

PUBLICATION

Customs Revenue Fraud Enforcement: Any Such Thing?

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It has become a common enough response from the clients of customs law practitioners in recent years:

"Why should we participate in the Importer Self Assessment Program (ISA)? We haven't seen Customs Regulatory Audit in nearly a decade. I don't think we need to do anything to get less audits or focused assessments. Participating in ISA may actually trigger something."

After an initial round of enthusiasm for C-TPAT, practitioners are getting similar responses — that there are no real tangible benefits in these "partnering programs," because Customs does no effective auditing of U.S. importer operations.

They are even less concerned if it's only collectable revenue down the drain; as long as it's not a "security" issue.

A recent anecdote from a customs practitioner was frighteningly poignant:

"I received a phone call from a Customs/Logistics manager I had met earlier at a seminar. He told me that he had anonymously reported a blatant violation from his company through the E-Allegations system on the Customs and Border Protection (CBP) Web site, without any response.

"The duty fraud violation of undisclosed payments to a related-party seller had existed for 10 years or more, but had only recently been discovered.

"He assumed that the company would do a prior disclosure; but, when he learned that in-house counsel, after getting an opinion letter from outside customs counsel that the payments were likely dutiable, decided to take a chance that CBP would not show up; or, if they did, would not discover the fraud.