



Risk / Suspicions / Evidence Non-compliance / Offence / Fraud

VIANNEY GEMME, ADB Consultant

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Risk / Suspicions / Evidence /

Non-Compliance / Offence / Fraud

To assist the Customs Officers with the definition and difference between the different level of:

- Risk / Suspicions / Evidence
- Non-Compliance / Offence / Fraud
- and their various elements.




Risk / Suspicious / Evidence
Non-compliance vs Offence vs Fraud

- The Officer with the Intelligence Analysts may reach conclusions and highlight the elements, to alert Customs of the Risk
- We do not have to “prove” the risk with hard core evidence but rather we should demonstrate and report the probabilities of events that may happen, based on logical justification.
- Ex. History , stats, “reliable” information,... etc.




*Risk / **Suspicious** / Evidence*
Non-compliance vs Offence vs Fraud

- Are based on a rational / verbalised justification
- of activities that have happen / are taking place / will be happening;
- We may base our suspicions partly on a good risk assessment followed by the results of our inquiries;
- will form part of our justification for enforcement actions... for detection or to help prove the offence once uncovered.



Risk / Suspicious / Evidence
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- Facts, tangible evidence, papers such as the true invoices, double invoicing, shipping or packing, etc,
- actions of the perpetrator, admission or the version given compared with the findings of the officer,
- the discovery of the hidden good, or, by taking pictures of the concealed compartment, etc.
- The elements of an offence, the facts that need to be established to allege an offence are: -



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To establish:

- Who – Person / Where – Place / When – Date & time / What – the action (offence)
- Actus Reus – The guilty act. / the intention to evade controls.
- Mens Rea – The guilty knowledge...of the prohibition and restriction.
- Contrary to what Law...



Risk / Suspicious / Evidence

Non-compliance vs Offence vs Fraud

- In the Customs environment
- we deal mostly with: “physical”, “documentary” or “testimony” evidence.
- “Circumstances” should form part of our reports to describe the situation but are not really evidence per say / themselves.



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“administrative irregularities” / “non-conformity” to a rule:

- No revenue is involved. / action or more often an omission to avoid conforming to a rule, such as:
- not producing the proper forms, not providing the required detailed information, not respecting the time-delays established,
- not presenting oneself at a control point, etc.
- Non compliances are usually addressed by educating the client or subject to warning or when serious enough punishable by an administrative fine / penalty.



Risk / Suspicions / Evidence

Non-compliance vs Offence vs Fraud

- by commission or omission,
- to avoid proper duties and taxes or to obtain falsely a refund.
- revenue involved /or, prohibited goods /or, by not producing permits or similar serious requirements
- usually punishable by monetary fine / by seizure /confiscation of the goods (all administrative process)
- or when required by prosecution (criminal procedures)



Risk / Suspicions / Evidence

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- knowingly commits a “Customs offence” but more also uses a **scheme to defraud** a victim (*Customs*)
- by misrepresentation, substantial and/or repetitive causing a lost of revenue (*a damage is caused*)
- Customs is an unaware and has the right to believe the representation made / **Customs is a victim**) *Customs was not blindly negligent;*
- “Fraud” is a distinctive criminal charge which requires to be supported by a much higher/detailed level of evidence than “offence”.