

**CORRUPTION AND CUSTOMS SYSTEM IN  
THE REPUBLIC OF LATVIA**

**REPORT**

By Normunds Rudzītis,  
Head of Internal Audit Division, State Revenue Service, National Customs Board of  
Latvia, visiting expert at the OECD's Anti-Corruption Division

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Customs is a state institution, which in compliance with delegated functions works in areas with a notably high corruption risk.

High corruption risk in the areas of customs is to be described by the following:

**1. Regularly pass resolutions that affect sufficient material values.**

Every day most of the customs officers of lower grade pass resolution concerning releasing of goods. If release of goods is connected with importation for free circulation, for some groups of goods also with exportation, there are goods to be cleared. In some cases, for instance if goods are liable to Excise, the customs duties might be very high. The duty of a customs officer as well is to protect the society by ensuring that conventionally forbidden goods (weapon, drugs etc.) are not brought into country.

**2. The availability of confidential information.**

Any information concerning transported goods (the value, the expeditors, the delivery terms etc) is confidential. No doubts, that if competitors figure out any of the above-mentioned conditions, they gain advantage in competitor combat. The bribing of customs officer is one of the ways to figure out the above-mentioned information.

**3. Different licenses are issued.**

According to the Customs Act, customs institutions are to issue licenses for temporary importation and exportation of goods, for inward processing of goods, for keeping a customs warehouse, for pre-clearance storage of goods as well as other licenses, which have crucial economic effect on business, especially on international trade. In this area like in the previous one, businessmen are looking for the opportunities to overcome competitors, and sometimes use such dishonest means like bribing. Undoubtedly in this area there is a possibility for customs officers to force out bribes.

**4. The fines for customs offences are determined.**

One of the major customs functions is to ensure customs control for keeping up with legislation acts in the sphere of customs. In some cases the result of such control is a stated customs offence. Then goes the evaluation of the offence and infliction of a fine. It is logical that no one is interested in paying fines. Threat of a possible fine might be a way for a customs officer to force out a bribe as well.

**5. Customs deals with state orders.**

As for any state institution, it is important for customs to update the existing fixings, as well as to insure managing activity. This is impossible without state orders.

As the previous analyses show, customs activity is connected with any known risks areas of corruption. This means that the elimination of corruption and derogation of the corruption risk is a prior task for customs. The social inquires regarding the level of corruption in state institution and the opinion of society provided by the World Bank in 1998 and by Delna (the Latvian chapter of Transparency International) in 1999 witness for the necessity of active combat to decrease the level of corruption in customs.

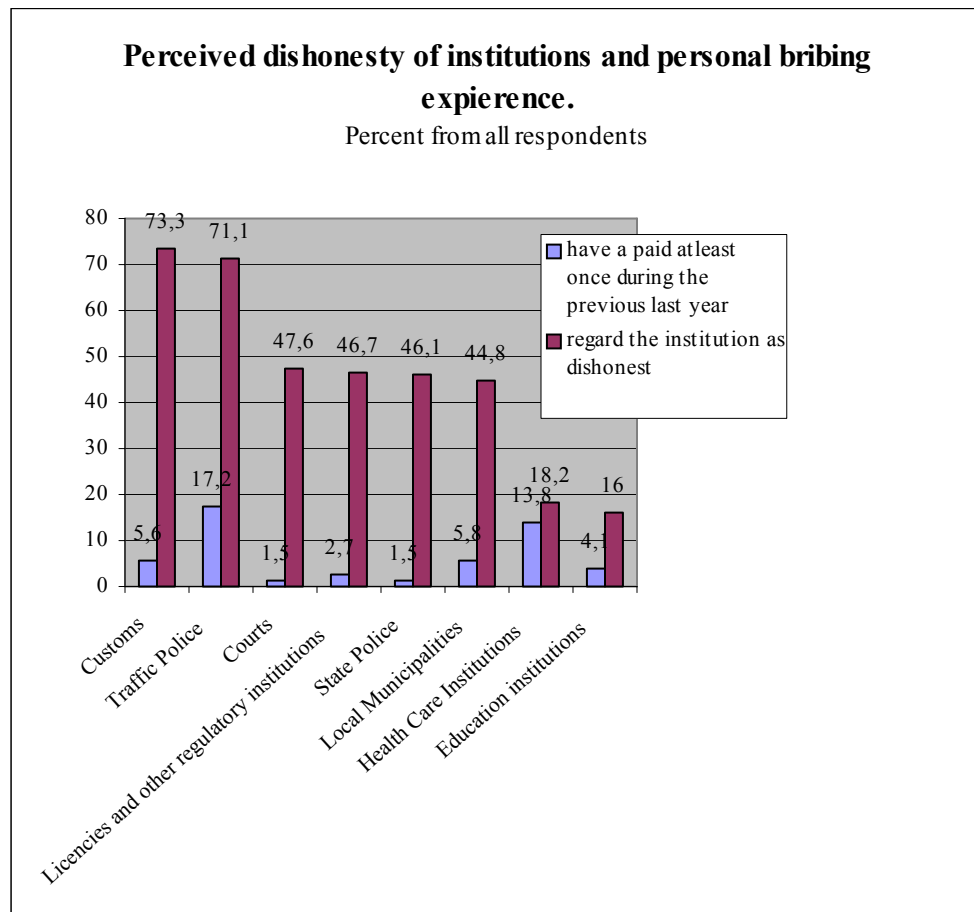
**Table 1: Views on the six most dishonest institutions: surveys by the World Bank and Delna - Transparency International Latvia**

<i>Survey carried out by Delna in 1999</i>	<i>Survey carried out by WB in 1998</i>
1. Customs (most dishonest)	1. Customs (most dishonest)
2. Traffic Police	2. Traffic Police
3. <i>Lattelekom</i>	3. <i>Lattelekom</i>
4. Privatisation Agency	4. Government
5. State Real Estate Agency	5. Parliament
6. <i>Latvenergo</i>	6. Police
7. Courts	7. Courts

Graph 1 shows the results of a survey of experience of corruption commissioned by Delna in 1999, according to which only one to five percent of respondents had encountered corruption in most State and municipal institutions, while 45-75 percent of the population considers these same institutions dishonest (customs respectively – 5.6 and 73.3).<sup>2</sup>

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<sup>2</sup> TI Latvia, *Face of Corruption in Latvia*, Latvia, 2000.



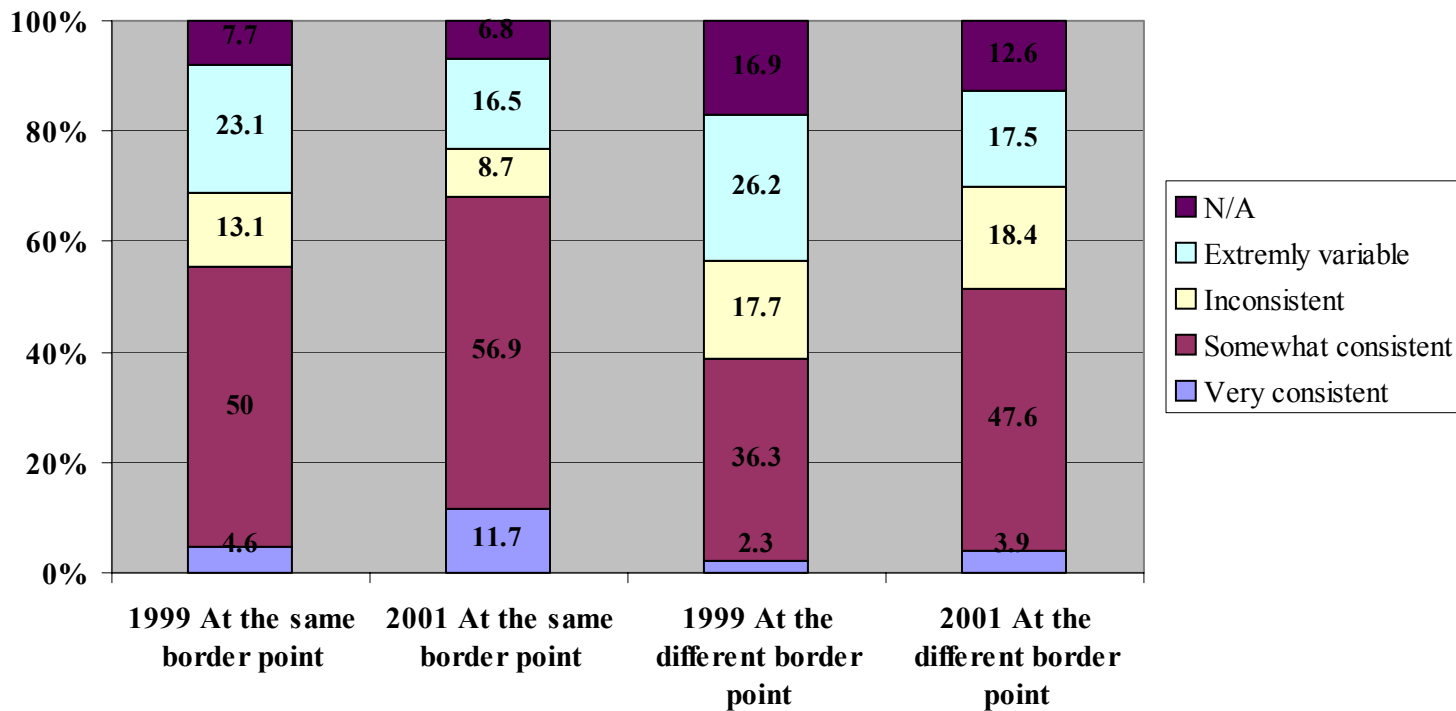
**Source:** "Face of Corruption in Latvia", *Delna* (TI Latvia), 1999

In 1998 there were started systematic and all-embracing activities for the elimination of corruption. The plan had been worked out, which is actualized every year.

As the following investigations show, the completed activities had a positive effect. The analysis of Latvian business environment of 2001 by Latvian development agency showed, that in comparison with the year 1999 there is an achievement in the area of fighting corruption in customs (see Graph 2).

**Graph 2: Perceptions of consistency of shipments at the same border points and at different border points, 1999–2001**

**How would you rate the consistency of treatment of similar shipments by customs?**



**Source:** 1999 and 2001 Surveys on the Business Environment in Latvia,

The data of the investigation witness, that in two years there has been achieved progress in consistency of customs decisions. The total opinion of businessmen, who are often involved in international trade, is that consistency of customs decisions in the period from 1999 till 2001 had raised by 12,9%. The consistency of customs decisions is a precise indicator, which attests the corruption level and corruption possibilities at customs.

The Open Society Institute in Report of Monitoring the EU Accession Process: Corruption and Anticorruption Policy in Latvia in November 2002 marks progress in the elimination of the level of corruption in Latvian customs:

[T]here (Latvian customs) has been a broad improvement in all aspects of customs procedures and clearance in recent years. Changes introduced include: simplified declarations for certain types of movements of goods; the introduction of a system of electronic declaration of goods (although full implementation is hindered by the absence of a law on electronic signatures); more precise delineation of duties and authorities of customs officers; and a cooperation scheme with the Border Guard. In addition, specific anti-corruption measures have been introduced, notably rotation of staff.

There is a viewpoint, that corruption might be divided in 2 levels:

1. 'petty' or survival-level corruption, practised by government employees who are poorly paid and who therefore are dependent on small presents to support their families;
2. 'large-scale' corruption, where senior officials make decisions involving large sums.

While analysing the situation in customs, it is sufficient to mark out the medium level.

The consequences of the 'petty' corruption often are a social view on an institution or a state in total. Undoubtedly, that the main cause for that are low wages, although that can't be the explanation for the corruption (even 'petty'), because, if such a practice is formed up in an institution or a state, it might cause crucial malformation in the society, in the social view on the judicial state, permissiveness of the officers will grow, as well as the confidence of the society to the state will fall. The authorities usually are not willing to handle 'petty' corruption, if that measures from 10 to 100 Euro, because the society does not consider it a serious combat against corruption, because the amount of the bribe is not crucial. This causes such a situation, when minor corruption is not being punished and it becomes a norm. There have been such situations in practices, when customs officer was offered a bribe of 10 Euro, but when the client's action was checked later, it had been stated, that the client had not broken the law. When asking, why did he offered the bribe, he answered, that he has heard that for bringing goods over border customs must be paid to. This shows the attitude of the society.

If there is no combat organized against 'petty' corruption, as well as if there are no mechanisms in place to inform society on negative consequences of corruption, it might become a norm for the officers and result in medium – level corruption.

The later differs from 'petty' corruption in size. If a customs officer for taking or not-taking some action charges 10 Euro – that is 'petty' corruption. If during a day there is a number of such actions, and the total bribe amount is large enough – that should not be considered 'petty' corruption. The problem is that each of these cases separately is 'petty' corruption and there is no authority interest because of the small amount the bribe. Only increasing the wages cannot eliminate the medium- level corruption, because that is the style of work. To eliminate that, there is a need to use complex methods.

Sadly, but it has to be stated, that by the explanations of Appendix A of OECD Convention, in the context of "payments made "to obtain or retain business or other improper advantage"" it is said, that small payments are not to be considered a crime.

It cannot be agreed to such position, because:

- The definition of "small "facilitation" payments" is hard to define, because there are crucial differences in the development level of the economically developed countries and transition economies. For instance, for an EU businessman a payment of 100 Euro might not be crucial, but for a Latvian customs officer it constitutes the largest part of his wage;

- It is clear to see, that the recognition of such practice allows foreign businessman to carry on the book such a payment as a legal payment;
- In some cases non-crucial sum by consideration of a foreign businessman in a state allows him to gain advantage against the local businessmen;
- This saps the overall social perception of corruption as “the plague of century” and depresses the overall combat against corruption.

In a ‘large-scale’ corruption is connected with a crucial influence on an interested side, and causes lose to the national economics and the overall development of a country. However, it is hard to provide evidence in the area of customs. The basic principle of corruption is a co-operation of two interested persons. In a large scale both sided are interested to keep silence about the fact of corruption that is why usually the facts bribing are revealed only when a customs officer forces out a bribe. In the course of criminal investigations involving spoofing large amounts, only in few cases has the bribe-taking by a customs officer been proved. In most of the cases customs officers are charged with non-taking of duty obligations or similar offences. While the investigation of this case shows that a bribe had been given, none of the sides acknowledges the fact of bribing.

One of main causes of corruption is the increase in ‘petty’ corruption resulting in medium-level corruption. If a junior customs officer is in the habit of taking bribes, when promoted to a higher grade with larger opportunities and influence, he will be morally prepared to take bigger bribes.

In order to diminish ‘large-scale’ corruption, it is necessary to implement the totality of activities with emphasis on raising ethical standards, improving internal control and insuring publicity.

### **Main achievements**

For reaching higher efficiency of collecting customs payments, the State Revenue Service<sup>3</sup> manages activities to decrease and avoid corruption in customs offices.

Corruption prevention in Latvian customs is provided in accordance with the Arusha declaration<sup>4</sup> concerning integrity in customs. This declaration was adopted by the World customs organisation in 1993. The Arusha declaration states twelve principles that must be observed to prevent corruption. The Latvian customs has the Action Plan of Corruption prevention that is strongly based on Arusha declaration concerning integrity in customs.

### **Legislation**

The integration of Latvian customs legislation into the EU legislation in the context of elimination of corruption enables to adjust the local legislation with the life-tested principles, making it visible and accessible.

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<sup>3</sup> In Latvia, tax and customs administrations have been joined in one state institution – State Revenue Service of the Republic of Latvia.

<sup>4</sup> In Annex Nr.1.

Visible and unambiguously accessible legislation is a fundamental tool to the elimination of corruption opportunities. Adjusting of the legislation eliminates possible conflicts between customs officers and customs clients. This diminishes the opportunities for customs officers and clients to expound legislative acts differently. In some cases customs officers perform such interpretation to arise troubles for a client. Customs clients are forced to tackle such problems offering a bribe to a customs officer.

Latvian customs is not in charge of framing-up the customs legislation, which is to be handled by Customs Legislation Unit of The Financial Ministry of Latvian Republic. This year the following documents have been framed-up, that are to adjust customs legislation:

The following regulations of the Cabinet of Ministers have been adopted in 2002:

- *“Procedure by which the customs regime – re-exportation shall be carried out”* in force from 01.07.2002.,
- *“Procedure by which the customs regime – abandonment to the Exchequer shall be carried out”* in force from 01.07.2002.,
- *“On returned goods”* in force from 01.07.2002.; regulation is in align with the Commission Regulation 2454/93 and prescribe the procedure by which the goods previously exported from the customs territory of the Republic of Latvia, shall be recognized as returned goods and exempted from customs duties,
- *“Procedure by which the customs regime – destruction shall be carried out”*, in force from 01.07.2002.,
- *“Customs declaration procedure and simplified clearance”*, in force since 09.03.2002; regulation is in align with the Commission Regulation 2454/93 and prescribe the procedure by which natural and legal persons declare goods in customs office, the procedure by which simplified clearance procedures shall be applied.
- *“Procedures for Application of a Summary declaration and Temporary Storage of Goods”*, in force from 01.07.2002;
- *“Procedure by which the SRS assigns deferment of payment of customs duties and by which these amounts are summarised”*, foreseeing deferred payment of duties till 30 day; will come in force on 01.01.2003;
- *“Regulation concerning free zones and free warehouses”* prescribing the procedure for input and withdrawal, control and accounting of goods in free zones and free warehouses, according to the European Commission Regulation 2454/93; in force since 01.07.2002;
- *“Procedure by which the customs procedure – exportation – shall be carried out”*, in force since 01.07.2002.;

Under development are the following regulations of the Cabinet of Ministers:

- *“The regulations regarding the rules of origin of the imported goods, the particulars of the certificate and the procedure for the application of the GSP 0% rate”* elaborated following the adoption of amendments to the law *“On Customs Duty (tariffs)”* on 22 November 2001.; prescribe the procedure by which the rules of the

General Preference Regime will be applied to import from the least developed countries; will come in force in October 2002.;

- *“Procedure by which the customs procedure – transit – shall be carried out”*, it is planned that it will come in force in October 2002.;
- *“On customs guarantees”*, it is planned that it will come in force in October 2002.;
- *“Procedure for issuing expert opinions regarding commodity conformance with the Combined Nomenclature Code of Latvia (BTI) or origin of goods (BOI)”* - it is planned that it will come in force in October 2002.

One of the major corruption risks is a high rate of customs duty, as well as of other duties (the Excise, Natural Resources Tax). Corruption and spoofing of businessmen goes hand by hand. Sometimes it is easier and cheaper for businessmen to bribe a customs officer than to discharge all duties or - to avoid paying customs duties by wrongly declaring goods at customs. Wrong declaration of goods at customs brings risks, that customs officer might reveal the cheating during inspection of cargo.

To eliminate this corruption risk, Arusha Declaration suggests tax administration of the countries to scale the lower possible rates of customs duties. Latvia has closed many Free-Trade Treaties with different countries, which caused the cut in customs duties rates. After joining the EU the situation will change fundamentally. International trade with the EU will not be a subject to customs clearance with exception for some groups of goods, for instance, goods liable to Excise. In the same time, there will be an increase in duties regarding non-EU member countries aiming the protection of the EU home market. In such a situation intensifying the existing internal systems of control and outward audit can ensure the elimination of corruption risk.

The limitation of the freedom of action of officers is essential for elimination of corruption risk. If customs procedures are not defined clearly and are complicated, or if there are no clear terms of reference for customs officers, or the procedure of running some activities is not clearly defined, than freedom of action of officers is virtually unlimited.