

CORRUPTION AT THE CUSTOMS



Center for Liberal-Democratic Studies

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Combating Corruption at the Customs Administration

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# **CORRUPTION AT THE CUSTOMS**

**Combating Corruption at the Customs Administration**

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# Foreword

In spite of recent reductions, corruption in Serbia is still a serious problem. It is unfair and undermines social values, it damages the reputation of the state and weakens the economy.

The Customs Administration remains one of the departments of state most badly infected by corruption. Under the previous management corruption spread widely in the Federal Customs Administration, bringing many great personal gains, to the detriment of the country and to tax payers. The new management has succeeded in reducing corruption over the last two years, but it has been confronted with numerous limitations that reduce the effectiveness of the fight against corruption.

The aim of this study is to offer an institutional analysis of the causes of corruption at the customs and to suggest a wide and consistent range of anti-corruption measures aimed at reducing corruption to an absolute minimum.

The management of the Federal Customs Authority and its director, Vladan Begović have provided the authors of the study with constant support, for which we would like to express our gratitude here.

Belgrade, 12th November 2002

*Boris Begović*  
*Boško Mijatović*

# I Corruption in the Customs Administration – Main Causes and Mechanisms

## THE CUSTOM ADMINISTRATION – FUNCTIONS AND POSSIBILITIES OF ABUSE

The customs administration has many functions as keeper of entry to Serbia/Yugoslavia. Therefore it must be stressed that corruption in the customs administration is a very serious matter. The main functions of the customs administration are:

- to implement the foreign trade policy of the country and to be responsible for managing the customs rates, quantitative limitations, rules on the origin of goods, antidumping measures etc.
- to prevent import of and general trafficking in undesirable goods such as weapons, dangerous chemical substances, narcotic drugs etc. and also to prevent the import of goods restricted by international treaties (endangered species, ivory and white slavery)
- to collect the considerable income accruing from import and possibly export taxes which enable the country to function
- to encourage exports through customs rebates (holidays), tax holidays and other measures.

Therefore the proper operations of customs administration is of the highest social and state interest, both for the reasons mentioned and also to prevent the least possible interruption of foreign trade flows.

In recent decades the rapid development of world trade has brought new challenges for the customs administration. On the one hand it has increased the need to facilitate and speed up trade, in order to benefit as fully as possible from the positive effects of trade on economic progress. On the other hand the possibilities for corruption and smuggling have increased markedly; if the customs regulations have not been modernized, corruption itself can present “the means” for the facilitation and speeding-up foreign of trade. Modern information technologies and means of communication, while helping the work of the customs through the increased amount of faster data processing, also bring with them new difficulties of supervision, legal practice and crime detection, when money and goods can be moved internationally, at the push of a button. All these challenges endanger the integrity of the national border, put the rule of law at

risk, and increase the possibility of undesirable influence from foreign factors on domestic political and economic institutions.

## DEFINITION AND MAIN MECHANISMS OF CORRUPTION IN THE CUSTOMS ADMINISTRATION

The thorough definition of corruption is given by Vito Tanzi, “corruption exists if there is the lack of application of the ‘arm’s-length principle’ to economic decisions”. Corruption exists if ‘arm’s-length principle’ is deliberately violated when making a decision, in order to acquire certain benefits. The other, often-quoted definition of corruption as, “the abuse of official position for private gain” (a definition often associated with The World Bank and its officials), is completely consistent with Tanzi’s definition. Since corruption in the customs administration involves public office holders, the latter definition of corruption is entirely applicable for further consideration, although it is not as widely applicable as the former.

Consequently, the main elements of Tanzi’s definition of corruption are: 1) the abandonment of impartiality, in fact, the existence of partiality; 2) the existence of intention; and 3) material gain as a consequence, i.e. the motive of the corrupted.

The abandonment of impartiality, i.e. the existence of partiality in dealing with a user of the customs administration means that a customs official has to do something, for example deliberately to misclassify goods with a tariff number that will incur a lower customs tariff rate or omit to do something he should, in accordance with the existing customs regulations. In other words, partiality in the context of the customs administration can be interpreted as the breaking of a rule of procedure, that is, the unequal interpretation and application of these rules with different individuals or organizations using the customs service. Of course this partiality is only offered to certain clients.

However, in addition to abandoning ‘arm’s-length principle’, corruption in the customs administration, or of any other state or civil service must also include;

- the existence of intent;
- the existence of material benefit for the corrupted individual.

If a customs official by mistake, for example, at the end of his shift, due to tiredness, applies a lower customs rate than required by the Law on Customs Tariffs, or other regulations, the rules have undoubtedly been broken, the ‘arm’s-length principle’ has been breached, but without intention. This means that the customs official cannot be deemed corrupt, rather he simply cannot bear the demands of his job or his shift is too long.

In addition to this the customs official who does not appropriate material gain cannot be ranked with his corrupt colleagues. For example if a customs official at a border control point levies a traveller of



different ethnic group higher customs tariff rates than the rules require it is obvious that the regulations have been applied partially, and that the partiality is deliberate. However, the hypothetical customs official is merely a chauvinist and cannot be called corrupt.

All corruption, including corruption in the customs service is a bilateral activity during which an informal and illegal contract is enforced between the corruptor and the corrupted. Such a contract specifies all the details of the transaction: what is expected of a corrupted customs official i.e. what services or partiality he/she should provide, and in what time scale, and also what is expected of a corrupter i.e. how much, in what manner, and when he/she will pay for the completed service in the form of a partial application of the law.

It is very important to note that an illegal contract is in question, consequently a contract that violates the law with very significant consequences for the way it is applied and the possibility of enforcing its application.<sup>1</sup>

Accordingly, corruption is a transaction that implies a two-way flow. On the one hand, there is a flow of services from the corrupted customs official towards the corrupter (for example the service of violating customs clearance regulations and applying a lower customs tariff rate than the regulations require); this can be termed a real flow. Such services include everything that enables or initiates the violation of regulations and creates, in any way, a privileged position for the corruptor. On the other hand there is a flow of returned favour (most commonly material gain, though not necessarily money) from the corrupter towards the corrupted customs official; this is termed a financial flow.

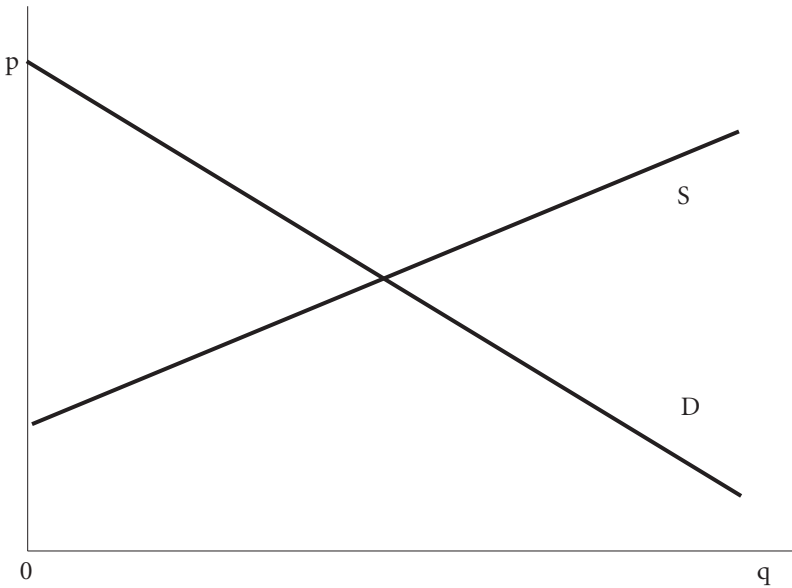
Since two parties are involved in the transaction, it is clear that supply and demand for corruption exist. In other words there is an offer the violation of 'arm's-length principle', an offer of inconsistent and incomplete application of the regulations and procedures, a violation of the regulations in favour of those who are ready to pay. The supply curve for corruption services, like ordinary supply curves, exhibits an upward trend, i.e. the higher the price of the service (bribe), the greater the supply. For example, let us assume that the corrupt service on offer is the reduction of the current customs rate, i.e. in the amount of duty an importer is charged. The higher the price of the service (bribe, or return favour), the higher the supply of corruption. The supply curve (curve S, Picture 1.) intersects the vertical axis at a specific point distant from the origin of the coordinate system. This implies that a minimal amount of the offered bribe is needed in order for a positive supply of corruption to exist. In other words there is at least one price (bribe

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<sup>1</sup> Because an illegal contract is under consideration i.e. a contract the enforcement of which violates the law, the legal system cannot supervise the enforcement of the contract. The parties to the contract share the cost of supervision.

amount) lower than the mentioned minimal price at which corrupt services will not be offered.<sup>2</sup>

**Picture 1.**  
**Supply and demand for corruption**



On the other side, there is the demand for corruption (curve D, Picture 1.). Like every other demand curve, the curve of corruption exhibits a negative trend. The higher the amount to be paid, i.e. the higher the price of corruption (service), the lower the demand for that corruption (service). Such findings were expected and they are consistent with basic principles of economics. For example if the regular duty on a particular commodity is 150 Euros, it is senseless for a customs official to ask a potential corruptor to pay 160 Euros for complete non-payment of the duty. Accordingly, the demand for corruption evaporates if the price is too high, and at that point the demand curve for corruption intersects with the vertical axis (Picture 1.).

A consideration of the demand for corruption in the customs administration must enquire into the motives of the corruptor. Why are corruptors ready to offer bribes to customs officials? The simple answer to this question would be, freedom from paying duty, but this is facile. A better question would be, why do corruptors want to be freed from paying duty<sup>3</sup>, i.e. what do they gain if they do not pay duty?

<sup>2</sup> Reasons for the position of the curve should be looked for among the factors that determine the conduct of customs officials, i.e. the level of the offer of corruption especially among those that refer to penal policy, i.e. the likelihood of conviction.

<sup>3</sup> To make it simpler, non-paying of customs service is equaled with the result of corruption in customs service from the corruptors' point of view i.e. the non-payment represents the service that corrupted customs officials supply. Of course, the services of corrupted customs officials are not limited simply to non-payment of duty.

Two main factors motivate corruptors. The first is rent, i.e. the income above the costs of the resources used. Under normal market conditions the proportional price is barely sufficient to cover the costs of the resources used. These costs should include the price of the capital in accordance with profit appropriated under the so-called normal profit margin. When customs duty is not paid the possibility arises for a corruptor to make further, economic profit or rent. This can be seen in the table below that compares the costs of a company-corruptor with all other companies that are presumably not involved in corruption.

**Table 1.**  
**Corruption at customs administration and appropriation of rent**

	<b>purchase price</b>	<b>duty</b>	<b>normal profit</b>	<b>rent</b>	<b>retail price</b>
Non-corrupting companies	100	40	10	0	150
Corruptor	100	0	10	40	150

As can be seen from the table a company-corruptor sells the imported product at the market price i.e. at the same price as all other the other companies, but in addition to normal profit a corruptor appropriates a rent equal up to the unpaid customs duty. Of course, the amount of the rent should be reduced by the cost of all the corruption the company-corruptor has purchased. In the above model, the company-corruptor co-exists with other companies. However, the second main motive for a company to become involved in corruption is the elimination of competitors and creation of monopoly. Namely, through non-payment of duty, the company gains a cost advantage over its competitors; the company-corruptor can offer the imported goods at a substantially lower price than its competitors, i.e. predatory pricing.

**Table 2.**  
**Corruption at customs administration and elimination of competitors**

	<b>purchase price</b>	<b>duty</b>	<b>normal profit</b>	<b>rent</b>	<b>retail price</b>
Non-corrupting companies	100	40	10	0	150
Corruptor	100	0	10	0	110

In this way a company-corrupter creates the pre-conditions necessary to eliminate all its competitors, forcing them into bankruptcy/liquidation or into voluntary transfer to another industry. In this way the opportunity to develop a monopoly arises, which implies monopolistic pricing and economic profit (rent) on that basis. Again the aim is to maximize economic profit, but in this case it also involves the elimination competitors. This motive or source of demand for corruption in the customs administration is connected

with the well-known phenomenon of predatory pricing by which companies seek to eliminate their competitors.

The classification into supply and demand in the provision of corruption in the customs administration agrees completely with the frequently mentioned division into active and passive corruption in the customs administration. Users of customs services offer bribes (active corruption, i.e. demand for corruption) among other things because they know that certain customs officials are prone to accepting bribes (passive corruption i.e. offer of a corruption service).<sup>4</sup>

The level of corruption is set, like every other level on the market, by the supply being equal to the demand – clearing the market. This refers both to aggregate and individual supply and demand. The depersonalised aggregate supply and demand is made up of a myriad of individual decisions by participants in the movement of people and goods across a border – the decision as to whether someone is going to corrupt or to be corrupted.

## GENERAL FACTORS OF CORRUPTION AT THE CUSTOMS

The factors influencing corruption at the customs or in the customs administration, can be divided into general and specific. General factors comprise all those which, apart from corruption at the customs, also have an influence on corruption in other areas of public service. The following analysis naturally focuses on the way in which those factors affect supply and demand for corruption of the customs administration or customs officials.

### **General factors influencing corruption at the customs – the supply of corruption**

The supply of corruption depends on the readiness of customs officials to provide it. Of course, that readiness is itself determined by numerous factors. The following study examines the issue at the individual and the aggregate level, looking into the complete supply of corruption by customs officials.

#### *The salaries of customs officials*

It is generally believed that the low salaries of customs officials are the key factor influencing corruption at the customs. It is not difficult to understand that the low, indeed insufficient salaries of customs

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<sup>4</sup> In this research a real flow is considered and demand and supply is defined according to it. In some other researches financial flow is considered so that customs officials are on the side of the demand for corruption, those who ask for bribes, and the users of customs services are on the other side of corruption, those who offer bribes. There is no essential difference between this approach and the approach taken in this study.

officials represent a significant factor, or at least an excuse for corruption. Naturally, those customs officials who still have some moral scruples find moral justification for their corruption in their low/insufficient salaries.

Although the wage level is, indubitably, an important factor in the supply of corruption from customs officials, some major questions still require an answer. The first one is whether the salaries of customs officials are high enough to cover the existential minimum for themselves and their families. In other words, how many customs officials would find themselves below the existential minimum if they relied exclusively on their regular income? If their number is considerable, then it is clear that low wages are, or can be, a significant source of corruption at the customs.

The next relevant question is whether similar posts outside the customs administration, i.e. outside the public administration, are also similarly paid. Provided there is at least minimal mobility of labour on the market, and that salaries in the customs administration are substantially lower than salaries outside the public administration, then corruption originates as a natural consequence of the two problems. Firstly, from the viewpoint of customs officials, there is the dilemma regarding the job (or the change of job): a post in the customs administration for a lower salary (with possible additional income from corruption) or in the private sector (for a higher salary without additional income). It is apparent that the extent of corruption, as a top-up of low salaries, is in this case highly relevant for research into the operations of the labour market and for the formulation of wages policy in public services, in this case in the customs administration. Secondly, the same problem can be posed from the standpoint of the state or the customs administration. If people are to be attracted to jobs in the customs administration for lower salaries, then the advantage of allowing for a certain “acceptable” degree of corruption as a source of additional income is evident.

The problem is that if the state tolerates such a policy of employment, or work discipline, corruption appears, and this in itself leads to the creation of an image of the customs as a corrupt administration in which a major proportion of the income of employees is of an “improper” nature, originating from corruption. This is the point at which a vicious circle begins to be established. Namely, if, on account of low/insufficient wages, customs officials supplement their income from corruption, then the customs administration acquires a reputation for corruption. Very often this means that the general perception arises that customs officials are the most corrupt public officials. Such a widespread opinion makes it virtually impossible for the government to improve the salaries of customs officials (which were, in part, the initial cause of the corruption). The issue can be very risky politically— someone, possibly even the president of the most powerful opposition party might say, “You are raising the salaries of customs officials, while they are already making a good

living on corruption!” . This rules out the possibility of improving the situation by raising salaries in the customs administration.

Furthermore, in the context of this vicious circle, there is also a multiplying effect. Namely, once the customs administration has a bad reputation for corruption, customs officials are very much aware of the fact themselves, just as they know (or learn very soon) that it is because of that very reputation that they cannot count on a salary increase. Therefore, it dawns on them that an increase of regular, legitimate incomes cannot be expected. After this it is more than likely that customs officials will opt to intensify their corrupt practices and increase of their “irregular” income. This leads to the reputation of the service being further deteriorated, and in turn the possibility of an increase in regular salaries becomes slimmer and slimmer, further strengthening the incentives for corruption. In conclusion, unless the above mentioned vicious circle is broken, a classic multiplication effect develops, based on the constant undermining of the reputation of the customs administration, which leads in turn to a constant intensification of corruption in the administration.

The deterioration of the reputation of the customs administration has another very damaging multiplying effect, namely the impact it has on the quality of the people applying for work in the customs administration, to be specific, those who want to become customs officials. If the service has a good reputation, then only honest people of great integrity can be expected to apply for employment within it. Thus a high-quality (in the moral sense above all) structure of the customs administration is maintained. Deterioration in the reputation of the administration leads to a change in the structure of people applying for employment in it. In other words, the customs administration itself, though unintentionally, gives a signal on the labour market – we are an organization in which you can make a quick profit in a dishonest way. Accordingly, the participation of potentially dishonest people, or people of questionable integrity, increases. It is people like these who see an opportunity for their own benefit exclusively in a corrupt customs administration. This illustrates a typical example of adverse selection, or producing damaging incentives by sending out the wrong signals.<sup>5</sup>

Employing inappropriate people or people of questionable integrity in the customs administration intensifies corruption and makes it spread, as well as undermining the reputation of the service. This leads to further deterioration in the moral scruples of the employees, which then brings about a renewed expansion of corruption, and, correspondingly, a further decline in the reputation of the administration.<sup>6</sup>

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5 The stated example of adverse selection comprises not only of the moral of those employed in the customs administration, but also other human and professional qualities of theirs, such as, for instance, cognition, or their ability to learn and acquire new skills.

6 Apart from this, deterioration in the reputation of the customs administration causes honest people or people of great integrity to leave the service, as they do not want to stay in an organization with a bad reputation, and be labeled as corrupt by the public.

Therefore, there is another knock-on effect – the customs administration gets the worst that can be found on the labour market.

If the customs administration has a bad reputation, it acts as a very powerful lure attracting the most disreputable people in society. Their credo is – the worse, the better. The customs administration thus becomes the organization of their dreams, in which they will be able to prosper and at last realize their aptitude for corrupt practices successfully.

All the above-mentioned facts increase the significance of a turning point that is needed for the corrupt customs administration to start fighting corruption. Such a notable turning point (“breaking with the past”) is necessary for improving the reputation, for sending a new, different signal to the labour market, which is – “the dishonest lose their jobs here”. The dishonest on the labour market will get the signal quite clearly, and will try their luck in other areas.

All the aforesaid must concern a benevolent/sensible government, or one that does not aim to have a corrupt customs administration.<sup>7</sup> Low salaries for customs officials in that case come as a consequence of a relatively austere state budget, or low budget revenues of the state. In other words, even though the government may not want a corrupt customs administration, its remuneration policy, among other things, unintentionally leads to corruption at the customs. In certain cases one cannot say that there is no element of intention involved, but rather that corruption is tolerated, since it allows the customs administration, or the customs system to operate at all.

Nevertheless, one should bear in mind the possibility, which in reality is not so uncommon, that corruption is institutionalised, i.e. that the government actually wants a corrupt customs administration. In that case, the basic motive of the regime/ruler is to have a cooperative, or rather obedient customs administration, and corruption is the only means of achieving that aim. Thus institutionalised corruption is established, within which the main or even the sole aim of the ruler is to maximize personal wealth. The aim being such, low salaries in the customs administration prove to be a means of initiating corruption in that service. In order to be efficient (in the sense of initiating, or intensifying corruption), such salaries must be below the existential minimum, so as to force customs officials to become corrupt, that is to intensify their corrupt practices. This is the way in which the hostage mechanism is formed. “You are either going to be cooperative (obedient) and do everything required, or I shall produce irrefutable evidence that you are corrupt.” This means expulsion from the service, and loss

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7 The American economist William Baumol claims that many states or governments, throughout human history, can be interpreted as gangster organizations. In Baumol’s opinion “governments concerned with the welfare of the governed and constrained by rule of law from arbitrary and violent measures are the rare exceptions in human history, perhaps more realistically interpreted as a curious aberration of a very recent period in rather limited portions of our planet.”

of income (regular, as well as the supplement from corruption) that follow. Subsequently, criminal proceedings might be instituted, and the person might be sentenced to prison (in extreme cases there is not even a need for legal proceedings). Therefore, a deliberate policy of not only low, but also insufficiently high salaries results in the blackmail mechanism being established, which ensures the obedience of the administration, that is the customs officials working in it. What purpose this obedience serves is not of the utmost importance for this analysis.

Next, low salaries inevitably bring about a particular feeling in a customs official; he is looked down upon, and is not adequately rewarded, as is his service as a whole. When analysing this, one should bear in mind one fact in particular – that the customs administration provides the state budget with considerable revenues, which is always far higher than the expenditures/costs of the service itself. Therefore, many employees in the customs administration feel betrayed by the state, or the government, so corruption is, in a sense, their revenge. In this case, low salaries pose a problem not only from the perspective of customs officials' existence only, but also from the perspective of their relative poverty. In addition, a certain social status is required, and salary can often be a restrictive factor. This is particularly present in a situation when some other public services (the police or army, for instance) have higher salaries as well as social status. In such circumstances it does not matter how low a customs official's salary is, but only whether it is lower than the salary of a police or army official.

Finally, when considering the salary of customs officials, one should mention one of the opinions very often expressed: "Corruption originates from poverty, a generally poor society is the cause of corruption." Since poverty causes corruption, then economic growth will make us free from poverty, and, consequently, free from corruption as well. It can be assumed that the advocates of this theory believe economic growth will lead to higher salaries in general, therefore in the customs administration as well, and, accordingly, corruption will diminish. This is a delusion, to put it mildly. There are countries at the same level of poverty, or affluence, which have significantly different levels of corruption in their customs authorities, as well as the society as a whole. Neither economic growth in itself nor a mere increase in the salaries of customs officials is a complete remedy for corruption.

### *A corrupt organization*

The service of corruption is always supplied by an individual, a customs official with a first and last name. The total supply of corruption in the customs administration of the country in question is just the sum of supplies of services offered by all the individuals in that customs administration, that is all the customs officials. Still, every one of them, at the beginning of their professional career at any rate, has certain



moral scruples. At least at the beginning of his career he is not the person who supplies his services of corruption without restraint. However, the key question is how long, or rather under what conditions that person will be able to keep his integrity and not become corrupt. The answer to this question, among other things, depends on factors related to the organization the person belongs to.

In the customs administration there is a strong team spirit, i.e. the collective spirit of the group doing the same job together. Therefore, being part of the team is a factor of great importance influencing corruption. If the team is already corrupt, a new coming uncorrupted official has little chance of resisting temptation, or ignoring the threat. Namely, an uncorrupted customs official poses a threat to the other corrupt officials, since he is in possession of information which can be very dangerous for them. For that reason, an uncorrupted customs official will find himself under great pressure not to notify others of the corruption present in his team. The safest way to ensure this is to entice that person into becoming part of the corrupt team, as then he becomes a sort of a hostage – if he reports his colleagues, he will also be held accountable for corruption. Hence, corrupt customs officials have a very strong motive to involve as many colleagues as possible into the chain of corruption, so a knock-on effect appears here as well – deep corruption leads to even deeper corruption.

In converting an uncorrupted customs official, that is a man of integrity, into a corrupt one, the syndrome of “the first time” is of vital importance. After the first time, once he has received money or accepted another favour done in return, everything changes. One of the factors determining this is that a corrupt customs official becomes a hostage of his own corruption. To all intents and purposes he is not in a position to refuse an offer from the person who corrupted him once. The corruptor possesses the key information that he can share with others and thus ruin the professional career of the corrupt official, or even send him to prison. It is a kind of blackmail, which usually functions very well.<sup>8</sup> Hence, the corrupt official is prompted to cooperate, that is to remain corrupt.

Apart from the above, another key factor is the attitude of the executives, or the reputation of the executives in the customs administration, from the Chief of the whole customs administration, through the managers of custom-houses, to the administrators of customs border cross points and the heads of shift. Dishonest administrators cannot successfully manage an honest service, let alone fight corruption.

An analysis of salaries and corrupt organization as factors influencing corruption at the customs indicates the presence of substantial multiplying effects. Initial deterioration on one of these two fronts and the establishment of corruption inevitably lead to a vicious circle of deeper and deeper corruption. Therefore, a turning point in the

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8 The American economist Oliver Williamson calls this the hostage mechanism.

customs administration is essential, as a precondition for fighting corruption. Such a turning point, on account of the substantial multiplying effect it has, facilitates relatively rapid progress in subduing corruption in the customs administration. In other words, there is a change in the direction of the multiplying effects of salaries and corrupt organization as factors influencing corruption at the customs.

Unfortunately, however, for a certain number of corrupt officials, there is little chance of turning back, and returning to normal life. Some corrupt officials have experienced serious psychological damage – they have become kleptomaniacs. To their mind, corruption is a lifestyle, in other words it is a purpose in itself. Apart from these, one should bear in mind that there are customs officials who have amassed wealth, or increased their income to such an extent that they cannot change their lifestyle anymore, but remain corrupt in order to retain their enormously high incomes, which exceed by far regular expected incomes in the customs service.

### *The penal policy on corruption*

The penal policy on corruption is very often highlighted as the key factor of corruption, or the crucial element of waging a fight against it. According to this, rather widespread opinion, a stringent penal policy and stringent implementation are sure to diminish the extent of corruption, whereas a liberal penal policy or inconsistent implementation lead to the strengthening of corruption at the customs.

In order to gain a better insight into the effects of the penal policy on corruption at the customs, one should study the behaviour of a potential offender, i.e. the behaviour of a potentially corrupt customs official. Becker's economic model of crime and punishment serves this purpose best, as it defines the relations between expected utility produced by committing an offence (corruption in this case), and expected disutility of punishment. The chief aim of the model is to determine what deterrent effects (the function of discouragement) punishment has on a potential offender. The odds that an offence will be committed are determined by the ratio of the expected utility produced by committing an offence to the expected disutility of the punishment. If the ratio is positive, a potential offender will become an actual criminal, that is he will commit the offence. In the case of customs officials, just as any other public officials, corruption may originate if the ratio is positive.<sup>9</sup>

The afore-mentioned relationship indicates that the following four factors determine the supply of corruption at the customs:

- 1 Probability of an offer of expected bribe or suitable favour done in return;

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<sup>9</sup> The issue of whether corruption will actually develop or not is determined by some other factors that are not discussed in this model. It is positive, though, that if the stated ratio is negative, corruption will not develop.

- 2 The value of the bribe, or favour, estimated in terms of utility for the customs official;
- 3 Probability of disclosure and conviction for the offence of corruption;
- 4 The value of disutility of the anticipated punishment.

The first two elements refer to demand for corruption. The value of the money, or the return favour, offered by the corruptors, depends on how much they are willing to pay to be granted a certain favour by the corrupt customs official. Thus, demand for corruption becomes a factor of its supply, since an increase in demand leads to a corresponding increase in supply as well.<sup>10</sup> The greater the demand for corrupt services, the greater the amount of money, or the more valuable the return favour clients are ready to offer. This, unless the penal policy is changed, will lead to an increase in the supply of corruption.

The last two elements represent the impact of the penal policy, and the way of its implementation. A stricter penal policy, in view of the stipulated punishment<sup>11</sup>, as well as its enforcement (primarily by means of a greater number of convictions), leads *ceteris paribus* to a decrease in the aggregate supply of corruption. Although this view may initially seem convincing, and in accordance with the results of Becker's model, one should point out certain implications which are not, perhaps, immediately apparent.

As the expected disutility of punishment rises, corruption will only be supplied in cases when the expected utility of the bribe, or the favour done in return is extremely high, high enough, in fact, to compensate for the high expected disutility of punishment. This means that a strict penal policy will prevent the supply of "minor" corruption, i.e. instances of corruption in which both the service of the corrupt and the bribe (favour) of the corruptor are small. However, a strict penal policy will not induce a decrease in major corruption, i.e. corruption in which a lot of money, or big corrupt deals are involved. Furthermore, one cannot say with certainty what will be the reaction of those customs officials who, on account of the strict penal policy, will no longer be included in minor deals. Some of them will choose to become straight, that is they will desist from their corrupt practices (as the risk of punishment and its negative utility is far too high), whereas others will start dealing exclusively with major corruption. What proportion of the customs officials will go over to the category of the straight, and what proportion to the category of those dealing with

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<sup>10</sup> It is very important to note that in this instance a complete shift in the supply curve is implied, that is the formation of a new supply curve rather than a change alongside the existing curve.

<sup>11</sup> The concept of punishment comprises imprisonment, fine and dismissal. In effect, the punishment of dismissal is a fine, since not only does the customs official lose his wages (regular and "irregular"), but also his reputation at the labor market is undermined. Therefore, the chances of his getting a well-paid job outside the customs administration after the dismissal become all the slimmer.

major corruption, is an issue determined by numerous factors, the most important of which is their attitude to risk, i.e. the degree of their aversion to risk. In other words, though it is apparent that a stricter penal policy will diminish minor corruption (or the corruption characterized by the small value of the favour done in return), its effect on major corruption is far from clear. It is not evident that the latter form of corruption will not be diminished, but it is uncertain whether and to what extent it will grow.

Regardless of the aggregate effects of a stricter penal policy on corruption at the customs, i.e. the effects it will have on the extent and structure of corruption, it is obvious that in many countries (particularly developing countries, or those going through a period of transition) there are considerable restrictions on its implementation. For instance, countries going through a period of transition, in which a communist regime was in power for decades, are eager to adopt, as soon as possible, legislation that will facilitate the liberalization of economic life and improvement of resource allocation on the market. Legislative bodies are overburdened, due to the need for the adoption of a great many regulations which will bring the economic system of the country closer to the free market model. This means that relatively little attention is focused on the legislation necessary for an efficient penal policy in the case of any form of corruption, and therefore as concerns corruption at the customs as well, or in the case of any criminal offence. Furthermore, effective implementation of a penal policy requires the existence of powerful and efficient institutions of the judicial system, which is still a rather far-fetched idea for developing countries and transition economies. As regards developing countries, in most of them corruption is an omnipresent and common affair, so the legislative authorities are not too concerned about it either. To be specific, they do not place on their agenda regulations which would initiate a fight against corruption. As regards legislation itself, however, not even Western countries are provided with regulations which assist in waging an efficient war against corruption. Among these powerful countries, the United States of America is the only one which has enacted a law stipulating that a legal entity, registered by the state must not offer a bribe to foreign public officials. Not even this law has been successful in making a distinction between legitimate transaction facilitation payments and bribes, or corruption.

Apart from this, in many countries, judges or the judicial system as a whole are still not organized in a way which would help an efficient legal fight against corruption at the customs, that is efficient implementation of the penal policy. Quite often the judges conducting the proceedings in a case of corruption at the customs are unfamiliar with the specific customs regulations and procedures. This particularly refers to the lawsuits brought before regular, or general courts, although special courts (commercial trade courts, for instance) are not familiar with the customs regulations and procedures either. One of

the reasons for this is explained by the fact that the adopted customs regulations and procedures are based on certain international conventions, that is the agreements the country in question has concluded, and are not a result of the domestic judicial system, so they differ greatly from the domestic legal norms. Due to a lack of knowledge of specific customs procedures, the courts can sometimes overturn, in the second instance, completely valid disciplinary measures of the customs administration.<sup>12</sup> All these limitations of the judiciary in combating customs corruption are based on the presumption that the judiciary is not corrupt, i.e. that there is no connection between customs corruption and corruption in the judiciary. In many countries in transition this presumption is very far from reality, which reduces the likelihood that efficient penal policies can be applied to corruption at the customs.

There are very few cases in which customs corruption produces direct material evidence usable in criminal proceedings, i.e. in a trial. One of the basic problems of effective implementation of a penal policy is thus the gathering of evidence. In doing this, the behaviour of the corruptor is of the highest importance, as he is the key (most often also the only) witness to the transaction (corruption), or the only witness to the transaction with some (even very slight) incentive to talk about the transaction. However, corruptors, or victims of corruption, very often decide not to talk, thereby depriving the investigating or judicial organs of the ground for trying and punishing corruption. There are several reasons for such behaviour in corruptors and/or victims of corruption. The first impression one often gets is that the whole organization (the customs administration, but also the judiciary) is corrupt and that there is no sense in reporting corruption to someone who is completely corrupted. A lack of knowledge of customs and state administration often ties in with this, so that the victim of corruption does not know which administration to turn to. The second factor is the feeling of guilt because a bribe was paid, and in some cases there are also legal grounds for the corruptor to be prosecuted, so that they have no incentive to embark on the process of reporting corruption. Thirdly, companies as corruptors have very often gained certain advantages over the competition through the corruption they entered into. Fourthly, corruptors are very often satisfied with the result and wish to continue relations of corruption, so that any effort to report corruption is against their interests.

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<sup>12</sup> For example, in one country in transition, a corrupt customs official acted with bias with relation to a client of his while determining the value of goods, i.e. the customs tariff base. This went so far that the value of a new combination cooker was set at two euros. The court overturned, in the second instance, a decision of the disciplinary commission that the customs official in question should be dismissed, with the explanation that, according to the law, customs officials were entitled to assess the value of the goods (the customs tariff base) and that they were at liberty to assess them in any way they saw fit.

All of the above shows that there are great difficulties in establishing an efficient penal policy on customs corruption. Even when such a policy is established, it is very doubtful that it will be effective, i.e. if its implementation will lead to a reduction in corruption, or merely to a change in its structure into, possibly, an even more dangerous form of corruption. An efficient penal policy may only disperse the small fry among corruptors, and may well strengthen major, well-organized corruption.

### **General factors of corruption at the customs – demand for corruption**

#### *Insufficient supply of customs services*

The insufficient supply of regular customs services can very often be the cause of demand for customs corruption. The basic occupation of the customs administration is to ensure the unimpeded flow of goods across borders. If the customs administration's capacity is insufficient, or is used to an insufficient degree, there is a long queue at the border cross points, which significantly increases importers' costs. This creates an incentive to jump the queue by bribing the customs officials, i.e. to obtain perfectly legal services in that way – services which, in principle, belong to everyone: the rapid transit of goods across the border, i.e. an efficient customs inspection and levying the customs duties. Therefore, insufficient resources lead to queues, and certain customs users are ready to pay to jump the queue, i.e. in order to obtain a perfectly legal service provided by the customs administration ahead of the queue.

However, in some countries things have gone so far that regular customs inspections cannot even be performed unless the customs officials are bribed. In other words, customs users are illegally charged for the legal customs service. Instead of the costs of this service being met by the budget, as is provided for by law in all modern states, the greater part of the customs administration's costs, above all the salaries of customs officials, are effectively met by revenue from corruption. In several countries, all revenue from this kind of corruption flows into a common fund, most often the fund of one customs post, and the total corruption revenue is then divided among all the employees. Therefore, we are dealing with a type of institutionalised corruption. However, it is important to recognize that this type of corruption relates to the provision of perfectly legal services by the customs administration, which would not even be provided if it were not for the corruption.

A question arises as to the reasons that cause the capacities or resources to be insufficient to meet the demand for regular customs services. Generally, two answers, or corresponding situations, are possible.

The first situation relates to actual circumstances, or the objectively low probability of providing enough assets from the national budget

for the efficient operations of the customs administration. In other words, the limited budget causes limitations in the customs administration's nominal capacity, but these capacities are used to the fullest degree. This may be the case in a fair number of developing countries – poor countries with small budgets. Especially recently, as part of the process of globalisation, there has been an increase in the volume of foreign trade, and imports and exports of these countries have risen significantly. There has thus been an increase in demand for customs services, but the capacities of the customs administration have remained unchanged.

The second situation arises if the existing capacities of the customs administration are intentionally under-used, without regard to whether these capacities are nominally sufficient to ensure the unimpeded and rapid flow of goods across borders, i.e. for the efficient performance of the entire customs procedure. The intentional under-use of capacities in this case represents only a means of extorting bribes, or a way of producing demand for corruption. If everything functions without problems, for example, if there is no waiting/delays involved at the border crossing, users of customs services have no need to bribe anybody in order to get the regular service they are entitled to. Thus it is necessary to create an incentive for customs users to, due to a long wait for regular service, bribe customs officials in order to get such service ahead of the queue. Therefore, it is the intentional creation of a "shortage", in order to produce demand for customs corruption.

### *Protectionism*

A policy of protectionism represents the strongest source of demand for corruption of customs officials. A policy of protectionism implies a high level of customs protection of domestic products (high customs duties on imported products), as well as the existence of numerous non-tariff barriers to import (contingents, licences and quotas).<sup>13</sup>

Without looking into the reasons why states employ the protectionist policy of high customs rates, it must be said that such a policy generates significant demand for the corruption of the customs administration, i.e. the higher the duty charged on an imported product, the greater the incentive to the importer to evade payment of the duty or to reduce it by corrupting a customs official. If, for example, the customs tariff rate is 40%, for a consignment worth 1,000, 000 EUR, generally speaking, it is profitable for the importer to pay any amount smaller than 400,000 EUR, in the form of a bribe, in order to evade paying the customs duties, since this increases profit. If the customs tariff rate goes up to 50%, the mentioned amount of potential corruption, i.e. of

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<sup>13</sup> The hidden non-tariff barriers to import such as restrictive technical standards, requests for technical tests, as well as the extensive phyto-sanitary and veterinary protection when it comes to agriculture

potential demand of corruption goes up to 500,000 EUR. And with the increase in this amount, the number of customs officials willing to supply the service of corruption rises as well. The level of corruption increases, both in terms of the number of transactions and in the total amount of bribes paid.

The lowering of the customs tariff rate, of course, produces the opposite effect. For example, if it is 1%, it is most probable that there will be no demand for corruption at all, since the importer would be ready to pay up to 1,000 EUR in order to have the consignment exempted from duty. If we take into consideration the transaction costs of corruption, as well as the possibility of a sanction it would make unreasonable for people to expose themselves to such a risk for such small profit. Of course, in the case of imports without customs duties (a regime of free trade) even the theoretical ground for the demand for corruption disappears, since there is no potential rent, nor the possibility of elimination of the competition by means of corruption.

Everything mentioned above is also true for non-tariff barriers to import, bearing in mind that they offer, by their very nature, even more scope for corruption. A regime of licences for the import of certain products inevitably leads to a decrease of their supply, i.e. a restriction on the total quantity of those particular goods imported. Only importers with licences specifying the quantity of imported merchandise per transaction can import the allowed quantity of merchandise. Thus the licences for import are unconditional and not transferable, and they are issued in a non-transparent and non-competitive way. Since such licences lead to the restriction of import an artificial (administrative) fall in the total supply occurs (supply is below the equilibrium level at the free market), which gives the importers who possess a licence the possibility to appropriate economic profit. Issuing import licences has not been the responsibility of the customs administration (it is usually the job of the Ministry for Foreign Trade, or the Ministry for Foreign Economic Relations), but the responsibilities of the customs administration include monitoring, during customs inspection, of whether the importer possesses a valid license for the import of the goods (and quantity of goods) in the consignment. If the importer did not manage to obtain a licence for import (regardless of the way in which that licence can be obtained – legally or by corruption), the problem can be solved in a very simple way; by corrupting the customs official who will not, afterwards, evaluate the real situation, but let the consignment pass, although the import licence is missing from the paper work.

The same conclusions, more or less, refer to contingents, which by their nature as non-tariff barriers to import are similar to import licences, at least from the standpoint of corruption in the customs administration. Namely, the distribution of contingents i.e. the right to import a certain amount of a particular commodity, results in the issuing of a specific licence for import within that contingent. If the



importer did not manage to obtain such a licence, the only option left is to import the merchandise, contrary to the actual legislation by corrupting the customs official.

Finally, quotas also represent a non-tariff barrier to import. They can be conditional and unconditional. Conditional quotas allow the import of certain goods even above the amount specified by the quota, but on that import a multiplied customs tariff rate is applied. Unconditional quotas simply ban the import of certain goods above the quantity or value specified by the quota. It is customary that general quotas (which refer to the total quantity of import, measured by quantity or value) are applied, but special quotas can also be applied, as part of the general quota, which refers to the single importer. In this case too, the possibility to import certain goods is obtained by corrupting a customs official.

The elimination of non-tariff barriers through corruption, as a rule, takes the form of letting the consignment pass. This is because, if duty were levied on the consignment, written proof would remain that the procedure for examining the import licence, i.e. the quotas had been violated. Because of this corruption in these cases almost unavoidably leads to passing the consignment, not registering the import, and not charging customs duties on the consignment in question.

Of course, the greater the non-tariff barriers to import, i.e. the more restrictive the policy of licences and quotas, the greater is the potential rent that importers stand to retain. This results both in an increase in the demand for corruption, and in the amount of the bribe which importers are ready to offer to the customs officials for allowing the consignment to pass illegally.

### *The high degree of regulations and complicated procedure*

A protectionist external trade policy, as a rule, leads to proliferation regulations on foreign trade activities. However, the high degree of regulation, complicated procedure and non-transparent decision-making process stimulate the generation of demand for corruption of the customs officials even with a given level of protectionism. The problem is that the customs administration is the key point in foreign trade procedures which enables the application of the entire body of foreign trade regulations. Thus, by corrupting the customs officials that legislation is evaded and shortcuts are found within the complicated regulation.

A typical example of this kind is restrictive legislation on the registration of foreign trade companies. If restrictive conditions for the registration of foreign trade companies are introduced i.e. a regime of compulsory licences for work related to the fulfilment of certain conditions (licenses), foreign trade companies will be obliged to produce such a license whenever they pass customs. Thus the incentive is created for all companies which do not fulfil the mentioned restrictive

conditions, that is for the companies that do not have a license, to bribe the customs officials when performing an activity for which they are not registered. In this way, the corrupted customs officials overlook the fact that a certain foreign trade company does not have all the paperwork necessary for the merchandise to receive clearance in accordance with all the regulations.

Complicated procedure which stimulates corruption is associated with the existence of a large number of different tariff rates applied to similar products (HS tariff numbers). Under such conditions, the temptation is great to offer a bribe to customs officials in return for the misclassification of the goods under a different (inappropriate) HS tariff number where the level of customs duty (tariff rate) is much lower.

Complicated and non-transparent procedures for decision making, and performing customs work, inevitably leaves great discretionary rights to the customs officials, and thus also creates space for their corruption, so that they will engineer a favourable outcome for the importer using their discretionary decisions.

### **SPECIFIC FACTORS OF CORRUPTION AT THE CUSTOMS**

Most research on corruption, especially in countries in transition, has demonstrated that the public has perceived the customs administration as one of the most corrupted public services. Therefore, it is necessary to examine the factors of corruption which are specific for the customs administration i.e., the factors which do not exist in the case of other civil services, and can be an additional reason for the more widespread corruption at the customs.

Without disputing the existence of widespread corruption in the customs administrations of various countries, especially of countries in transition, it is necessary to point to the several factors which can lead to an exaggerated assessment of the magnitude of corruption in the customs administration. There are many situations in which the unquestionable corruption is wrongly ascribed to customs officials. Firstly, at each border crossing, travellers or the people who accompany the goods encounter a large number of civil servants who are not customs officials. The first contact with the officials of a country is not with the customs officials but with the border police. In the case of shipment of goods, the procedure of crossing the border may include sanitary, phyto-sanitary or veterinary inspectors. The officials of these administrations are in a position to offer corruption i.e. to violate arm-length principle in the conduct of the procedure of crossing the border. Still, almost always, all these services are labelled as customs services and the whole burden of the bad reputation of a corrupted service is placed on the customs administration. Leaving aside the fact that, in some cases, cooperation exists between the services mentioned, the

customs officials are not necessarily the “coordinators” in the business of supplying corruption.

Furthermore, the contacts of the users of customs services with the customs administration are often not direct, but carried out through an intermediary. This especially refers to freight traffic i.e. the flow of goods across the border, where the owner of the goods i.e. ”customers” of the customs administration is not directly in contact with the customs officials, but the whole procedure is carried out by a forwarding agency (customs broking company), on his behalf. There is asymmetric information between the clients of the forwarding companies and the companies themselves i.e. the clients do not know all the details of the activities of the forwarding company and the way it represents the clients before the customs administration. The most important thing for the client is that the goods cross the border quickly and therefore he allows the forwarding agency a contingency fund to “facilitate” the flow of goods i.e. to bribe customs officials. The clients do not know for sure if their money was really used to bribe the customs officials, but they take this for granted regardless of the fact that the forwarding agency may have appropriated the money for themselves, there being no need to bribe the customs officials. Nevertheless, in this way the customs administration gains the reputation of being corrupt, regardless of the real magnitude of the corruption.

Finally, many users of the services of the customs administration, especially when it comes to the travellers, were forced to leave their belongings at the border (if they refused to pay the duties which were above their expectations) or the goods were simply confiscated because of infringements of the customs regulations. They wrongly believe that customs officials keep the goods for themselves, which incorrectly increases the perception of the customs administration as the most corrupted civil service is perfectly natural (due to the loss of their goods), even if incorrect.

Even bearing these errors of perception in mind, however, it is certain that the customs administration is among the most corrupted of public services, at least in developing countries and countries in transition. Therefore, it is necessary to point to the specific factors which govern supply and demand of corruption at the customs.

### **Specific factors of corruption supply at the customs**

A consignment of goods and the people accompanying it cannot avoid an encounter with the customs officials on entering the country. The customs officials have the right to stop travellers and consignments of freight at the border itself, and in some countries this right is extended to the interior of the country. Avoiding such an encounter with the customs officials i.e. avoiding the customs examinations represents the violation of the law. The inevitability of direct contact with the potential supplier of a bribe places the customs officials in a very

favourable position to demand such bribes i.e. to offer the service of corruption. In this aspect the customs administration is significantly different from other civil services where the probability of direct contact with so large a number of people prepared to demand corruption does not exist to such an extent.

The next factor of corruption among customs officials is related to the fact that they have physical contact with very valuable goods on a daily basis, both in the case of travellers and cargo traffic. Often, in passenger traffic, the customs officials meet very wealthy people. This creates additional temptation to offer the service of corruption i.e. to accept bribes in return for preferential treatment when applying the regulations. No other public service comes so regularly into contact with such valuable goods and potential sources of bribes. Due to these factors the supply of corruption at the customs is greater than in other public services.

When it comes to passenger traffic, the customs official has a certain psychological advantage over the traveller. That is, in the customs procedure itself the customs official has nothing to lose, whereas the passenger, in a large number of cases has something to lose, i.e. the customs official can compel them to pay duties which will decrease his welfare. So, the superior position of the customs official during the encounter encourages him to offer biased treatment i.e. to offer corruption to the user of customs services.

The geographical or regional element in staff-employment policy of the customs administration certainly represent a significant factor in the supply of corruption. Many of the customs officials come from the border regions where they serve. In addition, very often the son inherits position at the customs from the father, blood relations are very strong, and sometimes there are relatives on the other side of the border. Even if the customs official is a newcomer to the border region, he easily finds his way around in the new surroundings. All connections of this kind represent a suitable environment for the creation of corruption networks which facilitate procedures such as the separation of the act of offering the service of corruption and paying for the service. The mentioned strong network, which very often reaches across the border, rarely exists within other public services, which leads to the additional factor of corruption in the case of the customs administration.

Finally, in a certain number of cases the services corruption at the customs are paid in-kind, by goods from the consignment which was the subject of preferential treatment by the customs administration. The customs officials which charge their corruption services know very well that, as a rule, such goods are insured, so that taking a certain amount will not disadvantage the forwarding company or transport operator with whom they are in direct contact, but only some anonymous insurance company which insured the cargo. Such depersonalisation of the costs of corruption leads to the increase of its supply.

## **Specific factors of demand for corruption at the customs**

The considerable powers of discretion of the customs officials are a significant factor in creating demand for corruption at the customs. Customs officials can undertake the search of any passenger, they can bring about their arrest (by cooperation with the police), or they can confiscate all property in the possession of a person who committed an infringement of the customs regulations. Generally speaking, customs duty should/could be levied on all goods that cross the border. All that shows that the authorities (powers) of the customs officials are large, and that application of these powers can lead to significant loss of the income/wealth of the person crossing the border. Since the users of the customs administration know all this, they have the incentive to prevent the application of these authorizations by bribing the customs officials.

That can best be seen by comparison of the authorizations of the customs officials and border police who are in charge of passport control. In the case of customs control, generally speaking, there is a possibility of levying duties at every crossing of the border which leads to material losses of the people who cross the border. As opposed to that, the border police is in charge of passport control, the only thing they can do is to prevent somebody from entering the country, and for something like that they need to have a very strong reason. The police simply does not have the opportunity to charge any duty, therefore the demand for corruption of the border police in charge of passport control does not exist.

Finally, all the people who cross the border in passenger traffic or who are involved in the import of freight traffic know very well that the customs officials have the discretionary right to assess the value of the consignment, i.e. to determine its market value, on the basis of criteria defined in advance. In other words, there is an incentive to affect the discretionary decision by bribing the customs official i.e. to encourage their biased decisions, which inevitably leads to an increase in the demand for corruption. It is hardly possible that any other civil service has such scope for making discretionary decisions; this therefore constitutes a specific factor in the demand for corruption at the customs.

## II Customs Officials on Corruption in the Customs Administration

### INTRODUCTION

In the context of the general, burning problem of widespread corruption in Serbian society as a whole, corruption in the customs administration has a special place. In several extensive public opinion surveys carried out in the past few years, the customs service (together with the police, the judiciary and the health service) was designated by a majority of those questioned as the main bastion of corruption and those employed in it as its major “carriers”. Some expert studies also describe the customs administration as an important neuralgic point from this point of view.

Several major reasons that make such assessments plausible can be suggested. The past ten-year period, marked by the disintegration of the previous federation and the outbreak of inter-ethnic conflicts in the region, the introduction of economic sanctions, high inflation and the general impoverishment of citizens in Serbia proper, stimulated the kind of economic activity naturally associated with corruption. State representatives and citizens played an equal part in this. The reaction of the governing regime to the country’s international economic isolation was to suspend the internal legal order, that is to blur the borders between legal and criminal activities in the economic sphere, justifying their actions with economic and political expediency. Special state programs were designed to provide certain strategic products and maintain control over their trade through a more or less formal bond between the heads of executive state authority (government, police, customs, inspection and financial agencies) and a number of state companies. The fact that some of the representatives of the international community in charge of maintaining the “wall of sanctions”, that is the economic isolation of the FRY, also played a part in this, should also be borne in mind. Thus, corruption became one of the levers in the conduct of the country’s economic policy (Medojevic, 2001)<sup>1</sup>. In turn, the society’s defence reaction to the state of general

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1 N. Medojevic – *Corruption and Reform of Institutions*, in: Openly on Corruption (Customs Services), discussion at the round table on corruption in Serbia, Friedrich Ebert Stiftung, Belgrade 2001.

economic decline and adjustment to the conditions of social and legal anomy was to escape to the “grey zone” of the economy and para-economic activities. Most of these grey economy activities – unregulated trade, smuggling, re-sale, speculative currency trading, money laundering – were conducted with open or concealed, premeditated or opportunistic corruption on the part of all civil servants, and most of all (which is only natural) of those in the customs administration. Corruption accompanied commerce in a wide range of primarily strategic commodities (petrol), and other scarce goods for mass consumption (coffee, cigarettes, toiletries and textiles). This kind of economy, in the previous period, not only met the needs of the state, allowing some individuals to make enormous profits, but, for a large segment of the population, it was, (and indeed, still is) necessary, in order for them to meet their basic needs. In this sense, both from the point of view of the “successful businessmen” of our time, and the “ordinary” citizen, bribing a customs official (and all those who participate in cross-border trade) acquired major, even existential, significance. It is therefore clear that this class of civil servant is open to extremely strong corruption pressure.<sup>2</sup>

The second reason is connected with the nature of the political-economic system. The continued survival of the decades old system of foreign trade inherited from the socialist period – characterised by exaggerated red tape, proliferation of regulations and “paper-filing” and above all, the bureaucratic logic of import-export quotas – has legally generated the phenomenon of bribery and corruption in the last ten years. Such a system implies very extensive discretionary rights of civil servants which, particularly under conditions of political voluntarism and social anomy, and creates new openings for their enormous abuse. In such circumstances a corruption problem becomes a systematic problem in that it is connected with the dysfunction of the regulations and institutions of the rule of law. This leads to the conclusion that the phenomenon of corruption in such a specific state service as customs, necessarily originates in the political sphere. Some analysts point to the fact that a crisis in the system and government legitimacy is always accompanied with the creation of clans, interest groups and “godfather-connections”, and this, in turn, results in the contamination of institutions on all levels with corruption.<sup>3</sup> The abuse of the existent foreign-trade system, import-export licences and customs regulations in general always entails the existence of a bond between civil servants on different levels and in different spheres, and crime. In such a bond customs officials naturally play a significant part; indeed they represent one of the key links.

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2 A public opinion survey in Serbia on the occurrence and practice of corruption carried out at the beginning of 2001 revealed that citizens are most ready to give a bribe in case of health services, getting employment and customs services, *Corruption in Serbia, CLDS, 2001*.

3 N. Medojevic – *ibid*.

The last but not least important reason, is that the collapse of the state sector as a whole, in the wake of transition, has led to the sudden impoverishment of state employees. This was the case with the once prosperous customs administration. This group of civil servants (which is, as a whole, characterised by significant inertia in view of job mobility) was, more than others, caught “unprepared” by social change, precisely because they to they lacked the abilities and/or opportunity to “redirect” quickly to other existential solutions. Although they were, on average, less well educated, they were always more secure in their employment and better-off than others employed in the state sector. As a result they experienced more severely the effects of so-called relative deprivation. Therefore, in the context of general social deregulation and the immediate “circumstances” that their specific employment offers, they are often additionally motivated to resort to para-legal ways of improving their relatively unfavourable position.

The three reasons described above which bring the customs administration into close connection with the temptations of corrupt behaviour – the nature of the conditions in which customs work is performed, the characteristics of the political-economic system (in the form of the rules and regulations under which the customs administration operates) that is, specific motivational factors, present among Customs officials – are clearly not the only sources of this socially pathogenic phenomenon. Nonetheless, they are among the most important in promoting the establishment and expansion of corruption in this particular area of activity.

### **CORRUPTION IN THE CUSTOMS ADMINISTRATION– ATTITUDES OF CUSTOMS OFFICIALS**

A necessary part of a comprehensive study into the causes, manifestations and development of corruption in the customs administration is the investigation into its subjective (motivational) aspects. This will supplement the analysis of the part played by the current economic system, organisation of customs activity, positive customs regulations, the general rules of the customs administration (such as organisation and conditions of work, staff policy, disciplinary measures) and some other non-psychological factors. This conclusion originates in the simple fact that the input of all the external factors influencing the appearance and expansion of corruption in the customs administration, even those which operate on the systematic or “macro” social level, is necessarily refracted through the subjective experience of individuals engaged in customs activity, which ultimately determines their behaviour in the real situation. It is our position that an investigation into the subjective aspects of corruption in the customs administration must entail an examination of a wide spectre of the attitudes, assessments and opinions of customs officials that may, directly or indirectly, affect



their susceptibility or resistance to the temptation of corruption. For this purpose approximately 300 randomly selected customs officials<sup>4</sup> were interviewed, in order to test not only their attitudes and opinions on the phenomenon of corruption itself, but also other issues of potential significance in the context of the analysis and prevention of corruption among customs employees.

The interview of the customs officials covered the following “topics” or areas:

- a. Knowledge and assessment of customs regulations;
- b. Assessment of the scope of discretionary rights (powers in the application of regulations);
- c. Opinions on regulations governing the conditions of work and employment in the customs administration;
- d. Attitudes to and opinions about work motivation and work discipline;
- e. Attitudes to and evaluation of staff policy;
- f. Attitudes to and opinions about staff training in the customs administration;
- g. Opinions about measures for the improvement of customs operations;
- h. Assessment of opportunities for the abuse of powers and exposure to corruption pressure;
- i. Attitudes to and opinions about corruption occurrences and measures for its suppression.

What follows are the survey’s major findings and conclusions.

### **The knowledge of existent customs regulations and the evaluation of their enforcement**

At a general level, corruption is defined as a violation of the arms-length principle by a civil servant with a high level of discretionary rights, at the time of making a decision. The level of discretionary rights vested in civil servants, generally speaking, is largely determined by the very nature, clarity and quality of existent rules and regulations. Consequently the spread of corruption in the customs administration will be conditioned, among other things, by the very efficiency of customs officials in their work, in other words, how capable they are of interpreting the existent customs regulations correctly and applying them uniformly. Two factors make the problem of knowledge and appropriate enforcement of regulations on the procedure for levying duty pertinent. One is the present level of qualifications among those employed, most of whom are high school graduates. The problem is further complicated by insufficient and inappropriate training which

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4 The survey was carried out among 293 officials employed in the customs service: 31 of whom are employed in federal customs administration, 55 in the customs and 199 in customs control points.

would suit the changed social circumstances and new forms of crime in the customs zone, which will be discussed later. The other factor refers to constant fragmentary changes and supplements of customs regulations, instead of which we should have comprehensive legal reforms in this sphere in the period of “transition” towards a market economy.

When evaluating their own competence, i.e. familiarity with customs regulations, the customs employees graded themselves, overall, with medium rather than high marks (Table 1). The respondents said that they were familiar with most of the regulations that they needed for every day work, or that they were familiar with only some of the regulations, in approximately the same numbers.

**Table 1**  
**How much far are You personally familiar with valid customs regulations? (in %)**

With all	20
With majority	40
With some of them	35
Don't know	5
Total	100

*Only one fifth of those questioned said that they were familiar with all customs regulations.* Those working in customs border cross points, who are more directly involved in the procedure of customs clearance, have more complete knowledge of customs regulations than those working in non-field areas of the administration. However, the findings on better knowledge of regulations among those working on immediate customs clearance jobs are made relative by the following data: 57% of customs officials admit that they learn about customs regulations in the course of work (practice), 35% in the course of specially organised additional training and only 5% in the course of regular schooling. Officials from custom-control points more often learn about new regulations in the course of additional training, and those from the central office on the basis of everyday practice. Constant changes in customs regulations are one of the causes which do not allow systematic adoption of knowledge from this sphere (in the course of regular schooling). However, the data points to the problem that there are no specialist schools (courses) for customs officials who are, therefore, recruited from among secondary school graduates (of general course) or possibly, from among lawyers or economists.

The customs officials positively evaluated the appropriateness of the enforcement of customs regulations. 47% of those questioned believed customs regulations were implemented in an appropriate manner in most cases and 40% believed this was true in all cases in the service they were employed, while only a small number of them were ready to admit failings in this domain.

## Assessments of the scope of discretionary rights

The highly positive general assessments on the appropriate enforcement of customs regulations are somewhat conflicting with the data that a large number of customs officials (36%) believe that the existent regulations and directions for work are relatively flexible, i.e. that they allow a significant level of freedom in interpretation and enforcement. As a matter of fact, only a little under 50% of those questioned believe that the regulations are so uniform and precise that they do not allow arbitrariness at the moment of making a customs decision. Customs officials are also of the opinion that *discretionary rights play a significant role in enforcement of customs regulations*. Nearly 42% of those questioned in the survey said that the authorisations of customs officials in the interpretation of customs regulations and determination of customs procedure were very large or large, and only a little more than a third that they were small or very small, while a fifth could not estimate or did not want to answer this question. Customs officials working in customs border cross points tend to underestimate the degree of their discretionary rights.

*Two thirds of those employed in the customs administration admit that they have difficulties in the enforcement of customs regulations*. Three equally important reasons are given which cause these difficulties: firstly, the imprecision of customs regulations (which, by rule, require additional clarification), secondly regulations lumbered with guidelines and decisions within each customs border cross point which further complicate their application and thirdly, the fact that the resources available to the customs administration are insufficient to allow successful performance of the job. Among the causes of difficulties in the application of regulations, the shortage of resources available to the customs administration is the one that is most often rated second in importance (Table 2).

**Table 2**  
The most important causes of difficulties in the enforcement of customs regulations

	I class	II class
They are not precise	20.1	3.4
Too rigid	4.4	4.8
Burdened with additional guidelines and decisions	19.5	13.0
Burdened with political directives and pressures	4.8	7.5
Insufficient resources	19.5	24.9
Not enough employees	1.7	4.8
Not all regulations are available	2.0	5.5
Other	1.7	3.4
I have no difficulties in the enforcement of regulations	26.3	32.4

## **Opinions on regulations governing work and employment conditions in the customs administration**

The manner of regulating work and employment and in particular measures designed to increase motivation for work and work discipline play a significant role in the creation of conditions which will not allow the occurrence of abuse and corruption in the service as a whole. Are working conditions in the customs administration properly regulated by rules and regulations and to what extent are they applied?

In the context of current discussion on whether a pay-rise for those employed in state sectors (in the judiciary, for instance) can help to reduce corruption, the survey offers an important finding; namely, the customs officials believe that *the sphere of stimulation for performance at work, that is different additional and stimulating forms of evaluation and rewards for results, is totally unregulated*. The institutions of premiums, other benefits, different rewarding forms of promotion, standardisation and evaluation of results – do not exist in the work units in which 70 – 80 % of those questioned work. Disciplinary procedures and an ethical codex are predominant instruments in “motivating” employees in the customs administration to achieve better results and resist temptations to abuse their official position. Instead of positively induced motivation for work and maintaining work discipline in customs activity, the predominant measures are clearly punishments and the feeling of guilt (this means, the application of external or “internal” sanctions). With disciplinary measures not being properly regulated, according to those questioned, and the adopted rules not being implemented consistently and completely, regular pay (salaries) remains the only means of differential reward and encouragement for better work and higher discipline. However, the efficiency of this measure is reduced by the fact that salaries in budget-funded institutions (today as in the previous system) are the instruments of unjust levelling rather than positive stimulation. This opinion is shared by almost a half of the questioned customs officials who said that neither the sphere of payment of salaries nor the policy of employment, investment in human resources and training was properly regulated. These findings lead to certain conclusions about the prospects and measures for the suppression of corruption in the customs administration. It becomes clear that the current measures of rewarding and punishing, and even the concepts such as “deserving your job” or “risking its loss” can by no means be sufficiently effective in this sense.

### **Motivation for work and work discipline**

#### *Methods of positive motivation*

The above given conclusions are, to a certain degree, confirmed by the opinions of customs officials on “the best ways to motivate people

to do their job well specifically in the customs service”. A significant number of the employees believe that measures of positive motivation are far more efficient than punishment. According to those questioned, *the provision of high basic earnings (“good salaries”) is doubtless the best way to motivate customs employees to work better* (79% of those questioned give this first class importance). Although other additional forms of stimulations (work evaluation and promotion, existence of bonus and premiums, cash rewards) are more often given second rather than first class importance, if all given answers are taken into account almost equal importance is given to them. Other measures such as training opportunities (8% in total), the existence of competition in getting employment (6% in total), respect for professional ethics (4% in total) and others, are mentioned far less. The importance of disciplinary measures is stressed in only about 4% of cases (Table 3).

**Table 3**  
Which is the best way to motivate customs officials to work better?

	I class	II class	The total number of answers <sup>5</sup>
Competition in getting employment	4.1	1.7	5.8
Good salaries	79.2	8.5	87.7
Bonuses and premiums	3.4	17.1	20.5
Other kinds of benefits	8.2	6.8	15
Work evaluation and promotion	0.7	44.0	44.7
Training opportunities	0.3	7.8	8.1
Disciplinary measures	2.4	7.8	10.2
Professional ethics	0	4.1	4.1
Doesn't know. doesn't want to answer	1.7	2.0	3.7

In connection with these findings a question may be asked: what factors, according to those employed in the customs administration, affect most their position and treatment in the organisation they work. Judging by the average mark of importance<sup>6</sup> given to individual conditions which determine the position of employees, competence (3.2) and results (3.0) are stressed as the most important, while connections (2.0) and bribes (1.6) are estimated as the least important. Looking at the percentages of given answers we can see that the criterion of competence is deemed the most important by 76%<sup>7</sup> of those questioned, good results by 71%, family and political connections by 36% and 30 % respectively and giving presents and bribes by “only” 17% (Table 4). The relationship with superiors is also mentioned as a significant criterion in the treatment of employees with relatively high frequency.

<sup>5</sup> The total number of percentages of answers in I and II class.

**Table 4**  
**What affects most the position and treatment of employees**  
**in the customs administration?**

Criteria	Very important” and “fairly important” (in %)	Average
Competence	76.5	3.18
Good performance	71.4	3.02
Relationship with superiors	65.6	2.80
Rank	58.7	2.65
Length of employment	47.8	2.80
Family connections	35.5	2.10
Political connections	30.4	2.00
Giving presents and bribes	16.7	1.60

### *Ways of evaluating work performance*

The given assessments beg the question whether and in what way the competence and performance of those employed in the customs administration are evaluated, i.e. whether their subjective assessments, that these are the criteria which primarily determine their treatment and position at work, can be objectively confirmed. The findings on the procedure for the selection of candidates for work in the customs administration (which are shown below) reveal that their previous work experience and qualifications i.e. their competence was not the decisive criterion. Furthermore, according to those questioned, individual work performance in their work unit is evaluated (regularly or occasionally) in only 47% of cases, while in 22% of cases – it is never evaluated. In these cases when there is a practice of work performance evaluation the applied criteria are, in the opinion of the majority of customs officials, “completely clear and acknowledged” (50%), but a little less than a third of those questioned believe that they are “totally unclear and unacknowledged”. The employees are evidently divided in their opinion whether the applied criteria of work evaluation are “completely just” (55%) or “completely unjust” (38%).

### *Disciplinary measures – means of punishment and their application*

Although the official form of disciplinary measures is “worked out in detail” in a significant number of work units, they are, according to the assessments of those questioned, enforced inconsistently. The disciplinary measures most frequently mentioned by those questioned are transfer (25%), dismissal from work (22%), followed by suspension

6 Average mark from 1 = totally unimportant to 4 = very important.

7 We give total percentage of answers “fairly important” and “very important”.

(7%), public reprimand or warning (4%) and pay-cut (3%). About one fifth of the questioned customs officials said that “nobody has been punished” in their work unit. Punishment of an employee most often results from poor performance at work (24%) or accepting a bribe (12%). Cases of punishment due to absence from work, conflicts with superiors and embezzlement were also mentioned. The customs officials are, generally speaking, reluctant to speak about this subject: almost 1/3 “does not know or want to answer” the question on the application of disciplinary measures and reasons thereof. Reluctance to speak about the instances of sanctioning bad work and abuse of official position is particularly manifest in the case of *starting criminal proceedings against a customs official for corruption (accepting bribe)*. Although 1/3 refused to answer such a question, the finding that only 1/5 of participants in the survey admitted that such proceedings had been instituted in their work unit in the past several years indicates that the practice of cooperation with investigative and judiciary bodies in the struggle against all forms of abuse including corruption in the customs administration is insufficiently developed.

#### *Additional measures for the improvement of work discipline*

The survey also included a question on the possible existence of additional measures which can help the improvement of work and maintenance of work discipline among customs employees. The question referred to the possibility of a client lodging a complaint or making comments on the work of a customs official. According to the questioned customs officials, the most common form of this kind of control over their work is the option of lodging a complaint about the work of a customs official by telephone or in the form of a written complaint, while *the possibility of direct reception of a client by a superior or confrontation of the customs official with the client are far less common*. Users’ complaints “very rarely” (0 – 20% of the cases) lead to a punishment of those guilty of a failing.

#### **Attitudes to and evaluations of human resources (HR) policy**

The conduct of HR policy appears to be one of the weakest links in the organisation of the customs administration. The problem of employing the new staff became particularly topical after the fall of the former government, for two reasons. One is of a psychological nature, since in the previous period the customs administration was almost in its entirety (justly or not) associated with the concepts of abuse and machinations. The second reason is the objective fact that the criteria for employment in the customs administration are arbitrary, which is testified to by the data obtained from this survey. The most active period for employing the new staff during the time of the previous regime was between 1994 and 1999: almost 50% of the questioned employees

got their jobs in the customs in this period. Judging by their statements the personnel change was thorough, since as many as 2/3 had never before worked in similar jobs. This should be compared with the following data, according to 46% of those questioned, only a few employees from their work unit were removed (transferred to a lower position, into another organisation or dismissed) in the period after the government change, while in 27% of cases none of the former customs officials were subjected to such disciplinary measures. These estimates lead to the conclusion that *after the last government change no essential personnel change has been performed, except for the dismissal of chief executives*, in other words the work is still done by the same officials.

The present period is characterised by a *significant stability of personnel within the customs administration as a whole*. Only in work units (customs control points) is there a customary simulated manner of personnel change – the principle of rotation, i.e. periodic transfers into other work units – this precisely in order to prevent abuse of official position. According to those questioned, in normal circumstances transfers are most often carried out without any rules (surprise factor); in 3% of cases there is a weekly, in 6% monthly, 3% half-annual and in 1% annual rotation. Only about ten of those questioned said that there were no transfers of employees in their work unit. *Rotation is, apparently, one of the most common methods for the prevention of corruption in the customs*. This means that “personnel change” in the customs administration is performed primarily on the basis of rotation, i.e. horizontal transfers of employees to other customs units, but far less by employing new workers. (Table 5)

**Table 5**  
**The most common ways of personnel change (in %)**

Ways	%
Employing new people	10.6
Retirement or dismissal	5.5
Transfer to another customs unit	56.3
Transfer to lower position	3.1
Transfer to higher position	3.8
Other	3.8
Does not know	17.1

The scale of the problem of HR change and HR policy in general in this state institution is also testified to by the data that only 32% of the questioned customs officials learnt about the job vacancy in the customs administration from an advertisement in the daily press. A far larger number of employees were recruited following personal information from acquaintances already employed in the customs administration (29%), internal information within the customs (27%) or in



some other manner (10%). This means that there are *serious indications that “connections” play a significant part in personnel recruitment in the customs administration, which naturally implies the possibility of subjective rather than objective criteria being applied in the selection of candidates.* It was noticeable that a number of customs officials concealed this fact since the answers to the question “Did you know anybody in the customs administration before you got your job?” were divided. 51% of the customs officials said that they had not known anyone. The other half admitted to having known someone in the customs administration, these contacts being: 13% - senior managers, 17% - customs officials, 8% administrative workers, 4% junior managers and 6% someone else either in or outside the customs administration (in total 47.4%).

### *Motivation for employment in the customs administration*

A study into motives for choosing the job of customs official may be useful not only for the analysis of conditions which favour successful operations of this institution, but also from the aspect of abuse prevention in this sector. Judging by the findings, the customs administration shares the fate of other state institutions where *those who seek employment are primarily motivated by the desire for a stable and secure job* (56%). Satisfaction in work as a primary motive was given by no more than 14% and not being able to find any other job by 13 % of those questioned. This means that *the motivation for work in the customs administration is mainly negative.* Indirectly, this affects personnel selection which is also adverse. People with low ambitions, those who cannot find a job somewhere else or those who, due to their qualifications, have no chance of finding employment anywhere, apply for a job in the customs and get it thanks to their connections.

Negative motivation is also manifested in the fact that fear of job loss is not common among those employed in the customs (34% are “not scared at all” and 27% “not much”).

### *Methods of personnel selection*

One of the preventative methods in combating abuse and corruption in the customs administration is the correct selection of human resources, i.e. employees. In addition to subjective factors partly applied in the recruitment of new customs officials, the customs administration apparently has problems in the correct selection of candidates. In just over 55% of cases the appropriate and systematic procedure of job selection based on personal interview was applied. Primarily people from the customs administration acted as interviewers, while in only 9% of cases interview was conducted by an expert and independent “third party”. Previous experience and qualifications were checked in only 57% of cases, while in 41% of cases, according to

**Table 6**  
**Motivation for work in the customs administration**

Reasons	First important reason	Second important reason
Job security	56	18
Salary	3	12
Different benefits	1	1
Working hours	1	4
Moderate workload	0,5	4
Training abroad	0,5	3
Improvement opportunities	4	8
Satisfaction in work	14	21
Social status	1	1
Power	0	0
Helping friends	0	0
Additional income	0	0
Failing to find another job	13	11
Getting a flat	2	9
“Spring board”	0	2
Other	4	5
Without answer	0	1
Total	100	100

those questioned, there was no check-up of this kind!? A written aptitude test was applied in 41% of the cases, and appropriate psychological tests in 36% of cases. Only a small number of customs officials were required to provide recommendations from their previous superior or teacher (17%), but one tenth of check-ups consisted of recommendations given by acquaintances (12%). (Table 7)

**Table 7**  
**When you applied for this job which methods were used to check your aptitude?**

Methods used	% of cases <sup>8</sup>
Interview with someone from the customs	55
Interview with an independent third party	9
Insight into qualifications	57
Aptitude test	41
Superior’s references	17
Recommendations from an acquaintance	12
Psychological tests	36

<sup>8</sup> Those questioned could list all methods of selections used, so the data gives the percentage of cases not those questioned.

Those employed in the customs also believe that competence is not always decisive in getting the job. This kind of criterion (and all those related to competence) is stressed in somewhat less than 2/3 of all answers. 37% of the customs officials believe that appropriate school qualifications are “the decisive factor for getting a job in the customs administration”, 32% believe it is ability and knowledge and 2% work experience. The existence of certain kinds of privileges and partiality in getting the job is recognized by nearly 1/5 of those questioned (16% emphasise connections, 1% political loyalty, 1% bribes and 1% other kinds of bias). About 10% of those questioned did not want to answer this question.

### **Attitudes and opinions on the personnel training process**

The right training for personnel may significantly reduce abuse of discretionary rights by those employed in the customs. In connection with this, there are certain problems in the customs administration which may reflect not only on the occurrence of corruption in this sphere but also on its operations in general. While giving their opinions on the process of personnel training the questioned customs officials pointed out several most important problems. Interestingly, the customs officials did not put emphasis on the quality of the existent training as much as on limited opportunities for training (33%), mainly due to the limited budget resources earmarked for this form of improvement of customs activity (41%). The problem of inappropriate primary selection of employees worth investing in through additional training was placed third in importance. Critical comments about the successfulness of the existent forms of training were also frequently made, however, this problem was given a lower level of importance. (Table 8)

**Table 8**  
**Major problems in connection with personnel training in the customs administration**

<b>Problems</b>	<b>The most important</b>	<b>Second in importance</b>
Limited training opportunities	33	27
Insufficient budget resources	41	30
Inappropriate personnel selection	17	16
Inappropriate training	3	8
Insufficiently successful training	2	10
Other	2	3
Does not know	2	6
Total	100	100

## Priority measures for the improvement of the operations of the customs administration

The opinions of those employed on measures for the improvement of work in their work unit or customs control point regard mainly the provision of better material work conditions. *Measures regarding the improvement of personal material position of the employees are given priority* (in the sense of pay-rise, their more regular payment, performance related reward etc. – which make up 60% of the answers). Far less importance is given to different measures which would provide for the improvement of the conduct of work in the customs or its modernisation. Thus 17% advocated allocation of large budget resources for the customs work as a priority task, 20% better organisation of the work as a whole (more competent personnel, more employees, better equipment, better work organisation, team work, better training etc), and only 3% of those questioned advocated more independence in work (in the sense of absence of influences from outside, more independence in managing customs work, absence of political influence and employees' participation in decision making). A somewhat clearer picture of priorities stressed by those employed in the customs is obtained when all the given answers are added up (since it was possible to give three most important measures for work improvement). In the second and third class of importance, in addition to rewarding employees, differential measuring of results is mentioned, as well as the improvement of the customs equipment and modernisation of customs procedure. Relative frequency of individual measures, when all answers are added up, is shown in Table 9.

**Table 9**  
Three best measures for the improvement of work in customs-control points/units

Measures	% of total number of answers <sup>9</sup>
Bigger budget	10
Regularity in fund supply	3
More employees	2
More competent personnel	5
Better training	7
Higher salaries	29
Bigger independence for managers	1
Absence of political influence	3
Result related rewards	11
Better equipment	13
Better organisation	7
Better staff relations	6
Employees' participation in decision making	3

<sup>9</sup> Cumulative percentages are given here, i.e. the percentage of individual answers in relation to the total number of given answers.

This frequency of answers leads to the conclusion that those employed in the customs lay three times more importance on the increase in their salaries (as the major measure for the improvement of work in the customs administration) than better equipment in the customs, and four times than on the improvement of work organisation in it. Obviously, these findings support the view (which was expressed by the general manager of the customs administration himself) that *no amount of modernisation of the customs will have any effect as long as customs officials' salaries remain at the present level.*

### **Assessments of opportunities for abuse of powers and exposure to corruption pressure**

It was impossible to “measure” directly the exposure to corruption pressure. Namely, this issue is so sensitive that the Customs officials are unlikely to talk openly about the temptations they are exposed to. Therefore we resorted to more indirect ways to establish whether customs officials are exposed to temptations to abuse their rights, that is, whether their decisions are influenced by structures inside or outside the Customs. In any case, this subject caused considerable “self-censorship” in the expression of opinions, and thus a considerable division in the assessments of those questioned.

A large number of customs officials (1/3) were obviously reluctant to specify openly the opportunities for abuse in their work, although they did not want to deny their existence – therefore they avoided a clear answer to the question if the existent powers of customs officials in the course customs clearance procedures allow such occurrences (“I do not know”, “I do not want to answer”). According to one fourth of those questioned the existing authorisations allow and even increase (“considerably” or “somewhat”) the occurrence of abuse by those who directly perform the job. On the other hand, a little more than a third of those questioned believe that present regulations (somewhat or considerably) reduce such a possibility, and about one tenth believe that “present powers allow no abuse at all”.

There is even less readiness to identify some important persons who can influence decisions on the customs procedure and the course of customs clearance. Even 38% of those questioned completely rejected such a possibility (answer “never”), while 35% avoided answering. Nonetheless, over one quarter said that such things occurred sometimes (21%), often (5%) or always (1%). Far fewer of those questioned were ready to identify the structures which try to affect the customs clearance procedure (only 20%). Among the given answers the most commonly identified were the high officials of the Customs administration itself (8%), then government members or administrators (8%), party leaders (over 4%) and finally “other people outside the customs” (3%). The conclusion that can be drawn from such a distribution of answers refers more to the fact that *different forms of corruption pressure*

*still exist in this sphere*, rather than to the assessment of its scope and how deep-rooted it is.

### **Customs officials’ attitudes to and opinions on corruption occurrences**

Finally, we come to the key question of this survey and that is the understanding of the problem of corruption and attitudes to it of those employed in the customs administration. Clearly, opinions on corruption, i.e. attitudes in principal, never reflect the actual state of affairs in view of possible participation in the practice of corruption. Their analysis, however, may indicate the degree to which this phenomenon is tolerated and thus indirectly shed light on (psychological) conditions which favour its spread. The assessments of seriousness of the corruption problem in the country made by the customs officials show that the degree of *their readiness to face it is reduced proportionally to the proximity of the assessment referential framework*. Hence, they see corruption as a “serious” problem in the society as a whole (72% of answers), “medium” to “serious” problem in the customs in general (39%, that is 36%) - and as a “non-existent” problem (51%) or a minor one (23% of answers) in their specific customs control-point or work unit (Table 10).

**Table 10**  
**How serious a problem is corruption (in %)**

	<b>Does not exist</b>	<b>Small</b>	<b>Medium</b>	<b>Serious</b>	<b>Does not know</b>
In society as a whole	3	3	21	72	1
In the Customs in general	8	16	39	36	1
In your customs control point/work unit	51	23	16	10	1

This finding shows, perhaps better than any other, that indeed, we have a problem with corruption in the customs administration. Be it a case of concealment of facts or avoiding clear awareness of them, certainly corruption in the customs will not be reduced as long as the employees (just as in the case of alcoholism) refuse to face its existence openly. Most customs officials agree that corruption is “a very harmful phenomenon against which we should fight in every possible way” (65%). But this phenomenon is also “something that has always been and always will be no matter what we think of it” or at least 27% believe so. Customs officials’ attitudes to this issue are almost exactly the same as public opinion in Serbia in general<sup>10</sup>. According to their assessments,

<sup>10</sup> A similar question asked in a survey on corruption in 2001 almost the same percentages of answers were received. *Corruption in Serbia, CLDS, 2001*

corruption in society as a whole is today just slightly less widespread than five years ago (56% of answers “very much and much”, compared to 63% of the same answers given for the previous period). Although the biggest number of them was unable to assess the scale of corruption in the future, nonetheless a reduction in corruption is expected in the coming five-year period (Table 11).

**Table 11**  
Opinions on the level of corruption five years ago, today and in five years time

	Very low	Low	Medium	High	Very high	Don't know	Total
Five years ago	2	6	13	30	33	16	100
Today	3	10	28	27	16	16	100
In five years	14	15	13	6	8	44	100

Customs officials were not asked to make assessments of changes in the scale of corruption in the customs administration itself since they were quite likely to show the present state of affairs in an unrealistic and improved way. They were, however, asked an indirect question, how widespread this phenomenon was *among civil servants in general* and the following answers were given (Table 12):

**Table 12**  
Assessments of how widespread corruption is among civil servants (in %)

“Almost everybody is involved in it”	5
“Majority are involved”	21
“Only some are involved”	54
“Almost no one is involved”	0
Don't know/without answer	20

On the ground of the above distribution of answers the conclusion can be drawn that *one quarter of customs officials see civil servants as a group generally prone to corruption (i.e. believe that in such practice almost all or a majority of them are involved)* while more than half believe that it is a sporadic occurrence since only “some are involved”. A certain number of those questioned (20%) refused to speak out on this point, which only confirms the previously expressed assumption that some customs officials are not ready to face this problem. The received answers are not totally equivalent to those obtained two years ago in a survey on a general sample of Serbian population (primarily, due to changes which took place in society in the meantime), so it is worth remembering that as many as 2/3 of citizens believed that “almost all” or a “majority” of employees in state institutions are prone

to corruption.<sup>11</sup> Bearing in mind the influence of the changed social context and the expected biased in self-assessment of those questioned, they can be said to have expressed a rather high level of (self) criticism. Such assessments can be interpreted also as warning signals that corruption is still significantly present in all domains of civil administration, even in the one closest to the experience of those questioned – in the customs administration.

Major causes of corruption were most often seen in the general poverty of the society (33%) and civil servants' small salaries (28%). This means that corruption was primarily seen as a product of material deprivation, i.e. as a reaction impoverishment and deprivation. In such a “cause theory” ethical reasons (general moral crisis) which appeal to the personal responsibility of corruption agents, were half less frequent (16%) (Table 13).

**Table 13**  
**Opinions on the most important causes of corruption in society**

Causes	% answers
Poverty	33
Moral crisis	16
Bad legislation	4
Heritage from previous regime	5
War, sanctions	1
Political-economic system	3
Lack of control	5
Civil servants' small salaries	28
Human nature	1
Don't know	4

All other possible causes of corruption were mentioned only sporadically. *The fact that we live in the economy of austerity, i.e. personal poverty, for many (including customs officials) is not only an explanation, but also a justification for corruption in general, even for their own possible participation in it.*

The employees' opinions on the most efficient measures for the prevention of corruption are completely consistent with the understanding that poverty is the major motive which forces everyone, including civil servants, to tolerate corruption. Priority is given to pay rises (67% of those questioned put this measure in the first place), and considerably less frequent are measures such as better supervision, change in legislation, more frequent rotation of the employees, education etc. When the frequency of individual measures in the total number of

<sup>11</sup> *Corruption in Serbia, CLDS, 2001*



answers is analysed<sup>12</sup>, “bigger salaries” also take first place, far ahead of all others (Table 14).

**Table 14**  
**Which are the three most efficient measures against corruption**  
**(cumulative percentages of answers)**

Measures	% of given answers
Better legislation	14
More frequent rotation of employees	11
Better control and supervision	17
More confidence in judiciary	3
Better cooperation with the police	3
Bigger salaries for customs officials	34
Better organisation of customs procedure	8
Fewer discretionary rights for customs officials	3
Educational measures	7

Clearly, in this sphere, just like in the judiciary, there is a very *widespread belief that the temptations of official position abuse can be suppressed almost exclusively by better remuneration, while all other means (supervision, education or change in service organisation and rules) have far less importance and influence* on administrators behaviour. Such attitudes should be viewed in the light of the finding that 80% of those questioned in our survey say that they have no other income except the one from their employment in the customs and 89% that their income is insufficient to cover basic living costs.

## MAJOR CONCLUSIONS

The basic difficulty confronted by the survey of attitudes to corruption among civil servants (as its subjective determinants) is the large influence that social desirability exerts on the answers of those questioned. The conclusions drawn from the answers simply must take into account the fact that social reality is likely to be shown better than it objectively is, precisely because corruption (at least at its principal level) is a phenomenon utterly condemned in society. Specifically, this means that in such surveys civil servants (in this case – customs officials) can be expected to show a significant tendency to overestimate their own competence for the job and at the same time to underestimate significantly the danger from their own abuse of official position. Therefore, only after reading “between the lines”, i.e. after refocusing

<sup>12</sup> Each of those questioned could give three measures they believe to be the most efficacious. The given numbers are percentages of all the given answers.

attention to seek out contradictions, which as a rule follow all attempts “to gloss over” reality, can one see the real state of affairs. This means to spot “neuralgic points” in the functioning of the customs administration, those which allow or facilitate the occurrence of corruption and can be significant in planning a future strategy for its uprooting in this sector of state services. Our findings indicate several such “neuralgic points” or problems which are most probably closely connected with different forms of abuse in the customs administration.

In the first place we stress the problem of *quality of customs rules and regulations* and in connection with this, *the knowledge and appropriate application thereof* by customs officials. There is a symptomatic discrepancy in the assessments of customs officials which refer to their own competence in the application of regulations as well as to the work of the customs administration in general. Most of them, on the one hand, say that they are reasonably familiar with customs regulations and that they apply them appropriately in practice. At the same time, however, a large number of customs officials say that in the application of regulations there is a significant input of discretionary rights of the customs official himself and that the application of regulations is made difficult due to their imprecision, a multitude of additional guidelines and lack of material resources. Clearly there are two inter-connected aspects in the operations of the customs administration which, due to their shortcomings, may significantly affect and even stimulate the occurrence of corruption. The first is the inadequate quality of regulations passed in this sphere (imprecise, require additional interpretation, leave too much room for discretionary decisions), and the second is their inappropriate interpretation and application. The problem of quality of customs regulations is spoken about directly by customs offices themselves, while the problem of training for work in the customs is indirectly pointed to by the survey’s data. The fact that only one fifth of customs officials know all customs regulations, i.e. that most of them (almost two thirds) get to know the regulations only in the course of work, and one third in the course of additional training leads to the conclusion that the training is not appropriate and systematic enough. The data also indicates that the problem with the training for customs work is primarily connected with limited (material) resources.

*Human resources policy and employment conditions* represent the next “critical moment” in the functioning of the customs administration which is, at the same time, the weakest link in the organisation of operations. Our data shows that after the change of government no adequate personnel change has been performed as yet, except for the change of top people. However, personnel discontinuity could be seen as a very important psychological and organisational premise for the break-up of a corruption chain welded in the previous period in this sphere. The most intensive intake of new people took place in the period from 1994 to 1999, when more than

a half of today's customs officials were employed, the majority of whom had not previously worked in similar jobs. This points to the arbitrariness in the conduct of personnel policy, which becomes especially alarming when bearing in mind serious indications that in the recruitment of workers subjective evaluation criteria ("connections") played a more important role than the objective ones (aptitude). Irregularities in the selection of candidates for jobs in the Customs and the existence of partiality in this process are directly reflected on the occurrence of official abuse, since they aid the establishment of clans and cliques without which organised forms of corruption and crime would not be possible at all.

*Work conditions and motivation for work* are also potentially important factors for the spread of corruption in this activity. The customs administration shares the fate of all budget funded institutions which do not offer opportunities to their employees to earn high salaries legally, but instead they offer bigger job security and various other privileges, the biggest of which is precisely the entitlement to wide discretionary rights. Therefore the employees ambitions may be directed more to try and use these rights and privileges to their maximum, and less to achieve work satisfaction and self improvement. It is against this background that we should view the fact that motivation for getting a job in the customs administration is today primarily negative; there is considerable dissatisfaction with salaries and no worked out system of additional stimulation and reward. The predominant belief among customs officials, that securing high salaries is the major means for encouragement of better work and prevention of abuse and that disciplinary measures are not enough for this purpose, is in obvious collision with the widespread practice of struggle against corruption in the Customs which boils down to "putting out the fire" (the application of disciplinary measures and punishment) instead of preventative (positive motivation of employees). Although the treatment of employees, according to their own statements, is primarily determined by their aptitude and work results, there are indications that it is also affected by factors such as the relationship with superiors, family and political connections and even giving presents and bribes, i.e. the kind of customary right which is, as a rule connected with corrupt behaviour in the real sense of the word.

*The nature of the existent disciplinary and corrective measures* in the customs administration is such that it does not allow adequate treatment or prevention of the occurrence of corruption. The results of employees are assessed irregularly or not at all and disciplinary measures (which are, in most work units, envisaged and defined) are not consistently applied. The data shows that major reasons for punishment are poor work (whatever is understood by that) and taking bribes, however, it is difficult to obtain more reliable information on this, since customs officials are unwilling to talk about the sanctioning

of corrupt behaviour. The most common forms of punishment are transfer and dismissal of employees, while a small number of cases of initiated criminal proceedings can indicate the insufficiently developed practice of cooperation with investigative and judiciary bodies in the struggle against all forms of abuse including corruption. The absence of the kind of corrective measures designed at work improvement and getting feedback from clients i.e. service users themselves is especially noteworthy. There are limited possibilities to lodge a complaint against a customs procedure and the practice of confronting the customs official with the client hardly exists at all. In any case, a very widespread measure for the prevention of corruptive behaviour – rotation of employees i.e. transferral to other customs control points – has obviously proved insufficient.

*The assessments on opportunities for abuse of official powers and the exposure to corruptive pressure* may be significant determinants of corruptive behaviour. Due to a large number of those who abstained from answering the survey it is impossible to establish positively whether the above is true and to what degree. Certainly, opinions among the customs officials on opportunities for the abuse of official position allowed by the present rules of service are divided. Generally speaking, this is a sensitive issue which is discussed reluctantly, consequently as many as one third of those questioned avoided giving answers. There are, however, some indications that customs officials are confronted with different forms of corruptive pressure: most often from their superiors (high officials in the customs), then from different political agents from outside the customs and lastly from “third parties”. These findings should be viewed in the light of the fact that most customs officials believe that temptations for the abuse of official position can be suppressed almost exclusively by better remuneration, while all other means (supervision, education or changes in service organisation and rules) are not efficacious.

Finally, *the employees’ attitudes to corruption in general* prove, in an indicative manner, that in this sphere there is not sufficient readiness to face this phenomenon. The attitudes are inconsistent and ambivalent. Although most customs officials principally condemn corruption as a “very harmful phenomenon which should be fought against in every possible way”, a large number of them believe that it is “something that has always been and always will be no matter what we think”. The degree of readiness to face the corruption problem is reduced when the referential framework becomes narrower. This means that customs officials admit that corruption in society is a very widespread phenomenon and see civil servants as a group prone to corruption, but they insufficiently recognize the same phenomenon in their own environment. Moreover, for many customs officials the fact that we live in the economy of austerity, i.e. their own poverty is a sufficient explanation and perhaps even a justification of corruption in

general, and even their possible participation in the practice. These findings show, perhaps better than anything else, that there is indeed a corruption problem in the customs administration. Only when (in addition to the introduction of all other external, preventative and curative measures) the employees become thoroughly conscious of its existence, causes and severe consequences, will it be possible to uproot corruption in this sector.

### III Clients on Corruption at the Customs

#### INTRODUCTION

In this chapter we will try, on the basis of the empirical data at our disposal, to investigate the problem of corruption in a crucial civil service - the customs administration. That is, to look into the basic motives for corruption, to what extent and where it has expanded, and through which channels it spreads. These findings are necessary in order to develop a set of principles and a program of action to suppress corruption as much as possible, it being almost impossible to neutralize completely.

#### **The sample**

The survey on corruption at the customs was undertaken from 3rd to 18th May 2002 involving 290 private and state-owned companies dealing with forwarding (customs broking) and foreign trade. The planned sample was realized at the level of 96.7%. The sample included companies from 33 Serbian municipalities excluding Kosovo. A combination of multiple, stratified and simple random sample was used for the purpose. The regional distribution of the sample is as follows – Vojvodina 30.7%, central Serbia 28.6% and the city of Belgrade 40.7%. The sample consists of 71.7% of external trade and production companies (with significant external trade) and 28.3% of forwarding companies. The ownership structure of the surveyed companies is the following: state owned 10%, private 72.8%, mixed-majority state capital 8.3%, mixed-majority private capital 6.2% and mixed-majority capital owned by foreign citizens 2.8%. The following officials in the companies were interviewed: president and/or CEO 11.7%, owner 23.1%, partner 3.1%, CEO 16.6%, head of the sector 18.6%, manager 9.0%, employee in charge of customs affairs 17.2% and other 0.7%. The distribution of the surveyed companies on the basis of the number of employees is: up to 5 employees 17.6%, from 6 to 10 employees 20.7%, from 11 to 20 employees 19.7%, from 21 to 50 employees 14.8%, from 51 to 100 employees 5.5%, from 101 to 200 employees 4.1%, from 201 to 500 employees 7.9%, over 500 employees 7.9% and no answer 4.1%.

**From anarchy towards order**

Before we analyse the level and extent of corruption at the customs, using the data obtained in the survey of business people, it is necessary to say a few words about the general efficiency of the customs authority. In other words, we should examine how business people, especially those in contact with it almost every day, assess the efficiency of the customs administration. That is particularly important, because the customs barriers are not only customs duties, licenses and quotas, but also the formal procedures that are regulated by economic and political authorities, and interpreted and enforced by the customs administration. These procedures encompass various technical regulations (the quality of the goods, sanitary, biological and other regulations). Corruption, too, could be included into customs barriers, especially when the customs officials think of it as a “tax” i.e. as a form of supplement for small salaries, about which we will say more later. It is undeniable that strict/rigorous customs regulations can be “softened”, which increases the flow of goods. Therefore it is logical that not only the protection of domestic producers and the speed of the flow of goods depend on the efficiency of the customs administration, but also, to a great extent the openness of the country’s economy.

**Table 1.**  
The assessment of the efficiency of the customs administration (%)

Very efficient	5.5
Efficient	25.5
Mostly efficient	53.1
Mostly inefficient	9.0
Inefficient	3.1
Extremely inefficient	2.1
Do not know and without answer	1.7

Almost a third (31%) of business people think that the customs administration is efficient and over half of them (53%) think that it is mostly efficient. So, it is more than clear that business people, after the democratic changes in Serbia, considering the situation overall, assess very favourably the efficiency of the customs administration as a whole. That does not mean that this is the case when we examine specific situation and problems, about which we will say more later on. Almost everybody supports the above-mentioned opinion on the customs administration; so there are no statistically significant differences related to the type of activity, type of ownership, or to the size of the surveyed company.

The political changes in Serbia have improved the efficiency of this public service. That is the consequence, above all, of its own efforts on

**Table 2.**  
**The level of the efficiency of the customs administration today compared to the one three years ago (%)**

Significantly more efficient	5.9
More efficient	39.0
The same	45.5
Less efficient	4.5
Significantly less efficient	1.4
Do not know	3.8

the one hand, and of abolition of various restrictions by the Federal Government, on the other. This means the simplification and liberalisation of the foreign trade policy (which before consisted of import and export licences, quotas and applications for export), the reduction of the number of groups in which products are classified, and the removal of various administrative restrictions. This fact is unequivocally indicated by the business people themselves, among whom there is wide accord.

In addition to this overall praise, however, the results of the survey show that after the democratic changes in Serbia, business people expected more intensive changes in the contents (clarity and simplicity) of the regulations which affect the conduct of the customs administration. This would not only increase the efficiency of the customs administration, but also reduce their discretionary rights, thus also reducing corruption.

**Table 3.**  
**The expected change in customs regulation during the last year (%)**

Much more than expected	9.7
Little more than expected	24.8
Have not changed	14.8
Little less than expected	28.3
Much less than expected	16.2
Do not know and without answer	6.2

Somewhat more than a third (34.5%) of business people think that the customs regulations have changed “much” or a “little” more than expected. In opposition to that, there are 44.5% of business people who say that the regulations have changed “a lot” or “a little” less than expected. So, even beside the significant political changes after the arrival of the new Government, the expectations of business people considering the simplification and liberalization of the foreign trade regime have only been partially met. Expectations are one thing and reality another. The change of procedure is insufficient, according to



the statements of the business people. An increase in efficiency also requires a change in habits by those who enforce the regulation, both by the individuals and the services, even by entire social groups. Even with the existing, partially changed regulations, more could be achieved with more will and commitment.

One of the crucial conditions for all business conduct is the quality of the legal institutions, including the customs and the customs regulations. They have to be widely accepted by business people. If this is not the case, they will be continuously violated. So, for example, almost three quarters of the business people (72.5%), both from the state owned and private companies, think that the customs regulations are fair and impartial, which means that they do not contain discriminatory elements, i.e. that the contents do not give opportunities to treat the same situations differently. Opposite to this, 16.2% of the business people have doubts and say that the regulations allow different, and thus biased interpretation.

**Table 4.**  
The customs regulations are (%):

	Fair and impartial	Just, do not allow corruption
Always	14.5	19.3
Mostly	45.9	33.8
Often	21.1	12.4
Sometimes	11.7	12.8
Rarely	3.8	4.8
Never	0.7	1.7
Do not know and without answer	11.3	15.2

According to the statements of the business people, the customs regulations and specific guidelines are clearly defined and, if uniformly applied, enable straight conduct without corruption. In both cases there a consensus, i.e. there are no statistically significant differences considering the activities of the company, its ownership status or size.

We tried to assess the business relationship between the customs and the business people who deal most with it by one additional question: to what extent are their relations with the customs stable, do they depend on current political and other changes both in society and at the Customs? To put it more simply, how large are the problems in business conduct with the customs administration now and how large were they three years ago?

The results of the survey show firstly, that the business people extremely rarely have greater problems in their dealings with the customs (two thirds say that it is a small problem or that there is none).

This means that the customs administration, as we have seen, functions much better than before.

**Table 5.**  
**Problems in dealings with the customs (%)**

	<b>Now</b>	<b>Three years ago</b>
Without problems	36.2	18.6
Small problem	29.7	30.7
Moderate problem	27.9	31.0
Big problem	3.4	12.1
Very big problem	1.0	4.8
Do not know	1.7	2.7

At the same time, they think that bribing the customs official, about which we will say more later on, is a moderate problem or that it is normal. That is, they are so accustomed to it, i.e. they consider it quite normal. Secondly, the presented data show that there are much fewer problems of this kind. A fact that was confirmed by the field research, in the light of their experience, compared to the period three years ago. Thirdly, almost a half of the business people (49.3%) decidedly stated that they did not have problems in dealings with the customs earlier (three years ago) or that their problems were small. This data must be taken as relevant since on the one hand the respondents were free from fear when making their statements, and also their statements must be considered free of rhetoric and the political passions that might have clouded their judgment at the time.

The business people, both from state owned and private companies assess positively the efficiency of the customs administration. They also state unequivocally that its work has been improved. At the same time, they do not have any serious objections either to the legislative or the internal customs regulations, of course those governing the business relationship of the companies with the customs administration. Lastly, a large majority say that their dealings with the customs proceed without difficulties and that when difficulties occur they are not insoluble, on the contrary that they are easily solved. We should not forget that lately, i.e. in the last three years (as was specified in the questionnaire), their dealings with the customs have been simplified, which has reduced possible problems.

### **“Transparency” of the authorities/governments**

The customs administration, like any other service of vital interest, cannot be observed in isolation from the social context. The quality of its services, beside its internal organization, depend on the overall material status of the society, then on the quality and transparency of

the political authorities, both at the general and local level. That in our conditions means, above all, that it depends on the quality of the federal, republic and local authorities. Therefore, it is necessary to see what the position of the customs authority is, compared to other crucial “services” of the economy. For this purpose we compared the work of the authority with the efficiency of the federal government, republic government, municipal and city authorities and their services. To put it more precisely, whether the difficulties of the business people with public servants and employees, during business contacts had increased or decreased over the last year. We have shown the results of this research in the following Table.

**Table 6.**  
**Business contacts (difficulties) with public employees (%)**

	Increased	Remained the same	Decreased	I do not know and w. a.
Republic government	5.9	38.6	22.4	33.1
Federal government	6.9	38.6	27.6	26.9
The Customs	4.8	54.1	32.4	8.6
Of municipal and city services	12.1	47.2	16.9	23.8

The data speaks very clearly on several matters. Firstly, the difficulties of the business people during business contacts with government officials (civil servants) have been reduced, starting with the federal government, followed by republic government, all the way to the municipal and city services. Secondly, that in terms of improvement, the customs administration got the best reports, compared to other services. On the other hand, according to the statements of the business people, the municipal and city services followed by republic government got the poorest marks. It has been shown that local authorities are far less at the service of the economy, even though they are much closer to the economy than the big one at higher federal or republic tiers of government. This is a consequence of the fact that the authorities at the higher levels define the macro conditions of work, and the ones at lower levels, are more involved in the minutia and “solve” the concrete problems of certain participants in business transactions. Thirdly, this, at the same time, shows that these empirical findings fully agree with the above stated ones that the customs administration, according to the statements of the business people has become more efficient. Fourthly, high figures in the column “I do not know” and “without answer”, for all services except the customs, can be explained by the fact that a large number of business people have not had many business contacts with the agencies involved. Fifthly, the assessments show wide agreement among business people, both from state owned and private companies. To put it more precisely,

there is no statistically significant difference in assessments (Cramer's  $v$  is between 0.029 to 0.173 for all 4 columns in the chart) on the basis of the activities, the ownership status or the size of the company.

We can interpret the more positive attitude of the business people towards the customs administration in the previous tables compared to the last one by the well-known sociological fact that one segment of society cannot be radically improved independently of other segments, and especially independently of the political sphere. Problems in the political sphere spread like concentric circles to all spheres of society. This is especially true of societies with underdeveloped institutions, or, which is almost the same, societies where the institutions were under the monopoly of the authorities for a long time. For these reasons the radical improvement of the functioning of the customs authority was not possible, which is, in the end, clearly seen from the total results of the survey (not just this, but others too).

It is well known that many services in the previous social and political system, and with them the customs administration, were designed to serve the governing nomenclature on the one hand, and protect domestic producers from international competition on the other. This led to the development of certain habits. To change behaviour, even in more developed societies, is a difficult and strenuous job. In societies in transition, such as Serbia, the job will take substantially longer and be more arduous, especially since these changes must be initiated in the political sphere. The extent of the transformation in society as a whole, including the customs administration, will depend to a large extent on the efficiency of change in this central area.

### **Predictability of the behaviour of the customs officials**

Before we analyse the extent and level of the corruption at the customs it is necessary to see how business people assess the predictability of the behaviour of customs officials during the procedure of levying duty. This is particularly important as it indicates how the respondents view the way customs officials use their discretionary rights, especially since the possibility of abuse increases with the increase in discretionary rights. To put it more precisely, the reactions of the business people to

**Table 7.**  
The predictability of the behaviour of the customs officials (%)

	<b>Now</b>	<b>Three years ago</b>
Completely predictable	16.2	13.4
Rather predictable	47.2	32.1
Rather unpredictable	20.7	31.0
Completely unpredictable	6.6	12.1
1Do not know	9.3	10.3

the behaviour of the customs officials in concrete (individual) cases will depend on the predictability of their behaviour. Namely, the business people go out of their way to make sure that customs officials do not alter their behaviour when it comes to the same or similar situations.

The presented data clearly shows that the behaviour of the customs officials now, compared to their behaviour three years ago, has become more predictable, i.e. more in accordance with the established norms. This, in a way, means that the business people can more easily assess whether they should offer a bribe in the particular situation or not, particularly because they too (according to their statements) occasionally, deliberately or unintentionally, violate the regulations. The results of the survey also show that more than a quarter (27.3%) of the business people say that the behaviour of the customs officials is still completely or rather unpredictable. There is no statistically relevant difference on this point in relation to the activity, ownership status and the size of the company. We can look for the motive of the change of behaviour of the customs officials, firstly, in the fact that after the October 2000 political changes, the public is observing them, secondly, in the better internal control in the customs administration, and thirdly, that the position of the customs official is becoming more insecure, after the tens of thousands of workers from the bankrupted companies have appeared on the labour market. This had to have a sobering effect on at least some of the employees of the customs administration. Therefore their behaviour in the procedure of levying duty has become more predictable, and that means more in accordance with the established regulations.

## THE FEATURES OF CORRUPTION AT THE CUSTOMS

### The extent of corruption

Among the myriad problems in Serbian society, crime and corruption occupy a prominent place. Most often they go hand in hand. Corruption has permeated almost the whole of Serbian society – it has become systemic.<sup>1</sup> Accordingly, it has inevitably affected the customs administration as well. A number of business people are unwilling to call attention to the problem, which potentially complicates the assessment of the extent of corruption. This proceeds from a certain fear of possible sanctions, or as the business people themselves say, a fear that they “might fare even worse” in the future. Also, their general attitude to this social phenomenon is certainly one of the indicators of the extent of corruption in the service. These attitudes are based on long-term experience of doing business, particularly for the reason that many business people come into contact with the customs administration virtually every day.

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1 *Corruption in Serbia, CLDS, 2001*

**Table 8**  
**The extent of corruption at the customs (%)**

	Nowadays	Three years ago
Very little	7.6	2.8
Little	10.3	2.4
Average	31.4	18.3
Much	12.8	27.9
Very much	6.6	19.7
I do not know	31.4	29.0
Index (1-5)	3.0	3.8

From the presented data we can learn the following. Firstly, according to the statements of business people, corruption has diminished over the past three years (the index was 3.83 then, whereas nowadays it is 3.00). Secondly, the extent is still considerable. Thirdly, the difference is statistically not significant, in relation to the ownership status of a company (Kramer's  $v = 0.123$  and  $0.101$ ). Fourthly, workers in forwarding (customs broking) agencies find customs corruption more widespread than those in foreign trade companies, now (Kramer's  $v = 0.220$ ), as well as three years ago ( $0.237$ ). This originates from their better knowledge of the system itself and the methods of transactions at the customs, on the one hand, as well as their more frequent contacts with the customs administration, on the other. Fifthly, the participation of those who had no comment whatsoever is considerable. The latter can be explained by the aforementioned fear of the consequences resulting from their speaking out.

An illegal sale of public officials' services leads to the strengthening of the hierarchical structure of the authorities, since the superiors have control over the subordinates regardless of the salary scale. The cost, or the "weight" of a particular post in the hierarchical structure of the rank, is estimated not only on the basis of the salary scale, reputation, benefits and authority it provides, but also the opportunity for illegal "service" charge.<sup>2</sup> The customs is one of the services which exercised that "right" profusely. Hence, corruption rated high for its extent and range in public opinion surveys.<sup>3</sup> Another reason is that a client offers a bribe to avoid the expenses, customs duties in this particular case, to save time (do the job without waiting for his turn), or because there a shady deal under way. Fieldwork experience provides ample proof of this. Namely, business people would often (the survey having already been done) inform the fieldworkers that corruption at the customs intensifies most when there are some irregularities – from paperwork

<sup>2</sup> See more in Vukovic, S, *The Extent and Condemnation of Corruption in Serbia, a Sociological Study*, 35, No. 1-2/2001, p.3-18

<sup>3</sup> C.f. *Corruption in Serbia, CLDS, 2001*, p.33-35

to the quality of goods, or when the situation is not precisely defined by the regulations. In such cases, an additional payment is usually required for the issue to be settled to the satisfaction of the company. To be more specific, there is a positive correlation between the range and extent of corruption (and therefore at the customs as well), and the illegality of the deal concerned. This refers in particular to goods subject to excise duties (cigarettes, fuels) which are imported in two ways: either by plain smuggling or with the help of individuals at the customs. In the latter case, the goods are to be allowed to pass without any report or proper papers. This, however, is not within the remit of this study, as it represents plain criminal actions.

**Table 9**  
**Is it usual that businesses dealing in this kind of trade make “additional payments” to customs officials (%)?**

Absolutely	3.1
Most often	8.6
Occasionally	24.5
Seldom	13.4
Never	36.2
I do not know	14.1

That customs officials need to be bribed on numerous occasions is no surprise, since the offer of a bribe has become quite a common occurrence, which all those involved are accustomed to. In nearly half the instances (49.6%) the business people claim that the one who does this kind of business makes “additional payments” at the customs, and their estimation of frequency ranges from *regularly* to *rarely*. There are no statistically significant distinctions regarding the ownership status and the size of the business. There is a slight, though statistically almost insignificant influence of the line of work (Kramer’s  $v = 0.228$ ). To be specific, forwarding agents more often than the others assert that “additional payments” are commonplace.

The extent and range of bribes accepted by customs officials, on the one hand, and its virtually public acceptance, on the other, can be also assessed by the following data: somewhat less than a half of the business people (46.2%), both in state and private companies, can assess from experience the level of those “additional payments” at the customs, only some of them can “always” assess it, while the others just “occasionally”. Still, they all know. Conversely, just a fifth (20%) of the traders claim they *never know* this cost, which most often means that they do not make “additional payments” to the customs officials.

Fieldwork experience gives us grounds to assume that there is a certain tariff for particular “services”, or that after a while a customs official should be somehow rewarded for being “obliging”. That “tariff” is

**Table 10****Do you know how much “additional payments” at the customs cost (%)?**

Always	4.3
Usually	10.7
Often	6.6
Occasionally	15.5
Seldom	9.0
Never	20.0
I do not know	33.8

paid by private companies more often than public ones, or, rather, public companies more often pay for those “services” by counter services, which can range widely – from paying for a meal in a restaurant to employing a customs official’s child. Concurrently, the research data shows that the “additional payments” are made by forwarding agencies with slightly higher frequency than foreign trade companies (Kramer’s  $v = 0.279$ ), as the former deal with the customs administration more often.

When one poses a direct question what percentage of the worth of a concluded deal is paid to customs officials as “additional duties”, one gets a somewhat different picture (Table 11).

**Table 11****What percentage of the worth of a concluded deal do you give as bribes (%)?**

We do not give bribes	52.1
Small	3.4
Up to 0.5	12.1
From 0.5 to 1	6.2
From 1.1 to 5	5.9
From 5.1 to 10	3.8
From 10.1 to 20	1.0
We give it in goods	2.8
There is no rule	4.4
I do not know and no answer	8.3

The empirical results obtained show that a little more than half of the business people (52.1%) emphatically claim that they make no additional payments for special services at the customs. Conversely, all the others give some figure, do not know or do not want to answer the question. To be precise, nearly a third (32.4%) state that they bribe customs officials and say how much it is as a percentage of their profit from the deal. Another 7.2% declare they give bribes in goods or that there is no rule, whereas 8.3% have no answer or information.



Therefore, nearly two fifths (39.6%) of the business people in both public and private companies claim that the customs administration is corrupt to a certain degree. The distribution of the answers according to the line of work and the ownership status of the company provides the following information. Firstly, forwarding companies bribe customs officials slightly more often than foreign trade companies, but the difference is minor (Kramer's  $v = 0.280$ ). Secondly, private companies bribe more frequently than public ones (Kramer's  $v = 0.303$ ). The presented data corresponds to a high degree to the data obtained from the former survey, where almost a half (46.2%) claimed they know how much the additional payments cost.

Bearing in mind the fact that not only accepting, but also offering bribes is a criminal offence, one is not surprised that some business people either “go dumb” or try to evade giving an answer when asked how much they give for bribing customs officials. Quite often it was of no use stressing that the questionnaire was anonymous. Also, another reason might be the vigorous anti-corruption campaign launched in the media at the time of conducting the survey, which had some influence on their answers, or the fact that they did not answer.

When even more direct questions were asked afterwards, the problem became more delicate. Nevertheless, a thorough analysis of empirical evidence can provide us with relevant facts.

**Table 12**  
**The most recent instance of giving bribe (%)**

We gave one the other day	3.8
We gave one a month ago	10.0
We gave one a year ago	6.2
We have not given one for a while	1.0
We have never given one	20.0
No answer	10.6
I do not know	48.3

Here only one out of five (20%) business people state when their company gave bribes at the customs last time, with 1% who says it was a long time ago. These differences can, as in the previous example, be explained by a fear of possible criminal liability; therefore, potentially incriminating statements are evaded. Conversely, a fifth (20%) of those questioned claim they have never given a bribe at the customs (as in Table 10). In this case as well, there is no distinction regarding the line of work and size of the business. In contrast to that, the ownership status appears as a minor determining factor, but statistically insignificant one. In other words, private business people somewhat more readily than those in public companies (Kramer's  $v = 0.221$ ) state when they bribed customs officials last.

When asked how many times last year they made “additional payments” to a customs official (of course, for a job that had to be done without any), the percentage of those who answered the question somewhat decreased (Table 13).

**Table 13**  
The frequency of giving a bribe (%)

Never	47.9
Once or twice	2.1
3-5 times	4.8
6-9 times	2.1
10-14 times	3.1
5-20 times	0.7
More than 20 times	2.1
I do not know	10.0
No answer	27.2

Hardly any more than a sixth of the business people (15.9%) give a direct answer how many times in the previous year they bribed a customs official. On the other hand, less than a half (47.9%) claim they offered no bribe last year. The others give vague answers, say they do not know, or do not answer at all. The line of work (Kramer’s  $v = 0.297$ ) and ownership status (Kramer’s  $v = 0.221$ ) of the company act as determining factors to a slight, but statistically insignificant degree.

To an even more direct question how much on average they paid on the occasion, the following distribution of answers was obtained (Table 14).

The data we have presented here shows that less than a fifth of the business people questioned (18.5%) report how much money they give or in what other ways they pay for “irregular” customs services.

**Table 14**  
The amount of bribe per offer (%)

We have never given a bribe	60.3
Up to 25 EUR	3.1
25-59 EUR	5.5
50-100 EUR	1.7
100-250 EUR	2.1
In goods	1.0
There is no rule	5.1
Do not want to say	5.5
No answer	15.5

Twenty-one per cent of them do not want to give an answer. In opposition to this, three fifths (60.3%) firmly declare they have never bribed customs officials. The line of work of the company influences this slightly, but statistically to an insignificant degree (Kramer's  $v = 0.263$ ), that is the employees of forwarding agencies more often than those in foreign trade companies state they give bribes (and how much).

The previous analysis is reinforced by another survey.

**Table 15**  
Customs officials demand and expect bribes (%)

	They demand money, a gift, or favour explicitly	They do not demand, but make it clear they expect money, a gift or favour
Always	1.7	5.9
Most of times	6.6	12.8
In individual cases	25.2	35.5
Never	48.3	30.0
I do not know or no answer	17.9	15.9

Somewhat less than a third of those questioned (32.5%) claim that a customs official explicitly demands money, a gift or a favour (the frequency ranging from "always" to "in individual case"). Actually, it is the same number as those who stated that corruption at the customs exists and what proportion of their total revenue is paid for that purpose. Also, as in the previous example, nearly a half of them (48.3%) claim that money, a gift or favour are never required from them. 54.2% of the business people say that customs officials do not demand, but make it clear they expect money, a gift or favour, the frequency being from "always" to "in individual cases". There is a minor correlation (though a statistically insignificant one) between an explicit demand for money and the company's line of work (Kramer's  $v = 0.227$ ). In other words, there is a greater proportion of the business people of forwarding agencies than of foreign trade companies who claim that customs officials openly demand money from them. This can be explained by the fact that it is in the nature of their work for the former to have

**Table 16**  
The ways of making additional payments (%)

There are no additional payments	19.0
I have no experience	1.3
I do not know	14.5
Specifies one of the ways	30.4
No answer	34.8

contact with the customs more often. Concurrently, the answers indicate no statistically relevant correlation regarding the ownership status and size of the company.

It is impossible to build up an overall picture of customs officials' corruption, whatever the extent of it may be, without looking into the ways they are bribed.

The data obtained through the survey shows, above all, that only a fifth of those questioned categorically declare there are no "additional payments" at the customs. Simultaneously, slightly less than a third (30.4%) claim not only that corruption is present, but also enumerate the ways of giving bribes. The rest either do not know or do not give an answer. The business people who enumerate the ways of giving bribes cite one of them: cash in hand, in private; officials are given "gifts", or paid in goods; they demand goods; they are bribed outside the offices, through the mediation of a middleman; it depends on the situation; a paid bill in a restaurant for the whole shift; cigarettes and drinks are paid in duty-free shops (and money is 'cashed' subsequently); money is folded in paper, and so on. An entrepreneur said that a customs official made him unload and then load again four tons of goods so that he could "inspect it more closely", and all that just because the former did not want to give him something he liked.

One must inevitably pose the question how much time, and resources are wasted in bribing customs officials.

**Table 17**  
**Time required for bribing (%)**

We do not waste time	67.6
A little	3.4
Up to 0.5	0.3
0.5-1	4.4
1-5	2.5
5-10	5.2
10-20	3.1
The forwarding agents do that	1.0
There is no rule	3.8
I do not know or no answer	8.7

Nearly a fourth of the business people questioned (23.7%) say they waste some time in bribing customs officials, and how much it is can be seen in Table 17. This corresponds to a high degree to the statistical data on the percentage of the business people who, without fear, state the amount of the bribe, how often they give it and when they gave it last. Here as well employees of forwarding agencies state that they waste slightly more time bribing customs officials, than those of

foreign trade companies, but statistically there is little significance (Kramer's  $v = 0.237$ ). Bribery at the customs demands considerably less time than in other public services<sup>4</sup>, since, according to the statements of the business people, the costs can be many times higher. For instance, perishable goods can deteriorate due to a deliberately long delay (on account of a delayed procedure). Then, there are the costs of storing goods, the costs of engaging transport and the like.

A particular problem is when the corruptor, even after giving a bribe, does not receive the "granted" service. This is the case of irresponsible bureaucracy and, at the same time, of inefficient corruption, which increases the transaction costs. Due to the silence of the corruptor (from fear of sanctions), one often "loses track of" those who do not do what they have agreed to. Not getting the service even after giving a bribe makes the business people all the more insecure.

**Table 18**  
Do you get the service if you bribe the customs official (%)?

Always	15.5
Mostly	11.4
Usually	2.8
Occasionally	3.8
Seldom	0.7
Never	4.5
I do not give bribes	10.3
No answer	6.2
I do not know	44.1

Evidently, according to the data presented here, in this case as well more than a third of those questioned (34.2%) affirm that the customs are corrupt. Concurrently, a great majority state that after a bribe has been given, the granted service is always, mostly, or usually obtained, that is it is highly likely that the service will be performed after making an additional payment to the official. To be more precise, the corruptor is not absolutely, but merely relatively sure he will get the service he has paid for. The staff of forwarding agencies get this service a bit more often than those of foreign trade companies, but the distinction is not statistically relevant (Kramer's  $v = 0.220$ ). As we have seen, they also pay for that service more often. On the other hand, a half of those questioned (50.3%) either do not know or would not give an answer to the posed question. They are the ones who do not pay for "additional services" at all, or simply will not or dare not talk about it.

<sup>4</sup> *Corruption in Serbia, CLDS, 2001*, p.71

Repeat payment for the same service, especially additional payments, is seldom in bureaucratic societies with settled regulations. This is particularly so in cases where a “tariff” is settled for the kind of business in question. It also indicates the degree to which corruption has been centralized. The more frequent repeat payments are demanded, the less centralized the corruption, and *vice versa*. CLDS previous research<sup>5</sup> on corruption of public officials unquestionably proved that repeat payments to officials are normal and routine. In other words, nearly two thirds (65%) of private business people had to pay for the same service two or more times, at least on one occasion. The situation is different in the case of the customs.

**Table 19**  
Repeat payment for the same service (%)

Always	1.4
Mostly	3.4
Usually	2.1
Occasionally	7.2
Seldom	6.9
Never	18.6
I have never paid for one	9.0
No answer	6.2
I do not know	45.2

Slightly more than a fifth (21%) of the business people claim from experience that, at least on one occasion, they had to pay for the same service two or more times. Conversely, one out of five (18.6%) business people has never had to pay for the same service again. This suggests that nearly two fifths (38.6%) of those questioned face corruption at the customs, which corresponds to the previous results. The previous survey comprised all public services (some paid at one place, others at another), whereas here is a case of one public service only. Primarily, it means that every other entrepreneur who was forced to give bribe had at least once to do it two or more times. In this case no statistically significant distinction is made regarding the line of work, ownership status or size of the business.

Based on their experience, business people have little faith in the possibility of effective protection from corruption at the customs within the service itself. Actually, 13.1% of those questioned absolutely refuse as a solution to go to another customs official or the manager, in order to avoid an inevitable “additional payment”. 18% of them claim that such an act can spare them expenses, but rarely, whereas 21.4% believe it to be possible “mostly” or “usually”. In opposition to this, a

5 *Corruption in Serbia, CLDS, 2001, p.67*

fifth (21.3%) of them believe they can always avoid bribery by going to another customs official or the manager. The staffs of forwarding agencies is slightly more likely to state that additional payments at the customs are inevitable than the staff of foreign trade companies, but this is statistically insignificant (Kramer's  $v = 0.257$ ).

**Table 20**

**Is it possible to establish a proper relationship with another customs official or the manager without corruption (%)?**

Always	21.3
Mostly	11.4
Usually	10.0
Seldom	18.0
Never	13.1
I do not know	26.5

Business people claim that approaching the manager or “escaping” to another official does not offer much protection from the corruptible ones. Apparently, there is collusion within the service. Whether the collusion is open or covert makes no difference in the state of affairs. Therefore, when asked whether they have made a complaint about corruption in the service to an official authority, 94.1% of the business people gave a negative reply. This led us to pose the following question to act as a control: why have they never made a complaint to an official authority? The distribution of answers is highly interesting: 24.8% of them said because it is pointless; those who did not want to complain to avoid getting into even bigger trouble made up 19.7% of the answers; 5.9% did not complain because they have own failings and 1.0% because it is in their interest to bribe the customs officials. The remaining 48.6% said that they had no reason or did not know. All in all, more than half (51.4%) of business people from private, mixed and state companies concede indirectly that there is corruption in the customs administration. Moreover, they also concede, indirectly, that it cannot be easily eradicated, particularly not by proclamations or by scaring business people or customs officials, since there is a kind of silent accord between them (this is confirmed by the data that 80.7% of business people believe that customs officials’ small salaries are one of the causes of corruption, varying in the importance they give to this from “very much” to “very little”).

### **Corruption and the manner of customs clearance**

In previous pages we have seen how business people from state and private companies evaluate the state of affairs in the customs administration on the one hand, and the size, frequency and scope of “informal payments” for its services, on the other hand. We have also seen that

bribery can take different forms. Moreover, corruption in the customs may be present both for regular customs procedures or for speeding up customs procedure, and for irregular (illegal) exemption from duty, that is allowing the passage of certain goods (which are liable to duty payment) without charging duty. The results of this part of the survey are given in Table 21.

The results tell us the following: firstly, almost two fifths of business people confirm their previous statement that there is corruption at the customs. Secondly, somewhat less than one third of business people (30.0%) say that corruption is present in the course of regular customs procedure (from “always” to “seldom”). Thirdly, in the case of speeding up a customs procedure, business people are marginally more rigorous and almost two fifths of them (38.6%) say that a bribe is a common occurrence, also from “always” to “seldom”.

**Table 21**  
**Additional payments for following services (in %):**

	Always	Mostly	Often	Sometimes	Seldom	Never	Don't know
Regular customs procedure	0.7	1.0	3.4	12.8	12.1	45.2	24.8
Speeding up customs procedure	4.5	5.5	9.3	13.4	6.9	33.1	27.2
Illegal exemption from duty	4.5	2.8	4.1	5.2	5.9	38.3	39.3

Fourthly, as for irregular customs procedure (charging lower customs tariff or allowing the passage of goods without charging any duty), that is irregular exemption from duty almost one quarter (22.5%) believe that, generally speaking, this is possible with additional payment. This is more often, but without statistical significance (Cramer  $v = 0.203$ ) the view of the representatives of forwarding companies than foreign trade companies. The data also shows that additional payment is a normal thing in the customs when it comes to speeding up a customs procedure. A customs procedure is often deliberately “thorough” to make the customer realize that its “speeding up” can be brought about with additional “effort” which needs to be additionally paid for. In the case of irregular exemption from duty, or allowing the passage of illegal goods, experience from the field tells us that the bigger the value of the cargo, the bigger the expected bribe.

What the situation is like now and what it was three years ago, in the cases of regular customs procedure, exemption from duty (which is contrary to customs rules and procedures) and reduction in customs rates is shown in Table 22.



**Table 22**  
**Present state of affairs in relation to three years ago, in %**

	Better	Same	Worse	Don't know
Regular customs procedure	19.0	29.0	3.8	48.2
The level of customs tariff rates	16.2	27.6	5.2	51.0
Exemption from duty (contrary to customs regulations)	13.4	31.7	1.7	53.1

Half of the questioned business people cannot estimate how much the situation in regard to bribery in regular customs procedure, changing customs tariff rates and exemption from duty has changed in the last three years. Those who can, mostly believe that the situation has not changed significantly, but there are those who see improvement and they make up 13 to 19%. This tells us that, in the business people's opinion, the shift in the overall situation in the customs administration, starting from its organization, the relations between customs officials and their clients and the extent of corruption in it is not major, but it is evident nonetheless.

#### CAUSES OF CORRUPTION

The previous research by CLDS showed unequivocally that corruption had permeated into all pores of society in Serbia, to be more precise – it had become systematic. The degree and expansion of corruption in a society depends of many factors, such as the scope and quality of state regulation, the effectiveness of the penal apparatus, social-historical circumstances, material development of the society and the state of social values. All these causes are true for Serbian society as well. In the case of the customs service, the scope and extent of corruption, may also depend on specific causes, some of which are, the regulation of foreign trade, the scope and size of discretionary rights of customs officials, the quality of legal and internal rules and regulations, the quality of internal control, the level of salaries of employees, as well as many other, more or less important causes.

We are primarily interested here in how the business people, who use this service on a daily basis, see causes of corruption in the customs. Clearly this can be taken as *only one* of the indicators of this extremely complex social phenomenon. Evidently the customs service cannot be isolated from the context of all other social developments.

The survey results show unequivocally that business people put moral crisis in the first place as a cause of corruption. To be more precise, almost three quarters of business people (73.1%) say that moral crisis is the key to understanding this phenomenon. This can be explained by the fact that many empirical surveys confirm that moral

crisis is one of several problems in Serbian society. We are witnessing a general social anomie and the absence of trust in almost all key social institutions. The closer an institution to the political sphere, the bigger the mistrust of it. Consequently, it follows directly that the political sphere is one of the key generators of economic and social crisis, and naturally moral crisis as well, which directly corresponds with the political crisis. Bearing in mind that the corruption problem is, generally speaking, a problem of the violation of the rule of law and operations of social institutions, on the one hand, and trust in them, on the other, it cannot be observed separately.

**Table 23**

**Factors which affect the existence of corruption in the customs service, in %**

	Very much	A lot	Medium	Very little	Not at all	Don't know	Index (from 1-5)
Small salaries	31.7	27.6	18.6	4.8	5.9	11.3	3.84
Moral crisis	37.6	35.5	11.0	3.4	1.0	11.4	4.19
Inadequate legislation	26.6	31.4	16.2	7.9	7.6	10.7	3.68
Inefficient internal control	30.0	32.1	16.2	5.9	2.4	13.4	3.95
Inefficient judiciary	22.8	28.3	19.7	3.8	3.4	22.1	3.81
Imprecise customs regulations	12.1	23.1	19.7	15.2	11.7	18.3	3.10
Problems inherited from the communist past	17.6	19.0	17.9	11.4	13.4	20.7	3.20
Inefficient enforcement agencies	26.2	30.3	18.3	5.5	2.8	16.9	3.83
Inefficient prosecution	27.6	29.7	17.2	5.5	2.1	17.9	3.65

Clearly the corruption problem in any specific service, including the customs service, is induced from the political sphere. This is particularly true in societies in transition. Without political will and commitment there can be no economic or social reforms. That is why the moral crisis, in the understanding of business people, is at the very top of the corruption causes.

In the second place, as we can see, is internal control (62.1% of business people say that it is a factor which affects the occurrence of corruption “very much” or “a lot”). Had we asked a question about the “control of control” we would have, most likely, got similar results. This is the consequence of the long-lasting practice of the Yugoslav self-management system, where it was important not to make enemies in the company. The important thing was to satisfy the form. If we go a step further, the “not-making enemies” policy is a consequence of another deep social anomie. Small salaries as a key cause of corruption

was quoted by 59.3% of business people. This is a common place in the whole Serbian society, where low wages came as a result of a fall in economic activity and decreased economic efficiency. The police force, as a cause of corruption, also have a high place. More than a half of business people (56.5%) believe that inefficient enforcement agencies affect the occurrence of corruption in the customs “a lot” or “very much”. This primarily means that the enforcement mechanism in the society does not function or is unreliable. The mistrust of the enforcement mechanism is a consequence of its partiality. It is irrelevant whether it is the case of partiality on a political, friendship, family or patronage basis. Bearing in mind that the enforcement mechanism is an important segment of power, without its efficient operations there can be no suppression of corruption, and when corruption is not suppressed it will expand. The business people did not forget two other institutions, the judiciary and prosecution service, as causes of corruption. The judiciary is in the fifth, and prosecution in seventh place. We come to the rule of law, society’s stand against corruption and its penal policy, and clearly, the functioning of the enforcement mechanism in which the prosecution is one of the key links. These are problems which go beyond the scope of this paper, but it is necessary to stress that the stronger the rule of law in a society, the less corruption there will be and vice versa. The rule of law can serve as the key barrier to the expansion of corruption, with the whole range of conditions (which need not be detailed here), starting from democracy, an independent judiciary, to controlled (by citizens) responsible political power.

## CONCLUSION

Corruption is a phenomenon to which no country is immune, both developed and undeveloped. It may easily, especially in the case of the customs, just like crime, “flow over” state borders. Consequently, it is often a regional problem. This is confirmed by a number of public surveys on the degree and scope of its extent in the region to which Serbia belongs with its neighbours.

The business people, both from private and state companies, assessed the efficiency of the customs service favourably. This means that, compared to the period three years ago, it has significantly improved its efficiency. Both legal and internal rules and regulations have been considerably simplified which means that they allow less and less room for different interpretations on the same or similar matters. Problems which unavoidably occur in the course of business contacts are not insoluble and indeed, now they are easier to surpass than before.

Corruption is still significantly present, but, according to the respondents, it is smaller than three years ago. One in three business people said how much of an average business transaction went to paying additional costs to customs officials, and almost one in four, the

last time they paid a service to a customs official. Also, almost one in five said how much money went for bribing customs officials. More often customs officials expect a bribe rather than directly demanding one. The survey results also show that there is no absolute certainty whether, even after giving a bribe, the agreed service will be performed. Moreover, they also spoke about the manner of giving and taking bribes, which can take the form of direct cash payments, handing over attractive commodities and paying for “presents”, and other different counter-favours.

It is perfectly clear that the business people did not give consistent answers to the questions about the size and extent of corruption in the customs service. A more precise analysis of the presented data reveals the following: firstly, from one to three fifths of those interviewed, depending on the question, say that there is no corruption in the customs service. Secondly, from one fifth to almost a half, again depending on the question, say that there is corruption in the customs and specify how much they pay, how many times a year they have to do it, the last time they gave money, how much each time, whether customs officials demand directly or expect bribes, how they usually do it and similar. Thirdly, when a question is formulated in a more general way, the business people are more prepared to say that there is corruption in the customs and how big it is; on the contrary, when questions are more direct (how much money did you give last time, how often did you give money to customs officials last year, how much in percentage was it from the value of the business deal) according to their claims, there is less corruption. Fourthly, forwarding companies are more often “hit by” customs officials than foreign trade ones, because the former are in more frequent contact with the customs. Fifthly, private companies are forced to bribe customs officials somewhat more often than state ones, but statistically insignificantly so.

The basic causes of corruption in the customs, according to the entrepreneurs, should be sought in the overall moral crisis holding sway in Serbian society, then in inefficient internal control, small salaries of those employed in the customs service, inefficient policing, inefficient prosecution and lastly the problems inherited from the communist past and imprecise customs regulations.

Certain differences in the given answers to some question from the multitude of those asked, on the scope and extent of corruption in the customs can be explained by several facts.

Firstly, the mistrust dominant in the whole society in Serbia and confirmed by almost all empirical research, could not but be reflected in the mistrust in empirical research as such, hence the mistrust of individual researchers in the field. Therefore the researchers said in their written reports that there are those questioned who doubt the anonymity of the survey, and one of them even asked if it had anything to do with a telephone line for reporting incidents of corruption.

Secondly, the survey was conducted at the time of an anti-corruption campaign, so many of those questioned did not find it suitable to say everything, since criminal proceedings can be started not only against a corrupted party, but also the corruptor.

Thirdly, a number of those questioned said that the customs service had improved significantly compared to less than two years ago and that it should be given a chance – particularly since speedy changes are not possible.

Fourthly, certain differences in the answers given by the business people are not important, since the additional analysis, as we have seen, makes them relative. The survey has decidedly shown what is most important – that, on the one hand, corruption in the customs service is somewhat smaller than before the democratic changes in Serbia, but on the other, that it is still significant.

### CORRUPTION IN THE REGION

It is not our intention in this chapter to give a detailed presentation of the corruption problem in neighbouring countries, but, primarily, to show, on the basis of several key points, where Serbia stands according to the scope and extent of corruption in the customs service in relation to its neighbours. At the very outset (which will later be confirmed by the empirical data) we can say the scope and extent of corruption in Serbia does not differ much from that in the neighbouring countries. This is logical, since all these countries have the same, communist historical heritage. Now, some slower some faster, they, are passing through almost the same process of transition to a market economy and the introduction and stabilization of political pluralism. They are all at the beginning of the construction and consolidation of legal institutions, which are one of the key prerequisites for the development of democracy and clearly one of the major barriers to the expansion of corruption and crime. Similarly all have undergone nearly fifty years under a variant of the command economy and they are all undergoing ownership restructuring of economy, which leaves room for corruption to develop. Finally, they are all at a low level of economic development, they have all recently experienced, a bigger or smaller, fall in national product and as a result impoverishment of the population. This has brought about a high level of insecurity among their citizens. Therefore their problems are, roughly speaking, similar or even identical.

The propensity to corruption is not a specific feature of Serbian society. In the case of south-eastern Europe, there is more corruption generally, with the exception of Bulgaria and Montenegro, than in Serbia, even though most of these countries were not subjected to ten years of economic and other sanctions. Also these countries were not subject to bombardment by NATO (in the year of the bombing the FRY experienced a fall in the national product of 18 to 23.5 index points –

depending on the estimate). Both facts created a favourable background for the development of crime and corruption. Crime and corruption usually go together. The propensity to corruption (measured on an index of 0 to 10) towards the end of 2000 was 4.3 in Albania, 3.3 in Bosnia and Herzegovina, 2.8 in Bulgaria, 3.1 in Macedonia, 4.4 in Rumania, 3.4 in Croatia, 2.8 in Serbia and 2.7 index points in Montenegro. The data shows that citizens' tolerance to corruption, not only in Serbia, but also in the whole region, is very high. In other words, citizens' readiness both to receive and give bribes is very high. And where citizens are ready to pay for "additional services" to public administrators or managers in state companies, there will be corruption. Therefore it is often defined as a "necessary evil" by citizens.

It is perfectly clear that corruption is present, not only in developing, but also in the developed and wealthy countries of Western Europe and North America. Especially in the case of the police force (which will not be discussed here) and the customs service, and in Western Europe in the case of local government. After the police and judiciary in this context, the customs authority takes plays a central role, in the functioning of an economy and in generating income for the state. An international public opinion survey carried out in 1996/97 (the subject of which was bribery amongst civil servants) shows that most countries in the world are confronted with corruption in general, including corruption in the customs service.

**Table 24**  
**Corruption in the customs in different regions (%)**

Western Europe	20.3	Countries in transition	16.7
Africa	14.5	New World	33.5
Asia	3.3	South America	9.8

*Source: Zvekić, p.53*

The above-mentioned survey, carried out in the countries in transition, also shows that the perception of the extent of corruption in the customs service is right behind the extent of corruption in the police and local government.

It needs to be stressed here that corruption, i.e. the perception of corruption, largely depends on the citizens' perception of public services and their trust in them. To be more precise, there is a positive correlation between the perception of corruption and citizens' trust in the authorities or a certain institution. It is known that real corruption is somewhat lower than the perceived corruption, but, there is also a positive correlation between the real and perceived corruption. Regardless of this methodological limitation, we see that, judging by the extent of corruption among twenty countries in transition, the FRY (therefore Serbia as well) is very high, it shares the sixth and seventh place with Hungary. Such a high place was to be expected since at the time of the

**Table 25**  
**Corruption in the customs service in the countries in transition 1996/97 (%)**

Mongolia	37.7	Hungary	21.2
Byelorussia	16.3	Rumania	6.9
Slovenia	37.2	Yugoslavia	21.2
Bulgaria	15.0	The Check Republic	6.5
Macedonia	32.5	Lithuania	21.1
Albania	13.3	Estonia	6.3
Georgia	32.4	Kirghistan	19.3
Ukraine	12.6	Russia	5.7
Lithonia	22.3	Poland	16.9
Croatia	10.3	Slovakia	5.5

*Source: Zvekić, p.53*

survey Yugoslavia was subject to sanctions. Furthermore, the greatest part of traffic in goods goes over the border between Hungary and the FRY on the one side and the FRY and Macedonia (which took a very high third place, according to this survey) on the other side.

Somewhat later a public opinion survey on corruption, carried out in seven Balkan countries (in Serbia before the 5th October change) showed that corruption in the customs service was very widespread. Varying from country to country, from half to four fifths of those questioned said that “almost everyone” or the “majority” of customs officials were involved in the practice of bribery.

**Table 26**  
**The extent of corruption in the customs service in 2000, in %**

Albania	86.6	Rumania	63.4
Bosnia and Herzegovina	58.8	Croatia	51.3
Bulgaria	75.2	Serbia	80.9
Macedonia	72.2	Montenegro	27.3

*Source: Corruption Indexes, 2001*

The presented data confirms the old rule that crime, hence corruption as well, easily “flows over” borders (it is impossible to suppress crime and corruption in a country while it flourishes in the neighbourhood). Therefore these phenomena cannot be observed separately as the problems of one country alone. This is fully confirmed by the following data as well. The extent of corruption in the customs service, measured on an index of 0 to 10, shows that there are no significant differences among the observed Balkan countries.

**Table 27**  
**The extent of corruption in the customs in 2000 (Index)**

Albania	8.84	Rumania	8.60
Bosnia and Herzegovina	7.88	Croatia	6.90
Bulgaria	8.90	Serbia	8.68
Macedonia	8.80	Montenegro	8.20

The presented data also indirectly show that the struggle to suppress corruption cannot be led by one country alone, but only by all countries in the region, in this case the region of south-eastern Europe. Without comprehensive cooperation among between all the countries of the region there can be no success in the struggle to suppress corruption.



## IV Preconditions and Mechanisms of Corruption at the Customs

### CURRENT LAWS AND OTHER REGULATIONS: CREATING PRECONDITIONS FOR CORRUPTION

#### Introductory notes

The survey of legal regulations for this project should point out that there are an extremely high number of regulations concerning the customs as an instrument of customs policy (in a broader sense of the term, including customs duty as an import levy and other instruments used for determining elements for the estimation of the amount of that levy), as well as legislative acts which regulate the customs as a service authorized to be a controlling body of state entrusted with keeping records on the foreign trade. As the role of the customs as monitor is often neglected, at first sight it could be thought that the stipulated customs procedures, if viewed exclusively from the aspect of collecting duty, are too complicated. However, the large number of regulations of various legal power that must be applied in an actual customs clearance result in:

- it is in direct conflict with the objective of efficiency and speed of customs procedure,
- it demands highly skilled officials who can easily “find their way about” through legal regulations (in terms of the knowledge and time necessary for successful and proper completion of the customs procedure),
- in most cases it demands group (team) work, even within the same department (unit),
- discretionary rights, lacking legal control mechanisms of execution, are widespread and difficult to keep track of. They become breeding grounds for corruption.

Apart from this, a few more points need to be mentioned. First, legal customs regulation is federal in character. Theoretically speaking, the customs service itself is federal in character, but in practice, its competencies and responsibilities are limited to the territory of the Republic of Serbia. While the situation in the territory of Kosovo is the result of the fact that the Yugoslav customs have no jurisdiction in it, the refusal of the “customs administration” of Montenegro to be a part of the

Federal Customs Administration and to apply its regulations, is the consequence of a lack of political will and of converging interests of the political elite.

Then, writing about corruption in the customs administration in Serbia, at this moment or in the recent past, means researching a phenomenon that can simultaneously entail criminal conduct of different types, magnitude and level (petty smuggling and organized crime), with different social consequences. And it is exactly in the area of customs that it is clearly shown that criminal activity cannot be prevented by legal regulation only. For the last couple of years, the customs administration may have become an example confirming that legal regulation of the customs has no effect at all, when morality and codes of conduct are suspended by civil servants, when the court system does not work, when there are no long-term goals in the economic policy and foreign trade. Even where legal regulation is set up and “well” structured, the whole system is compromised because there is a wide gap between the legal rules and the reality of the situation. For example, if a customs official is legally obliged to ascertain the identity, type, quantity or value of the goods reported in the declaration, and there may be doubt that he will do it, or that he might not observe the regulations concerning it, there is no effective legal instrument to sanction his behaviour. Although such conduct of the customs officials is stipulated to be a criminal offence, there is no well-developed internal control service within the customs administration that would deal with it effectively.

Apart from their excessive number, legislative acts concerning customs are also characterized by:

- a wide range in the hierarchy of legal regulations,
- inadequate and antiquated legal and technical apparatus,
- a huge disproportion between what is allowed and what is prohibited,
- high level of discretionary powers.

### **Large range of customs regulations**

The customs are regulated by the following normative acts, the number of which exceeds those listed, but which have not been included in the analysis since their application is provided for in other acts through “inferred” competencies, or they do not have a direct influence on customs procedure and the operation of the customs service:

- laws (18),
- decrees (39),
- bylaws (7),
- resolutions (22),
- orders (2),
- decisions (28),
- directives (4).

Such a tangle of legal regulations deserves a short comment. First, the listed legal acts can be categorized into several groups and sub-groups. A certain number of legal documents fall into the group of systematic laws defining institutes which regulate certain areas, for example the Customs Law, while the others are *lex specialis* laws, such as the Law on the Customs Administration, compared to the systematic laws which govern the organisation, the operation, the rights and the obligations of employees of the state administration. There are also legal regulations partly enforced by the customs bodies, for example the Law on the Sales Tax. Second, a large amount of the legal documentation consists of international conventions turned into legal acts, the enforcement of which is to be provided by independent regulation, as well as agreements between the Federal Government and foreign governments on mutual assistance in customs affairs, which provide only the basis for the cooperation of the customs administrations and do not influence the customs procedure and the powers of the customs officials. More to the point, such a large number of sub-statutory legal texts leads to the conclusion that there is no clear strategy in this area, so in certain situations, where it was possible, some issues were regulated by legal acts by executive administration. Although this conclusion can be reached for almost all juridical areas, it is a fact that this gives rise to the problem of delineation of powers between the legislative and the executive authorities, and to the problem of our legal practice as well, which opens up the following questions:

- whether it is necessary that one customs law should supplant several laws,
- whether it is desirable and necessary that these numerous and lengthy legal texts should be further elaborated by sub-statutory legal texts taking into account that it would jeopardize the purpose and the spirit of the law.

According to the subject matter, that is, according to the extent of the “customs” regulations, we can make a rough classification into the following groups:

- a) Laws which exclusively or in the main regulate issues concerning customs:
  - The Customs Law,
  - The Law on Customs Tariffs,
  - The Law on the Customs Administration,
  - The Law on the Verification of the Customs Convention on the International Transport of Goods on the MDP Documentation (form TIR),
  - The Law on Free Zones,
  - The Law on the Ratification of the International Convention on Harmonization of the Border Control of Goods,
  - The laws on verification of the free trade agreement.

- b) The laws which do not regulate issues concerning customs, but the implementation of which is executed or monitored by the customs service:
- The Foreign Trade Law,
  - The Law on Foreign Currency,
  - The Law on International Road Transport,
  - The Law on the Sales Tax and the Law on Excise Duties,
  - The laws regulating marketing of specific goods (medications, toxic substances, dangerous substances and other).

In the opinion of many authors, the corruption at the customs concerning a wide circle of civil servants is created by lobbying, and in the nature of things, through the procedure of adopting the regulations concerning the right to import and export goods as well as the customs rates. Apart from that type of corruption, the very fact that there is customs classification of goods with different customs rates, in the customs procedure gives rise to another two phenomena: the appearance of petty or moderate corruption (grey economy) and large-scale corruption (smuggling and organized crime).

Therefore, from the legal point of view, corruption at the customs is:

- a deviant, criminal activity,
- it stems from and it is connected to customs procedure (procedural legal acts regulating customs supervision, customs control and customs duties),
- it is made possible by decrees stipulating material and legal conditions for foreign trade, customs tariffs, customs basis and customs exemptions.
- It can manifest itself both as legal and illegal acts, but is always irregular conduct on the part of the customs officials entrusted with customs procedure.

## **Legal apparatus**

Legal regulation in this area exhibits two kinds of deficiencies:

- The customs procedure, its forms and stages rests on old-fashioned concepts which do not provide for simultaneous application of the two fundamental principles of modern customs services: effective monitoring and unhindered flow of goods across the border.
- The language and the format of the legal documents are also antiquated. So, for example, legal texts do not include precise definitions of key terms, which make room for discretionary interpretation in practice. The problem is not negligible at all having in mind the already mentioned discretionary right in the actions of the customs officials and the division of competencies between different bodies which stipulate conditions for the flow of commodities. Perhaps the most conspicuous example is the Law on Free Zones, which defines the free zone partially and in a

roundabout way: it fails to delineate the basic characteristics of a free zone, what it is, and what it is not, so that it is unclear whether a free zone is just a territory or an economic and legal entity. From the aspect of the grammar and the syntax of the text, the terminology used is inapt, for example the goods are the subject, instead of the object of an action. Finally, legal texts are lengthy, since they consist of a great number of articles, which, in turn, are made up of several paragraphs and points. What complicates matters further is the fact that the regulations are written in such a way that the first paragraph or a point states a rule that is in good measure derogated by the next paragraph or point (stating an exception to the rule).

We have made an example of several legal texts, the use of which can create difficulties and open up possibilities for corruption in customs procedure.

It should be mentioned that this survey does not include the Law on Customs and the Law on Customs Tariffs, since the application of these laws is best illustrated through the customs procedure, which is the subject of section 1.5. The Law on Customs Service is discussed in detail in order to point out the deficiencies of the current mechanisms for sanctioning corruption at the customs.

### *The Law on Foreign Trade*

Although it does not have the term “the customs” in its title, owing to its importance, the first law under scrutiny in this analysis should be the Law on Foreign Trade. The reason for this is the fact that customs regulations stem from the need to control international flow of goods, services and people, and therefore need to follow that natural and logical course.

The law in question regulates the area of foreign trade and economic activity performed abroad; as for the flow of goods, in its nature and content it is a complementary (amending) legal act to the Law on Customs which stipulates the basic points of the customs procedure, the application of which is obligatory in a concrete customs case. A subject is granted the right to engage in foreign trade and a status of an interested party in customs procedure by registering in the appropriate register in that area. However, Article 9 of the Law stipulates that state bodies, political parties and other organisations (whatever that may mean) can also engage in a foreign trade deal for their own needs. Although it is limited to a single foreign trade deal, in essence it is unlimited, because the act does not stipulate how many such business deals are allowed annually. The similar exemption from the rule stating who is allowed to engage in foreign trade is contained in the clause permitting business enterprises who have not been entered into the register of enterprises licensed for foreign exchange business, to engage in foreign trade deals if “the deal is related to their operation”, and with

the approval of the competent federal body for external economic relations. The complete system based on the registration for foreign trade can be compromised by this clause, there are many moot issues starting from the way the operation of such enterprises is to be monitored, potential enforced payment of the incurred public debts, payment and collection abroad etc. Also, the provision of the Law that goods complying with the given preconditions for marketing can be imported and exported, is a basis for many other subsidiary acts passed by executive administration bodies – in this case the Federal Government, as well as the bodies and organisations within the Federal Government. There are fourteen statutory legal acts and as many as 75 sub-statutory legal acts which regulate this area in detail.

### *The Law on Manufacturing and Trade in Medications*

The Law on the production and trade in medications, which stipulates the conditions for trade in drugs, requires that the import of medicinal substances be performed by those holding a permit for trading the drug, issued by the Federal Secretary for labour, health and social policy for human medicaments, and by the Federal Minister for the economy and internal trade for veterinary medications.

However, as has already been pointed out as a deficiency in our legislation, there are numerous exemptions from the general rule, which is both a technical problem in the implementation of the law and a potential source of corruption. There are still eight groups of medicines (about 300 articles) as well as medical substances for laboratory and clinical research the import of which must be approved by the Secretariat. The medications list is subject to constant change and cannot be controlled by the customs information system (this means that a customs official has to consult the medications list every time an importer submits an approval from the secretariat instead of the permit for trading in medications). The danger of potential violation is high, as it is difficult to organise complete and timely supervision of the conduct of a customs official in his role as “supervisor” of the import.

### *The Law on Money Laundering Prevention*

The Law on Money Laundering Prevention stipulates that the Customs Administration should submit information to the competent federal body concerning all transfers of cash, checks, securities, precious metals and stones the value of which exceeds 30,000 dinars (500 Euros) across the state border. At the same time, the Law on Foreign Currency allows an individual to bring in or take out 2,000 Euros. Is a customs official breaking the law when he fails to report that a passenger has **legally** taken out more than 500 Euros but less than 2,000 Euros? To all appearances, probably owing to a simple mistake in figures, the law itself has left a loophole for a customs official to take a

bribe not to report a legal action making it out to be dangerous money laundering. This example might rather fall into a category of petty legal absurdities than lead to extremely harmful effects, but it is illustrative of the fact that vagueness, lack of precision and conflicting legal regulation can bring about situations in which a party in a procedure is forced to pay to realize his right, or, as in this case, in order to escape the consequences of an action which is neither forbidden nor illegal.

### *The Law on Free Zones*

The law defines a free zone as a set-up and fenced-in space in which the conduct of business activities is permitted under more favourable conditions, such as, exemption from taxes on equipment, raw materials and components imported into the zone and upon the approval of the Federal Government. Can the territory of a free zone be used for illegal trade, “laundering documentation” and legalizing hard currency by carrying it in and out, bearing in mind the fact that there is a 2.5 meter high fence around the zone and that the goods can only be conveyed through gates monitored by a customs official during the working hours of the zone? The answer is yes, because the Law permits domestic and foreign individuals and legal entities to conduct business within the zone but the legal entities do not have to reside within the zone which means that directing the goods to the business unit in the zone is done through internal documentation (which makes investigation of financial records difficult), and this, in turn, means that a customs official can make out a fictitious clearance of incoming and outgoing goods.

Secondly, The Law requires that the same rules that regulate crossing the border should be applied to the individuals who are going in and out of the zone. Since crossing the border is a concept that is defined by the Law on Customs, it can be assumed that transport vehicles, goods and individuals are liable to customs inspection when leaving or entering the zone. All the while, there is no monitoring of the movement of hard currency since the Law on Foreign Currency ties this type of supervision to a person’s entering or leaving the country. On the other hand, the Law on Free Zones allows the users of the zone to make payments and collect payments freely, as stated in a contract and in agreed period of time. It virtually means that in one part of the territory of Yugoslavia, which has not been declared ex-territory, it is permitted to pay for goods and services completely freely in hard currency brought in from the other part of its territory where there are restrictions concerning such a mode of payment.

If to all of this we add the fact that storing the goods liable to excise duties is the main business in some zones, the economic incentive for abuse becomes apparent. True, we must point out that rigid rules of the Law on Customs determining maximum time for the goods to remain in the custody of the customs “force” the importers of the

goods heavily burdened with encumbrances (customs duty, excise duty, tax on the marketing of goods) to store their goods in the zones and clear it at the market demand, in this way delaying the payment of the levies.

### *Republic regulative*

It has already been pointed out that the Yugoslav Customs Administration, although formally a body of the Federal administration, has administration only on the territory of the Republic of Serbia, without Kosovo. We shall not discuss here the potential abuse of the fact that there are no real border crossings at the administrative borders. Here we just want to point to some problems in the implementation of the regulative of the Serbian Government by the customs bodies.

The Decree on the Movement of Oil and Oil Derivates requires that the movement of these products (import, export and transit) has a special approval by the Republic (Serbian) Ministry of Energy and Mining. We do not want to discuss here whether such administrative regulation of the market is justifiable since it has had some positive results in gaining control over the movement of these products and collecting public revenues from them. Nevertheless, it must be pointed out that the Decree is in conflict with the Federal Decree on the Classification of Goods which lists the forms of export and import and according to which the import of these products is free. No matter which of the two acts a customs official chooses to follow, he is in direct violation of the other one. It cannot possibly be beneficial for the development of a customs official's awareness of the importance his service has for the community if he is forced to violate the regulations or fail to observe them, even when this is completely justified by economic reasons. As we have witnessed in the previous period, duration and sheer number of such situations in the end give rise to the belief that only personal economic benefit matters. More to the point, there are many oil derivatives and even more brand names for them. It takes laboratory analysis to determine whether a product is oil derivative and customs laboratories are usually unable to perform the tests. Reliability of the laboratory testing is questionable due to the way the samples are taken and submitted for analysis as well as the lack of supervision over testing procedures outside the customs service.

The Decree on the Public Revenue Accounting and on the Content and Accounting Methods for Movement of Goods from Kosovo at first sight deserves the same criticism as the former— it is in conflict with the federal regulation. Nevertheless, as the Law on the Customs allows interested parties to demand that the goods be sent (and cleared) at the customs office of their choice, that right should not be denied if a client demands that the goods be sent to the territory of Kosovo. Therefore the Decree, from the aspect of implementation of customs regulation constitutes a form of amendment to them, for there is a tax for such



“transit”. Controversy is created by the implementation of the Law on Foreign Trade, that meets conditions for the import of particular goods in terms of the regulation concerning standardisation. From the aspect of legislation, however, the greatest confusion is created by the lack of definition of the status of “domestic” and “foreign” goods entering Serbia from the territory of Kosovo. The procedure of verification of the status of the goods has not been defined either, which breeds arbitrariness and therefore creates the possibility of abuse.

### *International conventions and agreements*

It is very difficult to give a general judgment on the implementation of international conventions and agreements in the area of the customs system. They are numerous and differ according to importance and the mode and extent of implementation. Firstly, a certain number of conventions and agreements were directly implemented immediately following ratification, that is, adoption. The most important, and certainly the best known is the TIR Convention (a customs convention on international transportation of goods on the basis of the MDP document). Then, there are the Agreement on Import of Teaching, Scientific and Cultural Supplies and bilateral agreements on mutual cooperation (general or for particular areas), the agreements on customs cooperation among them. The Customs Convention on Harmonizing the System of Goods and the Agreement on Customs Evaluation (article VII GATT) has been incorporated into the national legislation. The Convention on Harmonization of the Border Control of Goods, although ratified as early as 1978 is still not applied in whole, especially so in the part concerning the leading role of the Customs in the coordination of the operation of border services. The extent to which the Agreement on Customs Cooperation is being put into practice varies, and it is best with the states with which there is a system of preferential trade regime, owing to the large number of inspections of the issued certificates on the origin of goods.

From what has been said it can be concluded that every state needs (often owing to internationally taken up obligation) to control the flow of specific articles in order to protect the environment or for the reasons of security. It is also a fact that owing to different competencies of the state bodies proposing normative regulation in certain areas, the high number of regulations concerning the customs often cannot be avoided. Nevertheless, what in such cases must be done if the controlling function of the customs is to take full effect, is to create an adequate database on the principle “all in one place”, available both to the customs officials and the interested parties. For this purpose the EU states make use of a special customs tariff, called TARIC, which, in itself, is not a legal document but a synthesis of legal regulation concerning the flow of goods across borders. It is obvious that accidental or intentional violations of the law, or even the “selling the

information” on the legal liabilities and rights of the participants in the customs procedure cannot be avoided without such a “guide-book” through numerous legal regulations.

### **Disproportion between what is allowed and what is forbidden**

While surveying the regulations concerning the customs, we have encountered few explicit prohibitions, but since the Law on Customs uses the term “prohibited” in cases where the importer fails to comply with special rules governing the import of particular goods we shall use the term for all actions and powers for which the Law on Customs uses it.

It is often said that prohibitions breed the need for them to be violated, often in cooperation with those whose job is to enforce them. We shall give some examples of the violations of prohibitions, that is, of wrongful actions.

- 1) It is not allowed to use goods stored under customs supervision. If there is no inspection of the goods stored under customs supervision, especially if the holder is permitted to store them on his premises (which is legal), the individual holding the goods benefits through their use, in reality, delays paying the customs duties. We do not think that inspection should be conducted frequently, but it is necessary at least once while the goods are stored.
- 2) Delaying payment of charges is not allowed. In the short term, the problem can be “solved” by delaying sending the invoice to the debtor. In the long term, the problem is “addressed” by filing a legal suit contesting some of the already ascertained facts. The Law on General Administrative Legal Proceedings determines the time period in which the decision must be made in the first and the second instance, but it does not determine when the decision must be submitted to a disputant nor when the first instance court must submit the documentation to the second instance.
- 3) It is not allowed to use for other purposes, to sell or give as a gift the goods imported as exempt from customs duties. The prohibition is in effect for three years, but the party can dispose of the goods freely after he has paid customs duty. The prohibition is vastly disregarded by the people who have returned to the country from work abroad.

The examples in themselves offer solutions and modifications of legal procedure (determining procedural actions and time frames which customs officials must comply with, limiting customs exemptions and other rights of their beneficiaries), professional and organisational training in the service for inspecting those liable to pay customs duties, as well as developing the internal control service.

## High level of discretionary powers

In order to understand the type and significance of discretionary powers of the customs officials, we must present a short list of customs procedures (concerning import) from the moment the goods enter the country to the moment they are put on the market.

The customs procedure includes:

- the customs supervision procedure;
- the customs clearance procedure.

According to the mode of transport of goods, their storing, the type of the foreign trade deal during which the commodity is imported or exported and similar, each of the procedures has further classifications. The main phases of the customs supervision are: reporting the goods to the customs office, sending the goods to the destination customs house with specified time span in which the goods must be forwarded, storing the goods under customs supervision in warehouses and other appropriate facilities. It should be noted that from the aspect of the customs procedure the transit of goods is considered to be a special form of customs supervision. The customs clearing also has several phases: submitting the declaration (invoice), accepting the declaration, inspecting the goods, calculation and collection of duties. The customs procedure concerning temporarily imported goods has some elements of the customs clearing procedure, as a rule, without the calculation and collection of the customs duty, since this problem is tackled later depending on the outcome of the business deal for which the goods were temporarily imported. It also has some elements of the customs supervision (determining the place where the goods are, the time span in which the temporary import is allowed, normative concerning the quantity of goods to be used and so on).

This short survey of the customs procedures was necessary for understanding the discretionary powers of the customs officials and the way they are opposed to the concept that a customs official is supposed to determine the factual state of affairs and apply regulations concerning the case in question in a proper manner.

The analysis of the customs procedures reveals that there are more discretionary powers allowed in the customs supervision procedure. So the customs office, that is, the empowered customs worker can authorize the forwarding of goods to another customs house, determine in what manner the goods will be supervised, the deadline for forwarding the goods to the destination customs office, authorize the placement of goods under customs supervision and the time period in which the goods are to be supervised, ascertain whether the storage areas and other facilities are appropriate for conducting customs supervision and similar. The number of the powers is, indeed, high, but they mainly concern ascertaining the state of affairs on which the actions and decisions made by a customs official depend. It is obvious that the problem is not the fact that these powers exist, it is, rather, the fact that there is

no mechanism to oversee how they are used. The normative regulation could limit these powers by determining time periods in which a customs official has to take an action, by stipulating that a customs official should make a note or a record of the action taken, stating the reasons for it, and so on. Such modifications would enable the internal control service (on condition that it is well organized and efficient) to detect deficiencies in a customs official's work and rank them from accidental mistake or omission to the abuse of position.

However, what needs to be especially pointed out is that major violations are perpetrated by not reporting the goods entering the customs area, which is, naturally, done in collusion with a customs official and also by fictitious reports that goods declared to be in transit have left the country. Such things cannot be solved by normative change but rather through more rigorous internal control.

In customs clearance procedure, we cannot talk about the discretionary powers of the customs workers, but rather, of his obligation to determine the facts (first of all the type, quantity, value and origin of goods) and subsequently apply relevant regulations.

In the phase of submitting the declaration and relevant documentation, the most frequent wrongful actions are:

- inaccurately determined quantity of goods. False information from the invoice of lading is submitted into the customs declaration, and it is up to only one customs official whether the information will be checked by counting or measuring.
- inaccurate evaluation of goods on false invoices. The problem of double invoicing is often encountered here – the invoice with the lower figure is submitted to the customs and the invoice stating the real, higher value is used for accounting. Since the invoices which have not been submitted in the customs clearing cannot be used for payment abroad through a domestic bank, this paves the way for further abuse – payment in cash or from a foreign bank account and similar. If false reporting of the value is not motivated by the intent to cut down on customs expenses, but rather by the intent to transfer money out of the country, “inflated” invoices are submitted, which are extremely rarely checked. Customs declarations reporting the customs basis lower than usual are subject to subsequent inspection. However, since the basic principle of the customs evaluation is the transactional (contractual) value of goods, the corrupt customs official who had endorsed the false evaluation, as a rule, justifies his action by claiming that the invoice was satisfactory (with all necessary elements) and that he had no cause to doubt the stated information.
- Incorrect classification of goods by customs tariff number (according to the HS), with the intention of paying the charges at the lower customs rate or avoiding special conditions stipulated for import or export (quotas, declarations, approvals, certificates and similar). Since goods are put on the market after the customs

clearance, it is difficult later to check whether the goods were wrongly classified. By analytic monitoring of imports it is possible to detect some clues pointing to the abuse: after the import requirements for one type of goods have been made more rigorous, the “import” of similar goods for which the customs requirements are less strict (lower customs rates or more convenient other requirements) rapidly rises. A warning about the observed trend can have a deterrent effect on the conduct of the customs workers.

- Avoiding payment of customs duties or paying them at a lower customs rate than required can be affected by falsely reporting the place of origin of goods. The goods exported can also be granted preferential treatment when put on a foreign market. In both cases the economic incentive is strong, and the risk that the customs official will be proved guilty of abuse of position is negligible. He can always defend himself by the fact that he was not able to verify the declared place of origin.

### **Penal legal regulation**

The Law on Customs Service was adopted in 1980 and has been slightly amended in 1987. This is important because among other things, this law determines the powers of the body for initiating disciplinary proceedings and ensuing measures. In the light of the fact that the law was adopted in the former SFR Yugoslavia for the regulation of then existing relations, it is not surprising that it does not provide for significant modification of the disciplinary measures for state administration bodies. Adopted at a time when social ownership held sway, the Law could not foresee the later manifestations of corruption at the customs. In fact, business enterprises of the period dealt only with social capital and thus had less incentive to try to violate the regulations for financial gain. Not that there was no corruption at all, rather, there was less of it, mostly in customs clearing of passenger traffic, and so the social consequences of such corruption were less significant. As for the disciplinary proceedings, we can point out two elementary defects. First, the proceedings are initiated by the manager of the organisational unit to which the worker belongs, and in the first instance they are conducted by a commission the members of which are the workers from the same organisational unit. This fact alone creates doubt about the objectivity of the initiation and conduct of the proceedings (to the advantage or disadvantage of the individual it was brought against). Second, the lack of or inadequate number of the employees trained for conducting the proceedings often leads to procedural mistakes and the decision might be revoked by the second instance commission or by the court in a working relations lawsuit. If we add to this the notorious slowness of the courts, it is not surprising that final decisions can be expected as long as several years after the suit was filed.

It is obvious that this area needs to be fundamentally changed. In this direction, development of the internal control service, organisationally independent, would secure that initiating proceedings were objective and effective and legal regulative which would take into account the specific character of the service should aim at speeding up the proceedings and reaching the decision.

## **Conclusion**

In short, we can say that the primary incentive for corruption at the customs is the intention to avoid paying customs charges altogether or to pay a smaller amount. Another motive can be to realize certain rights (import or export of goods for which there are quantitative or qualitative restrictions, or evading requirements for realization of rights, for example, for marketing of certain articles). Ultimately, the incentive is unquestionably financial gain, direct or indirect. The customs workers accept bribes as a share in the economic profits or as a “reward for a favour”.

There are numerous manifestations of corruption; they appear both during the supervising and customs clearing procedures (including the phase of collecting the levies, which can be prolonged), most frequently in the form of sale of a right or as an exemption from some requirement/duty.

The number and various legal power of legal acts, the lack of regulations appropriate for the current state of affairs – there are three customs systems operating on the territory of Yugoslavia (the flow of goods is not regulated with Montenegro and Kosovo), as well as frequent changes in the regulations contribute to corruption at the customs.

## **THE FACTORS OF CORRUPTION IN THE LAST TEN YEARS**

### **Historical factors**

The most important factor of corruption is the dissolution of the former SFR Yugoslavia in 1991, which brought about several very significant changes. Prior to this, border crossings in Serbia were exclusively with the states of the former eastern block, which were quite uninteresting in the commercial sense in terms of the flow of goods and passengers. The most interesting border crossings in the commercial sense were those in Slovenia, that is, the border crossings with Italy (the Trieste route) and Austria (most people working abroad returned to the country there). It was at these crossings that the economic ground (demand) for corruption existed, producing, in turn, the supply of corruption.

With the dissolution of the former SFR Yugoslavia, the borders of Serbia/FR Yugoslavia, became the borders with the western world, i.e.

with the more commercialised transitional states. Szeged supplanted Trieste, and those working abroad did not return home via Slovenia, but via Subotica. This laid economic foundations for corruption, that is, for the supply of corruption.

The secession of Slovenia and Croatia and the way it was affected led to heavy migration of customs officials. The majority of customs officials posted in Slovenia who were not Slovenians by origin, decided to leave the country but to continue to work in their profession. That brought to Serbia/FR Yugoslavia, people who had had a different way of working, which is to say, who were used to commercially attractive border crossings. These people were not unfamiliar with the idea of providing a “service” of preferential treatment, which created a supply of corruption at our border crossings. The seed of corruption quickly took root and the newcomers successfully spread their ideas on the way things should be done among those who had scrupulously performed their duties before.

### **Political factors**

Since the early 1990s the most significant political factors of corruption in our customs administration were the wars in the neighbouring states and the perpetual state of emergency. The most important international factor of corruption was the sanctions imposed by the international community (the Security Council Resolution 757), which included the ban on trading with the FR Yugoslavia. Virtually all import (except for food and medicines) became illegal, and every imported shipment of goods was considered to be an instance of breaching the blockade and therefore could be presented as a patriotic act. In this way all dealings bringing goods into the state (smuggling, corruption and so on) were not viewed as breaking the law but rather as a holy patriotic mission. As long as goods reached the country, everything was allowed. The second contributing factor was the fact that the country had been banished from nearly all international organisations and association, suspending cooperation with the neighbouring countries, that is, their customs administrations as well as with multilateral organisations for fighting corruption. This was especially true for the exchange of crucial information.

International factors of corruption at the customs at the beginning of the 1990 found fertile ground in Serbia, that is, in its customs. The principal domestic political reason for this is the fact that the former ruler chose to use the customs administration to achieve his two main objectives: for his personal benefit/wealth (and for the benefit of his family) and for retaining the power. In keeping with this, we can say that corruption at the customs in Serbia and in the FR Yugoslavia is a typical instance of institutionalised corruption; it appeared as a natural consequence of the character of the political

regime in the state. On the one hand, through complete privatisation and corruption of the customs administration that state service was used for controlling the flow of money, which meant that customs revenues were not channelled into the budget but into financing various personal political projects. On the other hand, the fact that a large number of people were involved in criminal dealings (with the silent approval by the ruler and his clique) made all those people hostages to the regime. Their wrongful actions could easily have been documented if they had stopped cooperating with the regime, and so they all had good reasons to stay loyal and in this way uphold the elite and the ruler.

The process of turning the Federal Customs Administration into a corrupt institution was completed by appointing a new director in 1994. The new director, who had had long experience working for the State Security Service, reorganised the Custom Administration so as to achieve the mentioned objectives. He brought with him many new people – trustworthy people. Even today, the majority of the employees of the Federal Customs Administration are those hired between 1994 and 2000, that is, during the mandate of that director. Staff hired in that period was not trained for work at the customs, but were well-versed in corruption. If they were loyal and cooperated in big corrupt deals, which, as a rule, were always “in the interest of the state”, they were allowed a share of the proceeds. The interest of the state simply meant that businessmen supporting the regime profited in an illegal way, agreeing to pay back to the regime whenever the need arose to finance what it had been decided to finance. Naturally, it never occurred to them to oppose the regime.

### **Organisational factors**

Almost all current organisational factors of corruption in the Federal Customs Administration have been inherited from the previous period. This just shows how difficult it is to eliminate certain organisational factors, that is, how unsuitable the institutional framework is for an effective fight against corruption.

The first significant organisational factor concerns the cooperation between the customs service with the other services that control the border, that is, which are entrusted with upholding the law. This is, above all, the border police. The lack of clear separation of powers necessarily leads to confusion in work and mutual accusations. There are also strong indications that the border police are corrupt as well. First, such conduct of the police creates an incentive for the customs workers to engage in corruption. Second, the inertia (often intentional) of the police inevitably limits the customs administration in their fight against corruption. Finally, an effective and uncorrupted police force would act as a strong deterrent on the behaviour of the customs workers contemplating whether to engage in corruption. In many



ways, if the police are not corrupt there is less chance that the customs will be corrupt.

The existing legal framework and mechanisms for its implementation indirectly contribute to corruption. Consistent application of strict penal measures serves as a deterrent for the wrongful act of corruption, and thereby lowers the possibility of its occurrence. However, the criminal proceedings in cases of corruption at the customs are not very effective, thus constituting a most important factor for corruption. Criminal charges brought against several customs officials a year and a half ago still have not been completed. True, it is difficult to file a criminal suit in such cases, as direct material evidence on the received bribe often does not exist. There is just circumstantial material evidence such as personal property of the customs officials, vastly disproportionate to their income. The example for this is a “Crooks’ Valley” in Subotica, full of family houses worth several hundred thousand Euros with expensive cars and luxurious SUVs parked in front of them. This is all circumstantial evidence, however, which cannot serve as proof in a criminal case.

There is a Service for the Prevention of Smuggling within the Federal Customs Administration, but there is no standard internal control. Therefore, the Service also performs the work of internal control, the situation which, presumably, cannot be considered favourable. There are various forms of smuggling that do not rest on corruption, and their suppression requires the engagement of a high number of people. In the organisational sense, focusing on the fight against corruption probably does not require that a special internal control unit should be set up, but it certainly does require that such a unit should have extensive resources and broad powers.

As for the organisation of corrupt dealings, in most cases there is a more or less organized group of people – a customs official cannot successfully engage in corruption by himself; he needs at least acquiescence from his colleagues. In other words, a corrupt customs official works within a well-organised group with the individuals from the border police or with his co-workers in the customs administration (his subordinates or his superiors). It was easy to set up such groups in the 1990s; they were even set up at the very centre. As there was wide acceptance of corruption, such groups were easily maintained; potential rotations did not have any effect since the groups would be quickly organized at the new border crossing.

In the last two years, tolerance of corruption has been drastically reduced which reduced the willingness of the customs officials to join corrupt groups. Larger groups have lost their appeal since they cannot endure as easily as before. Now one needs to work alone, which is very difficult and inefficient (except, perhaps, in passenger traffic), or in small groups where individuals engaging in corruption trust each other. As the penal regulative becomes more strict, and especially, more effective in its implementation (in the phase of exposing the

perpetrators as well as in the phase of bringing actions against them), so it will serve as a further obstacle for setting up such groups and speed up their dissolution.

On the organisational level, it is important to notice that corruption rests on permanent relationships and on sustained agreement between corrupt individuals and their clients. In other words, it is necessary that they establish and maintain the bonds of trust. In such a case, the transactional costs, that is, the costs incurred by corruption are considerably lower. For example, very often, a corrupt deal is paid later, which lowers the costs of a transaction since it lowers the risk that a wrongful action will be exposed and brought to court. When the policy in this area becomes stricter, the bonds of trust between corrupt individuals and their clients will break, which, in turn, will raise the transaction costs and the probability that corruption will be exposed.

## MECHANISMS OF CORRUPTION IN THE FEDERAL CUSTOMS ADMINISTRATION

### Passenger traffic

Customs clearing and the flow of goods in passenger traffic have several important characteristics which make them different from the cargo traffic. First, the “clients” of the customs service, that is, the individuals liable to pay customs duties are individuals (natural persons) and not legal entities. Second, customs clearing is performed by direct application of the regulation in a short procedure and (currently) at a single customs rate of 10% regardless of the type of goods the individual imports. Third, the flow of goods in passenger traffic does not involve documentation; documentation is only produced if the goods have been cleared at the customs, that is, in cases when the individuals were liable to pay customs duties for the imported goods. The lack of documentation means that there will be no “traces” of anything illegal, that is, no evidence which can be used for subsequent ascertaining and prosecuting of corruption. Finally, in passenger traffic the selective inspection of passengers has always been used so that every customs official has a discretionary right to choose a passenger he wants to inspect and let through the passengers who do not merit such attention.

In principle, corruption in passenger traffic has a low value per unit, in other words, the amount of corruption per transaction is relatively small, but, on the other hand, the number of transactions is very high so that the total amount of corruption, that is, of the bribes paid, is very high. There is no reliable information on the proportion of corruption in passenger traffic in total corruption at the Federal Customs Administration, but it is estimated at 20 to 60% and even as much as

70%.<sup>1</sup> So, regardless of the relatively small value of corruption per unit, it appears, at least by most estimates, that the total amount of corruption in passenger traffic is rather high.

An indirect indication of the extent and significance of corruption in passenger traffic is the fact that there is a large demand of the customs officials for posts at passenger terminals; being relocated from the passenger terminal is considered to be a harsh punishment and a personal failure of a customs official. Such attitude to work at the passenger terminal indirectly points to how “convenient” these workplaces are in terms of the expected profit from corruption. The loss of such a workplace means the loss of income providing a pleasant life style; the customs official and his family were free from poverty and even able to climb up the social ladder with the money from corruption. Many of them find it difficult to adjust to a normal, honest life.<sup>2</sup>

Large demand for workplaces at the passenger terminal inevitably generates induced corruption in the customs administration as well. There is an incentive to the workers to try to corrupt their co-workers in the personnel department in order to secure a desirable workplace and gains from corruption. In such cases bribes paid to secure an “appropriate” workplace is a sort of investment, paid from expected income from corruption in passenger traffic.<sup>3</sup>

Junior customs staff especially generates a high demand for posts at the passenger terminals. They usually do not possess much knowledge and cannot take part in relatively complex corrupt deals at the customs, especially in cargo traffic – that is the reason why they spend a lot of energy fighting to secure themselves posts in passenger traffic. It is an indirect proof that mechanisms of corruption are relatively simple in passenger traffic, that they do not require particular knowledge and that they secure a rather small (per unit) gain both for the corrupted officials and for their clients. This type of corruption seems to be the favourite among the customs staff because it is simple, there is no need to work hard on designing a plan how to bring it off, the risk is small (no documents are left for further inspection of regularity).<sup>4</sup> In view of

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- 1 The wide range of cited estimates points to their relatively low reliability. Nevertheless, most estimates determine the proportion of this type of corruption in overall corruption at the customs at over 50%.
  - 2 It has been shown that in some cases greed becomes so strong that it causes psychological difficulties in corrupt customs officials; they display a specific kind of kleptomania when corruption in itself, independently from the benefit from it, becomes a necessity of life to such people.
  - 3 Such situations are especially to be expected if a large number of customs officials lose their jobs on operative tasks at passenger or goods terminals, as it happened in the summer of 1999 when our customs bodies retreated from Kosovo. The Pristina customs house was virtually dissolved and many customs officials found it to be their vital interest to manage to get relocated to passenger terminals at the border with Hungary. Some of them were, no doubt, willing to pay what it took for their wish to come true. However, it remains unclear to what extent this form of “internal” customs corruption has lingered on since the change in management in FCA in the autumn of the year 2000.
  - 4 In the slang of the customs, the bribe, especially in passenger traffic, is called “putting the patients in a vise”

this, relocation (“being taken off” as the customs slang terms it) from the passenger terminal is felt to be a harsh punishment. There are, however, significant exceptions from this attitude which we shall discuss later.

In general, corruption connected with the flow of goods in passenger traffic can be divided into several typical cases. The following survey concerns mostly road border crossings, since corruption and other illegal customs practices in passenger traffic are for the most part performed at that kind of border crossings. The same or similar mechanisms are to a certain extent used in other kinds of passenger traffic.

*Allowing the shipment through (avoiding the inspection)*

This is the simplest and the least sophisticated method of avoiding customs clearing and payment of duties. The shipment can be allowed to pass through the customs border cross point without stopping the vehicle and the passengers. The whole thing can be arranged and often paid in advance if the shipment is of considerable value; the whole service boils down to “waving” – the corrupt customs official just waves to the passenger vehicle or a van through without inspection.<sup>5</sup> In this case we have total separation of the provision of the service and the payment. Naturally, not all cases of letting a vehicle through should be considered to be a symptom of corruption since the customs inspection is selective and every customs official has the discretionary right to choose the vehicle he will inspect.

The mentioned method usually concerns allowing valuable goods through the customs. The shipment is usually light and of small volume, but valuable. This includes personal electronic equipment, telecommunications equipment (mobile telephones and similar) and expensive clothes (designer clothes). In this way the goods are completely exempted from charges which gives them a competitive edge on the market and their retailers a large rent. Sometimes a shipment of this kind can be worth as much as 150,000 Euros. Sometimes, especially in cases of very expensive clothes, the goods have been stolen in western states and the transport across the border without customs clearance is just a link in the business of stealing in the western states and reselling the goods in Serbia. Apart from the incentive to customs duties, in these cases it is even more important to cover up the illegal activity.<sup>6</sup>

Far more frequently the shipment allowed through is smaller; the van or the passenger vehicle are usually stopped. If the quantity of

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5 This type of corruption when a vehicle is allowed through by waving is in the customs slang called “YAMAHA” (the pun meaning “I waved”)

6 Since the purchase price of the “nicked” goods is negligible (although there are some costs incurred), the customs duties could easily be paid and the goods could still be resold at competitive prices and high profit for the retailers. Presumably, the incentive for corruption is concealing the stolen goods.

goods is small, most often extended personal luggage, the whole deal is performed on the spot, with the client usually offering a smaller amount of bribe to escape examination (20 to 100 Euros); this demonstrates that the value of goods is relatively small and that the customs duty, without corruption, would not be significant.

Both types of corrupt dealings involving allowing the shipment to pass through the customs without inspection of the goods are much more easily done if the customs border cross points are crowded, that is, if everyone at the crossing is tired and tense. It is much easier to engage in corruption if there is a crowd of people waiting. More to the point, when there is a crowd some of the passengers might offer a certain, usually smaller, sum of money just to get ahead of the others waiting in line for at the customs; they do not intend to avoid inspection, just to cross the border as quickly as possible. It is understandable why a traffic jam or a long queue is sometimes created on purpose to make an appropriate atmosphere for corruption. For example, one shift finishes and the next one delays the inspection till the crowds and queues pile up.

It is certain that in such an environment there is no incentive to establish law and order. If it were to happen, not only the corruption would become more conspicuous but also it would become obvious, which of the workers are good at their job and which are not. To those who are less capable, that is, those who do not know enough to do their job properly, the establishment of order presents a threat, and the others often do not have enough incentive to battle for better conditions.

#### *Failing to charge the customs duty*

Another subgroup of the previous method of corruption is failing to charge the customs dues; the goods have been examined but the customs official decides that there is no basis for charging customs duties for the goods carried across the border. This type of corrupt “work” is performed in cases when the value of the shipment, the goods, is smaller; the payment is done on the spot or in the immediate vicinity and the corrupt official and his client usually do not know each other. In other words, there is no need for any previous arrangement, that is, for any special organisation of this type of corruption.

The corruption of this type is usually done directly; there are no intermediaries in the flow of money from the corrupt individual to the client. As for the clients, they are mostly passengers who relatively rarely cross the state border (people working abroad coming home for holidays), they are not involved in chains of smuggling and re-selling goods and the amount of the bribe per transaction is, as a rule, relatively small. Sometimes the corrupt customs officials collect the payment for the service provided in goods; they take part of the shipment which they, illegally, failed to charge.

### *Charging a flat rate*

Charging a flat rate is a special form of biased customs procedure by which the customs encumbrance is reduced for the passengers who carry goods using corruption. This mechanism of corruption in passenger traffic is most often used in cases of busses full of passengers and goods. The clients, i.e. the passengers are usually petty smugglers who legally cross the border at the same check point. They know very well all customs officials at that crossing and the customs officials know every one of those “passengers” as well. In this case one of the customs officials makes a deal with one of the passengers’ representatives (it is usually the bus driver or the group guide – “tourist” guide). The contact negotiates a flat rate of the bribe (for the bus as a whole – for all the passengers) along with the flat rate of the customs duties. The amount of the bribe together with the customs charges is then evenly distributed among all passengers. Sometimes, the customs dues are not charged at all, and the passengers pay the bribe in order to evade customs examination.

This mechanism often involves separation of the service and the payment; the examination and charging or failing to charge the duties are paid for in advance. The payment is usually done in a nearby coffee shop, or in a coffee shop in a nearby town, the representatives of both sides often being the only people present. It is important that the passengers, that is, their representatives and the customs officials, that is, their representatives trust one another and maintain a solid, long-time cooperation. All this involves some fixed costs – the costs incurred till the parties have got to know each other and learn to trust each other. This done, corruption becomes routine.

The value of the goods in the bus can amount to 250,000 Euros. However, the value of the goods can vary from case to case, the average value per passenger being between 1,500 Euros and 2,500. The amount of the bribe at the flat rate of charge, or failing to charge the customs duties is in proportion to the mentioned values.

In the case of air passenger traffic, that is, the passenger border crossing at Belgrade airport, the most interesting articles in terms of corruption are electronic equipment (computer components, personal equipment and so on) along with textiles, especially the articles which the owners of boutiques try to bring into the country as personal luggage/belongings. With an appropriate bribe it will be treated as a personal luggage, or charged at the flat rate which is much more favourable for the importer than the regular customs rate.<sup>7</sup>

In time, corrupt customs officials at all passenger border crossings create an informal “database” of smugglers in order to get to know who trades which goods, what is the value of their goods and how much a

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7 At the “Belgrade” airport the intermediaries in this type of corruption are the porters or other airport staff.

client can pay in bribes. At the same time, the smugglers as well create databases of customs officials with all relevant information, starting with the preferences of a customs official concerning corruption to details of his private life. Not that it is difficult to gather information on the private life of the customs officials. It is enough to learn basic information on the wealth in vast disproportion to what he/she legally earns. All information can be effectively used in two ways. First, a customs official can be offered the bribe most to his/her liking. Second, potentially compromising details of his/life (besides the fact that he/she is corrupt) can be used to blackmail him into further cooperation in corrupt dealings.

### *Special cases*

There are several special cases of corruption at the customs concerning passenger traffic. One of them is the so-called “dividing” of the shipment. The procedure is as follows. The shipment is usually transported by a smaller lorry or a van to the border crossing and then divided up and reloaded into a relatively high number of cars. The reloading can be done on the territory of the neighbouring state (so that the goods can leave the country under the conditions for passenger traffic), or between the two border crossings, in the so-called “no man’s land”. The divided up shipment is no longer considered to fall under the cargo traffic regime entailing regular customs procedure, but under the passenger traffic regime and reduced customs procedure. In this regard, it is important to note that all citizens of the FRY have a right to a duty-free allowance for personal luggage along with articles for personal use and the use of their family to the amount of \$100. When divided up and reloaded, the complete shipment can “legally” enter the country. Of course, the reloading itself must be done in secret so that customs officials do not suspect what is happening. Besides customs workers, the members of the border police must also be included in corruption so that the shipment can be divided and reloaded covertly. If a customs official at the passenger terminal, even an official of average ability and memory, is to overlook the same vehicles carrying the same passengers and the same commodities, carefully sorted according to all regulations, it is necessary to bribe him.

In its original form, dividing the shipment is usually done with expensive clothes, stolen, as a rule. It can also be used for personal electronic equipment and miniature electronic components. The main aim of this corruption mechanism is to evade the regular customs examination and complex procedure which leaves traces in copious documentation and bring in the goods with a short procedure which leaves no traces, that is, no documentation of any kind. This is especially important for a certain number of cases when the goods in question have been stolen and it is vitally important to cover the tracks of the movement of such goods.

Some instances of corruption in passenger traffic involve very valuable articles stolen in burglaries; i.e. they are connected with international crime. The stolen things are usually valuable or designer articles such as “Rolex” watches (“*hot stuff*” as they are called in customs slang). The bribe is often paid in goods (since the commodities have still not been put on the market or “sunk” as the professionals in this area say). As it involves high risk, the bribe in such cases is agreed on in advance, through an intermediary, but the actual payment can be done on the spot (giving away one or two of the watches, for example). The only material proof remaining in such a case is a very valuable item, such as the mentioned “Rolex” worth so much that no customs official in Serbia could afford it on his salary.

A special opportunity for smuggling goods, that is, for corrupting customs officials in order to carry the goods across the border without paying customs charges is when someone is moving house. The people who temporarily work abroad (usually in European countries) occasionally return to the country to stay. Then they move all their property including furniture and various electrical appliances. In such cases, the consulate in the country where they temporarily resided issues a certificate of permanent departure from the state; the certificate means that the passengers will have preferential treatment at the customs – most of their property is considered to be duty-free allowance.

As for the technical part, the property is usually loaded on a truck, that is, in a single truck container. Very valuable other goods can be loaded together with the property of the people returning home; it is most often brand new restaurant equipment or electronic equipment. As there is no customs charge on import of personal property, the customs officials do not perform the inspection as thoroughly as they usually do. However, it is safest to bribe a customs official, which is easy, as for a long time nobody was interested in the household objects being moved across the border. After some very valuable shipments had been discovered hidden among personal property, this method of smuggling became riskier and so the “tariff” of the bribe to be paid probably rose.

Finally, let us mention another type of petty corruption in customs passenger traffic where a customs official performs a real or a fictitious service to the passenger crossing the border at the road customs crossing. If it is real, the favour usually involves granting the passenger a flat rate or failing to charge him for goods of relatively small value; however, it often happens that a customs official manages to persuade a passenger that he is doing him a favour by not charging him for personal luggage. Quite often the passenger offers a reward to the customs official for the service. The customs official refuses the money but sends the passenger to the nearby coffee shop or a restaurant to pay for a round of drinks or a meal for the whole shift and to bring him a receipt. While there were *duty free* shops at the border crossings, the reward for a service was usually a box of cigarettes or a bottle of whiskey; now they ask for prepaid cards for mobile telephones, later sold on the black



market.<sup>8</sup> The victims of such corruption are, naturally, the passengers who obviously cannot afford more.

There are some articles and substances which must not be brought into the country at all. They are, first of all, narcotic drugs and weapons. In the light of everything that is known about it, carrying these articles and substances across the border is not connected with corruption of the customs workers. True, this type of trafficking is also done through passenger terminals,<sup>9</sup> but the individuals carrying them do it at their own risk, hoping to avoid the customs inspection which will discover their more or less well-hidden cargo. An attempt to bribe a customs official to overlook the passage of such commodities is too risky both for this type of smuggler and their organisations and for customs workers as well. The bribe received to let a shipment of clothes through cannot, from the aspect of penal regulative, be compared with the bribe for letting through a shipment of heroin. Considering the high risk a customs official would have to take and the benefits he can get if he reports a shipment of narcotics or weapons, there is a minimal chance that a customs official will deliver a service of this type and allow such a shipment into the country unhindered. Since this type of smugglers, individuals who trade in drugs and narcotics, know very well what the incentives to the customs workers are, they do not attempt to make corrupt deals with customs officials.<sup>10</sup>

### **Cargo traffic**

Customs clearance and the flow of merchandise in cargo traffic are different from the discussed passenger traffic in several significant ways. First, “the clients” of the customs service, that is, entities liable to pay customs duties are not individuals but legal entities. Sometimes it is difficult to trace back legal entities as a certain number of enterprises engaging in foreign exchange business are fictitious companies.<sup>11</sup> Second, customs clearing is based on indirect application of regulations, on a regular customs procedure and on various customs rates according to the goods in transit. Third, the flow of goods and its customs clearance entails copious documentation produced every time goods cross the border regardless of whether they are liable to customs

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8 It seems that this type of petty corruption was imported from the outside; Macedonian customs officials were the first to practice it and later our customs workers, especially those at the border with Macedonia, followed suit.

9 Besides passenger terminals, shipments of narcotics and weapons also enter the country on goods terminals, and in a certain number of cases outside border crossings, that is, on those parts of the border that are outside the Customs Administration’s jurisdiction.

10 The conclusions concerning drugs and weapons trafficking were based on the available information from the Federal Customs Administration. It must be taken into account that these conclusions might not be true for other customs administrations, perhaps even for the customs administrations of the neighbouring states.

11 Certain foreign exchange enterprises are sometimes set up for a single business deal, for a single transaction.

duties or not. Therefore, there is a paper trail on the basis of which subsequent investigation of the (ir)regularity of the customs procedure may be investigated, determining the accountability of all concerned.<sup>12</sup> The existence of a permanent record and the possibility of the subsequent disclosure of the traces of corruption present an added risk both to the crooked importers and to the potentially corrupt customs workers. This in itself lowers the likelihood of corruption and requires thorough preparation from the parties involved and well-reasoned planning in order to reduce the likelihood of being found out later.

Finally, for a long time there has been a rule that every shipment must be examined (it is beside the point whether the rule was consistently observed), and it was only in 2002 that the principle was supplanted (only in part, at several border crossings) by the regime of selective shipment inspection, so that every customs official has a discretionary power to select the shipment he wants to inspect. It is up to him to assess whether the documents submitted correspond to reality and allow through the shipments he does not consider worth the trouble of inspection so the customs clearance can be performed on the basis of shipment documents.

Unlike corruption in passenger traffic, the corruption in the cargo traffic is far more complex, almost sophisticated and requires considerable knowledge and experience as well as thorough planning and preparation. In other words, only the senior, experienced customs workers who possess enough knowledge and practice can successfully bring off a corrupt deal of this type and make a profit on it. Junior, novice customs officials, lacking the adequate knowledge of the customs procedure itself are simply under-qualified for this type of corruption and are “forced” to concentrate on passenger traffic. It is easy to understand their disappointment when “taken off” the passenger terminal – no more of that easy, simple and straightforward corruption; if they want to keep practicing it, they must work a little harder at it.

In principle, corruption in the cargo traffic has a high value per unit; the amount of profits per transaction is relatively high. On the other hand, the number of transactions is far lower compared with passenger traffic. The result of this fact is that the profit (rent) on a transaction, that is, on a corrupt foreign trade deal can be very high. In other words, high potential profit in such deals allows the corrupt importer or the shipper in his role as the importer’s intermediary to offer a customs official a relatively high bribe. It is really important that the bribe be high enough if a corrupt arrangement is to be made since it is complex and risky from the point of view of corrupt customs officials.

There is no reliable information on the proportion of corruption in cargo traffic in the total corruption at the customs. According to some

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<sup>12</sup> According to the internal regulation of the FCA, documentation in the electronic form or on paper is kept for five years for the former and ten years for the latter form. The right to routine subsequent control is in effect for two years after the date of the customs clearing, that is, the inspection of goods.

estimates (the reliability of which can, naturally, be dubious), it makes up nearly 80% of the total corruption in terms of its worth in money. However, regardless of the real (still unascertained) proportion of this type of corruption at the customs, it should be noted that this is the case of serious, often termed “high voltage” corruption which entails the existence of criminal networks and organisations. Also, it is the corruption in cargo traffic that seriously cuts down on budgetary revenues and compromises the foreign trade policy of a state.

Generally speaking, corruption in cargo traffic can be classified into several characteristic types. The following survey mostly concerns road border crossings since corruption and other irregularities in customs procedure concerning the cargo traffic in most cases concern this type of border crossings. It seems that shipment of goods in railroad traffic is not attractive for corruption since this type of transport is not flexible and that besides customs documentation it also requires the railroad documentation which considerably hinders corruption. Finally, it is usually the bulky and commercially unattractive goods of inferior value that are transported by train. There is no incentive to try to bribe customs officials in this type of transport since the goods themselves are not attractive enough to be put on illegal markets.<sup>13</sup>

Consequently, like the corruption at passenger terminals, that is, corrupting the customs officials in charge of passenger traffic, in the case of cargo traffic there are also several basic mechanisms and types of corruption.

### **Allowing the shipment through**

The least sophisticated mode of corruption in cargo traffic is allowing the trucks through the customs border cross point without customs inspection and without customs clearance. On the one hand, this type, that is, this mechanism of corruption is a breach of customs and foreign trade regulations – blatant law breaking. On the other hand, however, it brings the client of the corruption huge economic benefit (rent) owing to the fact that he evades paying customs charges on the imported goods. As the transactions involve large sums of money (large rent on goods), a corrupt client is willing to set aside a considerable amount for the organisation of the corrupt deal – for the bribe for customs officials and other civil servants.

The large amount of money the corrupt client is willing to pay is an important precondition for this type of corruption. Many people must be involved in this type of corruption, besides customs officials the border police is usually involved since the driver of the truck when

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<sup>13</sup> The fact that railroad transport is not relevant from corruption at the Customs concerning cargo traffic does not mean that smuggling goods by freight trains cannot or does not happen. However, such smuggling does not fall under corruption at the Customs.

entering the country makes the first contact with the border police. According to the regulation, that is, the usual procedure, after the inspection of the personal documentation of the driver and documentation for the truck, the vehicle is directed into the parking lot of the customs cargo terminal for inspection. Nevertheless, in certain cases the truck is not sent to the parking lot but crosses the border freely and heads straight for the motorway into the country. While Mihajl Kertes was the director of the Federal Customs Administration, trucks would sometimes be actually given a police escort to cross the border – the escort began between the two borders, right after the shipment left the neighbouring state; the customs office would just be notified that the shipment was of “national importance”. The police would escort such a shipment all the way to its final destination. The “full” escort was very important since it entailed the fact that goods allowed through in this way would leave behind no documentation of any kind. If a truck did not have an escort while crossing the border, and the full cooperation of the traffic police had not been secured (which was a complex task since it involved a lot of people), it was necessary that the shipment should reach the warehouse as soon as possible to be reloaded and distributed in much safer surroundings.

This type of corruption at the customs is nowadays increasingly rare; indeed, it has virtually disappeared. The main reason for it is the break in the chain linking high customs officials, police and well-organised corrupt importers. Owing to this, it is nearly impossible to successfully bring off such a scheme – it entails an unacceptably high risk.

Besides the discussed mechanism, the allowing of a shipment through the customs can also be performed by manipulating the procedure of entering and leaving the parking lot of the goods terminal. It takes perfect coordination, that is, corruption of the customs worker at the entrance and of the one at the exit of the terminal so that the customs clearance can be performed without inspection. Besides, at the border crossing at Horgos, due to inappropriate infrastructure, there is an opportunity for a truck to pass unhindered into the country, completely getting round the customs cargo terminal. It is necessary that a considerable number of customs workers and policemen be involved in such an operation. As the number of people who need to be involved increases, so does the cost of a corrupt deal as well as the risk. More to the point, this mechanism involves another significant risk – the truck and the shipment do not have necessary documentation which means that the goods must be reloaded relatively quickly; it is necessary that a safe warehouse near the border crossing should be secured, which is not always easy.

Machinations concerning passing the truck through the customs clearance are mostly achieved by registering the trucks to fictitious (“phantom”) companies; the registration plates are usually changed between the borders and it is not rare that false traffic documentation is used. All this lowers the risk that the corrupt importer will be discov-

ered later. Nevertheless, owing to the high risk involved in letting a truck through the customs, this type of corruption is not as frequent as it was up to a few years ago.

“Empty” trucks are a special case of allowing the shipment through the customs. Naturally, an empty truck is not liable to customs examination since it carries no shipment. All it takes is to ascertain whether the truck is really empty. Of course, none of those concealing a shipment will declare a full truck as empty but rather use a not quite empty truck to conceal a valuable shipment (usually of relatively small weight and volume but high value per unit). Double floors and double walls of the truck are ideal for such a purposes. All it takes is to bribe a customs official to do a superficial (with intentional lack of interest) examination, and after a five second inspection declare the truck empty. If the corruption is organized properly, the truck will also escape its weight being measured, since the discrepancy of the declared and the actual weight of the “empty” truck will raise suspicion of a concealed shipment.<sup>14</sup>

Considering different forms of allowing the shipment through, the method of an “empty” truck is gaining in popularity. The method owes part of its attractiveness to the fact that there is no documentation, that is, no written trace, of an empty truck crossing the border, which reduces the likelihood of subsequent inspection. The spread of this method of allowing the shipment across the border compared with the other methods discussed is certain advancement as it concerns relatively small quantities of goods and therefore the decrease in corruption.

Finally, there is another specific form of allowing the shipment to escape customs clearance, but there is not reliable information on its extent and frequency. It concerns escaping the inspection by tampering with the electronic databases of FCA by illegally accessing the computer system of the customs and deleting the entire electronic documentation concerning a particular shipment. For example, a truck is admitted at the customs, inspected and sent for customs clearance to another inland customs house. The complete documentation on the procedure is entered into the computer system of the Federal Customs Administration. The importer (or his forwarding agent), a customs official and a hacker in collusion then destroy without trace the entire electronic documentation, the truck disappears from the records of the FCA, the truck driver (the forwarding agent) destroys all written documentation and the truck is sent to a warehouse inland for reloading. Concerning customs administration, such a truck has never entered the country. As pointed out before, there is still no reliable information on all details and the extent of this type of corruption at the customs.

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14 For several years, while Mihalj Kertes was the director of the Federal Administration, the scales used for measuring the weight of trucks at the border crossing at Kelebia were out of order and the trucks, whether full or empty simply were not measured. The weight of an empty truck is specified in the traffic documentation and experienced customs officials know by memory the weight of various types of trucks. The scales at Kelebia were put in order as late as the end of the year 2000.

### *Exemption from paying customs duties*

The exemption from paying customs duties after a regular customs inspection brings a corrupt importer the same benefits as allowing the shipment into the country without customs clearing. However, this type of corruption is different from the latter in that it has the appearance of legality – the customs procedure is performed in full, only a false reason is stated for exemption from the duties. Exceptional situations are convenient for this type of corruption (such as a trade embargo on all or certain articles), complex domestic customs and foreign trade regulations and procedure, numerous exemptions from customs duties of various kinds as well as a large proportion of humanitarian aid in the flow of goods across the border.<sup>15</sup> From the aspect of a corrupt importer the disadvantage of this type of corruption is the need to involve a relatively large number of people in the deal, especially higher ranking customs officials, that is, those whose duty is to supervise the customs procedure. Another major drawback is the existence of documentation which is solid proof of corrupt dealings by which goods were exempt from duties. The subsequent inspection can, at the least, determine that the exemption from customs duties was irregular, leading to the request that the charges be paid. The corrupt importer bears double costs then: both the bribe and the full amount of the customs duties.

In the period prior to the October 2000, this type of corruption constituted a considerable part of total corruption at the customs and in traffic of goods. It seems obvious that practicing this kind of corruption demanded thorough planning and a “security” system which ensured that all involved in the process kept quiet about it. The extent of this corruption mechanism can best be estimated on the information of the level of the collected customs dues on nominal customs rates. That is to say, the considerable discrepancy between the nominal (calculated on the basis of the nominal customs rates) and the actually collected customs dues is the result of tax exemption. According to the data for the year 2000, the discrepancy was about 1,400 million dinars or about 30% of the nominal customs duties.<sup>16</sup> A certain number of exemptions are by all means legitimate. However, since the total amount of exemptions from customs charges at the time was almost one third of the total nominal amount, it must be obvious that many of those exemptions were the result of corruption of the customs officials and other state officials involved in the foreign trade business.

In the last two years, however, there has been a drastic fall in this type of corruption. Several factors influenced this. Corrupt dealings

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15 Humanitarian aid, that is, goods sent as humanitarian aid is exempted from customs duties, therefore large proportion of humanitarian aid in total import facilitates various machinations, that is, completely commercial shipments are declared to be humanitarian aid.

16 The proportion is certainly bigger since the calculation of the total nominal custom duties was not done by using the same multipliers which had been used for violations of the general and particular quotas for the articles on such regime at the time.

can no longer be organized by high ranking officials from the Federal Customs Administration or the Ministry of the International Economic relations; the economic embargo on our country has long been abolished; the proportion of humanitarian aid in total imports has gone down; the foreign exchange regulations have been modified and to a great extent simplified and the exemptions from the customs duties considerably limited. As a result, the discrepancy between the nominal (based on nominal customs rates) and the actual customs charges has been radically reduced. According to the data for the first half of the year 2002, the difference is as little as 6.7% of the total nominal customs duties, which can be considered acceptable.

A special type of corruption involving exemption from customs duties is corruption in temporary imports. The temporary import, most often of raw materials or components, is the import of components to be used for manufacturing commodities which, ultimately, will be exported. For example, in the case of clothes manufacturers, textiles (fabrics) are imported and ready-made clothes exported. In such cases, import of the appropriate quantity of cloth for making suits which are going to be exported is considered to be a temporary import, and that quantity is exempt from customs duties. When the suits have been exported, the temporary import of cloth stops and the manufacturer is free from all other obligations.

Naturally, the key element of corruption is the real amount of cloth needed to manufacture a unit of product for export. The customs administration, that is, the customs officials verify – “sanction” the norm determining the quantitative proportion of the material and the finished product. It is to the advantage of the importer-manufacturer that the normative are generous, that is, that it authorises a larger quantity of raw material per a unit of finished product than is really necessary. This is an incentive to the importer to corrupt the customs officials who determine and verify the norm. It is to be expected that it will take a lot more cloth to make a suit than the production actually requires. The remaining textiles in the duty free allowance will be put on the domestic market in retail or as a finished product (a suit), and the corrupt importer will be privileged compared with his competitors (other importers) and therefore appropriate the rent.

#### *False transit and the return of goods*

The false transit of the cargo (sometimes called “fictitious passage”) across the territory of our country was for a long time a popular method of customs duties evasion, that is, a mechanism of corruption at the customs control in cargo traffic; to a certain extent it still plays a significant role in corruption in cargo traffic. Naturally, the basis for this type of corruption is the fact that goods in transit are exempt from customs duties. In principle, false transit means that a truck entering our state (for example, from Croatia, the border crossing at Batrovci) is

declared to be in transit; according to the driver's statement and the documentation (naturally, false) the final destination of the shipment is, for example, Bulgaria. The customs control checks whether the shipment is sealed (or seals it if necessary) and issues a surveillance document – a document which certifies that the truck has entered the state and that it will in a certain (reasonable) period leave the country at a border crossing specified in the pass. The copy of the pass (electronic and on paper) is forwarded to the border crossing in question, where the truck in transit is expected.

The corrupt customs official at the exit border crossing performs a false clearance of the pass and the false transit is successfully brought off. In other words, the corrupt customs official issues a certificate that the truck has left the country even though it never appeared at the border crossing, in reality, its cargo was off loaded somewhere in the state. For complete coordination it is necessary that both customs officials are in collusion (the one at the entrance point, the other at the exit point)<sup>17</sup>; the exchange of information between the neighbouring countries must also be prevented<sup>18</sup>. False transit is used as a technique for evading customs duties and other encumbrances; it is done in cases of attractive commercial goods, especially goods for which the excise duties are to be paid, such as cigarettes, as the potential rent for the corrupt importer is very high.

Very often, in order to cover traces, when entering the country, in the area between two borders the registration number plates of the trucks are changed, and then changed once again when the domestic border has been crossed. In this case, the truck is registered under three different registration numbers. The first was recorded at the border crossing when leaving the neighbouring state (Croatia, in this example), the second time at our border crossing and the third time in case it is for some reason stopped by the traffic police during the “transit”.

False transit is a very effective operation, potential rent is very high, but so are the risks undertaken by corrupt customs officials. Presumably, that is why the amount of the bribe in such cases is very high.

A specific sub-type of false transport is the false transport of goods to Montenegro, since a few years ago Montenegro established its own foreign trade regime, customs policy and customs administration.

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17 Theoretically speaking, the collusion of the two customs officials is not necessary in all cases. However, since false transit is done for commercially attractive goods, such as cigarettes, the corrupt customs official at the entrance customs point usually issues a false pass, that is, he specifies that some commercially unattractive goods are being shipped by the truck in transit. It has been recorded that some trucks caught in false transit of cigarettes had passes specifying soybean meal as its cargo.

18 Of course, it would be easy to ascertain that the truck which has allegedly left our territory (according to the documentation) never entered Bulgaria by tallying our and Bulgarian documentation on entering and leaving the state. Direct cooperation of the two states at every border crossing would considerably curb corruption of this kind. In order to successfully perform a false transit it would be necessary to corrupt a large number of people in different customs administrations. This, in turn, would raise the costs incurred by bribery and lower the likelihood that the corrupt deal will be successful.



False return of goods is still another sub-type of false transit as a form of corruption at the customs. The importer, or the shipper on his behalf, imports a certain shipment of goods. After the regular customs inspection at the border, it is established that the documentation submitted for customs clearing is incomplete. According to the existing regulation, in this case the truck is sealed and sent to a customs office in the provinces for customs clearing. The shipment is unloaded into the customs warehouse of the customs office and the importer is obligated to complete the documentation so that the customs procedure can be finished. If the importer does not comply in the stated period of time, it is considered that he has given up the import of the shipment and the goods are subsequently returned to the country of origin without customs clearance. This is exactly what the corrupt importer intending to perform a false returning of goods wants. When the goods have been loaded in the customs warehouse, in the documents such as a pass it is specified at which border crossing the shipment will leave the country. The same procedure as in false transit is then applied – a corrupt customs official at the border performs a false clearance by sealing the document which falsely certifies that the shipment has left the country. Meanwhile, the truck is unloaded in a warehouse inland, and the shipment is put on the market without paying the customs duties, sales tax and excise duties.

Although it does not have to be directly connected with corruption, a specific case of real transit should also be mentioned in connection with typical smuggling. In this case, there is a false specification of goods in transit across our territory. For example, a truck from Macedonia, bound for Bosnia and Herzegovina (the Serbian Republic) arrives at the Macedonian / Serbian border and according to the bill of lading the shipment is shoes or other goods of low profitability, that is, goods which are not attractive for smuggling. However, it turns out that shoes are only part of the shipment, and that the other part, perhaps bigger and certainly more valuable are cigarettes. The truck in transit, absolutely legally, passes through our state and exits it, breaking none of the regulations concerning transit. When the shipment reaches the Serbian Republic, the corrupt customs officials in their customs house perform their part of the task (perform the customs clearance for the shoes); the cigarettes, on the other hand find their way back to Serbia across the Drina river, not via an official border crossings.

#### *Misrepresentation – misclassifying the goods*

The form of corruption called misrepresentation, that is, reclassifying the goods and falsely declaring their type and identification, is a mechanism by which customs encumbrances can be considerably reduced. There are several ways of doing this. The first is to report a lower value of the goods and consequently lower the customs duties basis. This method of reducing the encumbrances will be discussed in

the next subsection. The second approach concerning misclassification, far more important in terms of reducing the customs encumbrances, is the selection of the lowest customs tariff rate for the given value of the customs basis – the one that is most advantageous to the importer. This type of misclassification of goods is especially convenient in states which have a large number and a large range of customs tariff rates for similar articles. For example, in Serbia, before the Law on Customs Tariffs was adopted in May 2001, the customs rates had a wide range (0% – 40%), even for very similar articles, and there were as many as 37 customs rates. Considerable differences in customs duties on similar products almost inevitably lead to corruption by misclassification, that is, false identification of the goods. The technique usually involves changing the tariff number of the HS in the documentation; when inspecting the shipment, a corrupt customs official falsely certifies that the shipment is in accordance with the tariff number in the documentation so that a lower customs rate than the one which the Law stipulates is applied.

For example, before the above-mentioned Law was adopted in May 2001, the customs rate for ribbed iron bars for reinforcing concrete was 3% and 20% for plain iron bars. The difference was justified by the intention to protect the domestic manufacturer of plain iron bars (Sartid) while ribbed iron was not being manufactured in the country at the time, and so the customs rate was only 3%. Due to corruption in the Federal Customs Administration, according to the data for the first half of the year 2000, all imported iron was (mis)classified as ribbed, at 3% of the customs rates.

Since the Law on Customs Tariffs from May 2001 considerably simplifies the customs tariffs itself, the main incentive for this type of corruption at the customs has disappeared. There is room left only for blatant reclassification of goods when commercially attractive articles, most often those liable to excise duties, are certified as goods of relatively low value by a corrupt customs official. For example, not long ago, there was an attempt to pass off a truck (a platform truck) transporting cigarettes across the border as a vehicle loaded with biscuits. The main motive for the attempt was not so much to evade customs duties, but, rather, to evade paying excise duties and thus acquire rent on the shipment. Presumably, reclassification is still economically justified for corrupt importers, first of all for the goods liable to excise duties.

In other words, the reform of the customs tariffs, maximal simplification and lowering the number of the customs rates, as well as technical attests of the articles within the same customs rate are the best way to prevent this method of corruption at the customs. More thorough monitoring of the flow of goods liable to excise duties, especially at an international level, along with harmonization of the regulations of neighbouring states concerning the flow of such goods would almost completely abolish corruption by misclassification of goods.

A special class of corrupt reclassification of goods are the cases not motivated by the desire to pay lower customs encumbrances but, rather to evade various legal regulations requiring certificates and technical attests of certain import articles. In a certain, perhaps even considerable number of cases, such certificates and technical attests are unnecessary (for example, for the articles which have already had certificates and technical attests from the EC), and the fact that they are still required presents an incentive to the corruption of customs officials in order to evade these procedures which are more expensive in time than in money.

### *Decreasing of the customs basis*

Corruption by misrepresenting the customs basis is today one of the basic mechanisms of corruption aimed at reducing customs encumbrances for the corrupt importer. The customs basis can be reduced in several different but complementary ways: 1) misrepresenting the actual quantity of the shipment; 2) reclassifying the shipment as a less valuable type; and 3) false invoices (bills) and false documentation indicating the lower value of a shipment (while the quantity and the type of goods are accurate). Every instance reduces the customs basis and the customs encumbrance of the importer.

Misrepresenting the quantity of goods in order to reduce the customs basis does not happen very often. The reason for this is quite simple – in many cases it is easy to determine the actual quantity of goods, and so corrupt customs officials are not willing to undertake the risk of being easily found out. In other words, for this type of corruption it is necessary to involve a certain number of customs officials to intentionally overlook the obvious facts concerning the weight of the truck together with the shipment. However, there are some specific circumstances in which this type of corruption can be efficient from the point of view of a corrupt importer. This is when a shipment is measured by the number of units, when the number of units is high and the value per unit is also high. This is mostly the case with electronic equipment. For example, if the shipment is telephones, false documentation declares that there are 1,500 items and the real number is 1,800. It is relatively easy for the corrupt team (usually of three inspectors) to accept the misrepresented number from the declaration and in this way reduce the customs basis. More to the point, if the discrepancy between the declared and the actual quantity of goods are not drastically high, it is very difficult to trace the corrupt deal later, even though complete documentation on the customs clearance exists.<sup>19</sup>

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<sup>19</sup> Small discrepancies are usually not conspicuous at subsequent inspection. On the other hand, no experienced corrupt importer or customs official is naïve enough to lie in an obvious way – to submit, or to accept documentation reporting, let us say, ten telephones in a platform truck.

Lowering the customs basis is also done by reclassifying goods, that is, using a false tariff number of the HS for identifying goods as of poorer quality and value than in reality. Corrupt customs officials verify the false specifications of the imported goods and considerably reduce the customs basis and the amount of dues to be paid. The discrepancy between the specification and the actual goods to be imported can also be moderate or drastic. For example, in 2000, according to the official information by the Federal Customs Administration, over 95% of the sports shoes imported into the country were simple canvas sports shoes made in China and worth around 6 Euros. Naturally, the range of imported sports shoes on our market was quite different: sports shoes by leading world manufacturers the (retail) price of which was far above 6 Euros dominated the market. Obviously, this was a case of blatant reclassification with drastic consequences for the customs basis and the calculated and collected amount of customs duties. Currently, there are somewhat subtler methods, for example, "A" class coffee beans are declared as "C" class, and with a bit of help by corruption, such a declaration is accepted and the customs basis is calculated accordingly, thus reducing the amount of the levied customs duties.

Finally, the most important way of reducing the customs basis are false invoices (bills) submitted by importers and accepted by corrupt customs officials. Such an invoice specifies a lower value for the shipment than it actually has; in this way the customs basis and so the amount of the customs duties are reduced. It is essential that corrupt customs officials should accept the invoice at its face value, that is, they should not try to establish the value of the shipment during inspection but accept the false amount reported in the invoice. In other words, according to the current, in the world widely accepted customs regulations, the customs basis is the market value (price) of the goods being imported and the customs officials have a discretionary right to contest an invoice as proof of the market value (and the purchasing price paid by the importer) of the shipment undergoing customs clearance taking into account all the available relevant information on the market value of the goods.<sup>20</sup> The burden of proof is on the customs official, it is he/she that must contest the accuracy of the submitted invoice, that is, information concerning the goods in question.<sup>21</sup> In this way the amount specified in the invoice can be corrected, thus raising the customs basis.

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20 Strictly speaking, the purchasing price actually paid by the importer is not relevant if it does not tally with the market price. Even when the importer has received the goods as a gift, he is still under the obligation to pay the customs duties on the basis of the full market value of the goods.

21 There used to be an information center with the Federal Customs Administration which collected information on the world prices of almost all commodities imported in our country for the needs of customs clearing at all border crossings. In terms of collecting information of this kind, at present, every border crossing is on its own.

The opportunity for corruption is exactly there – customs officials receive bribes so as not to exercise their right of correction, i.e. to accept the false invoice and lower the customs basis and customs encumbrances to be paid by a corrupt importer. Unfortunately, the current regulations are advantageous for the corruptors as a customs official can correct the estimated value of the shipment only once; a corrupted official can make a “compromise” with the importer and only partially use his right of correction.<sup>22</sup>

There are several methods of obtaining a false invoice. One method is that the manufacturer who sold the goods to the importer issues two invoices; the one on which the goods were paid for is accurate, the second reports considerably lower value of goods. On the one hand, it is very difficult to prove that the invoice is false as the manufacturer in question will assert its authenticity if asked. On the other hand, however, reputable companies do not engage in such transactions since issuing false invoices is detrimental to their reputation; there is no direct profit for the company, but rather the risk of material loss.

The other method of obtaining a false invoice is forgery. In such a case usually all information in the invoice is false: the value of the shipment, the country of origin, specification of the quality of goods etc. There is, naturally, the possibility that the later inspection of the invoice will reveal that the company issuing it does not exist at all, proving that the invoice is a forgery. However, such an inspection takes a lot of time and cannot be used in the field, at the moment of customs clearance, but only during potential later revision of the customs procedure.<sup>23</sup>

Very often there are several invoices for a shipment; different invoices are used at different points of the transport. Real invoices are used for the transit of goods across states on the way to the final destination, the others are used at the border of the final destination country. This is especially true when the clearing of the shipment in transit is necessary for the release of the money paid in by the forwarding agency as a banking warranty, which, in turn, must be done on the original invoice.

It has been noticed that false invoices are especially used at those border crossings where the inspection of goods is difficult due to poor technical equipment. For example, it is virtually impossible to perform an

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22 For example, if a shipment is worth Eur 20.000 and the invoice reports Eur 5.000, a customs official can correct it by Eur 5.000 raising the customs basis to Eur 10.000. This facilitates the transaction for the corrupt customs officials. First, they appear to be serious (honest) as they have raised the value of the shipment by 100%. Second, their decision is virtually final as there is no legal possibility for further raising the value of the shipment concerning the customs basis. Third, the corrupting importer is also satisfied as he pays for just a half of customs duties. These are the reasons why this type of corruption is one of the most effective methods of corruption in the cargo traffic.

23 In the case of one of our large foreign trade partners, the member state of the EC, the investigation which proved that the company in question does not exist took three months.

inspection of a refrigerator truck shipping flowers; if the truck were opened at the border crossing, there would be a high risk that the shipment would perish and then the Federal Customs Administration would have to pay damages. Both the importers and their shippers are well aware of this and take advantage of the fact to submit false invoices specifying considerably lower values of the shipment. There are indications that invoices for 10,000 Euros are submitted for shipments of flowers from one EC state worth around Eur 35,000 Euros. In such cases corruption further lowers the likelihood that the shipment will be inspected and its true value, and thus the value of the customs basis, ascertained. The customs officials just need a little “encouragement” to accept a false invoice.

In all cases of false invoices and the corruption connected with them, it is necessary to establish good coordination between the chief of the shift and the team which performs the inspection of goods as well as with other customs officials who are in any way involved in the procedure. The shipper who acts as a go-between between the importer (since the shipper represents the importer before the customs administration) and the customs administration plays a key role here. This does not exclusively apply to cases of false invoices, but rather to all types of corruption at the customs in the traffic of goods. At many border crossings, especially at those which are attractive in terms of the traffic of goods, there is a certain division of labour; everybody knows which shipper “works” with which customs official, that is, with his team. Bonds of trust are established in this way which is a precondition for making long term corrupt deals.

In the traffic of goods, corruption at the customs is especially fostered by situations in which the customs officials are at the same time the shippers, that is, the owners of forwarding companies. Naturally, the companies are never registered in their names, but rather under the name of a wife or relative. Such a forwarding agency is in a position to provide “special” services in one of the ways discussed. A corrupt importer gets the full service in a single place: the shipping and the “easy” way across the border.

### *Special cases*

There used to be a special kind of corruption at the customs involving inflating the customs basis, that is, the value of the goods imported. So, there is also a false invoice involved, but with the specified value of goods increased. This was usually done for goods with relatively low customs rates. The main reason for this mal practice was buying hard currency at the official, depreciated rate of exchange. It was necessary to create as big as possible a basis in order to buy as much hard currency as possible. Corrupt customs officials cooperate in this transaction by refraining from asking embarrassing questions (for example why a ton of paper costs as much as 20,000 Euros).

When the policy of double rate of exchange was abolished and supplanted by the policy of a single exchange rate of the Dinar, the economic incentive for this type of corruption at the customs vanished, so there have been no instances recorded since the autumn of 2000.

Another special case of corruption at the customs is so-called office corruption involving staff working in the customs offices. That is to say, there are many importers, especially those who are new in business, who are not familiar with customs and foreign trade regulations, and also incapable of learning it due to the lack of basic working habits. The office staff and their specialized go-betweens offer to such individuals “a consulting service” of “authentic” interpretation of the customs regulations and selecting “the best” solution for the importer. The service is, of course, charged and the money is divided between the go-betweens and office workers in a certain proportion. Besides the fact that offering basic information is a regular part of the job of the customs officials, giving elementary information is often delayed (“It is a complex problem, we need some time to work it out.”) in order to increase the payment. The go-betweens often initiate such transactions (“I know a man in the FCA, he can take care of it for you.”), but it is a well-organized operation in which the office workers play an active role and take a larger share of the profits.

Strictly speaking, this phenomenon is not a proper corruption, but rather the abuse of position. Nevertheless, in the case of office workers there are also forms of typical corruption such as taking a bribe to delay collecting already calculated customs dues as well as performing customs clearance without all necessary documentation. It is a case of smaller misdemeanour as the documentation itself is not tampered with (the documents are not false, it is just that some of the documents are not available at the time), and corruption just speeds up the customs procedure. Compared to other forms of corruption at the customs, this type of corruption in office workers is not considered to be of great significance.

There is yet another form of “office” corruption at the customs the extent and effects of which are difficult to ascertain, as there is no reliable information on them. It concerns customs misdemeanours, that is, misdemeanour proceedings by official customs bodies. In certain cases the individuals in charge of the proceedings, on purpose, in collusion with the importer or the shipper called to account, stipulate inadequately high penalties for the wrongful action, but intentionally make a procedural mistake in the proceedings. The party, that is, the importer accountable for the wrongful action who also has bribed the legal representatives of the department, submits a complaint to the second instance tribunal, in this case the Federal Misdemeanour Council, a body outside the Federal Customs Administration. The staff of the Council at once notice the omission made in the proceedings, repeal the decision and send it back for review. Such a decision

by the Federal Misdemeanour Council is a pretext for the corrupt individuals in the customs legal department to cancel the proceedings and allow the importer, who actually is guilty of a wrongful action, to escape the consequences. This decision is covered by the decision on appeal, which is not corrupt, and so the whole transaction appears to be legal.

#### NOW AND THEN: CHANGES IN THE MECHANISMS OF CORRUPTION AT THE CUSTOMS

Political change in the autumn of the year 2000, along with the change of the basic role played by the Federal Customs Administration as well as considerable changes in the personnel of this organisation, inevitably led to changes in the levels and mechanisms of corruption at the customs. As for the mechanisms, the main reason for their transformation is to be found in the changes of the role of the Federal Customs Administration.

At the time when Slobodan Milosevic was head of state and Mihalj Kertes the director of the Federal Customs Administration, corruption at the customs was institutionalised and, on the one hand it was used for controlling the flow of money outside the state budget, and on the other for establishing a corrupt clique to uphold the existing *status quo*. Therefore, from the point of view of the ruler, corruption at the customs was a method of making a personal wealth and keeping power. Consequently, the main methods of corruption at the customs rested on the existence of a centralized, highly organized vertical structure in which the division of labour was thoroughly well-reasoned, both within the customs administration itself and with other “team players” such as the border police. Sharing of profits was in keeping with the division of labour. The structure involved the use of appropriate methods in terms of the character of corruption and corrupt individuals. To put it simply, this structure provided the environment in which all participants in the game were given appropriate incentives to adjust their behaviour to the rules of the game.

The corruption at the customs used to employ crude and simple – unsophisticated methods. There was no need to develop different methods in the existing circumstances. Corruption was very conspicuous, but almost no one wanted to see it – its existence did not matter a bit. That is the reason why corrupt parties did not even try to conceal their activities. Within the Federal Customs Administration the main participants in corruption were the junior customs staff, mainly the individuals hired in the time of Mihalj Kertes; they did not have much education and knowledge and were hungry for quick profits in the “golden times”, risky in terms of their future. Many of these people were of criminal bent – in their psychological make-up, moral principles, brains and knowledge. The type



of corruption they were involved in left little written traces, so the risks they undertook, if they played by the rules set up in the hierarchy of corruption, were very small. They were in a way “hostages” to such a corrupt regime, but their cooperation was the only condition for survival and making a personal fortune. The low risk of being found out and slim likelihood that any proceedings would be brought against offenders meant that there were no changes in the methods of corruption – a method was so safe that there was no need to modify it or replace it with another.

Political and other changes in the autumn of 2000 brought about the crumbling and fall of the centralized and hierarchically organized structure of corruption at the customs. In terms of corruption, this meant a whole new set of circumstances which generated new incentives. It all led to the dissolution of well-organised corrupt gangs which were well connected outside the customs. The risk that corruption would be exposed and punished increased and there were no more “orders” to engage in corruption, which inevitably led to changes in basic methods of corruption at the customs. Obvious corruption was no longer tolerated. Consequently, crude, simple, straightforward methods had to be abandoned. They are still to some extent used in passenger traffic – it is not possible to practice them in the cargo traffic. Since at present successful corruption needs to be inconspicuous and complex, it takes a lot of knowledge to practice it, far more than before. This led to changes in the structure of corrupt customs officials. The young “Kertes’ school” with criminal tendencies was taken off the customs terminals; some of them still linger on at passenger traffic terminals owing to the fact that they cannot find their feet in new methods of corruption in the traffic of goods. In a certain sense, they give way to individuals experienced in customs procedures on the lookout for relatively safe methods to engage in corruption in the traffic of goods. The exception to this is some new junior staff, especially those skilled in information technologies (hackers) given the task to hack the computer system of the Federal Customs Administration and change the data in it.

The new mechanisms of corruption at the customs, especially in the cargo traffic, leave traces. Sometimes they are written documents, that is, copious customs documentation which is kept for years. In other cases there are traces of unauthorized changes in the information system of the customs. Since various traces of corruption generate different levels of risk, it is certain that the new mechanisms of corruption at the customs put the perpetrators at risk of being found out. The high risk forces the participants of corrupt dealings at the customs constantly to adapt the methods of corruption, that is, to “advance” their methods in order to escape being caught.

The state of affairs at the customs today, compared with the state prior to the year 2000 is characterized by lower levels of corruption; however, the methods of corruption are far more subtle, much more difficult to identify and still more difficult to fight.

**Table 1**  
**Comparison of the Methods of Corruption**

	<b>Before</b>	<b>Now</b>
Character of method	Simple methods	Complex methods
Visibility	High visibility	Low visibility
Knowledge required	Modest	Considerable
Cadre	Young and inexperienced	Older and more experienced
Traces	Virtually no traces	Written traces left
The risk involved	Low risk	High risk
Dynamics	Little change in methods	Methods constantly changing

## V The Consequences of Corruption at the Customs

### ECONOMIC EFFECTS

The first economic effect of corruption is the loss of a mechanism by which a state implements its foreign trade policy, since the customs administration is the main instrument of this policy. This is why the customs policy is often treated as a separate issue from the foreign trade policy. We will not, for now, address the question whether a foreign trade policy that protects domestic manufacturers with high customs rates is justified. However, it is indisputable that corruption in the customs administration compromises such a policy and diminishes its efficiency. The extent of corruption and the quantity of goods which enter a country illegally are in inverse proportion with the likelihood of effective implementation of any kind of foreign trade policy. Moreover, as corruption does not affect the implementation of the foreign trade policy evenly, (it does not affect all products and all customs rates equally), it can result in a considerable distortion of the foreign trade policy and its desired objectives (specific allocation of resources).

Although states have other instruments to influence foreign trade (such as foreign exchange rate policies), experience has demonstrated that foreign trade policies and their proper implementation are of essential importance for exercising influence on foreign trade flows and thus on the social welfare.

For the last ten years or so, in Serbia (and in Montenegro) a policy has been at work which not only tolerated but also actually fostered the black market. International sanctions and a sharp decline in production within the formal sector spurred the authorities to allow the spread of informal types of activity, even smuggling from abroad, in order to help the citizens, especially the unemployed, make enough money to survive under unfavourable circumstances. What is more, the import of staple products from abroad was regarded as a beneficial and significant way to supply the market and maintain standards of living. In this way the customs administration became a part of an irregular economic system, and this is the reason why its functions, and especially the way they were performed took unusual forms and corruption became widely accepted. Such a concept or such a government policy regarding the black market and the customs administration completely

undermined the official foreign trade policy of the country. Regardless of whether the foreign trade policy (as set down in the official regulations) was adequate or not, its constant violation cannot be considered good. For, if foreign trade policy is deficient, it is far better to change it formally and institute a better one than to undermine the existing one in an informal way. It remains to be explained why the state did not liberalize imports during the sanctions which would have been beneficial both from the aspect of supplying the market and offering the citizens the means to earn a living as well as protecting customs services from corruption. The answer probably lies in attempts by the political elite to secure high profits and pay-offs for themselves through a system of licenses and quotas as well as to bind the customs service to them by providing the basis for corruption and by tolerating it.

There are some who entertain the heretical idea that corruption in the customs leads to informal but necessary liberalisation of foreign trade. It has already been proved that the higher the customs rates and the stricter other types of protectionist measures, the more corrupt the customs services become. In this respect, it could be concluded that getting round the customs in its role as the principal instrument of the foreign trade policy leads to informal but effective “liberalization” of the foreign trade policy. Numerous analyses have shown that liberalization of foreign trade, which is to say, liberalisation of imports has, especially in the long run, beneficial effects on a society. Can we then raise the question whether curbing corruption is justified, bearing in mind such a potential effect? The answer should be viewed in the light of other effects of corruption at the customs.

The second effect is a loss of budgetary revenues to the state. In many countries funds raised as customs dues constitute one of the key budgetary revenues. This is especially true for developing states – ones with relatively small fiscal capacity where funds collected from sales taxes or from value added taxes are meagre (OECD, 2001). In addition, customs duties usually constitute the principal or at least significant sources of income for federal budgets in federal states (the USA, Germany, Australia and other). The majority of direct and indirect taxes in these states are the taxes imposed by federal units. In case of corruption in federal states, the corruption of the customs services undermines the federal budget.

A budgetary deficit brought about by the corruption of the customs services must be offset in order to maintain the macroeconomic stability of the state. Taking into account that budgetary expenses are rather inflexible downwards (especially in the short term), insufficient funds must be made up with new taxes, for example by raising sales taxes or value added taxes (naturally, on condition that the tax administration are not corrupt and that a nominal increase of tax rates does in fact result in corresponding increases in real budgetary revenue). New taxes are distorted just like other forms of taxation – the extent of distortion increases with the increase of the rates, thus undermining

the efficiency of the allocation of resources. The mechanisms are the same as in other aspects of economics, sooner or later you must pay the lunch – there is no lunch.

Customs revenues in the FR Yugoslavia were very low in the preceding decade, thus contributing to the budgetary deficit and inflation. Low customs revenues were the result of both the low official exchange rate of the Dinar which presented a low custom base for customs duties, and the import of goods into the customs territory without payment of any levies. “Greasing” of the mechanism was usually achieved through corruption. In this way money which should have entered public funds ended up in somebody’s pocket. The extent of this phenomenon is evidenced by the rapid growth of customs revenues in the last two years, since the new customs administration curbed corruption and started to collect customs duties and taxes more effectively.

Just how rife corruption was can be best estimated upon the data on the level of customs duties collected at nominal customs rates. This means that the result of preferential customs duties is a significant disparity between the nominal (official customs rates) and really collected revenues. According to the data for the year 2000, the difference was about 1,400 million dinars which is about 30% of the overall nominal customs duties.<sup>1</sup> It is certain that part of this custom duty exemption is legitimate. However, as the total customs tax exemption ran up to one third of the total nominal customs duties, it is obvious that many of these exemptions were due to the corruption of the customs officials, as well as other public servants involved in foreign trade dealings.

Nevertheless, there has been a significant change in the last two years. The change was brought about by several factors. Corrupt dealings can no longer be organized and coordinated by high officials of the Federal Customs Office or Foreign Trade Ministry; the economic embargo has long been abolished, the proportion of humanitarian aid in overall import is lower, the foreign trade regulations have been transformed and largely simplified and customs duties exemptions are limited. As a result of all this the disparity between the nominal (based on official customs duties rates) and really collected customs duties revenue has been drastically reduced. According to the data for the first half of the 2002, the difference is only 6.7% of the total nominal customs revenue, which can be considered satisfactory.

The third economic effect is the cost of corrupt transactions at the customs. It has already been mentioned that corruption produces its own transaction costs. As corruption is a kind of informal contract between the person who offers the bribe and the person who receives it, the carrying out of that contract produces considerable costs. This is exacerbated by the fact that the contract is illegal (it is in direct violation of the law), and thus cannot be resolved in regular courts in case of a contention. That is the reason why the transaction costs of such a contract are exceptionally high. First, it is necessary to find a customs official who is willing to provide such a service. Second, the parties

must reach an agreement on all the details of the deal, who gets what, and, especially, in what way the operation is protected, warranty that the contract will be fully honoured. Therefore, transaction costs are necessarily high. This is particularly true for big operations – a 10-deutchmark, dollar or euro bill is not a typical case of corruption at the customs.

All the costs referred to are real costs, all the activities call for real resources, and the opportunity costs of these resources constitute transaction costs. They must be covered from real sources, which means raising prices of products and the growth of the total profit of the importer. Thus corruption at the customs, regardless of the actual amount of the payment, results in the increase in the costs borne by the importer. When the amount of the bribe is added to it, the result is an overall rise in the cost of the product. The actual amount can even be greater than the customs duty itself.

The discussed distortions of the price of products have a twofold effect on economic welfare. The first is that the rising of prices while the demand remains the same leads increased costs, and so to greater production inefficiency due to the rise of real costs (partial and general equilibrium). The other is that corruption brings about allocative inefficiency – and the transfer of economic profit from the importer to the customs official. That kind of transfer does not compensate for the loss suffered by the importer and the consumers.

For another thing, such increases in the cost of import, ultimately shouldered by the consumers (as overall cost and thus the increase in cost is also transferred to the consumers), necessarily tips the balance of the consumption of imported goods and so disturbs the balance of imports in general. At a given national product this decreases the amount of the foreign trade and the proportion of the foreign trade in the national product – the share of the observed state in the international division of labour. In this way, in the long run, the economic welfare in question is harmed, especially if it is a small and open economy. Therefore, regarding integration of the observed economy into the world, corruption can have the same effects as protectionism. It is especially dangerous for small economies such as Serbia, which has only one way open to it – integration into the international economic community.

Now we can return to our heretic idea that corruption in customs can be an effective means of the liberalization of foreign trade. Bearing in mind the analysis of the transaction costs, it is certain that it is highly improbable that such “liberalization” would ever occur. In fact, transaction costs of corruption and the amount paid for the transfer itself lead to a considerable increase of import costs, so it is highly improbable that corruption can replace regular liberalization of foreign trade. This could only happen if the state were to impose extremely high customs rates or other types of protectionist measures and if the transaction costs of corruption were small.

The indirect conclusion of this analysis can be that liberalization of foreign trade is beneficial in several ways. Liberalization in itself leads to integration of an economy into the world market and in the long run enhances the social welfare.

The fourth effect of corruption concerns foreign investments into the observed country. It has already been shown that widespread corruption decreases the amount of direct foreign investment. It can easily be shown that increased production costs (whether they are transfers which must be paid for or transaction costs) reduce profit rates and the high risk owing to widespread corruption results in the increase of the price of capital (risk premiums required by the owners of the capital). However, it is far more interesting for this research what are the effects of the specific corruption in the customs on foreign investment.

It is highly probable that corruption in the customs will result in lower direct foreign investments compared to the same average level of corruption in the state. Namely, direct foreign investment and business enterprises based on them depend on foreign trade to a larger extent than domestic companies. This is particularly true for developing and transitional countries. The domestic market for the goods in question is usually too small and so the companies attempt to export while taking advantage of certain local advantages (cheaper labour for example). Large amounts of export can, if the customs service is corrupt, lead to considerable increase in business and therefore export costs, losing them the competitive advantage on the markets in target states. That is the reason why direct foreign investments do not come to states with corrupt customs services and leave the countries where corruption within the customs service has significantly spread.

Corruption can have even more harmful effects on the input markets. Direct foreign investments, that is the multinational companies behind them are not satisfied by domestic input markets in the developing and transitional countries into which they have entered. In other words, it is necessary to import numerous components for the production of articles conforming to the standards of the multinational company in question as well as to high standards of export markets. It is usual that foreign or multinational companies import far more per production unit than is the average in developing or transitional countries. Thus, foreign or multinational companies are at far greater risk from corruption in customs than domestic enterprises. On the other hand, these companies are more at risk from corruption in the customs than from other types of corruption (court system, police, tax office and so on). For the stated reasons corruption in customs has an extremely harmful effect on foreign investment. Setting

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1 It is certain that the proportion is somewhat bigger as the multipliers used for calculating the extent to which general or special quotas for articles on that regime had been breached were not used for calculating the total nominal customs revenue.

up a global capital market offsets the vulnerability of direct foreign investment to corruption. Direct foreign investors choose a country in which to invest their capital and so states compete with each other, among other things by trying to curb corruption (in general and particularly at the customs). Widespread corruption in a country inevitably results in capital redirected to other countries. This vulnerability will increase in the future. Although we can already talk about a high level of globalisation, that is, about significant abolition of obstacles to the flow of capital at a global level, it is to be expected that the next decade will see the elimination of most current obstacles. This, in turn, means that decisions made by potential foreign or multinational investors will be still more at risk from corruption in a state and especially at the customs.

Finally, experience and empirical research have shown that the rate of growth, that is, the dynamics of the economy of developing and transitional countries depends heavily upon direct foreign investment. One of the factors causing this is obvious lack of capital in developing and transitional countries so that the level of investment based on domestic capital (and its high price due to its scarcity) is far below desired. Nevertheless this is not only a question of the capital which is obtained in this way, it also concerns the extensive transfer of knowledge which provides for the growth of capital and total factor productivity. This concerns a new quality of growth because it is not based solely on the growth of the quantity of resources engaged but on the advancement of their productivity. Therefore, corruption in general, and especially corruption in the customs leads to a decrease not only in the growth rates but also in the quality of economic growth in developing and transitional countries. From both aspects, progress in social welfare is slowed down, or, in the worst-case scenario, stopped.

It might be said that countries lacking in capital have at their disposal the international capital market and the possibility to take loans there. Among other things, globalisation means removing the obstacles to access to the international capital market. All the same, if the corruption in customs had scared direct foreign investors away, the access to the international capital market cannot present a substitute for those investments regarding its contribution to the economic growth of the country concerned. First, the capital borrowed on the international market does not entail the transfer of knowledge, so there is no significant increase in the factor productivity, which, in turn, reduces potential growth rate. Second, widespread corruption (in general as well as corruption in the customs) makes the country which incurs debt a higher risk, which raises the interest rates and risk premiums that the country has to pay. Higher interest rates (the price of the borrowed capital) eliminate investments with lower expected profit rates and thus results in lower growth rates.

Finally, many developing countries and some transitional ones have fallen into a debtor crisis. Some of them, which have already



been burdened by large debts, or are long overdue in repaying them, do not have the access to the global capital market. Others have solved the problem of overdue debts (arrears) by formal rescheduling or have been granted partial write-off. If the debt is written off, the risk that the country represents increases and with it the premium of risk – the interest rate that must be paid.

In the light of everything that has been said it is obvious that borrowing capital on the world market is not a realistic alternative to direct foreign investment. It also becomes apparent that in complex economic relations between economic entities and in the situation of entangled mutual relationships, there are connections between some phenomena which, at first glance, seem to be totally unconnected. Who would, at a glance, find a link between a debtor crisis and corruption at the customs? And it turned out that there is indeed a connection between them.

### POLITICAL AND SOCIAL EFFECTS

All widespread corruption, including corruption in the customs service has serious repercussions both at the political and the social level. Its effects are not always visible, they are often entwined with other factors, but not less serious for that.

Corruption weakens institutions and compromises political progress as it spreads from the economic sphere into politics, infecting politicians, parties and institutions. It is tempting since it brings profit, and since it is rampant and up to a point organised, there is no fear of punishment as it is generally believed that the risk is negligible. Many corrupt politicians believe that they wield enough political power to defy the risk or at least that they will be able to find even stronger protection. The lack of fear of punishment strongly fosters corruption since moral scruples are few in politics. Therefore, corruption naturally weakens the political will necessary for efficient reform, including the effort to curb corruption.

Then newly rich dishonest state officials and civil servants endeavour to protect their own positions and are ready to influence political processes – starting from exerting influence over local elections, through cooperation with high state officials and exerting influence on the form of new laws and other state regulations to influence the outcomes of local elections. Democracy, the democratic life style, is liable to fall the first victim to corruption. In other words, if a society is rife with corruption dishonest politicians and the corrupt lobby supporting them can greatly influence the results of elections. It is easy for them to invest large amounts of money into election campaigns, engage dependent or paid media to influence the voters or even to directly manipulate the election procedure to their personal or collective advantage. There were many such processes in Serbia in 1990s.

After elections political life is not free from the evil influence of corruption, and democracy continues to suffer. The decision making process in parliament becomes important then – the concept of serving the public good and state interests is forgotten and the financial interests of individuals and groups become dominant. The question of concession grants is always on the agenda, and many do get them. Voting becomes a battlefield on which interest groups fight for their piece of the pie, and direct bribing of “independent” members to vote as somebody desires can become an everyday practice. The winners, naturally, find ways to pay back to their party, group or important individuals in it. In this way parties in countries with widespread corruption turn into organized groups which pluck and plunder the state.

The country where political life is heavily infected with corruption loses its real political reputation and credibility, both in the country itself and abroad. Its leaders are discredited and its regime is considered to be temporary. Cooperation with such states can be terminated, as it happened to Kenya where corruption was rampant in 1997. When the International Monetary Fund stopped credit, the Kenyan government issued an interesting statement claiming that: “This morning the Government established an anticorruption squad to supervise the work of the anticorruption committee, which controls the anticorruption work group, established to revise the work of the government’s *ad hoc* committee established earlier in the year, to address the problem of high corruption among corrupt government officials.”

The customs service as well can be directly involved in political corruption, can serve and abet it. In the 1990s revenues from customs duties were not paid into the federal budget in whole, as required by law, but were pooled into a large secret fund administered by the former director of the Federal Customs Administration (Mihalj Kertez). What was done with this considerable amount, what it was spent on is still unknown.

Corruption certainly favours some people at the expense of others and so generates inefficiency. This can present a problem especially in developing countries such as Serbia, as domestic enterprises get pushed out of business by financially stronger foreign companies which do not shy away from corruption.

When we consider corruption in the customs, we usually think about domestic firms or individuals offering money to customs officials in order to import goods at lower customs rates or free of charge. Nevertheless, this is a simplification of reality and an even greater simplification of possible scenarios. There are various opportunities for foreign involvement in the game of corruption, the successful realization of which depends on domestic political players and their strategy.

A country which decides on furtive opening to the world is at high risk of becoming a breeding ground for corruption. Tolerating and encouraging secret bank accounts or even opening so called “offshore” banking accounts without control of the origin of the money, fostering

inadequacy of border and customs control, taking provision for mediation of consignment of goods, establishing a tax haven or promoting poor legal regulation of particular business activities – all these are loud invitations for questionable money and goods from the whole world. It also puts the state in a vulnerable position due to the presence of foreign crooks who are on the lookout for a way to “launder” money or goods and protect them from taxation, detection, regulation or confiscation. In the worst-case scenario, corrupt interest groups can gain a strong position within the state and use its leaders and institutions for their own purposes.

A payment for the services rendered by a domestic politician can be made directly in money paid into a personal account, or it can be made in a more sophisticated way as a donation for the election campaign. Campaign donations from foreign sources are problematic and are forbidden in some countries (the USA), and permitted in others (Great Britain). An important question here is whether large donations should be made public or not. In the former case the damage is probably smaller for the criticism by the media and other parties renders abuse more difficult, while in the later case there is a real danger of serving foreign interests for pay.

Fortunately, Serbia has not entered the circle of countries which offer a haven for dirty goods and capital, while there have been some indications that this might be happening in Montenegro. In Serbia we have (had) a common case of smuggling and corruption at the customs which at one time was encouraged or at least tolerated by high government officials, but more as a way of obtaining loyalty of the employees and executives in the customs administration than as a method of making a fortune by selling out the country.

The effects of corruption are extremely harmful at the social level as well. The first effect is a redistribution of income in favour of privileged groups and the classes holding public offices and positions, burdening everyone else, especially the lower classes who do not have the necessary influence and access to the state apparatus. Among the privileged are also customs officials who gain amounts of money inconceivable to common citizens.

Corruption therefore brings about an unjust redistribution of income and in this way weakens devotion to justice in a society. When injustice is widespread and when the responsible state organs make a weak or no stand against the perpetrators, a signal is sent to the citizens that there is no justice and that anything goes, if one has a little cunning and business acumen. Similarly, widespread injustice and violation of the law in connection with corruption gives rise to juridical anomie and ultimately to the destruction of the principle of lawfulness – the rule of law. When state officials and civil servants break the law with impunity, and then citizens do not see why they should obey it.

## VI Anticorruption Strategy in the Customs

Corruption at the customs in Serbia has been curbed to a great extent in the last two years, but it is still present and it represents, on the one hand, a legacy of the deep crisis in the Customs Authority during the preceding decade, and, on the other, a serious limitation of the functioning of the Customs Authority now and in the near future. The roots of corruption run deep and it is necessary that a comprehensive program be formulated and enforced so as to uproot it.

### THE CAUSES OF CORRUPTION

All elements of corruption in the customs must be clear before the foundations of the anticorruption strategy are laid.

The basis for all corruption is the estimate made by state employees of the costs and benefits of engaging in a corrupt deal. If they find that the cost-benefit ratio (including the risk of punishment) is more favourable compared to honest work, he will decide on corruption.<sup>1</sup> On the other hand, no one likes paying customs duties and so the importers (and passengers) are also ready to save on duties by bribing customs officers. The readiness of importers to engage in corruption also depends on the expected benefit in terms of the amount of money to be saved (which, in turn depends on the customs tariff rates) and expected costs comprising the bribe and the risk involved. In this way both the demand and the supply for corruption are brought into existence. Naturally, the outcome of the calculation referred to depends on external circumstances – on factors neither the customs official nor the importer (or the passenger) can totally control, but have to adapt to.

Of course, not all positions within the customs administration are equally lucrative in terms of corruption. Posts on classification, evaluation and inspection of the goods are especially profitable, then there are anti smuggling squads, administration of confiscated goods, control of customs warehouses and making decisions on complaints. For these, and not only for these posts there was strong competition which was

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<sup>1</sup> To put it more precisely, the decision to what extent a customs officer will get involved in corruption depends on the point at which marginal benefits and expected marginal costs (including the risk) meet.

often resolved with financial or (political) influence, which, in turn, meant a pay-off in cash or an illegal act.

As we have already discussed the elements of corruption in the above chapters we shall just list them here:

- Complex and/or restrictive foreign trade policy;
- Relatively high and diverse customs rates;
- Numerous exemptions and customs duty exemptions;
- Legacy of corruption from the preceding period;
- Complex and vaguely defined customs procedures;
- Inadequate system of control in the customs;
- Inadequate disciplinary measures;
- Lack of professional attitude;
- Low income of the customs employees;
- Inadequate computerization at the Customs Authority, etc.

## GENERAL STRATEGY

Corruption at the customs is not an isolated phenomenon but part of general corruption in a state and it tends to exhibit the same or similar manifestations due to similar causes and mechanisms. Therefore, the fight against corruption at the customs should be:

- **integrated into the general fight against corruption;** for only the synchronized and wide-ranging effort of state and social institutions yield adequate results; otherwise, results can be only partial and temporary.
- **Based on the same or similar principles** as in other domains, naturally **taking into account the specific characteristics of the customs.**

The strategy of the struggle to check corruption always rests on three basic principles:<sup>2</sup>

1. **Legislative reform**, including deregulation and liberalization, limiting the area that can be infected with corruption or weakening the incentives for corrupt dealings. For example, since quantitative limitations to import (quotas and other restrictions) have been abolished, a large source of corruption has vanished; or when customs rates are considerably lowered potential profit from corruption is also lowered to a large extent which, in turn, will somewhat curb corruption,
2. **Transparency**, that is, the functioning of a customs administration should be more in the public eye making both positive and negative aspects, including corruption more visible so that the public can react and exert pressure in order for the situation be improved and the individuals responsible be called to account,

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2 See more in *Corruption in Serbia, CLDS, 2001*

- 3. Modification of the system of motivation**, a satisfactory combination of measures can raise the costs of corruption for an individual and discourage undesirable behaviour. Examples of such measures are: raising the salaries of the employees which are at present low; more rigorous control and stricter penalties for the offenders and promotion of ethical principles; the aim of these and other measures is to change the equation: “small risk, large profit” into “large risk, small profit”.

The struggle against corruption must not be one time or sporadic, but sustained and aimed at maintaining the achieved goals and attaining new ones. It is a part of a wider strategy to combat corruption in Serbia, and, on a wider plane, the strategy for establishing efficient and just governance.

The anticorruption struggle must be comprehensive. Partial measures at particular points and segments of the customs, even when energetically enforced, can only yield temporary results, as has been clearly demonstrated by experience the world over. The reason for this is that corruption simply “relocates” or flares up at other points and the possible positive effects of the action quickly vanish. If other circumstances remain unchanged, it has been shown that, for example, a system of pay incentives (Philippines), the purge of corrupt middle tier officials (Pakistan) or engaging foreign private companies to work on the evaluation of goods (Bolivia) do not yield results.<sup>3</sup> Therefore every ambitious program of fighting corruption must be systematic – it must attack the problem along the whole frontline, resting on three classic elements: the strong and enduring will to uproot corruption, raising the risks involved in corrupt dealings and serious repercussions for perpetrators.

#### THE REFORM SYSTEM FOR THE CUSTOMS

The problem of corruption in the customs is a world-wide phenomenon, especially conspicuous in developing countries. So, practically all states in the world fight corruption, some more successfully than others. The World Customs Organization participates in the fight in its role as a body which brings together national customs services and which addresses problems faced by all.

In 1993 in Arusha the World Customs Organization adopted a declaration on the fight against corruption in the customs services, the so-called Arusha Declaration. The declaration stems from shared experience of customs administrations with corruption and offers suggestions by eminent experts on the best ways to combat it. It is therefore a

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3 I. Hors – *Fighting Corruption in Customs Administration: What can we learn from past experiences?*, Technical Papers, No. 175 OECD Development Centre, April 2001

good starting point for the formulation of an anticorruption strategy for the customs services in Serbia and Yugoslavia.

The measures that have been proposed in the annex of the declaration are primarily directed at combating corruption, but at the same time they also constitute a program which necessarily raises the efficiency of the customs in our country. It is only natural because, as well as being in itself an obstacle to the proper work of the customs authority, corruption also feeds on weaknesses of the customs authority.

An anticorruption strategy must be comprehensive and include reforms at all points where corruption is manifested and on which success depends. Among them is the external environment of the customs authority (the public, politics, the Assembly, judiciary, anticorruption strategy, social attitudes, media, civil society), organization and management of the customs authority (management, strategic management techniques, organization, supervision and evaluation, human resources management, internal control anticorruption mechanisms) as well as the technical, procedural side of the work at the customs (processing goods, logistics and infrastructure).

The following table displays a comprehensive survey of measures and actions that would help to curb corruption in the Customs.

**Table 1**  
**Integrated Strategy of Anticorruption Fight in the Customs**

	<b>EXTERNAL FACTORS</b>
<b>Trade policy</b>	<ul style="list-style-type: none"> <li>• lower customs duties and requests for licenses,</li> <li>• lower the number of exemptions from customs duties,</li> <li>• strive to harmonize excise duties and taxes with neighbouring countries,</li> <li>• simplify the rules for import and export,</li> <li>• raise the capacity of the Customs</li> </ul>
<b>Potential offenders</b>	<ul style="list-style-type: none"> <li>• raise the capacity of the Customs to fight increasingly resourceful fraud and smuggling,</li> <li>• establish good relations with the formal sector of the economy in order to obtain information on illegal activities,</li> <li>• improve cooperation with the border police in order to step up patrolling and ensure the personal safety of customs employees.</li> </ul>
<b>Political influence</b>	<p>Reach a consensus within the political elite in order to:</p> <ul style="list-style-type: none"> <li>• abolish politics when appointing individuals to posts within the customs,</li> <li>• stop exercising influence on appointing to posts and relocating,</li> <li>• give an example by observing the customs regulations when travelling with other politicians, family and friends,</li> <li>• create a professional customs authority founded on merit, where individuals are employed on open competition,</li> <li>• give the director of the Customs full discretion to hire, appoint and relocate the employees, observing clearly stated regulations.</li> </ul>

<b>The Parliament</b>	<ul style="list-style-type: none"> <li>• lobby among the members for the spread of obligations in fight against corruption in the customs,</li> <li>• consider the possibility of alternative workplaces for individuals actively engaged in corruption.</li> </ul>
<b>Judiciary</b>	<ul style="list-style-type: none"> <li>• convince the judges of higher courts how important the fight against corruption in the customs really is,</li> <li>• require the courts to analyse verdicts in corruption cases so as to identify institutional weaknesses,</li> <li>• require the courts to monitor the judges closely and ensure that only the judges with impeccable reputations try corruption cases,</li> <li>• develop a witness protection program to encourage people to bear witness.</li> </ul>
<b>Anticorruption institutions</b>	<ul style="list-style-type: none"> <li>• adopt an Anticorruption Act and consider the solution that mere suspicion is enough grounds to file a suit and that the defendant has to contest the charges himself,</li> <li>• impose stricter penalties,</li> <li>• establish anticorruption investigating bodies and strengthen their capacity for investigation,</li> <li>• direct the resources of these institutions and of the public prosecutor into a small number of high corruption cases with the participants in high echelons in order to enhance the deterrent effect.</li> </ul>
<b>General environment</b>	<ul style="list-style-type: none"> <li>• connect anticorruption activity in the Customs with the general anticorruption strategy.</li> </ul>
<b>Social attitudes concerning corruption</b>	<ul style="list-style-type: none"> <li>• launch a broad anticorruption campaign,</li> <li>• include anticorruption topics into educational system.</li> </ul>
<b>The media</b>	<ul style="list-style-type: none"> <li>• Publish information on the Customs performance,</li> <li>• Ensure that requests by the media for information are promptly answered,</li> <li>• Publicize through the media punitive actions against corrupt customs officials and traders</li> </ul>
<b>Civil society</b>	<ul style="list-style-type: none"> <li>• Establish cooperation with non-governmental organizations,</li> <li>• Publish information on the movement of goods so that NGOs can monitor it.</li> </ul>
	<b>INTERNAL FACTORS</b>
	<b><i>(I) Organization and management</i></b>
<b>Management</b>	<ul style="list-style-type: none"> <li>• abolish politics from the process of appointing to posts in the Customs,</li> <li>• set up qualification criteria for top management,</li> <li>• engage people of impeccable reputation and tested competence,</li> <li>• minimize changes in management so as to provide for long term institutional progress.</li> </ul>
<b>Strategic management</b>	<ul style="list-style-type: none"> <li>• set up a concept of orientation towards results at the Customs,</li> <li>• set down clear strategic objectives and expected performance,</li> <li>• give the executives independence in operational, personnel and financial matters,</li> </ul>



	<ul style="list-style-type: none"> <li>• make the top management accountable concerning expected objectives,</li> <li>• introduce strategic planning,</li> <li>• keep operative policy focused on top priorities.</li> </ul>
<b>Organizational structure</b>	<p>Reorganize the organizational structure of the Customs so that:</p> <ul style="list-style-type: none"> <li>• the number of customs officers is in keeping with the quantity of work and the risk of fraud and smuggling,</li> <li>• a new Internal Control unit is set up with the director of the Customs,</li> <li>• duties, responsibilities and needed qualifications of all are clearly determined.</li> </ul>
<b>Coordination, control and evaluation</b>	<p>Tighten control over customs officers by:</p> <ul style="list-style-type: none"> <li>• sudden visits by higher officials,</li> <li>• Internal Control inspections,</li> <li>• Turning over the work at a customs office to a mobile anticorruption unit for a short while,</li> <li>• Extending control powers held by supervising bodies,</li> <li>• Strengthening coordination and exchange of information between different levels of the Customs by the use of information technology and modern communications,</li> <li>• Strengthening the supervision and evaluation system.</li> </ul>
<b>Human Resources management</b>	<ul style="list-style-type: none"> <li>• create a professional customs authority,</li> <li>• improve the earnings of the employees,</li> <li>• set down clear rules of personnel recruitment, relocating and appointing to posts,</li> <li>• rotate customs officials on a regular basis between different customs offices so that they do not get too familiar with the customers,</li> <li>• abolish political influence,</li> <li>• demonstrate the readiness of the customs to protect its employees threatened by corrupt clients.</li> </ul>
<b>Inner control systems</b>	<ul style="list-style-type: none"> <li>• improve systems of inner control,</li> </ul>
<b>Internal Anticorruption mechanisms</b>	<p>Strictly observe the Code of Conduct:</p> <ul style="list-style-type: none"> <li>• include instruction in the Code of Conduct in customs officers' training,</li> <li>• require honest higher officers to act as mentors for the younger ones,</li> <li>• hold the executives accountable for attaining and maintaining high levels of integrity through supervision and disciplinary actions,</li> </ul> <p>Establish Internal Control in the main and branch customs offices to:</p> <ul style="list-style-type: none"> <li>• supervise customs officers,</li> <li>• consider complaints of the clients concerning harassment and corrupt dealings by the customs officers,</li> <li>• take disciplinary measures,</li> <li>• energetically investigate cases of suspicion of corruption and illegal gain,</li> <li>• establish effective mechanisms for filing misdemeanour suits.</li> </ul>
	<b>(II) Technical operations</b>
<b>Procedure with commodities</b>	<ul style="list-style-type: none"> <li>• revise and improve the Customs Law,</li> <li>• set down clear and simple regulations,</li> </ul>

	<ul style="list-style-type: none"> <li>• revise and simplify customs procedure, limit discretionary rights and raise efficacy,</li> <li>• put together a booklet of rules,</li> <li>• ensure that the procedures are uniform for the whole state territory,</li> <li>• publicize standards of service concerning the time needed for completion of different tasks,</li> </ul> <p>Introduce modern information technologies so as to:</p> <ul style="list-style-type: none"> <li>• make critically important procedures automatic, speed up processing and lower administrative discretion,</li> <li>• integrate independent processes such as process of declaring, paying and storing,</li> <li>• assign tasks concerning declaring and physical control tasks to customs officers by random selection,</li> <li>• improve detection of inaccurate classifications of commodities and underestimation of value,</li> <li>• raise capacities of the higher levels to supervise the work of lower levels.</li> </ul>
<b>Ensuring performance</b>	<ul style="list-style-type: none"> <li>• modify the Customs Act to raise the level of executive powers in a struggle against corruption and avoidance of payment,</li> <li>• develop risk analysis systems,</li> <li>• reduce physical examination of goods down to 10 – 30% of arrivals, using the risk analysis,</li> <li>• improve pooling of all information,</li> <li>• establish exchange of information with other, especially neighbouring customs offices,</li> <li>• improve infrastructure at border crossings,</li> <li>• strengthen mobile anti-smuggling teams.</li> </ul>

*Based on: J. S. B. Gill - Developing an Integrated Strategy to Tackle Corruption in Customs*

Detailed discussion of the most important measures for fighting corruption at the customs will be presented in the following subsection.

### **Customs regulations**

**Customs regulations must be clear and well defined.** Only then can they serve as a foundation for a rational and efficient customs procedure, based on rules which do not leave room for later interpretations and discretionary decisions by any level of the customs authority.

In the preceding decade customs regulations were not clear and well-defined as we have seen in the preceding chapters of this study. On the contrary, there was a constant need to multiply by-laws of various levels in an attempt to closely define procedures in certain cases. These regulations were enforced sporadically, sometimes wholly and sometimes they were soon forgotten. Yet, even such proliferation of regulation could not solve all the dilemmas produced by imprecise laws in the everyday activity of the customs bodies. That is the reason why there was room for discretionary decision making, far more room than had been intended or was necessary.

Since the establishment of the new governance in October 2000, foreign trade policy has been reformed, but the regulation concerning the customs authority and customs procedure has not, in essence, been changed. The new Customs Law has not been adopted yet. It has been prepared but is still at the proposal stage.

Serbia is facing a customs service reform. The reform will, necessarily, be comprehensive, that is, it will not only deal with corruption but also with all other aspects of customs procedure and customs service. Its task is to contribute to the creation of a new customs authority which functions efficiently and which presents the least possible obstacle to trade flows between Serbia/Yugoslavia and other countries.

In order to modernize the customs authority and improve its efficiency, it is necessary that the regulations be precisely and clearly formulated. Experiences of other countries and international conventions can help greatly, but the experience of the Yugoslav customs authority and the specific traits of our state organization must also be taken into account. The legislation of the European Community (EC) is of special relevance for Serbia due to its ambition to join the Community. That is the reason why it is necessary to harmonize our customs regulations with those of the EC. Apart from that, an important source of world experience and practical courses of action is the International Convention on the Simplification and Harmonization of the Customs Procedures, the so-called Kyoto Convention, adopted in 1973 and amended in 1999.

**Import customs duties should be moderate whenever possible.** As high customs tariff rates breed corruption, their lowering is by far the best way to fight corruption. As soon as potential gain from corruption is reduced (which happens with lowered customs rates), importers have less incentive to get round paying customs duties, thus reducing the demand for corrupt services.

The fight against corruption is, naturally, not the only factor for determining customs rates – the most important element is the foreign trade policy – and that is the reason why the customs policy will always be in keeping with the economic needs of the country or with the notions of what the objective needs of the country are.

During the preceding decade in our country the concept of so-called import substitution was dominant. It claimed that it was necessary to protect the domestic economy from competition from abroad through customs and even more through other kinds of protection in order to stimulate it. Over the same period, completely opposite ideas and politics have gained influence in the world, in other words, modern attitudes towards economic progress are increasingly prevalent, accentuating the crucial importance of open/more open foreign trade policy and integration of the country into world trade. Only recently has our country made some important steps towards reducing the level of customs protection of the domestic market in an effort to open up the domestic economy. In

this way both the concept of the liberalization of foreign trade and the anticorruption struggle have contributed to the need to reduce the customs rates.

Changes in the customs tariffs from May 2001 brought reductions in a large number of customs rates.<sup>4</sup> The average (not weighted) rate is now about 11% while the weighted one which takes into account the structure of imports is about 9%. Further reduction was not possible due to the opposition of domestic industry but it is inevitable in the future. Harmonization of the customs policy with Montenegro, and later with the European Community, which have considerably lower customs rates compared to Serbia, will lead to further reductions of customs rates in Serbia. The ultimate objective of the customs tariffs reform is harmonization with the European Community, the customs rates of which are mostly at the level of 2 to 3%. At such a level of rates motivation for smuggling common, commercial and legal commodities and bribing customs officers almost vanishes, and so the overall level of corruption would be radically reduced even without other anti-corruption measures.

**The number of customs rates should be limited.** The average customs encumbrance is not the only important characteristic of a customs duty policy. The other characteristics are the number of rates and their range which is not unimportant for the stimulation and manifestation of corruption.

The Customs duty policy in Serbia comprises six customs rates<sup>5</sup> ranging from 1 to 30%. Such a range of rates fosters manipulation concerning the type of commodity – one type of goods is reported as another type in a customs declaration so as to reduce customs duty. As we have seen before, this way of “saving” has gained considerable popularity in our country recently since less sophisticated, blatant manipulations were halted. Now it probably constitutes the most important channel for illegal transactions and corruption in the customs.

In order to reduce or eliminate this type of violation of the Customs Act, it is necessary to further reduce the number of tariffs. A single customs rate would be ideal – intentionally misclassification would thus be completely obliterated - rendered pointless.

Some may ask whether the process of reducing the number of customs rates is reasonable from the aspect of foreign trade and general economic policy. The answer is “yes”. The present structure of customs rates is based on the old, in principle superannuated concept of export substitution, that is, selective protection of domestic production. So the rates fall into one of two categories: those which are favourable, applied to the goods and especially to raw materials which are not pro-

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4 Actually, it did mean increase in the effective customs protection, as this rates are now applied to the real course of dinar, while in the preceding period considerably higher rates were applied to unrealistically low course of dinar.

5 Which is less compared with 38 former rates.

duced in the country or not produced in necessary quantity, and those which are higher, applied to the goods produced in the country and “luxuries”. Such logic clashes with the concept of wide integration into world trade flows and is necessarily opposed to the idea that strong competition on the domestic market is a good thing for the manufacturers, not a bad thing. So it is to be expected that in the near future the number of the customs rates will be reduced, and their range limited, not just in order to curb corruption, but also in keeping with modern views on customs protection and its economic effects.

**Foreign trade restrictions must be brought down to the lowest possible level.**<sup>6</sup> Preferential customs rates are not the only form of protection of domestic manufacturers from competition from abroad; there are also numerous non tariff barriers such as various preconditions which an importer must fulfil, quotas and quantitative restrictions, licenses and similar.

The main attribute of several forms of foreign trade restrictions is selectivity – not everyone can be an importer or exporter but only the one selected and licensed by the state government. In this way the state not only chooses the companies which will perform an export – import transaction but, even more important, also approves or forbids import or export of a product. Widespread non-customs protection leads to a high risk from corruption, for it is completely natural that there will be a demand for papers permitting business. And when there is a demand, it is inevitable that it will be answered by the supply, that is, state officials will engage in trading the rights for personal gain.

The former foreign trade regime in Yugoslavia, which was in force from 1993 to the beginning of 2001, rested more on foreign trade restrictions than on customs protection and it gave rise to enormous corruption. This, admittedly, was not a classical type of corruption at the customs as it was carried out in other state (competent federal ministries) and pseudo-state bodies (chambers of commerce and similar). Still, it was connected with the work of customs and therefore relevant to this research.

Only recently has there been some advance in reducing non-tariff barriers to freer trade flows. At the end of 2000 limitations (applications, permissions) were abolished for companies which wanted to engage in foreign trade business, and now everyone is free to do it. More to the point, in May 2001 import of almost all commodities was liberalized and now only the customs authority remains to protect the domestic market and manufacturers. The only exemption in imports is granted to the steel industry which was “cut some slack”.

Further deregulation of foreign trade is a natural process, founded on the rules stipulated by the World Trade Commission and the European Union, which our country wants to join. Thus the World

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<sup>6</sup> We do not include quality and safety standards and similar in the term “non customs protection”

Trade Commission explicitly requires that all candidate states discard the systems of non customs protection, except perhaps during the transitional period and in time of serious balance of payments difficulties.

**There should be as few as possible exemptions (relief's and deductions) from the standard rules.** Every exception to the standard rule if not actually encouraging them, opens up the possibility for manipulations including corruption. Namely, with the exceptions there is always doubt whether the commodity being imported is really intended for the purpose for which it was given preferential treatment under the law, or if it will be turned to other uses for which the legislative body did not grant the right. One possible roundabout on this road is the customs authority, where a dishonest employee can tamper with papers, naturally at a certain risk of being discovered if they are later closely scrutinized.

Custom tariffs relief and tax deductions are stipulated by the Customs Act and the Law on Foreign Investments for the import of equipment, both on the basis of the investment of a foreign individual and when the equipment is not being manufactured in the country or is used in the activities of a special social concern as well as import of raw materials and semi-finished products to be used for production for export or from foreign investment.

Abolishing exemptions from the standard rules, customs duties relief and deductions for the commodities for particular purposes or of a particular kind, would certainly leave less room for discretionary decision making and in this way corruption in the Customs. Nevertheless, the foreign trade concept must be given precedence – if it is in the economic interest of the country to have rules which do not conform to the usual standards, then that is the way it should be. Yet, from the economic standpoint as well, it is good policy that there be as few exemptions as possible for there are no particular reasons why preferential treatment should be granted for particular uses of imported goods. Current exemptions are more a consequence of the former concept of import substitution and resistance to change put up by lobby groups than of a deliberate foreign trade policy. That is the reason why abolishing exemptions and relief still presents an important option for the struggle against corruption in the customs authority.

All proposed measures are parts of the process of liberalization of foreign trade, and one of the by effects is always curbing corruption in the Customs. At least, that has been experience in the world at large.<sup>7</sup>

### Customs procedures

In the modern world two, somewhat different, approaches to administration are applied: the first one is based on strict adherence to given

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<sup>7</sup> For example, D. Stasavage and C. Daubree – *Determinants of Customs Fraud and Corruption: Evidence from two African Countries*, Technical Papers, No. 138, OECD Development Centre, August 1998

administrative procedures, mechanisms of control and detailed rules on what a civil servant is supposed to do, in what way he is supposed to do it and what he must not do. The other approach rests less on a given procedure but rather on the principles and objectives of the organization and it counts on the professionalism and conscience of a civil servant, strengthened by encouragement and incentives for proper behaviour. Our customs authority is characterized by the former, traditional approach due to the high risk of corruption which would, at least in the transition period, be brought about by the latter, modern approach. The customs authority must not experiment too much lest it risk compromising the work. It is necessary, therefore, that it adhere to traditional principles until the right time, until the service itself has reached the maturity needed for significant innovation in the work system.

The reform in the work of customs and customs procedures should be, in keeping with the Kyoto Declaration, based on the following principles:

- adoption and implementation of the program intended to increasingly modernize customs procedures and practices in order to raise the efficiency of work,
- apply procedures in a predictable, consistent and transparent way, so as to facilitate the business dealings of its clients,
- providing all necessary information on all customs laws, regulation, administrative directives, procedures and practices for all interested parties,
- adoption of modern techniques such as risk management and inspection through auditing financial records, as well as the maximum use of information technology,
- co-operation with other state bodies, other Customs and industry,
- providing accessible administrative and judicial protection to all participants in the customs procedure.

**Efficiency of customs procedure.** Raising the efficiency at the customs is an objective in itself, but indirectly it is also an important means of fighting corruption. When the customs procedure is complex and when the customs authority is inefficient (long delays of goods at the border, a lot of red tape and similar), that is, when the customs becomes a fortress to be taken, and when it significantly interferes with the normal, fast, flow of commodities, corruption inevitably appears. For under such circumstances even a most honest importer or an exporter will consider 'greasing' and speeding up the procedure by bribing a customs officer so as to avoid loss of time and other costs. More to the point, it is possible that customs officials complicate and slow down the customs process on purpose, just to provide an opportunity for themselves to profit by speeding up the process after they have received a bribe.

In order to curb corruption therefore it is necessary to permanently modernize and advance customs procedures and the customs authority in general. That means:

- strict implementation of current customs procedures, with tighter supervision, higher accountability and using both rewarding and disciplinary measures.
- advancing customs regulation in a narrow sense in accordance with local experience and the experience of other customs services such as advancement of the techniques for evaluating goods, more precise methodology of goods classification, better control of goods in transit, providing better mutual control of the customs officials, creating a database on world prices, providing available information on Customs as fast as possible (real time is the objective) and so on.
- organizational changes at the Customs such as establishing a special, independent internal control unit, revising the number of customs offices and similar.
- technological modernization of the Customs and the use of contemporary technological devices.<sup>8</sup>

#### **Predictability and transparency of the customs procedure.**

Customs procedure must be predictable for the client familiar with the customs regulations. If this is not the case – when the same principles or regulations are put into practice in different ways at different customs offices, or when different customs officers at the same customs office act and solve the same situations differently – the client will encounter unnecessary complications during the procedure or yield to the temptation to bribe the customs officer in order to simplify matters. On the other hand, when an honest trader or shipper knows all customs regulations and is able and willing to observe them, it will be easier for him to refuse illegal proposals by a corrupt customs officer.

The predictability of the procedure means:

- supplanting as far as possible discretionary decision making by automatic rules: for example, the rules for the evaluation of goods when the submitted declaration is justifiably suspect need to be more precisely defined,
- harmonizing the practices in situations demanding discretionary decision-making through directives issued by the authority, exchange of experience, joint training of the employees and similar,
- avoiding frequent changes in the customs procedure.

**Well-informed clients.** Availability of relevant information on customs regulation, directives, procedures and practices to all interested parties is a necessary precondition if we want the clients of the customs to be well-informed, which would facilitate the work of the Customs and thus restrain corruption. When the client knows precisely what to

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<sup>8</sup> It is feasible to use GPS (Global Positioning System) to oversee the movement of trucks in Serbia and determine whether the trucks in transit have actually left the country. Among others, the Philippine Customs Authority uses this technology.



expect at the border, he will certainly be better able to fulfil his obligations at the Customs and deal with attempts by the customs officials to demand bribes.

More thorough informing of the clients means that internal regulations and directives at the Customs will no longer be kept “top secret” and that the old game of “cops and robbers” will no longer be played by secret rules and hidden customs regulations and procedure, but by their consistent execution. A normal precondition for the customs’ clients to be well informed is publicizing the complete customs regulations, including the rules in the Official Gazette and on the Internet. For example, the Singaporean customs authority displays everything that its clients need to know on its Internet site ([www.gov.sg/customs/](http://www.gov.sg/customs/)).

**Selective control (risk management).** The problem of the customs employees being overworked (the amount of work at the customs office exceeds its capacity) or the weaknesses of the customs authority itself (corruption, low professional level and other) can be addressed not only by improving the traditional organization of the service but in other ways as well. One of them is risk management reflected in the selective monitoring of goods (vehicles) at the border, and the other is dislocation of a certain number of customs functions through the so-called inspection before shipment and later inspection.

Every customs authority faces two conflicting objectives: the first is to facilitate the flow of goods, vehicles and people so as to hasten foreign trade and traffic in general and thereby accelerate economic activity, and the other is to monitor as thoroughly as possible these flows so as to effectively implement customs and other laws. As the traffic gets easier and faster, so the control becomes weaker and more superficial and the implementation of the customs laws becomes compromised; and vice versa – the more thorough the control is, the slower the traffic, and the greater the harm done to foreign trade. This conflict obviously calls for an innovative approach in order to attain both objectives as far as possible.

The problem of the conflict of objectives of facilitating the flow and exercising control can be addressed through the use of a method called **risk management**. The underlying assumption of the method is that the risk of offence varies according to the type of situation at the customs, which calls for different procedures under different circumstances. The situations of higher risks will be brought to closer attention compared to less risky situations. In this way the general risk of customs violation will be minimized. Risk management is used in numerous areas of the private sector such as banking, insurance and similar, so it is possible to borrow not just the idea but also the existing methods of risk management practiced in other areas. The main objective is, always, to minimize risk with limited resources. This means that a balance is sought between cost and benefit where the benefit is prevention of offences at the customs and the cost is the use of limited customs capacities.

An alternative to the risk management, and with limited customs capacity, is the method of spot checks in the belief that it will prove a sufficient deterrent for potential offenders. In any case, it is obvious that random control the spot check method is a better and more efficient type of risk management as it improves the chances of uncovering an offence and therefore serves as a better deterrent.

Risk management at customs can be carried out on three levels:

- **strategic level**, where it is determined which areas of the customs are high risk: collection of levies and other charges, breach of import-export restrictions, health safety breaches, social issues (drugs, white slavery etc.) and similar. Risk analysis ranks different domains by the extent of the risk, which is extremely useful information providing a broad outline for lower levels of risk management – it brings to closer attention the areas of higher risk.
- **operational level**, where a level of control necessary for effective risk management is determined for a particular customs task. In this way the customs is changed from an overall monitor into a service which acts selectively during the customs procedure, intervening directly only when a higher risk is expected.
- **tactical level**, where a customs officer directly puts into practice risk management in concrete situations. He uses his knowledge, experience and stipulated regulation to determine which shipments are at higher risk than others and examines them.

Selectivity, profiling and targeting are the three aspects of risk management. The criteria for selection of goods permitted to cross the border include the history of the importer and the exporter, the shipper, the forwarding agent, the country of origin, the transport route and restrictions on import or export of goods. The indicators of risk are specified in selection criteria such as type of commodity, country of origin, value, company, type of vehicle, the reason why the goods are being brought into the customs territory and similar. The risk profile is a result of a risk analysis and it is a comprehensive document of a customs authority detailing the risk involved in particular situations. Its purpose is to supplant the current complete control blanket coverage of all goods crossing the border or random specimen inspection with inspection in accordance with the risk carried by every individual shipment. In order to estimate the level of risk, that is of compliance with customs regulations, numerous sources of information are used; regularity of tariff classification by the traders, accuracy of declared value, whether the state of origin tallies with the labels on the goods, import and export, transit operations, storage and free trade zones, accuracy of paid clearance charges, whether the quantity of declared goods is accurate, whether the commodity is accurately described in the bill of lading, accuracy of description of declared containers, compliance with health and safety regulations and similar.

In this way the customs authorities can determine through risk analysis which individuals and which goods as well as vehicles should be examined and to what extent. For example, for authorized legal entities who meet the criteria of the Customs including prior compliance with customs regulations and adequate maintenance of commercial and accounting records, the Customs can:

- let the goods through with minimal information needed simply to identify them, with the customs declaration completed at a later time;
- effect customs clearance in the facilities of a client or some other approved by the Customs;
- issue a single import or export bill of entry for a specified period of time when a single individual frequently imports or exports goods;
- Use the financial records of an authorized person (alone) to calculate his customs and tax obligations and similar.

The individuals who in the past did not completely comply with the customs regulations will be treated in more strictly, depending on the level of prior compliance with the regulations.

**Pre-shipment inspection** refers to verification of the price per unit of goods and declaring its quantity and quality in the exporting country, that is, outside the territory of the importing country (Serbia). These services are provided by trustworthy private companies in exporting countries and in this way the customs authority of the importing country receives information it does not possess or saves the effort and time needed to provide it. Pre-shipment inspection prevents invoicing either too high or too low prices, misleading customs classification of importing goods, concealing the real quantity of the goods, concealing the country of origin of the goods (important owing to the existence of free trade zones) and similar.

Basically, this method is a sort of pseudo-privatisation – the state customs authority makes contracts with private companies for particular tasks. The customs would first ascertain the trustworthiness of the companies and list the ones it is willing to contract with. As the idea is not new, such firms already operate and such lists already exist in numerous customs authorities in the world. The reliability of these companies is based on their wish to maintain their place in business and keep making profit in this way, as the first instance of wrongdoing on their part would ruin their reputation and therefore run them out of business. And owing to the trustworthiness of the companies which deliver the service of pre-shipment inspection, only reliable import companies seek their services – those which do not try to break the import laws of importing countries; the others stay clear of them. The cost of inspection is about 1% of the value of the goods.

Pre-shipment inspection can be an effective tool for fighting corruption at the customs for it reduces the room for discretionary decision making by customs officers. Nevertheless, the main purpose of this

technique is to facilitate and hasten the flow of goods across the border by completing a part of the procedure in the exporting country.

Pre-shipment inspection has existed for a while, but it really began to flourish after 1993 when the World Trade Organization adopted and ratified the Agreement on Pre-shipment Inspection. In 2001, 37 developing countries in the world used this method.<sup>9</sup>

All the same, liberalization of foreign trade and movement of capital as well as institutional strengthening of the customs authority remain the basic and the best methods of facilitating and improving the transit of goods across the border. Pre-shipment inspection can, in part, supplant them and serve as an additional tool – certainly very useful before serious reform has been completed or in the transitional period of its implementation.

**Subsequent control** is another way of dislocating part of customs authorization. It reduces the amount of work done at the border itself and in customs warehouses and speeds up traffic. To a certain extent subsequent control exists now through the activities of mobile teams and inspection on the roads and in customs warehouses, but it is not sufficient and could be considerably expanded.

All the same, our customs still focus on the physical inspection of the goods at the border. Such inspection does have some deterrent effect and plays a positive role for the verification of the quantity of goods, but it is less effective for the verification of tariff classification, country of origin, value, return and exceptions.

The main form of subsequent control is inspecting documentation and financial and other records of the traders, shippers and others, for they give clear and comprehensive picture of the transactions relevant for the Customs.

There are two types of audit:

- first, the monitoring of transactions with the Customs, which is done after the goods have cleared the customs. The idea is to speed up the customs procedure by completing some of the administrative work later, using the commercial and accounting documents which every trader should possess and keep;
- second, the inspection of the accounting and commercial system in the business facilities. The objective of this type of control is to ascertain whether the enterprise keeps adequate records of the transactions, and in this way rank the enterprise according to the customs risk it presents. On the basis of this information, the enterprise will receive more lenient or more strict treatment at the customs later.

In order to implement auditory control in Serbia/Yugoslavia it is necessary to change some customs regulations and grant the customs

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<sup>9</sup> *Increasing the Effectiveness of Preshipment Inspection Services*, Prem Notes, The World Bank, May 2001

officials the authority to inspect documents belonging to import-export, forwarding, transport and other companies.

**The value of goods.** One of the more significant problems which customs officials face in their work is estimation of the value of goods. The problem is created by traders who invoice for a reduced amount in order to pay less duties, in which they can be aided by a corrupt customs officer. As was pointed out in chapter five of this study, tampering with the value of imported goods has been on the rise recently in Serbia, since formerly predominant mechanisms (such as unregistered border crossings) were abolished.

The present situation concerning estimating the value of goods is not favourable as there is neither adequate methodology of calculation nor developed database on prices which could aid the valuation.

Our customs authority must modernize the procedure for estimating the value of goods by adopting an appropriate methodology in keeping with international standards and agreements, and above all with the relevant agreement by the World Trade Organization.

According to this agreement, the main method of valuation must be based on *transaction value*, calculated on the actual, real price of goods, perhaps adjusted for certain items allowed for by this agreement. If it is not possible to ascertain transaction value, there are five other ways to determine the value, listed below by priority.

The other method of evaluation is *transaction value of identical goods*, on condition that physical and other characteristics are identical, that the commodity has been manufactured in the same country by the same manufacturer. Two exceptions are allowed for: that the commodity does not have to be completely identical but that the differences are negligible, and that the manufacturer does not have to be the same but it must come from the same country.

The third method is *the transaction value of the similar goods*. It is determined in the same way as the former, on the condition that the commodity must be similar in significant measure to the commodity being evaluated in terms of components and materials, to serve the same purposes, that is commercially interchangeable, and that it has been produced in the same country as the commodity being evaluated. Besides, it is necessary that the commodity be imported into the same country (because of the possible differences in manufacturing price policies towards different countries).

The fourth method is *evaluation by deduction*. When it is not possible to calculate customs value on the basis of transaction value of the given, identical or similar commodity, then the value will be calculated upon the price for which identical or similar goods were sold to a disinterested buyer from the importing country in the highest quantity, in the same period.

The fifth method is the method of *calculated value*, and it is used when none of the previously mentioned methods can be used. The value of the imported goods is by this method determined by calculat-

ing production costs (the value of the material and production) and adding to them the profit and overall costs as well as the costs of transport and handling from the place of production to the ultimate destination. This method is rarely used.

The last, sixth method is *the method of reasonable opinion*, taking into account available information. It is not in keeping with this method to use the retail price in the importing, exporting or in some third country as a point of reference.

A large database on commodities and prices must be available if we want to use successfully this method of value calculation. It is convenient that basic and most important information used for evaluation through methods of higher priority is already available at the Customs (it comes from import transactions), and it can be processed in an appropriate way.

### **Automatization (the use of information technology)**

Over time, the way the customs authority operates has changed considerably. In bygone days the commodities, usually transported by ships, were examined. This was later supplanted by examining the papers and so customs declaration with a number of original documents gained in importance; the actual examination of goods became less frequent. When they appeared, new information technologies came into use at the customs. Nowadays, customs offices in the world are in a transitional period – in most of them computer systems are just used as an equivalent for paperwork (for example sending an electronic version of a customs declaration), while in a few there have been radical changes.

The converging development of computer and telecommunications technology has created vast opportunities for the use of information technology in different areas, at the customs and in customs procedure among them. The advancement in information technology has, firstly, considerably speeded up processing information in comparison with traditional paperwork and secondly, introduced new methods of work which had not been either known or possible in the period of paperwork. Broad perspectives have been opened in this way for the advancement of the customs authority, and many customs in the world have taken advantage of this. So some of them, in Singapore, for example, have completely changed over to computer processing of all documentation in the customs procedure and have completely abandoned paperwork.

The Federal Customs Administration also uses information technology in its work but not to any great degree, and far less than other customs services. Computer processing of documentation is still secondary to the main method – work with documents on paper. As a result, the vast possibilities of information technology are not used for potentially great advancement of the customs operation.

From the aspect of the fight against corruption, information technologies are a large step forward. The main characteristic of the computerization of the customs procedure is the fact that there is no direct contact between a customs officer and a client, which forestalls corruption. Since a considerable part of the customs procedure is automatic, discretion is significantly reduced and the rest of the process becomes impersonal. The most important elements of automatization are electronic declaration of goods and computer processing of customs declarations, selective control, compulsory payment of duties through the bank, automatic verification of payment, computerized clearance of goods and subsequent monitoring and similar. The customs procedures which have not been made completely automatic can be assigned to customs officers using the random numbers method, which forestalls potential deals with clients. On the whole, all these things drastically limit the possibility of corruption.

Informational strengthening of the Customs does not mean just comprehensive coverage of internal activities by information technologies, but also information exchange with others – first of all with the clients on the Internet in its role as the official means of communication, and then with other state agencies and customs offices from abroad for the exchange of information through EDI (Electronic Data Interchange) systems.

When introducing and setting up a computer system at the Customs it is necessary to protect it from possible tampering. For example, it is important that there should be personal passwords for each user, and that each user should have access only to a specified part of the system needed for his tasks; that programmers should not have access to operative databases and that they should be the only ones authorized to make changes in the software and similar.

The fact that the Federal Customs Administration need not develop complete software for customs administration is very convenient; with certain adjustments, it is possible to use computer software for the customs of ASYCUDA, developed within UNCTAD. This program covers most foreign trade and customs procedures, from customs declarations, through orders for selective inspection to accounting. It provides for interactive communication with clients and other state bodies. It offers commercial information for statistical and economic analysis. It uses international codes and standards issued by ISO (International Standards Organization) and WCO (World Customs Organization). Our legal procedures (customs regime, tariff system, customs rates and similar) can be incorporated into the program. More than 80 states in the world use this program.

The main challenge for progressive customs and in future for ours as well, is the fact that almost all information the Customs needs is already stored in the information systems supporting business transactions in the private sector. It would be cost-effective for the Customs to

rely on those systems, naturally, with special monitoring. In future, lowering of customs duties and restrictions will make things easier as it will significantly lower the motivation of businessmen to conceal or falsify information.

### **Division of work and rotation**

In order to reduce possibilities for corruption in the customs, the work of the customs can be made more flexible than is usual in other areas.

Firstly, *strategic separation of functions*, such as work with documents (customs declarations etc), physical inspection, evaluation, tariff classification and other. Such separation of functions (and people) at customs offices would be accompanied by vertical organization of the Customs with strong directorates at the expense of management on a territorial principle. The underlying idea of the concept is to preserve at least some functions from infectious corruption and in this way prevent the creation of chain corruption throughout the whole customs authority.

Secondly, rotation of work. Based on the assumption that many procedures at the customs are similar to each other it is possible to swap people around in order to prevent their staying too long on the same tasks and making connections in order to engage in corrupt dealings. In this way, the individual doing the paperwork in the customs could be transferred to physical inspection, and vice versa.

Thirdly, *task assignment by the random choice method*. On this concept, an individual would be assigned tasks within his job description not on his immediate superior's or his own discretion or by the order of consignment arrival, but by execution orders issued randomly, by the computer. In other words, a customs officer on the physical inspection of the goods, for example, would receive an order to examine the second, the twelfth and the twentieth truck and not the one he wants or the one which is available at the moment when he has finished with the previous one or the one assigned to him by his immediate superior. The underlying idea is to prevent an understanding between a client, a customs officer and (perhaps) immediate superiors.

Finally, *relocating customs officers to other customs houses/customs border cross points* in order to prevent the development of friendships with both regular customers and other customs officers.

In general, the central idea of this proposal is that a customs officer should be working on the same task or in the same territory only temporarily so that he will not be able to make, develop and maintain corrupt relationships.

Although these are suggestions from the Arusha Declaration for the Fight Against Corruption by the World Customs Organization, it is questionable whether they should be put into practice. This would certainly be beneficial for fighting corruption, but it would also harm the efficiency of the customs work. The customs officials need a cer-



tain amount of time to gain experience of the procedures, commodities, clients and trade sectors and in this way attain maximum efficiency in their work. Rotation of work severs the old, often useful ties between customs officers and their clients; strategic separation of functions violates important management principles such as principles of coordination, mutual assistance and interchangeability; random choice, when set up badly, can compromise the effectiveness of selection based on risk analysis; relocating customs officers breeds dissatisfaction and incurs social and financial costs.

The answer to the question: “should we apply the aforementioned systems?” can be found only after another question has been answered: “is the level of corruption at the customs very high?” If the answer to the latter question is affirmative, then the answer to the former is also affirmative. And, really, if the level of corruption at the customs is exceptionally high, then all these radical measures must be enforced as benefits from lessened corruption will outweigh losses in efficiency of the customs authority. The analysis put forward in this study leads us to believe that there is considerable corruption at the customs, but that it is not exceptionally high and that it is on the decline. So, presumably, the above mentioned flexible methods of work at the customs should be kept in reserve and used if other systems do not yield adequate results in the near future, or in particular situations with constant monitoring of the balance between cost and benefit.

### **Internal and external auditing**

It is easy to make a mistake in customs work, on purpose or unintentionally. That is the reason why a system of internal and external audit should be set up and developed to inspect the past work of the customs officers. The main reason for audit is the suspicion that something has not been done according to the current regulations, but the reason can also be an attempt to inspect the work of the customs or some customs officers by randomly auditing selected procedures which have not been suspect. The aim if discovering offences is not simply to punish the perpetrators but also to act as a deterrent.

Audits can be internal, performed by the appropriate body within the customs authority, or by an *ad hoc* commission, and external, performed by professional auditing houses.

Audits are mostly performed by analysing paper or electronic documentation, but interviewing customs personnel can also be very useful.

Internal audits should be conducted by Internal control as a specialized unit for conducting investigations within the Customs.

If it is deemed necessary, taking into account the state of affairs in the Customs and inadequacies of the Internal control, it is possible to entrust the inspection to an outside company which has the required professional resources, and which, on the whole, is disinterested.

## Employment and advancement

Management of human resources in the Customs, apart from training, which has already been discussed, comprises the treatment of employees, employment in the future and advancement in career.

The main question is how to deal with customs employees who have been or are still involved in corruption. There are three facts of special relevance here. First, a considerable number of customs officers were or still are corrupt; second, owing to the surreptitious nature of corruption, it is difficult or impossible to prove their guilt, although the customs employees know very well what the others are doing; and third, the relevant regulations (the Law on Customs Administration and the Law on Working Relations in Civil Service) are very restrictive in terms of terminating the contracts of employees. In other words, the custom service cannot dismiss an official who is known to be corrupt without a fact-finding procedure, which is virtually impossible to complete. The minimal number of individuals dismissed from work in the customs in the last two years despite the good intentions of the new Customs Administration to do more also testifies to the legal restrictions and practical difficulties of proving guilt.

On the other hand, the fact that customs officials who repeatedly engage in corrupt dealings remain in the customs employ, is an incentive for others to join in corruption as it has turned out that the deterrent was inadequate and that there is no need to fear the consequences even when one is found out. In such a situation, rotten apples will infect the sound ones and all efforts to regain credibility of the Customs may be irretrievably lost.

It has been asked whether it is 1) good and 2) possible to get rid of corrupt officials, including individuals in managerial positions in the present Federal Customs Authority. The answer is:

- 1) *it is good*, for by such a radical measure the customs authority would rid itself of problematic elements which have engaged in corruption causing inestimable damage to the state for which it was, ostensibly, working, and to the reputation of the customs authority itself. Then, getting rid of a (considerable) number of the corrupt customs officers would, inevitably, curb future corruption – in other words, it would be good to purge the FCA not only for the reason of justice but also for the reason of efficiency.
- 2) *it is possible*, despite current legal obstacles; in the near future it is inevitable that the Federal Customs Authority, that is, the customs authority of the FR of Yugoslavia, should be turned into the Customs Authority of Serbia. It must be done as a part of the definitive solution of the issue of the status of the Republic of Serbia, whether it be in conjunction with Montenegro or as an independent state. The transformation from Yugoslav into Serbian customs will secure the necessary legal and political foundations for the changes in customs personnel.

The proposition is as follows: *the transformation of the Yugoslav customs authority into the Serbian Customs Authority should be done in such a way that none of those currently employed in the Federal Customs Authority is automatically taken on by the new, Serbian customs, but that they all should, together with others, apply for a new term of employment.*

This proposal can be realized on condition that the upcoming law on taking over the customs competencies from FR Yugoslavia by the Republic of Serbia stipulates institutional discontinuity, that is, dissolution of the Federal Customs Administration and establishing the Serbian Customs Administration, together with everything that fact entails.

After the new Serbian Customs Administration has been established and a new director appointed, at his, and at the proposal of his closest assistants, public advertisements would be placed for new workers in keeping with the new systematisation of the work place. Everybody would have the right to apply and the administration would take on the applicants with the best qualifications among the individuals for whom there is no shadow of doubt, indication or clue that they have ever engaged in corruption or similar activities. In this way the Customs would shake off the burden which hampers and even completely blocks the possibility of its recovery, at the expense of the state and overall economic activity.

The proposed method of addressing the personnel problem in the customs authority is faced with an obstacle which could easily undermine all its effects –this is the risk of the customs becoming a breeding ground for political rivalries and party-political activities, replacing the old corrupt individuals with new ones. This has happened to many customs reforms in the world at large.

Later, new appointments should be based on competence and an estimate of the candidate's skills and integrity, taking into account his personal history and work record.

Advancement within the customs should be solely on the basis of merit and not on friendly or political relations.

### **Service regulations, sanctions and code of conduct**

When deciding on a case, the customs administration must observe a stipulated procedure: inform the client about the way his claim will be handled; listen to the interested party and take into account his statement and the facts presented; state reasons for the decision; inform the party about legal measures. Customs procedure must in no way be casual or based on the discretion of the Customs authority; the basic procedures of customs administration must be stipulated by law and the details must be regulated by the Code of Conduct, an important document of the customs authority.

The customs employees must be issued a copy of the Code of Conduct (service regulations), and they must be apprised of the consequences of non-compliance with the Code, that is, with disciplinary measures.

Many customs officials think rationally and attempt to act in an optimal manner, taking into account all circumstances. Thus their decision whether to engage in corruption depends on a cost (including the risk of consequences and the amount of fines) -benefit (the amount of bribe) estimate.

The disciplinary procedure must be strict and the penalty appropriate – starting from a reprimand for lesser offences to dismissal for serious breaches. Only in this way can the procedure serve as an effective deterrent to corruption and other violations.

Naturally, appropriate penalties cannot, in themselves, contribute to curbing corruption. They must be accompanied by rigorous supervision of the customs officials' work (sudden visits from senior officials, internal control inspections, more activity on the part of immediate superiors, thorough investigation into customer complaints and so on). The internal control unit should play a large part in this – it would be independent in its work, possess adequate manpower and material resources and broad powers.

On the other hand, there are both the possibility and the need to promote positive ethical norms and the spirit of belonging in the Customs (“*esprit de corps*”) which is a standard recommendation for fighting corruption.<sup>10</sup> Yet, it is questionable to what extent, in an organization infected with corruption, the campaign for the promotion of ethical principles can succeed and not provoke ridicule and completely fail. In the long run, after the main sources of corruption at the customs have been abolished, and when honesty becomes the norm, promotion of ethical principles will be fully justified.

## **Training**

Work at the customs should be performed by fully trained customs officials. This commonplace statement is especially relevant for our country, where the level of training is inadequate and where a considerable number of customs officers worked at the time when observance of regulations was not adequate and occasionally not even necessary for everyday work.

The need for ever-higher levels of training is the result of increasingly complex international commerce and the spread of computerized systems. This is why our Customs authority should launch a comprehensive training program which would allow our customs officials to execute their duties in the best possible manner, that is, to adequately satisfy their job requirements. In order to measure up to the tasks of the modern customs in a modern way, and in order to raise efficiency of performance, it is necessary that the custom officials should master many complex skills such as:

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<sup>10</sup> The World Custom Organization has prepared a draft code of conduct; see *Draft Model Code of Ethics and Conduct*, March 2000

- knowledge of modern customs procedures (the ones yet to be introduced in our customs) such as selective control, new methodology of evaluation of goods, ascertaining the origin of goods etc.
- operating information technology, that is, training in computer operation and new software,
- familiarity with accounting methods, both domestic and international (GAAS - Generally Accepted Accounting Standards),
- familiarity with international commerce and customary business procedures, including banking procedures,
- familiarity with standards and procedures of auditing (revision), etc.

The former sporadic training of customs officials must be supplanted by a comprehensive and extensive training program. It must not occur only once in a lifetime, but be permanent, in order to keep expanding a customs official's knowledge throughout his career.

Training of the customs officials can only yield results in the long run, but our customs needs it badly owing to the inadequate level of education of the personnel and probable influx of new people who know even less.

## **Wages**

Low income of the customs officials is certainly one of the causes of corruption. The salaries of our customs officials are extremely low, and seven to ten thousand dinars a month can not forestall corruption; rather it can nudge the people to try to make some money "that way". The bonus or incentive pay system is not well developed either, it is sporadic and it is not founded on proper criteria, rather it is obscure and inclined to be nepotistic.

Legal earnings of the customs officials must be considerably raised if we want to curb corruption. This is not to say that low income is the only cause of corruption at the customs, nor that its increase will abolish corruption, but only that wages which do not provide for the minimal existence and which are even degrading, directly motivate customs officials for corruption.

Raising salaries will not persuade all customs officers to give up corruption, because corruption is far more lucrative than legitimate earnings, no matter how much the salaries have been increased. On the other hand, increased salaries would contribute to curbing corruption in two ways: first, a certain number of customs officers, those who are driven to petty corruption to make a living, would stop requesting (or receiving) bribes and become honest; and the second, the current moral justification of corruption: "our salaries are desperately small and we are forced to..." would vanish. This attitude fostered tolerance of corruption and contributed to its spread; with it gone, the solidarity with crooked customs officers could be undermined and the attitude of

the clients towards corruption at the customs would change, which, all together would bring about long-term results.

Besides raising in salaries, it is also necessary that a bonus system should be established and developed. Bonuses must be exclusively given on merit, they must not be granted on private relationships and nepotism. Criteria for receiving a bonus must be precise and the amount of bonus must be known in advance and defined by rules. For example, customs officers can be awarded a certain percentage of collected fines. It could comprise two parts: one for the team and the other for an individual<sup>11</sup>. Realized, that is, paid out bonuses should be publicized in the customs office and in other appropriate places, so that they can be transparent and provide an incentive for desirable conduct.

Another advantage of the bonus system is that it is acceptable for political circles, always sensitive to the question of raising the salaries of civil servants (and for good reason, as increase in one domain automatically entails increase in the others). It is easier to justify a reward for good results of work, that is, performance related rewards, especially where performance is easily measured, than a general rise in pay for all.

There should be a balance between the salary and the bonus, as neither extreme is good. If the salary is virtually the sole income, that is, if there are either no bonuses at all or they are rare and unpredictable, there is no stimulation for good work and extra effort, and all that is left are personal conscience of a customs officer and the threat of consequences for inadequate effort, which is not enough. Or, if the bonus system is too prominent, there is a danger that a customs officer might become excessively eager in an attempt to “uncover” as many offences as possible, harassing the passengers and businessmen and slowing down the customs procedure.

### **Customs cooperation**

In the modern world of growing commerce and increasingly complex business techniques, the Customs authority can gain large benefits from cooperation with its clients, from shippers to traders and manufacturers (sellers). Cooperation with legitimate clients, keeping in mind facilitating the trade, risk management, good communication and coordination, can be vital for striking the balance between effective monitoring/control and facilitation foreign trade. The Customs authority and its clients can be partners in this task. The basic modes of cooperation typically include discussions on upcoming changes in the customs procedure, identification of difficulties faced by the clients and reaching solutions acceptable for both sides. The customs authority benefits from such cooperation in that it gets to learn more about the commercial

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<sup>11</sup> Such bonus system in Brazil brought about an immediate increase of 75% in the amount of collected fines.

practices of its clients. The possibility of gathering information on practices violating the customs regulations is also not to be neglected.

The customs authority should also cooperate with other customs authorities as much as possible, especially with those in neighbouring and the European Union states. This cooperation should first of all be informational, that is, it should be professional exchange of information on all relevant happenings concerning the customs. Then, the cooperation can also be functional – customs services directly working together on customs procedures – for example, clearance of a truck leaving the country is not done by that country but by the neighbouring one, the country the truck enters. This would mean that the truck could cross the border without having to change the registration plates, without customs documentation and invoices, as is the case now. Alternatively it would be possible to construct joint border crossings at which the two customs authorities would be able to cooperate with much greater ease and speed, to the advantage of both. The existing low level of cooperation between the Federal Customs Authority and the authorities of neighbouring countries leaves fertile ground for the development of corruption and all other kinds of malpractice at the customs.

### **Concluding remarks**

All discussed programs and measures are important for curbing corruption. Nevertheless, two programs should be singled out: liberalization of foreign trade (especially of imports) and computerization and automatization of customs procedure. If these were implemented, the level of corruption would be considerably reduced at our customs, down to a level hardly imaginable today. Yet, we cannot be overly optimistic, for the realization of both programs will take several years. Partial liberalization of foreign trade was achieved at the beginning of 2001, at the peak of the reform, but there seems to be no intention of following through with that course. Perhaps only the process of accession to the European Union and joining the World Trade Organization will lead to further lowering of customs duties and similar improvement (lowering the number of customs rates and the number of exemptions and so on). The computerization of customs procedures can not be put into practice quickly, either. The experience of other customs authorities shows us that it takes several years to technically complete the project after it has been decided to initiate it.

That is the reason why the “second echelon” measures gain priority – those measures which will have a strong impact and which can be put into practice relatively quickly. Among those, the most important are the measures concerning employment policy (changes in the customs personnel composition), improvement of the organization (especially setting up internal control and strict disciplinary procedure), improve-

ment of the customs procedures (the right to subsequent control, informing the clients, improvement of the methods of evaluation and classification of goods and so on) and raising salaries.

Other programs are long-term in nature. It is not to say that they should be delayed till the right moment, on the contrary, it just means that the short-time fight against corruption can not rest on them.

## THE ACTION PLAN

If curbing corruption at the customs is to be successful the effort must be comprehensive, based on a coherent program, consistent and sustained. It must also rest upon responsibilities and rules which are known in advance. The main elements of the struggle against corruption are:

1. **Political will:** The most important precondition for successful fight against corruption is the firm resolve of the political leaders of Serbia and top management of the Customs Administration to check corruption, based on the realization that corruption in the Customs has a harmful effect on the economic, social and political life of the state.
2. **The responsibility of the Parliament and the Government of Serbia:** the highest state bodies should provide a favourable political environment for the effort, through the legislative reform, supervision over the Customs Administration and personnel selection within it.
3. **Liberalization of foreign trade** is the best strategy not just for economic progress in the country, but also the main lever for checking corruption at the customs;
4. **Building a new and better customs authority** should be the main objective of the transformation of the Federal customs into the Serbian institution, and not just the simple transference of the same service from one to the other level. One element of this process would be the change of the customs personnel, and the other the adoption of a new, modern Law on Customs authority.
5. **Accountability of the Customs Administration:** the Customs Administration is responsible for the operational aspect of the effort – its task is to set up procedures and programs which are impervious to corruption as much as possible and which seek to check it. Curbing corruption must take priority in the Customs together with facilitating the foreign trade of the state.
6. **Transparency in work and informing the clients** on customs regulations and procedures in order to protect the clients from being harassed by crooked customs officials.
7. **Professional advancement exclusively on merit and qualifications,** free from political influence, private connections and corruption.



8. **Internal control:** a special investigating body should be established with the Customs Authority which would, among other things, deal with corruption in the Customs.
9. **Automatization of the customs procedure,** through further development of computerization of the customs system.
10. **Improving customs methodology,** and especially evaluation and classification of goods.
11. **The development of the subsequent control system,** which is primarily based on documentation and therefore forestalls direct dealings of the interested parties.
12. **Introduction of the selective control of goods,** based on risk analysis for particular goods and clients.
13. **Raising the flexibility of work** by reasonable rotation of tasks, random choice task assignment, relocation and similar.
14. **Cooperation:** establish cooperation between the Customs authority and law-abiding businessmen and with customs authorities of neighbouring countries.
15. **Training:** innovative training programs for the customs officials should be developed so that they become thoroughly well-versed in customs and other regulations, customs procedures and the practices of the business community.
16. **Ethical standards:** promote ethical standards of conduct, incorporate them into the Customs documents and abide by them in everyday work.
17. **Media:** cooperate with the media for they play a prominent role in creating anticorruption pressure and are the best tools of developing an awareness on the forms, extent and harmful effects of corruption.
18. **Civil society:** develop relations between civil society and the Customs so that non-governmental organizations can fully contribute to the fight against corruption in the Customs authority.