

## Ciudad Juarez Customs Agencies "Infractions more committed in the customs operations 2017"

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### Abstract

In January, the Tax Administration Service informed through the media that it will implement the electronic audits and with this, one of its main objectives is to streamline the audits and cover the largest possible number of taxpayers to be audited, using only cross reference of electronic information. This measure also applies in customs matters, since in this area the technology is more present with the SEA (Electronic Customs System), for that reason the customs operations carried out by customs agencies should be more efficient and more attention to detail. But customs are common to make mistakes, what is surprising in this area is that any error is an fined with consequences, ie typified or fined. In Ciudad Juarez there is a number of customs agencies that currently carry out imports and exports of various products, which involves a series of stages to import a merchandise, from the classification of entry document elaboration, tax payments and other activities. The present investigation seeks to analyze and deepen in detecting which are the most committed infractions in the customs agency and with this to have a panorama of if these companies are prepared for the audits of the SAT.

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**Definition of the problem**

In the area of foreign trade, technology is present with the electronic customs system and the software systems used by the agencies to make work more efficient and, for this reason, to eliminate or reduce to a large extent errors and mistakes when carrying out foreign trade operations. . The problem is based on the fact that even with these tools and constant trainings to the customs agencies mistakes and mistakes that lead to a customs violation at the moment of importing or exporting a merchandise and can cause the imposition of a fine, are still very expensive. , as well as risky for the operation.

**Objectives and goals**

As previously mentioned, the customs agencies with the implementation of their computer systems and the modernization of customs in Mexico should not have problems when importing and exporting a merchandise. And yet this is still happening for this reason the objective of the investigation is to determine the causes and types of infractions committed by the customs agencies and with this to have a clear picture and implement an improvement proposal.

**Justification**

The purpose of this project is to raise awareness of the new audit policies of the Tax Administration Service 2017 with the implementation of electronic systems, as well as to detect and diagnose foreign trade companies that have had problems entering into the electronic aspect with the investigation it will be possible to have a plan of those conducts and acts that are frequent in the customs agencies of errors in the operations of foreign trade.

**Theoretical framework**

In the review of the literature, it is observed that the topic of infractions and sanctions is addressed by (Hernández, 2009) in his work, a practical study of the infractions and sanctions that sustain the elements that each infraction must contain. The great authors like (Mercado, 2000) and (Roman, 2001) in their work Foreign Trade: theory and practice clearly define international trade as an exchange of goods and services. Another author who also defines foreign trade is (Pérez 2010), (Martínez 2016) broadly addresses the issue of international trade and groups CAAAREM in international trade. Another of the relevant is the one developed (Becerril, 2011) in his work faculties of verification, administrative procedure in customs matters and means of challenge, with respect to the customs duty we have the maximum master exponent (Carvajal, 2011).

**Methodology**

(Pilar Bautista) He mentions that the explanatory method is that which determines the causes of phenomena; they generate a sense of understanding that is highly structured. However, the descriptive method tries to describe phenomena, situations, contexts and events, that is, it details how they are and how they manifest themselves. They seek to specify characteristic properties. In the research that is presented, the descriptive method is applied because based on the description of the types of infringement and how they arise in a customs agency it is better to apply the descriptive method, we understand as the errors that the customs agencies comment in their work as a phenomenon that is why it is about describing the event of updating an infraction. And based on this, detect the causes of the problem.

**Auto - fiscal declaration**

In our country we have established the federalism system where citizens as in ancient Rome must contribute with taxes to the functioning of the country, which is why this obligation is established in art 31 fraction IV of our constitution. But up to where the government can exercise that power to impose taxes where the limit is established, the same article states that the payment of taxes must be proportional and fair, these two principles apply in fiscal matters and for this reason one of the particularities of the Mexican tax system where the taxpayer self-declares as provided by the CFF (Fiscal Code of the Federation) the ART 6 third paragraph, provides "Crespond to the taxpayers the determination of the contributions to their position, unless expressly stated otherwise. If the tax authorities must make the determination, the taxpayers will provide them with the necessary information within 15 days from the date of their causation". At the same time also the ART 36 LA (customs law) "

Those who introduce or extract goods from the national territory destinándolas to a customs regime, are obliged to transmit, through the electronic customs system, in electronic document to the customs authorities, a petition with information regarding the aforementioned merchandise, under the terms and conditions established by the Tax Administration Service by means of rules, using the advanced electronic signature or the digital seal, and shall provide an impression of the petition with the corresponding information, which shall bear the code printed of bars "these articles mention that the taxpayer declares and determines their contributions personally for this requires the advice of experts in the tax area.

But making the analysis of these two provisions we have a point of fragility, this because the person makes his own statement both in accounting and in foreign trade is exposed to make errors that are intentional or lack of experience or of knowledge in the area this is the reason why we will do the analysis of the chapter corresponding to the infractions.

**Electronic audits**

The authority has certain powers granted by law to determine that the taxpayers and as stated (Becerril 2011) the faculty of verification allows the authority to check that the self-determination of fiscal and customs obligations have been carried out in the import operations and export with this have fulfilled their tax obligations and can be defined as the mechanisms that are legitimized by the authorities the tax authorities in order to verify that taxpayers.

Jointly responsible, third parties with them have complied with the general provisions for this reason Article 42 of the CFF provides "The tax authorities in order to verify that taxpayers, jointly liable parties or third parties with them have complied with the tax provisions and, where appropriate, determine the omitted contributions or tax credits, as well as to check the commission of crime fiscale and to provide information to other tax authorities, will be empowered to ", the article is very clear and refers to several faculties of which we mention, the cabinet review, the home visit, among others, but in 2017 draws the attention of the new tool that will count the authority consisting of the electronic audit for it As part of the 95 commitments signed between the Federal Executive and the leaders of the main Mexican political parties in the month of December 2012, in the so-called Pact for Mexico, highlights the Collective Efficiency.

The aforementioned commitment includes simplifying the collection of taxes, increasing the taxpayer base and combating tax evasion and evasion. Therefore, on September 8, 2013, the Federal Executive presented the economic package for 2014, which included substantial modifications to the Income Tax Law (LISR) and the CFF.

These reforms were approved by the Congress of the Union during the month of October 2013. Among the reforms approved for 2014, specifically to the CFF, the authority became more mature powers to verify compliance with the tax obligations of taxpayers through the use of Information and Communication Technologies (ICT), such as the Tax Mailbox, Electronic Accounting and, of course, Electronic Reviews, to reduce informality, as well as to discourage fiscal evasion practices (the latter, by canceling digital stamp certificates and publishing lists of unpaid taxpayers, as well as those that invoice simulated transactions).

The rationale for proposing the creation of the Electronic Revisions, according to the initiative to reform the fiscal package for 2014, was that the cabinet reviews -as an audit process- were complex due to the volume of information presented by the taxpayers to the fiscal authority and at the time of up to a year that took to conclude. Because of the foregoing, the Federal Executive proposed that electronic revisions be made as a new control procedure, using the Tax Mailbox as a means to notify and require taxpayers, and that they use this tool as a means to send the required documentation and information to the tax authorities.

All within a deadline for that review of only three months. Also, as part of the reforms for 2016, approved by the Congress of the Union in October 2015, some aspects of Electronic Review were modified.

With this new faculty the authority seeks to make their work more efficient, but with a double intention of having information quickly and without using human resources.

### **The ict in foreign trade operations**

Just as the authority prepares to make its work more efficient by using ICTs as tools, there are other areas that began even before the same authority to prepare for the stage of the technologies and the customs agencies since they began. In past years, for example, the petition is not validated since it was attended to the import trade, that is to say, in the facilities of the customs

### **Implementation of computer systems for filling pedimentos**

In the customs operations previously the aduanals filled paper pedimentos using the stencil machine which had a function of printed in where to the impression of the petition and of extensive form that is to say in a leaf by regular official size. From 1986 onwards, some systems were started to generate invoices, such as the KAVEPA system, which also introduced the elaboration of the application in the system, another system that was implemented is the SOIIA system where it could already be done the validations pedimentos but more however the payments were made with check already last and currently the MAYA system is used in this system and an infinite number of electronic movements and document generation can be done and this is how the new technologies are presented in the customs agencies especially in pedimentos.

### **Implementation of computer systems in the tariff classification**

In the area of tariff classification remember that previously the customs agencies reviewed every day the official newspaper of the federation since the tariffs are published in the official gazette and the adaptation of the agreement of the harmonized system occurred in 1988 and in those times the tariff was divided in two, there was a law of tariffs for imports and another for exports, all this was changing but it is worth mentioning that the tariff classification tool has always been the LIGIE.

Since the law of the general import and export taxes that this law establishes the tariff rates to be paid for the import and export of products but, as previously discussed, the customs agencies began to implement computer systems in their operations and other areas of the classification is the tariff classification since it is made of through a software system that updates the information and continues It has the tariff rate in digital form in order to make the work more efficient and quickly.

### **SWMFT (Single Window of Mexican Foreign Trade)**

Since the nineties, world trade has grown twice as fast as the world gross domestic product, countries that attract foreign investment and boost foreign trade will have greater economic growth, however, to increase trade between countries, it is not enough to reduce or eliminate tariffs; It is necessary to implement customs modernization systems that reduce costs and increase international competitiveness. The countries with the best practices in foreign trade have adopted the Single Window system to facilitate trade and to enter the global modernization movement.

The single window is a tool that allows the sending of electronic information, only once, before a single entity, to comply with all foreign trade requirements. This is possible through the simplification, homologation and automation of the management processes.

In practical terms, the Single Window aims to streamline and simplify information flows between trade and government and provide significant benefits for all parties involved in cross-border trade. The Single Window is generally managed centrally by a governing body, which allows competent authorities and government agencies to receive or have access to information relevant to its purpose. In addition, the authorities and participating organizations must coordinate their controls. In some cases, the Single Window must provide means for the payment of corresponding duties, taxes and fees.

A curious fact in the implementation of the system is that the Tax Administration Service (SAT) and the Intersecretarial Commission of the Ventanilla, as expressed (Pérez, 2011) in its investigation application of the single window of foreign trade in Mexico, were monitored constantly the implementation of this electronic tool, in order to know if it is operating in a stable manner and if its response times to users is improving.

According to experts, the first day of the Single Window on June 1, 2011, there was a waiting time of approximately 40 minutes to one hour in the processing of Electronic Voucher (COVE), which caused discomfort among workers such as customers and customs agents. Even several workers commented that the power to generate a COVE was taking an approximate one or two hours to return, we have a client who handles over 90 invoices and mentioning that it is a COVE for each invoice, this would take a long time workers commented.

By 4:00 o'clock on the afternoon of June 1, the Confederation of Associations of Customs Agents of the Mexican Republic (CAAAREM) published the report that 29 thousand 264 COVE'S had been processed, of which 13 thousand 559 were pending, due to the delay that was presented. And it was to be expected, that the system was slow, if only in Nuevo Laredo there are more than 10,000 commercial operations per day”.

The VUCEM has been developed within a process of progressive releases, these releases allow the orderly implementation of the project and taking care not to hinder the operations of the companies and allowing a process of continuous learning and stabilization.

This window today includes in its platform all the dependencies involved in foreign trade and from this platform you can perform the procedures for example to request and generate a permit for secretary of economy can be done directly from the page as the procedure it is not to go to the dependence as it was done before, what it is about is the speed of the commerce as the image is seen.

<https://www.ventanillaunica.gob.mx/vucem/TramitesyRequisitos/index.htm>



**Figure 1** página principal de VUCEM

Note; the following image shows the menu of the secretaries that can be found on the VUCEM page, [www.ventanillaunica.gob.mx](http://www.ventanillaunica.gob.mx), 2017

This is how web systems were presented with which this document would be done through a computer, only emptying the data in the system, this would make the work more efficient and it would be done more quickly.

### Customs operations

Within a customs agency there are several activities with the purpose of importing and exporting a merchandise, from the promotion of the company to the delivery of the merchandise to its client, are the operations that make the work complex and the consequence of committing errors, but As we discussed earlier, it should not have been expected that the customs agencies have reinforced this work with the support of new technologies.

In the customs law in its art 35 “ For the purposes of this Law, customs clearance is understood as the set of acts and formalities related to the entry of merchandise into the national territory and its exit from it, which according to the different t regimes Customs established in the present ordinance, must perform before the customs, the customs authorities and those who introduce or extract goods from the national territory, whether the consignees, recipients, owners, holders or holders in the imports and the senders in the exports, as well as the customs agents, the electronic customs system “But in practice the procedure involves several difficulties,

1. The commercial invoice. At this stage, for example, for the import of a merchandise, a commercial invoice is required, which is drawn up by the merchandise owner and this document can be filled out with the request and the payment of the contributions, as well as generate their respective receipts. electronic value in the VUCEM, hence the customs agency insist with the seller of the goods to provide the necessary information.

2. Another activity is to classify the merchandise that is in charge of an expert called a classifier, this person with extensive experience and knowledge requests information that may be, plans, brochures, data sheet, photos, chemical tests all that is required for encode the merchandise.
3. Processing non-tariff regulations also requires effort and skill and this depends on the type of merchandise as we remember there are several secretaries who are responsible for various areas, for example, if meat is responsible for supervising this merchandise is SAGARPA, if it is gunpowder, the dependence will be SEDENA. All permits and certificates will be requested through the one-stop page, but this requires the capture of the information.
4. The important activity is the declaration before the authority of the operation that is performed and this is done through the filling of the petition, this document that has a certain degree of difficulty to fill it and like the tariff classification requires knowledge in the area of foreign trade, and above all a great precision and dexterity, also in this activity is used a web systems below we mention other activities that are carried out in a customs agency.

#### Activities of a customs agency.

Activities in an A.A.
Deliver documents to the carrier
Pay the fee
Create import file
Check seals and containers
Carry out an inventory of the goods in the warehouse
Scan documents
Validate pedimentos
Print COVES
Print PEDIMENTS
Make quotes
Give advice
Prepare market studies
Assist the importer
Guarantee taxes

**Table 1**

Note; In the surveys and visits made to the customs agencies, the following activities carried out by the customs agencies were collected (Salazar, 2017). These are some of the operations carried out by a customs agency with the support of new technologies, but as mentioned above, it is of great interest to know why there are still errors that frame a violation and therefore a fine.

#### **More committed offenses ciudad juarez customs agents mistake errors at the time of carrying out their customs operations**

The customs area is regulated by the customs law that establishes the guidelines that must be followed to import or export goods, as well as all formality issues, and establishes an EIGHT TITLE for infractions committed in operations where articles are highlighted. 176, 179, 182, 183-A, 184, 184-A, 186, 188, 190, here are included infractions that are discussed in agreement (Hernández, 2009) infractions are those conducts that have as purpose or result the violation or transgression of any rule or provision that has been issued as mandatory in customs matters and is sanctioned by the authority, of which at the time of conducting the survey for the investigation several interesting causes were detected that commented on the infractions. Likewise we will start from the most common to the least.

#### **Errors when filling out general data in documents.**

For this purpose, "Article 184.- Infractions related to the obligations of transmitting and presenting, information and documentation, as well as statements, who:

III. Transmit or present the reports or documents referred to in the two previous infractions, with inaccurate data or phalluses or omitting any data. "The text is clear when indicating that the person who declare inaccurately and omitting data, when using the systems, This is one of the most committed infractions in customs agencies, almost in most agencies this violation was detected for example at the documentary moment of the documentary review of an import loss, where rubber tires are declared, but it is observed in the block corresponding to the items, in the quantity of merchandise 22 rubber tires are declared but of different sizes, not containing it in the Motion and the Invoice presented the data that can identify each one of them.

At the documentary moment of the documentary review of an import loss, where rubber tires are declared, but it is observed in the block corresponding to the items, in the amount of merchandise 22 rubber tires are declared, but of different sizes, not containing it in the Motion and the Invoice presented the data that can identify each of them. This is at the time of filing the petition also other errors by updating this violation is the error at the time of arriving the general data of the taxpayer or the goods

### **Errors in the digital transmission of the data in it SEA (Electronic Customs System)**

In this same tenor This infraction is found in article 184, part VI of the L.A, which says: "Article 184.- Commit the infractions related to the obligations to transmit and present, information and documentation, as well as statements who: SAW. Transmit in the electronic customs system or record in the bar code printed in the request or in any other means of control authorized by the Tax Administration Service, information other than the one declared in said document or when these are submitted to the automated selection module with the badly printed bar code.

The lack of any data in the printing of the bar code will not be considered as different information, provided that the information processed to the aforementioned system is the same as that stated in the motion. "

As we developed earlier this type of infractions have started to be more frequent since the opening of the Single Window (VUCEM), since customs procedures are now carried out digitally, and is related to the infractions of Article 184 Fractions I which refers to the lack of documents and frac III referring to inaccurate data. And that upon being transmitted by the Customs Agent to the SAAI Module and not coinciding, one of the aforementioned assumptions can be made.

Example: From the physical and documentary verification made to the goods covered by the simplified impression of the petition, it is found that the customs agent transmitted four electronic documents with the following numbers COVE 12017RNZ6, COVE12017RU81, COVE12017RZA6 and COVE12017S1K5, only COVE12017RNZ6, they coincide with what is presented to digital dispatch does not comply with the provisions of Article 36, subparagraph a) of the Customs Law, for this reason the transmission of information information was incorrect. It is evident that at the moment of transmitting the information few people took the task of reviewing the electronic with the physical.

### **Inaccurate tariff classification**

Reference was made previously to Article 184 of the Customs Law, where the data declaration is erroneously falsified and data omitted, thus, the conduct of the incorrect tariff classification is updated as indicated above in the section on Tariff classification is required for this job great skill.



Coding a merchandise is very difficult and for the simple fact of not describing correctly the merchandise is updated in the same way the infringement for example; In a customs agency an infraction was found for not correctly describing the merchandise and incorrectly classifying it at the time of mentioning in the bean plastic bean order that is actually a bean can. This is clear, as the canister implies that it is plastic material and a tin that is aluminum, another case is that of adhesive tapes that are classified in the chapter of plastic when some tapes are paper as was previously embroidered this should not happen since a system is used software.

**Other infractions**

Other not so frequent but still commit the customs agencies are, those of declaring the value of the merchandise errors because in the request is added more value to the merchandise and market its value is lower price, other infringement is the address of the importers is very common that no one is in that address and finally the cancellation and suspension of the patent of the customs broker this infringement only occurred in two customs agencies as established in "ARTICLE 165. The patent of the customs agent will be canceled, independently of the penalties that may be applicable for the infractions committed, for the following reasons:

There. Indicate in the petition the name, fiscal address or the key of the federal registry of taxpayers of some person that had not requested the operation to the customs agent, or when these data are false or nonexistent and IX. Transmit under any title, the use or enjoyment of the patent or the rights consigned therein". In one of the cases, the customs agency "A" pays the customs agency "B" so that it can also carry out operations on behalf of agency

A, but if the customs agency B comments on any infraction, the direct party will be the customs agency A and therefore the patent is canceled for updating the infraction established by the aforementioned article.

**Population and sample**

This research is present, it was carried out using surveys and interviews with the customs agents and the workers that intervene in the area, as well as interviews and visits of the personnel of PRODECOM Ciudad Juárez and the population. Customs agencies were used to carry out various operations and for For this reason, customs agencies that carried out the importation of only one product, maquiladoras and marketers were discarded for which only 10 agencies, located in different points of this city, have participated because they have more commercial activity for this population and the following were taken into account: indicators:

- Location
- Service that renders
- Knowledge in the legal area
- That use software systems
- That has at least one infraction

Analyzing the results of this survey we could see that the most difficult question for them was "What are the most common infractions that you have?", And results are alarming because they show different answers. From this we can see the following numbers.

Infringement committed	Customs agencies
Inaccurate classification	5
Patent suspension	2
Inaccurate dances in the motion	8
Inaccurate data transmission	8
Error in the calculation of taxes	1
Other infractions	3

**Table 2**

These are some of the numbers thrown at us by the polls that since it is a small number it is not so difficult to confuse us as we can notice almost all of them have some infraction related to the transmission of the information.

### **Results and recommendations**

The results of this research claim that even if the ICT tools are used to facilitate their work, infractions continue to be committed due to various causes, one of them being the lack of attention in daily activities and this is mainly due to the workload that is assigned to each staff and it is difficult in a customs agency that there is no work other than the cause in the mistakes made it was detected that the clients provided the data in a wrong way and this generates that when filling the documentation does not realize that the merchandise does not coincide with what is declared with respect to the lack of experience with the new personnel as this has always been a great challenge for the companies, there are other causes such as the lack of motivation for the work and the daily work cause the worker to lose that attitude of work, for all these causes for which the infractions are generated we give the following recommendations:

#### **Second and third data capture review:**

In this recommendation that has already been implemented in some of the customs agencies that at the moment of the capture of the information once filled by the worker is reviewed in, more than two or three times by the person in charge of the area or by another person who perform the same work as a standardized mechanism where mistakes are avoided in the documents and carry those errors that can be detected before performing the operation.

### **Staff training**

Carry out trainings regarding the new topics of foreign trade in which the subject of operations of foreign trade operations is addressed at least once a year to the personnel hired. In such training they should be instructed on the implications of their work in the success of an import or export merchandise operation.

### **Preventive audits**

This third and very interesting recommendation that is the subject of another investigation is that of preventive audits that in the month of January or February an audit committee must be created by members of the customs agency that must select the auditors and present a plan of work as well as carry out the audit in two or three months and give observations on the weaknesses of the companies that may be exposed in the faculties of verification, for this reason as its name mentions this recommendation is to carry out an internal audit by part of workers of the agency that as its name mentions it is about preventing those infractions that can be updated.

### **Courses on the subject of infractions and sanctions**

Perform intensive courses to publicize infractions and sanctions, as well as conduct an assessment of knowledge about the infractions and responsibility of working in your area and make you understand the importance of the worker within the customs agency.

**Conclusion**

In conclusion the result that was obtained in each agency when carrying out surveys and interview is to detect that human error is a very important factor present in customs operations and more in fiscal aspects since the authority sanctions even the smallest error that is committed we conclude that the infractions are no longer as frequent as in past years and that in the field of foreign trade the most relevant technology is applied but as mentioned the human factor is very important for the success of an import or export and that a violation has serious consequences especially economic and operational, in a second stage will be carried out the recommendation of audits that will be used as strategies to find the intention of the authority to put fines on when the other recommendations are easy to carry out and that generate little cost, nowadays the foreign trade is impressively fast and requires a lot of effectiveness and for that reason the importance of the present study to see the panorama of how it affects in an operation a violation.

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