East African Community (EAC)

Federation of East African Freight Forwarders Associations (FEAFFA)

THE EAST AFRICA CUSTOMS AND FREIGHT FORWARDING PRACTICING CERTIFICATE

ETHICS AND INTEGRITY

FEAFFA in collaboration with East Africa Revenue Authorities

KENYA REVENUE AUTHORITY

RRA Rwanda Revenue Authority

TANZANIA REVENUE AUTHORITY

URA Uganda Revenue Authority
DEVELOPING UGANDA TOGETHER

East African Community (EAC)

The East African Community (EAC) is a regional intergovernmental organization of six (6) Partner States, comprising Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda, with its headquarters in Arusha, Tanzania.

Federation of East African Freight Forwarders Associations (FEAFFA)

The Federation of East African Freight Forwarders Associations (FEAFFA) is a regional private sector apex body of the Customs Clearing and Freight Forwarding (CFA) industry in East Africa. It aims at promoting a professional freight logistics industry for trade facilitation and regional economic growth. FEAFFA strives to address the challenges experienced by its members through training, provision of information, and other aspects of capacity building. It advocates for the full implementation of the East African Community (EAC) Customs Union. The East Africa Customs and Freight Forwarding Practicing Certificate (EACFFPC) is the Federation's and the industry's premier training program in East Africa since 2007.

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FOREWORD

Customs Clearing Agents, Freight forwarders, and Warehouse Operators in the East African Community (EAC) region continue to play a vital role in the facilitation of trade particularly with regards to the assessment tax, storage of goods, transportation, and last-mile delivery to clients. This, in turn, facilitates cargo movement and clearance from all ports.

The agents handle goods worth millions of dollars on behalf of the shippers. Besides, they originate documents that facilitate movement and clearance of cargo culminating in errors that slow down the flow of business. The movement of cargo depends on how fast and correctly documentation is done for verification by the respective Customs Authorities. A delay in customs clearance increases the cost of doing business.

This pointed to the need for these agents to be equipped with the requisite knowledge, skills, and attitudes to carry out their work efficiently, just as their counterparts from customs.

The EAC region, with support from TradeMark East Africa (TMEA), has made significant steps towards bridging the knowledge and skills gap in the customs clearing and freight forwarding industry. The introduction of the East Africa Customs and Freight Forwarding Practicing Certificate (EACFFPC) in 2006, a regional training programme jointly implemented by the EAC directorate of customs, the East African Revenue Authorities (EARAs), the National Association of the Freight Forwarding Industry, and FEAFFA was a big step. Since its inception, over 7000 agents have graduated from this training.

A review of the programme in 2015 and a market survey conducted in 2020 supported by TradeMark East Africa (TMEA) highlighted key areas of improvement for the EACFFPC programme to achieve the aim of producing competent customs agents, freight forwarders, and warehouse keepers. The revised curriculum has therefore been designed to address these challenges and shortcomings. The revamped EACPPFC programme is designed to enhance the ability of freight forwarders to provide competitive and high-quality end-to-end services thereby reducing inventory costs and increasing safety levels in warehousing operations in the East African region.

With the revised EACFFPC curriculum, the dream of attaining a professional and compliant freight logistics industry in the East African region has been strongly boasted.

ACKNOWLEDGMENT

The Curriculum Implementation Committee (CIC) is grateful to the EAC sectoral council on Trade Industry Finance and Investment for adopting the EACFFPC as an EAC training programme for clearing and forwarding agents in the region. This is a testimony to the effect the programmeme has had on the clearing and forwarding industry in the EAC region.

The CIC is also grateful to the EAC Directorate of Customs, the Commissioners of Customs of the East Africa Revenue Authorities, the Chairpersons of National Associations of clearing and forwarding agents, and the President of FEAFFA for their dedication and support to the EACFFPC programmeme.

Special appreciation for the National Curriculum Implementation Committees for providing their trainers to participate in the development and validation of the curriculum and training materials. CIC also acknowledges the FEAFFA secretariat for excellently coordinating the curriculum and training materials development and validation process.

The CIC in a very special way recognizes TradeMark East Africa (TMEA) who provided the financial support to update the curriculum, develop and publish the 2021 edition of the EACFFPC training materials. We remain indebted to you forever.

We also appreciate all EACFFPC trainers, students, and stakeholders for the constant feedback that has been incorporated in this edition of the training materials.

ETHICS AND INTEGRITY

1.0   UNIT OVERVIEW

1.1   Unit Description

This unit covers competencies required to manage ethics, integrity and corporate governance in a freight logistics business. It involves complying with laws and regulation regarding ethics and integrity; implementing a culture of ethics in the organization; detecting corruption practices in an organisation; detecting and reporting commercial fraud and tax evasion; and, identifying ethical and integrity issues in the logistics sector.

1.2   Summary of General Learning Outcomes

At the end of the unit, the trainee should be able to:

1.   Explain the role of ethics and integrity in the logistics sector
2.   Comply with laws and regulation regarding ethics and integrity
3.   Implement a Culture of ethics in the organization
4.   Detect corruption practices in a n organisation
5.   Detect and report commercial fraud and tax evasion

2.0   THE ROLE OF ETHICS AND INTEGRITY IN THE LOGISTICS SECTOR

2.1   Specific Learning Outcomes

i.   Explain the concepts of ethics, morality and integrity
ii.   Identify fundamentals of ethics and integrity
iii.   Identify elements of Integrity
iv.   Identify the relationship between ethics and business
v.   Describe the principles of ethics
vi.   Discuss the benefits of ethics
vii.   Discuss the importance of integrity in the logistics sector.

2.2   Introduction

The role of ethics and integrity in any sector is very important. Ethics and integrity affects the very core of life and as well as economic wellbeing of nations. Whereas institutions can develop frameworks to implement ethics and integrity in addition to initiatives by regulatory bodies and governments, the sole prerogative lies with the individual. This unit will provide knowledge on ethics, integrity and corruption with both theoretical and practical approaches on enhancement of integrity and elimination of corruption. It will also equip the participants with knowledge, skills and attitudes that will enable them uphold ethical values required in the C&F industry while providing services to customers. As professionals in the C&F sector, it is expected that the students will strengthen their professionalism by adhering to the principles discussed herein.

Six ethical terms form the foundation of trust upon which ethical business practice is built:
- Ethics
- Values
- Morals
- Integrity
- Character
- Laws

These six concepts—ethics, values, morals, integrity, character, and laws—form the foundation of trust upon which ethical business practice is built.

2.3   Concepts of Ethics, Morality and Integrity

2.3.1   Concept of Ethics

Ethics consists of the standards of behavior to which one holds themselves in their personal and professional lives. It establishes the levels of honesty, empathy, and trustworthiness and other virtues which identify one's personal behavior and public reputation. In one's personal sphere, ethics sets norms for the ways in which one interacts with family and friends. In the professional sphere, ethics guides one's interactions with customers, clients, colleagues, employees, and shareholders affected by business practices. Ethical acts are generally considered voluntary and personal—often based on our perception of or stand on right and wrong. In short ethics defines who we are through the way we do what we are expected to do.

Ethics is defined by different scholars as;
- A set of moral values that justify a standard of behavior of individuals, societies, organizations and professions.

- A system of moral principles that deals with values relating to moral conduct, with respect to the rightness and wrongness of certain actions and to the goodness and badness of the motives and ends of such actions. It involves systematizing, defending, and recommending concepts of right and wrong behaviour.

- A set of accepted norms and standards of conduct that establish guiding principles of public and private conduct of those who serve the public. Worth noting is that different societies, professions or institutions may have their own unique values or ethics.

- Ethics focuses on the right or wrong behavior well based standards of wrong and right that prescribe what humans ought to do, usually in terms of rights, obligations, fairness, benefit to society.

Ethics has been defined as a set of morally accepted norms or standards. Ethics is morally acceptable standards. Ethics is understood as set of rules or principles that define right and wrong conduct and is an integral part of societal or organizational culture. Ethics is the code of moral standards by which people judge the actions and behaviors of themselves and others. Business ethics brings those moral standards into the workplace.

2.3.2 Types of Ethics

Individual Ethics
It is a collection of individual ethical values that guides oneself to distinguish between right and wrong, good and bad, should and should not be done, can and cannot be done. The choice between these things always happens on the job, in their daily lives, or when interacting with others.

Organizational Ethics
For those who work within an organization, organizational ethics is a guideline for them on the job, such as the need to hold on to the clean, efficient, trustworthy, honest, truthful, transparent, accountable and fair values. Since the organization deals with the public, ethical organizations also demand that the officials should comply with the Client Charter.

Business Ethics
Business ethics guides the conduct by which companies and their agents abide by the law and respect the rights of their stakeholders, particularly their customers, clients, employees, and the surrounding community and environment. Business ethics expect companies to be compliant.

Compliance in terms of business ethics generally refers to the extent to which a company conducts its business operations in accordance with applicable regulations, statutes, and laws. Yet this represents only a baseline minimum. Behaving ethically requires that we meet the mandatory standards of the law, but that is not enough. For example, an action may be legal that we personally consider unacceptable. Companies today need to be focused not only on complying with the letter of the law but also on going above and beyond that basic mandatory requirement to consider their stakeholders and do what is right.

Companies develop moral standards to address the unique ethical situations. Business ethics is defined as the application of a moral code of conduct to the strategic and operational management of a business. A successful business depends on the trust of various parties—employees, managers, executives, customers, suppliers, and even competitors.

2.3.3 Integrity

Integrity is the practice of being honest and showing a consistent and uncompromising adherence to strong moral and ethical principles and values. In ethics, integrity is regarded as the honesty and truthfulness or accuracy of one's actions. Integrity is a highly valued trait for any professional. It can be viewed as the unity between what we say and what we do. Acting with integrity means we adhere strongly to a code of ethics, so it implies trustworthiness and incorruptibility. Being a professional of integrity means consistently striving to be the best person you can be in all your interactions with others. It means you practice what you preach, walk the talk, and do what you believe is right based upon reason.

Integrity can be described as the behaviour of individuals and an organization to follow the rule of law. The ICC Customs Guidelines define two forms of integrity or the lack thereof. The first deals with misbehaving individuals in an otherwise sound organization. The basis for this type of corruption is more likely to be a character defect, some urgent,

large financial need or, sometimes, fear induced by threats of physical violence. The second form is of a largely misbehaving organization in which sound individuals are the rare exception. This form of corruption is usually a reflection of a certain cultural and social environment. The lack of integrity, however, involves two sides, the one that receives and the one that gives. Fighting corruption therefore requires action on both sides, on the Customs as well as on the private sector side.

The WCO Revised Integrity Development Guide defines 'integrity' as 'A positive set of attitudes which foster honest and ethical behaviour and work practices' (WCO 2012b, p. 4), and, at the same time, emphasises the fact that integrity challenges remain a major obstacle to effective reforms and have a detrimental effect on the overall pride, esprit de corps and professionalism of an organisation.

2.3.4   Morality

Morality refers to the concept of human action which pertains to matters of right and wrong. It is conformity to the rules of right conduct or virtuous conduct. Morality is the collection of concepts and attitude that can be used by a culture or a group in society to control or change the behaviour of an individual. Different societies or cultures have their different opinions on morality. Morality can be applied to the generality or the part of the fields in which the personal opinions of the individual have some relation or reference to other individuals. Morality can also be defined as the personal ethical behaviour that an individual creates for himself.

The terms 'morality' and 'ethics' have a strong relationship with each other. Morality is used to analyse the behaviour of the individual and the standards of conduct. Ethics is used to refer to the formal study of these standards. Morality can be considered as ethics in action.

Morals are a set of rules or mode of conduct on which society is based. Certain moral practice are universal, such as the laws forbidding homicide and the basic duties of doing good and furthering the well-being of others. With morals serving as the underpinning of society, there are four points we should remember, says philosopher Robert C. Solomon.

1. *Moral rules are important*: In general, moral rules are rules that help society function in a civilized way.

2. *Morality consists of universal rules*: They apply to everyone, everywhere, and are recognized by everyone as being necessary.

3. *Morals are objective*: They do not consider personal preferences. Right is right and wrong is wrong.

4. *Morality affects other people*: Morality involves considering the well-being of others as reflected by the Golden Rule: Do unto others as you would have them do unto you.

2.3.5   Values

Values are defined as the acts, customs, and institutions that a group of people regard in a favorable way. Statements of value typically contain words of approval, disapproval, and obligation. Some of these words might be good, bad, should, and should not. However, value judgments do not have to contain specific value words. "That is a lie" does not contain a particular word of disapproval, but the implication that a lie is wrong is understood. Values are what really matter to us most—what we care about. For instance, family devotion, respect for the environment, and working hard for a day's pay are three values that can evoke a response in many people.

2.3.6   Character

Ethics is not just how we think and act. It is also about character. Character drives what we do when no one is looking. Each person has the ability to build, change, or even destroy his or her own character. We can build our character through the way we live—by thinking good thoughts and performing good acts. Similarly, bad thoughts and behavior can destroy our character.

A person with character has high morals and will act morally in all situations by choice, not force. A person with character will honor his or her commitments. Character pertains to organizations, as well. A company with high character is worthy of trust and respect, acts honestly, and stands by its promises.

2.3.7   Laws

The law is a series of rules and regulations designed to express the needs of the people. Laws protect people from the most blatant and despicable affront to morality, such as murder, rape, and theft. Laws frequently provide us with a sense of right and wrong and guide our behavior, but not always. While murder is against the law, the law does not always stop someone from killing another out of hatred, anger, or in defense of a personal philosophy.

Laws are instituted as notions of justice and tend to be specific, yet diverse within different societies. Laws have always had a strong connection to morality, ethics, and values. But, not all laws are ethical. Laws have legalized slavery, segregation, sexism, and apartheid. Although these laws might have reflected society's values at the time they were enacted, they could not nor will they ever justify immoral behavior. Likewise, in business, it is not unlawful to lie to a coworker or on a job application, but both are ethically wrong.

2.3.8   Ethics and the Law

Ethical means the right thing. For a long time, business executives and managers worked under the assumption that their conduct was morally acceptable as long as they stayed within the law. The problem with that assumption is that the law often lags behind community standards, especially when the ethical questions involved aren't necessarily universal. So you can stay within the law and still fail to do the right thing.

Ethical conduct is not about upholding the law. It is about upholding higher standards of conduct than simply adhering to the rules or the law. It may not always be easy to adhere to these higher standards, especially in difficult situations. It takes courage, moral integrity, and a keen sense of commitment to ethical standards to make the right decisions.

In business, the law doesn't always address issues of ethical concern, so a company that merely complies with the law can end up with gaping holes in its obligations to its stockholders, employees, suppliers, and community.

2.4   Principles of Personal Ethics

Personal ethics can also be called morality, since they reflect general expectations of any person in

any society, acting in any capacity. These are the principles we try to instill in our children, and expect of one another without the need to express the expectation or formalize it in any way.

Principles of personal ethics include the following:
a.   Concern for the well-being of others
b.   Respect for the autonomy of others
c.   Trustworthiness & honesty
d.   Willing compliance with the law (with the exception of civil disobedience)
e.   Basic justice; being fair
f.   Refusing to take unfair advantage
g.   Adhering to the golden rule: doing to others as you wish them to do to you; doing good
h.   Preventing harm
i.   Honoring your obligations.

2.5   Principles of Professional Ethics and Professionalism

An individual acting in a professional capacity takes on an additional burden of ethical responsibility. For example, professional associations such as FEAFFA have codes of ethics that prescribe required behavior within the context of the professional practice such as medicine, law, accounting, or engineering. These written codes provide rules of conduct and standards of behavior are based on the expected professional behavior which may include the following but not limited to:
a.   Objectivity, impartiality
b.   Openness, full disclosure and efficient communication
c.   Confidentiality
d.   Due diligence / duty of care / stewardship
e.   Fidelity to professional responsibility
f.   Avoiding potential or apparent conflict of interest

Even when not written into a code, principles of professional ethics are usually expected of people in business, volunteers, elected representatives, etc.

2.5.1   Professional Ethics

Professional ethics encompasses the personal and corporate standards of behaviour of professionals. Due to the personal and confidential nature of many professional services, and thus the necessity to place a great deal of trust in them, most professionals are subject to strict codes of conduct enshrining rigorous ethical and moral obligations.

Professionals are capable of making judgement, applying their skills and reaching informed decisions because they have received relevant training. Professional ethics are also known as
ethical business practices among the professions such as medical, judicial, legal, accounting, journalism and teaching. For example, a doctor or a judge is bound by the ethics of his/her occupation. An editor, author or journalist will have to abide by journalism ethics in information dissemination through the media. Similarly, C&F players must also abide by the required ethical standards in the sector.

2.5.2 Becoming an Ethical Professional – Professionalism

Professionalism is the conduct, aims or qualities that characterize or mark a profession or professional person. It implies there is a quality of workmanship or service required of those who practice the profession. But in reality, its more about ethical behavior in the workplace. Every organization knows that a professional and ethical reputation is the difference between success and failure, and they seek to keep those staff who are the most professional. Ethical professionals work for companies whose values align with their own.

2.5.3 Elements / Principles of Professional Ethics

Various values as expected of professionals have been identified as critical to the implementation of professional ethics as listed below. Organizations and professional associations identify the values that are the most critical and that address the sector specific unique situation.

As a professional the following are expected (not listed in any order):

1. Honesty - be honest in all communications and actions

Ethical professionals are, above all, worthy of trust and honesty is the cornerstone of trust. They are not only truthful, they are candid and forthright.

2. Integrity - maintain personal integrity

Ethical professionals earn the trust of others through personal integrity. Integrity refers to a wholeness of character demonstrated by consistency between thoughts, words and actions. Maintaining integrity often requires moral courage, the inner strength to do the right thing even when it may cost more than they want to pay.

3. Promise keeping and reliability - keep promises and fulfill commitments

Ethical professionals can be trusted because they make every reasonable effort to fulfill the letter and spirit of their promises and commitments. They can be reliable and adhere to for example the promises in the professional service charter.

4. Loyalty - be loyal within the framework of other ethical principles

Ethical professionals justify trust by being loyal to their professions, organizations and the people they work with. Ethical professionals place a high value on protecting and advancing the lawful and legitimate interests of their companies and their colleagues. They do not, however, put their loyalty above other ethical principles or use loyalty to others as an excuse for unprincipled conduct. They avoid conflicts of interest and they do not use or disclose information learned in confidence for personal advantage.

5. Fairness - strive to be fair and just in all dealings

Ethical professionals are fundamentally committed to fairness. They do not exercise power arbitrarily nor do they use overreaching or indecent means to gain or maintain any advantage nor take undue advantage of another's mistakes or difficulties. Ethical professionals manifest a commitment to justice, the equal treatment of individuals, tolerance for and acceptance of diversity.

6. Caring - demonstrate compassion and a genuine concern for the well-being of others

Ethical professionals are caring, compassionate, benevolent and kind. They understand the concept of stakeholders (those who have a stake in a decision because they are affected by it) and they always consider the business, financial and emotional consequences of their actions on all stakeholders.

7. Respect for others - treat everyone with respect

Ethical professionals demonstrate respect for the human dignity, autonomy, privacy, rights, and interests of all those who have a stake in their decisions; they are courteous and treat all people with equal respect and dignity regardless of sex, race or national origin. Ethical professionals adhere to the Golden Rule, striving to treat others the way they would like to be treated.

8. Law abiding - obey the law

As law abiding citizens, ethical professionals abide by laws, rules and regulations relating to their business activities.

9. Commitment to excellence - pursue excellence all the time in all things

Ethical professionals pursue excellence in performing their duties, are well-informed and prepared, and constantly endeavor to increase their proficiency in all areas of responsibility.

10. Leadership - exemplify honor and ethics

Ethical professionals are conscious of the responsibilities and opportunities of their position of leadership and seek to be positive ethical role models by their own conduct and by helping to create an environment in which principled reasoning and ethical decision making are highly prized.

11. Reputation - build and protect the company's reputation

Ethical professionals understand the importance of their own and their company's reputation as well as the importance of the pride and good morale of employees.

12. Accountability - be accountable

Ethical professionals acknowledge and accept personal accountability for the ethical quality of their decisions and omissions to themselves, their colleagues, their companies, and their communities.

2.6   Business Ethics

Business ethics refers to the standards and principles for morally right and wrong conduct in business operations. These principles govern every aspect of the company's life, including its interaction with government and other businesses, its treatment of its employees, and its relationship with its customers. Whenever any ethical dilemmas or controversies arise, a business will look to these foundational principles to help resolve those situations. Organizations establish business ethics to promote integrity among their employees and gain trust from key stakeholders, such as investors and clients.

2.6.1   Benefits of Business Ethics

Evidence of strong commitment to ethical values shows that ethics pays through improved institutional performance and reputation including the fact that ethics:

1. Enhances business performance.

2. Enhance business reputation: Business ethics helps in enhancing the reputation of the organization in the market. Practicing of ethics ensures the legality of business and provide better service to customers.

3. Enhances positive work environment: It helps in maintaining a positive work environment for business. Ethics clearly defines the code of conduct for business and directs the limits within which it should operate. Employees are trained to work efficiently in a team and develop better relationships with their co-workers. Superiors trust their subordinates and grant them proper autonomy for performing their roles effectively.

4. Improves customer happiness: Ethics leads to improved customer satisfaction with the business. Customers when treated fairly get committed to the business for the long term. They get proper help support and all their complaints are redressed timely. Business via these good ethical principles are able to build a loyal customer base.

5. Helps retain good employees: Adopting of ethical principles enable business in retaining good employees for a longer period. Employees want to work with such

an organization that treats them fairly and recognizes their talent. They need to be compensated for their work and wants appreciation based on their work quality. Companies dealing with their workers fairly and openly are able to easily retain them.

6. Enhances investors / shareholders loyalty: All investors and shareholders want to be associated with the ethical business for earning better return. They look for reputation, ethics, and social responsibility of business before choosing the one to invest their funds. Business working on ethical values are able to attract investors and other funding partners.

7. Helps avoid legal problems: Controlling legal issues is another important advantage provided by business ethics. Implementation of ethical principles ensures that organizations comply with all and regulations. Companies maintaining proper ethical standards avoids themselves from any fine and penalties charges by government agencies.

2.6.2 Relationship Between Ethics and Business

There is a strong relationship between ethics and business performance. As organizations desire to achieve positive performance in different spheres, the link between ethics and business should be established and understood. There are two components in a business organization that are affected by ethics including **relationships** and **reputation** of the organization. The driving force behind ethics management in business is its impacts on business performance, which directly impacts on the following:

•   Efficient and effective use of resources
•   Reputation
•   Human potential
•   Business performance / excellence in service delivery
•   Level of trust
•   Stakeholders confidence
•   Being a good corporate citizen
•   Maintaining peace, law and order.

2.7 Promoting Ethical Behaviour

Ethical behavior is conduct that is beyond reproach and is in accordance to the laid down standards of a society, institution or organization. The standards of conduct may not always be written and adopted formally by the institution or organization. They also change as organizations and institutions evolve, underscoring the need for regular education about acceptable conduct in the profession and the organization.

Fundamentally, ethics is about choices that people make about ordinary (as well as extraordinary) decisions in day-to-day life. The choice to act one way vs. another has an impact on the outcomes and the method adopted to get to those outcomes. Choices are often impacted by personal and professional values. Many leaders use their personal lives as a moral compass for their professional conduct. Values that we learn when young often guide us in our adult, professional lives. While values are non-negotiable, practices may need to be adapted to the situation at hand, or from time to time. Aligning actions with values will ensure that they are being incorporated into the operations of the organization from the highest to the lowest level, ensuring overall success.

2.7.1 Foundation for an Ethical Behaviour

Ethical behavior needs to be promoted from the top and supported with policies and adequate resources that enable employees and peers to make ethical decisions. Organizational leadership needs to be a model of ethical decision making in order to reinforce the importance of ethical behavior throughout the organization. They need to lead by example.

An established code of ethics, education and training, and a defined process for reviewing violations are all tools that help support an ethical culture in an organization. For the firms within the Logistics and Freight Forwarding sector that may not be able to devote the resources for the preparation of a more customized ethics code, they may use the FEAFFA Code of Ethics as a model.

2.7.2 Culture and Ethical Behaviour

The process of promoting an ethical culture needs to start with understanding what causes unethical behavior. Better policies and procedures can then be

designed to prevent unethical decisions and mitigate their adverse impacts on the organization. Unethical behavior can result from the following, singularly or in combination:

- Pressure to perform (unrealistic business/ organization goals, deadlines, etc.)
- Pressure from peers
- Lack of understanding of consequences for one's actions
- Uncharted territory
- Personal loyalties
- Lack of long term perspective or failure to see it at the time
- Personal costs for doing the right thing may be too high
- Poor judgment
- Lack of clear understanding of expected organizational/professional code of conduct
- Improper and/or inadequate training
- Conflict of interest

An ethical culture should start from the top and cascade down. Organizations should provide ethics education programs for all employees. These programs should:

- Explain the underlying ethical principles
- Clarify proper ethical behavior
- Difference between ethical behavior and legal/illegal actions
- Present practical ways of carrying out procedural guidelines

2.7.3   Promoting Ethical Decision Making

When faced with ethical dilemmas, individuals and organizations need to carefully consider all options regarding actions, methodologies and outcomes. In order to objectively make ethical decisions, one should ask the following 10 questions during the decision making process:

1. Is it legal?
2. Does it violate the spirit of the law?
3. Does it comply with our rules and regulations?
4. Is it consistent with our organizational values?
5. Does it match our stated commitments?
6. Am I the only or primary beneficiary?
7. Will I feel okay and guilt free if I do this?
8. Is bias or emotion clouding my judgment?
9. Would I do it to my family and friends (or myself)?
10. Would the most ethical person I know do this?

Answers to these questions can be a quick guide to ethical decision making in most situations.

2.7.4   Ethics Training

The purpose of Ethics Training is to enable employees to identify and deal with ethical problems developing their moral intuitions, which are implicit in everyday choices and actions. At the same time, ethics training activities aim to enable all organizational members to understand, share and apply the values stated in the code of ethics.

Training in Ethics helps the members of an organization judge the moral legitimacy of their decisions, enabling them to apply moral principles and values in business decision-making. At the same time, ethics training fosters the employees' agreement and compliance with the organization's ethical vision representing a mutually-acceptable balance between different stakeholders.

Therefore, implementing ethics training does not only mean informing employees about choices made by the management of the company, but also putting each individual corporate member in a position to understand, internalize and contribute to the corporate mission achievement through a conscious orientation of their own choices and everyday behavior.

Organizations and sector associations such as FEAFFA and National Associations are encouraged to develop ethics training programs. Ethics training programs refer to the programs which are designed to promote ethical behavior. An ethics training program provides employees with instructions on how to deal with ethical dilemmas when they occur and improve their overall ethical conduct. Such trainings also are designed to help everyone understand where the line is drawn between acceptable and unacceptable workplace behavior.

2.8   Importance of Ethics and Integrity in the Customs and Logistics Sector

Due to the critical role played by logistics in the supply chain, the role of ethics and integrity cannot be underrated. Logistics play an essential role in facilitating global trade. The absence of ethics and integrity in the sector would lead to increased cost of doing business globally as a result of various attendant issues. Evidence shows that addressing lack

of integrity in an organization can create significant benefits for the public and private sectors, as well as society as a whole.

Customs just like logistics also play an essential role in facilitating global trade while reinforcing integrity in cross-border exchanges and collecting public revenue. Integrity in customs can also create significant benefits for the public and private sectors, as well as society as a whole.

Customs Administrations world over play a vitally important role in every international trade transaction, and is often the first window through which the world views a country. The implications of unethical behavior in customs has implications on a nation's capacity to benefit from the expansion of the global economy through international trade and relations. A lack of integrity can affect investors making them to shun countries perceived to have high levels of corruption. The role of Customs in revenue collection, trade facilitation, national security, and the protection of society can be greatly compromised by the presence of corruption in customs leading to an impact on a nation's economic and social prospects and national development ambitions.

Activity 1: Identifying Your Values and Mission

The values we choose to honor are the essence of ourselves, and we carry them with us wherever we live, work, and play. How do you keep personal values like integrity, fairness, and respect close at hand? The best way is by writing them down, prioritizing them, and being aware of the challenges towards your values. This can be facilitated by a 3 step process as indicated below.

Required:
Populate the table below based on the 3 step process.
1. Of all the values that matter to you (e.g., honesty, integrity, loyalty, fairness, honor, hope), list the five most important.
2. Write a real or potential challenge you may face in living each value. Be as specific as possible.
3. Commit to an action in support of each value. Again, be specific.

My Values	Potential Challenge in Living my Values	How to Mitigate threats to My Values

Activity 2: Identifying Professional Ethics

Trade and Professional Membership Associations such as those found in the freight and logistics, sector, legal sector, medical sector, engineering and architectural sectors have developed Codes of Professional Conduct for their members.

Required:
1. Visit the websites of three Professional Associations in East Africa and download their Codes of Professional Conduct for the members
2. Review each and provide a summary of the key common integrity and ethical issues prevalent in the Codes of Conduct
3. Compare the Codes of Conduct with the

one for the industry (FEAFFA Code of Conduct). What are the differences and common traits?

2.10 Self-Assessment Questions and Activities

1. Explain the differences between ethics, morality, integrity and values
2. Discuss why ethics and integrity are important to the conduct of business especially in the Customs and Freight Logistics sector
3. Discuss the principles of professional ethics

2.11   References

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3.0 LAWS AND REGULATION REGARDING ETHICS AND INTEGRITY

3.1 Specific Learning Outcomes

At the end of the topic, the trainee should be able to:
1. Identify types of laws and regulations guiding integrity
2. Identify international conventions
3. Analyse code of ethics and conduct
4. Identify regional and national laws
5. Identify National laws in relation to ethics and integrity

3.2 Types of Laws and Regulations Guiding Integrity

Customs administrations around the world play a key role in trade facilitation, revenue collection, community protection and national security. As such, the lack of integrity in Customs can distort trade and investment opportunities, undermine public trust in government administration and ultimately jeopardize the well-being of all citizens. Integrity is a prerequisite for the proper functioning of a Customs administration (WCO 2021).

The WCO in support of integrity in customs has engaged in developing a comprehensive strategy and consistent programme to promote integrity in Customs. The WCO developed different instruments to help its Members implement an integrity programme. The four tools are the Revised Arusha Declaration, the Integrity Development Guide, the Model Code of Ethics and Conduct, and the Compendium of Integrity Best Practices. It is important to fully understand the benefits that can be gained from their use.

3.3 WCO and Integrity

The World Customs Organization (WCO) is an independent intergovernmental body which serves as an international forum for Customs administrations, where issues of common concern can be discussed and addressed. Paramount to its agenda is the issue of Customs Integrity and this has for a number of years been a high priority item that highlights the Organization's commitment to combat corruption. So important is this subject, that a comprehensive guide was established via the WCO Compendium of Integrity Best Practices that allows Customs administrations worldwide to be

aligned with these measures. This Compendium is one of the WCO's tools that guides the application of the Revised Arusha Declaration (RAD) that was tabled in 1993 and was later revised in 2003 (The Arusha Declaration and its revision are discussed in 3.4 below).

The RAD is contained in a single page document, and sets out the key principles for a Customs administration to establish a national comprehensive integrity development programme. The RAD also outlines the negative potential impact that corruption can have on national security, revenue and confidence in government institutions. Without integrity a Customs administration would not be able to properly manage its borders, efficiently collect revenue and effectively inspire public trust. Integrity therefore has to be practiced at the national level among Customs administrators worldwide and supported at the international level through ongoing initiatives and programmes designed to maintain a trustworthy system.
Within the framework of its integrity programme, the WCO has produced an Integrity Self-Assessment Guide, a Model Code of Ethics and Conduct, an Integrity Development Guide, a framework of standards to secure and facilitate global trade, and an integrity Action Plan, which are continuously updated.

3.4 International Conventions

In order to ensure that there is integrity in conduct of international trade, various conventions and declarations by WCO have been passed and ratified by different nations. Some of these include:
- The Arusha Declaration
- The Nairobi Declaration
- The Maputo Declaration
- The International Code of Conduct for Public Officials
- The International Chamber of Commerce (ICC) Customs Guidelines

3.4.1 The Arusha Declaration

Integrity in Customs was initially placed on the WCO Agenda in the late 1980s to address the problem of corruption in public service and more specifically in Customs. It culminated in 1993 with the adoption of the WCO Arusha Declaration concerning Integrity in Customs, showing the willingness of the international customs community

to comply with rules governing Integrity in order to reduce and, eventually, eliminate opportunities for corruption.

After 10 years of experiences in its implementation, the Arusha Declaration was revised in 2003 and endorsed by the WCO members.

The Revised Arusha Declaration is the focal tool and central feature of a global and effective approach to preventing corruption and increasing the level of integrity in Customs. The WCO Revised Arusha Declaration provides Customs administrations with a practical approach for anti-corruption policies and practices as stipulated in the United Nations Convention Against Corruption (UNCAC) Article 5. The Revised Arusha Declaration included an Integrity Development Guide that serves as a comprehensive integrity tool set to address the adverse effects of corruption. The Integrity Development Guide consists of a ten-principle agenda that supports the harmonisation and standardisation of the prevention, measurement and reporting of corruption, as well as the strengthening of integrity in customs administrations.

These principles include:
- Leadership and Commitment
- Regulatory Framework
- Transparency
- Automation
- Reform and Modernisation
- Audit and Investigation
- Code of Conduct
- Human Resource Management
- Morale and Organisational Culture
- Relationship with the Private Sector.

The Revised Arusha Declaration of the WCO requires Customs administrations to adopt a national Customs Integrity Programme. Such a programme should include, among others, the use of electronic declaration and payment procedures to abolish cash payments and to reduce direct encounters between Customs officials and traders during the clearance process. Customs should also develop a code of conduct based on the WCO Model and display this code of conduct at all Customs offices.

Revised Arusha Declaration and Corruption in Customs

The WCO Anti-Corruption and Integrity Promotion (A-CIP) Programme, identified different drivers or causes of corruption, opportunities and incentives for corruption. These included five drivers,

labelled as "functional," "expected," "opportunistic," "desperate," and "coercive" as explained below.

Functional drivers occur when difficult, opaque or burdensome procedures create incentives for people to cut corners. The Revised Arusha Declaration addresses these issues under the "Regulatory Framework" factor, requiring administrations to harmonize and simplify Customs laws and regulations by implementing internationally agreed conventions, other instruments and standards, as well as under the "Transparency" and "Modernization and Reform" factors, which deal with information availability, including the use of modern systems and procedures that specifically target process efficiency and effectiveness. Thus, the Declaration not only makes the fight against corruption a priority for Customs, it also establishes a concrete link between reforms and anti-corruption policies.

Expected drivers relate to the social pressure that can foster corrupt behaviour. This behaviour can be derived from a sense that everyone expects Customs to be corrupt, or that Customs officers are not taking advantage of their position properly if they are not reaping off-the-book benefits. The Revised Arusha Declaration addresses these issues under the "Code of Conduct," "Relationship with the Private Sector," "Transparency," "Human Resource Management," and "Morale and Organizational Culture" factors.

Opportunistic drivers are found when internal controls are weak or non-existent. Temptations to corruption simply happen because it is easy to do so. The Revised Arusha Declaration addresses these issues under the "Audit and Investigation," "Automation," "Leadership and Commitment" and "Transparency" factors.

Desperate drivers are observed when personal circumstances, such as experiencing financial hardship or low morale force officers to supplement their income by other means. The Revised Arusha Declaration addresses these issues under the "Audit and Investigation," "Human Resource Management," and "Morale and Organizational Culture" factors.

Coercive drivers happen when officers are forced by threat to engage in corrupt activities. Threats can either be direct (i.e. through violence or blackmail) or indirect (i.e. through political

interference or pressure from managers). The Revised Arusha Declaration addresses these issues under the "Leadership and Commitment," "Audit and Investigation," "Transparency," and "Automation" factors.

3.4.2   Maputo Declaration

The Maputo declaration was made during the international conference on 'Integrity in Customs: The African Response' held in Maputo, Mozambique from 20 to 22 March 2002, and organised by the WCO and the Government of Mozambique. During the conference, delegates recommitted themselves to the World Customs Organization's Arusha Declaration on Integrity in Customs adopted in 1993. They also recognized that corruption exists in all countries, in the public and the private sectors, and that strong political commitment is necessary to combat corruption. Additionally, it was recognized that Customs and revenue administrations performed a wide range of vitally important fiscal, economic and social functions. These have a significant impact on a nation's capacity to benefit from the expansion and development of world trade and its capacity to meet legitimate social, economic and national development goals;

The delegated noted that integrity in Customs increases public trust and confidence in government institutions; prevents significant revenue leakage; contributes to voluntary compliance with laws, regulations and directions; removes unnecessary barriers to international trade, foreign investment and economic development; and increases the level of national security and community protection. As a result, an invitation was made to the private sector to build integrity amongst businesses and citizens and to work with Governments to create Customs and revenue administrations inspired by integrity and service.

Among the declarations included;
- The need for the Customs and revenue administrations of the African continent to urgently take comprehensive and practical steps to implement all the key elements and provisions of the World Customs Organisation's Arusha Declaration on Integrity in Customs adopted in 1993 and, in particular, to reform and modernise systems and procedures by promoting the application of new technologies to

eliminate opportunities for corruption and to reduce the incentives for officials and members of the business community to act in unethical ways; and to develop and implement appropriate human resource management strategies, including training and motivation, that acknowledge the unique operating environment of Customs and revenue administrations and reinforce the highest standards of professional and ethical behaviour;
- Develop and implement regional mechanisms to enable Customs and revenue administrations to identify and implement policies and pragmatic measures to increase integrity and combat corruption and to share information on integrity strategies and best practice approaches;
- Develop a positive and effective partnership with all sections of the business community to identify areas of high risk and to implement practical steps to address the problem of corruption in Customs and revenue administrations;
- Develop and implement appropriate Codes of Conduct in Customs and revenue administrations, the private sector and other stakeholders which clearly set out in very practical and unambiguous terms the behaviour of all Customs and revenue officials, the private sector and other stakeholders; and
- Establish national integrity development plans that strike an appropriate balance between pre-emptive strategies such as education and corruption prevention and traditional approaches such as corruption detection, investigation and prosecution.

3.4.3   Nairobi Declaration on Integrity

The Nairobi Resolution on Integrity was agreed by the participants of the High Level Workshop on Integrity in East and Southern Africa Region, held in Nairobi, Kenya from 20 to 23 February 2007, and organised by the World Customs Organisation in cooperation with the East and Southern Africa Regional Capacity Building Centre (ESA RCBC) and hosted by the Kenya Revenue Authority under the sponsorship of the Commonwealth Secretariat and the Swedish International Development Cooperation Agency.

The participants recommitted themselves to the World Customs Organization's Revised Arusha Declaration on Integrity in Customs, adopted in 2003, and the Maputo Declaration, adopted in 2002. They acknowledged that building integrity in Customs is a shared responsibility of Customs administrations, the business community and civil society. As a result, they resolved to:

- Commit to demonstrating a strong leadership to combat corruption and promote integrity;
- Enforce a zero-tolerance policy against corruption of any kind;
- Take comprehensive and practical steps to implement the Revised Arusha Declaration on Integrity in Customs by using the WCO Integrity Development Guide and the other relevant tools;
- Modernize systems, promote the application of modern technologies for Customs clearance and control, based on international standards such as the Revised Kyoto Convention, to reduce rent seeking opportunities for Customs officials and members of the business community;
- Develop and implement appropriate human resource management and development strategies, including training and motivation, aimed at strengthening and ensuring the highest standards of professional ethics and conduct;
- Develop a positive and effective partnership with the business community in aggressively addressing corruption;
- Develop, implement and periodically review appropriate Codes of Ethics and Conduct in Customs administrations;
- Cooperate with the World Customs Organization and other bodies to develop case studies on good governance and integrity;
- Participate actively in World Customs Organization integrity fora and other related international / regional activities, including the Global Forum on Fighting Corruption and Safeguarding Integrity;
- Establish regional and national integrity action plans;
- Exchange information on strategies and best practices on integrity;
- Develop and implement peer review mechanisms on integrity; and
- Utilize the ESA RCBC and the regional pool of experts to support a regional approach on integrity.

3.4.4   The United Nations' International Code of Conduct for Public Officials

The International Code of Conduct for Public Officials was approved by the UN General Assembly Resolution 51/59 in 1996. The United Nations International Code of Conduct for Public Officials is concerned about the serious problems posed by corruption. The two-page code is extremely brief, general and broad, but covers the universally applicable aspects essential to any code for public officials: prioritisation of public interest, impartiality, conflicts of interest, asset disclosure, and policies on gifts and political activity.

General principles outlined in the UN International Code of Conduct for Public Officials:

1. A public office, as defined by national law, is a position of trust, implying a duty to act in public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.

2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them.

3.4.5   ICC Customs Guidelines

The International Chamber of Commerce, also referred to as the World Business Organization, prepared a set of 54 Customs Guidelines back in 2003 addressing critical areas related to Customs

as an institution as well as a border agency. The guidelines were revised in collaboration with the World Customs Organization (WCO) and published again in the 2012 edition. The 2012 edition contains 57 guidelines that present a comprehensive set of practices that ICC considers should characterize all modern customs administrations.

The ICC Customs Guidelines define two forms of integrity or the lack thereof. The first deals with misbehaving individuals in an otherwise sound organization. The basis for this type of corruption is more likely to be a character defect, some urgent, large financial need or, sometimes, fear induced by threats of physical violence. The second form is of a largely misbehaving organization in which sound individuals are the rare exception. This form of corruption is usually a reflection of a certain cultural and social environment. The lack of integrity, however, involves two sides, the one that receives and the one that gives. Fighting corruption therefore requires action on both sides, on the Customs as well as on the private sector side.

3.5   Code of Ethics and Code of Conduct

Code of ethics and code of conduct are two different documents, although many people assume them to be the same. Code of ethics is the document that explains how decisions are made while the code of conduct dictates how employees must act. In fact, the code of conduct is formed directly from the code of ethics and reflects the core values of the company. The main difference between code of ethics and code of conduct is that code of ethics is a standard of morals by which a company makes decisions about what is right or wrong while code of conduct is a set of rules and regulations that explain appropriate behaviour in specific situations.

What they both have in common is that they attempt to encourage specific behavior. A code of ethics accomplishes this by providing guidance about values and choices, while a code of conducts clearly states which actions are appropriate and which are not. Most codes of ethics have a wide scope, covering a broad range of specific and non-specific topics. Codes of conducts tend to be much narrower in their scope, dealing with a small number of particularly relevant areas, such as sexual harassment, racial discrimination, offensive language, and others. Both codes are sometimes combined into a single document.

3.5.1   Code of Ethics

A code of ethics is a guide of principles designed to help professionals conduct business honestly and with integrity. A code of ethics document may outline the mission and values of the business or organization, how professionals are supposed to approach problems, the ethical principles based on the organization's core values, and the standards to which the professional is held.

A code of ethics provides a guide for dealing with ethical situations which arise in the course of the job. Additionally, a code of ethics communicates the ethical viewpoint of the profession to others. Ultimately, a code of ethics serves to promote the values of the profession over the personal, societal, and (sometimes) institutional values. It serves as a guideline for professionalism and quality of service.

A code of ethics is essential to a profession; the code will provide an ethical starting point for the professionals and for others outside the profession. A code of ethics also ensures quality in treatment of members of the profession and those the profession serves.

3.5.2 Benefits of a Code of Ethics

1. Sets the right culture

The most important benefit of a code of ethics is that it can foster an environment of trust, ethical behavior, integrity, and excellence. When everyone, from the top to the people at the very bottom, plays by the same rules and behaves in a certain way toward one another, productivity tends to grow as conflicts and confusions disappear from the workplace. Companies that foster an environment of trust, ethical behavior, integrity, and excellence are also better prepared to deal with unforeseen challenges because they have a very strong foundation to stand on. Trust is a critical ingredient in encouraging team work and institutional cohesiveness and alignment towards the goals and vision.

2. Builds a good reputation

Successful institutions are those with a good corporate reputation. Customers and other stakeholder including employees gravitate toward companies they feel they can trust, and avoid those that don't promote ethical behavior. Companies that pay strong attention to ethics also find it easier

3. Helps remain in compliance with laws and regulations

Adopting a code of ethics helps avoid corporate scandals. It also helps avoid government intervention in a company's business through censure, penalties or even closure. Compliance with laws and regulations enables an organization avoid being sued by different parties including its employees, clients, partners, as well as the public.

4. Attracts outstanding employees

An ethical company is likely to attract outstanding talent as employees expect to be treated justly and ethically. Companies with a code of ethics reassure potential employees that they won't be discriminated against, sexually harassed, intimidated, bullied, or subjected to any other type of workplace harassment.

3.5.3   Code of Conduct

A code of conduct is a set of rules around behaviour for the employees to follow within an organisation. The code acts as a standard that staff need to meet so that they can know what is expected of them to produce a generally more efficient business. A code of conduct serves not only as a set of internal guidelines for the employees to follow, but also as an external statement of corporate values and commitments. A code is a tool to encourage discussions of ethics and to improve how employees deal with the ethical dilemmas, prejudices and gray areas that are encountered in everyday work. A code is meant to complement relevant standards, policies and rules, not to substitute for them.

A code of conduct can:
- Define the company culture
- Set standards and expectations for employees to follow when it comes to their behaviour
- Let customers and partners know your values, and from there they can work out if they want to work with you – creating a level of transparency for a healthy business relationship.

A well-written code of conduct clarifies an organisation's values and principles, linking them with standards of professional conduct when it comes to the behaviour of the employees. As a result, codes of conduct set the benchmarks for companies to live up to. Additionally, a code can support employees in general decision making by giving them a structure to follow when it comes to company behaviour, allowing them to be prepared to handle ethical dilemmas in the workplace.

Having a code of conduct can give employees a structure to follow from the moment they join the company, reducing the chances of problems coming up, but also making the process of dealing with issues a lot easier should the worst occur. There should be no ambiguity when it comes to a code of conduct, because as soon as lines are blurred, rules can be broken.

As well as setting rules to follow, the code of conduct can let employees know what they need to do if they ever need to report a violation of company policy and lets them know the consequences of using false information.

The Code of Conduct is based on a company's core values. Core values define the ways in which the company pursues its mission. The core values, apply to every employee at every level of the company hierarchy, and transcend the sector and other economic pressures.

A company's code of ethics basically describes its *organizational policies,* or "how we do things around here," and should be rooted in the core values the leadership has identified for the company. Some companies start with the laws and regulations that apply to their fields; indeed, laws and regulations are good starting points to develop organizational policies.

A company's code of conduct should go beyond what it *has* to do to stay within the law and spell out what employees *should* do to live up to the company's core values. In the following sections, we offer some suggestions for gathering the information a company needs to develop a code of conduct, ensuring that its managers don't send the wrong message to employees, making the code memorable, and keeping the code up-to-date.

3.5.4   Professional Codes of Conduct

Many professions and corporations have developed codes of conduct to address their unique business

situations. By developing a code of conduct, a profession makes it clear that employees and members cannot claim ignorance as a defense for unethical conduct. A professional code of conduct sets a standard for which each member of the profession is expected to meet. It is a promise to act in a manner that protects the public's well-being. A professional code of conduct informs the public what to expect of one's doctor, clearing and forwarding agent, lawyer, accountant, or property manager. As long as professionals adhere to these standards, the public is willing to have their professional associations create and enforce their ethical codes. The Clearing and Forwarding Associations in the EAC have developed codes of conduct for their members.

Professional codes of conduct draw on the professional ethical principles as the basis for prescribing required standards of behaviour for members of a profession. They also seek to set out the expectations that the profession and society have of its members. The intention of codes of conduct is to provide guidelines for the minimum standard of appropriate behaviour in a professional context. Codes of conduct sit alongside the general law of the land and the personal values of members of the profession.

In cases where these codes are repeatedly and grossly violated, the public's likely response is to demand protective legislation. In such instances, governments and their agencies enact legislation in response to such violations. Most professionals would prefer to police themselves through self-regulation, rather than have an externally imposed set of regulations. That is a major reason why they create codes of conduct in the first place.

Professional codes of conduct provide benefits to:
- The public, as they build confidence in the profession's trustworthiness
- Clients, as they provide greater transparency and certainty about how their affairs will be handled
- Members of the profession, as they provide a supporting framework for resisting pressure to act inappropriately, and for making acceptable decisions in what may be 'grey areas'
- The profession as a whole, as they provide a common understanding of acceptable practice which builds collegiality and allows

for fairer disciplinary procedures
- Governments and their agencies, as they provide a framework for creating a working relationship, allowing for less government intervention and more self-regulation
- Others dealing with the profession, as the profession will be seen as more reliable and easier to deal with.

3.5.5 Successful Implementation of a Code of Ethics

Within an organization, top-down support is critical to successful implementation of codes of ethics and codes of conduct. If senior management does not act ethically and support others who do, an organization's ethical code will have little meaning. It is critical for managers and supervisors to:
- Act consistently with the company's ethical standards
- Apply those standards in dealing with employees.

Acknowledging and rewarding those whose behaviors are consistent with a company's code of ethics proclaims to all that ethical behavior is truly valued. On the other hand, promoting and rewarding employees whose successes are due in part to unethical behavior sends an unwanted message.

Companies need to periodically review their priorities and make necessary adjustments on their codes of ethics. Due to emerging issues and other changes in the operating environment, situations may occur that require development and adoption of new codes of ethics and conduct.

3.6 WCO Model Code of Ethics and Conduct

The WCO Model Code of Ethics and Conduct provides a framework for ethics in Customs Administration. The WCO Code of Ethics and Conduct describes, in very practical and clear terms, the minimum standards of behaviour required of all Customs employees. These standards of behavior are expected to be demonstrated by all Customs employees and are to serve as a guide when making decisions and taking actions. To ensure public confidence in the integrity of Customs, all Customs employees shall respect and adhere to their particular Code of Ethics and Conduct, which generally comprises the following 11 key elements.

1. Personal Responsibility
2. Compliance with the law
3. Relations with the Public
4. Acceptance of Gifts, Rewards, Hospitality and Discounts
5. Avoiding Conflict of Interest
6. Political Activities
7. Conduct in Money Matters
8. Confidentiality and Use of Official information
9. Use of Official Property and services
10. Private Purchases of Government Property and Assets
11. Work Environment

The WCO Model Code of Ethics and Conduct provides for disciplinary action for the most serious offences committed by Customs officials. It states that "all officials of Customs must comply with the law. The special responsibilities of Customs mean that offences relating to legislation administered by customs or has an interest in, are regarded most gravely when committed by Customs officials. Customs officials who commit offences involving, in particular: prohibited drugs; fraud; seeking or accepting bribes; or illegal importation or exportation of goods will be subject to disciplinary action, regardless of any penalties applied as a result of criminal proceedings." As it is also suggested by the WCO Revised Arusha Declaration, disciplinary measures and penalties in case of illegal or unethical behaviour of officials would have to be proportionate to the violation.

The public is entitled to expect all Customs employees to be honest, impartial and professional. To maintain public confidence, it is therefore vitally important that Customs employees maintain the highest standards of integrity and conduct. To fully comply with the code, Customs employees must:
- Perform duties with care, diligence, professionalism and integrity;
- Strive for the highest ethical standards;
- Behave at all times in a manner that enhances the reputation of customs;
- Behave in a manner consistent with the code of ethics and conduct;
- Support and encourage others to comply with the code of ethics and conduct;
- Report any behaviour that is inconsistent with the code of ethics and conduct.

3.7 FIATA Business Integrity and Compliance Statement

FIATA - International Federation of Freight Forwarders Associations was founded in Vienna, Austria, in 1926. It owes its name to its French acronym (Fédération Internationale des Associations de Transitaires et Assimilés) and is known as 'the global voice of freight logistics'. FIATA is a nongovernmental, membership-based organization representing freight forwarders in some 150 countries. FIATA works at the international level to represent service providers who operate in trade logistics and supply chain management. FIATA's membership is composed of Association Members and Individual Members, representing an industry of over 40,000 freight forwarding and logistics firms worldwide.

FIATA is a reference source on international policies and regulations governing the freight forwarding and logistics industry. Through its FIATA documents and forms, congress, training and publications, it promotes trade facilitation and best practices among the freight forwarding community. It is based on its mandates that FIATA developed its Business Integrity and Compliance Statement that documents a code of conduct framework for its membership and the sector in general.

The Business Integrity and Compliance Statement targeting FIATA's membership comprising of the International Freight Forwarders' and Logistics Service Providers' Industry players is aimed at achieving a high standard of service and customer satisfaction. It calls on members and everyone in the sector:
- To show commitment to abide by the applicable rules and regulations and to refrain from any activity that can compromise the public image of the company, create suspicion of wrongdoing or fail to show the necessary respect for colleagues and business interlocutors.
- To comply with all legal, regulatory and internal regulations as stipulated in the applicable law, as well as the observance of common standards and rules of professional conduct. Inter alia, these include the principle of avoiding possible conflict of interest.
- To conduct business in line with the

principles above and companies operating in compliance with the rules and with integrity. Integrity should be displayed through:

- o Delivering services commensurate to the expectation of the client, as well as other stakeholders, without creating intentional disruptions or difficulties.

- o Enhancing professional dignity by being honest and of ethical behaviour in working practices.

- Industry leaders to promote business integrity by launching and implementing the integrity and compliance culture within their businesses at all levels, starting from their own. Additionally, the leaders should make their staff members aware of a business standard based on a culture which encourages ethical behaviour and compliance.

FIATA endeavours to achieve its purpose through an exposition of three key areas as covered in the FIATA Business Integrity and Compliance Statement. The three are:
1. Objectives
2. Conduct
3. Sanctions

3.8   FEAFFA Code of Conduct

The Federation of East African Freight Forwarders Associations (FEAFFA) is a regional private sector apex body of the Customs Clearing and Freight Forwarding (CFA) industry in East Africa. The Federation aims at promoting a professional freight logistics industry for trade facilitation and regional economic growth. In order to achieve its objectives and guided by the FIATA Business Integrity and Compliance Statement and WCO Model Code of Conduct, FEAFFA developed a Code of Conduct for the CFA industry in East Africa.

The aims of the FEAFFA Code of Conduct include:
i. Uphold a high standard of business ethics and professional conduct among Clearing and Forwarding Agents (CFAs) and all other professionals within the freight logistics industry across Eastern Africa;

ii. Ensure a high level of professional education and experience essential to provision of efficient services;
iii. Encourage operation of financially sound, stable and accountable Clearing and Forwarding Agents;
iv. Combat corruption, freight logistics fraud, illicit trade and trafficking of goods and persons, including unsafe or controlled substances; and
v. Provide a framework through which national associations can monitor and enforce integrity and professionalism in their various jurisdictions.
vi. Promote healthy competition among operators in the industry.
vii. Provide the basis for regulating behavior and framework for dealing with errant operators and resolution of disputes.
viii. Protect and promote the reputation and good public image of the clearing and forwarding industry.

The FEAFFA Code of Conduct id organized in 9 Articles as indicated below:
Article 1– Definitions
Article 2 – Objectives
Article 3 – Professional Qualifications for Customs Agents
Article 4 – Financial Standing as a Qualified Clearing and Forwarding Agent
Article 5 – Code of Professional Conduct
Article 6 – Procedures for Handling Complaints and Enforcing Discipline
Article 7 – Enforcement
Article 8 –Disciplinary Actions
Article 9– Harmonization and Compliance.

3.9   Regional and National Laws

In the EAC, different laws and regulations have been developed and enacted towards ensuring that citizens adhere to expected standards of conduct. Within the C&F sector, several laws have been developed and complimented by agencies expected to ensure successful implementation. Some of the laws include:
- EAC Customs Union Protocol
- The EAC Protocol on Preventing and Combatting Corruption (proposed)
- The East African Integrity and Anti-corruption Bill 2019
- The East African Revenue Authorities anti-corruption framework

- EAC Customs and Tax Code of Ethics and Conduct,
- The EAC Integrity Action Plan.
- The East African Community Customs Management Act (EACCMA).
- National bills on self -regulation of the freight forwarding industry in the EAC Partner States (proposed)

Different countries have their own sets of laws and regulations that are meant to ensure ethics and integrity. In support of this, the EAC Member states have created agencies in charge of ethics and integrity. These include:

1. Special Brigade Anti-Corruption Commission of Burundi
2. Kenya Ethics and Anti-Corruption Commission (EACC)
3. Office of the Ombudsman of Rwanda
4. Anti-Corruption Commission of South Sudan
5. Prevention and Combating of Corruption Bureau of United Republic of Tanzania
6. Inspectorate of Government of Uganda.

3.10   Learning Activities

As a C&F agent, you have been approached by a client to clear and forward their goods from China. The client has provided you with the relevant documentation for the goods. However, you realize that some of the documents look falsified. Upon inquiry, the client agrees and indicates that the customs officer who will clear the goods is aware and will approve of the documents and clear the goods.

Required:
1. Identify the responsibilities of the 3 parties in ensuring proper conduct:

    a. The Customs Officer
    b. The Client
    c. The Clearing and Forwarding agent
2. Identify the specific clauses in the FIATA Business Integrity and Compliance Statement, the WCO Model Code of Conduct and the FEAFFA Code of Conduct that can be used to address the behaviours described above.

3. What action would you take based on the situation you are in?

3.11   Self-Assessment Questions and Activities

1. Discuss the purpose and objectives of the Revised Arusha Declaration
2. Discuss the WCO Analyse code of ethics and conduct
3. Discuss why a code of conduct is required in the CFA industry
4. Discuss what professional conduct is and the contents of a Professional Code of Conduct
5. Discuss the roles and obligations of a clearing and forwarding agent in ensuring professional ethical behaviour.

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4.0   IMPLEMENTING A CULTURE OF ETHICS IN THE ORGANIZATION

4.1   Specific Learning Outcomes

At the end of the topic, the trainee should be able to:
1. Explain the meaning of Ethical culture
2. Identify elements of an ethical culture
3. Evaluate the institutionalizing best practices in ethics and integrity
4. Discuss the consequences of unethical behavior
5. Explain how to handle ethical dilemmas

4.2   Introduction

Promoting ethical culture in firms through the adoption of effective ethics and compliance programs has been a key institutional requirement in most organizations. Firms can alleviate the harshest aspect of criminal liability by showing adherence to these guidelines, and thus mitigate the potential range of fines imposed on them in the event of wrongdoing. Elements of the policies and procedures necessary to create an effective compliance program must be developed internally. Ethical culture is not only important to fulfil regulatory mandates but also because studies show various positive effects of ethical culture, including reduced misconduct, increased willingness to report observations of misbehaviour, improved employee wellbeing, and innovation.

4.3   Meaning of Ethical Culture

Ethical culture can be defined as a set of experiences, assumptions, and expectations of managers and employees about how the organization prevents them from behaving unethically and encourages them to behave ethically. Ethical culture is also part of the ethical context that incorporates multiple components, including formal and informal systems. Formal systems are the tangible organizational elements pertaining to ethics that are purposefully designed and implemented (e.g., ethics programs), whereas informal systems are the unwritten policies, practices, and values that are relevant to ethics (e.g., ethical culture or climate). Ethical culture is less visible than the formal

elements of ethics programs (e.g., code of ethics, helpline, training), because it is rooted deeply within the organization and the mind-set of its employees; therefore, it is more difficult to assess.

To define an ethical business culture for a business is to create an environment where doing the right thing is easy and doing the wrong thing will get you disciplined or fired. It also means involving employees in regular discussions about workplace ethics and the procedures that are designed to uphold ethical practices. The business culture can include how employees dress for work, how they interact with management and how they interact with customers and clients. An ethical business culture also places a high value on fairness, employee rights, and equal pay, while also discouraging dishonesty, unpaid wages, discrimination and disloyalty to the company, its employees, and its customers.

4.4   Elements of an Ethical Culture

There are generally three elements of ethical culture including:
1. The existence of a set of *core ethical values* infused throughout the organization in its policies, processes, and practices;
2. The establishment of a *formal ethics program*, including a code of ethics, ethics training, an ethics hotline, and an ethics officer; and
3. The continuous presence of *ethical leadership*—that is, an appropriate 'tone at the top' as reflected by the board of directors, senior executives, and managers.

While each of these three elements is distinct, they also overlap, relate to, and reinforce each other.

4.5   Levels of an Ethical Culture

Ethical culture can be seen in 5 levels including:
1. **Individual:** How individual employees are measured and rewarded is a key factor that sustains or undermines ethical culture.
2. **Interpersonal:** Organizations can also focus on how employees interact across the hierarchy. Building an ethical culture from an interpersonal perspective

requires meaningful protections that empower all employees and stakeholders, even the least powerful, to raise concerns and express grievances.

3. **Group:** Socialization into group memberships and relationships is a core aspect of human culture. At work, the key determinant tends to be an employee's group or team.

4. **Intergroup:** The quality of relationships among groups is critical to consider in any attempt to build an ethical culture. Celebrating a team whose high performance may stem from questionable conduct gives it power and a mystique that is difficult to challenge, and this can undermine values across the organization.

5. **Inter-organizational:** Most discussions of organizational culture focus on internal relationships. However, organizations should be conscious of how it treats suppliers, customers, competitors, and civil society stakeholders, so building and maintaining stakeholder trust will improve organizational culture.

4.6   Creating an Ethical Organizational Climate

An Organization's ethical climate is the focus on the ethics of decision making and actions. Ethical climate is a component of organizational climate which is the reactions of organizational members to the values and beliefs that make up organizational culture. Several factors influence the creation of an ethical organization climate as discussed below.

Top Management Leads Ethics by Example

One of the most noticeable ways that companies can demonstrate their commitment to creating an ethical organizational culture is to ensure that top managers and leaders lead by example. Employees look to the behavior of top management as an example of the type of behavior that the company finds acceptable in the workplace. Senior leaders need to be mindful of the fact that they're being watched and be sure to practice what they preach.

Communicate Clear Expectations of Organizational Code of Ethics

Companies that create and disseminate an official code of ethics send a clear message of the expectations for their employees. A code of ethics or code of conduct clearly outlines the organization's primary values and ethical rules that they expect everyone to follow. Cultural norms and expectations are also inferred and are easily detected by observing the environment. While it's good to have a written record of the code of ethics, it means nothing if top management fails to model ethical behaviour as employees are observant and influenced by top management behaviour.

Develop an Ethics Training Program

A formal ethics training program sends a strong message about a company's ethical stance. Seminars, workshops, and other ethical training programs reinforce the organization's standards of conduct and clarify the types of behaviors that the company deems permissible or out of bounds.

Reinforce Behaviour You Want, and Don't Reinforce Behaviour You Don't Want

Corporate culture always begins at the top. Managers should be evaluated on their ethical behavior as part of their annual performance appraisals. Their appraisals should include specific questions about how their decisions measure up against the code of ethics. Top executives should also be evaluated on the means they take to achieve their ethical goals as well as how the means lead to the ends.

Employees who act ethically should be noticeably rewarded for their behavior and those who fail to act and behave ethically should have consequences for unethical behavior. Companies should offer their employees opportunities for rewards, recognition, and social reinforcements. Rewards and recognition should be thoughtfully considered taking care to deliver it with attention to detail to avoid unintended consequences.

Provide Protection for Employees

Most employees will want to do the right thing especially if they work for a company that has high moral and ethical standards. It can be difficult for anyone to report unethical behavior that they witness in other people at the company. Shy or introverted employees may find it particularly challenging to report unethical behavior. Almost anyone would

feel intimidated if they felt the need to report the unethical behavior of one of their superiors or someone in a senior management position.

Eliminate Double Standards

In order to create an ethical business culture, employers should strive to eliminate double standards and cultivate trust among the team by being honest in their communications. This means that there should not be policies that managers and supervisors are permitted to ignore which subordinates are required to follow or are even reprimanded for not following. This allows all employees to put the work ahead of their own interests, regardless of their individual ranks or roles within the company.

Foster A Respectful Environment

Ethical employers should actively work to create a workplace environment that makes it possible for managers and employees to take pride in their work and identify with the values that drive the organization as a whole. In order to do this, the employer must ensure that all employees have the right resources and authority to fulfill their job responsibilities. In addition, the organization should respect the rights and dignity of all employees.

Encourage workers to report illegal or unethical conduct

Employers should encourage workers to report illegal or unethical conduct, such as discrimination or harassment, by making sure that there are specific procedures that employees can follow to inform their employer when these incidents occur.

4.7 Implementing Professional Ethics

Professional ethics are principles that govern the behaviour of a person or group in a business environment. Like values, professional ethics provide rules on how a person should act towards other people and institutions in such an environment. Professional ethics is concerned with the standards and moral conduct that govern the profession and its members. In order to implement professional ethics in an organization or industry, there is need to develop and adhere to a Professional Code of Ethics.

Professional ethics are standards set by professional organizations for the behavior and values of people working within a specific field. Codes of professional ethics are established in order to

provide guidance to professionals, usually to not abuse client relationships and preserve the integrity and reputation of the applicable profession. When a person violates one or more of these promulgated ethics, he or she is subject to disciplinary action by the governing body of the profession. A high level of adherence to a code of professional ethics is needed so that the public will be confident in the moral standards of those working in the field. Codes of professional ethics are commonly applied to professionals in the fields of accounting, law, and medicine.

A professional code of ethics is a set of principles designed to help an industry and its members govern their decision-making and distinguish right from wrong. Often referred to as an ethical code, these principles outline the mission and values of an industry or organization, how the professionals within the industry or organization are supposed to approach problems and the standards to which members and employees are held.

A professional code of ethics is designed to ensure employees are behaving in a manner that is socially acceptable and respectful of one another. It establishes the rules for behavior and sends a message to every employee that universal compliance is expected. It also provides the groundwork for a preemptive warning if employees break the code. A code of ethics can be valuable not just internally as a professional guide but also externally as a statement of a company's values and commitments.

Professional business membership organizations develop professional codes of ethics and conduct to be adhered to by their members. The professional occupations are generally characterized by the following criteria:

- Technical training that implies generalized knowledge, detailed information and practical skills in a specific field;
- An institutionalized mode of validating or certifying mastery of this knowledge and the accompanying skills; and,
- An institutionalized means of ensuring that they will be put to service in the public good.

Associations like FEAFFA and the National Associations in the EAC made up of professionals themselves, set standards to secure the competence and integrity of members engaged in private practice and, in some fields such as medicine and law, structures to monitor their conduct. These same

standards are in many cases reinforced through a process of examinations and licensing.

One of the primary values of a professional code of conduct is not as a checklist for disciplining non-conforming members, although breaches of a code of conduct usually do carry a professional disciplinary consequence. Rather, its primary value is to act as a prompt sheet for the promotion of ethical decision-making by members of that profession.

In instilling professionalism, ethical principles that underpin all professional codes of conduct should be articulated. Ethical principles may differ depending on the profession; for example, professional ethics that relate to medical practitioners will differ from those that relate to CFA, lawyers or teachers. However, there are some universal ethical principles that apply across all professions, including:

- Honesty
- Integrity
- Trustworthiness
- Loyalty
- Respect for others
- Adherence to the law
- Doing good and avoiding harm to others
- Accountability.

Professional codes of conduct provide benefits to:

- The public, as they build confidence in the profession's trustworthiness
- Clients, as they provide greater transparency and certainty about how their affairs will be handled
- Members of the profession, as they provide a supporting framework for resisting pressure to act inappropriately, and for making acceptable decisions in what may be 'grey areas'
- The profession as a whole, as they provide a common understanding of acceptable practice which builds collegiality and allows for fairer disciplinary procedures
- Others dealing with the profession, as the profession will be seen as more reliable and easier to deal with.

4.8   Consequences of Unethical Behaviour

Unethical behaviour has serious consequences for both individuals and organizations. Some of the consequences of unethical behaviour include:

To the individual:

- Losing your job
- Losing your reputation as someone who behaves unethically.
- Losing your professional accreditation.
- Liable for legal action
- Financial consequences
- Losing the respect of your friends and family.
- Social consequences

To the organization:

- Legal liability
- Losing organizational credibility
- Losing an operating licence for an organization
- Losing accreditation status
- Declining employee's general morale and productivity
- Fines and/or financial loss to the organization

4.9   Handling Ethical Dilemmas

An ethical dilemma is a situation of making a choice between two or more alternatives. It is a problem in the decision-making process between two possible options, neither of which is absolutely acceptable from an ethical perspective. Although we face many ethical and moral problems in our lives, most of them come with relatively straightforward solutions. The biggest challenge of an ethical dilemma is that it does not offer an obvious solution that would comply with ethical norms.

Ethical dilemmas are especially significant in professional life, as they frequently occur in the workplace. Some companies and professional organizations (e.g., FEAFFA and National Associations) adhere to their own codes of conduct and ethical standards. Violation of the standards may lead to disciplinary sanctions.

Almost every aspect of business can become a possible ground for ethical dilemmas. It may include relationships with co-workers, management, clients, and business partners. Employee's inability to determine the optimal solution to such dilemmas in a professional setting may result in serious consequences for themselves and their organizations.

In order to solve ethical problems, companies and organizations should develop strict ethical standards for their employees. Every company must demonstrate its concerns regarding the

ethical norms within the organization. In addition, companies may provide ethics training for their employees. As discussed earlier, the creation of an ethical climate will help employees in navigating through ethical dilemmas.

4.10 Ethical Decision Making Framework

In order to make ethical decisions, a stepped rational framework is recommended. The following framework provides a method for exploring ethical dilemmas and identifying ethical courses of action by using steps in the ethical decision-making process.

Step 1: Recognizing that there is an ethical question:
- Requires you to think about how you should act and what you should do in a given situation
- Could relate to a situation and/or a decision that you make, which could be potentially damaging to a client or a stakeholder
- Could involve a choice between a good and a bad outcome – e.g. a situation where the Revenue Authority would decline your customs documentation because of certain information that the client has not disclosed to you.

Step 2: Understanding the facts of the situation:
- Requires you to consider how you can learn more about the situation including making enquiries and finding additional facts to ensure you have the best possible understanding of the situation.

Step 3: Understanding the options available to you:
- Requires you to identify and understand each option available to you
- Requires you to take into account any legislative requirements, professional standards (such as the Code), customs laws and regulations, as these may influence your options.

Step 4: Understanding the consequences of the options:
- Requires you to work out and evaluate the different options and how different parties will be affected by each option - these parties can include the client, stakeholders within the clearing and forwarding system, your employer and other stakeholders

- Requires you to be aware that your overriding duty is always to act in the lawful and legitimate interests of your client
- Requires you to ask yourself some searching questions, for example:
    - If I am going to act in a way that is adverse to my client's interests in any way, am I justified in doing so?
    - Which option will produce the best for my client and or authorities even if it will upset another person or cause me discomfort or loss?
    - Will this require me to act in a way that will harm someone else or go against my personal beliefs or ethics?
    - Is there a way to act that will not damage my client's interests but will reduce or prevent harm to another person or institution?
    - Is there a way to act that will not damage my client's interests and will allow me to act in the way I believe is consistent with the type of advise that I want to be?

Step 5: Testing the option you plan to take:
- Requires you to consider the possible effects of all the different options
- Requires you to reflect on and thoroughly review the option that you plan to take – in doing so, you should ask yourself the following questions:
    - Am I feeling uncomfortable with what I am about to do?
    - If so, why am I feeling uncomfortable about this option?
    - Why am I making this decision?
    - Would I be happy if this was done to me?
    - Would I be happy explaining this to different parties within the customs system and explaining why I did what I am planning to do?

Step 6: Explaining the option you have decided on to those affected and to other interested parties:
- Requires you to act in a way that your client, or another party, may not like or may find difficult to understand
- Requires you to be able to justify your actions in a logical and straightforward manner - if you cannot explain your actions, then it is more likely that you are acting on the basis of your feelings or prejudices
- Will often require you to have kept excellent

records that note the essentials of what the issue was, what you did to resolve it, the options you considered and how you communicated your decision to those affected.

Step 7: Acting on the chosen option:
- Requires you to consider how you will go about implementing your decision
- Requires you to actually carry through with the action you decided to take.

Step 8: Reflecting on the outcome:
- Requires you to assess how your decision turned out and what you learnt from this specific situation - to objectively evaluate what has happened and whether the option you took worked.

4.11   Learning Activities

As a clearing and forwarding officer, your supervisor has asked you to complete an assignment for him involving clearing of a client's goods. As you go through the documentation you notice the following:
i. The dutiable value of the goods being imported has been understated
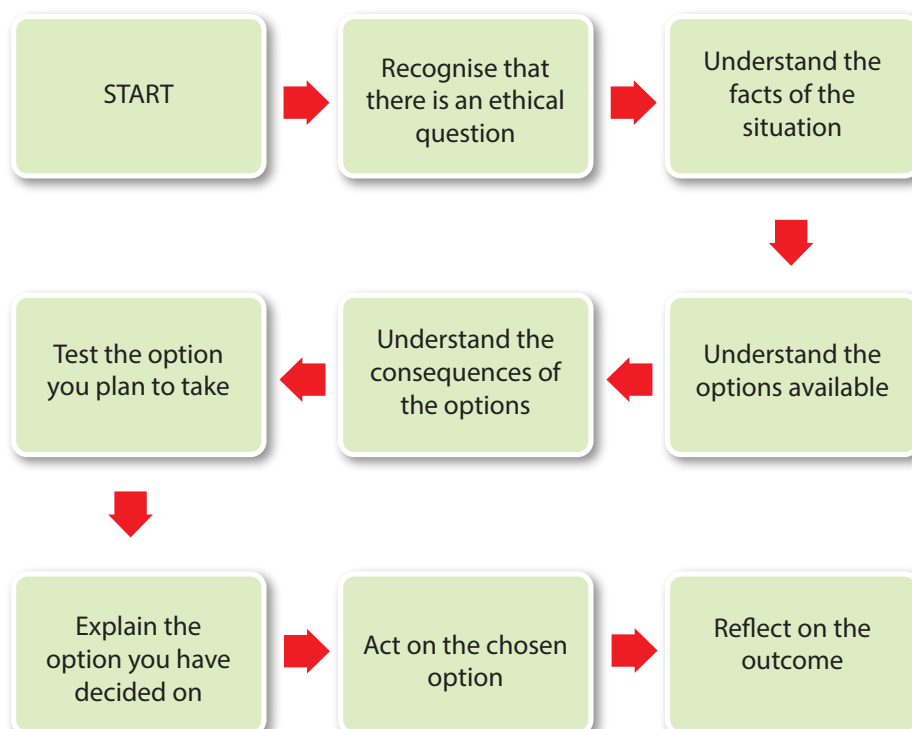ii. There has been falsification of the "country-of-origin" of the goods being imported through mislabeling

iii. The goods have been labelled as transshipped through third countries to make it appear as though they came from countries with lower applicable Harmonized Tariff duty rates or no import quotas for the goods in question
iv. Improper use of Tariff Schedule duty-rate classifications.

Required:
1. Identify the ethical issues arising from the above
2. Using the Ethical Decision Making Framework, discuss how you would resolve the issues.

4.12   Self-Assessment Questions and Activities

1. Discuss the importance and purpose of having an ethical cultural climate
2. Discuss the strategies for ensuring that an organization implements best practices in ethics and integrity
3. Discuss possible unethical situations that a CFA maybe confronted with and how you would address the same.
4. Discuss the consequences of unethical practices by a clearing and forwarding firm and or its employees

START → Recognise that there is an ethical question → Understand the facts of the situation

Understand the options available

Test the option you plan to take ← Understand the consequences of the options ← Understand the options available

Explain the option you have decided on → Act on the chosen option → Reflect on the outcome

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5.0   ELIMINATING CORRUPTION PRACTICES

5.1   Specific Learning Outcomes

At the end of the topic, the trainee should be able to:
1. Explain the meaning of corruption
2. Identify types of corruption
3. Discuss the causes and sources of corruption
4. Discuss the effects of corruption and unethical practices
5. Identify roles of different stakeholders in reducing corruption
6. Identify corruption prevention strategies
7. Explain the corruption reporting mechanism

5.2   Introduction

The harm inflicted by corruption is globally recognised, including by the UN 2030 Agenda for Sustainable Development where the target for Goal 16 calls on states to 'substantially reduce corruption and bribery in all their forms.'

Corruption is the willingness to act dishonestly or fraudulently in return for personal gain. A person in a position of power who is illegally paid to make a decision that favors the payer has participated in corruption - and so has the payer. In some societies and circumstances such payments happen so often that it can be easy to forget the damage caused by corruption. Corruption increases the cost of doing business, creates unfair competition, damages innovation, and undermines social structures. It delays, distorts and diverts economic growth and deepens poverty.

In 2005, the World Bank published the Customs Modernization Handbook which included a chapter on 'Integrity in Customs'. That chapter outlined the scope of the corruption problem and identified a series of very practical strategies that could be employed to deal with it. It drew heavily on the World Customs Organization's (WCO) Revised Arusha Declaration (2003) – a document developed by customs officials and representatives of the trade community who all understand very well the particular challenges and vulnerabilities that customs administrations face. The content of the chapter remains just as relevant today as it was when it was initially prepared so there is no need to go over the same ground again. Likewise, the Arusha Declaration's ten key elements still provide a sound framework for tackling the problem in a holistic way.

5.3   Meaning of Corruption

Different definitions of corruption exist. The World Bank defines corruption as the abuse of public power for private benefit. On the other hand, Transparency International defines corruption as "the abuse of entrusted power for private gain". The World Bank definition emphasizes the relationship between the public sector and private interests. The focus here is on state actors – civil servants, functionaries, bureaucrats and politicians – that is, anyone with the discretion to decide how public resources are being spent. Transparency International, however, takes this definition further. It covers any abuse of entrusted power, and hence it also covers private-sector corruption, for example when a Chief Executive Officer abuses the trust placed in him/her by shareholders. What the Transparency International and World Bank definitions (and other definitions that are not quoted here) have in common is that, for an act to qualify as corrupt, an illegitimate gain must have been made.

5.4   Elements of Corruption

Corruption is seen to have the following core elements:

1. Abuse

Corruption involves a violation of norms of conduct or professional obligations – explicit or implicit – arising from formal or other entrusted duties.

2. Entrusted power

Corruption arises when a person misuses the authority derived from all kinds of formal or professional roles, but also informal or traditional ones. This covers not only public officials, but also individuals working in the private sector, media, civil society actors, religious leaders.

3. Private gain

The gain realised through corruption is private because it does not benefit the entity or the collective that the official is entrusted to represent or serve. *Private gain* expresses the opposite of *public good*. But the gain need not go directly to the official in question: it may also benefit a designated family member, friend, client, associate, or a political party. Also note that anything of value can constitute a benefit: it's not only money and material goods, but

also power and influence, and other advantages – even sexual favours.

Corruption always involves these three elements. However, it can take very different forms. The roles of different participants and beneficiaries can also vary considerably. For instance, in some cases of bribery, the bribe-giver is a willing, proactive party who seeks undue advantage. But in other settings, particularly those where corruption is systemic, people may have no choice but to pay a bribe to access public services that they are rightfully due, like health or education. And public officials themselves may be coerced into accepting bribes by their superiors or clients.

5.5   Bribery

Bribery is a criminal offence in most jurisdictions. In general terms, bribery is committed where a person (A) offers or gives some benefit to another person (B) as an inducement for that person (B) or another person (C) to act dishonestly in relation to his principal's or employer's business. In such a case, all those persons (A, B and C), as well as other persons who were complicit in the offence, may be guilty of bribery. A bribe may be a cash payment, or it may be a non-cash advantage (such as the promise of a future contract, or a holiday).

Bribery is the payment of an undue advantage, such as a fixed sum, percentage of a contract or other favours in kind to a public official in order that the official acts or refrains from acting in the exercise of his or her official duties. A kickback is a bribe; it is an illegal, secret payment made in return for a favour. The term is used to describe the gain from rendering a special service.

Examples of bribery.
Bribery in relation to customs clearing and forwarding can occur in numerous ways. For example:
1. A CFA may bribe a Customs official in order to accept undervalued declarations for imported goods.
2. A CFA may bribe bonded warehouse officers to remove goods without paying duties
3. A CFA may bribe a customs officer to allow the entry of contraband goods.

5.6   Types of Corruption

Scholars and researchers have attempted to delineate different types of corruption. This debate has been extensively handled from different perspectives because of differences in culture on what constitutes a corrupt act. According to the United Nations Office on Drug and Crime (UNODC) various types of corruption exist including: bribery, fraud, extortion, favoritism, obstruction of justice, embezzlement, misappropriation or other diversions of property by a public official, Illegal political contributions and laundering of proceeds of corruption offences.

Bribery
Bribery involves the promise, offer or giving of any benefit that improperly affects the actions or decisions of a public official. It can also include those who may not be public officials per se, but may also include members of the public who serve on government committees. A bribe may consist of money, company shares, inside information, sexual or other favours, gifts, entertainment, a job, promises, etc.

Embezzlement, Theft and Fraud
These offences involve theft or misappropriation of resources by persons entrusted with authority and control over government property. These can include public officials and private individuals. It can also be outright employee theft of cash.

Extortion
The act of extortion involves coercing a person to pay money or to provide other valuables or personal favours in exchange for acting or failing to act. Coercion can be under the threat of physical harm, violence or restraint.

Exploiting a Conflict of Interest/ Influence Peddling, Insider Trading
Engaging in transactions, "selling" influence, or acquiring a position or commercial interest that is incompatible with one's official role and duties for the purpose of illegal enrichment.

Offering or receiving of an unlawful gratuity, favour or illegal commission
This offence is aimed at public officials who receive anything of value as extra compensation for the performance of official duties. For example, after the issuing of a passport or other document the recipient gives a "tip" or "gratuity money" for the

service received. The officer will be disappointed if in the end he does not get a tip for his assistance.

Favouritism, Nepotism and Clientelism

This is the assignment of appointments, services or resources according to family ties, party affiliation, tribe, religion, sect and other preferential groupings.

Illegal Political Contributions

This occurs when political parties or the government in power receives money in exchange for non-interference and good-will towards the entity or group making the contribution. It is closely related to bribery. Politicians may extend courtesies and protection towards to legitimate or even illegitimate enterprises in exchange for contributions to a political campaign.

Money Laundering

Money laundering as such produces a corruptive effect on national and international financial systems. Due to the close link between corruption and money laundering, various international fora have noted that a comprehensive anti-corruption strategy must also include actions to prevent and control the laundering of corruption proceeds. The corruptive effect of money laundering is not only affecting private enterprises and its employees but also the entire states.

Bureaucratic Corruption

This has to do with the pervasive betrayal of trust on the part of public officers who routinely engage in self-enrichment because of the positions they occupy in Ministries, Departments and Agencies.

Political Corruption

This type of corruption is perpetrated by politicians: lawmakers, governors and political appointees in the course of their duties as legislators, state chief executives, government advisers and party executives.

Systemic Corruption

This is a situation where corruption is widespread and, more or less, institutionalized and allowed to fester, with little or nothing done to check it.

5.7 Causes and Sources of Corruption

There are a number of causes of corruption and understanding the causes will play a critical role in preventing it. The causes include:

Organizational Culture

Corruption can be caused by the culture of an organization or group. Corruption in some organizations is in group behavior rooted in established arrangements. For instance, a newly posted officer with no record of corruption might be socialized into the act by other colleagues. The person might be led to conclude that that is the appropriate way things are done.

Clashing moral values

Corruption is caused by certain values and norms of society that directly influence the values and norms of individuals. These values and norms influence the behavior of individual officials, making them corrupt. In our society, giving of gifts is highly valued. Gifts often referred to as *"something small"* paves way for corrupt practices. It is not uncommon to run into public servants asking for *"something small"* either for services rendered or about to be rendered. These are corrupt practices that should be discouraged.

Opportunistic

One cannot rule out opportunity as one of the major causes of corruption. When a public official is made the centre or given the authority to perform some sensitive roles, the person can use it for personal enrichment. To be able to embezzle or award contracts at will, one must be in position of authority or corridor of power which grants one the opportunity to use the position for personal aggrandizement.

Poverty

In countries with high levels of corruption, the low level of public service salaries will often be quoted as a reason for officials demanding bribes to "complement" their meagre salaries. The argument by public servants is: "If only I received a salary that would allow me to provide a decent life for my family, I wouldn't need to take bribes." This line of argument, then, makes poverty the cause for corruption.

Greed

Greed (or avarice) is an uncontrolled longing for increase in the acquisition or use of material gain (be it food, money, land, or animate/inanimate possessions); or social value, such as status, or power. Greed has been identified as undesirable throughout known human history because it creates behavior-conflict between personal and social goals.

Organised crime

Organised crime is an important phenomenon to mention when discussing corruption: the nexus between the two is strong, and it is impossible to dissect whether corruption is a cause or a consequence of organised crime. What is clear is that, without corruption, there would not be organised crime. For example, for large-scale smuggling of drugs, law-enforcement officers (border and customs guards, police) must either be part of the scheme or be bribed to look away.

5.7.1   Corruption Red Flags

A "red flag" is a fact, event, or set of circumstances, or other information that may indicate a potential legal compliance concern for illegal or unethical business conduct, particularly with regard to corrupt practices and non-compliance with anti-corruption laws. The following are examples of red flags:

- Unusual payment financial arrangements or instructions. For example, you should use extreme caution when being asked to make payments to a bank account in a country where services were not performed and the recipient is not located, sometimes called "off-shore" payments.
- Lack of transparency or documentation in expenses or accounting records. For example, missing invoices or travel expenses for government customers that are excessive or are not supported by documentation warrant further investigation.
- Payment of a government expense is made to an individual.
- Cash payments (as opposed to electronic payments or payments by Company check).
- Payment to an entity that is owned or influence by a government official. For example, a payment to a company that was founded by a government customer may signal corruption.
- Payments for expenses of spouses of customers or government officials.
- Gifts or other payments to or from parties engaged in a competitive bidding process or contract negotiations.
- Any gift that appears excessive or in breach of company policy.

5.8   Consequences of Corruption

Corruption has serious negative consequences at the international, national and individual level, even though some people may have had the temerity to ask, in the course of arguments, whether the money or resources misappropriated belongs to one's father as in: "Is the money or resources your father's/mother's?" The Lima Declaration states that corruption:

1. Erodes the moral fabric of society
2. Violates the social and economic rights of the poor and vulnerable
3. Undermines democracy,
4. Subverts the rule of law
5. Retards development, and
6. Denies the benefits of free and open competition.

In addition, the impacts of corruption disproportionately affect the most vulnerable people in society. Widespread corruption deters investment, weakens economic growth and undermines the rule of law. The consequences of corruption can also include:

1. Low foreign investment;
2. Reduced economic growth;
3. Shift from productive to less productive activities;
4. Greater inequality and high incidence of poverty;
5. Reduced efficiency of foreign aid; and
6. Currency crises.

Other consequences of corruption include:

1. Unemployment and underemployment
2. Infrastructural decay
3. Poor quality and delivery of public projects
4. Poor public services
5. Production and sale of substandard goods
6. Incompetent political leadership.
7. Image/Reputation Bashing.

The greatest consequence of corruption is perhaps the ones felt by the individual and more specifically, the poor members of the society. This is because the poor are wholly dependent on government for housing, health care, security, welfare, education, etc. When these things are not provided or insufficient, they are the most affected. Some of the consequences

of corruption to the individual are:

1. Infant mortality due to lack of basic vaccines
2. Illiteracy
3. Lack of access to health care
4. Accidents due to bad roads, bad drainage systems, etc.
5. Unemployment
6. Low life expectancy
7. Homelessness
8. Poverty
9. Diseases
10. Hopelessness
11. Death of individuals like pensioners, etc.

Some of the adverse effects of corruption within a customs administration include the following:

- A reduction in public trust and confidence in government institutions significant revenue leakage
- A reduction in the level of trust and cooperation between customs and other government agencies and between customs and relevant counterparts in other countries
- Low staff morale and esprit de corps (although this is both an effect and a cause)
- A reduction in the level of voluntary compliance with customs laws and regulations by the business sector
- A reduction in national security and community protection
- The maintenance of unnecessary barriers to international trade and economic growth
- Increased costs, which are often borne by the poorest sectors of the community.

5.9   Corruption Prevention Strategies

Confronting corruption represents one of the major challenges of a contemporary society. Corruption is prevented by application of preventive and repressive measures. Prevention thwarts occurrence of corrupt phenomena, whereas repressive measures are applied when the corruption has occurred and its consequences are visible. One of the ways to reduce scope of corruption is discovering and elimination of risks of occurrence and development of corruption, and not solely corruption as giving and receiving bribes, but corruption in a sense of existence of ethically and professionally not-acceptable actions that might provoke different manifestations of corruption and other irregularities in the operation of institutions.

5.9.1   Integrity Plan

The Integrity Plan represents a preventive anti-corruption measure. An Integrity Plan represents a document which is developed as a result of the self-assessment of the degree of institution's exposure to risk of occurrence and development of corruption, and exposure to ethically and professionally not-acceptable acts. The objective of the Integrity Plan is to strengthen the integrity of an institution, which implies individual honesty, professionalism, ethics, institutional truthfulness, as well as the way of conduct in line with the moral values.

5.9.2   Develop and Implement Anti-Corruption Ethics and Compliance Programmes

Organizations should develop internal measures that ensure business integrity and ethics which may include the following:

- Business leaders and managers should actively voice support for doing the right thing, and are personally committed and willing to act on the values they espouse. However, the tone should also come from the middle managers, who are the team leaders and backbone of companies. It can be said that ethics is everyone's responsibility, even though it must start at the top.
- The guiding values and commitments must be clearly communicated at every appropriate opportunity, including in a well-balanced code of ethics and guidelines.
- The organizations core values are integrated into day-to-day business, and practical resources and training are provided to guide employees even in difficult situations and grey areas.
- An internal control system is established and there are various channels for reporting, such as whistle-blowing.
- The anti-corruption ethics and compliance programme is understood as a continuous process of learning, and measures are monitored and reviewed on a regular basis.

5.9.3   Develop and Implement Anti-Corruption Policy

An effective policy framework will include policies in respect of fraud and corruption, whistleblowing,

gifts and donations, procurement, and financial policies and procedures, among others. The Policy should focus on ensuring the following:

- ## Alignment with Anti-Corruption laws and other regulations

It is vital for organisations to understand and keep up to date with the anti-bribery and anti-corruption legislation and regulatory environment in their own jurisdictions, to ensure that how they operate always falls within legal boundaries.

- ## The tone is set top-down

Top-level commitment to anti-bribery and anti-corruption compliance drives an ethical culture of integrity within an organisation, Management must adopt a zero-tolerance approach to all forms of corrupt activity and communicate this message effectively throughout the organisation. This must also extend to how the company deals with irregular and unethical behaviour, as it happens, to establish throughout the organisation that this type of conduct will not be tolerated.

- ## Effective communication and training

Even the best anti-bribery and anti-corruption policies will have no effect if staff are neither aware of them, nor receive training on them. This needs to occur from the employee's first day of employment and continue. Training is particularly vital to employees who may be dealing with high-risk business partners, or function in high-risk markets or high-risk business units.

- ## Protection of whistleblowers

Companies need to create safe spaces in which to expose incidents without fear of reprisals. A whistleblowing mechanism should be in place that provides anonymity and protection of the whistleblower.

5.9.4 Roles of Clearing and Forwarding Agents in Combating Corruption

Clearing and forwarding agents should avoid being involved in corrupt practices. Bribes must not be paid to bring in business, keep existing business, obtain licenses or regulatory approval,

prevent negative government actions, avoid duties or customs fees, reduce taxes, block bidding by competitors, or in any way obtain an improper advantage. It is prohibited to offer anything of value to a government official with the intent to obtain an improper or illegal advantage.

The Anti-corruption laws in EAC Partner States prohibit anyone from offering, promising, paying, and giving bribes, as well as approving or instructing another person to take such actions. Even cooperating with someone that you have reason to suspect may be involved in corrupt activities is illegal.

As a clearing and forwarding agent, never ignore "red flags" - signs that may signal corruption.
When asked for a bribe by any government officers, you must refuse. Anti-bribery laws apply to both the giver and the recipient of a payment – it is not a valid excuse that the bribe was requested by the recipient. If you suspect corruption, notify the relevant authorities including the ethics and ant-corruption agencies in the country to determine the appropriate course of action.

5.10 International Anti-Corruption Conventions

5.10.1 UN Convention Against Corruption (UNCAC)

The United Nations Convention Against Corruption (UNCAC) is an international treaty adopted by the UN General Assembly in October 2003. It entered into force in December 2005, representing a remarkable achievement: a global response to a global problem. With 186 States Parties (as of 9th May 2019), the Convention is unique not only for its worldwide coverage but also for the scope of its provisions, recognising the importance of both preventive and punitive measures. It also addresses the cross-border nature of corruption with provisions on international cooperation and on the return of the proceeds of corruption. States Parties - countries that have ratified the Convention - are expected to cooperate in criminal matters and consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption. The UNCAC has eight chapters and 71 articles. The Chapters and contents are discussed below:

Chapter I: General provisions

The first Chapter highlights the three main goals of the Convention, namely:

- to promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- to promote integrity, accountability and proper management of public affairs and public property.

Chapter II: Preventive measures

Chapter II covers of a set of preventive measures aimed at hindering corruption in the public and private sectors. Provisions call on countries to:

- Develop and implement effective, coordinated anti-corruption policies that promote the participation of society (Article 5);
- Establish an independent anti-corruption body (Article 6);
- Enhance transparency, efficiency and use objective criteria in the recruitment, hiring, retention, promotion and retirement of public officials (Article 7.1);
- Enhance transparency in the funding of electoral campaigns and political parties (Article 7.3);
- Apply codes of conduct for the performance of public functions (Article 8.2);
- Establish measures and systems aimed at facilitating the reporting of corruption by public officials to appropriate authorities (Article 8.4);
- Promote the establishment of assets declaration systems for public officials (Article 8.5);
- Establish appropriate procurement as well as public finance management systems based on transparency, competition, and objective criteria (Article 9);
- Promote access to information concerning the work of the public administration (Article 10(a) and (b)) and enhance transparency through public reporting (Article 10(c));
- Promote integrity in the judiciary (Article 11);

- Enhance ethics, integrity, and transparency in the private sector through the adoption of accounting and auditing standards and the establishment of penalties at civil, administrative and criminal levels (Article 12);
- Article 13 mandates states parties to ensure participation of civil society and non-governmental organisations in the prevention of and fight against corruption. It refers to the need for measures ensuring public access to information and participation in educational programmes;
- Establish regulatory and supervisory regimes aimed at preventing money-laundering (Article 14).

Chapter III: Criminalisation and law enforcement

The Convention requires that countries criminalize – or consider criminalising – different corruption-related offences, namely:

- Bribery of national public officials (Article 15);
- Bribery of foreign public officials and officials of international organisations (Article 16);
- Embezzlement, misappropriation or other diversions of property by a public official (Article 17);
- Trading in influence (Article 18);
- Abuse of functions (Article 19);
- Illicit enrichment (Article 20);
- Bribery in the private sector (Article 21);
- Embezzlement of property in the private sector (Article 22)
- Money laundering (Article 23);
- Concealment (Article 24);
- Obstruction of justice (Article 25).

In addition, the Convention calls on States Parties to take appropriate measures aimed at protecting corruption witnesses, experts, victims (Article 32) and reporting persons (whistle blowers, Article 33) from retaliation.

Chapter IV: International cooperation

By addressing the cross-border nature of corruption, Chapter IV lays down standards for mutual legal assistance in investigations, prosecutions, and judicial offences, seeking to enhance legal and technical mutual assistance between states parties and to facilitate extraditions of wanted persons.

Chapter V: Asset recovery
This addresses prevention and detection of transfers of the proceeds of crime and measures for their recovery, with an emphasis on international cooperation. Two further chapters cover agreed steps to enhance the impact of the convention.

Chapter VI: Technical assistance and information exchange
Chapter VI calls on states parties to develop or improve specific training programmes for personnel responsible for preventing and combating corruption. States parties should also consider affording one another the widest measure of technical assistance, especially for developing countries, as well as voluntary mechanisms to provide financial assistance to developing and transition countries.

Chapter VII: Mechanisms for implementation
Article 63 of the Convention establishes the Conference of the States Parties (CoSP). These bi-annual meetings seek to help improve the capacity of and cooperation between States Parties in achieving the objectives set forth in the Convention. The CoSP also seeks to promote the Convention's implementation.

In addition, the Conference of States Parties' mandate includes:
- facilitating the exchange of information among States Parties on patterns and trends in corruption, and on successful practices for preventing and combating it;
- strengthening cooperation with relevant international and regional organisations and mechanisms and non-governmental organisations;
- periodically reviewing the implementation of the Convention by its States parties.

The UNCAC concludes with Chapter VIII: Final provisions
The last section of UNCAC is dedicated to calling upon States to take all the necessary legislative and administrative measures, in accordance with fundamental principles of domestic laws, to ensure the implementation of the obligations deriving from the Convention. The topics covered here include provisions on entry into force, the ratification process and amendments to the text of the convention.

5.10.2 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

On 21 November 1997, 29 OECD member countries and five non-member countries adopted the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The convention was signed in Paris on 17 December 1997, and came into force on 15 February 1999, after the requisite number of signatory countries had ratified it.

The OECD Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the first and only international anti-corruption instrument focused on the 'supply side' of the bribery transaction.

The OECD convention has a very specific scope, covering:
- only the bribery of foreign public officials in international business transactions,
- and only the liability of the bribers (active bribery), but not of the foreign officials who solicit or receive a bribe (passive bribery).

To ensure universal application, it contains a very specific definition of "foreign public official": 'foreign public official' means any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organisation.

The bribery provision of the convention is completed by additional penalties for three offences.
- Money laundering in connection with bribery of a foreign public official (criminal penalty).
- Accounting offences for the purpose of bribing foreign public officials or of hiding such bribery (criminal penalty).
- Liability of legal persons for active bribery of a foreign and international public official (criminal, administrative or civil liability).

5.10.3 The African Union Convention on Preventing and Combating Corruption

The African Union (AU), founded in July 2002, is the successor to the Organisation of African Unity (OAU). Modelled on the European Union, its aims are to help promote democracy, human rights and development across Africa, especially by increasing foreign investment.

The AU Convention on Preventing and Combating Corruption was adopted by the heads of state at the African Union Summit on 11 July 2003, and came into force on 5 August 2006. The AU Convention covers a range of criminal offences including – besides bribery – trading in influence, illicit enrichment, money laundering and concealment of property. It is unique in its mandatory provisions relating to private-to-private corruption, to transparency in party funding, to declaration of assets by public officials and to restrictions on immunity for public officials. As of December 2020, 49 states (out of 55 AU members) have signed the convention, while 44 have ratified and deposited the convention.

The objectives of this Convention are to:
- Promote and strengthen development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.
- Promote, facilitate and regulate cooperation among the State Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa.
- Coordinate and harmonize the policies and legislation between State Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent.
- Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights.
- Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

5.10.4 Other International Conventions, Instruments and Standards

There are also other international agreements on preventing and combating corruption generally. These include:
- Inter-American Convention against Corruption
- Council of Europe Criminal Law Convention on Corruption
- Council of Europe Civil Law Convention on Corruption

5.11 Different Stakeholders in Reducing Corruption in the Region

5.11.1 Anti-Corruption Authorities in Eastern Africa

In order to fight corruption, governments in Eastern Africa have formed agencies that are tasked in coordinating national efforts towards combating corruption especially in the public sector. The different agencies have also cooperated within the region and on 28th September 2007 in Kampala, Uganda, the heads of Kenya's Ethics and Anti-Corruption Commission, Prevention and Combating of Corruption Bureau of United Republic of Tanzania and Inspectorate of Government of Uganda, signed the Kampala Declaration of East African Association of Anti-Corruption Authorities (EAAACA). This saw the birth of the Eastern Africa Association of Anti-Corruption Authorities which was thereafter launched in Nairobi, Kenya on 9th November 2007 when the EAAACA Constitution was signed.

The vision of EAAACA is to promote the spirit of zero tolerance against corruption and encourage regional cooperation in preventing and combating corruption. Its overall objective is to promote and facilitate regional cooperation, mutual legal and technical assistance in the prevention and combating of corruption in the region, to share information, hold trainings and carry out joint research.

The members of the EAAACA include:
1. Special Brigade Anti-Corruption Commission of Burundi
2. Inspection General State of Djibouti
3. Federal Ethics Anti-Corruption Commission of Ethiopia
4. Kenya Ethics and Anti-Corruption

Commission (EACC)
5. Office of the Ombudsman of Rwanda
6. South Sudan Anti-Corruption Commission
7. Prevention and Combating of Corruption Bureau of United Republic of Tanzania
8. Inspectorate of Government of Uganda.

5.11.2   The Eat Africa Community (EAC)

The fundamental Principles of the Community articulated in Article 6 of the Treaty and particularly paragraph (d), covers good governance, including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples' rights. The Operational Principles of the Community defined in Article 7, particularly in clause 2, provides that the Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and maintenance of universally accepted standards of human rights.

In supporting efforts towards prevention of corruption, the EAC in line with the African Union Convention on Preventing and Combating Corruption, has developed The EAC Protocol on Preventing and Combatting Corruption which is in the draft stage. The objectives of the protocol are to:
- Promote and strengthen the development of mechanisms needed to prevent and combat corruption;
- Promote cooperation among the Partner States to ensure efficiency and effectiveness of the measures for preventing and combating corruption; and
- Promote harmonisation of laws, policies and strategies relating to preventing and combating corruption.

The Protocol is being formulated to establish a framework for cooperation with all the anti-corruption agencies and institutions in the EAC region. This framework of cooperation will undertake and relate to matters such as liaison, reporting on corrupt elements, sensitisation on corruption and harmonisation of anti-corruption laws, among others. The EAC Protocol covers preventive measures, enforcement, asset recovery and forfeiture, regional cooperation, and technical assistance.

In addition to the Protocol, anti-corruption bill has been developed. The East African Integrity and Anti-corruption Bill 2019 was designed to promote integrity and ethical values in the integration process as well as counter and prevent corruption and corruption related culture in the Community. It seeks to promote values in all the Organs and Institutions of the Community, develop a framework for imparting those values, and to establish acceptable standards for ethical dealing in the integration process. The objectives of the Bill are to:
- Promote integrity and ethical values within the Organs and Institutions of the Community;
- Strengthen the legal framework for preventing and combating corruption within the Organs and Institutions of the Community;
- Provide a framework for preventing and combating corruption in the Community;
- Provide for cooperation by the national anti-corruption agencies in preventing and combating corruption; and
- Provide for related matters.

5.11.3   Revenue Authorities in East Africa

Corruption impacts negatively on revenue collection and economic performance in the region. Revenue Authorities in Burundi, Kenya, Rwanda, Tanzania, South Sudan and Uganda are cognizant of this challenge and have continued putting measures to fight the vice.

Revenue officers are exposed to rogue taxpayers with the intention of corrupt dealings. Based on recommendations and support by the WCO's Anti-Corruption and Integrity Promotion (A-CIP) Programme for Customs and the EAC Secretariat, the authorities have developed initiatives to strengthen anti-corruption initiatives. The Authorities are currently implementing the East African Revenue Authorities anti-corruption framework where the public is able to provide information on tax evasion and any other malpractices without fear of reprisal, victimisation or discrimination, among other initiatives.

In addition to the above initiatives, the Revenue Authorities in the region are guided by the EAC Customs and Tax Code of Ethics and Conduct, and the EAC Integrity Action Plan. These are regional

instruments that were adopted in 2014, and applied by Customs administrations in all Partner States. These instruments are premised on international standards, particularly on the WCO Model Code of Ethics and Conduct and the Revised Arusha Declaration.

Other initiatives by Revenue Authorities towards addressing corruption include:
- Automation of core business processes
- Electronic Cargo Tracking Systems
- One Stop Border Posts
- Employee lifestyle audits, background checks, vetting of staff, implementation of the national values and establishment of Corruption Prevention Committees (CPCs)
- Establishment of a reward scheme for informers, which is an incentive to the public to share information that can lead the Authorities to recover tax revenue from the tax evaders.
- Establishment of corruption reporting systems including web based anonymous reporting system
- Commitment to zero tolerance to corruption.

5.12   Corruption Reporting Mechanism

In order to combat corruption, countries and some institutions both public and private have developed reporting mechanisms. Due to the nature of corruption, such mechanisms should ensure the anonymity and confidentiality of anyone reporting corruption. There are different channels through which to report including:
1. Internal reporting;
2. External reporting to a regulator, law enforcement agency or other specific authority, and;
3. External reporting to the media or another public platform.

Some of the mechanisms of reporting that are available for the clearing and forwarding agents include:

Self-Reporting
Self-reporting is a mechanism of detecting corruption that is recommended as appropriate for use by some institutions. In some countries, laws have been enacted that provide incentives that encourage individuals to report on corruption

in which they played a role. This process, known as self-reporting, is often associated with private sector entities, but is applicable to corruption in any organization. Punishment for corruption can be severe, and therefore penalty mitigation is a common incentive to encourage self-reporting. The UNCAC requires States to encourage corruption offenders to self-report, including by offering penalty mitigation and even immunity in certain cases. Article 39 encourages the private sector to report on corruption and to cooperate with the authorities on investigating corruption.

Citizen Reporting
Members of the public are often the first ones to witness or experience corruption, particularly in the area of public services. To help expose corruption, members of the public can be instrumental in reporting on corruption through standard crime-reporting channels at the national or local level, such as the police. To encourage citizen reports on corruption, many governments have developed more direct ways for the public to report corruption. For example, dedicated reporting channels for corruption offences including websites and smartphone applications that enable citizens to report incidents of corruption easily and anonymously.

Whistle-blowing
Whistle-blowing is the disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers to persons or organisations who may effect action. Given that corruption can benefit the individuals directly involved, and there is a variety of means to cover up corruption within organizations, some corruption cases can only be detected if someone on the inside reports it. This kind of reporting activity is frequently called "whistle-blowing", because the reporting person sends out an alert about the activity, in the hope that it will be halted by the authorities. Usually, the whistle-blower reports the act to an appropriate internal manager, executive or board member. Some entities have established protocols for reporting. If that proves unsuccessful, whistle-blowers might raise the issue with external regulatory or law enforcement agencies or may choose to expose the matter publicly by contacting the media.

As insiders to an organization, whistle-blowers have specific knowledge, access and expertise which

allow them to detect corruption or other matters of concern that might otherwise remain hidden. However, they are often in a difficult situation owing to their possible loyalty to colleagues and supervisors, contractual confidentiality obligations, and the risk of retaliation.

5.13   Learning Activities

As a clearing and forwarding officer, you have observed the following as you clear a client's goods. From the information provided, you have realized that the information provided is incorrect regarding the nature, quantity, origin or value of the goods, and that the client has colluded with customs officials by offering them bribes to ignore the true details with the objective of lowering the client's true tax obligation. In return, the customs officer will be paid a percentage of the evaded tax.

Required:
Explain the following in relation to the situation above.
1. The type of corruption being propagated
2. The national and regional laws and regulations being violated and the consequences thereof
3. The effects of such an act were it to go through
4. Discuss the actions you would take in relation to the above scenario including the advice you would give to your client.

5.14   Self-Assessment Questions and Activities

1. Discuss with examples the meaning of corruption
2. What are the types of corruption prevalent in the clearing and forwarding sector?
3. What are the causes and sources of corruption in the customs, clearing and forwarding sector?
4. In the event you are subjected to a corruption situation, discuss the action you would take to prevent and report the corruption.

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6.0 DETECT AND REPORT COMMERCIAL FRAUD AND TAX EVASION

6.1 Specific Learning Outcomes

At the end of the topic, the trainee should be able to:
1. Explain the meaning of commercial fraud
2. Identify fraud Drivers (fraud triangle theory)
3. Identify types of Fraud
4. Discuss the consequences of Fraud and Tax Evasion
5. Detect and report fraud

6.2 Meaning of Terms in Commercial Fraud

Fraud

Fraud is intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. Fraud is a criminal offence in most jurisdictions. Fraud usually involves one person (or group of persons) deceiving another person in order to gain some financial or other advantage. Parties may be liable for the offence of fraud where they deliberately undertake the fraudulent action with full knowledge of the circumstances. Alternatively, it is possible for a party to be liable for fraud if it was reckless as to the circumstances. For example, a clearing and forwarding agent may be liable for fraud if they submit declarations which they suspect are falsified or undervalued but fail to take reasonable steps to determine that the declarations are accurate.

Commercial Fraud

According to the WCO, commercial fraud means any offence against statutory or regulatory provisions which Customs are responsible for enforcing, committed in order to:
1. Evade, or attempted to evade, payment of duties/levies/taxes on movements of commercial goods; and/or
2. Evade, or attempt to evade, any prohibition or restrictions applicable to commercial goods; and/or
3. Receive, or attempt to receive, any repayments, subsidies or other disbursements to which there is no proper entitlement; and/or
4. Obtain, or attempt to obtain, illicit commercial advantage injurious to the principle and practice of legitimate business competition.

Customs Fraud

Customs fraud is any fraudulent attempt to reduce or evade the customs duty (or tariff or tax) imposed on goods when they are imported into a country.. Customs duties are based on the origin and value of the goods and their classification (the customs tariff to be applied). Falsifying any of these factors when importing or exporting products is fraud. This includes:
- falsely declaring the origin of the goods
- declaring a lower value on the goods ('undervaluing')
- misclassifying the goods (incorrect HS classification)
- smuggling goods (i.e. import/export without a customs declaration).

In engaging in Customs Fraud, countries are subjected to revenue risks. Revenue risks in the Customs context include leakage through smuggling of highly taxed goods, such as alcohol, tobacco and motor spirits. They also include commercial fraud activities, such as undervaluation, misclassification, misuse of origin and preferential duties, drawback fraud, among others.

6.3 Fraud Drivers (Fraud Triangle Theory)

There are different drivers of fraud identified by different scholars and authorities. One common approach to understanding the drivers is captured by the Fraud Triangle. The fraud triangle is a framework commonly used to explain the reason behind an individual's decision to commit fraud. The fraud triangle outlines three components that contribute to increasing the risk of fraud: (1) opportunity, (2) incentive (pressure, motivation), and (3) rationalization (justification or attitude). For fraud to occur, all three elements must be present.
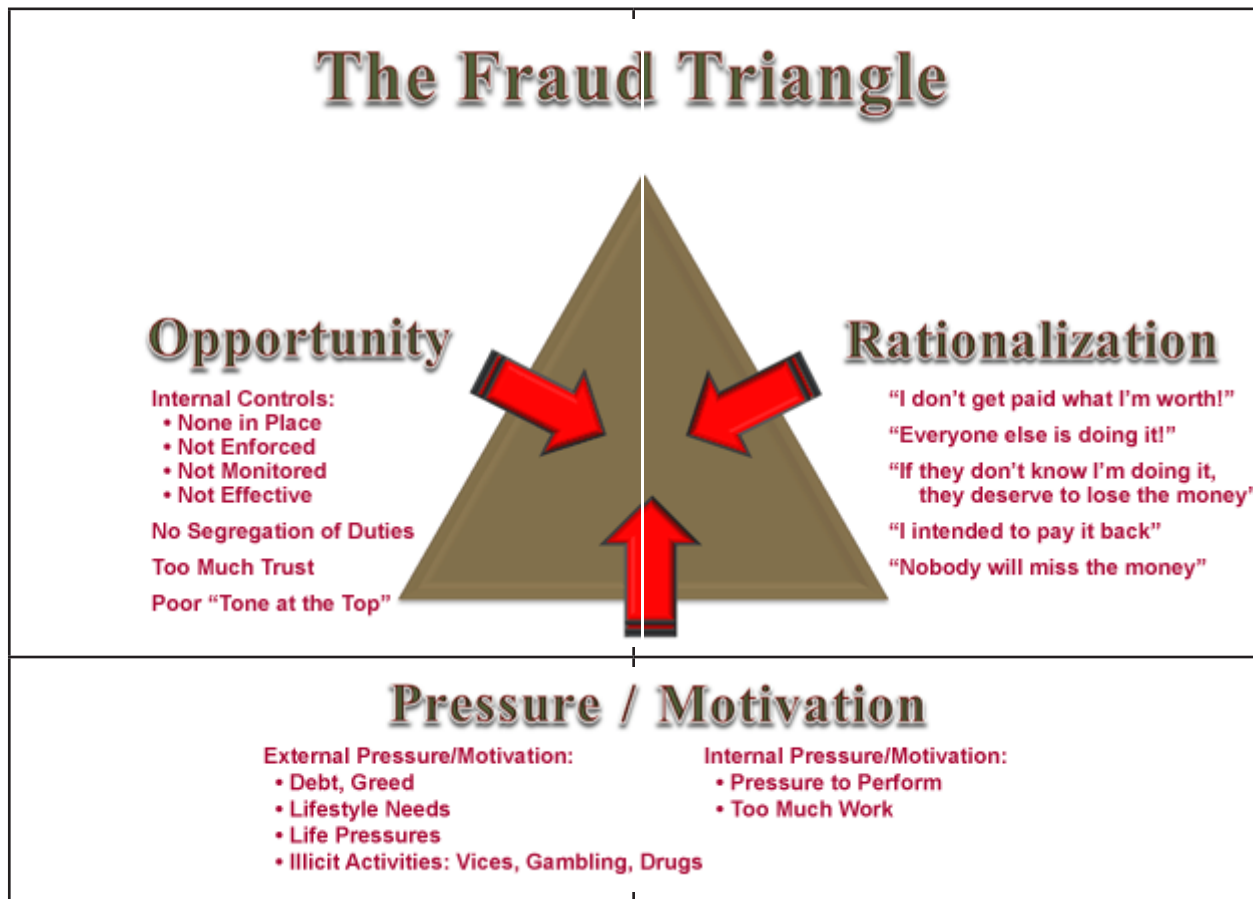
6.4   Types of Fraud in Customs

6.4.1   Transshipment / Falsification of Country of Origin

Transshipment is when an importer sends goods from the country of origin to an intermediate country before it arrives in the declaration country. Transshipment is legal and commonly used in the ordinary course of business. However, because customs duties are based on the country of origin. Unscrupulous shippers utilize transshipping to obscure the true country of origin, and illegally evade customs duties.

Falsification of Country of Origin

There are several kinds of preference regimes, e.g. EAC Common Tariff, GSP and EC preference. As an example, the GSP rules of origin consist of three main elements, namely, origin criteria, documentary evidence and the direct consignment rules. Origin/preference fraud means any attempt to knowingly violate or abuse rules of origin and/or Customs documentary requirements as laid down by bilateral or multilateral agreements in force in the country concerned.

Example of Transshipment:

Customs Authorities in Lithuania established that the value of vehicles imported into country sometimes differed even several times. The importing companies buy used cars from the exporting companies through some third country offshore companies registered in different islands of the Pacific Ocean. The first invoice between the exporting company and the offshore company indicates the real price of the vehicle. During the shipment of a vehicle to Lithuania, the invoice issued by the offshore company to the Lithuanian enterprise is presented to the Lithuanian Customs with declared value that is much lower than the one initially declared to the Customs in the exporting country. It is assumed that documents are forged in order to hide the real value of imported vehicle.

6.4.2   Undervaluation

Undervaluation occurs when an importer declares too low a value for the imported product than the actual value. Customs duties are set as a percentage of the imported products value. When an importer fraudulently claims too low a value of the import, he illegally reduces the import duty owed.

Example of undervaluation:

A consignment of cosmetics was imported into Uganda. An invoice with a consolidated CIF value was presented to Customs. A scrutiny of the document revealed that the VAT number on invoice purported to have been issued in the exporting country was the same as the one quoted on invoices of similar imports from another country. The consignment was subject to physical examination to ascertain quantities and descriptions. The examination results were as follows:

- There were cosmetics for both men and women with specific labels and different quantities in each bottle;
- The goods were of two distinct item codes and none of them was similar to the one quoted on the invoice.

The supplier was contacted for clarification on their supply and invoicing procedures with their distributors in another country. He was also requested to provide a copy of the invoice that was issued in respect of the goods in question. The copy of invoice with the goods properly itemized, indicated that the invoice presented to Customs was a forgery and an attempt had been made to undervalue the goods by 70%.

6.4.3   Misclassification of Goods

Misclassification occurs when an importer falsely describes an imported product. Duty rates are set based on the specific description of a particular item. By falsely describing or classifying a product, an importer can claim it is one with a lower or no duty rate. This can result to undervaluation of goods on the customs import declaration since it enables to lessen the duties to be paid to the customs authority. A Customs import declaration is a statement showing goods being imported on which duty will have to be paid. This is done by filling in a Customs declaration form. However, some importers/clearing agents make wrong declarations with the objective of evading payment of duties or reducing the duties payable. Making a wrong declaration (i.e. mis-declaration) is a prosecutable offence.

Example of product misclassification

In the involved customs regime, chickpeas and black eye beans in dry form are subject to a duty of 5%, while the same goods in a canned form are subject to a duty of 20%. The above box of canned black eye beans was however declared as dried black eye beans (paying a 5% duty as opposed to paying a 20% duty). This form of fraud enables an importer to be more competitive on the national market than an importer complying with customs regulations. The misclassification can even go as far as declaring cooking oil subject to a 40% duty as powdered milk subject to a duty of 2%.

6.4.4   Smuggling

This involves importation or export of goods secretly in violation of the law, especially without payment of duties. For example, importation of high end vehicles cleared as mattresses, baby car seats, bed sofas, toys, clothes, beach beds, shoes, belts and handbags. Smuggling is defined as a Customs fraud consisting in the movement of goods across a Customs frontier in any clandestine manner (Nairobi Convention Article 1-(d)). This type of fraud includes unauthorized removal of goods from Customs warehouses, authorized processing plants, free trade zone, internal movement, etc.

Example of smuggling:

Company X was importing wall elements of metal into EAC. A shipment was sent to an X-ray inspection at the Port of Mombasa which revealed that something was hidden inside the elements. A Customs control revealed that 2,885,600 pcs of cigarettes were hidden inside. During an investigation it was found out that there have been seven similar shipments before.

In another incident, suspect companies purchase second-hand cars in Europe and Japan, disassemble the vehicles and conceal the parts in container of used household goods. The declaration to Customs is used household goods.

6.4.5   Manifest Fraud

This occurs when shipping agents illegally alter manifests prior to uploading them to the Customs Manifest Management System (MMS), thereby setting the stage for false declarations.

6.4.6   Use of fake security bonds to clear transit goods

Some importers and clearing agents use fake Customs transit bonds to clear transit goods. This happens by collusion between clearing agents, insurance companies and Customs officers.

6.4.7 Diversion/Dumping of transit goods

Transit goods are goods imported through the East African Community (EAC) region to a country outside the region. Transit goods within the EAC region are not subject to import duty. However, if the consignment fails to exit the region within the prescribed period and no official extension is granted, duty becomes due (this is diversion of transit goods). Customs department secures the duty due on transit cargo through the execution of a security bond. Goods prone to diversion include sugar, petroleum, rice and motor vehicles.

6.4.8 Fraudulent cancellation of export entries

This is use of fake Customs entries as proof of export, which thereafter leading to fraudulent VAT refund claims.

6.4.9 Import/Export of prohibited or restricted goods

Prohibited goods are the goods that cannot be imported/exported into/out of the country. Restricted goods are those which must meet certain conditions before clearance through Customs. Examples ivory, flora and fauna etc.

6.4.10 Fake payments of import taxes

This happens when Customs entries are fraudulently posted in the Customs system and validated with fake bank payment receipts.

6.5 Consequences of Fraud and Tax Evasion

The consequences for fraud will depend on the nature, scope, and severity of the offense, whether the fraud was committed by an individual or group, and the state or government laws that apply to the case. Fraud can result to:

   a) Civil Suit

Civil action can be brought against a person who has committed fraud in order to seek compensation for the damages caused by the fraud.

   b) Punitive fines, probation, and other penalties.

These arise out of the civil suits as compensation for the offence alleged by the complainant.

   c) Loss of reputation

   d) Incarceration (Jail)

Sentencing can range from scenarios where a person does not go to jail, or the way up to sentences that are extremely lengthy in complex frauds

6.5.1 Consequences of Fraud and Tax Evasion in EAC

The East African Community Customs Management Act (EACCMA, 2004), clearly stipulates consequences of any person engaging in customs fraud in the region. It states that:

- A person who conspires with another person or persons to contravene any of the provisions of this Act shall be liable on conviction to imprisonment for a term not exceeding five years.
- A person who by any means procures or induces, or authorizes another person to procure or induce, any other person to commit or assist in the commission of any offence shall be liable on conviction to imprisonment for term not exceeding one year
- A person who in any matter relating to the customs:

  a) Makes any entry which is false or incorrect in any particular, or

  b) Makes or causes to be made any declaration, certificate, application, or other document, which is false or incorrect in any particular, or

  c) When required in accordance with this Act to answer any question put to him or her by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto, or

  d) Obtains any drawback, rebate, remission, or refund or duty which to his or her knowledge, he or she is not entitled to obtain, or

  e) In any way knowingly concerned in any fraudulent evasion of the payment of any duty, or

f) Except by authority moves, alters or in any way interferes with any goods subject to customs control, or

g) brings into a partner state, or has in his or her possession, without lawful excuse a blank or incomplete invoice, bill head or other similar document, capable of being filled up and used as an invoice for imported goods, or

h) Counterfeits or in any way falsifies or knowingly uses when counterfeited or in any way falsified

i) Any documents required or issued by, or used for the purpose of, the Customs,

commits an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding ten thousand dollars.

 In addition to any other circumstances in which goods are liable to forfeiture under this Act any prohibited goods shall be liable to forfeiture.

6.6   Learning Activities

As a clearing and forwarding officer, your supervisor has asked you to complete an assignment for him involving clearing of a client's goods. As you go through the documentation you notice the following:

i) The dutiable value of the goods being imported has been understated

ii) There has been falsification of the "country-of-origin" of the goods being imported through mislabeling

iii) The goods have been labelled as transshipped through third countries to make it appear as though they came from countries with lower applicable Harmonized Tariff duty rates or no import quotas for the goods in question

iv) Improper use of Tariff Schedule duty-rate classifications.

Required:

1. Identify the type of fraud in each situation above

2. Discuss the possible consequences of the fraud committed in the above situations

3. Discuss how you would handle each of those situation including reporting the fraud.

6.7   Self-Assessment Questions and Activities

1. As a C&F agent, explain the situations that may expose you to fraud in your operations

2. Discuss the different types of frauds and their implications and consequences to the individual, organization, industry and country

3. Discuss the strategies you would use as a C&F agent to reduce exposure to fraud and fraud situations

4. Discuss the mechanisms that you would use to report fraud.

6.8   References

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