



Faculty of Legal Sciences

School of International Studies

**APPLICATION OF SPECIFIC CUSTOMS
GUARANTEES FOR IMPORTERS IN THE
DISTRICT DIRECTORATE OF CUENCA**

**Project prior to obtaining a Bachelor's Degree in
International Studies**

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To Lunita,

Without you in my life, the butterfly effect could only be imagined in shades of gray. Thank you for standing by my side during the most difficult times, even when you were the one most in need of an embrace. Thank you for the countless times you placed my well-being above your own, for your unconditional light, and your exuberant tenderness.

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APPLICATION OF SPECIFIC CUSTOMS GUARANTEES FOR IMPORTERS IN THE DISTRICT DIRECTORATE OF CUENCA

ABSTRACT

This study analyzes the application of specific customs guarantees for importers within the District Directorate of Cuenca in international trade facilitation. Grounded in the principles of tax and customs law, it examines due process, legal certainty, and the role of SENA E as the competent authority. We employed a qualitative approach, triangulating data from three sources: current regulations and a comparative analysis between Ecuador and Peru; a theoretical framework and state-of-the-art; and semi-structured interviews with customs technicians and authorized agents. The findings show that specific guarantees enable the continuation of commercial operations while tax disputes are resolved, thereby strengthening regulatory predictability and reducing transaction costs. The study identified efficient management in the Cuenca district and a positive perception among economic operators, although challenges remain regarding tariff classification and the enhancement of technical autonomy. The study concludes that specific customs guarantees constitute an effective mechanism for balancing fiscal control with streamlined procedures. It recommends strengthening technical training and promoting a customs culture oriented toward regulatory compliance.

Keywords: customs, customs control, trade facilitation, foreign trade, and specific customs guarantees.

APLICACIÓN DE LAS GARANTÍAS ADUANERAS ESPECÍFICAS PARA EL IMPORTADOR EN LA DIRECCIÓN DISTRITAL DE CUENCA

RESUMEN

Este trabajo analiza la aplicación de las Garantías Aduaneras Específicas para importadores en la Dirección Distrital de Cuenca, en el marco de la facilitación del comercio exterior. Con base en los principios del derecho tributario y aduanero, se examinan el debido proceso, la seguridad jurídica y el rol del SENA E como autoridad competente. Se empleó un enfoque cualitativo, mediante la triangulación de fuentes: normativa vigente y análisis comparativo entre Ecuador y Perú; marco teórico y estado del arte; y entrevistas semiestructuradas a técnicos aduaneros y agentes autorizados. Los resultados indican que las garantías específicas permiten la continuidad de las operaciones comerciales mientras se resuelven controversias tributarias, fortaleciendo la previsibilidad normativa y reduciendo los costos de transacción. Se evidenció una gestión eficiente en el distrito de Cuenca y una percepción positiva entre los operadores económicos, aunque persisten desafíos en materia de clasificación arancelaria y fortalecimiento de la autonomía técnica. El estudio concluye que las Garantías Aduaneras Específicas constituyen un mecanismo eficaz para equilibrar el control fiscal con la agilización de trámites, recomendándose reforzar la capacitación técnica y promover una cultura aduanera orientada al cumplimiento normativo.

Palabras clave: Aduana, comercio exterior , facilitación al comercio, garantías aduaneras específicas, Zonal 6.

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APPLICATION OF SPECIFIC CUSTOMS GUARANTEES FOR IMPORTERS IN THE DISTRICT DIRECTORATE OF CUENCA

CHAPTER 1 THEORETICAL PRINCIPLES AND REVIEW OF THE LITERATURE ON CUSTOMS GUARANTEES IN LATIN AMERICA

1.1. Theoretical Framework

1.1.1. Tax, principles, and taxable person

The Tax Code (National Congress, 2005b) defines a tax in Article 1 as a monetary obligation imposed by the State through national, regional, or local authorities, arising from the occurrence of a taxable event established by law. Its purpose is to meet public needs. Within this framework, taxes are classified into three main categories: Taxes, Fees, and Special Improvement Contributions. Among Taxes, a distinction is made between internal and external taxes, the latter being related to foreign trade. According to Article 2, subsection w, of the Regulation to the Title on Trade Facilitation, found in Book V of the Organic Code of Production, Trade, and Investment (National Assembly of Ecuador, 2011), hereinafter referred to by its Spanish acronym, RCOPCI, foreign trade taxes are commonly referred to as tariffs or customs duties and are divided into three types: ad valorem, specific, and mixed.

In this regard, Article 300 of the Constitution of the Republic of Ecuador (Constituent Assembly, 2008) establishes that the tax system must adhere to the principles of generality, progressivity, efficiency, administrative simplicity, non-retroactivity, equity, transparency, and revenue sufficiency. These principles aim to ensure a fair and efficient tax system for the benefit of taxpayers, who are individuals or legal entities obligated to pay taxes upon the occurrence of a taxable event. It is worth noting that even when taxpayers pass the tax burden on to third parties, they remain legally responsible before the tax authority, as established in Article 25 of the Tax Code (National Congress, 2005b).

In addition to being protected by the tax principles established in the Constitution, taxpayers (referred to as passive subjects under tax law) are entitled to a series of specific rights that ensure a proper and transparent relationship with the tax administration, as outlined in Article 30.1 of the Tax Code. These rights include receiving respectful and ethical treatment, obtaining clear assistance to comply with their obligations, submitting inquiries and receiving timely responses, and filing requests or claims that must be resolved within

the legal deadlines. Taxpayers also have the right to access personal and property-related information held by the tax authority, consult administrative records, and obtain copies of such documents. Furthermore, they are entitled to receive clear information about audits, know the identity of the official handling their procedures, and avoid being asked to resubmit documents that have already been provided. Finally, they may correct tax returns, challenge administrative decisions, file complaints or grievances, and request refunds for overpaid taxes, including any applicable interest (National Congress, 2005b).

On the other hand, taxpayers are also protected by the fundamental principles established in Article 104 of the Organic Code of Production, Trade, and Investment, hereinafter referred to as COPCI. These principles encompass the facilitation of foreign trade, customs control, cooperation, and information exchange, as well as the principles of good faith, transparency, and the adoption of international best practices. Their purpose is to ensure a transparent and efficient environment for foreign trade operations, promoting legal certainty and trust in the system. In this context, the right to legal certainty, as outlined in Article 82 of the Constitution, is based on respect for the Constitution and the existence of prior, clear, and public legal norms applied by competent authorities. Therefore, in any process in which rights and obligations of any kind are determined, the right to due process must be guaranteed, including the basic safeguards provided for in Article 76 of the same supreme law (Constituent Assembly, 2008)

When a taxpayer becomes a passive subject of taxes related to foreign trade, they acquire the status of a Foreign Trade Operator (FTO), a term referring to any natural or legal person, whether domestic or foreign, participating in the international movement of goods. However, obtaining FTO status does not necessarily imply a liability to pay customs duties, as some participants in the logistics chain may have operational roles that do not generate a direct tax obligation. For instance, entities such as international carriers and temporary storage facilities are classified as FTOs. However, their activity is limited to the transport, storage, or handling of goods, without involving the payment of import or export taxes. In certain cases, acquiring FTO status requires express authorization from the Customs Administration, in accordance with the provisions established in the RCOPCI (National Assembly of Ecuador, 2011).

Another example of an FTO is the Licensed Customs Broker (LCB), as defined in Article 5 of the Regulation governing the activities of customs brokers and their assistants. An LCB is a natural or legal person licensed to regularly manage, on behalf of third parties, the clearance of goods for importers or exporters. This individual or entity is also declared

jointly liable for customs tax obligations, as established in Article 14 of the same Regulation (National Customs Service of Ecuador, 2019). Within this framework, importation is understood as the process through which residents of a country acquire goods or services originating from another country, generally through the exchange of foreign currency (World Trade Organization, 2021).

In this context, Authorized Economic Operator (AEO), is understood as a special category of Foreign Trade Operator (FTO) that voluntarily undergoes a certification process, conducted by the customs administration, at no additional cost. This recognition is awarded to operators who consistently demonstrate compliance with security measures throughout the international logistics chain in accordance with the standards of the SAFE Framework established by the World Customs Organization (WCO). The certification is valid for three years and grants the operator a range of benefits, including simplified customs procedures at both the national and international levels, pursuant to Mutual Recognition Agreements signed with other customs administrations (Inter-American Development Bank, 2006; National Customs Service of Ecuador, n.d.).

One of the main advantages offered by AEOs, is outlined in subsection a) of Article 231 of the COPCI. This article states: Reduction or exemption from the requirement to submit customs guarantees, including those necessary to access expedited clearance procedures, provided that the operator meets the risk and solvency criteria established for this purpose (National Assembly of Ecuador, 2011).

1.1.2. Customs guarantees

In relation to the central focus of this research, Cabanellas (2002) defines the term “guarantee” as a means to ensure the fulfillment of an agreement or to enforce an obligation or promise. Applying this concept to the customs context, Mora (2007) describes a customs guarantee as a mechanism that ensures compliance with commitments made to the Customs Administration, fulfilling them satisfactorily according to the authority’s requirements.

Similarly, the General Secretariat of the Andean Community (2019), in Decision 848, defines this concept as one that sufficiently assures Customs of the fulfillment of obligations undertaken with the authority. Along the same lines, the World Customs Organization (2006b) explains that Customs administrations often require guarantees to ensure the payment of duties and taxes associated with customs operations. In addition to covering tax payments, such guarantees may also apply to other obligations that the declarant or operator must meet concerning customs regimes, procedures, or specific requirements set by the Customs authority.

Meanwhile, Article 233 of the RCOPCI states that customs guarantees represent an additional obligation undertaken to ensure the payment of customs duties on foreign trade and compliance with customs regulations and other obligations assumed by operators before SENAE (National Assembly, 2011).

In this context, Articles 234 and 235 of the same Regulation distinguish between two main categories of guarantees:

- **General Guarantees:** These are submitted to the General Directorate, have a broad scope, and apply to all activities that an individual or company may undertake in the field of foreign trade. In other words, they cover any customs operation conducted by an operator within a given period, providing comprehensive protection for all their transactions (National Assembly, 2011)

These, also known as Global Guarantees in some countries such as Colombia and Peru, are those that secure compliance with obligations related to more than one customs declaration or request for a customs procedure (Congress of the Republic of Peru, 2008).

- **Specific Guarantees:** In contrast to general guarantees, these are submitted to the District Directorate and apply to specific operations within foreign trade. They are designed to secure a particular transaction, such as the import or export of a specific good, and do not extend to other activities carried out by the operator¹.

Article 237 of the RCOPCI states that both types of guarantees must meet a key requirement: they must be irrevocable. This means they cannot be canceled until all agreed-upon obligations have been fulfilled. In addition, they must allow for immediate or partial enforcement, meaning they can be executed promptly and without the need to meet additional conditions, whenever required by the State. This immediate enforceability enables guarantees to function as enforceable payment instruments, granting the competent authority the ability to execute them directly, when necessary, in accordance with the current legislation (National Assembly, 2011).

These guarantees shall be submitted in the following cases:

General Customs Guarantees (Article 234 of the RCOPCI):

- For the exercise of customs brokerage activities.

¹ The customs districts in Ecuador are: Esmeraldas, Guayaquil, Huaquillas, Latacunga, Loja – Macará, Manta, Puerto Bolívar, Quito, Tulcán, and Cuenca. The jurisdiction of the Cuenca district includes the provinces of Azuay, Cañar, and Morona Santiago (National Customs Service of Ecuador, 2010).

- For legal entities authorized to provide express courier services and handle international postal traffic.

- For temporary storage facilities.

- For clearances under guaranteed payment.

- For free and special warehouses.

- For bonded warehouses and other facilities operating under the temporary admission regime with inward processing.

Specific Customs Guarantees (Article 234 of the RCOPCI):

- For temporary admission with re-exportation in the same state or under the inward processing regime.

- For companies engaged in public passenger and cargo transportation using vessels or aircraft that enter the country under the temporary admission regime.

- In cases of forced arrival.

- For the customs transit regime.

- For privately owned vehicles intended for tourism.

- For vessels or aircraft entering the country for repair under the inward processing temporary admission regime.

- For goods imported under the international fair regime.

- In cases where the Certificate of Origin is not submitted or does not meet the required formalities.

- When disputes arise.

- When the visa for exemption on the entry of household goods or work equipment is still being processed.

- In cases of direct customs clearance or direct unloading.

- For goods brought in by diplomatic or consular missions that are entitled to tax exemption (National Assembly, 2011).

In addition to general and specific guarantees, the Director General of SENA E may require an additional guarantee for foreign trade operations that present a higher or particular level of risk. This guarantee may be either general or specific (National Assembly, 2011).

According to Article 173 of the COPCI, SENA E holds a special and preferential lien over goods under its authority to guarantee compliance with customs tax obligations. This right takes precedence over any other lien established by legal provision or contractual agreement (National Assembly of Ecuador, 2010).

Article 2 of the RCOPCI defines the Customs Administration, formally referred to as the Customs Authority, as the competent public body responsible for facilitating foreign trade, applying customs legislation and its complementary and supplementary regulations, determining and collecting foreign trade taxes and any other charges legally established for foreign trade operations, exercising customs control and authority, and providing customs services either directly or through concession, as established in the COPCI (National Assembly, 2011).

In this context, the technical operator plays a key role within the customs administration, serving as the official responsible for managing and supervising processes related to customs declarations through the use of non-intrusive technological systems for inspections and automated assessments. Additionally, the technical operator performs essential functions in the inspection, transfer, registration, and valuation of goods in customs warehouses, ensuring compliance with applicable regulatory provisions (National Customs Service of Ecuador, 2013, 2020).

Finally, following Article 103 of the aforementioned customs regulation, any matter not expressly provided for in Title I, Fundamental Provisions, Chapter I of the COPCI shall be governed by the rules of the Tax Code and other substantive or procedural legal norms (National Assembly of Ecuador, 2010).

1.2. State of the Art

For the state of the art, this research includes a review of relevant legal documents and scientific articles at both the national and international scopes. The following is a synthesis of key studies and legal resolutions that contribute to the analysis of the topic.

1.2.1. International scope

1.2.1.1. Transparency and Predictability Guidelines (OMA)

The World Customs Organization (2017) emphasizes in its document, "Transparency and Predictability Guidelines", that transparency and predictability in customs procedures facilitate trade and strengthen institutional integrity. Clarity in the application of regulations helps reduce hidden costs and builds trust among trade operators. To achieve comprehensiveness, customs administrations should provide access to all pertinent information on imports, exports, transit procedures, tariff classification, trade restrictions, and appeals. They should also provide details on customs guarantees, distinguishing between single-transaction (specific) guarantees and multiple-transaction (general) guarantees,

thereby offering greater certainty to importers and exporters regarding their financial obligations.

The document also addresses topics such as coordinated border management, the timely publication of regulatory changes, and the accessibility of information through both digital and physical means. It recommends the use of online platforms, social media, and single windows to enhance the availability of information and communication with users. Regarding integrity, the document emphasizes the importance of preventing corruption through effective control systems, robust reporting mechanisms, and disciplinary measures, citing the Revised Arusha Declaration as a key reference. Although the guidelines are not binding, they encourage member countries to adopt these practices in their customs administrations to promote trust and efficiency in international trade. While the document is comprehensive and contributes significantly to customs transparency, it does not include Ecuador among the countries recognized for good practices. This highlights the need for studies like the present one, which, through its analysis, encourages the country to improve and strive for international recognition.

1.2.1.2. Global Guarantees (Colombia)

In his 2017 study, *The Sufficiency of the Global Guarantee of Permanent Customs Users in Value Disputes (Case: Ostensibly Low Prices)*, Ricaurte Trespalacios examines how global guarantees posted by Permanent Customs Users (PCUs) in Colombia secure the payment of taxes and duties during valuation disputes—particularly those involving ostensibly low prices. Focusing on trade frictions between Panama and Colombia, he shows that the undervaluation of imports through the Port of Cartagena from 2010 to 2015 eroded Colombia's tax base and facilitated smuggling and money laundering.

Trespalacios also highlights that the WTO ruled Colombia's use of estimated and indicative pricing as a trade barrier, prompting calls for customs policy reform. While his analysis rigorously explores the interplay between Colombian regulations and international frameworks, such as the WTO Valuation Agreement, the Revised Kyoto Convention, and the Trade Facilitation Agreement, it remains confined to global guarantees. This exclusive focus leaves the role of specific guarantees unexamined, which are critical in individual dispute cases. By overlooking them, the study misses an opportunity to assess how tailored guarantees might mitigate risks associated with low-price declarations and strengthen customs enforcement in targeted scenarios.

1.2.1.3. Court ruling (Perú)

The Constitutional Court of Peru, in ruling No. 01251-2015-PA/TC (2021), addressed an action for constitutional protection filed by the company Brocatti SAC against Supreme Decree 307-2013-EF. The decree restricted access to the customs guarantees system for companies that were not classified as frequent importers or AEOs. The company argued that this regulation violated its right to equality before the law and its freedom of commerce by excluding it from benefits such as expedited clearance within 48 hours, which is essential for streamlining imports.

However, the Court held that the restriction imposed by the regulation was objectively and proportionally justified, as it aimed to prevent fraud through the undervaluation of sensitive goods. It noted that the use of customs guarantees must be subject to standards that ensure effective control over foreign trade operations. As a result, the Court dismissed the claim. It upheld the validity of the regulatory framework that limits access to these guarantees to operators with a solid commercial track record and proven compliance.

1.2.2. National scope

1.2.2.1. Customs Guarantees Resolution: SENAE-SENAE-2023-0111-RE

Through Resolution SENAE-SENAE-2023-0111-RE (National Customs Service of Ecuador, 2023b), the Ecuadorian Customs Authority formalized the adoption of the updated version of the Specific Manual for the Certification of Customs Formality Prior to the Refund of Specific Guarantees (SENAE-MEE-2-7-010-V2). This manual supersedes the previous version (SENAE-MEE-2-7-010-V1, dated 2020) and aims to modernize procedures and regulations in line with current international trade requirements. The resolution emphasizes the obligation to apply this manual nationwide and affirms its binding nature. It also assigns various SENAE departments responsible for disseminating, publishing, and storing the manual on internal and external platforms, such as the ECUAPASS system and the Customs Library, ensuring accessibility for relevant stakeholders. The immediate implementation of this resolution reinforces the principles of efficiency, quality, and transparency in customs procedures, in accordance with the powers of SENAE's General Directorate, as established in the COPCI.

1.2.2.2. Specific Customs Guarantees Resolution SENAE-SENAE-2021-0067-RE

Resolution SENAE-SENAE-2021-0067-RE (National Customs Service of Ecuador, 2021b), issued by the Ecuadorian Customs Authority, formalized the approval of the documented procedure titled SENAE-MEE-2-7-001-V6: Specific Manual for the Administration of Customs Guarantees, repealing the previous version (SENAE-MEE-2-7-001-V5) from 2015. This manual modernizes and clarifies the processes related to managing

both general and specific customs guarantees in accordance with the COPCI and its complementary regulations. The resolution grants a four-month period for the National Directorate for Continuous Improvement and Information Technologies to implement the necessary updates to the ECUAPASS system, ensuring the proper implementation of the manual. It also instructs the General Directorates, Subdirectorates, and other key the National Customs Service (hereinafter SENAE by its initials in Spanish) departments to notify, disseminate, and publish the resolution and manual through official platforms, including the Digital Tax Gazette, the institutional website, and the Knowledge Management System (SAC). Additionally, it states that the resolution shall enter into force on the business day following its publication in the Official Register, reaffirming SENAE's commitment to transparency and efficiency in the administration of customs guarantees.

CHAPTER 2

Regulatory Framework: National, International, Comparative Law (Ecuador–Peru) and Case Study

2.1. Regulatory framework

This section addresses the legal framework applicable to Specific Customs Guarantees, including constitutional, tax, and customs provisions in both Ecuador and Peru. It incorporates a comparative legal analysis aimed at identifying similarities and differences between the two systems.

Peru was selected as the country of reference because, like Ecuador, it is a member of the Andean Community and shares geographic proximity and legal affinity. This decision follows an exploratory, non-systematic analysis that omitted Colombian legislation, concluding that Peru's regulatory framework—due to its greater technical sophistication and detail—is better suited for identifying elements transferable or adaptable to the Ecuadorian context.

An additional section will address international regulations, focusing on instruments related to trade facilitation, as this is one of the core purposes of Specific Customs Guarantees within the foreign trade system.

2.1.1. Ecuadorian legislation

2.1.1.1. General principles of public and fiscal administration applicable to tax and customs matters: Legal certainty and due process

Public administration in Ecuador is oriented toward serving the public. It is governed by the principles of effectiveness, efficiency, quality, hierarchy, deconcentration, decentralization, coordination, participation, planning, transparency, and evaluation, in accordance with Article 227 of the Constitution of the Republic of Ecuador.

In the fiscal sphere, Article 300 of the same legal instrument establishes that the tax system must be based on the principles of generality, progressivity, efficiency, administrative simplicity, non-retroactivity, equity, transparency, and revenue sufficiency (Constituent Assembly, 2008).

In line with these constitutional principles, Article 5 of the Tax Code incorporates the principle of legitimate expectation, stating that the tax system must promote equity and efficiency in tax collection, with a preference for direct and progressive taxes (National Congress, 2005b).

- **Legal certainty**

Article 1 of the Civil Code defines the law as a declaration of the sovereign will, expressed in the form prescribed by the Constitution, which commands, forbids, or permits (National Congress, 2005a).

Within the framework of Ecuador's legal system, the Constitution is recognized in Article 424 as the supreme law of the land, prevailing over all other normative structures. As a result, all public norms and acts must conform to its provisions, and any that are unconstitutional lack legal effect. In turn, Article 82 guarantees legal certainty as a fundamental right, grounded in respect for the Constitution and the existence of prior, clear, public norms applied by competent authorities.

Additionally, the Constitution and international human rights treaties ratified by the State that recognize more favorable rights than those contained in the Constitution shall prevail over any other legal norm or act of public authority (Constituent Assembly, 2008).

- **Due process**

Article 169 of the Constitution of the Republic of Ecuador establishes that the procedural system is a means for achieving justice. Procedural norms must embody the principles of simplification, uniformity, effectiveness, immediacy, promptness, and procedural economy and must give effect to the guarantees of due process. Justice shall not be sacrificed due to the mere omission of formalities (Constituent Assembly, 2008).

In this regard, due process is a fundamental right guaranteed under the Ecuadorian legal system. It ensures respect for the minimum guarantees established in Article 76 of the same Constitution within any proceeding in which rights and obligations are determined.

2.1.1.2. Active subject

According to Article 261 of the Constitution of the Republic of Ecuador, the central government shall have exclusive authority over: (...) 5. Economic, tax, customs, and tariff policy; fiscal and monetary matters; foreign trade and public debt (Constituent Assembly, 2008). However, the executive branch delegates tax, customs, and tariff policy to the Internal Revenue Service (SRI), the Foreign Trade Committee (COMEX), the SENA, and the Ministry of Production, Foreign Trade, Investment, and Fisheries.

- **National Customs Service of Ecuador (SENA)**

In this regard, Article 212 of the COPCI defines the SENA as a legal entity under public law with indefinite duration and technical, administrative, financial, and budgetary autonomy. It is headquartered in the city of Guayaquil and has jurisdiction throughout the national territory. The Code grants SENA the technical and administrative authority

necessary to plan and implement the country's customs policy, as well as the regulated exercise of its tax powers related to customs matters, including assessment, resolution, sanctioning, and rulemaking, in accordance with the provisions of this Code and its regulations (National Assembly of Ecuador, 2010).

2.1.1.3. Passive subject

Every passive subject to foreign trade-related taxes is, by nature, an FTO, although not every FTO is necessarily a passive subject of such taxes. In this context, the operators examined below, the Customs Broker and the Customs Broker who obtains the AEO status, do qualify as taxpayers. Similarly, the importer is also both an FTO and a taxpayer of these taxes. However, unlike the other operators mentioned, there is no specific regulation governing the importer's legal status, although their representation before the customs administration is typically handled by Customs Brokers.

- **Customs Brokers**

In accordance with Article 227 of the COPCI, during customs clearance procedures involving a customs broker, the broker is jointly liable for the customs tax obligation, without prejudice to any administrative or criminal liability that may be applicable under the law (National Assembly of Ecuador, 2010).

- **Authorized Economic Operators**

In accordance with Article 231 of the COPCI, AEOs are entitled to the benefits established under mutual recognition agreements, as well as those defined by the National Trade Facilitation Authority, the National Trade Policy Authority, and SENA. These incentives may include one or more of the following:

- a. Reduction or exemption from the requirement to submit customs guarantees, including those necessary for accessing Guaranteed Clearance, provided they meet the risk and solvency criteria established for that purpose;
- b. Submission of a single monthly customs declaration for all operations. For each individual operation, a simplified provisional declaration may be submitted, which, in the case of exports, may consist solely of the electronic invoice authorized by the tax authority; and
- c. Receipt of goods directly at the operator's facilities, without the need to enter a temporary storage facility.

In the event of noncompliance with the requirements to maintain AEO status, actions will be taken in accordance with regulations issued by SENA. Additionally, AEO status

will be revoked in the event of a customs offense committed by the operator or its legal representative (National Assembly of Ecuador, 2010).

2.1.1.4. Specific Customs Guarantees: Constitution, procedures, application cases, enforcement, and appeal

- **Constitution**

Article 174 of the COPCI affirms that customs guarantees may be classified as general or specific and must be granted, approved, and enforced in accordance with the regulations of this Code, specifying the manner, timeframe, and amounts. Specific guarantees are those that secure a particular customs or foreign trade operation. Customs guarantees must be irrevocable, enforceable in whole or in part, unconditional, and immediately collectible. They constitute sufficient legal instruments for immediate enforcement upon presentation for collection, in accordance with the applicable law (National Assembly of Ecuador, 2010).

According to Article 233 of the RCOPCI, customs guarantees may be classified as either general or specific and may be constituted through the following means:

- a) Cash deposit;
- b) Time deposit certificates issued by financial institutions established in Ecuador, duly endorsed in favor of the Customs Administration;
- c) Credit notes issued by the SENAE or another central tax administration, accompanied by the corresponding endorsement;
- d) Bank guarantee;
- e) Insurance policy;
- f) Letter of guarantee issued by the highest authorities of public sector institutions, provided they are the holders of the foreign trade transaction. This type of guarantee does not apply to public enterprises;
- g) Letter of guarantee signed by the highest authority of diplomatic missions or consular offices accredited in the country, in cases where these entities are the holders of the foreign trade transaction;
- h) Real estate property mortgaged in favor of the SENAE, accepted based on its municipal valuation and in accordance with the provisions issued by the Director General for this purpose. These guarantees may only be submitted as general guarantees; and
- i) Other forms established in this regulation (National Assembly, 2011).

Likewise, according to Article 235 of the same regulation, specific guarantees may be constituted through the following means: cash deposited into an account, a certified

check, a credit note issued by the SENAE or another central tax administration, a bank guarantee, or an insurance policy. Where applicable, a specific guarantee may also take the form of a letter of guarantee issued by the highest authorities of public sector institutions—excluding public enterprises—or a letter of guarantee issued by diplomatic missions and consular offices accredited in the country (National Assembly, 2011)

In accordance with Article 237 of the same regulation, guarantees must comply with the following provisions:

- a) Guarantees must be expressed in United States dollars;
- b) Guarantees must be unconditional, irrevocable, and immediately collectible, allowing for full or partial enforcement. These conditions must be explicitly stated in the text of the submitted guarantee;
- c) In all cases, the Customs Administration shall have an additional sixty business days from the expiration of the guarantee to initiate collection proceedings, provided such action was not initiated on the day of expiration;
- d) If a general guarantee is partially enforced, the authorized operator must replenish the executed amount to ensure that the full secured value is maintained throughout the entire authorization period;
- e) Bank guarantees and insurance policies must always bear the signature of the insured party;
- f) Without prejudice to any applicable administrative actions due to the failure to renew or maintain the validity of a general guarantee, the operator's code will be immediately suspended. For this purpose, the unit responsible for managing the guarantee must notify the competent area;
- g) In the case of guarantees submitted by diplomatic missions, consular offices, or public sector institutions, the following formalities must be fulfilled:
 - 1. Original letter;
 - 2. Signature and seal of the legal representative or person holding official representation in the country;
 - 3. Timeframe in accordance with the Code and its regulations;
 - 4. Description of the customs regime applicable to the guaranteed goods and a detailed description, including transport document identification and endorsement of the customs declaration;
 - 5. A certified or notarized copy of the document accrediting the authority of the person signing the letter;

- h) In cases involving authorizations of customs regimes or operators for which a period longer than one year may be granted, the user must submit a guarantee covering the entire period, or annual renewals, provided that they do not exceed the original term granted or its corresponding renewals, in accordance with the conditions established in the preceding articles (National Assembly, 2011).

- **Procedures**

The procedure for administering customs guarantees is established in the Specific Manual (National Customs Service of Ecuador, 2021a).

6.1 Registration, approval, and modification of customs guarantees

6.2 Notification of collection and enforcement of customs guarantees through the issuance of an administrative act

6.3 Notification of collection and enforcement of customs guarantees through the issuance of a payment request

6.4 Release and refund of customs guarantees

In addition, according to the Specific Manual for the Certification of Customs Formality Prior to the Refund of Specific Guarantees, the procedure for issuing the certificate of compliance with customs formalities applies in the following cases:

6.1 In cases where a specific guarantee was submitted due to the absence of a visa document

6.2 In cases where a specific guarantee was submitted due to the absence of a certificate of origin

6.3 In cases where a specific guarantee was submitted due to the absence of a tax exemption certificate

6.4 In cases where a specific guarantee was submitted for direct clearance – consumption, consumption – direct unloading/non-authorized locations, and direct clearance – temporary admission for re-exportation in the same state

6.5 In cases where a specific guarantee was submitted for payment facilities for capital goods

6.6 In cases where a specific guarantee was submitted for transshipment with transport

6.7 In cases where a specific guarantee was submitted for inward processing under temporary admission, temporary admission for re-exportation in the same state, and international fairs

6.8 In cases where a specific guarantee was submitted for consumption – dispute (National Customs Service of Ecuador, 2023a)

- **Application cases of the Specific Customs Guarantee**

A specific guarantee, expressed in United States dollars and in favor of the SENA, must be submitted in the cases outlined in Article 235 of the RCOPCI.

- a) For temporary admission with re-exportation in the same state or temporary admission for inward processing, the declarant of the goods must submit a guarantee equal to 100% of the suspended duties and taxes applicable to the imported goods. For all admissible purposes, the validity of the guarantee shall cover the authorized period plus the time granted to the foreign trade operator to complete the procedures required to close the customs regime.
- b) For domestic companies engaged in public passenger transport or the transportation of domestic or nationalized cargo using vessels or aircraft entering the country under the regime of temporary admission with re-exportation in the same state, a guarantee equal to 0.25% of the suspended duties and taxes of the vessel or aircraft must be submitted.
- c) In cases of forced arrival, the means of transport used to carry goods to their final destination may serve as a guarantee in the form of a special and preferential pledge in favor of the SENA.
- d) For the customs transit regime, a guarantee equivalent to 100% of the potential duties and taxes must be submitted. Alternatively, the means of transport may serve as a guarantee in the form of a special and preferential pledge in favor of the SENA.
- e) For the entry of private vehicles used for tourism into national territory, the vehicle itself may serve as a guarantee in the form of a special and preferential pledge in favor of the SENA.
- f) For the entry into national territory of vessels or aircraft intended for repair under the temporary admission for inward processing regime, the item being admitted may serve as a guarantee in the form of a special and preferential pledge in favor of the SENA.
- g) For goods imported under the international fair regime, customs guarantee equivalent to 100% of the suspended foreign trade duties applicable to the goods must be submitted. The guarantee must remain valid for at least fifteen

additional days beyond the authorized period granted by the competent Customs Authority for the goods to remain in the country under said regime.

- h) When the Certificate of Origin is not submitted, or when it is submitted but fails to meet formal requirements, a guarantee must be presented in accordance with international agreements or, if not specified, for an amount equivalent to the applicable customs duties. In cases of non-submission, the guarantee shall remain valid for fifteen non-renewable days. In cases where the certificate is submitted but does not meet formal requirements, the validity shall not exceed forty days from the date of clearance, renewable for an additional forty days. Once the period expires, the guarantee shall be immediately enforced for the number of customs duties that would have been payable without the benefit.
- i) In cases involving disputes and upon prior payment of the declared foreign trade duties, a guarantee may be submitted for an amount equal to the disputed duties. The guarantee shall remain valid for 280 days and may be renewed until a final resolution is issued.
- j) When the process of obtaining the required visa to qualify for duty exemption on household goods and/or work equipment is underway, the applicant must submit a guarantee equal to 100% of the potential duties on the imported goods. This guarantee shall be valid for a maximum of 180 calendar days. If the visa is not submitted within the established timeframe, the corresponding guarantee will be enforced in accordance with applicable laws and regulations.
- k) When the administrative resolution for duty exemption is still pending, a guarantee equal to 1% of the value of the goods for which the exemption is being requested must be submitted.
- l) In cases of Direct Clearance, customs guarantee equal to 100% of the potential duties derived from the clearance must be submitted to ensure compliance with customs formalities. The guarantee shall be valid for a period of thirty days.
- m) In cases of Direct Unloading, customs guarantee equal to 100% of the potential duties derived from the clearance must be submitted to ensure compliance with customs formalities. The guarantee shall be valid for a period of thirty days.
- n) When diplomatic missions and consular offices accredited in the country import goods that are exempt from duties or subject to a special customs regime suspending duties, they must submit diplomatic letters of guarantee signed by the highest authority of the institution to ensure compliance with customs

formalities. The validity period of the guarantee must be stated in the letter and will depend on the applicable customs regime.

- o) State institutions forming part of the public sector must submit letters of guarantee issued by the institution's highest authority to ensure compliance with customs formalities. The validity period must be specified in the letter and will depend on the applicable customs regime (National Assembly, 2011).

- **Enforcement and appeal**

Article 239 of the RCOPCI provides the following:

The acceptance and enforcement of guarantees shall comply with the conditions, requirements, and formalities set forth in the procedures established by the SENAE and the relevant legal provisions.

Enforcement of a guarantee must be grounded in a legally binding instrument that creates an obligation in favor of the SENAE—such as a liquidation, supplementary assessment, fine, credit title, or any document evidencing a liquidated obligation. Moreover, enforcement may occur only while the guarantee remains valid or within its prescribed execution period.

If the taxpayer or the guarantor challenges, either judicially or administratively, the administrative act ordering the enforcement of the customs guarantee, the guarantee must remain in effect while the dispute is pending resolution. The guarantee may only be enforced following the issuance of a final decision or judgment favoring the customs administration. In the case of insurance policies or bank guarantees, the collection process shall begin with the notification to the issuing institution of all enforceable titles backed by the guarantee within the maximum period established under literal c) of Article 237 of this regulation. If these titles are duly notified, the issuing institution is required to pay the amounts requested by the customs administration as soon as the title becomes final and enforceable unless it has been revoked.

Suppose the guarantee is rendered in cash, deposit certificates, or credit notes. In that case, the customs administration is authorized to retain the full amount of the obligation as security until it becomes final and enforceable. The guarantee shall be definitively enforced as soon as the supporting titles become final unless revoked. However, in the case of bank guarantees or insurance policies, the issuing entity may voluntarily disburse the required amount, which shall then be treated as a cash guarantee.

If the enforcement of the guarantee covers the full amount of the unpaid obligation, the debt shall be considered satisfied. Nonetheless, payment of the guarantee does not

exempt the taxpayer from fulfilling any pending customs formalities. Until such formalities are completed, the Customs Administration shall not accept new guarantees from the responsible users or their customs brokers, as applicable.

If customs guarantee in favor of the SENAE are not honored by issuing entities, despite a final resolution, interest on late payment shall accrue. Suppose the same issuer fails to satisfy more than two such obligations. In that case, the Customs Authority shall no longer accept guarantees from that entity and shall declare it a non-compliant government contractor. Notification of such status must be sent to SERCOP² within 48 hours of the issuance of the corresponding administrative act establishing the obligation.

In cases of forced enforcement, collection shall be requested by the customs authority before which the guarantee was presented, except for general guarantees submitted to the General Directorate. In the latter case, the Director General shall forward the matter to the competent district authority corresponding to the taxpayer's tax domicile.

Coercive collection of a guarantee shall not be permitted unless the principal obligation is final and enforceable.

Once the customs obligations or formalities have been fulfilled, the competent official must proceed with refunding the previously submitted customs guarantee (National Assembly, 2011).

2.1.1.5. Customs regimes

Chapter VII of Book V of the COPCI classifies customs regimes into four categories: importation, exportation, other regimes, and exceptional regimes (National Assembly of Ecuador, 2010). The following section analyzes one regime under the importation category and two that fall under the category of other regimes.

- **Importation for consumption**

Within the importation category, the importation for consumption regime, also known as Regime 10, is particularly noteworthy.

According to Article 147 of the COPCI, importation for consumption is the customs regime under which goods imported from abroad or from a Special Economic Development

² The designation National Institute of Public Procurement shall be replaced by National Public Procurement Service wherever it appears in the Organic Law of the National Public Procurement System, as well as in other laws, regulations, standards, or provisions. Any reference to the National Public Procurement Service as "institute," INCP," or "INCOP" shall be replaced by the new official name and the acronym "SERCOP," respectively (National Assembly of Ecuador, 2008).

Zone may circulate freely within the customs territory, with the intent to remain there permanently, once import duties, taxes, surcharges, and any applicable penalties have been paid, and customs obligations and formalities have been fulfilled (National Assembly, 2010).

Similarly, Article 120 of the RCOPCI establishes that this regime entails the definitive entry of goods into the country. The procedures for its application are to be determined by the Director General of the SENAE. Goods imported under this regime may circulate freely within Ecuadorian territory once the customs tax obligation has been satisfied. Any penalties resulting from the clearance process shall be processed and imposed in accordance with the relevant procedures (National Assembly, 2011).

Under no circumstances may any official from the SENAE halt the clearance of goods due to the processing, imposition, appeal, challenge, or collection of an administrative sanction, except in cases where the sanctioning process aims to impose penalties for infractions defined in the Comprehensive Organic Criminal Code. In such cases, the sanctioning procedure is considered part of the clearance process. Once the customs tax obligation has been fulfilled, goods declared under the importation for consumption regime are considered nationalized.

- **Temporary admission for re-exportation in the same state**

The temporary admission for re-exportation under the same state regime, commonly referred to as Regime 20, falls within the category of special customs regimes. It allows certain goods to enter Ecuadorian customs territory for a specific, authorized purpose, with full or partial suspension of import duties and taxes. These goods must be re-exported within a specified timeframe and remain unchanged, except for normal depreciation resulting from their authorized use.

To qualify for this regime, goods must be clearly identifiable at the time of physical inspection through means such as markings, serial numbers, or other distinguishing features that allow customs officials to verify them both at entry and exit. The intended use must be justified with supporting documentation submitted as part of the authorization request. If goods do not meet the identification or documentation requirements, they are not eligible for this regime.

- **Temporary admission for Inward processing**

The temporary admission for inward processing regime, also known as Regime 21, is classified under the category of special customs regimes. It allows goods to enter Ecuadorian customs territory with a suspension of import duties, taxes, and applicable surcharges,

provided they are intended for re-exportation after undergoing a transformation process that results in compensating products.

Authorized industrial facilities may operate under this regime on a regular basis; they are supported by a general guarantee as long as they meet the requirements set forth in the COPCI regulations. Compensating products obtained under this regime may later be transferred to the importation for consumption regime, in which case duties will apply only to the imported components of those products.

According to the RCOPCI, this regime may be used when the goods are intended for any of the following purposes:

- a) Transformation,
- b) Production of new goods, including assembly, incorporation, adaptation, or combination with other goods,
- c) Repair, restoration, or conditioning, or
- d) Execution of authorized maquila programs approved by the competent authority.

Importers may contract third parties to carry out the required productive operations, but such arrangements must be reported in advance to the control unit of the corresponding District Directorate. This delegation does not exempt the importer or declarant from responsibility before the Customs Authority regarding the use, preservation, or non-commercialization of the goods admitted under this regime.

2.1.2. Peruvian legislation

2.1.2.1. General principles of public and fiscal administration applicable to tax and customs matters: Legal certainty and due process

The Political Constitution of Peru does not explicitly regulate the general principles of Public Administration. However, the Law on General Administrative Procedure establishes that administrative procedures are primarily governed by the following principles, without prejudice to the application of other general principles of Administrative Law: the principle of legality, due procedure, official initiative, reasonableness, impartiality, procedural informality, procedural conduct, and promptness (Congress of the Republic of Peru, 2001).

On the other hand, the Constitution does refer to the general principles of tax administration in Article 74. It states that taxes may only be created, modified, or repealed, or exemptions granted, by law or by legislative decree in cases of delegated authority, except for tariffs and fees, which are regulated by supreme decrees. Regional and local governments may create, modify, or eliminate contributions and fees or grant exemptions within their

jurisdiction, subject to the limits established by law. In exercising its taxing power, the State must respect the principles of legality, equality, and the fundamental rights of individuals. No tax may have a confiscatory nature (Congress of the Republic of Peru, 1993).

- **Legal certainty and due process**

Article 139 of the Political Constitution of Peru addresses legal certainty and due process, establishing that no person may be removed from the jurisdiction predetermined by law, subjected to procedures other than those previously established, or tried by ad hoc or exceptional courts or commissions created for that purpose, regardless of their name or designation (Congress of the Republic of Peru, 1993).

2.1.2.2. Active subject

According to Article 74 of the Political Constitution of Peru, taxes may only be created, modified, repealed, or exempted by law or by legislative decree in cases where powers have been delegated. However, tariffs and fees are regulated through supreme decrees (Congress of the Republic of Peru, 1993).

- **National Superintendency of Tax Administration (SUNAT)**

In this context, SUNAT, as the entity responsible for both tax and customs administration, operates in accordance with Article 1 of the General Customs Law. This law, issued by supreme decree in alignment with the aforementioned constitutional provision, governs the legal relationship between the National Superintendency of Tax Administration SUNAT and the natural or legal persons involved in the entry, stay, transfer, and exit of goods to and from the customs territory (Congress of the Republic of Peru, 2008).

2.1.2.3. Passive subject

In the context of foreign trade, it is recognized that every taxpayer subject to taxes related to this activity inherently acquires the status of an FTO, although not every FTO is necessarily a taxpayer. Within this framework, importers play a dual role, as they are considered both FTOs and taxpayers responsible for the tax obligations arising from their operations. However, despite their central role, the Peruvian legal framework does not include a specific section that regulates the importer's status as a taxpayer in detail, leaving certain aspects open to interpretation under general legal provisions.

It is worth noting that some AEOs, such as importers, may also be subject to tax obligations. Similarly, Article 11 of the former General Customs Law, enacted through Legislative Decree No. 809 in 1996, established that customs brokers were jointly liable with their clients for debts arising from customs-related actions in which they had participated (Congress of the Republic of Peru, 1996). However, this article has since been repealed.

- **Authorized Economic Operator**

According to Article 45 of the General Customs Law, certified customs users, such as AEOs, may benefit from customs control and simplification measures, provided they meet the eligibility criteria established for such certification. These benefits are to be gradually implemented under the terms and conditions defined by the customs administration (Congress of the Republic of Peru, 2008).

2.1.2.4. Specific Customs Guarantees: Constitution, procedures, application cases, enforcement, and appeal

- **Constitution**

Customs Guarantees

According to Article 211 of the Regulations of the General Customs Law, the forms of customs guarantees in Peru include the following:

- a) Surety
- b) Negotiable credit note
- c) Bond insurance policy
- d) Warrant
- e) Bank certificate
- f) Promissory note
- g) Pledge of movable property
- h) Mortgage
- i) Cash guarantee
- j) Nominal guarantee (Ministry of Economy and Finance, 2009)

Guarantees Required Prior to Declaration Numbering

With regard to guarantees required prior to the assignment of a customs declaration number, Article 212 of the same regulation establishes that, for the application of Article 160 of the Law, the following forms of guarantees shall be accepted:

- a) Surety
- b) Bond insurance policy
- c) Nominal guarantee

Sureties and bond insurance policies must be issued by guarantor entities supervised by the Superintendency of Banking, Insurance, and Private Pension Fund Administrators. Guarantees issued by entities with pending enforcement obligations will not be accepted (Ministry of Economy and Finance, 2009).

Definitions of Guarantee Instruments

Negotiable credit note: A negotiable document issued by the SUNAT, used to pay tax obligations (National Superintendency of Customs and Tax Administration, 1999).

Bond insurance policy: A document issued by an insurance company that guarantees, in favor of SUNAT, the fulfillment of an obligation contracted by the importer (National Superintendency of Customs and Tax Administration, 2020).

Nominal guarantee: A type of guarantee document that may only be submitted by entities belonging to the National Public Sector, universities, international organizations, and diplomatic missions, as well as AEOs certified by SUNAT (National Superintendency of Customs and Tax Administration, 2020).

Surety: A banking document through which a financial institution commits to fulfilling the importer's obligations to SUNAT in the event of non-compliance by the importer (National Superintendency of Customs and Tax Administration, 2020).

- **Procedures**

According to the description in Procedure RECA-PE.03.03: Operational Customs Guarantees, Article VII outlines the steps involved in the processing of operational customs guarantees as follows:

- a) Submission
- b) Acceptance
- c) Confirmation of authenticity
- d) Renewal of the guarantee
- e) Substitution of the guarantee
- f) Refund
- g) Enforcement

- **Application cases**

Peruvian legislation does not establish specific cases in which customs-specific guarantees must be submitted.

- **Enforcement**

Article 160 of the General Customs Law classifies guarantees as either global or specific. It provides that importers, exporters, and beneficiaries of customs regimes may, as determined by the Regulations, submit global or specific guarantees prior to the registration of the goods declaration. These guarantees must cover payment of customs tax debts, provisional or definitive anti-dumping and countervailing duties, surcharges, and any other applicable financial obligations.

A guarantee is considered global when it covers obligations related to more than one declaration or customs regime request. In contrast, a specific guarantee secures obligations derived from a single declaration or request. The maximum validity period for global and specific guarantees is one year and three months, respectively. Both may be renewed in accordance with applicable regulatory provisions.

If guarantee execution is required—for example, to cover declared debts or obligations arising from a declaration (such as anti-dumping duties or surcharges)—it shall be enforced immediately upon the obligation’s maturity, without issuing or notifying any additional document (Congress of the Republic of Peru, 2008).

- **Appeal**

Article 161 of the General Customs Law provides that when a bank or financial guarantee is submitted in the context of challenging a customs tax debt, the taxpayer may request the suspension of collection from the Customs Administration. The guarantee must remain in force until a final resolution is issued regarding the appeal. However, this requirement does not apply if the payment obligations are already secured by another form of global or specific guarantee, in accordance with Article 160 of this Legislative Decree (Congress of the Republic of Peru, 2008).

2.1.2.5. Customs regimes

According to Article 59 of the Regulations of the General Customs Law, customs regimes in Peru are classified into the following categories: importation, exportation, processing, warehousing, transit, and other customs or exceptional regimes (Ministry of Economy and Finance, 2009). The following section will examine selected regimes falling under the categories of importation and processing.

- **Importation for consumption**

According to Article 49 of the General Customs Law, under the importation category, the importation for consumption regime, also known as Regime 10, is defined as the regime that allows goods to enter the customs territory for domestic use, once the applicable customs duties and other taxes have been paid or guaranteed, along with any surcharges and penalties, and after compliance with all customs procedures and obligations. Foreign goods are considered nationalized once customs clearance has been granted (Congress of the Republic of Peru, 2008).

- **Temporary admission for re-exportation in the same state**

Temporary admission for re-exportation in the same state, also known as Regime 20, falls under the category of importation. According to Article 53 of Peruvian customs

regulations, this regime allows certain goods to enter the customs territory with the suspension of import duties, other applicable taxes, and any relevant surcharges, provided they are identifiable and intended for a specific purpose at a designated location. These goods must be re-exported within a set timeframe without undergoing any modification, except for normal depreciation resulting from their authorized use. The types of goods eligible for this regime are determined by a list approved through a Ministerial Resolution issued by the Ministry of Economy and Finance (Congress of the Republic of Peru, 2008).

- **Temporary admission for inward processing**

Temporary Admission for Inward Processing, also known as Regime 21, falls under the processing category. According to Article 68 of the General Customs Law, this regime allows the entry of certain foreign goods into the customs territory by suspending import duties, other applicable taxes, and relevant surcharges. These goods must be re-exported within a specified period after undergoing a processing operation that compensates products.

Inward processing operations include:

- a) the transformation of goods,
- b) the production of goods, including assembly, adaptation, or incorporation into other products, and
- c) the repair of goods, including their restoration or conditioning.

This regime also applies to producers of intermediate goods undergoing transformation processes, particularly those intended to supply export-oriented manufacturing companies, as well as to maquila operations, in accordance with the provisions established in the Regulations (Congress of the Republic of Peru, 2008).

2.1.3. International legal framework

2.1.3.1. Active subject

The Revised Kyoto Convention, in its Introduction, paragraph 3, states that when Customs requires a guarantee to secure the payment of duties, taxes, or any other obligation, it is generally the person who incurred or may incur the obligation who provides the guarantee, typically the declarant. However, in many cases, Customs may allow another party to provide the guarantee, such as an authorized third party acting on behalf of the declarant (World Customs Organization, 2006a).

2.1.3.2. Trade facilitation

- **World Customs Organization – Revised Kyoto Convention**

The General Annex, Chapter 5 of the Introduction to the Revised Kyoto Convention, explains that since providing a guarantee is often costly, and the expenses associated with obtaining it are typically added to the overall cost of international goods movement, it is essential that the provisions related to guarantees be clear and transparent for traders. This ensures that economic operators are fully informed about the requirements and the financial obligations associated with each transaction (World Customs Organization, 2006a).

- **World Trade Organization – Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade**

The World Trade Organization, under the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade, establishes that if, during the process of determining the customs value of imported goods, the final valuation must be delayed, the importer may still withdraw the goods from Customs. This is allowed provided that, when required, the importer furnishes an adequate guarantee, such as a surety, deposit, or other appropriate means, that covers the potential payment of the customs duties ultimately due. This provision must be reflected in the legislation of each Member (World Trade Organization, 1994).

- **World Trade Organization– Agreement on Trade Facilitation**

The Protocol of Amendment to the Marrakesh Agreement Establishing the World Trade Organization (also known as the Trade Facilitation Agreement), in relation to the Release and Clearance of Goods, establishes in Article 7, paragraphs 3.2, 3.3, and 3.4, that a member may require the following:

- a) Payment of customs duties, taxes, fees, and charges assessed prior to or upon the arrival of goods, along with a guarantee covering any amounts not yet determined, in the form of a surety, deposit, or other appropriate instrument provided for in its laws and regulations; or
- b) A guarantee in the form of a surety, deposit, or other appropriate instrument provided for in its laws and regulations.

Such guarantee shall not exceed the amount necessary to secure the payment of customs duties, taxes, fees, and charges ultimately owed for the goods covered by the guarantee.

In cases where an infringement has been identified that may lead to the imposition of monetary penalties or fines, a guarantee may also be required to cover potential sanctions or fines (World Trade Organization, 2014).

- **World Customs Organization – Revised Arusha Convention**

The Revised Arusha Declaration of the World Customs Organization outlines ten key factors for implementing an effective national integrity program in customs administrations. These factors include leadership and commitment, regulatory framework, transparency, automation, reform and modernization, audit and investigation, code of conduct, human resource management, morale and organizational culture, and engagement with the private sector.

Regarding relations with the private sector, the Declaration states that Customs administrations should promote an open, transparent, and productive relationship with private stakeholders. User groups should be encouraged to assume appropriate responsibility for addressing integrity-related challenges and to participate in identifying and implementing practical solutions. Establishing Memorandums of Understanding between Customs and the private sector can support this goal. Similarly, the development of private-sector codes of conduct that clearly define standards of professional behavior may prove useful. Penalties associated with engaging in corrupt practices should be sufficiently strong to deter users from offering bribes or facilitation payments in exchange for preferential treatment (World Customs Organization, 1993).

2.1.4. Comparative law

2.1.4.1. General principles of public and fiscal administration applicable to tax and customs matters: Legal certainty and due process

In Ecuadorian legislation, the general principles governing Public Administration are explicitly enshrined in the Constitution of the Republic. In contrast, the Peruvian legal framework does not expressly include these principles in its Constitution; instead, they are developed through subordinate legislation, particularly in the Law on General Administrative Procedure. In the tax domain, both Ecuador's and Peru's constitutional frameworks explicitly recognize and address the guiding principles that shape the actions of their respective tax administrations.

Table 1*Comparison of Public and Fiscal Administration Principles in Ecuador and Peru*

Criterion	Ecuador	Peru	Comparison
Public administration principles	Effectiveness, efficiency, quality, hierarchy, deconcentration, decentralization, coordination, participation, planning, transparency, and evaluation.	Legality, due process, ex officio initiative, reasonableness, impartiality, informality, procedural conduct, promptness.	Although not identically stated, Ecuador's "efficiency" and Peru's "promptness" are related, as both guide administrative action toward the agile and efficient use of public resources.
Recognized tax principles	Generality, progressivity, efficiency, administrative simplicity, non-retroactivity, equity, transparency, revenue sufficiency, legitimate expectation.	Principle of legality, equality, respect for fundamental rights, and prohibition of confiscatory taxation.	Although not literally identical, Ecuador's principle of "equity" and Peru's "equality" are closely related, as both aim to ensure fair and nondiscriminatory taxation.

- **Legal certainty and due process**

Although both legal systems recognize the principles of legal certainty and due process in their respective constitutions, Ecuadorian legislation addresses these principles in separate articles with broader and more detailed development. In contrast, Peruvian legislation mentions them solely in its Constitution, without providing the same level of elaboration in its complementary legal framework.

Table 2*Comparison of the Principles of Legal Certainty and Due Process Between Ecuador and Peru*

Principle	Ecuador	Peru	Comparison
Legal certainty	Legal certainty is guaranteed as a fundamental right, based on respect for the Constitution and the existence of prior, clear, public, and duly enforced rules.	No person may be diverted from the jurisdiction predetermined by law, nor may they be tried by special or exceptional courts or commissions, regardless of their name or designation.	Both legal systems protect against the arbitrariness of public power. Ecuador does so through normative predictability, while Peru ensures access to legitimate jurisdiction.
Due process	Procedural rules must embody the principles of simplification, uniformity, efficiency, immediacy, promptness, and procedural economy, ensuring due process guarantees. Justice shall not be sacrificed solely due to the omission of formalities.	The right to due process and judicial protection is recognized.	Both systems recognize due process as a fundamental guarantee. However, Ecuador establishes specific procedural principles, while Peru provides a general guarantee linked to judicial protection.

2.1.4.2. Active subject

Table 3

Comparison of the Active Subject Between Ecuador and Peru

Aspect	Ecuador	Peru	Comparison
Authority over Tax and Customs Powers	The central government holds exclusive authority over economic, tax, customs, and tariff policies. However, these powers are delegated to other entities.	The State holds tax authority: taxes are created, modified, or repealed by law or legislative decree.	Similarity: In both countries, the central government concentrates on tax and customs authority. Difference: Ecuador explicitly defines this exclusivity, whereas Peru links it to the principle of legality.
Customs Administration Authority	SENAE.	SUNAT also performs customs functions in accordance with the General Customs Law.	In Peru, the same institution, SUNAT, administers both tax and customs duties; in Ecuador, these are handled by separate entities, SRI and SENAE.

2.1.4.3 Passive subject

In both Ecuador and Peru, any person liable for taxes related to foreign trade is considered an FTO; however, not all FTOs are tax subjects, as some operators participate in foreign trade activities without directly assuming tax obligations. In both countries, importers play a central role as they are both FTOs and tax subjects. Nevertheless, neither country's legislation provides a specific regulatory framework for this status, and importers are generally represented before the customs authority by Customs Brokers. These brokers, including those that obtain AEO status, are also considered tax subjects in Ecuador. In contrast, in Peru, although Customs Brokers were once jointly liable for their clients' tax obligations under Article 11 of Legislative Decree No. 809, this provision has since been repealed, removing their direct responsibility.

The AEO framework in Ecuador and Peru shares the common objective of facilitating and securing international trade through customs-related benefits; however, the legal development and scope of AEO programs differ significantly. In Ecuador, the regulatory framework is more detailed, explicitly establishing benefits such as the reduction or exemption of customs guarantees, simplified monthly declarations, and the direct reception of goods at the operator's premises. It also sets forth clear penalties for noncompliance or customs-related offenses. Conversely, Peru's General Customs Law takes a broader, incremental approach: it does not list AEO benefits in the statute but leaves their gradual definition to the customs administration, resulting in greater discretion and less predictability for operators.

2.1.4.4. Specific Customs Guarantees: Constitution, procedures, application cases, enforcement, and appeal

- **Constitution**

Similarities in the means of establishing Specific Customs Guarantees between Ecuador and Peru

Table 4

Similarities in Customs Guarantee Instruments Between Ecuador and Peru

Specific Customs Guarantees in Ecuador	Specific Customs Guarantees in Peru	Comparison
Credit note issued by the National Customs Service of Ecuador or another central tax authority, accompanied by the appropriate endorsement.	Negotiable credit note.	Both credit notes are used to pay tax obligations; however, in Ecuador, it is specified that SENAE must issue them and be duly endorsed, while in Peru, this is not required.
Time deposit certificates in financial institutions established in Ecuador, duly endorsed to the name of the Customs Administration.	Bank certificate.	Both countries use bank certificates as guarantees, although endorsement is required in Ecuador.
Insurance policy.	Surety bond.	Insurance policies, issued by insurers in both countries, serve to guarantee obligations; however, they are referred to using different terms.
A letter of guarantee is issued by the highest authorities of public sector institutions when these are the holders of the foreign trade transaction. This type of guarantee does not apply to public enterprises. A letter of guarantee is signed by the highest authority of diplomatic missions and consular offices accredited in the country when these entities are the holders of the foreign trade transaction.	Nominal guarantee.	In both countries, guarantees can be used by public entities and diplomatic missions. However, they do not apply to public enterprises in Ecuador. In Peru, guarantees are grouped under the general title of "nominal guarantee," while in Ecuador, they appear under two distinct titles for letters of guarantee.
Bank guarantee.	Surety.	Both bank guarantees ensure compliance with customs obligations in accordance with the legal provisions in each country.

Differences in the Means of Establishing Specific Customs Guarantees Between Ecuador and Peru

Ecuador and Peru have different mechanisms for establishing customs guarantees. In Ecuador, cash deposits and certified checks are accepted as valid forms of guarantee, which are not included in Peruvian regulations. Conversely, Peru utilizes instruments such as warrants, movable guarantees, mortgages, and promissory notes, none of which are specified in Ecuadorian legislation. Thus, each country has specific methods that do not overlap, highlighting the differences between their respective customs systems.

- **Procedures**

Table 5

Comparison of Procedural Approaches between Ecuador and Peru

Country	Procedures	General approach
Ecuador	Submission, acceptance, authentication confirmation, renewal, replacement, refund, enforcement, and settlement of outstanding debt after execution.	Registration, approval, and modification of guarantees; notification of collection and enforcement of guarantees; and lifting or refund of guarantees.
Peru	Submission, acceptance, authentication confirmation, renewal, replacement, refund, enforcement, and settlement of outstanding debt after execution.	Management and assurance of compliance with specific customs guarantees.

- **Application cases**

Ecuador’s legal framework (RCOPCI) explicitly outlines the specific circumstances under which the constitution of customs guarantees is required. In contrast, Peruvian legislation does not provide a detailed or explicit list of similar scenarios.

- **Enforcement and appeal**

Regarding their regulatory structure, Peruvian legislation addresses the enforcement and the challenge of customs guarantees within a single article, reflecting a unified treatment of these two legal actions. In contrast, Ecuadorian regulations address them separately, distributing the provisions across two articles.

Articles 239 of the RCOPCI and 161 of the Regulation of the General Customs Law require the customs guarantee to remain valid throughout the challenge process. However, Ecuadorian regulations encompass administrative and judicial appeals, while Peruvian legislation limits itself to challenges concerning customs tax debt.

2.1.4.5. Customs regimes

In Ecuador, customs regimes are grouped into four main categories: importation, exportation, other regimes, and exceptional regimes. This classification adopts a broader structure in which various special procedures are grouped under the general category of “other regimes.” In contrast, Peru presents a more specific classification, distinguishing six categories: importation, exportation, inward processing, warehousing, transit, and other or exceptional regimes. This differentiation allows for greater precision in identifying customs regimes, as it separates, for instance, inward processing and warehousing as independent categories. In contrast, in Ecuador, these may fall under the more generic category of “other regimes.”

- **Comparison of regimes between Ecuador and Peru**

Importation for consumption

Table 6

Comparison of the importation for consumption regime between Ecuador and Peru

Element	Ecuador	Peru	Comparison
Name of the regime	Importation for Consumption (Regime 10).	Importation for Consumption (Regime 10).	Both countries coincide in the name of the regime.
Regulatory category	Classified under the importation category.	Included in the importation category.	Both fall under the same customs category.
Purpose	Regime that allows for the definitive entry of goods from abroad or from a Special Economic Development Zone.	Regime that authorizes the entry of goods into the customs territory for consumption purposes.	Both regimes allow for the definitive entry of goods into the country.
Tax Requirements	Requires payment of import duties, surcharges, and penalties (when applicable) and compliance with customs formalities and obligations.	Requires payment or guarantee, as applicable, of import duties, taxes, surcharges, and penalties, in addition to compliance with customs formalities.	Both legal frameworks establish customs and tax obligations.
Nationalization	Goods are considered nationalized once customs tax obligations are fulfilled.	Nationalization occurs upon the granting of customs clearance.	The condition for nationalization differs: Ecuador depends on tax compliance, Peru on the customs clearance act.
Free circulation	Once tax obligations are fulfilled, goods may circulate freely within Ecuadorian territory.	Free circulation is not explicitly mentioned.	Only Ecuadorian regulations explicitly establish the possibility of post-clearance free circulation.
Suspension due to penalties	Dispatch may not be suspended for administrative sanctions, except in cases contemplated in the Comprehensive Organic Criminal Code.	No reference is made to this matter.	Only Ecuador includes an explicit provision restricting dispatch due to sanctions.

Temporary admission for re-exportation in the same state

Table 7

Comparison of the temporary admission for re-exportation in the same condition regime between Ecuador and Peru

Element	Ecuador	Peru	Comparison
Name of the regime	Temporary admission for re-exportation in the same condition (Regime 20).	Temporary admission for re-exportation in the same condition (Regime 20).	The names of the regimes are identical.
Legal classification	Classified under the category of other regimes.	Falls under the importation category.	They are classified under different customs categories in each country.
Purpose	It allows the entry of goods with total or partial suspension of duties to be used for a specific purpose and re-exported without any modification.	Authorizes the entry of goods with suspension of duties, intended for a specific use and to be re-exported without modification, except for normal depreciation from use.	Both allow for the temporary admission of goods without modification, with duty suspension, for subsequent re-exportation.
No-modification condition	No modification is permitted except for normal depreciation from use.	No modification is permitted except for normal depreciation from use.	They coincide in requiring the preservation of the original state of the goods.
Duration of stay	Re-exportation must occur within a defined period.	Re-exportation must occur within a defined period.	Both regimes establish a temporal limitation.
Goods identification	Goods must be individualized and capable of identification through marks, serial numbers, or other visible signs verified during physical inspection.	Goods must be identifiable; the means of identification are not specified in the cited provision.	Only Ecuador provides specific identification requirements.
Required documentation	Supporting documentation for the authorized purpose must be submitted to apply for the regime.	No mention is made in the cited provision.	Only Ecuador explicitly requires the submission of supporting documentation.
Determination of authorized goods	No prior list is specified; authorization is granted on a case-by-case basis.	Authorized goods are determined according to an official list issued by ministerial resolution.	Peru sets out a prior official list; Ecuador grants authorization based on individual justification.

Temporary admission for inward processing

Table 8

Comparison of the temporary admission for inward processing regime between Ecuador and Peru

Element	Ecuador	Peru	Comparison
Name of the regime	Temporary admission for inward processing (Regime 21).	Temporary admission for inward processing (Regime 21).	The denomination of the regime coincides in both countries.
Legal classification	Classified as part of “other regimes.”	Classified under the “inward processing” category.	The regime is included in different categories within each country’s customs system.
Purpose	Authorizes the entry of goods into Ecuadorian territory with suspension of duties, intended for inward processing operations and subsequent export as compensating products.	It authorizes the entry of foreign goods with suspension of duties to be processed and exported within a defined period as compensating products.	Both regimes permit the temporary admission of goods to be processed and exported as compensating products.
Permitted operations	a) Transformation b) Production of new goods (including assembly, incorporation, and adaptation) c) Repair, restoration, or conditioning d) Execution of authorized maquila programs	a) Transformation b) Production (including assembly and adaptation) c) Repair, restoration, or conditioning Additionally includes maquila processes as per regulation.	Both countries recognize the same operations. In Peru, maquila is referenced separately, while Ecuador includes it as a distinct item in the list.
Duty suspension	Suspension of import duties and applicable surcharges.	Suspension of import duties, taxes, and applicable surcharges.	Both regimes provide for the suspension of duties during the effective period of the regime.
Final destination of goods	Export as compensating products. The regime may be changed to import for consumption, subject to payment of duties on the imported component.	Export as compensating products.	Only Ecuador expressly contemplates the possibility of regime change and pro rata liquidation of duties.
Third-party involvement	Third-party contractors may be authorized to process operations, with prior notification to the customs authority. The importer remains liable before the authority.	Not addressed in the cited provision.	Only Ecuador explicitly regulates third-party involvement and links such participation to the importer’s responsibility before the customs administration.

2.1.4.6. Other comparisons

- **Immediate enforcement of customs guarantees**

and Article 237 of its Implementing Regulations (RCOPCI) in Ecuador are consistent with Article 160 of Peru’s General Customs Law provisions. All three stipulate that customs guarantees shall be subject to immediate enforcement without the need to submit additional documentation.

- **Validity Periods of Customs Guarantees**

Article 160 of the General Customs Law of Peru establishes a three-month validity period for specific customs guarantees. In contrast, Article 235 of Ecuador's RCOPCI sets varying timeframes depending on the case.

- **Payment Conditions and Requirements for Guarantee-Issuing Entities**

Article 239 of the RCOPCI and Article 212 of the Regulations of the General Customs Law both establish that guarantees issued by entities that fail to fulfill their obligations will not be accepted. However, they differ in their consequences and regulatory approach. The COPCI imposes stricter sanctions, including disqualifying issuing entities that fail to honor more than two guarantees. In contrast, the Regulations of the General Customs Law focus on oversight, allowing only entities supervised by the Superintendency of Banking, with no pending enforcement actions, to issue valid guarantees.

2.2. Case Study: Outcome of the Application of Specific Customs Guarantees for Importers at the Cuenca District Directorate

Semi-structured interviews were conducted as the primary data collection technique, involving one Customs Operations Technician and three Authorized Customs Brokers, who participated as informants representing importers. These interviews complement the literature and regulatory review by providing an in-depth and contextualized understanding of specific phenomena within their real-life environment.

The set of base questions presented in advance to the interviewees focused on the practicality and benefits or drawbacks of Specific Customs Guarantees. To enrich the information collected, additional questions related to the comparative law analysis addressed in subsection 2.1.3 were also included.

To ensure anonymity, the term "Interviewee 1" was used to refer to the Customs Operations Technician, while "Interviewee 2," "Interviewee 3," and "Interviewee 4" were assigned to each Authorized Customs Broker.

2.2.1. Findings from fieldwork

2.2.1.1. Due process and legal certainty

The application of Specific Customs Guarantees takes place within procedures that, according to the interviewees, respect both due process and legal certainty. From the

perspective of the customs authority, it was explained that the acceptance of such guarantees is conditional upon the formal admission of a complaint. Once this requirement is met, the guarantee may be submitted even before the arrival of the goods, and the administration has no discretion to reject it as long as the established conditions are fulfilled.

The customs brokers agreed that the mechanism ensures the importer's right to continue the customs process without infringing upon their right to a defense. It was emphasized that, in practice, when legal decisions are favorable to the importer, SENAE has proceeded with refunding the guaranteed amounts, reinforcing the perception of legal certainty in using this instrument.

2.2.1.2. Application cases and regimes

Specific Customs Guarantees are most frequently used in disputes, particularly when disagreements arise between importers and the customs authority regarding the tariff classification of goods. From the institutional perspective, the customs officer (Interviewee 1) indicated that such situations typically occur when Customs acts ex officio to modify tariff headings, resulting in additional assessments that may be secured by guarantees while a formal claim is pending resolution. From the perspective of customs brokers (Interviewees 2, 3, and 4), it was emphasized that these disputes often occur within the framework of the import for consumption regime (Regime 10), which is the most common in ordinary operations. In such cases, the guarantee allows customs to proceed while disagreements over duties arising from classification discrepancies are resolved.

Frequent reference was also made to the temporary admission for the inward processing regime (Regime 21), under which goods are brought into the country to be transformed or processed before re-exportation. In these cases, guarantees ensure compliance with the conditions of the regime and are triggered in instances such as the absence of, or errors in, the Certificate of Origin. The temporary admission for re-exportation in the same condition regime (Regime 20) was also mentioned, where goods enter the country on the condition that they leave unaltered; here, guarantees are used to ensure the return of goods within the prescribed period or in response to any issues arising during the process. To a lesser extent, isolated cases were noted where guarantees are employed while awaiting pending documentation, such as visas for household goods, an application that also falls under the scope of Regime 10.

2.2.1.3. SENAE as the active subject

Overall, the interviewees assessed SENAE's role as the creditor authority in managing Specific Customs Guarantees positively. From the institutional perspective, Interviewee 1 stated that no major issues had been encountered in this regard and that, even in cases where guarantee enforcement was necessary, timely responses were received from either the importer or the insurer.

From the customs brokers' perspective, Interviewee 3 emphasized that SENAE has established clear regulations that ensure the effective collection of guarantees. However, they suggested improving outreach regarding the specific requirements for each type of guarantee to avoid rejections or delays during the approval phase. Interviewee 4 acknowledged the implementation of helpful mechanisms, such as automated alerts that prevent guarantee expiration, which facilitates monitoring by importers.

2.2.1.4. Trade facilitation

Most interviewees agreed that specific customs guarantees have greatly facilitated trade within the Cuenca Customs District, especially in cases where disputes might otherwise delay clearance. From an institutional perspective, Interviewee 1 emphasized that this mechanism is essential for securing amounts arising from tariff reclassifications, reasonable-doubt assessments, or other technical observations—allowing importers to proceed with their customs declarations with minimal interruption. As one participant noted, “it usually takes, at most, one day to the next,” underscoring how quickly the process is authorized once the guarantee is submitted.

Customs brokers underscored the value of personalized attention in Cuenca, noting that it fosters technical dialogue and enables direct resolution of observations without resorting to judicial proceedings. Interviewee 2, with extensive experience in operations in both Cuenca and Guayaquil, pointed out that Cuenca's more accessible environment allows for the presentation of technically substantiated arguments, which can lead customs officials to reconsider initial criteria. They said, “I have had cases where I have won without needing to go to court because these problems are administrative customs procedures.”

Nevertheless, some inconsistencies in the application of technical criteria were identified. The same broker observed that certain officials in Cuenca refer inquiries to the Guayaquil office before issuing a resolution, which causes frustration due to the perceived lack of technical autonomy at the district level. In this regard, they commented, “sometimes they tell me ‘I am going to ask Guayaquil’, as if everyone there were geniuses,” questioning

the lack of uniformity in applying criteria nationwide. Furthermore, they noted that this dependence is not applied consistently, as “when it suits them, they say ‘I will ask Guayaquil,’ but when it doesn’t, they make the decision themselves.”

Interviewee 3 affirmed that specific guarantees have not only streamlined procedures in Cuenca but also serve as an effective tool nationwide, enabling the continuation of customs processes while pending matters, especially tariff-related disputes involving tax differences, are resolved. Lastly, Interviewee 4 reported limited experience in using specific guarantees in Cuenca but acknowledged that the few managed cases were resolved without difficulties and with efficient attention from customs personnel.

2.2.1.5. Validity of Customs Guarantees During the Appeal Process

Concerning the legal requirement to maintain the validity of customs guarantees throughout the appeal process, the interviewees expressed general agreement, recognizing it as a necessary measure to ensure compliance with tax obligations even while the case remains under dispute. From the public administration perspective, Interviewee 1 stated that “as a matter of common sense, the guarantee must remain valid even when a judicial claim has been filed, given that these proceedings can take a long time.” They explained that the ECUAPASS system issues a notification 30 days before the guarantee expires, and that it is the responsibility of the customs administration, as required by regulation, to inform the importer so they can renew the guarantee in time: “if they do not, the importer typically gets fined for submitting the renewal late.”

In the same vein, Interviewee 3 indicated that it is reasonable for SENAE, as the creditor and beneficiary of the guarantee, to require its validity throughout the process since this enables the administration to collect the amount owed if the ruling is in its favor. Otherwise, the underlying purpose of this legal instrument would not be fulfilled. Interviewee 4 also considered the requirement necessary, as it ensures that, in the event of an unfavorable outcome for the importer, the State may enforce the guarantee without delay or harm to the tax authority.

Interviewee 2 similarly agreed on the need to keep the guarantee in force but emphasized that this requirement represents a considerable financial burden for importers. Additionally, they criticized the lack of administrative efficiency in certain districts, particularly in Guayaquil, where, according to their account, it is common for emails to go unanswered and requests to be ignored: “Guayaquil does whatever it wants (...) they treat

you terribly, and in Guayaquil it is much worse.” By contrast, they positively assessed the service in Cuenca, which they described as more efficient and responsive.

2.2.1.6. Authorized Economic Operator

The interviews revealed that none of the informants hold AEO certification, nor have they considered it necessary to pursue it, as the requirements are perceived to be disproportionately demanding relative to the benefits offered. In particular, Interviewee 2 noted that, given their current client portfolio, obtaining such certification is not considered essential.

2.2.1.7. Foreign regulation

None of the interviewees reported knowing the operation of Specific Customs Guarantees in other countries. All indicated that their professional experience has been developed exclusively within the framework of Ecuadorian regulations, without having found it necessary to explore comparative legal systems. Interviewee 1 acknowledged that the subject lacked direct information at the international level but asserted that similar mechanisms are likely to exist in other jurisdictions due to the technical and operational nature of such instruments. However, they cautioned that their specific application would depend on the customs model adopted by each country.

2.2.1.8. Constitution instruments

The interviewees generally agreed that the mechanisms for establishing customs guarantees set forth in Ecuadorian legislation are sufficient. Although each justified their view differently, all considered the currently applicable forms, primarily bank guarantees and insurance policies, to be functional and appropriate for foreign trade.

Some, such as Interviewee 3, warned that incorporating new instruments could add complexity to the process, moving away from the principle of simplicity that should govern these procedures. From another perspective, Interviewee 2 acknowledged the existence of instruments such as real guarantees, although he noted their limited practical application and questioned their viability in short-term cases. From a more technical standpoint, Interviewee 1 argued that before introducing additional instruments such as warrants or pledges (used in the Peruvian system), it would be necessary to analyze to determine whether they truly provide concrete benefits within the Ecuadorian context.

2.2.1.9. Disqualification of Guarantee-Issuing Entities

The interviewees expressed their agreement with the sanction of disqualification applied to issuing entities that fail to fulfill their obligations, as established in Ecuadorian regulations. They viewed this measure as necessary to ensure the guarantee system's reliability and prevent the State or operators from being adversely affected by the non-compliance of third parties. They agreed that, given the commitments related to tax obligations, there should be no tolerance for default.

Interviewee 1 stated that insurance companies must be obligated to honor the guarantees they issue, as importers make decisions based on the presumption that the guarantee will be upheld. Similarly, interviewee 3 affirmed that SENA, as the active subject, has both the right and authority to impose sanctions on guarantor entities that fail to act in accordance with their commitments, emphasizing that “we live in a state governed by the rule of law, which cannot be disregarded.” Interviewee 4 supported this view, stating that “obligations must be honored in due time, and there can be no leniency in this regard,” and therefore considered the Ecuadorian regulation to be appropriate.

Interviewee 2 also endorsed the sanctions regime, referencing a personal experience in which he had paid taxes through an authorized banking institution. However, the corresponding transfer to the Central Bank was not completed on time. As a result, Customs did not recognize the payment, despite the importer fulfilling his obligation. Upon consulting with a high-ranking official, he was informed that the bank had failed to execute the transfer within the required timeframe, leading to a recommendation for sanctions. Based on this experience, he concluded that penalizing entities that fail to comply is justified, as their omission directly affects both the administration and the importer.

2.2.1.10. Timeframes

The interviewees agreed that a variable validity period for specific customs guarantees is more appropriate, as it allows adaptation to the particularities of each operation. Although none of them were familiar with Peruvian legislation, they all considered that a uniform timeframe, such as a three-month period, would be impractical.

Interviewee 1 noted that renewing a guarantee on a quarterly basis would represent an unnecessary administrative burden for both Customs and the importer: “renewing a guarantee every three months would be tedious (...) that is why the regulation establishes

that guarantees related to disputes must last 280 days.” He added that this timeframe and those extending up to one year under special regimes allow for greater efficiency and reduced costs.

2.2.1.11. Procedures

The interviewees agreed that the procedure established in the Specific Manual for the Administration of Customs Guarantees is effective and functional. They emphasized that the document provides clear guidelines for both specific and general guarantees, allowing operators to act based on defined processes and established timeframes. Interviewee 1 valued the fact that the manual sets out precise rules for the management and enforcement of guarantees, enabling customs personnel to operate in a coordinated and efficient manner, thus avoiding delays or ambiguities. He also noted that, in his experience, no modifications to the procedure have been necessary, at least within the Cuenca district.

Interviewee 2 highlighted the proactive approach of customs officials, particularly regarding deadline monitoring. He explained that officials notify operators in advance through various channels, such as email or instant messaging, which facilitates the timely management of the renewal or execution of guarantees. For interviewee 3, the procedure is sufficiently clear, especially concerning the accredited operators' submission and approval of guarantees. However, he noted that any procedure may be improved when circumstances require it.

Interviewee 4 concurred that the manual is well-structured but suggested progressing toward greater standardization at the national level. He proposed reducing discrepancies in the criteria applied by each district and avoiding the acceptance of documentation being subject to local interpretations. As for deadlines, all interviewees considered them appropriate.

2.2.1.12. Notification of collections and the formalization of administrative procedures.

The interviewees expressed diverse opinions regarding Ecuador's approach to managing customs guarantees, particularly in relation to the notification of collections and administrative formalization. Nonetheless, all acknowledged that the national procedure is clearly regulated and well-structured. Interviewee 1 considered that the process depends on the specific case and the legal provisions applicable to each type of guarantee, especially when renewal does not occur on time and execution must follow. In that context, he noted

that the prior notifications established in the regulations are adequate and allow for compliance in a reasonable manner.

Conversely, interviewee 2 expressed a favorable opinion of the Peruvian approach, which places greater emphasis on the validity of the guarantees, a factor he viewed as a priority. In his words, “Validity must come first,” and once it is lost, execution should proceed without further discussion.

Interviewee 3 did not express a categorical preference for either model but emphasized that Ecuador’s system adequately fulfills its function of notification and reminder. He noted that, in practice, much depends on the type of operator and whether the system provides timely reminders regarding the expiration of obligations.

Interviewee 4 stressed that regardless of the country or model adopted, what truly matters is that the procedure be appropriately documented, as this ensures its effectiveness. He added that a more detailed understanding of the Peruvian system’s operation would be necessary for a comparative evaluation. However, he concluded, “As long as it has been documented, I believe it will function properly in any case.”

2.2.1.13. Access to Specific Customs Guarantees

The interviewees agreed that access to Specific Customs Guarantees does not present significant difficulties for importers, provided that the formalities established in the regulations are met. It was noted that the ECUAPASS system is designed to allow the registration of guarantees by any importer, whether through insurance policies, bank guarantees, letters of guarantee issued by public institutions, or cash deposits.

Although the process is generally considered straightforward, one of the interviewees warned that the main issue is not in obtaining the guarantee but rather in its application. This is due to the rigidity of customs criteria, particularly concerning tariff classification, where regulatory ambiguity may arise. In this context, the interviewee remarked that “fighting Customs is like hitting a brick wall” (Interviewee 2), as many products are not specifically defined and interpretive criteria are often applied, complicating the process. Nevertheless, it was reaffirmed that when the case is justified and the documentation is in order, access to these guarantees is both feasible and efficient.

2.2.1.14. Additional remarks

The additional comments the interviewees provided revealed positive perceptions regarding the current functioning of the customs guarantee system and areas for potential improvement. Interviewee 1 acknowledged progress compared to the previous system (SICE), noting that the current platform is “practical and user-friendly” for officials and importers. However, he identified the need to generate Excel-based matrices directly from the system to enhance the monitoring and control of guarantees, which is still performed manually in practice.

Interviewee 2 emphasized that beyond the procedural framework, the Customs Administration should prioritize the issuance of timely and technically sound decisions, especially in cases involving tariff classification discrepancies. He argued that technical dialogue spaces, supported by qualified personnel, should be established before imposing a guarantee, as many guarantees result from the absence of clear criteria or technical support within the administration.

Interviewee 4 offered a critical reflection on the pre-ECUAPASS system, highlighting the discretionary practices that had previously limited the free contracting of guarantee-issuing companies. He acknowledged that the current system has introduced greater standardization and transparency in procedures, allowing importers to monitor guarantees status through platforms such as QUIPUX. He also highlighted the growing use of specific customs guarantees following the introduction of the concept of “reasonable doubt” in valuation processes, which has made it possible to secure duties while administrative or judicial challenges are resolved. Furthermore, he noted that customs officials are now obligated to substantiate their valuations with legal justification, and that procedures like passive review allow the Customs Administration to exercise oversight, even years after a declaration, provided such actions comply with the applicable legal framework.

CHAPTER 3

Analysis of the study

For the triangulation process in this study, interviews have been selected as the central axis of analysis. Based on these, the current regulatory framework and the content of Chapter 1, which includes the state of the art and the theoretical framework, will be contrasted. This approach is grounded in the fact that the interviews represent a direct and substantive source for understanding the practical functioning of Specific Customs Guarantees as applied to importers, which aligns with this research's central objective.

3.1. Due Process and Legal Certainty

Previous chapters have identified various legal principles that protect the taxpayer, among which due process and legal certainty stand out. In this context, the interviewees indicated that the procedures related to the application of Specific Customs Guarantees are carried out in strict observance of these principles, as the customs administration lacks discretionary authority to deny their application when the legally established requirements are met. They also stated that, in cases where legal rulings are favorable to the importer, SENAЕ has effectively reimbursed the guaranteed amounts, per current regulations.

3.2. Cases and Customs Regimes

According to the interviewees, Specific Customs Guarantees are most frequently applied under the import for consumption regime (Regime 10), particularly in situations that give rise to disputes, as provided in Article 235, subsection (i), of the RCOPCI. Their recurrent use was also noted under the temporary admission for inward processing regime (Regime 21), especially in cases involving the absence of or errors in the Certificate of Origin, under subsection (h) of the same article. Additionally, references were made to their application in the export regime in the same state (Regime 20). Finally, though less frequently, specific cases were mentioned in which the guarantees are employed. At the same time, visas for household goods are being processed (subsection (j) of Article 235 of the RCOPCI), which is also linked to import operations under Regime 10.

3.3. SENAЕ as the Active Subject

The World Customs Organization (2017), in its Guidelines on Transparency and Predictability, asserts that regulatory clarity and the standardization of customs procedures are fundamental pillars for trade facilitation and the consolidation of institutional integrity. It further states that customs administrations must ensure access to detailed information

regarding import, export, and transit operations, tariff classification, restrictions, legal remedies, and guarantees, distinguishing between single-transaction (specific) and multi-transaction (general) guarantees, to provide legal certainty to economic operators.

While current regulations establish the powers of SENA E as the active subject in customs management, granting it the authority to plan, implement, and regulate procedures related to guarantees, the theoretical framework highlights SENA E's role as a public authority. Article 2 of the RCOPCI defines SENA E as an organ of the public administration with competence to enforce customs legislation and its complementary and supplementary norms, to facilitate foreign trade, to exercise customs control and authority, to determine and collect foreign trade duties, and to provide customs services directly or by concession, as established in the COPCI (National Assembly of Ecuador, 2011).

This legal foundation aligns with the experiences described by the interviewees, who identified concrete actions taken by SENA E in fulfilling its duties, both from an institutional perspective and from the standpoint of system users. The relationship between the legal framework and the insights gathered from the interviews reveals a substantial correspondence between what is established by law and the practices observed in the administration of Specific Customs Guarantees.

3.4. Trade Facilitation

The current legal framework establishes that SENA E, in its role as the customs authority outlined in the theoretical framework, is the competent public administration body responsible for enforcing customs legislation, exercising customs control, and facilitating foreign trade. Its role in planning, implementing, and regulating procedures related to Specific Customs Guarantees directly corresponds to the principle of trade facilitation, as outlined in Article 104 of the COPCI and reinforced by Ecuador's international commitments under the WTO Trade Facilitation Agreement.

In alignment with this legal framework, the interviews reflect a favorable perception of SENA E's role in simplifying procedures related to Specific Customs Guarantees. Authorized customs brokers agreed that the institution has adopted mechanisms that promote more agile and predictable management. Noteworthy among these is the implementation of the ECUAPASS system, which has enabled the digitalization of several procedures and the existence of relatively stable administrative timelines for the approval, modification, or refund of guarantees.

During the interviews, authorized customs brokers concurred that SENAE's performance in this area aligns with the trade facilitation principle. They noted that procedures have generally been clear and predictable, particularly due to the digitalization of processes through the ECUAPASS system. This platform has allowed for more efficient submission of documents, tracking of processes, and receipt of notifications, thereby reducing processing times.

Additionally, the technical support provided by SENAE was highlighted in the interviews. This assistance, according to respondents, has been key to ensuring timely compliance with legal requirements. It was also mentioned that, in cases involving the reimbursement of guarantees, the process has generally been transparent and adhered to reasonable timeframes. Some stakeholders noted that, although operational challenges remain, no discretionary obstacles have been observed when the legal requirements are duly met.

In their final remarks, interviewees emphasized elements related to trade facilitation, including the evolution of the ECUAPASS system in comparison to its predecessor (SICE). They indicated that this modernization has not only optimized the functions of the Technical Operator but also contributed to the standardization and transparency of procedures, which limits administrative discretion and reinforces legal certainty. It was also noted that importers can track the status of guarantees through institutional platforms such as QUIPUX, which strengthens traceability and document control.

Furthermore, improvements in communication channels between operators and the customs administration were underscored as a preventive measure that contributes to reducing the need to enforce guarantees. Finally, it was pointed out that the use of Specific Customs Guarantees has intensified following the incorporation of the concept of "reasonable doubt" in valuation procedures, which allows for the temporary securing of duties while an appeal is substantiated through administrative or judicial proceedings.

3.5. Authorized Economic Operator (AEO)

In the theoretical framework, the AEO is defined as a special category of Economic Operator (EO) who voluntarily undergoes a certification process granted by the customs administration, in accordance with the SAFE Framework of Standards of the World Customs Organization (WCO). This recognition, which is free of charge and valid for three years, is awarded to operators that demonstrate sustained compliance with international supply chain security standards. The benefits include simplifying customs procedures and facilitation

measures under Mutual Recognition Agreements signed with other customs administrations (IDB, 2006; SENA, n.d.).

From the perspective of Ecuadorian legislation, Article 231 of the COPCI explicitly grants a substantial benefit to AEOs in customs guarantees. Specifically, it allows for the reduction or exemption from the requirement to present guarantees, including those required for guaranteed release, provided that certain risk and solvency criteria are met. This provision directly relates to the purpose of the present study, as it establishes a preferential regime applicable to certified operators (National Assembly of Ecuador, 2010).

However, the informants interviewed have not adopted this category in practice. The interview section reveals that none of them hold AEO certification nor have they considered it necessary to pursue it. Despite the benefits established in the regulations, obtaining such accreditation is not a current priority given the profile of their client portfolios.

3.6. Means of Constitution

Concerning the means of constitution of Specific Customs Guarantees, the comparative law section contrasts Ecuadorian and Peruvian regulations. Ecuadorian legislation provides for a range of instruments traditionally used by economic operators, including bank guarantees, insurance policies, credit notes issued by SENA or another central tax administration, and term deposit certificates issued by financial institutions established in the country and duly endorsed to the customs authority. In addition, it contemplates letters of guarantee issued by public entities or diplomatic missions, as well as cash or certified checks.

By contrast, Peruvian regulations do not include cash or certified checks. However, they establish mechanisms such as bank bonds, surety insurance policies, bank certificates, and negotiable credit notes, equivalent to the other Ecuadorian instruments. Peru also incorporates additional instruments such as warrants, movable asset guarantees, mortgages, and promissory notes—none contemplated under Ecuadorian regulations.

From an empirical perspective, the interviewees agreed that the instruments currently in force in Ecuador have been sufficient to meet foreign trade needs. Bank guarantees and insurance policies were identified as the most functional and commonly used instruments, due to both their availability in the market and the clarity of their administrative procedures.

In this regard, they pointed out that the eventual incorporation of alternative instruments such as warrants or pledges, provided for under Peruvian legislation, should be

preceded by an analysis of their applicability and tangible benefits within the Ecuadorian legal and operational context. In line with this, introducing new instruments could add unnecessary complexity to the procedures, moving away from the principle of simplicity that should guide customs processes. Furthermore, although guarantees are legally recognized, their practical use is limited, particularly in short-term guarantee cases, where operational implementation may prove unfeasible.

3.7. Validity Periods

Regarding the validity periods of Specific Customs Guarantees, Ecuadorian regulations establish a differentiated system depending on the type of customs operation involved. Article 325 of the RCOPCI stipulates variable durations, ranging from fifteen days for cases related to the submission of the Certificate of Origin to two hundred eighty days in situations involving disputes, the latter being renewable until a final resolution is issued. Additionally, a maximum duration of 180 days is established for guarantees related to household goods, while in cases of temporary admission, the validity period corresponds to the authorized duration of the regime, plus the time required for formalization (National Assembly of Ecuador, 2011). From a practical standpoint, interviewees agreed that a variable-term system, such as the one used in Ecuador, is more functional as it allows the duration of the guarantee to be tailored to the specific characteristics of each operation.

In contrast, according to Article 160 of the General Customs Law, Peruvian legislation sets a uniform three-month validity period for specific customs guarantees (Congress of the Republic of Peru, 2008). This model seeks to standardize the duration of tax backing, regardless of the type of operation or customs regime applied.

Informants considered that a rigid three-month scheme would be impractical in dynamic foreign trade contexts, as the constant requirement to renew guarantees would place an additional operational burden on both economic operators and the customs administration in Ecuador. As a reference, the national legislation provides for a 280-day validity period, renewable in cases of controversy, contributing to greater operational efficiency and optimization of administrative resources.

3.8. Procedures

Regarding the procedures applicable to Specific Customs Guarantees, interviewees agreed that the current framework outlined in the *Specific Manual for the Administration of Customs Guarantees* (approved by SENAE Resolution No. SENAE-SENAE-2021-0067-RE, referenced in the state-of-the-art section) is functional, clear, and sufficient to meet the

needs of customs management. This instrument establishes detailed stages, including the registration, approval, and modification of guarantees; the issuance of collection notices and their enforcement through administrative acts or payment demands; and finally, the release or refund of guarantees. This procedural structure allows operators to act based on clearly defined phases, supported by legal provisions and established deadlines, thereby enhancing legal certainty, predictability, and institutional efficiency.

From a practical perspective, the guidelines outlined in the manual were valued for enabling a coherent and orderly process for operators and customs personnel, minimizing ambiguity in implementation. Interviewees highlighted the clarity of the process, particularly regarding the submission, approval, and enforcement of guarantees. They also emphasized the administration's oversight of deadlines through electronic advance notifications, allowing operators to manage the timely renewal of their guarantees.

A substantial difference in procedural orientation is observed when comparing this approach to the model adopted in Peru. Although both countries include similar stages (submission, acceptance, renewal, refund, enforcement, among others), Ecuadorian regulations emphasize the enforcement process more. In contrast, the Peruvian approach prioritizes validating the guarantee from its origin. Some interviewees suggested that the Peruvian model, by focusing on the validity of the guarantee instrument, provides a more direct and automatic response in the event of expiration—a feature considered operationally advantageous.

Interviewees also noted that the Ecuadorian legal structure is characterized by its focus on procedural formalization and its capacity to organize administrative management through clearly defined acts. This approach was particularly appreciated for its advanced notification system and clarity in procedural stages. However, it was also acknowledged that the Peruvian model, by emphasizing the instrument's validity, offers a more immediate and automatic response upon expiration—an aspect deemed a priority by one of the informants from an operational standpoint. Overall, it was recognized that the effectiveness of each approach largely depends on the profile of the economic operator and the level of technical support provided by the customs administration.

CONCLUSIONS

The District Directorate of Cuenca stands out for its efficiency in managing customs procedures, particularly in administering specific customs guarantees. This is complemented by an institutional approach rooted in transparency and personalized attention to importers and their representatives, the customs brokers. This perception was initially observed by the author during her pre-professional internship at SENAE, an experience in which she had the opportunity to collaborate in various departments of the Directorate. The impressions were later confirmed through interviews with public officials and sector operators. The customs technician demonstrated an open and committed attitude, providing timely assistance. The interviewed customs brokers, in comparison with other jurisdictions such as Guayaquil, agreed that Cuenca offers a higher level of service. They highlighted the promptness and effectiveness of institutional responses, which results in a more favorable experience for users within the customs context.

In general terms, Specific Customs Guarantees are perceived as beneficial instruments for importers. This perception is based on the testimonies gathered through semi-structured interviews, which reveal a positive evaluation of the mechanism, consistent with the objectives established in domestic regulations and the international commitments undertaken by the Ecuadorian State in trade facilitation. Interviewees highlighted the evolution of the guarantee management and control system and the relative agility of their constitution. These factors significantly contribute to optimizing the operations of the various actors involved in customs procedures. Furthermore, there was a favorable perception of the role played by SENAE as the active authority in this process, with its performance being considered efficient and consistent with the principles of effectiveness and legal certainty. While none of the interviewees reported holding AEO certification, all expressed satisfaction with the constitution mechanisms provided by Ecuadorian legislation, considering them adequate and functional for the demands of international trade.

This research identified regulatory and doctrinal information related to specific customs guarantees was identified. Fundamental concepts such as taxes and guarantees were defined, and the principles governing the actions of the customs authority and protecting the rights of the taxpayer and the economic operator were established. National laws, international instruments, jurisprudence, and administrative resolutions related to the subject are in consideration. The regulatory component included a comparative study of Ecuadorian

and Peruvian legislation and a section on international regulations. The latter emphasized trade facilitation as a guiding principle and addressed aspects such as reducing transactional costs, ensuring legal predictability, limiting the customs authority's power to request guarantees under specific conditions, and regulating interactions between the customs administration and the private sector.

From a comparative law perspective, analysts identified that both Peruvian and Ecuadorian legislation explicitly recognize the principles of legal certainty and due process. In both systems, the state centrally exercises tax and customs authority.

However, a significant institutional difference was noted: in Peru, the SUNAT oversees internal tax and customs administration, while in Ecuador, this responsibility is divided between the SRI and SENA. From an administrative efficiency standpoint, the Peruvian model offers operational advantages by consolidating competencies, allowing for better resource optimization, reduced duplication of functions, and improved system interoperability. This structure also enhances the traceability of tax and customs operations, strengthening fiscal control and regulatory compliance.

In both countries, it is acknowledged that every taxpayer of foreign trade-related taxes is considered an economic operator; however, not every economic operator is a taxpayer. In Ecuador and Peru, importers meet both conditions and are formally represented by customs brokers. A key difference lies in liability: in Ecuador, customs brokers are jointly liable with importers for customs tax obligations, whereas in Peru, this joint liability has been repealed, reflecting a less stringent approach to tax co-responsibility.

Regarding the means of guaranteeing the constitution, Ecuadorian legislation provides for instruments such as bank guarantees, insurance policies, credit notes issued by SENA or other tax administrations, endorsed term deposit certificates, letters of guarantee issued by public entities or diplomatic missions, as well as cash and certified checks. In turn, Peruvian legislation includes similar instruments such as bank bonds, surety policies, bank certificates, and negotiable credit notes, but also incorporates additional means such as warrants, movable asset guarantees, mortgages, and promissory notes, which are not provided for under Ecuadorian law. While this difference broadens the options available to Peruvian operators, it may also increase procedural complexity.

In terms of procedural approach, the Ecuadorian model emphasizes the notification of collections and the formalization of administrative procedures. In contrast, the Peruvian

model prioritizes the validation, renewal, and immediate enforcement of guarantees. Although the interviewees preferred the Ecuadorian system, the author of this study considers it legally reasonable to integrate the Peruvian approach regarding early validation of guarantees, as it is essential for importers to have clarity on the validity of the instrument before advancing in the collection process. A notable regulatory difference between the two countries lies in how they determine the cases in which specific guarantees are required: while Peru does not provide an explicit list, Ecuadorian regulations clearly outline such situations, offering greater legal certainty and reducing the discretionary margin of the administration.

Concerning customs regimes, both Ecuador and Peru use similar terminology and objectives for regimes such as Import for Consumption, Temporary Admission for Re-export in the Same State, and Temporary Admission for Inward Processing. However, there are differences in their regulatory classification. A notable divergence lies in the validity periods of specific customs guarantees. While Peru applies a uniform three-month period, Ecuador adopts a flexible approach, adjusted to the nature of the relevant regime or procedure. This approach is operationally more efficient, as it reduces the administrative burden and financial costs associated with periodic renewals, which aligns with the principle of trade facilitation. According to the empirical findings, specific guarantees are most frequently used under the import for consumption regime, especially in cases involving tax disputes; under the temporary admission for inward processing regime, primarily due to inconsistencies or the absence of a Certificate of Origin; and, to a lesser extent, under the regime of re-export in the same state.

RECOMMENDATIONS

During the non-systematic exploratory phase of this research, conducted before the final selection of informants, the research team identified only four customs brokers with tax domicile in the District Directorate of Cuenca who had direct experience handling specific customs guarantees. Of these, three agreed to participate in the interviews. This finding led to the hypothesis that, although stakeholders positively evaluate this type of guarantee from both regulatory and operational perspectives, its limited practical application may stem from factors such as a lack of awareness of its benefits or the absence of a specific need among importers. Based on these observations, the study recommends conducting complementary research to explore the causes behind its limited local use. Such studies could focus on identifying potential informational barriers, gaps in the dissemination of regulations, or shortcomings in institutional efforts to promote this mechanism as a tool for strengthening its use within the framework of international trade facilitation.

The research also recommends that the state, through its competent entities, strengthen the national customs culture by implementing ongoing training and outreach programs to communicate the benefits, requirements, and procedures associated with specific customs guarantees. In this regard, the customs administration should incorporate specialized technical content into its outreach strategies to enhance economic operators' understanding of regulatory and operational aspects, especially in areas like tariff classification. The findings indicate that disputes related to errors or discrepancies in the classification of goods represent one of the primary reasons for establishing specific customs guarantees in the District Directorate of Cuenca. Greater access to educational resources and technical tools would enable importers to carry out more accurate classifications in strict compliance with current regulations, thereby reducing the need for guarantees while verification or appeals procedures take place.

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APPENDICES

Appendix 1

Informed Consent Form

INFORMED CONSENT

Project Title: *Application of Specific Customs Guarantees for Importers in the District Directorate of Cuenca*

Dear participant,

As part of the aforementioned research, interviews will be conducted with Customs Brokers or Technical Operators of the National Customs Service of Ecuador (SENAE) to collect information on the outcomes of applying Specific Customs Guarantees for importers.

This study aims to analyze whether such guarantees benefit importers or, conversely, constitute an additional burden that affects their operations. The findings will contribute significantly to the knowledge on this subject and may support potential improvements in their implementation and use.

By signing this document, you acknowledge that you understand the terms of your participation and grant your consent under the following conditions:

1. **Voluntary participation:** I declare that I participate in this research freely and voluntarily, without coercion or pressure.
2. **Purpose of the research:** I have read and understood the purpose of the study and the importance of my contribution to it.
3. **Opportunity to ask questions:** I have been allowed to ask questions about the study and have received clear and satisfactory answers.
4. **Interviews:** I agree to participate in the interviews deemed necessary by the researcher.
5. **Interview duration:** I understand the interview will last approximately 45 minutes, although it may be shortened or extended depending on my availability.
6. **Right not to answer:** I understand that I may choose not to answer any question without needing to justify my decision.
7. **Right to withdraw:** I understand that I may withdraw from the interview at any time and for any reason, without consequences.
8. **Audio recording:** I agree to have my interview audio recorded to ensure accuracy in data analysis.
9. **Use of images:** I consent to photographs being taken without showing my face, which may be used in the thesis project.
10. **Note-taking:** I authorize the researcher to take notes during the interview.
11. **Use of information:** I understand that my statements may be cited in academic documents, research reports, and other publications derived from this study.
12. **Confidentiality and anonymity:** I acknowledge that real names will not be published in the research results. However, due to the sample size, there is a minimal possibility of identification. Measures will be taken to anonymize the information and reduce this risk.
13. **Academic purpose:** I understand the information provided will be used exclusively for academic purposes.

I declare that I have read and understood the terms of this consent and agree to participate in the research as a:

☐ Customs Broker

☐ Technical Operator of the National Customs Service of Ecuador.

Participant's Name: _____

ID Number: _____

Signature: _____

Date: _____

Researcher Contact Information:

Name: Paloma Isabel Ledesma Astudillo

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Student of the International Studies Program at Universidad del Azuay

Sincerely,

Paloma Isabel Ledesma Astudillo

Appendix 2

Systemized Interview Results

Do you consider it easy to access Specific Customs Guarantees? Why?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Yes, I believe the system is designed so that any importer can register a guarantee in the ECUAPASS customs system. It can be submitted in physical form through an insurance policy, bank guarantee, letter of guarantee (for public institutions), or cash deposit.	In general, yes. Obtaining a specific guarantee is not tricky. The process is not problematic, whether a bank guarantee or a cash deposit. The issue arises before obtaining the guarantee, that is, when defining the product it applies. This is because Customs often strictly interprets tariff headings, and if the heading is too general, it may lend itself to different interpretations. That is when problems occur, as there is no rule clearly defining the product, and in such cases, accessing the guarantee becomes difficult.	Yes, as long as the customs formalities required for each type of request and submission format are met. It can be submitted through a cash deposit to SENAE accounts, certified check, credit note from the National Customs Service of Ecuador, bank guarantee, or insurance policy.	The importer generally carries out this procedure with the entity that issues the guarantee. However, I have seen that when the case warrants it, the process is simple for the importer, and the specific customs guarantee can be accessed easily.

In which cases have you most frequently applied Specific Customs Guarantees? Please provide an example.

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Disputes. Usually within the valuation process, when the importer disagrees with the tariff reclassification, which we generally perform in our official capacity by modifying the tariff headings. This generates an additional settlement that may be subject to a guarantee, prior to the admission of a claim within the district.	In cases of disputes related to tariff classification.	In this office, they have been applied in the following cases: (h) When the Certificate of Origin is not submitted or, if submitted, does not meet formal requirements. (i) When disputes arise, prior to the payment of duties. (This case has occurred most frequently due to discrepancies in tariff classification, which result in differences in customs duties). (j) When a visa required for household goods is still being processed.	We have frequently applied them in special regimes, such as temporary admission for inward processing (Article 235, subsection a, RCOPCI). Another commonly applied case is when disputes arise (Article 235, subsection i, RCOPCI).

Under which customs regime have these cases been presented?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Here in the Cuenca district, we have had customs guarantees that have been applied under regimes such as regime 21, which is temporary admission for inward processing, where we have quite a few guarantees. For regime 20, for re-export in the same state, the goods fulfill a function and are returned. In fact, on some occasions, we have also had guarantees due to issues with the Certificate of Origin, and also in cases of disputes. But regimes 20 and 21 are the ones where they have been most frequently applied.	Under regime 10.	Definitely under regime 10, importation for consumption, because it is the most commonly used regime within the customs procedures processed at this office.	We have most frequently applied them in special regimes such as temporary admission for inward processing (Article 235, subsection a, RCOPCI). Another commonly applied case is in situations of dispute (Article 235, subsection i, RCOPCI).

Do you consider that due process and legal certainty are respected in the enforcement of Specific Customs Guarantees? Please explain your answer.

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Yes, as long as in such cases, when guarantees are used to secure administrative claims or disputes, the claim must have been admitted in the district; otherwise, the guarantee cannot be accepted. Regardless of the customs regime, guarantees can be accepted with proper anticipation—whether the goods have entered the country or are about to arrive—and for that reason, the guarantee is presented.	Yes.	Well, considering Articles 227 and 300 of the Constitution of the Republic of Ecuador: Article 227 states that "public administration is a service to the community, governed by the principles of efficiency, effectiveness, quality, hierarchy, decentralization, coordination, participation, planning, transparency, and evaluation." Article 300 establishes the principles of the tax system. These principles include: Generality, Progressivity, Efficiency, Administrative Simplicity, Non-retroactivity, Equity, Transparency, and Revenue Sufficiency. I definitely believe that due process is respected, as is legal certainty, since the guarantee—true to its name—is a safeguard for the beneficiary if SENAE may enforce it. Likewise, the refund of such guarantee may occur when the case so warrants, depending on the court ruling. We have seen many cases in which the legal decision favored the importer, and SENAE carried out the corresponding refund of the guarantee.	In cases of special regimes such as: temporary admission for inward processing (21), and temporary admission for re-export in the same state (20). Dispute cases occur under the import for consumption regime (10).

Are the requirements established for executing a Specific Customs Guarantee easily accessible and manageable? If not, what improvements would you recommend?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
The regulations state that the requirements for a customs guarantee to be accepted involve documents that we already have on hand—such as the invoice, the bill of lading (BL), and a pre-liquidation of duties prepared and signed by the customs broker. This allows us to ensure that the guarantee we are going to approve will cover the duties to be secured. In our case, we have not had any issues with the required documentation.	It is very efficient in that regard. I don't believe many aspects could be improved. Unlike taxpayers, the only issue is that they are inflexible with deadlines. Considering that everything is ultimately governed by law, which is what sets the deadlines, do you believe the timeframes should be extended? Well, deadlines are defined by law; a public official cannot miss a deadline, as doing so could lead to sanctions. The issue is that deadlines are sometimes very short. You need to meet certain formalities or requirements from Customs (technical data sheets, product information), and in the case of new or technological products, there is often no predefined format or information available. That's where the problems arise. Can you give an example where deadlines should be extended? Deadlines should particularly be extended for disputes related to tariff classification, because the timeframe is sometimes too short, and one must be able to respond to Customs' observation. For example, Customs may say it's "yellow," and I say it's "tomato"—that's the subjectivity in interpretation, especially where more duties are involved.	Absolutely. Guarantees are submitted through the ECUAPAS S system for review and approval by officials who are trained and experienced in the subject.	I believe this is clearly regulated, and we have not experienced any cases involving the enforcement of a guarantee. The guarantee remains valid in special regimes for the entire period authorized under the respective regime. In that sense, if the period needs to be extended for any reason, a request can be submitted to amend the guarantee, extending its duration up to the maximum the regime allows. In cases where the importer decides to challenge the customs obligation through judicial or administrative means, the guarantee must remain valid throughout the entire process, and must be renewed every 280 days.

Do you consider that SENA E adequately fulfills its role as the active party in the management of customs guarantees? In what areas could it improve?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Yes, in fact, we have never had any issues, and even when we have had to enforce guarantees, we have received a proper response from either the importer or the insurance companies to fulfill the obligations accordingly.	-	Yes, because as the beneficiary of the guarantee, SENA E has established sufficient regulations to ensure the collection of these guarantees. One way to improve would be by promoting better communication and training regarding the formalities required for each type of guarantee, so that upon submission they are not rejected or questioned due to missing requirements.	SENA E has implemented automatic alerts to prevent the expiration of guarantees. I believe it has managed this aspect well to keep importers informed. Regarding the approval of new or renewed guarantees, we have observed that in the Guayaquil district, the process is handled very efficiently, unlike in the Manta district, where it may take several days. Therefore, I believe that the performance of each department in each district should be evaluated in order to standardize processes at the national level.

Do you believe Specific Customs Guarantees have facilitated trade in the Cuenca District Directorate? Could you provide examples?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Without a doubt. As I mentioned earlier, in cases of disputes related to the release of goods, the additional assessment must first be guaranteed—whether due to tariff reclassification, reasonable doubt, or another reason. Additionally, for the various authorized customs regimes, these guarantees allow importers to transmit their import declaration once the guarantee is approved. This process usually takes from one day to the next.	I do very few import procedures in Cuenca, mainly in Guayaquil. However, I have not had classification problems lately, partly because we now have the technology to report and address Customs observations. When I worked in Cuenca, I found the process easy and did not encounter problems. Cuenca's main advantage is its more personalized attention to clients and customs brokers. That is the advantage—unlike in Guayaquil, where it can be chaotic. There, it is often impossible to speak with an officer or even get a reply to an email. In Cuenca, by contrast, one can engage in dialogue: if there is a disagreement, you can explain your position, support it with arguments and technical documents, and have a chance to be heard. I have had many cases where I have had to rely on technical documentation to persuade officials without going to court because these are administrative customs procedures. In one case in Guayaquil, I had to take a factory technician to explain how an amplifier worked. People often call it a “speaker,” but that is not the technical term. Since amplifiers have zero tariffs, it was critical to classify them correctly. However, if the amplifier also has Bluetooth, radio, or other functions, then the main function must be prioritized according to classification rules. Customs sometimes misinterpret this and prioritize the highest duty item instead of the primary function. So in that case, we had to leave a guarantee and start the dispute. Now, once a guarantee is left, we only have 30 days—but often that is not enough, because Customs might need to consult their technical or legal departments, which also take 30 days. So we end up having to extend the guarantee and keep running back and forth. Sometimes the official lacks the authority to make the decision and defers to Guayaquil. Moreover, that is frustrating—why should Guayaquil have more weight or tools than Cuenca? They apply the same law and precedent. However, sometimes Cuenca says, “Let me check with Guayaquil.” Why should Guayaquil be the authority on everything? If Cuenca had more technical staff or direct authority, things could be more efficient.	I believe that Specific Customs Guarantees have facilitated trade in Cuenca and across the country. They serve as a mechanism to streamline processes and expedite clearance. One example in Cuenca would be when tariff classification disputes arise that lead to higher customs duties—guarantees allow the release of goods while the matter is being resolved.	The Cuenca district has always been diligent. We have never had any issues with this district. That said, our experience with Specific Customs Guarantees here has been limited—just a couple of isolated cases; in those, we had no problems.

What is your opinion on the requirement established in Ecuadorian legislation to maintain the validity of the customs guarantee throughout the appeals process?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Undoubtedly, as a matter of common sense, a guarantee must remain valid regardless of whether a judicial claim has been filed, which usually takes a considerable amount of time. As customs officials, it is our duty to notify importers when guarantees are close to expiring, so they can request a renewal by submitting a new policy. In fact, the EXUAPASS electronic system automatically alerts them 30 days in advance. Additionally, we are obligated under current regulations to issue a formal notification through the QUIPUX document management system, providing alerts so that they may proceed with the renewal. If they fail to do so, they are normally subject to a penalty for late submission of the renewed guarantee.	Customs will always require a valid guarantee, because if they stop demanding that, everything will fall apart. They will always insist on an active guarantee. In that sense, I think Customs should be more efficient. In Cuenca, I've seen it works relatively well, but in Guayaquil it's a disaster. They don't respond to emails, to QUIPUX requests, they do whatever they want. Sometimes you have to ask for an appointment, and they schedule you way too late, even though the cargo can't wait. It creates a serious financial burden. I'm one of those people who insist that it's unacceptable to be treated poorly when you're going to pay taxes. You should be treated well so that you're encouraged to return and recommend the service. I've told Customs officials many times that importers are their clients—they're the ones paying taxes—and yet they're treated terribly, especially in Guayaquil.	It is logical that the active party or beneficiary of the guarantee—in this case, SENAE—must have a valid guarantee in place in order to enforce collection. Otherwise, the fundamental purpose of this mechanism would not be fulfilled.	I believe it is necessary, as it is the only way to ensure compliance with the obligation in the event that such compliance is determined at the conclusion of the legal process.

Are you an Authorized Economic Operator (AEO)? If so, do you believe there are additional benefits regarding customs guarantees (specifically) due to your AEO status? Which ones?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
-	No, I haven't really seen the need for it. At my age, I don't have the energy to go through the process of meeting the requirements, and I already have an established client base.	No, we are Foreign Trade Operators (OCEs). To become an Authorized Economic Operator (AEO), one must comply with additional formalities. This certification generally applies to freight forwarders, customs warehouses, deconsolidators, and similar entities.	No, we currently do not hold AEO certification.

Do you have knowledge of how Specific Customs Guarantees work in other countries? Could you provide examples?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
No, I don't have knowledge of how this type of guarantee is managed in other countries. However, in my view, it should be handled in a similar way.	No, we specialize in Ecuadorian legislation.	No, we focus on Ecuadorian regulations.	No, we focus on Ecuadorian regulations.

Do you believe that the means of constitution for customs guarantees established in the RCOPCI are sufficient? If not, what additional instruments would you recommend, considering that in Peru mechanisms such as the warrant, surety bond, chattel mortgage, traditional mortgage, and promissory note are used—none of which are included in Ecuadorian legislation?

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
<p>Honestly, I'm not sure how appropriate it would be to leave the goods as collateral (such as with warrants), since the objective is for the importer to be able to use the goods to fulfill their intended purpose at the time of importation. I'm not certain whether this question refers specifically to that point. In cases involving seizures, goods might be considered part of a guarantee, but such situations would need to be analyzed more deeply from a legal standpoint to determine their relevance in Ecuador, as this is not commonly practiced here and we lack legal knowledge of how effective such mechanisms might be. It obviously depends on the specific case and type of guarantee.</p> <p>A systematic evaluation would be necessary to assess potential benefits. Personally, I believe the current system is functioning well and does not require additional instruments. However, if any of the other options prove to be important or relevant, they could be considered.</p>	<p>Yes, in any case, what Ecuadorian Customs currently uses is very simple for them: it's much easier to enforce a guarantee against a bank or an insurance company than against a real guarantee like a pledge, for example.</p> <p>I've seen that Customs allows the use of real guarantees in the context of general guarantees, but I'm not aware of anyone who has actually used this option. While it's technically permitted, Customs hasn't really established how such guarantees should be constituted or managed.</p> <p>Customs prefers guarantees that are easy to enforce, and a real guarantee isn't convenient for them. Therefore, in the case of specific guarantees—which are usually short-term—a real guarantee would not be necessary. Using pledged goods as collateral would be too complex; that might make more sense for general guarantees.</p>	<p>They are more than sufficient. The more mechanisms are created, the more complex the process becomes, and the greater the formal requirement s. We must remember that everything should follow the principle of simplicity.</p>	<p>Ecuadorian legislation already includes several types of guarantees; however, the most commonly used are bank guarantees and insurance policies. For that reason, I believe that adding more options would not lead to their actual use.</p>

“Peruvian legislation establishes a uniform three-month validity period for specific customs guarantees, whereas Ecuadorian legislation sets variable timeframes depending on the case. Which of these two options do you consider more appropriate and why? What factors, such as practicality or specificity, would influence your preference?”

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
<p>Here I would respectfully disagree with Peru's approach regarding the renewal of guarantees. Renewing a guarantee every three months would be a tedious process for both the customs officer and the importer, as it would involve handling ongoing documentation. For that reason, and in a well-structured manner, Ecuadorian regulations establish that guarantees related to tax disputes are valid for 280 days, while guarantees linked to certain customs regimes generally have a one-year validity period. This way, compliance is made easier for the importer, avoiding frequent renewals and the additional costs they entail.</p>	-	<p>I am unfamiliar with Peruvian legislation, but I believe that SENA, as the beneficiary of a guarantee, should always ensure that the guarantee remains valid until the collection is completed.</p>	<p>I believe the variable timeframe is more appropriate depending on the case. For example, if a specific guarantee applies to a special regime, it should cover the same period authorized for that regime, which can be up to one year. On the other hand, when guarantees are issued for disputes, they are valid for 280 days and must be renewed until the legal process is concluded.</p>

“Do you believe that the disqualification sanction applied to guarantor entities that fail to honor more than two guarantees—as established in Ecuador’s Regulation to the Title on Customs Facilitation for Trade—is an appropriate measure to ensure reliability in commercial guarantees, or would it be more beneficial to adopt Peru’s approach, which emphasizes strict oversight of issuing entities without applying such drastic penalties?”

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Well, in fact, insurance companies must be under some form of obligation or enforcement to ensure they fulfill the commitments made on behalf of the importer. Therefore, I believe this measure is appropriate.	In this matter, I believe Customs is right. I experienced a situation myself: I used to pay customs duties through Banco del Austro. One day, when I tried to pay, they told me, “We’re sorry, we can’t process your payment.” They usually claim it’s a system issue or something similar. So I had to go to another bank. But it did not just happen once—two or three times, and I didn’t understand why. A high-ranking official later asked another colleague: “Did this happen to you?” And he told me that the bank had not been transferring the collected duties to Customs on time. In other words, I pay my duties at Banco del Austro, and that money must be transferred to the Central Bank within six days. Private banks are authorized by the Central Bank to collect taxes, and they must deliver the money within that period. Banco del Austro failed to transfer the funds in a timely manner. As a result, the Central Bank told Customs, “This bank is not complying—penalize them.” So, if a bank does not fulfill its obligation, Customs has every right to impose sanctions because this noncompliance also negatively affects the clients.	SENAE, as the active party, is fully entitled and empowered to sanction any guarantor that fails to honor the financial commitment for which it is responsible. We must remember that we live in a state governed by the rule of law, and this legal framework must not be undermined.	I believe obligations must be fulfilled promptly, and leniency should not be allowed in this regard. Therefore, I consider Ecuador’s current measure to be appropriate.

“Do you consider that the procedure for the administration of customs guarantees established in the Specific Manual for the Administration of Customs Guarantees is effective or overly bureaucratic? Why? If not, what improvements would you suggest? If yes, what aspects do you consider most positive?”

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
The Manual for the Administration of Specific and General Customs Guarantees is comprehensive. It provides clear guidelines for each process that must be carried out, as long as the guarantee is valid and meets the required timeframe. Sometimes, we just need to notify the official to enforce the guarantee. So, everything is detailed, and we can work efficiently. I believe no modifications are needed, at least not in our experience in the Cuenca district. Do you think the timeframes for these procedures are fair? Yes, both for approving new guarantees and for renewals. These are established deadlines; in my opinion, they are reasonable and do not negatively impact the importer.	It’s effective. For example, customs officials here at customs notify us before the guarantee expires. They send alerts such as “You have one week left,” similar to how banks notify clients, sometimes even via WhatsApp or by letter. So in that sense, I’m not concerned. It’s Customs that makes sure things are in order.	The process is quite clear, and at the moment I think it’s sufficient for any Foreign Trade Operator (OCE) who needs to present, renew, or request approval for their guarantees. In my opinion, no major issues arise—unless it’s an exceptional case or an unusual process. So far, everything has worked well.	I believe that what is established in the manual is well-structured. However, I do think that certain aspects should be standardized at the national level, rather than left up to the discretion of each official requesting the documentation in different ways depending on the situation.

“Do you believe that Ecuador’s approach—focused on the notification of collections and the formalization of administrative procedures—is the most appropriate for the management of customs guarantees, or do you think it would be more suitable to adopt Peru’s approach, which places greater emphasis on the validity, renewal, and execution of guarantees?”

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Well, it’s actually quite subjective. It really depends on the specific case, since there are guarantees which—due to a legal provision or a failure to renew on time—must be enforced. In that sense, the prior notifications before enforcement are appropriate, at least under our current regulations, to ensure compliance with what is required.	I lean toward Peru’s model. They focus on the issue of validity, and that is the most advisable aspect, because the guarantee’s validity is essential. It may be that, from a bureaucratic perspective, the regulations concerning enforcement can be rather burdensome or complex, but I believe that validity must come first. Beyond that, I don’t think it should be overcomplicated—if the deadline isn’t met, the guarantee should simply be executed.	I’m not sure whether it’s the most appropriate model, but it fulfills its role in terms of providing notification or reminders regarding an obligation that must eventually be met. Much depends on the type of Foreign Trade Operator (OCE), and whether they genuinely need to be reminded constantly about the expiration of an obligation they’ve committed to.	I believe the process is well-regulated and clearly defined. However, we would need to examine Peru’s operational approach in greater depth before making a well-informed comparison. In any case, whichever procedure is followed, as long as it is properly documented, I believe it can work effectively under either model.

Additional Comments

Interviewee 1	Interviewee 2	Interviewee 3	Interviewee 4
Generally speaking, compared to the previous customs system, SICE, the current system—as you mentioned—is much more user-friendly and efficient. Therefore, neither importers nor customs officials in Cuenca face difficulties in managing customs guarantees. In other districts, like Guayaquil or Quito, I understand the number of guarantees can exceed 100 or even 200. Naturally, the officer in charge must keep an additional spreadsheet to monitor expirations and the necessary follow-up actions. However, both the regulations and the current system enable us to carry out such controls effectively and proceed with collections when necessary. The only issue I’ve identified is that the system doesn’t allow me to generate a separate Excel matrix for each guarantee. Here in Cuenca, we maintain an Excel file for each individual guarantee, which we update when it is	I believe that before discussing guarantees, Customs should prioritize making faster and clearer technical decisions. For example, in a case I explained earlier involving the classification of an amplifier, I classified it as an amplifier, but Customs classified it as a radio transmitter—even though I presented a technical datasheet and applied the relevant classification rules. The problem is that Customs lacks a dedicated technical department to resolve such matters efficiently. Therefore, staff need to be better trained and more technically knowledgeable. Before even considering the requirement of a guarantee, there should be room for	-	The implementation of the ECUAPASS system in 2014 completely changed customs procedures. For example, with specific customs guarantees (GAE), we previously did not use them much. Why? Because the system back then was tainted by corruption involving Customs and certain insurance companies. At that time, importers could not obtain a guarantee from just any provider—it had to be a specific, prearranged company. Now, with ECUAPASS, there are clear guidelines for insurance companies on how to issue customs guarantees, which has allowed us to work with any authorized provider, whether a bank or an insurance company. Thanks to ECUAPASS and the QUIPUX system, we can now track the status of a guarantee online. Before, we had to knock on doors and wait at service windows, hoping for updates. Now, customs officials can’t simply make up new requirements, because the procedures are standardized and officially approved. In the past, an official might say, “I think this should be added.” That is no longer acceptable. Another key change is the increased use of GAEs due to the “reasonable doubt” principle. We now have many cases involving challenges to customs valuations, which previously didn’t occur. Today, we have a clear legal procedure for applying reasonable doubt. If we disagree with the valuation made by Customs, we can secure the disputed duties through a guarantee and continue the process through a lawyer, who presents legal justifications. Customs

renewed or otherwise modified. Unfortunately, the system does not allow us to directly extract all the data needed for effective monitoring. This is a feature that could be considered as a system improvement.	dialogue and resolution, because in most cases, a guarantee arises due to a discrepancy.	must then defend its valuation in a judicial setting. This ensures that a customs officer cannot simply assign arbitrary values to goods—any valuation must be legally substantiated. Additionally, Customs can conduct passive reviews up to five years after a declaration has been filed. If a discrepancy is found, a notice is issued, which can trigger additional taxes. These, in turn, can be legally contested by the importer.
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