

Los maquiladores de la industria del vestido y el Recinto Fiscalizado Estratégico

The maquiladoras of the garment industry and the Strategic Enclosure

As maquiladoras da indústria de vestuário e o gabinete estratégico

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Resumen

El objetivo del presente trabajo es saber si los maquiladores de la industria del vestido conocen los beneficios del régimen fiscal Recinto Fiscalizado Estratégico (RFE) y si estarían dispuestos a contratar este tipo de instalaciones. El estudio se llevó a cabo en la Comarca Lagunera a través de estadística descriptiva. Como principal resultado se observó que seis de cada 10 empresarios están dispuestos a contratar los servicios de un RFE y cuentan con los recursos económicos necesarios para hacerlo. Dentro de los principales beneficios que los empresarios desean aprovechar se incluye la permanencia de las mercancías hasta por un período de sesenta meses sin pagar impuestos, contribuciones o cuotas compensatorias mientras no sean importadas o exportadas de manera definitiva. Este beneficio se reflejaría a través de la maquilación y retorno al extranjero sin los tradicionales trámites de importación temporal y las complicaciones que para este sector representa su control.

Palabras clave: aceptabilidad, beneficios, conocimiento, maquiladora, recinto fiscalizado.

**Abstract**

The aim of this study was to know if textile factories are aware of the benefits of the Strategic Fiscal Entity fiscal regime and if they would be willing to hire this type of facilities. The study was carried out in the Lagunera Region through descriptive statistics. The main result shows that six out of 10 entrepreneurs are willing to hire the services of a Superintendent and have the financial resources to do so. They comment that the main benefits they wish to take advantage of are the permanence of the goods for up to sixty months without paying taxes, contributions or compensatory quotas until they are definitively imported or exported. This benefit would be reflected in being able to make and return abroad without the traditional temporary importation procedures and the complications that for this sector represents its control.

Key words: Acceptability, Benefits, Knowledge, Maquiladora, Fiscalized Enclosure.

Resumo

O objetivo do presente estudo é saber se as maquiladoras da indústria de vestuário estão conscientes dos benefícios do regime fiscal Estratégico Fiscal (RFE) e se eles estariam dispostos a contratar tais instalações. O estudo foi realizado na Comarca Lagunera através de estatística descritiva. Como resultado principal, observou-se que seis empresários em cada 10 estão dispostos a contratar os serviços de uma RFE e têm os recursos econômicos para fazê-lo. Entre os principais benefícios que os empresários desejam aproveitar é a permanência de bens por até sessenta meses, sem pagar impostos, contribuições ou taxas compensatórias até serem definitivamente importados ou exportados. Esse benefício se refletiria através da maquila e retornaria para o exterior sem os procedimentos tradicionais de importação temporária e as complicações que para este setor representam seu controle.

Palavras-chave: aceitabilidade, benefícios, conhecimento, maquiladora, premissas fiscalizadas.

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1. Introduction

Comarca Lagunera is a traditionally textile region, with maquiladora garment companies that export directly to the United States, whose main competition is the Asian countries, such as China (Garment Industry in Mexico and Coahuila, 2014). For this reason, it is necessary to know if companies in this sector know the benefits and would be willing to hire a space in a Strategic Enclosure (RFE).

RFEs were created as a transitional exception regime, which allows special benefits to be granted to a specific geographic area, such as incentives for investment and export during a given period. The RFE focuses on reducing the costs of foreign investment in projects, facilitating the production of logistics goods and services, and carrying out complex operations, such as the construction of ports, airports and railways, as well as reduction or avoidance of taxes on losses in industrial processes (processing industries, manufactures), and the aggregation of common services, in order to boost the establishment of enterprises and contribute to a favorable environment for foreign trade (Bancomext, 2017).

The RFE regime offers advantages for foreign trade companies that invest in processing and marketing plants within these strategic geographic areas. Although this type of scheme is an important step forward in order to speed up trade, it is important to promote a comprehensive competitiveness policy aimed at improving infrastructure, encouraging business networks, training people, creating technology and promoting economic policies, among other measures, that allow companies to move from assembly activities to advanced production processes, generating higher added value (Georgia Tech-Tecnológico de Monterrey, 2017).



2. Theoretical framework

2.1 Definition of Strategic Enclosure

This is a property located within the circumscription of any customs, which is qualified for the introduction of goods under the customs regime, also called Strategic Enforcement. Once the authorization of the property is granted, it is possible that a third person obtains the authorization to destine within the same the goods to the customs regime of Strategic Enclosure, known as operators of the regime (Servicio de Administración Tributaria, 2016).

2.2 Historical background (Figure 1)



Figure 1. Antecedentes históricos de la instancia que autoriza un Recinto Fiscalizado.

Diciembre 15 de 1995	Se crea el órgano administrativo desconcentrado "Servicio de Administración Tributaria	Marzo de 1996	Se crean las direcciones generales de Interventoría y de Asuntos Fiscales Internacionales	Julio 1o de 1997	Inicia funciones el Servicio de Administración Tributaria y su reglamento
Diciembre 3 de 1999	Desaparece las Administraciones regionales de Recaudación de Auditoría Fiscal, Jurídica de Ingresos y de Aduanas. Se crearon las administraciones generales de Grandes Contribuyentes.	Marzo de 2001	La Administración General Jurídica de Ingresos --cambia-- a -- Administración General Jurídica. La Administración General de Recursos --cambia --a-- Administración General de Innovación y calidad. La Administración General de Coordinación y Evaluación Tributaria ...cambia -- a - Administración General de Evaluación. Se Crea la Administración General de Contribuyentes y la Administración General de Bienes de Comercio Exterior.	Abril 30 de 2001	Se eliminó la Administración Central de Investigación de Operaciones y se transfiere a la Secretaría de Hacienda y Crédito Público
Junio 17 de 2003	Se transfieren los recursos materia y financieros de la Administración General de Destino de Bienes de Comercio Exterior --al-- Servicio de Administración y Enajenaciones de bienes	Abril 29 de 2010	Se adiciona la Administración Central de Competencia y Modernización Aduanera y la Administración Regional Aduanera. Se elimino la Administración de Operaciones Aduaneras 8",9",10" y las Administraciones regionales de Evaluación del Noroeste, con sede en Tijuana, Baja California y del Centro.	Julio 13 del 2012	Se crea la Administración General de Auditoría de Comercio Exterior. La Administración General de Aduana se estructura con 6 Administraciones Centrales. Cambia su nombre a Oficialías de Comercio Exterior y se les faculta para imponer sanciones.
Julio 13 del 2012	Se modificó el orden de la unidades administrativas de conformidad con la misión. Administración General de Aduanas. Administración de Comercio Exterior. La Administración General de Aduanas cambió su nombre a Administración Central de Normatividad Aduanera por Administración Central de Apoyo Jurídico de Aduanas. La Administración Central Aduanera Internacional por Administración Central de Atención Aduanera y Asuntos Internacionales. Y la Administración Central de Planeación y Coordinación Estratégica Aduanera por Administración Central de Modernización Aduanera y se adiciona a su estructura la Administración Central de Planeación Aduanera y de Procesamiento Electrónico de Datos Aduaneros.				

Source: elaboración propia.

2.3 Location of Strategic Enclosures

In Mexico there are seven Strategic Fiscal Enclosures; are located in San Luis Potosí (San Luis Potosí), Nuevo León (Monterrey), Ciudad Juárez (Chihuahua), Lázaro Cárdenas (Michoacán), Puerto Chiapas (Chiapas) and soon in Ciudad Obregón (Sonora) (Tax Administration Service, 2016).

The bond that these enclosures have with the customs begins from before its establishment because it is the General Administration of the Customs (AGA) is in charge of approving the RFE; to this instance the documentation required for its incorporation must be delivered (Tax Administration Service, 2016).

The following map (Figure 2) shows the Strategic Enforced Enclosures in yellow; in red, the most important ports of the country (Servicio de Administración Tributaria, 2016).

Figure 2. Location of the Strategic Enclosures in the country Mexico.



Source: Servicio de Administración Tributaria”, 2016.

2.3.1. Tax Provisions for Fiscal, Supervised and Supervised Fiscal Enclosures.

Rule 2.3.1 was modified in the second resolution. DOF 08-28-2015 (References to RLA).

For the purposes of articles 14 of the Law and 53 of the Regulations, the provisions of the "Procedural Instructions to provide handling, storage and custody services for foreign trade goods, in accordance with rule 2.3.1 . "(Tax Administration Service, 2015).

For the purposes of article 14-A of the Law, the authorized inspection areas are those listed in Appendix 6 of Annex 22; those interested in obtaining the authorization to provide the services of handling, storage and custody of foreign trade goods in properties of which they have the use or enjoyment and which adjoin a fiscal site, are located within the area previously approved by the customs authorities and that are indicated in the master program of the docks to carry out the functions proper to the dispatch of goods and other that derive from the Law, or bordering with said area, must submit their request according to the instructions of procedure referred to in paragraph of this rule (Tax Administration Service, 2015).

In those cases where, within the real estate proposed to be qualified as a strategic fiscal area, inspected premises previously authorized or concessioned in terms of the provisions of articles 14 and 14-A of the Law, the person requesting authorization to Article 14-D of the Law itself, it must annex to its brief an application formulated by each of these audited venues complying with the requirements established in rule 4.8.1. These last requests will be processed once the AGA has authorized the aforementioned property for the introduction of goods under the regime of strategically controlled premises and authorizes its administration. The foregoing shall not be applicable in the case of areas within or adjacent to a port area subject to the administration of an Integral Port Administration, under the terms of this regulation (Tax Administration Service, 2015).

In the case of properties located adjacent to the real estate authorized exclusively for the introduction of goods under the regime of strategic fiscalized premises or of areas within or adjacent to a port enclosure subject to the administration of an Integral Port Administration, the person who has authorization for the administration of this property may request to the SAT the extension of the area originally authorized, submitting for that purpose application in accordance

with the "Instructions for processing the area originally authorized exclusively for the introduction of goods under the enclosure regime in accordance with regulation 2.3.2." (Servicio de Administración Tributaria, 2015)

The legal persons who obtain the authorization and authorization referred to in Article 14-D of the Law, must comply with the following (Tax Administration Service, 2015):

I. To carry out the necessary actions for the administration, supervision and control of the strategic fiscalized enclosure.

II. Adopt the necessary measures to delimit the strategic fiscal area, in accordance with the requirements that for this purpose the AGA issues.

III. Provide the necessary infrastructure for the provision of the required customs services, in accordance with the guidelines issued for that purpose by the AGA, as well as the maintenance and services necessary for the proper functioning of such facilities.

IV. Build, maintain and manage common infrastructure within the strategic fiscalized area and guarantee the provision of public services in such facilities

V. Provide, install and maintain systems and equipment for the automated registration and control of the entry and exit of goods, people and vehicles, as well as other control mechanisms required by the AGA.

SAW. Integrate an automated and updated database regarding the names of the persons and data of the vehicles whose access to the strategic fiscalized area is allowed by the persons referred to in article 135-A of the Law, to whom they must issue the corresponding badges according to the requirements issued by the AGA.

VII. Operate surveillance services in the strategic fiscalized area.

VIII. Monitor compliance with the security measures established by the customs authorities.

IX. Comply with the guidelines determined by the customs authorities for the control, surveillance and security of the strategic fiscal area and foreign trade goods, and to allow the

customs authorities to carry out their duties, being obliged to report the facts that they have knowledge of alleged infringements of the Law and deliver the goods subject to them, if they are in their possession.

X. They must present to the customs office within whose circumscription the strategic fiscal area is located, the tariff of the offered services that coincides with the one exhibited in the public view in their establishments in the terms of articles 8, 57 and 58 of the Federal Consumer Protection Law, which must refer to each of the services directly or indirectly related to the authorization and authorization. The tariff must be submitted to customs within the first 15 days of the month of January of the year in which it is applied, and must submit to customs the changes suffered by said tariffs during the year in question, within a period of 15 days at the date of the change. The prices contained in the tariff referred to in this regulation are independent of the tariffs fixed by the SCT in the port facilities in accordance with articles 60, 61 and 62 of the Ports Act, and must be clearly distinguishable from them.

XI. Not later than the 15th of February of each year, a proof of payment must be submitted to the Central Customs Regulatory Authority (ACNA), through the electronic scheme e5, with which the payment of the right year for the granting of authorization and authorization, marking copy to the Central Administration of Planning and Programming of Foreign Trade (ACPPCE), in terms of the provisions of article 4, fifth paragraph of the Federal Law of Rights (LFD).

XII. In the case of the authorization and authorization referred to in Article 14-D of the Law, granted to an Integral Port Administration, in respect of areas located within the port area, the provisions of Article 4 shall be complied with. of the Law, as well as to the guidelines on safety, control and operation issued by the AGA applicable to the fiscal area, port area and areas authorized as a strategic fiscalized site, and shall give notice to the AGA of any adequacy or modification to the master port development program that could affect security, control, surveillance, access roads, infrastructure and equipment.

For the purposes of articles 14-B and 15 of the Law, individuals who obtain a concession or authorization to provide handling, storage and custody services for foreign trade goods shall comply with the following:

Section I of Rule 2.3.8 was modified in the second resolution DOF 28-08-2015 (References to the RLA).

I. In accordance with articles 15, section I of the Law and 54, section II of the Regulations, in the first year of operation, they must submit to ACNA within 30 days of notification of the authorization or concession, policy of bond or insurance contract equivalent to 10% of the amount of your investment program. In the subsequent years of validity of the concession or authorization, the amount of the interest interest guarantee shall be for an amount equivalent to the average daily value of the goods stored during the previous calendar year, and the policy of the bond, contract insurance or letter of credit to ACNA, in the first 15 days of January.

II. For the purposes of the compensation referred to in section IV and the reduction of expenses referred to in section VII, second paragraph of article 15 of the Law, moral persons who have obtained authorization or concession to provide management services , storage and custody of foreign trade goods, may make the compensation or decrease provided they submit a monthly opinion for each concession or authorization, prepared by public accountant registered under the terms of article 52, section I of the Code.

2.3.2 Some of the benefits to taxpayers

Decree

First article. Tax incentives are granted to taxpayers who obtain authorization to assign goods to the regime of strategic fiscal area, consisting of an amount equal to the amount of the use referred to in article 15, section VII of the Customs Law, and which may be credit against the amount that must be paid for such use (Tax Administration Service, 2015).

Article 2. Taxpayers who assign machinery and equipment to processes of processing, transformation or repair to the regime of strategically controlled premises, will be able to pay the right of customs procedure according to the provisions of fraction II of article 49 of the Federal Law of Rights (Administration Service Tax, 2015).

Taxpayers who assign to the regime of strategic fiscalized area goods other than those mentioned in the previous paragraph, may pay the right of customs procedure according to the provisions of fraction III of article 49 of the Federal Law of Rights (Tax Administration Service, 2015).

For the above purposes, a fiscal stimulus is granted consisting of the difference that results from applying the corresponding fraction according to the Federal Law of Rights, and fractions II or III of article 49 of said Law, depending on whether it is (Tax Administration Service , 2015).

Article Third. Persons who obtain authorization to assign goods to the regime of strategic fiscal area referred to in article 135-A of the Customs Law, in addition to the provisions of said Law and other applicable legal provisions, shall have the following administrative facilities (Servicio de Administración Tributaria, 2015):

I. They will obtain the registration immediately in the Register of Importers of Specific Sectors, presenting the corresponding request.

II. They will be able to carry out the dispatch of the goods for their introduction to the regime of strategically controlled premises and their extraction from the same, before any customs, on day and at the same time as not working.

III. The goods referred to in article 135-C of the Customs Law that are introduced to the regime of strategically controlled premises may remain under said regime in accordance with the terms established in the General Rules of Foreign Trade.

IV. For the purposes of article 89 of the Customs Law, when the result of the automated selection mechanism has determined free clearance, they may rectify the origin of the goods within three months after the dispatch, without requiring authorization from the Tax Administration Service, provided that the customs authority has not initiated the exercise of its powers of verification.

V. For the purposes of the provisions of article 135-B, section I of the Customs Law, in relation to article 63-A of said Law, to determine the corresponding foreign trade taxes, may choose to apply any of the following rates:



- a) The one provided for in the Law on General Import and Export Taxes;
- b) Preferential under the free trade agreements and trade agreements signed by Mexico; or
- c) Establish the sector promotion programs, provided that the importer has the corresponding authorization.

SAW. They may withdraw national or nationalized merchandise from the strategic fiscalized premises, in order to re-enter the national market without import being considered, provided that it has not been modified, or the periods referred to in section III of this article have elapsed.

VII. They may introduce national merchandise or imported in the final for the purposes of storage, exhibition, sale and distribution, without being destined to the regime of strategically controlled premises. In such cases, such goods shall not be considered as exported.

VIII. Goods destined to the regime of strategically controlled premises, may enter the national territory through the internal transit system using any means of transport.

IX. They may carry out the transfer of goods destined to the regime of strategic fiscalized enclosure of a property located within the circumscription of an interior customs, towards one located in the strip or border region.

X. They may carry out the transfer of goods between the taxpayers who have authorization to destine goods to the regime of strategically controlled premises and the manufacturing companies, maquiladoras and of export services that have a current program under the Decree for the promotion of manufacturing, maquiladora and export services in force.

XI. They will immediately obtain the certification referred to in Articles 28-A of the Value Added Tax Law and 15-A of the Law on the Special Tax on Production and Services, provided that the corresponding application is filed.

The authorization referred to in this article may be automatically extended by submitting the corresponding application in accordance with the applicable provisions, provided that the

taxpayer is aware of the fulfillment of its fiscal obligations and of the obligations inherent to the authorization (Servicio de Administración Tributaria, 2015).

En caso de que soliciten la autorización para destinar mercancías al régimen de recinto fiscalizado estratégico en un inmueble distinto al señalado en una autorización previa que se encuentre vigente, se entenderá por cumplido el requisito de acreditar ser persona moral constituida conforme a las leyes mexicanas, con solvencia económica, capacidad técnica, administrativa y financiera, así como la de sus accionistas (Servicio de Administración Tributaria, 2015).

Article Four. The authorization to authorize a property for the introduction of goods under the regime of strategic fiscal area, referred to in article 14-D of the Customs Law, may be automatically extended by submitting the corresponding application in accordance with the applicable provisions, provided that the person is aware of the compliance with their tax obligations and the obligations inherent to the authorization (Tax Administration Service, 2015).

In case the person who processes a valid authorization to authorize a property for the introduction of goods under the regime of strategically controlled premises, request the authorization to enable a different property, it will be understood as having met the requirement to prove to be a moral person constituted in accordance with Mexican law, with economic solvency, technical, administrative and financial capacity, as well as that of its shareholders.

Article 5. The application of the benefits established in this Decree will not give rise to any refund or compensation (Tax Administration Service, 2015).

Article Six. The benefits provided for in the first and second articles of this Decree shall not be considered cumulative income for the purposes of income tax (Tax Administration Service, 2015).

Article 7. The Tax Administration Service may issue the general provisions, including the requirements and conditions, that are necessary for the correct and proper application of this Decree (Servicio de Administración Tributaria, 2015).



2.4 ¿ What is the WTO??

The World Trade Organization (WTO) is the only international organization dealing with the rules governing trade between countries. The pillars on which it rests are the WTO agreements, which have been negotiated and signed by the vast majority of countries participating in world trade and ratified by their respective parliaments. The objective is to help producers of goods and services, exporters and importers to carry out their activities (World Trade Organization, 2016).

The WTO was born as a result of negotiations; as a result, all their activities revolve around them. The bulk of the current work of the WTO comes from the negotiations held in the period 1986-1994, the so-called Uruguay Round, and from previous negotiations under the General Agreement on Tariffs and Trade (AGAAC). The WTO is currently the forum for new negotiations under the "Doha Development Agenda", launched in 2001 (World Trade Organization, 2016).

When countries have had to face barriers to trade and have wanted to reduce them, the negotiations have helped open the markets to trade. However, the work of the WTO is not confined to the opening of markets, in some cases its rules allow trade barriers to be maintained, for example to protect consumers or to prevent the spread of diseases (World Trade Organization, 2016) .

Trade relations often carry conflicting interests. Agreements, including those negotiated laboriously in the WTO system, have to be interpreted many times. The most harmonious way to resolve these differences is through an impartial procedure based on an agreed legal basis. That is the purpose of the dispute settlement system integrated into the WTO agreements (World Trade Organization, 2016).

The activities of the WTO include:

- Trade negotiations
- Application and monitoring
- Settlement of disputes
- Building trade capacity



- Exterior projection
- Promotion of non-discrimination
- Be predictable and transparent
- To be more beneficial to developing countries
- Protect the environment

3. *Research Design*

- Type of research: Descriptive
- They will be divided into two broad areas or macro categories
 - a) Degree of knowledge
 - b) Degree of availability
- Develop instrument
- Define sample: by non-probabilistic sampling method for convenience
- Data collection techniques: survey and interview
- Population: maquiladoras companies of the garment industry in the Comarca Lagunera (INEGI)
- Pilot the instrument
- Validate the instrument
- Apply instrument
- Capture instrument applied in statistical program
- Elaboration of statistics
- Analysis of results
- Conclusion.

3.1 Hypothesis

Hi1: It is estimated that more than 50% of the maquiladora companies of the Comarca Lagunera are unaware of the benefits and opportunities of a strategically controlled site.

3.2. Methods for analysis of results

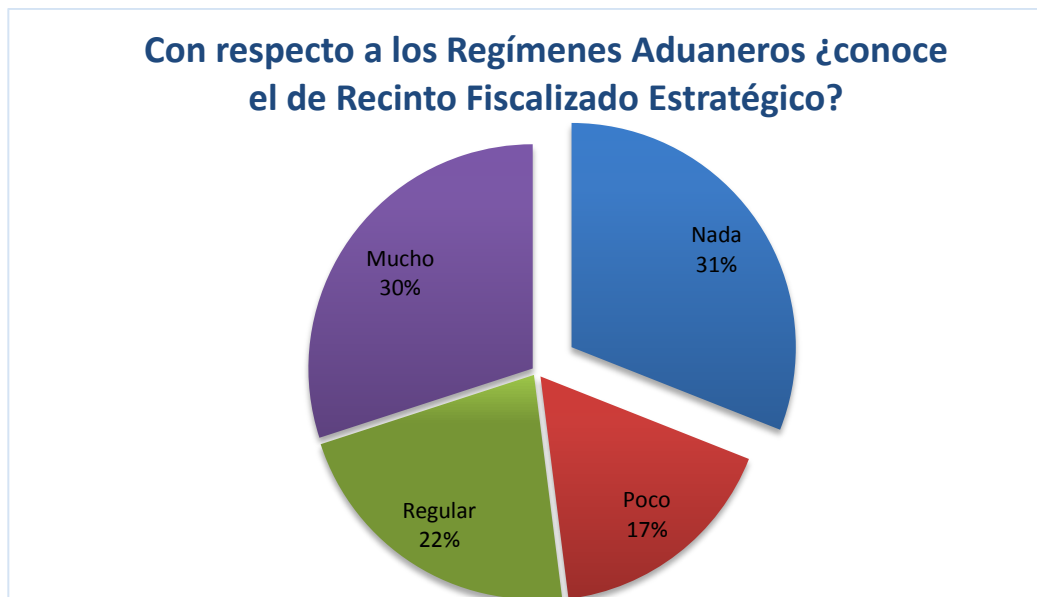
For the quantitative study, the answers to the questionnaire "Textile companies in tax offices" were analyzed, by means of the application of Excel computer software; descriptive statistics were obtained.

Data used. Total of companies that are currently located in the Comarca Lagunera. According to data provided by the National Institute of Statistics and Geography (INEGI) (last available statistical information) and the directory of the Yellow Section, which concentrate a central listing, to eliminate any case of duplicity.

4. Results

Analysis of results

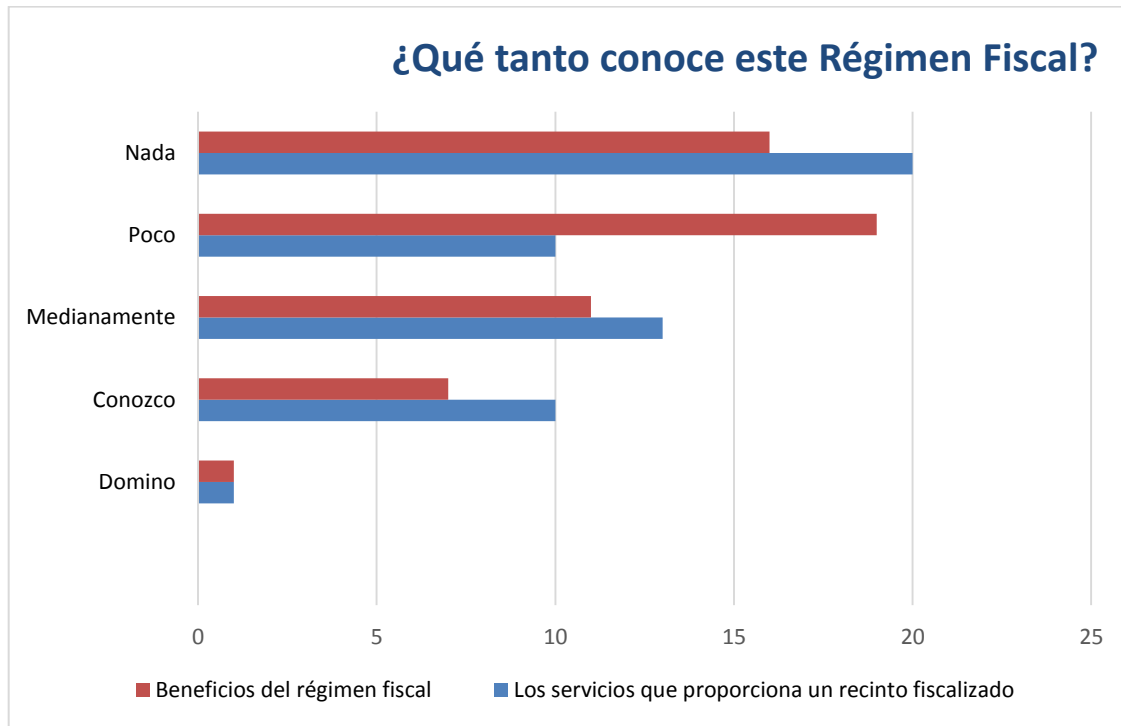
Figure 3. Grado en que se conoce el Régimen Fiscal "Recinto Fiscalizado Estratégico".



Source: elaboración de los autores

As can be seen, 48% of the companies surveyed do not know this tax regime.

Figure 4. Grado de conocimiento de los servicios que proporciona un recinto fiscalizado.



Source: elaboración de los autores

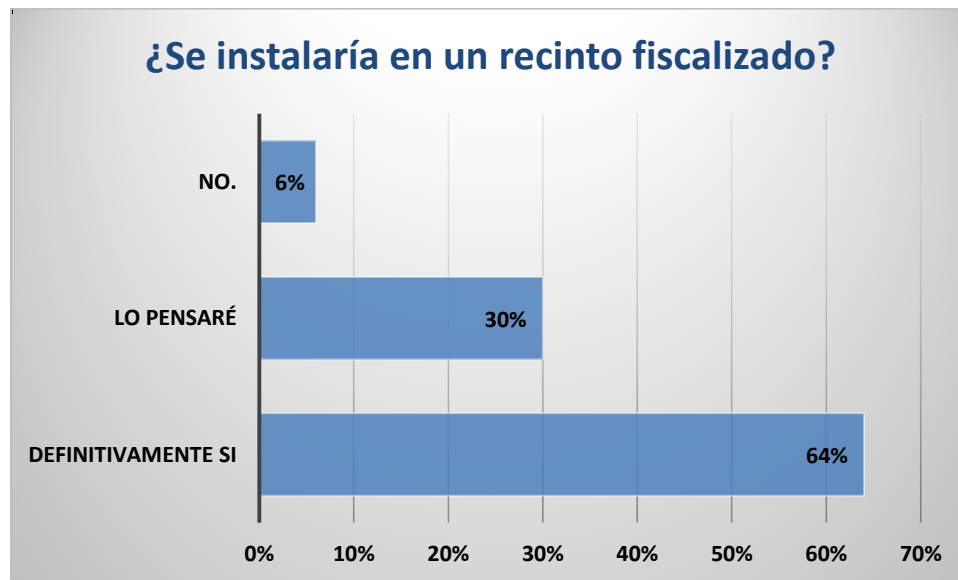
Only 34% of the surveyed entrepreneurs know the benefits or administrative and control facilities that could be offered by the fiscal system.

The remaining 56% do not know the services provided by a Strategic Enclosure.

Once information was provided on the characteristics, services and benefits provided by the strategic inspections, six out of 10 businessmen expressed their willingness to settle in one of them.



Figure 5. Grado de aceptación del recinto fiscalizado



Source: elaboración de los autores

To the question about whether the financial resources are available to be installed in a fiscally controlled area, 87% responded affirmatively.

5. Conclusion

To 64% of the companies in the garment maquiladora industry of the Lagunera Region, it would be interesting to set up a Strategic Enclosure and take advantage of the benefits offered by this regime. For example, the benefits indicated in the Decree published on February 4, 2016 in the Official Gazette of the Federation where the Secretary of Finance and Public Credit reports that tax incentives are granted to taxpayers who obtain authorization to destine goods to the Regime of Strategic Enclosure.

It is important to point out that the Connectivity Zone project is currently being carried out in the Lagunera Region of Durango, under the auspices of being a growing region with a great investment in infrastructure, and having a Strategic Enclosure would complement this project. For the maquiladora industries installed in the region, it would provide competitive advantages by having different means of communication, such as railroads, customs, land access routes,

which connect to the north with the United States border, to the south with the port of Manzanillo, Colima, which gives way to the Pacific Ocean and to the countries of the Asian continent, likewise communicates to the southeast of the country with the port of Veracruz, which opens to the Gulf of Mexico to pass to the Atlantic Ocean and the countries of the European Union.

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