's *International Customs Guidelines* includes explanatory notes expanding each guideline and identifying its advantages to Government, business, and Customs. The guidelines and explanatory notes draw on a wide range of WCO documents and ICC policy statements. Many guidelines—for example, the use of risk assessment techniques with pre-entry and post-audit procedures—are as favorable to better security and other border controls as to improved trade facilitation. The guidelines have numerous uses. For example, they set out, in a convenient form, a summary list of key provisions which, when cross-referenced to corresponding stipulations in the WCO Conventions, can be readily expanded into a Code of Best Customs Practices. Additionally, selected guidelines and explanatory notes have been assembled into toolkits for use in assessing Customs practices in relation to such specific concerns as supply chain security and integrity.

The World Bank's *Customs Modernization Handbook* provides an overview of the key elements of a successful Customs modernization strategy and draws lessons from a number of successful Customs reform projects undertaken by the World Bank and other donors. It describes a number of the key issues that need to be considered and suggests solutions for many of the problems that plague Customs administrators and private sector traders. It provides a range of practical guidelines to enhance the efficiency and effectiveness of Customs throughout the world.

Recommended Assignment of Responsibility

- The Director convenes a joint Trade Facilitation Committee made up of Customs and trade representatives to review the extent to which Customs procedures can and should be simplified and made more transparent. This committee is charged with developing specific proposals and new standard operating procedures.
- The Trade Facilitation Committee conducts a thorough review of Customs procedures, using the reference materials listed above as a basis for decision making, and prepares a report for the Director. Every effort is made to simplify existing procedures within the bounds of current law. All too often, Customs takes the approach that it cannot simplify procedures because of specific requirements of the Customs Act. Often, this approach is based on an overly conservative reading of the applicable legislation. There may be times, of course, when current law is outdated and must be changed. In those instances, revisions are proposed and forwarded as appropriate for consideration and enactment.
- The Director, upon receiving the report from the Trade Facilitation Committee, reviews the recommended new procedures as well as any additional recommendations. The recommendations are presented in sufficient detail to allow immediate implementation after appropriate advance notice is given.
- The Director has the option of seeking an outside source of technical assistance to facilitate this process.

Resource Materials:

WCO Revised Kyoto Convention, which can be found online at: <http://www.wcoomd.org>. See conventions tab.

International Chamber of Commerce *International Customs Guidelines*, which can be found on line at: http://www.iccwbo.org/home/statements_rules/statements/2003/customs_guidelines.asp

Customs Modernization Handbook; Luc De Wulf and Jose B. Sokol; The World Bank; 2005. Can be found on line at: <http://www.worldbank.org>. See the publications page.



COMPONENT 14: Risk Management and Layered Enforcement

Risk analysis allows Customs to systematically target high-risk shipments for more thorough scrutiny and to release low-risk shipments with minimal intervention. Risk management identifies both the risk and the most effective method of countering it (the “treatment”). Various treatments include thorough physical examination of targeted high-risk shipments; equally

thorough physical examinations of shipments selected entirely at random; post-release audit of broker's, importer's, or exporter's records; and investigation to determine the intent, involvement, and magnitude of violations discovered during the examination or audit process. Mobile enforcement teams conducting unannounced "blitzes" at cargo examination facilities or even importer's premises complement these treatments and add yet another layer of enforcement capability.

By establishing a layered enforcement capability, Customs begins to curb the ability of any one corrupt officer to facilitate incidents of intentional non-compliance. In a layered approach, no single officer can guarantee that a particular shipment will not be scrutinized. If a shipment is selectively designated for physical examination, a reviewing officer cannot override that designation without supervisory approval. Shipments designated for physical examination are not examined by the reviewing officer; they are handed off to trained examining officers operating under specific procedures and under close supervision.

If a shipment is not selected for physical examination, it may still be subject after release to intensive scrutiny by an audit team, by a mobile enforcement team, and/or by a separate unit of trained Customs investigators. This layered approach not only increases the likelihood of identifying incidents of willful or unintentional non-compliance, it takes away the ability of one officer to assure that a given shipment will not be scrutinized. Furthermore, when violations are discovered, it allows Customs to determine who was involved and whether there was complicity on the part of Customs personnel.

Recommended Assignment of Responsibility

- The Director evaluates the current cargo-processing environment to ensure that risk management and layered enforcement strategies are currently in place.
- Assistance in both conducting the evaluation and addressing deficiencies may be obtained from the USAID FASTrade project through the local USAID mission, or from other donors.

Resource Materials:

Establishing Risk Management/Cargo Selectivity Capability, published by the USAID FASTrade project in July 2004. It is available on the project Web site, www.tcb-fastrade.com. Follow the link to "Handbooks."



COMPONENT 15: **Human Resources Management**

The placement of Human Resources Management—as one of the last components in the Customs Integrity Awareness Program—is not intended to reflect a lower priority than those components that precede it. If anything, this placement reflects that Human Resources Management deficiencies, while often serving as major contributors to integrity deficiencies, are often

the most difficult to address. The difficulty lies not in recognizing what needs to be done to improve the quality of Customs staff but in making changes in such a way as to not run afoul of government-wide civil service practices and procedures. If one accepts that a Customs administration's most important resource is its personnel, it follows that effectively managing those human resources is a matter of top priority.

The following are key elements of an effective Human Resources Management program:

- **Recruiting** – Recruiting has two principal objectives. The first is to hire individuals most likely to maintain the standard of integrity that has been established by the administration. The second objective in hiring is to employ applicants who will be competent officers. This process starts with well-defined qualifications standards and a standardized application process. Friends and relatives of current Customs or other Government officials must undergo the same recruiting process as anyone else.
- **Screening** – The applicant selection process provides the opportunity for an organization to screen potential employees thoroughly. Therefore, all allowable screening techniques will be applied to ensure hiring an applicant with the best possible integrity profile. Because past actions are often indicative of future conduct, the applicant selection process offers an invaluable opportunity for judging integrity.
- **Background investigations** – Applicants must be adequately screened prior to selection. Interviewing applicants and conducting polygraph examinations, drug tests, and background investigations including financial circumstances at the time of application can best accomplish this. Customs officers and employees must also be subjected to periodic routine follow-up background investigations, particularly of their financial matters, during the course of their employment by Customs.
- **Training** – Workforce training is crucial to the development of professional customs administrations. Newly selected officers must receive substantial training before being deployed to field assignments. This training is to be supplemented with regular in-service training.
- **Performance standards** – For an employee to perform well, he or she needs to know what is expected. This is accomplished through position descriptions or functional statements and clearly defined performance standards for each position. Employee performance should be rated at least annually, good performance recognized, and deficient performance addressed.
- **Merit promotion/career ladder** – Each individual must feel that there is an opportunity, based on hard work, to advance to a position of greater responsibility and better remuneration. Artificial barriers, such as requiring an advanced degree to achieve a certain level, are often counter-productive.

- **Personnel records** – The Human Resources Management office maintains a current personnel record file on each employee. This file begins with his or her application and continues with training certificates, awards, disciplinary actions, promotions, and related personnel actions. Dates and results of background investigations are included in the file, but the actual background investigation reports are maintained in a separate filing system by the unit that conducted the investigation.
- **Compensation** – Compensation must provide for an acceptable standard of living and eliminate the need to accept “facilitation fees.” When it is not possible to address low civil service pay in general, special pay scales and incentives for staff in revenue agencies are viable alternatives.
- **Working conditions** – The provision of appropriate working conditions is important, including proper office space, equipment, supplies, and transportation. Customs must not need to rely on importers, exporters, or their agents to provide any facilities or equipment, since such treatment implies that a favor is expected in return.
- **Discipline** – Each individual must clearly understand that inappropriate behavior may jeopardize his or her career and lead to dismissal or criminal prosecution in serious cases.
- **Rotation** – Staff rotations must take place on a regular basis to reduce opportunities for collusion. However, consideration and assistance is required to ease the resulting financial burden on officers being rotated.

Even though each of these elements is vital to an effective Human Resource Management system and contributes in varying degrees to enhancing the overall morale, productivity, and integrity of the workforce; special attention must be given to the background investigation process. As individual values are generally demonstrated by past behavior, Customs must thoroughly investigate applicants and hire only those whose past conduct indicates commitment to values that the agency wants to sustain.

Major elements of a background investigation include the following:

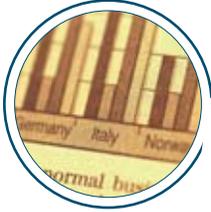
- All previous employment and periods of unemployment are covered, including if possible, statements made in former applications for employment.
- Police checks are conducted where the subject lived or was employed for a specified period of time (for example, six months or more within the last ten years).
- A neighborhood investigation is conducted where the subject lived for a specified period of time (for example, one year or more within the last five years).
- A specified number of named and unnamed references are interviewed.
- Each educational institution attended above high school is verified.

- A personal interview is conducted and the topics discussed during the interview are included in detail in the full field investigation report.
- Thorough credit checks are conducted.
- Any falsification during the selection process by an applicant results in mandatory non-selection or dismissal, and action is taken to prosecute the applicant or employee.
- Background investigators are thoroughly trained and highly motivated to uncover and/or detect previous unethical behavior that is unacceptable to an agency's integrity policy.

Customs must evaluate its current Human Resources Management environment to determine if it is fully contributing to the efficiency, productivity, morale, and integrity of the administration. Even though such an evaluation can be conducted in-house or in cooperation with the Government agency with overall civil service management authority, a thorough review by an impartial evaluator will in the long run be more productive. Assistance in conducting a detailed evaluation may be obtained from the USAID FASTrade Project through the local USAID mission or from other donors.

Recommended Assignment of Responsibility

- The Customs Director commissions a review of the current Human Resources Management environment, either within house, in cooperation with the governmental civil service authority, or through an independent evaluator.
- The Program Management Staff monitors the evaluation and assumes responsibility for coordinating and overseeing implementation of the recommendations.
- The Director emphasizes the standards that will ensure high applicant integrity and competence to all decision-making officials responsible for hiring. They must clearly understand the connection between their decisions and organizational integrity.



COMPONENT 16: Benchmarking

In order to measure and improve upon the effectiveness of a Customs Integrity Program, it will be useful to assess before **and** after the implementation of the program, both the observable, measurable, and perceived changes to Customs' organization, procedures, and operations that spell an improvement in Customs integrity. The Component 3 systematic assessment conducted before or early in the stages of implementation of the Customs Integrity Program can serve as the baseline for future evaluations in order to measure success. A similar follow-up assessment should be conducted within one year of implementation of the program, to judge the success of the intervention and to identify possible areas requiring further improvement.

Recommended Assignment of Responsibility

- The Program Management Staff is responsible for conducting an annual benchmark evaluation using the WCO Integrity Self-Assessment model.

Closing Remarks

The purpose of the handbook is to provide practical guidance to any Customs administration desiring to establish an effective program to combat corruption and instill integrity within the workforce. It sets forth a comprehensive step-by-step strategy that will enable Customs administrations to adapt and implement an effective Customs Integrity Program with minimal outside assistance. When it is felt that technical assistance is required, the handbook offers suggestions as to where it might be obtained. The USAID FASTrade project may be available to provide such on-site assistance. For further information, contact your local USAID mission.

The appendices referred to in this handbook are available for download in PDF and MS Word formats on the Handbook CD and on the USAID FASTrade project site - <http://tcb-fastrade.com>. Follow the link to the Handbooks.



LIST OF APPENDICES

The appendices referred to in this handbook are available for download in PDF and MS Word formats on the Handbook CD and on the USAID FASTrade project website: <http://tcb-fastrade.com>. Follow the link to the Handbooks.

The sample directives, forms, and press releases included in these appendices are intended solely to provide the basis for policy directives. It is not intended that they be copied verbatim. Customs administrations wishing to prepare similar documents should feel free to adapt these samples to meet their specific situations and requirements. The following samples are provided.

Appendix 1: Letter to All Customs Employees

Appendix 2: Press Release to be Issued by Director

Appendix 3: Public Service Charter: Australian Customs

Appendix 4: Public Service Charter: Zambia Customs

Appendix 5: Conduct and Officer/Employee Responsibilities Directive

Appendix 6: Code of Discipline

Appendix 7: Directive on Disciplinary Review Committee

Appendix 8: Recommended Functional Statements for Internal Inspections Unit

Appendix 9: Directive Announcing Formation, Responsibilities and Authority of Internal Inspections Unit.

Appendix 10: Suggested Outline for Ethics Training

Appendix 11: Directive on Reporting Allegations of Employee Misconduct

Appendix 12: Directive on Customs Hotline

Appendix 13: Directive on Payment of Awards for Information

Appendix 14: Complaint Reporting System

Appendix 15: Financial Reporting Form

Appendix 16: Internal Controls Checklists

Public sector corruption is a major hindrance to economic development that discourages foreign investment and results in major losses of public funds urgently needed for health care, education, training, and business infrastructure. Historically, Customs administrations in developing countries produce a major share of government revenue, yet they are among the most corrupt of public institutions. There are two overriding and related reasons that this is so: first, government employees in developing countries typically receive a very low level of pay for their work, often below or barely above a “living wage”; and second, by the nature of their work and high level of discretion they have in determining how fast an importer’s entry will be processed and how much it will cost, they have ample opportunity to solicit “facilitation payments” for preferential treatment or even bribes for overlooking cases of smuggling and fraud.

The challenge for a Customs administration committed to modernization and reform is to change the entire culture of the organization by establishing a comprehensive program to actively combat corruption and to instill integrity within the workforce. This handbook offers a comprehensive step-by-step strategy that will enable a Customs organization to implement an effective Integrity Program with minimal outside assistance.



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