



IMMEX Compliance



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AGENDA



Introduction

- What is an IMMEX?
- IMMEX Categories
- Temporary Importations



Compliance

- Legal Framework
- VAT
- Inventory
- Correction of *pedimentos*
- Customs Regime
- Transfers
- Sales
- Waste and Scrap



Non Compliance



Recommendations



Introduction



What is an IMMEX?

- ↩ Manufacturing, Maquiladora and Exportation Services Industry.
 - *“Industria Manufacturera, Maquiladora y de Servicios de Exportacion”*
- ↩ Program from the Mexican federal government
- ↩ Customs Regime (Mexican entry type)
 - Temporary importation
 - merchandise
 - manufactured, transformed, or repaired
 - ❖ by a maquila or export program
 - further return/export abroad

Temporary Importation

↔ Goods may remain in the territory of Mexico as follows:

	Materials and finished goods	Period of time
I.	Fuel, lubricants, raw material, parts, components, packing, labels, fliers.	<ul style="list-style-type: none">• 18 months• 6-9-12 months (sensitive industries)• 36-48 months (certified companies)
II.	Containers, box trailers	<ul style="list-style-type: none">• 2 years
III.	Machinery, equipment, tools, instruments, molds and their spare parts, pollution control equipment, computers, testing products, quality control, investigation, industrial security, administrative development equipment, etc.	<ul style="list-style-type: none">• Up to the effectiveness of the program

IMMEX Categories

↩ **Controller**

- manufacturing operations of a certified company and one or more controlled entities.

↩ **Industrial**

- manufacturing or transformation of goods

↩ **Services**

- Specific services to goods

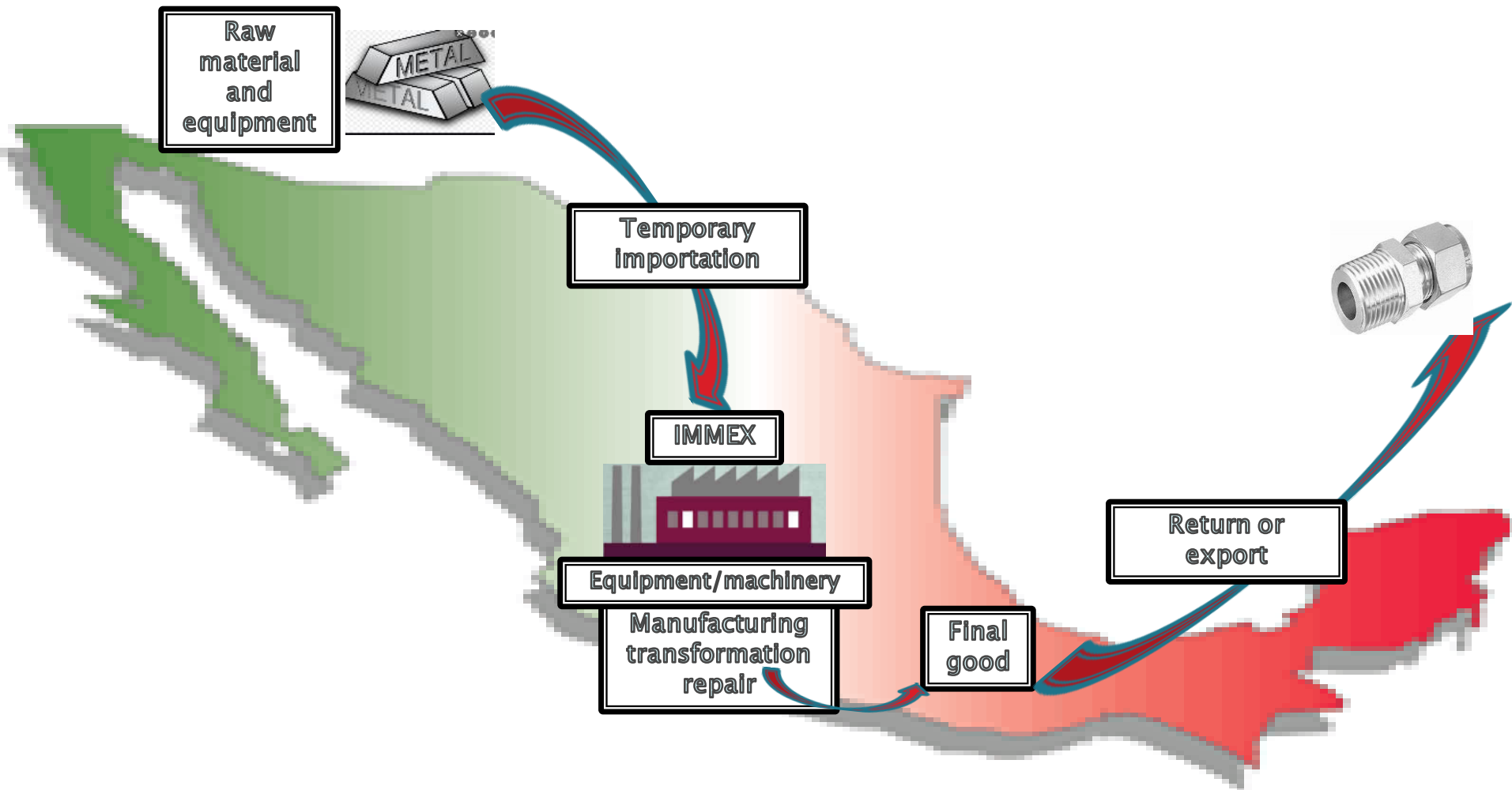
↩ **Shelter**

- Foreign companies provide technology and material to an IMMEX.

↩ **Third party**

- Manufacturing through third parties

What is an IMMEX?



Benefits

➤ Savings

- Import duties
- 16% VAT

➤ Others

- geographical location
- high quality production
- low labor costs
- etc.

Compliance



Compliance?



Foreign Parent company

Foreign materials



Foreign client

contractor

Domestic material

Temporary Importation

Related parties

IMMEX

Foreign supplier

Waste & scrap

Mexican supplier

Sub manufacturing

Manufacturing transformation repair

Transfers in Mexico

Return or export



Final good

delivery in Mexico



Mexican client

Equipment/machinery

Sales in Mexico

Compliance?!

IMMEX Compliance

↩ Tax

- duties, taxes and fees
 - Permanent establishment, ownership, consignment, sale?

↩ Customs

- import, export, return, transfer, sale, consignment
 - Classification code, origin, valuation, pedimento, invoice (CFDI)?

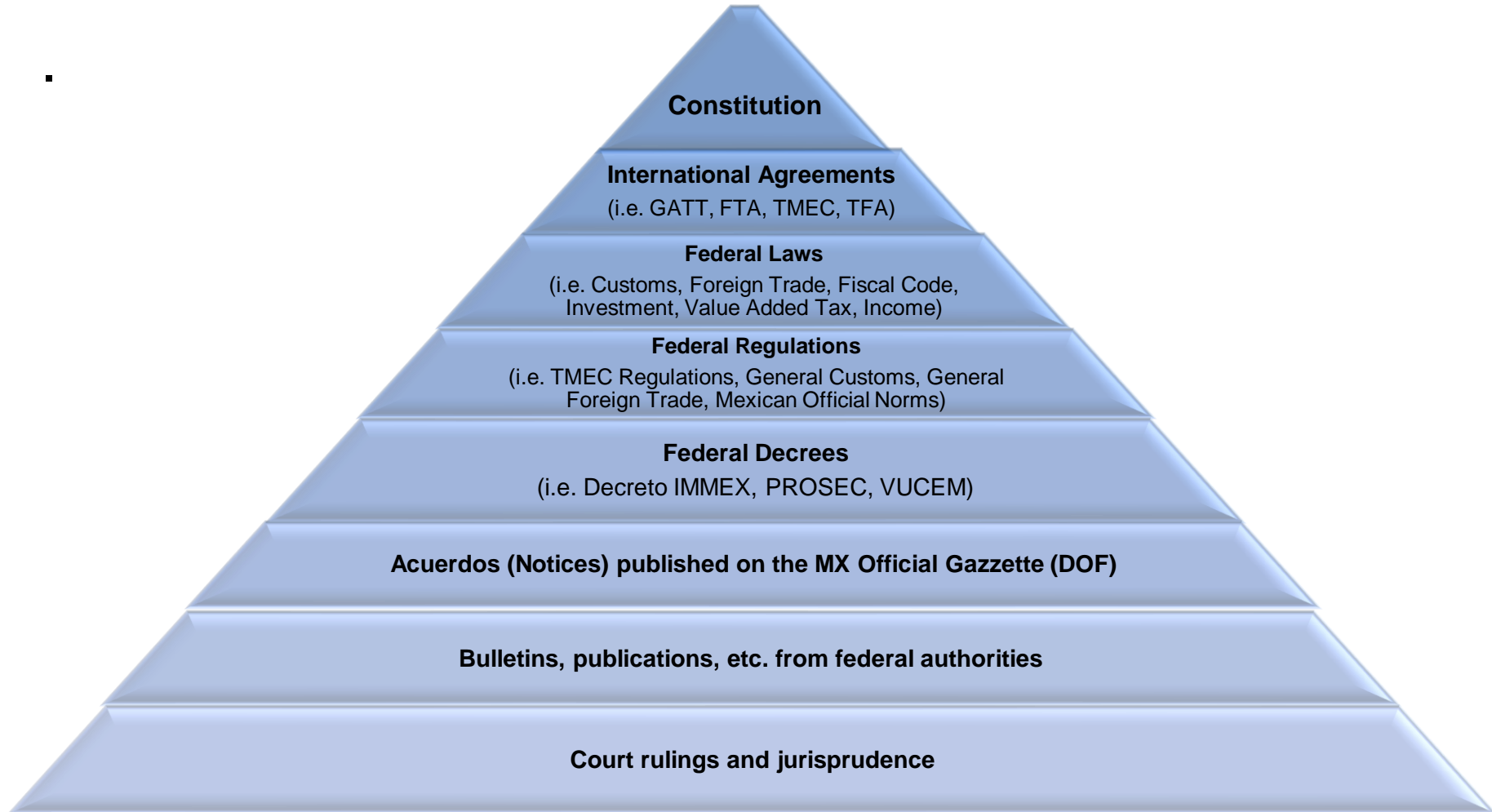
↩ Administrative

- permits, licences, certifications, reports
 - NOMs, quotas, reports?

↩ Criminal

- infringements and violations
 - contraband, tax evasion, fraud?
 - Personal liability?

Legal Framework



IMMEX Inventory

↩ Annex 24 - Automated inventory control system

↩ Must include:

- Catalogs and modules regarding:

- Suppliers, clients, customs brokers, submanufacturers, merchandise and equipment, waste & scrap
- Temporary importations, removals, returns, destructions, donations, change of customs regime, manufacture, production process, discharges, transfers, balances

↩ Must be capable of:

- accounting for all temporarily imported merchandise
- producing accurate and timely reports
- identifying shortages and overages
- trace all equipment and merchandise imported temporarily by date and quantity
- others...

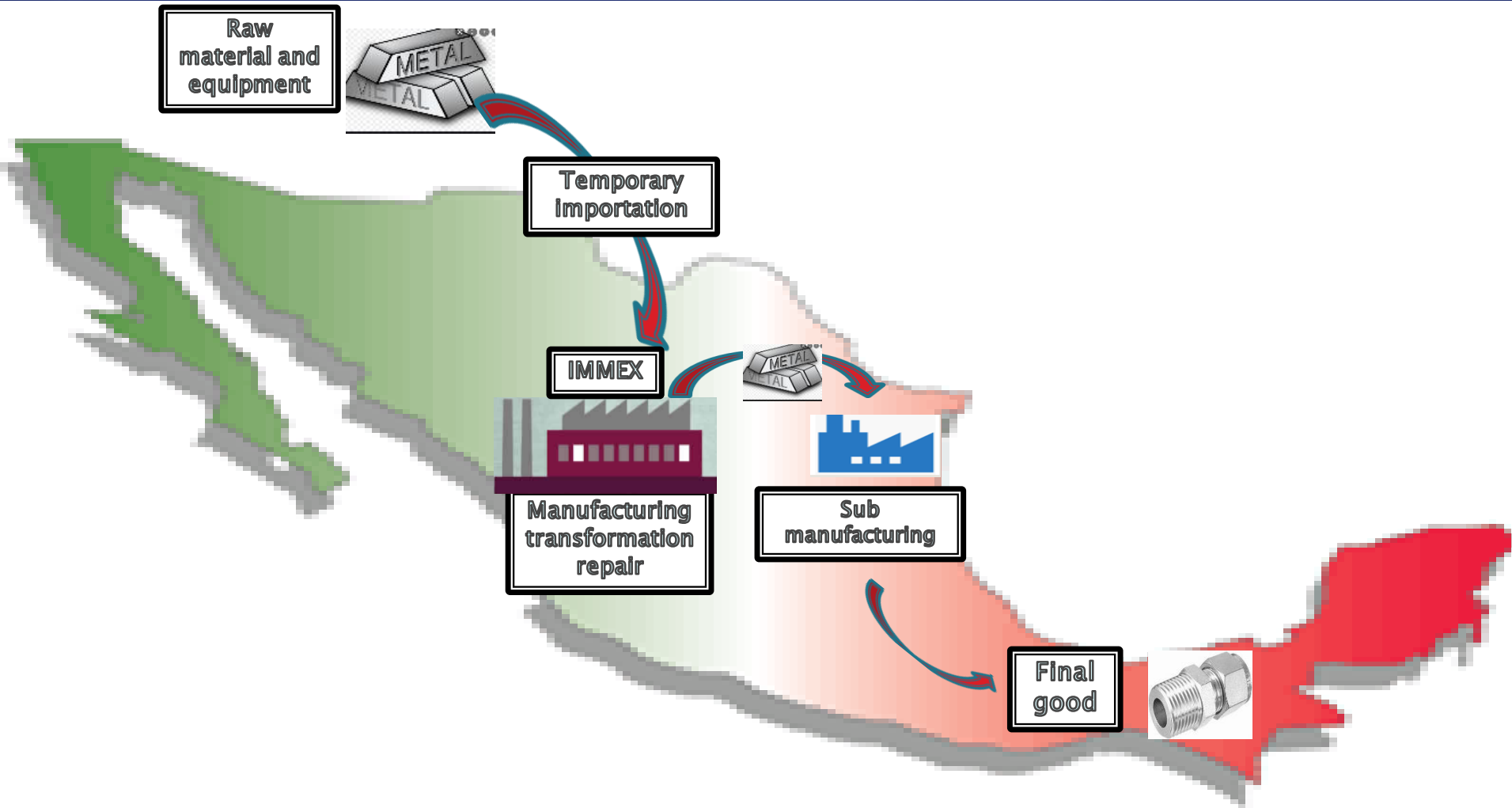


Value Added Tax

- To save the 16% VAT for the importation, an IMMEX must:
 - have a VAT certification (CIVA), or
 - post a bond
- **Annex 31- Credit Accounts and Bonds Control System**
 - administers and controls refunds and payments of
 - VAT
 - bonds
 - must be consistent with Annex 24
 - Temporary importations, removals, returns, destructions, donations, change of customs regime, manufacture, production process, discharges, transfers, balances



Transfers in Mexico



Transfers in Mexico

- IMMEX may transfer goods to
 - other IMMEX, *Recintos fiscalizados estratégicos*, fiscal deposits or companies registered under their program for submanufacturing
- IMMEX benefits and obligations are transferred as well
- The entity receiving the goods “must” perform submanufacturing process to the goods
- Processes must be **“directly and exclusively”** related to the process the government has authorized to the IMMEX that transferred the goods
- No need to present goods physically before MX Customs
- Goods must have a legal status (no overstay, identified in inventory)
- Must be documented with the correct *pedimento* code and identifier

Sales in Mexico



Foreign Owner



Foreign Buyer

Raw material and equipment



Temporary Importation

IMMEX

Manufacturing transformation repair

Final good



"Delivery" In Mexico

If the IMMEX is the owner, it could "sell" in Mexico



Sales in Mexico

- Who is the owner of the goods?
- Depending on this, the IMMEX may “**sell**” or “**deliver**” finished goods in Mexico (tax and customs implications vary).
- Goods do not need to leave the Mexican soil
- Import duties, taxes (16% VAT) and fees must be paid
 - 16% for the importation?
 - 16% for the sale?
- Goods must comply with non trade barriers (NOMs, licenses, permits, etc.)
- Must change customs regime
 - Temporary to a definitive/consumption

Change of Customs Regime

- ↩ Temporary importations by IMMEX can be changed to an importation for consumption (i.e sales in Mexico)
- ↩ Prior to this, make sure goods have a legal status
- ↩ Procedure:
 - Complete *pedimento*
 - Comply with non trade barriers and other Customs requirements
 - Taxes, duties and fees must be paid
 - others

Waste and scrap

- must be returned/exported abroad within statutory time, or
- can be destroyed, donated, transferred or sold in Mexico
 - Each of these options has different procedures to follow
 - Must be documented with the correct pedimento code and identifier
- IMMEX shall report any waste and scrap not returned abroad within the statutory time permitted to remain in MX
- depending on the HTS code, duties, taxes and fees may apply, including the requirement to comply with non trade barriers

IMMEX operations

- ↩ Must be properly documented
 - Pedimento
 - Invoice (CFDI)
 - Certificates of origin
 - Bonds
 - Trade and not trade barriers
 - Shipping records
 - (payments, records of extraction of goods from inventory, transportation, delivery)
 - Carta porte?
 - Process of manufacturing, transformation or repair
 - Information on *pedimentos* and other records shall be consistent

Correction of Pedimentos

- Some errors on *pedimentos* can be corrected
 - As many times as needed, but prior to activating the Customs random selection system
 - After activation - obtain authorization from MX Customs



Regularization

- Goods that overstay the period of time permitted to remain in Mexico can be subject to regularization
- It is not necessary to present the goods physically before MX Customs
- However, goods shall first comply with non trade barriers
- Payment of duties, taxes and fees must be made in full
- Surcharges and upgrades apply

Non- Compliance

Non-Compliance

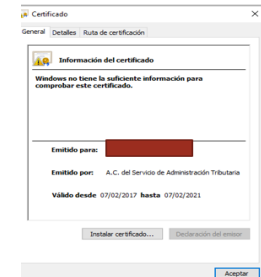
Some examples are:

- Tax perspective:

- Authorities cannot locate a company at the address provided
- Inactive tax electronic signature (*e.firma*)
- Inactive MX Tax ID (*RFC*)
- Inactive email
- Failure to add to the Annex 31 inventory information about goods and equipment pending to be returned abroad

- Customs perspective

- Annex 24 inconsistencies
- Incorrect classification
- Incorrect invoices (CFDI)
- Incomplete and incorrect recordkeeping



Non-Compliance

Some examples are:

- Administrative perspective:
 - Failing to submit the corresponding reports
- Criminal perspective
 - Goods not physically located at the IMMEX facility
 - Filing false documents
 - Not returning/exporting the goods within the period of time the goods may be permitted to remain in MX
 - Alter/change information on records
 - Fraudulent reports that the goods were exported/returned



Non-Compliance

Associated Risks

Disruption of imports and exports

infringements

violations

Penalties/sanctions

Delays

Loss of business



Others...

Cancellation, suspension or nullification of:

- IMMEX program
- importer's license
- PROSEC
- VAT certification.
- AEO



Non-Compliance

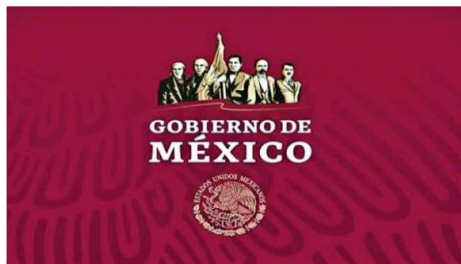
Issues out of your control:

- Government officers removed constantly
- Amendments to legal framework
- Lack of knowledge and experience of government officers
- Creation of new government agencies (i.e. ANAM)



But you can control:

- Training your personnel
- Make informed decisions
- Document operations properly
- Risk assessment analysis
- Others...



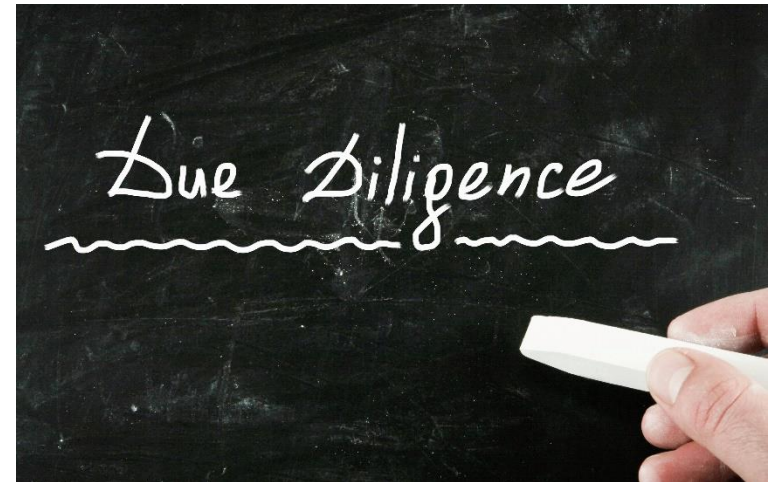
Recommendations



Recommendations

➤ Implement internal audits to make sure the following is correct and in compliance:

- HTS code
- origin
- INCOTERMS
- valuation
- statutory time frame of goods
- customs regime
- VAT assessment
- Codes and identifiers on *pedimentos*



➤ Identify

- ownership of machinery, equipment, raw material, finished good
- relation with other companies
- final destination of the goods
- status and location of customer, supplier, subcontractors, etc.

Recommendations

- Calculate, determine and pay the corresponding duties, taxes, and fees
- Import and export authorized goods only
- Maintain goods within the authorized facilities
- Have an automated inventory control system in compliance
- Return or export goods abroad
- File reports on time
- Control disposal of waste and scrap
- Inform MX customs authorities about any corporate change
- Complete records correctly

Recommendations

- Review compliance tax, Customs, and administrative obligations
- Implement internal review audits
- Analyzed any prior disclosures case-by-case
- Have a compliance plan in place
- Avoid acts that in extreme circumstances can be deemed to be felonies and aggravated felonies
- Others...
- ... have a plan B

QUESTIONS?



Thank you!

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