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*WCO Programme Global Shield (PGS) – E-book No.08*

[Training Material for Departmental Use]

E-BOOK

On

Integrity

in

Customs

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## Integrity in Customs

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### Note:

1. In this E-book, attempts have been made to explain about *Integrity in Customs*. It is expected that it will help departmental officers in their day-to-day work.
2. Though all efforts have been made to make this document error free, but it is possible that some errors might have crept into the document. If you notice any errors, the same may be brought to the notice to the NACEN, RTI, Kanpur on the Email addresses: [rtinacenkanpur@yahoo.co.in](mailto:rtinacenkanpur@yahoo.co.in) or [goyalcp@hotmail.com](mailto:goyalcp@hotmail.com) (Email address of ADG, NACEN, RTI, Kanpur). This may not be a perfect E-book. If you have any suggestion to improve this book, you are requested to forward the same to us.
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Sd/-

**(C. P. Goyal)**  
**Additional Director General**  
**NACEN, RTI, Kanpur**

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### **Learning Objectives of this E-book**

Learning objectives of this E-book are:-

After reading this book, the reader will have improved idea about the following:-

- Role of Customs at Border
- About integrity?
- WCO 10 Building Blocks of modern and efficient Customs Administration in the 21<sup>st</sup>Century.
- Importance of maintaining Integrity in Customs
- Negative consequences of compromising Integrity
- WCO and Other Regional efforts on subject matter of integrity.

### 1. Introduction

- 1.1. Every year, the Parliament creates new laws or amends or revises existing law or rescinds the laws which have become irrelevant with the passage of time. Many of these laws are enforced at border by the Customs officers. Can one estimate as to how many laws are required to be implemented/ enforced at Border (entry or exit points of international trade) by the Customs Officers?
- 1.2. Any law, having mention of terms “import” or “export” in it, is implemented by Customs Officers at Border. An illustrative list of various laws implemented by Customs officers at border can be as under:

Broad Category / class of subject	Specific Law dealing with Subject
Tax /Revenue /Foreign Exchange Related laws	<ul style="list-style-type: none"> <li>• Customs Act, 1962;</li> <li>• Customs Tariff Act, 1975;</li> <li>• Central Excise Act, 1944;</li> <li>• Central Excise Tariff Act, 1985</li> <li>• Special Economic Zone Act, 2005</li> <li>• Foreign Exchange Management Act, 1999</li> </ul>
Specific Commodity related laws:	<ul style="list-style-type: none"> <li>• Drugs and Cosmetics Act, 1940;</li> <li>• Insecticides Act, 1968.</li> <li>• Tea Act, 1953</li> <li>• Coffee Act, 1942</li> <li>• The Indian Post office Act, 1898</li> <li>• Legal Metrology Act, 2009 (Erstwhile Standards of Weights and Measures Act, 1976)</li> </ul>
IPR related laws:	<ul style="list-style-type: none"> <li>• Copy rights Act, 1957</li> <li>• Trade Mark Act, 1999</li> <li>• Patent Act, 1970</li> <li>• Design Act, 2000</li> <li>• Geographical Indication of Goods Act, 1999</li> </ul>
Protection of Environment, Human health and safety; Protection of plant and animals.	<ul style="list-style-type: none"> <li>• Foreign Trade (Development and Regulation) Act, 1992.</li> <li>• Live Stock Importation Act, 1898;</li> <li>• Environment (Protection) Act, 1986;</li> <li>• Narcotics Drugs and Psychotropic Substances Act, 1985</li> <li>• Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances Act, 1988.</li> </ul>

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	<ul style="list-style-type: none"><li>• Destructive Insects and Pests Act, 1914 [ The plant quarantine (Regulation of Import into India, Order, 2003); and the Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989 ]</li><li>• Wild life (Protection) Act, 1972</li><li>• Prevention of Food Adulteration Act, 1954</li><li>• The Essential Commodities Act, 1955.</li></ul>
Protection of national Wealth	<ul style="list-style-type: none"><li>• Antiquity and Art Treasure Act,</li></ul>
National Security Related law	<ul style="list-style-type: none"><li>• The Arms Act, 1959;</li><li>• The Explosives Act, 1884;</li><li>• The Atomic Energy Act, 1962;</li><li>• The Weapons of Mass Destruction and their delivery Systems (Prohibition of Unlawful Activities) Act, 2005;</li><li>• Chemical Weapons Convention Act, 2000</li></ul>

The above list is not exhaustive, but illustrative only.

- 1.3. It is often said that **“Any law is as good as the integrity (and capability) of the officer implementing it”**. Let us understand the true meaning of above statement. If the custom officer does not know his job (i.e. ignorance) or he is negligent in his duties (i.e. negligent) or he lack integrity ( i.e. mistake with malafide intent), then one can imagine the consequences for our country, our society, our health or our environment, our tax resources which are so crucial for economic development of the country.
- 1.4. Whatever laws have been enacted by the Parliament with their hard-work and good intention of national development, national security; protection of the citizens and their health; protection of the flora and fauna; real test of effectiveness of such laws lies in integrity and capability of the officers entrusted with the task of implementing these laws-be it at Border or anywhere else in the country.
- 1.5. Real effectiveness of any legislation is reduced significantly, if officers entrusted with responsibility lack integrity. Considering the important and crucial role of Customs authorities at Border, a mere thought of the officers lacking integrity and consequences of poor enforcement of national legislations or international conventions, which they are supposed to enforce, are enough to instill fear. It becomes all the more important when there is real threat of the global supply chain being used by the terrorist organization or criminals group, which are operating internationally across the border. It is true that without integrity, standards, best practices, other instruments would not achieve the desired results;

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there would be no proper border security; no effective revenue collection; no public trust in customs agencies. Moreover, no country can consider itself to be safe if the officers at the border lack integrity and are corrupt.

- 1.6. Since customs performs many crucial functions as the gatekeeper of the nation, integrity in its operations is a critical requirement. Customs is the chief enforcer of trade policy, responsible for administering differential tariffs, quantitative restrictions, rules of origin, anti-dumping measures, and trade embargoes. It has an important role in export promotion through the administration of duty drawback schemes and other incentives. Customs is one of the core agencies responsible for stopping the entry into the country of socially harmful goods, such as drugs, arms, ammunition and dangerous chemicals. It implements national obligations under international trade treaties, such as those protection of endangered species of fauna and flora. Last, but not the least, customs is one of the major tax collection agencies of the central government.
- 1.7. Not only must customs perform these onerous duties effectively, it must do so with minimal interruption in trade flows. In open economies, volume and speed of international trade is critical. Infringement of trade policy can expose domestic industries to unfair competition. Smuggling of prohibited goods can expose society to serious public health and law and order risks. Transit of drugs through a country can generate strong pressure from the destination countries. Breach of international treaty obligations can trigger retaliatory measures by other countries. Acceptance of misclassification or under-valuation of imports, perfunctory investigation of customs fraud and improper disposal of confiscated goods can lead to serious revenue loss. Delays in processing of imports and exports can cause significant economic losses, increase the cost of doing business, affect competitiveness of a country's firms and scare away foreign investment.

## **2. Meaning of the Term "Integrity"**

- 2.1 In oxford dictionary, the term "integrity" means "**the quality of being honest and having strong moral principles**" or "**the state of being whole and not divided**".
- 2.2 The World Customs Organization has defined the term "integrity" as  

***"A positive set of attitudes which foster honest and ethical behavior and work practices"***
- 2.3 From the definition mentioned above, it may be noted that **it is more than mere absence of abuse of power and corruption; and it includes delivering services to meet the organizational objectives.**

- 2.4 We live in dynamic world and the pace of changes happening all around us is becoming faster and faster. We are seeing more changes happening in a certain time frame than we saw in yester years. The pace of changes is likely to become faster in future. The question we face now is as to how to remain relevant in today's dynamic world? This question bothers us [*or if it is not bothering, then it is a serious matter,*] all the time with reference to perspective of our country; our department, our society/family/individual perspective. In this context, the following words of Charles Darwin are the most appropriate ones:-

***“It is not the strongest of the species who survives, not the most intelligent one, but the one most responsive to the change”.***

- 2.5 In today's highly dynamic world, priorities of Customs Administration are fast undergoing change and getting re-determined. While revenue collection still remains an important consideration, other aspects such as national security, safety and security of people, health, and environment are becoming more important and have emerged as number one priority. Trade facilitation and safe & secure trade supply chain is acquiring number two slot and revenue coming at third place. When priorities of Customs administration are changing so fast, our approaches towards the subject of integrity of human resources/ officers also require dynamic strategy and need to occupy Central stage.

### ***3. WCO 10 Building Blocks of a Modern & Efficient Customs Administration (Customs in the 21<sup>st</sup> Century): Global Perspective***

- 3.1 Globalization and the other strategic drivers necessitate a new approach to managing the movement of goods through international trade supply chain across border. This requires the development of a New Strategic Direction for Customs. The building blocks for the New Strategic Direction are:

#### **(a) Globally networked Customs:**

The new challenges of the 21st Century demand a new concept of Customs-to-Customs cooperation. There is a need for closer real-time collaboration between Customs administrations and between Customs and business in facilitating legitimate trade and undertaking Customs controls. The new requirement is to create, in partnership between the various stakeholders of the public and the private sectors, a global Customs network in support of the international trading system. The vision of this network implies the creation of an international “e-Customs” network that will ensure seamless, real-time and



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paperless flows of information and connectivity. Mutual recognition is an important enabler. This includes mutual recognition of Customs controls and Authorized Economic Operator (AEO) programmes. The concept of networked Customs is critical for the 21st Century model of managing seamless end-to-end international supply chains. End-to-end supply chain management enables risks to be assessed in more depth and managed earlier where necessary, it reduces the need to intervene with goods in the choke point of the port of arrival, and it allows for the tracking and tracing of goods throughout supply chains. The basic operation relies on secure, real-time exchange of information between business and Customs and between the Customs administrations in a supply chain starting with the export administration. This will require:

- (i) Internationally standardized data requirements for export, transit and import and the implementation of the WCO Unique Consignment Reference number as part of a Cross-Border Data Reference Model;
- (ii) Interconnected systems and aligned Customs databases to enable the electronic exchange of data between Customs administrations as early as possible in the international movement of goods;
- (iii) Mutual recognition and coordination protocols between exporting, transit and importing administrations to eliminate unnecessary duplication of controls in international supply chains;
- (iv) Standards to enable the development of a system of mutual recognition for AEOs; and
- (v) A set of rules governing the exchange of information between Customs administrations, including rules on data protection.

### **(b) Better coordinated border management:**

This entails coordination and cooperation among all the relevant authorities and agencies involved in border security and regulatory requirements that apply to passengers, goods and conveyances that are moved across borders. Governments also need to explore more effective solutions to border management. The establishment of better coordinated border management for the cross-border movement of goods requires:

- (i) The recognition of Customs or the agency responsible for the Customs function as the lead front-line administration at national borders for controlling the movement of goods. According to the UN Trade Facilitation Network, Customs administrations are usually best suited to develop integrated procedures for processing goods at points of entry; and
- (ii) The introduction of the electronic Single Window concept that allows a trader to provide all necessary information and documentation once to the designated agency that, in turn, distributes the information to all relevant agencies.

### (c) Intelligence-driven risk management:

The expanding responsibilities and opportunities facing Customs administrations require a more sophisticated understanding of the risk continuum. It is well understood that scarce resources need to be targeted to the higher end of the risk continuum. The challenges facing Customs administrations are two-fold: how best to apply the rapidly expanding body of knowledge of risk management to identify and mitigate risk at the operational level, and how to apply this knowledge of risk management beyond the operational level and in the management of Customs administrations. The key to this will be the building of feedback learning loops that will allow Customs administrations to integrate risk-related activities and to learn from past decisions to enable them to build an organization that is forward-looking, with more sophisticated predictive capacity, rather than being merely responsive.

### (d) Customs-Trade partnership:

Customs in the 21st Century should enter into strategic pacts with trusted economic operators. Customs needs to understand the concerns of business, while business needs to know the requirements of Customs. Most importantly, there is a need to translate this relationship into a partnership that results in mutually beneficial outcomes.

### (e) Implementation of modern working methods, procedures and techniques:

Demands regarding the rapid movement of goods, combined with complex regulatory requirements, require modern innovative approaches. These include audit-based controls undertaken away from the border, moving from transaction-based controls alone to using systems-based controls where the level of risk allows, as well as moving away from paper-based systems. There is also a need to review existing procedures on the basis of international conventions (including the WCO Revised Kyoto Convention) and international best practice.

### (f) Enabling technology and tools:

Customs must take advantage of new and emerging technologies to enhance, amongst others, processing, risk management, intelligence and non-intrusive detection.

### (g) Enabling powers:

In order to address these challenges, Customs administrations require appropriate legislative provisions that strengthen enforcement powers, the provision of advance information and the sharing of information domestically and internationally. These powers are necessary, in particular, in order to combat organized crime more effectively. More needs to be done to increase the safety of Customs officers.

### (h) A professional, knowledge-based service culture:

The future orientation of Customs requires moving towards a knowledge-based and customer-orientated model. Staff competencies need to support timely customer-focused processes and services that minimize the administrative burden on legitimate trade. Training and organizational culture should support high levels of integrity, demonstrating consistency, transparency, honesty and fairness. Effective change management and leadership skills also need to be developed.

### (i) Capacity building:

Customs administrations need to ensure that they have the capacity and skills across all dimensions of the operating model to perform all Customs functions most efficiently and effectively. It also goes without saying that the concept of “Networked Customs” relies on professional and competent Customs administrations, and that intensified and focused capacity building efforts are required to achieve this objective. The Columbus Programme of the WCO is an ambitious international effort to build Customs capacity. Some of the challenges that need to be addressed include how to manage scarce resources to deliver sustainable capacity building, how to promote effective performance criteria, monitoring and follow-up, how to avoid duplication of efforts and how to manage impediments in the recipient country. Leadership from both developed and developing-country Customs administrations as well as a true partnership are critical to ensure sustainable capacity building.

### (j) Integrity:

The fight against corruption remains an important task that should be undertaken over the years to come. The WCO Arusha Declaration will remain the reference document for all Customs administrations. All the efforts of the Columbus Programme could be undermined and even eliminated without integrity.

***Note:** The complete text of WCO 10 building blocks of modern and efficient Customs Administration have been taken from WCO document titled as “CUSTOMS IN THE 21ST CENTURY -Enhancing Growth and Development through Trade Facilitation and Border Security”. The same can be downloaded using the following link :-[http://www.wcoomd.org/en/topics/key-issues/~/\\_media/3EE76BC165B9409CBE6E31F9923CABB8.ashx](http://www.wcoomd.org/en/topics/key-issues/~/_media/3EE76BC165B9409CBE6E31F9923CABB8.ashx)*

### **4. Importance of Integrity in Customs**

4.1 The lack of integrity in Customs can have the following consequences:

- Revenue leakage
- Distortion of economic incentives
- Reduction in public trust & confidence in government institution
- Reduction in the level of trust & cooperation between customs & other government agencies
- Low personnel morale & “esprit de corps”
- Increased costs which are ultimately borne by the community
- Reduction in the level of voluntary compliance with Customs law & regulations
- Reduction in national security & community protection
- Creation of an unnecessary barrier to international trade & economic growth

### **5. How to deal with Integrity Issue in Customs**

5.1 Noting that Customs administrations throughout the world perform a number of vitally important tasks on behalf of their Governments and contribute to national goals such as revenue collection, community protection, trade facilitation and protection of national security; WCO adopted the Arusha Declaration in 1993 on Integrity in Customs.

5.2 This Declaration is aimed at encouraging Members countries to comply with rules governing integrity and to carry out their activities effectively. It contains specific elements that are designed to improve the efficiency of Member administrations and reduce or eliminate opportunities for corruption. It is the focal point for the WCO’s anti-corruption and Integrity development effort. Ten years later, the WCO adopted the **Revised Arusha Declaration** in its Council Sessions in 2003.

5.3 The approach adopted to fight menace of corruption in Customs all over the world as envisaged in WCO revised Arusha declaration is as under:-

#### **1. Leadership and Commitment**

- The prime responsibility for corruption prevention must rest with the head of Customs and the executive management team. The need for high levels of integrity must be stressed and commitment to the fight against corruption maintained over the long term.

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- Customs managers and supervisors should adopt a strong leadership role and accept an appropriate level of responsibility and accountability for maintaining high levels of integrity in all aspects of Customs work.
- Customs managers should demonstrate a clear and unequivocal focus on integrity and be seen to set an example that is consistent with both the letter and spirit of the Code of Conduct.

### **2. Regulatory Framework**

- Customs laws, regulations, administrative guidelines and procedures should be harmonized and simplified to the greatest extent possible so that Customs formalities can proceed without undue burden.
- This process involves the adoption of internationally agreed conventions, other instruments and accepted standards. Customs practices should be reviewed and redeveloped to eliminate red tape and reduce unnecessary duplication.
- Duty rates should be moderated where possible and exemptions to standard rules be minimized.
- Systems and procedures should be in accordance with the revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention).

### **3. Transparency**

- Customs clients are entitled to expect a high degree of certainty and predictability in their dealings with Customs. Customs laws, regulations, procedures and administrative guidelines should be made public, be easily accessible and applied in a uniform and consistent manner.
- The basis upon which discretionary powers can be exercised should be clearly defined.
- Appeal and administrative review mechanisms should be established to provide a mechanism for clients to challenge or seek review of Customs decisions.
- Client service charters or performance standards should be established which set out the level of service clients can expect from Customs.

### **4. Automation**

- Automation or computerization of Customs functions can improve efficiency and effectiveness and remove many opportunities for corruption. Automation can also increase the level of accountability and provide an audit trail for later monitoring and review of administrative decisions and the exercise of official discretion.
- Where possible, automated systems should be configured in such a way as to minimize the opportunity for the inappropriate exercise of official discretion, face-

to-face contact between Customs personnel and clients and the physical handling and transfer of funds.

### **5. Reform and Modernization**

- Corruption typically occurs in situations where outdated and inefficient practices are employed and where clients have an incentive to attempt to avoid slow or burdensome procedures by offering bribes and paying facilitation fees.
- Customs administrations should reform and modernize their systems and procedures to eliminate any perceived advantages which might be obtained through circumventing official requirements. Such reform and modernization initiatives should be comprehensive in nature and focus on all aspects of Customs operations and performance.
- The Revised Kyoto Convention provides a sound reference point for such initiatives.

### **6. Audit and Investigation**

- The prevention and control of corruption in Customs can be assisted by the implementation of a range of appropriate monitoring and control mechanisms such as internal check programmes, internal and external auditing and investigation and prosecution regimes.
- Such regimes should strike a reasonable balance between positive strategies to encourage high levels of integrity and repressive strategies designed to identify incidences of corruption and to discipline or prosecute those personnel involved.
- Customs personnel, clients and the general public should be encouraged to report corrupt, unethical or illegal activity and, when such information is provided, it should be investigated in a prompt and thorough manner and sources should be protected.
- Where large scale or complex investigations are warranted or in administrations where corruption is widespread, there should also be recourse to independent anti-corruption agencies.

### **7. Code of Conduct**

- A key element of any effective integrity programme is the development, issue and acceptance of a comprehensive code of conduct which sets out in very practical and unambiguous terms the behaviour expected of all Customs personnel.
- Penalties for non-compliance should be articulated in the code, calibrated to correspond to the seriousness of the violation and supported by appropriate administrative and legislative provisions.

### **8. Human Resource Management**

The implementation of sound human resource management policies and procedures plays a major role in the fight against corruption in Customs. Human resource management practices, which have proved useful in controlling or eliminating corruption in Customs, include :

- providing sufficient salary, other remuneration and conditions to ensure Customs personnel are able to maintain a decent standard of living;
- recruiting and retaining personnel who have, and are likely to maintain, high standards of integrity;
- ensuring staff selection and promotion procedures are free of bias and favoritism and based on the principle of merit;
- ensuring that decisions on the deployment, rotation and relocation of staff take account of the need to remove opportunities for Customs personnel to hold vulnerable positions for long periods of time;
- providing adequate training and professional development to Customs personnel upon recruitment and throughout their careers to continually promote and reinforce the importance of maintaining high ethical and professional standards; and
- implementing appropriate performance appraisal and management systems which reinforce sound practices and which foster high levels of personal and professional integrity.

### **9. Morale and Organizational Culture**

- Corruption is most likely to occur in organizations where morale or 'esprit de corps' is low and where Customs personnel do not have pride in the reputation of their administration.
- Customs employees are more likely to act with integrity when morale is high, where human resource management practices are fair and where there are reasonable opportunities for career development and progression.
- Employees at all levels should be actively involved in the anti-corruption programme and should be encouraged to accept an appropriate level of responsibility for the integrity of the administration.

### **10. Relationship with the Private Sector**

- Customs administrations should foster an open, transparent and productive relationship with the private sector.
- Client groups should be encouraged to accept an appropriate level of responsibility and accountability for the problem and the identification and implementation of

practical solutions. The establishment of Memoranda of Understanding between Customs and industry bodies can be useful in this regard.

- Likewise, the development of codes of conduct for the private sector, which clearly set out standards of professional behaviour, can be useful.
- Penalties associated with engaging in corrupt behaviour must be sufficient to deter client groups from paying bribes or facilitation fees to obtain preferential treatment.

### **6. Other Efforts by WCO and Other Regional Bodies on Integrity**

6.1 For more information about WCO as well as Regional efforts to deal with issue of corruption in Customs worldwide, the several new initiative taken by WCO/ Regional Groups are as under:

- WCO Compendium of Integrity Best Practices
- A database of the integrity best practices
- Maputo Declaration, adopted in March 2002 by the Heads of Customs across the African Continent;
- Almaty Integrity Resolution (done at Almaty, Kazakhstan, in January 2007);
- Nairobi Resolution on Integrity (done at Nairobi, Kenya, in February 2007).
- WCO Revised Integrity Development Guide (IDG)[ Issued in December, 2012]

6.2 In December, 2012, the WCO has come out with revised Integrity Development Guide (IDG) and is designed primarily for member countries. The purpose of IDG is to provide the necessary framework in which the entire range of integrity elements can be fully discussed and enhanced. The revised Integrity development guide can be downloaded from the WCO website using the following link:

<http://www.wcoomd.org/en/topics/integrity/~ /media/B89997B68D6A4E34AE9571979EADA39F.ashx>

6.3 Reader may visit WCO website for reading material on the above listed efforts by WCO or other regional Bodies.

### **7. Relevant Websites and Resources**

7.1 Website of World Customs Organization i.e. [www.wcoomd.org](http://www.wcoomd.org) for downloading free learning resources, Revised Arusha Declaration and text of other declarations.



### **8. Reference and Research Material**

- 8.1 Revised Arusha Declaration [Note: It was first done at Arusha, Tanzania, on the 7.07.1993 (81st/82nd Council Sessions) and later revised in June 2003 (101st/102nd Council Sessions).] The text of Revised Arusha Declaration is available on WCO website and can be downloaded by using the following link:-

[http://www.wcoomd.org/en/topics/integrity/~//media/WCO/Public/Global/PDF/About%20us/Legal%20Instruments/Declarations/Revised\\_Arusha\\_Declaration\\_EN.ashx](http://www.wcoomd.org/en/topics/integrity/~//media/WCO/Public/Global/PDF/About%20us/Legal%20Instruments/Declarations/Revised_Arusha_Declaration_EN.ashx)