



# FedEx Regulatory Alerts & Updates

## Regulatory Alert: Letter of Conformity for Civil Aircraft Parts Imported to U.S.

September 25, 2019

### BACKGROUND

U.S. Customs and Border Protection (CBP) issued Ruling H302111 on December 13, 2018, that held that aircraft parts imported for repair do not have to be actually “airworthy” at the time of entry to qualify for duty-free treatment under the Civil Aircraft Agreement (CAA). CBP has stated that the importer need not provide this evidence at the time of importation. At importation, the importer must only make a good faith certification that all merchandise entered under the CAA will be put to a qualifying use in a civil aircraft.

However, the importer is required to maintain records sufficient to demonstrate the continued validity of the certification after importation. Additionally, the importer also has the statutory obligation to notify CBP of any diversions of duty-free civil aircraft merchandise to a non-qualifying use if and when the intention to divert arises. It is possible that an importer could, for various business reasons, have merchandise imported under the CAA diverted for non-qualifying use and they would then be required to notify CBP of any such diversion.

19 CFR 10.183(e) addresses documentation requirements for goods imported under General Note 6 of the Harmonized Tariff Schedule of the U.S. (HTSUS):

- This documentation need not be filed with the entry summary but must be maintained in accordance with the general note and with the recordkeeping provisions of part 163 of this chapter.
- Customs may request production of documentation at any time to verify the claim for duty-free admission.

### WHAT HAS CHANGED?

FedEx Trade Networks Transport & Brokerage, Inc. (FTN) is the express broker for FedEx Express (FXE). The Letter of Conformity (LOC) is an FTN-required document for duty-free entry of civil aircraft parts imported for repair when the entry is made on the FTN bond. Any time the word “repair” is mentioned on a commercial invoice for a shipment of aircraft parts and the importer is attempting to claim duty-free entry under the Civil Aircraft Agreement (CAA), FTN will require the LOC.

To qualify for duty-free entry into the U.S. under the CAA, the LOC form is required for shipments of civil aircraft parts being imported for purposes of repair if FTN is identified as the Importer of Record (IOR) on the entry.

An issue would arise if the end use of the goods changed post-entry (i.e., the parts are unable to be repaired and are discarded), thus nullifying the Civil Air claim made by the entry writer. In that case, the IOR would be responsible for payment of the duties well after the import occurs.

The LOC form is applicable to shipments moving via any FedEx Express® International Service and cleared at any U.S. FedEx Express hub.

#### **Q&A**

**Q1: If a FedEx Express customer already has the “old” LOC on file at FTN, are they required to complete and submit the “new” LOC?**

A1: No. There are many customers who still have their original LOC on file. Those are still used; there is no need to sign and submit the newer LOC. The LOC does not have an expiration date; it is valid until revoked or changed.

Obviously, customers who ship civil aircraft parts into the U.S. and have not completed an LOC will need to do so.

The LOC can be included in the entry package for each individual import shipment, or customers can make arrangements to have a blanket LOC in their CPG profile. The CPG team can be reached at [cpg@ftn.fedex.com](mailto:cpg@ftn.fedex.com).

**Q2: Is the LOC still required if a customer is importing undamaged civil aircraft parts and no repair is needed?**

A2: No. The LOC is NOT required if the civil aircraft parts are NOT imported for purposes of repair.

FTN will only require the LOC for civil aircraft parts that clearly indicate the parts are being imported for REPAIR purposes. If the “repair” language is not on the commercial invoice or IAWB, then the basic GN6 Civil Air citation on the commercial invoice will allow the duty-free benefit.

**Q3: Are there instructions on completing the LOC?**

A3: The required fields are name of person completing the LOC, company name and IRS number at the top of the form, and the Name, Title, Signature, and Date of the LOC being completed in the bottom certification section. The new LOC form is in the References section below.

**Q4: Who at FedEx should customers send the blanket LOC form to?**

A4: All blanket LOC forms should be submitted to the FTN CPG team for placement in the customer’s clearance profile. The CPG team email address is cited in Q1 above.

#### **References:**

General Note 6 – Articles Eligible for Duty-Free Treatment Pursuant to the Agreement on Trade in Civil Aircraft

<https://www.usitc.gov/publications/docs/tata/hts/bychapter/1401gn.pdf#page=18>

CBP Ruling H302111

<https://rulings.cbp.gov/search?term=h302111&collection=ALL&sortBy=RELEVANCE&pageSize=30&page=1>

19 CFR 10.183(e)

[https://www.govregs.com/regulations/title19\\_chapterI\\_part10\\_subpartA\\_subgrp173\\_section10.183](https://www.govregs.com/regulations/title19_chapterI_part10_subpartA_subgrp173_section10.183)

New LOC form/instructions

<https://www.fedex.com/gtm/pdf/USF086.pdf>