Regulatory Alert: New Customs Requirements – Ecuador

On December 10, 2010, President Correa issued a new compendium of laws called the “Código Orgánico de la Producción e Inversiones” (COPCI). Included is a new Customs law implemented on July 1, 2011 which contains significant changes.

The purpose of this document is to highlight these new changes and procedures to ensure correct and complete information is provided along with the shipment.

Summary of Changes
New types of “abandonments” – Shipments that arrive with missing/incorrect information are now categorized into specific types each with their own specific clearance process:

- **Tácito (Tacit)** – Shipments that have clearance issues but can be released pending resolution and payment of fines/penalties.
- **Definitivo (Definitive)** – Shipments that have been sent to customs warehouse and become the property of SENAE (Ecuador Customs).
- **Expreso (Deliberate)** – Shipments sent to abandonment at the request of consignee or shipper.

Increased in fines and penalties from US $26 to US $132 up to US $2,640:

- Any missing/incorrect information not provided within ten days of customs inspection will fall under a “Tacit” abandonment and incur a fine of US $132.
- After 10 days in the “Tacit” abandonment, an additional US$132 fine must be paid.
- “Tacit” abandonment must be resolved and cleared or be returned to shipper. If resolution or return is not completed with 30 days, an additional fine of US$2,640 applies.

Additional permits/licenses required – the new COPCI law requires additional permits/licenses depending on the commodity:

- INEN (Instituto Nacional Ecuatoriano de Normalización) for textiles
- MSP (Ministerio de Salud Publica) Sanitary permits for medicines and any products for human consumption
- INCOP (Instituto Nacional de Compras Pública) when shipping to Governmental entities
- ONTOT (Organismo Nacional de Trasplante de Órganos) for human organs
- Agrocalidad for food, veterinarian supplies, etc.
- CONSEP (Consejo Nacional de Control de Sustancias Estupefacientes y Psicotropicas) for controlled chemicals
- COMACO for firearms (Comunicación Social del Comando Conjunto de las FF.AA.)
- MAGAP (Ministerio de Agricultura) for agriculture supplies

In addition, the Sub-Secretary of Commerce and Investment of the Ministry of Industry and Productivity (MIPRO), issued resolution no 11-272 effective 26 of August 2011 requiring an import license for an additional 87 commodities including vehicles, tires, cellular telephones, refrigerators, televisions (full list can be found at [http://www.aduana.gob.ec/archivos/resoluciones/Res_NO_11_272.pdf](http://www.aduana.gob.ec/archivos/resoluciones/Res_NO_11_272.pdf))

Failure to meet these additional requirements at time of arrival upon customs inspection will be subject to the fines listed above.

Strict requirements for imported DONATED Material:

- Imports to be done ONLY by nonprofit organizations
Donated Material shipments are NOT exempt from any potential customs fines/penalties.

**Additional Requirements**

1. Used merchandise is prohibited and is subject to potential customs seizure. The only exceptions are Cell phones and computer equipment for personal use being returned by EC visitor accidentally left behind on their overseas trip.

2. All non-document shipments must be accompanied by an original Commercial Invoice (1 original and 2 copies) and requires clearance authorization, written or verbal, from consignee. They are subject to duty and tax and any applicable additional customs/warehouse/broker fees.

3. Electronic, pro-forma, fax transmission or photocopies of the commercial invoice must be on company letterhead and should include the total FOB customs value. "Value for custom purposes only" is not accepted on the Commercial Invoice. Proforma Invoices are not accepted by customs.

4. Tax Identification number is required by the consignee for the clearance of any non-document (dutiable) shipments, this can be the Registro Unico de Contribuyente (RUC) for a business or "Numero de Cedula" for individuals. This number must be included on the AWB and Commercial Invoice to avoid any clearance delays.

5. The correct weight and value of a shipment as well as a complete and accurate description must be included on all documentation. Inaccurate/missing information is subject to fines and customs seizure.

6. Any missing or incorrect information required for customs clearance not provided within 24 hours of the time of inspection are subject to customs fines/penalties. If no information is provided within 10 days, additional customs fines/penalties may be applied and shipment will fall under a "Tacit Abandonment" requiring the shipment to be returned only after payment of all customs fines/penalties.

7. Shipments that make up a single set/kit shipped separately must receive customs authorization and verification prior to shipment arrival.

8. Shipments with a declared value over 2,000 USD or weighing more than 50 Kg require formal entry. Clearance delays may occur. This does not apply to books, computers, computer parts medicines or surgical goods for personal use as certified by local Ministry of Health.

9. Shipments requiring formal entry must be cleared by a Non-FedEx broker selected by the consignee at the port of entry (Guayaquil). The Broker must be licensed to clear shipments in Guayaquil. In-bond transit shipments to another clearance location for clearance purposes are not accepted by customs.

10. "Category C" shipments are subject to a 20% D&T plus a Fodinfa tax of 0.5% and VAT of 12%. If a specific harmonized code is included in the Commercial Invoice, determination of D&T will be established based on the Harmonized Code. "Category C" shipments are defined as: Weight from 4k up to 50kg and/or Total Declared Value from $400 to $2000 USD. If one of both parameters is exceeded, the shipment is considered a formal entry and must be cleared by a consignee assigned Broker.

11. Shipments that are dutiable and fall under the clearance "Category C" require additional data elements be provided on the AWB and/or Commercial Invoice. These elements are: -The purpose for the importation of the shipment; for resale, not for resale, for repair and return, personal use, gift, etc.- Whether the goods contained in the shipment will be paid for in Ecuador or abroad.

12. Spare part shipments containing more than 10 units for automobiles, ships, airplanes and the manufacturing industry regardless of value or weight will require formal entry. The same kind of additional information as Category "C" is required.
13. Sample shipments must be accompanied by a Commercial Invoice including the phrase “Sample not for resale”. Samples must be mutilated and the quantity must be limited to no more than 3 units per item. Any samples sent to a company subject to Ministry of Health permits will require the permit regardless of quantities sent.

14. Cellular/Mobile telephones (new or used) shipped for commercial purposes must be accompanied by an import license obtained by consignee PRIOR to shipment arrival. Individuals receiving more than 1 telephone per week will also require the license.

15. Finished Textiles and Shoes with a declared value over 2,000 USD or weighing more than 20Kg requires formal entry and are subject to clearance delays.

16. Items re-imported after being repaired will be treated as new and be subject to full duty and tax if no proof of authorization (“Providencia”) was made at the time the item was exported out of Ecuador.

**Origin/Shipper Action Required**

**Origin**
- All origins must ensure that the proper paperwork PST audits are in place for Ecuador shipments.
- Monitoring of clearance/cage issues at shipment level must be performed by origin location to ensure service commitment and customer satisfaction are met.
- Any Origin Trace request from Ecuador MUST be addressed same day to avoid any shipments from falling into “Tacit” abandonment and incurring fines/penalties.

**Shipper**
- All shippers into Ecuador MUST be made aware of these new regulations.
- It is HIGHLY recommended that shipper communicates with their consignee PRIOR to shipment when shipping any dutiable items (any non-document) to ensure that all new and existing regulations are met.
- New COPCI law requires additional permits/licenses depending on the commodity.

For further information, do not hesitate to contact LACGTSHELP@corp.ds.fedex.com

**Advisory References:**
Código Orgánico de la Producción e Inversiones” (COPCI)

Sub-Secretary of Commerce and Investment of the Ministry of Industry and Productivity (MIPI) resolution no 11-272 effective 26 of August 2011

Servicio Nacional de Aduana del Ecuador – SENAE (Ecuador Customs)
http://www.aduana.gov.ec/