

EAST AFRICAN COMMUNITY
SECRETARIAT



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EAST AFRICAN COMMUNITY REGIONAL CUSTOMS AND TAX CODE OF ETHICS AND CONDUCT

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EAC CUSTOMS AND TAX CODE OF ETHICS AND CONDUCT

1. BACKGROUND

Customs generally deals with four key issues: revenue collection, community protection, trade facilitation and protection of national security. To effectively deal with these issues, a high level of integrity is critical. The presence of corruption can destroy the legitimacy of Customs administrations and severely limit its capacity to accomplish its mission. Customs administrations operate in an environment where the incidence of corruption obtains and its officials are particularly at risk.

Efforts of the World Customs Organization (WCO) and member countries in formulating and implementing anti-corruptions strategies are contained in the Arusha and Maputo Declarations:

The Arusha Declaration sets ten-points that customs integrity programme must address:

- i) Leadership & Commitment
- ii) Regulatory framework
- iii) Transparency
- iv) Automation
- v) Reform and Modernization
- vi) Audit & Investigations
- vii) Code of Ethics and Conduct
- viii) Human Resource Management
- ix) Morale and Organizational Culture
- x) Relationship with the Private Sector

As provided for in the Arusha Declaration, Customs employees should be issued with a Code of Ethics and Conduct, the implications of which should be fully explained to them. There should be effective disciplinary measures, which should include the possibility of dismissal.

The EAC Customs and Tax Code of Ethics and Conduct has been designed in line with the Maputo Declaration which among others, commits Customs administrations to “*Develop and implement appropriate Codes of Conduct in Customs and revenue administrations, the private sector and other stakeholders which clearly set out in very practical and unambiguous terms the behaviour of all Customs and revenue officials, the private sector and other*

stakeholders”. The EAC Customs and Tax Code of Ethics and Conduct shall compliment national Customs and Tax Administration agenda on Integrity.

This Code of Ethics and Conduct has been formulated to help EAC Customs and Tax Officials to conduct themselves professionally, be of high integrity and act in an ethical manner in private and in the course of their duty.

The 17 Principles of this Code of Ethics and Conduct are:

1. Honest and Integrity
2. Conflict of Interest
3. Professional Behavior
4. General Conduct and Behavior
5. Accountability
6. Confidentiality and use of Official Information
7. Transparency
8. Improper and Undue Influence
9. Abuse of Office
10. Ethical Decision-making
11. Fairness and Equity
12. Sexual Harassment
13. Political Engagement
14. Work Environment
15. Gifts and Hospitality
16. Private Financial Dealings
17. Dealing with Official Money

Each of these principles is described in more detail below. EAC Partners States Customs and Tax Administrations shall review and actively contribute to this Code of Ethics and Conduct and further develop it in order to specifically address evolving integrity issues.

2. OBJECTIVES

This Code of Ethics and Conduct sets minimum requirements of conduct of Customs and Tax Officials within the Community in the course of carrying out their functions. It is designed to inculcate a culture of integrity within Customs and Tax Administrations in the EAC region to enhance professionalism, stakeholder acceptability and to

enhance internal operational effectiveness. It affirms the EAC Customs and Tax Administrations commitment to application of integrity in all its processes. The overall purpose of the Code of Ethics and Conduct is to guide the behaviour and conduct of EAC Customs and Tax Officials and foster integrity. Integrity according to WCO is defined as: “A positive set of attitudes which foster honest and ethical behavior and work practices”. The specific objectives are:

- To assist Customs and Tax Officials to understand the standards of conduct that is expected of them.
- To guide Customs and Tax Officials to act in a way that enhances public confidence in the integrity of Customs administrations.
- To build and maintain a strong integrity culture among EAC Customs and Tax Officials.
- To promote compliance with all EAC laws and regulations, procedures, policies and practices.

3. SCOPE

This Code of Ethics and Conduct covers key behavioural, ethical, legal and personal conduct principles as well as the administration of the code. The Code of Ethics and Conduct applies to all EAC Customs and Tax Officials.

4. GENERAL RULES

All Customs and Tax Administration employees shall comply with the Code of Ethics and Conduct. In particular, Customs and Tax Administration employees should:

- Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.
- Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.
- Take time to read and understand the Code of Ethics and Conduct and the implications of non-compliance.
- Not hold financial interests that conflict with the conscientious performance of duty.
- Not engage in financial transactions using non-public Government information or allow the improper use of such information to further any private interest.
- Not, unless an exception is provided for in the Code of ethics and conduct or any acts, laws, regulations, determinations or directions, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by Customs, or whose interests may be substantially affected by the performance or non-performance of the employee's duties.
- Observe all relevant acts, laws, regulations, determinations and lawful directions that relate to the performance of official duties and avoid any action creating even the appearance that they are violating any acts, laws, regulations, determinations or directions.

- Treat colleagues and members of the public professionally and with courtesy.
- Act impartially and not give preferential treatment to any private organization or individual.
- Avoid waste and misuse of public resources.
- Put forth honest effort in the performance of their duties in compliance with all laws, policies, statutes, rules, regulations and in accordance with their Code of ethics and conduct.
- Not knowingly make unauthorized commitments or promises of any kind purporting to bind Customs.
- Not disclose or use non-public information learned in the course of their official duties to benefit themselves or others.
- Not use public office for private gain.
- Protect and conserve Government property and not use it for other than authorized activities.
- Not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- Disclose waste, fraud, abuse and corruption to appropriate authorities.
- Satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as taxes that are imposed by law.
- Behave in a manner that reflects positively upon, and will be a credit to, both Customs and its employees.

5. PRINCIPLES

The EAC Customs officials shall be guided by the following principles:

- a. **Honest and integrity** – Customs and tax administration officials shall perform their duties with integrity, skills, intelligence, courtesy, impartiality and care in a consistent and professional manner. To ensure a high standard of service is maintained, all employees shall observe high standards of honesty, impartiality, character and conduct to ensure the proper performance of Government business and the continued trust and confidence of the public.
- b. **Conflict of interest** - Customs and tax administration employees shall not engage in any activity that may lead to conflict of interest.

When an actual, perceived and/or potential conflict of interest arises, employees shall advise the appropriate designated office, and ensure their official duties do not place them in a position where allegations of unfairness may be made. All employees shall be subject to the recusal procedures within Customs and Tax Administration to avoid or remove oneself from participation in any situation that could

lead to an actual or apparent conflict of interest. If a decision is made not to totally remove the staff member from the situation, the procedures should also allow for the appropriate identification and management of the situation to an appropriate resolution.

Employees may invest in shareholdings or other securities, however, employees may not participate in an official capacity in any particular matter in which they or anyone whose interests are imputed to them has a financial interest, should the particular matter have a direct and predictable effect on that interest. The financial interests of the following persons shall generally serve to disqualify an employee to the same extent as if they were the employee's own interests: the employee's spouse; the employee's minor child; the employee's general partner; an organization or entity which the employee serves as officer, director, trustee, general partner or employee; and a person with whom the employee is negotiating for, or has an arrangement concerning, prospective employment. Furthermore, employees must not be involved directly or indirectly in any official decision which could affect the value of their own investments.

Likewise, employees shall not use any non-public information obtained in the course of their duties to advance their private interests or those of others. If employees believe there may be a conflict of interest in respect to any private or family shareholdings or securities, they must advise the appropriate ethics official(s) in their Customs organization.

Employees must disqualify themselves from working on particular matters affecting the financial interests of potential employers with whom they are seeking employment.

Where legislation or lawful directions do not forbid outside employment, employees wishing to hold outside employment must obtain prior written permission from the relevant authority. In such situation, the employee shall demonstrate that such employment will not create a conflict of interest or adversely affect the performance of the employee's official duties. All outside work must be performed outside official working hours and without making use of Government property or resources. In addition, employees may not be paid by someone other than the Government to perform their official Government duties.

Any employee who has a family member (spouse, child, or other relative, by marriage or blood, who is dependent upon the employee and/or resides in the employee's household) employed in a category of employment in which the employee could not engage as outside employment because of the likelihood of a conflict of interest (i.e. a Customs employee could not work for a Customs

broker, international carrier, bonded warehouse, etc.), shall file a report through his/her appropriate designated office, for a determination as to whether the employment constitutes a conflict of interest or the appearance of a conflict of interest with the employee's performance of official duties.

Upon exit from employment, an employee shall be required to sign a contractual agreement which should prohibit the use or disclosure of privileged or confidential information known to them by any reason of their service within a specified period of time.

- c. **Professional behavior** – Customs and tax administration officials shall comply with all the relevant laws and regulations and shall avoid any misuse of discretionary powers in their professional judgment.

Employees who commit offences shall be subject to disciplinary action in accordance with laid down disciplinary procedures.

Employees shall not inappropriately use their official positions or relationships to influence or interfere with any contemplated action or investigation taking place.

Employees who believe they are being instructed by a superior or a colleague to act in a way which is illegal, improper, unethical, or is in any way in breach of the Code of Ethics and Conduct in the course of their official duties, shall report the matter to a designated member of senior management or their department/agency's investigative unit.

Employees shall be specifically advised of and afforded appropriate official protections for such actions. In this regard, information exchange mechanisms, if they exist, should be free of any undue influence.

In cases where allegations are made against senior officials, it may be necessary to refer the investigation to a body external to Customs. To ensure fairness and guard against malicious allegations, no one connected to the officer or working with the officer should take part in the investigation.

- d. **General conduct and behavior** – Customs and tax administration officials shall conduct themselves with dignity both in public and private.

All employees shall identify themselves in correspondence and on the telephone, as appropriate. In addition, employees who come into contact with the public during the course of their work shall wear a nametag or some form of officially assigned identification, except when the wearing of a nametag or badge may endanger the personal safety of the employee, or when the wearing of a nametag may compromise or hinder a covert operation. Security badges, keys, passwords and the like are to be safeguarded by the employee to whom they have been issued, and must be surrendered to Customs upon termination of employment.

Customs officials shall exercise their duties with respect, due professional care, courtesy and shall act with fairness and equity in all their dealings with stakeholders.

All employees shall be required to immediately report to or notify the relevant authority any attempts by members of the business community who offer inducements or other benefits in exchange for favours or special treatment.

- e. **Accountability** – Customs and tax administration employees shall at all times be held responsible for all decisions made and actions taken in execution of their duties.
- f. **Confidentiality and use of Official Information** – Customs officials shall not disclose official information to third parties without proper and specific authority.

Employees shall not disclose (without proper authority and lawful purpose) any non-public official information that has been obtained in the course of their official duties, such as proprietary business information and/or sensitive information related to enforcement of the law retrieved from automated Customs systems. This rule extends to all documents, records, and information stored manually and electronically. Likewise,

Customs employees are required to protect the privacy of individuals and companies in official dealings. Engaging in any of the above activities is prohibited and may lead to disciplinary action and/or prosecution.

- g. **Transparency** – Customs and tax administration officials shall recognize the public's right to access public information and shall explain reasons for decisions and actions taken.

- h. **Improper and Undue Influence** – Customs and tax administration officials shall not take advantage of their official duties, powers, status or authority in the execution of their duties.

Employees shall not be allowed to purchase excess/retired articles of general Government property that are on sale to the public, such as publications, surplus supplies and goods sold at Government sales. Employees shall be expressly prohibited from making purchases at such Customs sales and/or auctions, either directly or through a third party, when the property is owned by the Government and under the control of Customs, when it is seized or forfeited under the direction of Customs and/or incident to the functions of Customs.

- i. **Abuse of office** – Customs and tax administration officials shall desist from the use of office for personal gain or benefit of a group.

Employees shall not use or permit the use of their Government position or title, or any authority associated with their public office, in any manner that could be construed to imply that the employee's agency or Government sanctions or endorses his/her personal activities or those of another; or to endorse any product, service or enterprise.

Unless specifically and reasonably authorized, the use of Customs resources and property, as well as services paid for with official funds for personal purposes or gain is prohibited. Such resources may include but not limited to facilities (including telephones, photocopiers and office equipment/supplies), vehicles, vessels, machinery and equipment, computers and computer software, security passes and official stationary, and stamps and postal services.

All Customs employees are required to make adequate security arrangements for Customs assets under their control.

- j. **Ethical decision making** – Customs and tax administration officials shall at all times make sound decisions based on generally accepted ethical standards. They shall at all times be objective in the process of decision-making.

- k. **Fairness and equity** – Customs and tax administration employees shall at all times consider issues consistently, promptly and fairly in accordance with established procedures, in a non- discriminatory manner.

Employees shall not engage in any discriminatory practices based on race, national or ethnic origin, religion, age, sexual orientation, disability or any other discriminatory practices.

l. **Sexual harassment** – Customs and tax administration employees shall not engage in unethical and unbecoming behavior such as bullying, intimidation, use of rude, abusive and obscene language, indecent dressing, and sexually suggestive gestures which constitute sexual harassment.

m. **Political engagement** – Customs and tax administration employees shall not engage in partisan politics.

Employees should follow Governmental guidance to ensure that official activities are not compromised, or give the appearance of being compromised, due to inappropriate political activities or public comments in the workplace. Employees shall abide with rules governing political neutrality. Employees shall not make inappropriate comments in public on matters relating to sensitive internal Government policies and programmes.

n. **Work environment** – Customs and tax administration employees should always, as a priority, consider their own safety and the safety of their colleagues when undertaking their duties. If a situation arises where it would be wiser to withdraw and seek additional support from trained personnel, then Customs employees should do so. In all cases, such action should be immediately reported to senior management as soon as it is safe to do so.

All employees shall take an active role in ensuring the Customs work environment is free of discrimination and harassment of any kind, including sexual harassment.

Employees shall take their own responsibilities seriously, contribute to workplace safety and promptly report any health or safety concerns or related breaches of rules or regulations to the relevant authority.

Any employee who is found to use, possess, sell and/or distribute illegal drugs shall be subjected to appropriate disciplinary action in accordance to laid down disciplinary procedures.

Employees shall not report for duty or remain on duty or perform duty while under the influence of alcohol.

Employees shall not purchase or consume alcoholic beverages, on or off-duty, while in uniform or wearing any form of official identification.

Employees shall not smoke in areas where it is prohibited.

At all times, clothing should be appropriate to the duties and generally established standards and should be kept neat, clean and tidy. Employees issued with uniform shall comply with the relevant guidelines when wearing them and be responsible for keeping their uniform clean and neat. Uniformed employees shall report for duty and remain in the uniform assigned for their work location and duties, unless otherwise authorized.

- o. **Gifts and Hospitality** – While it is important to maintain contacts with outside groups, it is vital that Customs employees be seen as being free of any form of bribery or corruption. The offering of gifts and/or other benefits to a Customs employee by individuals or organizations may be, or may appear to be, an attempt by the outside source to influence a decision which a Customs employee is expected or required to make. Therefore gifts and hospitality shall not be accepted or solicited for.

Staff involved in procurement must take special care to ensure they do not contravene applicable rules and safeguards or behave in any manner that would render them liable to allegations of unfair purchasing practices. As such, staff should not, under any circumstances, accept gifts or hospitality from current or prospective suppliers.

- p. **Private Financial Dealings** – Customs and Tax Employees shall satisfy all just financial obligations, especially those that are imposed by law, including paying their taxes.

Private financial transactions between employees are discouraged and those between supervisors and subordinates are strictly prohibited. This includes making loans to staff members and/or acting as a guarantor, or providing security on loans.

- q. **Dealing with Official Money** – The receipt and custody of any payment to the Government should be restricted to those who need to do so in the course of their official duties.

In normal circumstances, no other employee should accept money payable to Customs and Tax Administration unless specifically authorized to do so. When such authority is given, or is a part of standard employee responsibilities, it should be confirmed as such in writing. Any money accepted on behalf of Customs and Tax Administration shall be accounted for immediately and in accordance with formal procedures.

- r. **Wealth Declaration** – all Customs and Tax Employees shall be required to declare their assets and liabilities and shall be subjected to periodic vetting and lifestyle audits.

6. ADMINISTRATION

This Code shall be administered by Commissioners General/Commissioners of Customs and Tax Administrations in conjunction with the EAC Director of Customs.

7. REVISION

This Code of Ethics and Conduct shall be updated from time to time and revised after every three years or when need arises.

CONCLUSION

To maintain public confidence, it is therefore vitally important that employees maintain the highest standards of integrity and conduct. A key element in any integrity programme shall be the development, issuance and ready application of a comprehensive Code of Ethics and Conduct which sets out, in very practical and clear terms, the standards of behaviour expected of all Customs and Tax Administration employees. To fully comply with the Code, employees shall:

- ▯ perform duties with care, diligence, professionalism and integrity;
- ▯ strive for the highest ethical standards;
- ▯ behave at all times in a manner that enhances the reputation of Customs;
- ▯ behave in a manner consistent with the Code of Ethics and Conduct;
- ▯ support and encourage others to comply with the Code of Ethics and Conduct;
- ▯ report any behaviour that is inconsistent with the Code of Ethics and Conduct

In addition, all supervisors and managers have a particularly important role to play and shall:

- ▯ strictly adhere to the Code of Ethics and Conduct, thus leading by example;

- ensure staff are familiar with the relevant legislation, required standards and departmental procedures and instructions;
- deal with employees fairly and in good faith;
- apply the Code of Ethics and Conduct in an objective manner; and
- take appropriate action when employees fail to adhere to the required standards or demonstrate behaviour that appears to be inconsistent with the Code of Ethics and Conduct.

Behaviour inconsistent with the Code of ethics and Conduct should not be considered acceptable and should be addressed in a timely manner. This could result in disciplinary action up to (and including) removal, in accordance with agency-defined Customs disciplinary guidelines, policies and procedures.

INTERPRETATION OF TERMS

- **Integrity:** adherence to moral and ethical principles acceptable as being good.
- **Conflict of interest:** A situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self- interest and professional interest or public interest. Conflicts of interest, or the appearance of a conflict of interest, may arise from official dealings with, or decisions made in respect to, individuals who share private interests. For example, membership of societies, clubs, other organizations, or even family relationships can create conflicts of interest or the appearance of a conflict of interest.
- **Confidentiality:** ensuring that information is accessible only to those authorized to have access and is protected throughout its lifecycle. Official information includes any information the employee acquires by reason of employment, that he or she knows or reasonably should know, that has not been made available to the general public.
- **Improper and undue influence:** involves one person taking advantage of a position of power over another person. It is where free will to bargain is not possible.
- **Sexual Harassment:** unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. It includes unwelcome physical, verbal or nonverbal conduct.
- **Political Engagement:** Restrain from openly professing political inclination.
- **Abuse of Office:** Any action intended to obtain a private benefit for self or to a group to which one owes allegiance or to disadvantage others.
- **Ethical Decision Making:** The process of choosing the best alternative for achieving the best results or outcomes that comply with individual and social values, moral and regulations.

- **Work Environment:** All employees have the right to a healthy and safe workplace, free of discrimination and harassment, in which individual and organizational objectives can be met. A good working environment is one that is fair and equitable, is safe and supportive, is free of alcohol and drugs, is free of harassment and discrimination, is respectful of individual differences and cultural diversity, provides honest performance feedback and development opportunities and is supportive of staff participation in the decision-making process.