

AEO Pilot report



24 August 2006

0 Preamble

The report contains the results of the work conducted in the CUSTOMS2007 pilot action on Authorised Economic Operators (AEO).

The pilot action started in January 2006 and ended in July the same year. A first plenary meeting was held with all participating economic operators and their customs authorities to explain the objectives of the pilot action and to prepare the pre-audit of the economic operators. The customs authorities conducted the pre-audit from January until March and their reports were discussed during the second meeting in April. This meeting also prepared the customs authorities for the next work to be conducted, the other objectives of the pilot action. During the next months, April – June, the customs authorities, evaluated how risk management could be undertaken for the participating economic operators and how they could be identified in the supply chain. The customs authorities reported the results to the Commission and a draft report of the pilot action was discussed in the plenary meeting held in June. The result of the pilot action was presented to the economic operators in July where, jointly with the customs authorities and Commission, the best way forward was discussed.

A sub-group was created to elaborate how the result of the examination of one economic operator could be used in another Member State when a comparable economic operator applied. The sub-group was composed of UK and SE. The result of the pre-audit on the economic operator in SE was discussed at meetings held in April and May in the UK where the SE + UK economic operators also participated. The sub-group reported in June and the result has been incorporated in the report of the pilot action.

The real input of the pilot action is to give a more precise idea of the way to proceed with AEO audit and application, and to assist the customs code committee in the discussions on the implementing provisions of regulation (EC) 648/2005, even if not originally foreseen.

0.1 Objectives of the pilot

- The project group on AEO had created guidelines to be used during the pre audit. To elaborate if the questions in the guidelines are appropriate. If not, make proposals on how the questions can be changed or if they should be sorted into different categories connected to the areas of the economic operators part in the supply chain also taking into account the situation of SME and multinational companies;
- Give examples of how risk management on AEO's can be established and maintained. Identify how risk management is carried out in the participating MS's towards existing reliable economic operators;
- Show how AEO's can be identified in the supply chain and how the identification can be shared among the participating parties;
- Elaborate if further simplifications and facilitations can be introduced as benefits to the status;
- Identify further needs for the implementation process (including communication/consultation/information exchange).

1 Background

1.1 Legal base

The AEO status was introduced by article 5a in regulation (EC) 648/2005. The draft implementing provisions, TAXUD working document 1250/2005 rev 6 hereinafter referred to as the draft implementing provisions, contains the articles 14a – x which are the relevant articles concerning AEO matters further laying down the criteria, the conditions and the application for granting the status.

1.2 Participants and how they were chosen

11 economic operators and their customs authorities were chosen to participate in the AEO pilot action. All customs authorities who nominated economic operators had the possibility to conduct a pre-audit and stay associated to the pilot. Only Denmark did so and they were therefore associated to the pilot action with their economic operator.

The applicants in the pilot action were chosen in order to, taken together, represent all parts of the supply chain (manufacturer, exporter, forwarder, warehouse-keeper, customs agent, carrier and importer).



In view of the very positive response from the Member States and the economic operators, and in order to keep the very practical aspect of the pilot project and to have a group of a reasonable size, the Commission services had to choose between the nominated participants.

The choice was based on the following combined criteria:

- 1 Experience in the area of authorised operator programmes;
- 2 Representation of various parts of the Community;
- 3 New and old Member States shall participate;
- 4 Large and small MS shall participate;
- 5 Small and medium-sized economic operators shall be represented;
- 6 Multi-national economic operator shall participate;
- 7 Different kinds of transport modes shall be represented;
- 8 The economic operators shall represent all parts in the supply chain and the different areas shall have a balanced representation.

Following the application of these criteria and in order to achieve a representative sample of the nominations, the Commission services increased the number of participating economic operators to 11 and accepted that they are all linked to different Member States.

The following 11 Member States and economic operators were chosen to participate in the pilot:

| | |
|---------|---------------------------------|
| Austria | Magna Steyr Fahrzeugtechnik |
| Belgium | Nike Europe Holding BV |
| France | Renault, sas |
| Germany | Hapag-Lloyd Container Line GmbH |

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|----------------|-----------------------------------|
| Hungary | MASPED Co Ltd |
| Italy | Uno a Erre Italia Spa |
| Lithuania | AB Lietuvos gelezinkeliai |
| Netherlands | Kuper Douaneservice BV |
| Slovenia | Gorenje, gosodinjski aparati d.d. |
| Sweden | DHL Express (Sweden) AB |
| United Kingdom | Cardinal Health |

With this choice a balance between different actors in the supply chain was achieved. From the economic operators point of view, importers, producers, exporters, transporters (sea, air, road, rail and express couriers), warehousing and customs brokers were represented and both small/medium size and multinationals enterprises were also represented.

From a Member States point of view there was participation of new and old Member States; big and small countries; north, central and south; Member States with land border, maritime border and more central.

2. Methodology

2.1 Application

2.1.1 Findings and solutions

2.1.1.1 Where to apply

In the majority of cases the application will only be dealt with by one MS but in cases where the main accounts are held or the records are accessible in one MS and the customs related activities are carried out in another MS, the application has to be submitted where the main accounts are held. In that case, the pre-audit has to be carried out as a joint pre-audit between the MS's. Article 14d1 - 2 of the draft implementing provisions lays down that:

"1. The application shall be submitted to one of the following customs authorities:

(a) The customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held, and where at least part of the operations to be covered by the certificate are conducted;

(b) The customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible in the applicant's computer system by the competent customs authority using information technology and computer networks, and where the applicant's general logistical management activities are conducted, and where at least part of the operations to be covered by the certificate are carried out.

The applicant's main accounts referred to in points (a) and (b) shall include records and documentation enabling the customs authority to verify and monitor the conditions and the criteria necessary for obtaining the AEO Certificate.

2. If the competent customs authority can not be determined under paragraph 1, the application shall be submitted to the customs authority of the Member State where the main accounts related to the customs arrangements involved are held, or where they are accessible as referred to in point (b) of paragraph 1; in this last case the applicant's general logistical management activities shall be conducted in the same Member State."

The group found that the former text in the draft implementing provisions would not fit all needs as in particular multinationals can have very specific and also different structures and there could therefore be a need for flexibility which allows authorising economic operators in a way which is suitable for the unique situation but without allowing them the possibility to apply in a MS which they prefer (shopping for a certificate).

In the pilot it was found that one economic operator only had a branch (no legal entity) in the MS where they were chosen to participate in the pilot. All customs related activities are carried out by this branch and all records and documents concerning customs activities are also held and accessible in the same MS. However, the main accounts of the economic operator are held in another MS. No customs related activities are carried out there. It followed of art 14c of the former draft implementing provisions that the economic operator then had had to apply where the main accounts are kept. Another delegate also proposed to change the article 14c accordingly. The text has been changed accordingly in rev 6 of the draft implementing provisions and it is up to the customs code committee to decide on the matter. The former article 14c has changed article to article 14d. One delegate is of the opinion that the text is still not clear enough due to those multinational economic operators which might have security management situated in the top level management and logistical management situated on a lower management level. Sometimes logistical and security management are situated in different MS's.

2.1.1.2 Working methods Customs authorities

All or almost all of the customs authorities in the pilot action have consulted other units within their customs authorities in order to gather information on the applicant prior to the pre-audit. Some have then organised the following work with the pre-audit together with delegates from the other units and some have consulted them before, during and after the pre-audit.

2.2 Validation of the criteria

2.2.1 Findings and solutions

2.2.1.1 Need for a transitional period with transitional rules

Article 14o(2) in the draft implementing provisions lays down that the certificate shall be issued within 90 calendar days following submission of the application. This period can be extended by one further period of 30 calendar days where the customs authority is unable to meet the deadline. It seems necessary to introduce a transitional time limit in order to meet the demand when many operators will apply at the same time and taking into account the lack of experience in the field and the number of auditors available in the MS. Even if the time limit is extended by a further 30 days it might not be enough. There might be a need to allow operators to apply for AEO Certificates before the AEO concept will be applicable so that customs can start examining the application; such a possibility can obviously only be introduced once the CCIP has been voted upon.

The solution regarding time limits could be to accept 300 calendar days during a transitional period of two years, while not implementing the 90 + 30 days that are currently being considered in the legal text. During the two years the timelines could be evaluated in order to determine an acceptable timeline. The timelines could also be agreed with the economic operator in order not to delay the authorisation. This option then needs to be included in the legal text.

Some members considered that the time limits might have to be re-examined after the transitional period, as authorities will have more experience and will be in a position to assess how long it takes to authorise an AEO.

One member showed that with the amount of work and limited resources it will be very difficult to carry out the periodic audits that are envisaged with a period of at least three years. One authority expects more or less 20.000 applications in their Member State when the AEO programme starts followed by another 20.000 applications in a few years time.

Due to the expectations of a large number of AEO applicants it will be difficult for customs authorities to also cover re-assessments. It is therefore suggested to start the counting of the three year period as laid down in article 14q, paragraph 4 at the end of the transitional period. F.ex. an economic operator assessed and granted the AEO status in 2007 will be reassessed in 2012 (transitional 2 years + reassessment period 3 years). The customs authorities shall monitor the compliance with the conditions and criteria to be met and shall when necessary carry out re-assessment. The group found that the article on re-assessment needed to be amended in order to clarify that a complete re-assessment of the operator was only necessary if something in his company or EC legislation has changed. The intention of the legislator was not that each AEO needed to be completely re-assessed against the conditions set out in the legislation and according to the guidelines but to ensure that a more or less constant or at least regular monitoring of the AEO took place. The proposal aimed at ensuring that customs did not simply authorise an AEO and would never again examine his file. The group made a proposal to the Customs Code Committee (see also 2.2.1.6.)

Trade participating in the pilot action found that the audit and authorisation process was cumbersome. Trade found that it was in a company's interest to have systematically organised procedures in place and that it was important that the management accepted that the audit process was a normal part of the work of the employees which needed to be recognised and honoured.

Trade participating in the pilot action mentioned the hostile environment and constant obligation for cost efficiency that was often a hurdle that needed to be overcome before the additional work to prepare the audit and authorisation process would be accepted by the management.

2.2.1.2 COMPACT risk management model

The questions contained in COMPACT are in general the same as the questions which could be used in the pre-audit according to the draft implementing provisions and guidelines, but chapters on customs procedures were initially excluded from the guidelines due to the fact that the AEO certification and the criteria were not directly linked to the use of customs procedures. However, when conducting risk management on AEO's, it is necessary to also take into account the daily use of customs procedures by the operators. The guidelines have therefore been amended with the chapters from the COMPACT model on the customs procedures in order to conduct risk management as regards security compliance according to the new AEO COMPACT Model. The guidelines contain points for attention on how to assess relevant risks. The addition of information on how the operators use the customs procedures will give the customs authorities the possibility to make an overall control plan of the operator, which could be used as a basis for continuous surveillance.

Following these conclusions the AEO COMPACT model and the AEO Guidelines have been redrafted to better present the results of the AEO pilot. The details are found in the working documents, annexes 2 and 3. They will be further updated and practical examples will be added to the areas after MS's have gained experience on how to assess the criteria.

It is recommended to use the AEO COMPACT model but the use of the AEO COMPACT model is not mandatory as the pilot has shown that the methods used by customs administrations were leading to equivalent results being achieved.

2.2.1.3 Business partners

In order to have a secure end to end supply chain, economic operators need to ensure that their part of the supply chain is secure as well as the part of the chain which is covered by their business partners. Guidance on how to implement this requirement can be found, for example in the ISO/PAS 28001, where it is indicated that the business partners should send in security declarations to the operator (named "organisation" in ISO). The security declarations contain information on how the goods and related information are safeguarded by the business partners. Using security declarations can be one way forward but it should also be possible for AEO's to enter into contractual arrangements with their business partners as described under "D" below.

End-to-end supply chain security means that security measures are implemented from the first point till the last point in the supply chain. The AEO should where possible make the supply chain secure. The AEO needs to have the possibility to check whether or not the AEO Certificate of another AEO is valid. Article 14x4 in the draft implementing provisions stipulates that the names of AEO's should be published subject to their prior agreement. Publication of some information on the AEO's makes it possible for AEO's to verify if another economic operator is an AEO or not and which kind of certificate the AEO is the holder of. A possible solution could be to ask for statements from all economic operators who are applying for an AEO certificate "Security and Safety" that they agree with the publication of information concerning the validity of their AEO certificate in order to ensure supply chain security. This statement could be part of the application form. Signing this statement should be a condition for obtaining an AEO certificate "Security and Safety".

The supply chain can be secured in the following ways:

A) The AEO is responsible for the whole supply chain

The supply chain can be considered to be fully secured only when the AEO is responsible for the whole supply chain. Example: An exporter who also carries out the shipment of the goods to the final destination.

B) The AEO only works together with other AEO's or equivalent

Another option to secure the whole supply chain is when an AEO only works together with other AEO's or equivalent operators in the supply chain. Example: An importer who is an AEO receives goods from a supplier in a third country. The supplier is a member of a similar AEO concept recognised by a third country customs authority and all other actors in the supply chain are also members of the AEO concept or equivalent concepts. International customs cooperation and mutual recognition of trade partnership programmes is therefore very important.

C) The AEO demands security declarations from his business partners

Another option is to work with security declarations. Example: An importer who is an AEO receives goods from a third country. Neither the supplier nor anyone else in the supply chain except the importer is an AEO. The importer demands security declarations (as described in ISO PAS 28001) from his business partners including demanding all actors in the supply chain to safeguard the security of the supply chain within their responsibilities.

D) The AEO enters into contractual arrangements with his business partners

A further option is to work with contractual arrangements. Example: An importer who is an AEO receives goods from a third country. Neither the supplier nor anyone else in the supply chain except the importer is an AEO. The importer has laid down contractual agreements with his business partners including demanding all actors in the supply chain to safeguard the security of the supply chain within their responsibilities.

Other security standards also stipulate that business partners shall ensure that the supply chain is safeguarded, for example as in EC Regulation 2320/2002 on Aviation security concerning Regulated Agents and Known Consignors. However, no third country business partners will be audited by EC customs authorities, as it is not within their legal competency. As mentioned earlier, global standards for trade partnership programmes, such as the WCO SAFE Framework will provide a good basis to work through international customs cooperation on mutual recognition of trade partnership programs.

2.2.1.4 All supply chains?

The operators can have many suppliers and therefore many supply chains. All supply chains have to be covered by security measures. The AEO needs to have measures in place which secure the supply chains. An economic operator might find it useful to include the requirements of safeguarding the security of the supply chains in contractual agreements by their business partners. Some of the trade participants in the pilot action demand security declarations from their business partners while others use different means. Trade participating in the pilot action is generally securing its supply chains already now for other purposes (avoiding loss and theft, insurance purposes or compliance with other security programs).

In the pilot action most of the economic operators used seals on their shipments. Seals must however be fixed at the start of the supply chain, supervised by an AEO or anyone who has entered into contractual arrangements with an AEO. Adding a seal later in the process only means that the shipment will be harder to tamper with from that point on, it will not mean that the shipment is secured as it is not known if it has been tampered with before sealing.

Some customs authorities have visited and controlled all premises of the applicant and some have only checked certain premises.

As mentioned in sub-section 2.2.1.3 "Business partners", the supply chain can consist of one or several economic operators. If the AEO itself does not have responsibility for the whole supply chain, sub-section section 2.2.1.3 describes how the security of the supply chain can be safeguarded. It is up to the MS to assess whether the AEO meets the criteria and to determine if there are any remaining risks and at which level the risk will be assessed.

An AEO itself is considered as low risk when he has successfully met the criteria in order to become an AEO. However, the daily use of the customs procedures and the supply chain have to be taken into consideration in the risk assessment as described in the "AEO COMPACT

model" working document TAXUD 2006/1452 and "AEO Guidelines on standards and criteria" working document TAXUD 2006/1450. The result can be that there are risks remaining and these risks have to be addressed as well.

Some MS's in the pilot action proposed that the risks should be described as high, medium and low risks and that they should be shared with all MS's after the AEO has been authorised. Some MS's also expressed their interest to create a group which should evaluate how risks for AEO's can be addressed. However, it was decided that risks on AEO's will be further elaborated in the existing CUSTOMS2007 risk management working groups.

To identify an AEO in the summary declaration it has been proposed to use the AEO certificate number. Discussions are ongoing on how economic operators other than the one who submits the summary declaration can be identified.

2.2.1.5 How to audit, including how to use the guidelines

Some areas in the AEO Guidelines need to be further developed and explained with best practises after the AEO concept has been introduced. This will ensure that a common level of how to use the AEO Guidelines, including the level of the answers in the areas, will be established. Without any further practical experience and in view of the very specific situation of and in particular the divergences among multinational companies and SME's, it was at this stage impossible to provide more guidance in the guidelines. This is an area that probably will need to be monitored and where best practises can be introduced when the guidelines have been used for some time. It is of great importance that this information and experience is shared and discussed amongst the MS's in order to get a Community wide practice established.

Due to the fact that assessing security criteria is a new task for customs authorities, further explanations of the questions and cross-references to other security standards are needed. MS's have in the pilot action used the guidelines, consulted with their experts and sent in many comments on improvements to the guidelines.

A) An appropriate record of compliance with customs requirements

Certain improvements are needed in one case. The ways to determine if the applicants have been compliant differs from applicant to applicant. Customs authorities have included checks if the applicants have been compliant with the rules for customs procedures, that no prior tax or customs irregularities have been found, no approvals or licenses have been revoked or withdrawn. One Customs authority checked against all transit declarations. Some also asked for intelligence information where available. Some MS's do not have access to certain intelligence information and they are not allowed to ask for it either. References to Interpol, Europol and OLAF have therefore been deleted from the guidelines.

B) A satisfactory system of managing commercial and where appropriate, transport records, which allow appropriate customs controls

Certain improvements are needed in one case. The applicants have systems which allow appropriate customs controls. Movement of goods can be followed in the applicants systems. In one case the applicant has granted electronic access to customs officers involved in performing customs controls on the applicant. Some applicants have a code of ethics for their employees. Some let new employees go through an introduction program where security issues are addressed. Security personnel are trained for specific security procedures.

The MS's found that the operators were using standards and business systems for their recordkeeping. The standards and business systems are helpful and can be used in order to determine if the criteria are met.

C) Proven financial solvency

Certain improvements are needed in two or three cases. The customs authorities have consulted various sources like credit protection associations and they have also taken stock of published company data. One customs authority has taken notice of the auditing of the financial report. Some asked credit institutions while some calculated the financial ratio themselves. Proof of the financial solvency could also be provided by the company itself during the course of application. For example the company could make references to an audit report, it's ranking by a bank, or information from a bank. These documents can then be inspected during the pre-audit. All of these methods can be acceptable and there is no intention to define the financial solvency any further.

It is not unusual for a small company sometimes to apply for deferral of payment. The existence of such isolated deferral applications should not result in the company then being regarded as being unable to pay, and thus being denied the AEO status.

Compliance and solvency criteria can be applied on divisions or units of the company if part of the legal person is allowed to apply for the authorisation.

D) Appropriate security and safety standards

Certain improvements are needed in three or four cases. The applicant's access to premises and cargo units were controlled. Only authorised personal and vehicles have access to their premises, cargo units and goods. Various systems are used in order to comply with physical security, such as CCTV, fences, alarm systems, control at gateways, locks, badges, patrols supervise premises, detection systems in case of breaking on windows etc. In one case the applicant does not load containers which do not carry the High Security Seal in accordance with ISO-PAS 17712¹. One applicant could not be audited. Another operator is only using specialised transporters with a high reputation for security.

Customs authorities have to gain more experience on how to check the security criteria. It is therefore of value to take into account existing security criteria, implemented because of other legal or business requirements. It would be strongly favoured to conduct the assessment of the security criteria together with other authorities when they will also assess the economic operators for their reasons. Best practices will have to be developed.

2.2.1.6 Re-assessment of the criteria and conditions

The re-assessments should not mean that the Customs authorities have to check all the criteria again. The Customs authorities have instead to ensure that the criteria and conditions for the AEO certificate continue to be met. The Customs authorities will have thorough control on the AEO's as they have established control plans on each AEO and it will therefore be easier to ensure if the criteria and the conditions still are fulfilled.

¹ ISO PAS 17712 establishes uniform procedures for the classification, acceptance and withdrawal of acceptance of mechanical freight container seals. It provides a single source of information on mechanical seals which are acceptable for securing freight containers in international commerce. It is not applicable to special-purpose seals, such as fibre-optic and sophisticated electronic seals.

2.2.1.7 Information in the application form and the guidelines

The application form has been updated as to reflect the findings of the pre-audit that it would be more effective to have more information from the guidelines in the application itself.

The applicant can attach annexes to the application and one example could be to attach existing security certificates and also proof of financial solvency (f.ex. documentation from its bank).

2.2.1.8 Existing authorisations (EC customs)

Existing authorisations of the operator should be taken into account, to the extent that the criteria are identical or comparable to those established in the Customs Code and the implementing provisions.

2.2.1.9 Existing certifications (other than EC customs, like ISO, ISPS, FoS, C-TPAT)

Existing certifications that the operator already complies with should be taken into account, to the extent that the criteria are identical or comparable to those established in the Customs Code and the implementing provisions.

2.2.1.10 Existing security measures the operators have

Existing security measures the operators have should be taken into account during the pre-audit.

2.2.1.11 Working hours in auditing the criteria and conditions

The customs authorities have spent as much as 200 – 300 working hours in auditing the economic operators and determining if the criteria have been met. One has spent 600 working hours. On the other hand in one case the audit was conducted during a few days. But in that case the customs authority only visited one site and agrees that quite a long time is needed (referring to a prior audit on granting local clearance which took three months). In another case the time was estimated at 40 hours. Due to the fact that the number of customs officers involved in the pre-audits is different it is hard to estimate the exact total working hours.

The numbers of working hours spent on the audit will probably be less once the customs authorities have gained experience with auditing applicants. In the pilot action time has been spent on determining the next step in the process, waiting for the next plenary meeting and then including risk management in a further meeting with the economic operators. The working hours need to be evaluated during the first two years in order to introduce a best practise in this area.

In many cases the customs authorities have a lot of information already accessible on the economic operators who will apply for the AEO Certificate. The information consists of information gathered when the economic operators have applied for customs authorisations, information from customs audits and information contained in the customs computerised systems on the daily use of customs procedures by the economic operator. Customs authorities should use this information as much as possible in the authorisation process in order to re-use information already held within the customs authorities. This will ensure that the authorisation process can be conducted in an efficient manner.

In order to minimise the working hours in the audit of the criteria and conditions, the pilot group has proposed to include more information in the AEO application form which earlier was found in the guidelines. This will ensure that the customs authorities have already a lot of

information on the economic operator when the application is received and will therefore be in a better position to prepare the audit. The economic operators should consider preparing as well as possible prior to the audit. The pilot group found that the communication within the economic operators divisions which are relevant in the auditing should be co-ordinated in order to allow for an efficient audit process.

2.2.1.12 Legal entities

Should it be possible to grant the AEO certificate to only certain premises of a legal entity? The answer is that the certificate has to be valid for the whole entity. Although some of the participating authorities had the view that if it is possible to identify the premises of the legal entity then the criteria regarding compliance and financial solvency could be checked against the whole legal entity and the criteria regarding appropriate records and security standards could be checked against the relevant part of the legal entity. However, discussions in the Customs Code Committee showed that the majority of Member States raised serious concerns for such a possibility (for example, difficulties in the management of the guarantee system; considerable investments would be needed for system upgrade etc.) It would also not be possible to issue a certificate for a part of the flow of goods (for example, trade with one particular type of goods with a specific third country), as the particular business lines are usually not separated within the companies themselves.

2.2.1.13 Parent/holding companies

Regarding the groups of companies the definition only applies when they are meeting very special criteria laid down in company law. Subsidiaries are different legal entities than the parent/holding company, and branches have the same legal entity as the legal entity they belong to, they might just be situated in another place. It is the operator who intends to use the certificate that needs to be certified. If a holding or parent company applies but does not carry out any customs related activities themselves this would then not be acceptable. The draft implementing provisions, article 14d lay down that the application has to be sent in to "... where the applicants main accounts related to the customs arrangements involved are held". It should be mentioned that a multinational company can reuse the result of the pre-audit. They are free to share the result with their related companies. The previous pre-audit, where applicable, will then be taken into account when the pre-audit of the related company is carried out.

The pilot found that this would not fit all needs as particular multinationals have different structures. There could be a need for flexibility which allows authorising economic operators in a way that is suitable for the unique situation, but without allowing them the possibility of applying to the MS which they prefer (shopping for a certificate). (See also point 2.1.1.1 "Where to apply").

2.2.1.14 Branches

A branch is part of the legal entity that applied to become an AEO. For the moment there is no possibility to identify a part of a legal entity on a European wide basis. Some MS's can however identify part of a legal entity. The CUSTOMS 2007 project group "EORI" (Economic Operators and Registration and Identification system) might propose that part of legal entities could be registered and therefore in the future it could be possible for a part of a legal entity to apply to become an AEO.

2.2.1.15 Premises

In the pilot it was found that some of the economic operators have premises in many different places. It would be a very time-consuming process to examine whether the conditions are met in all premises. The following solution has therefore been proposed: If, in case of a large number of premises, the period for issuing the certificate would not allow the examination of all relevant premises, and the customs authority has no doubts that the applicant maintains corporate security standards which are commonly used in all its premises, it can decide to examine only a representative proportion of those premises.

2.2.1.16 Multinationals

When a multinational company has been granted the AEO certificate the results of the findings can be re-used if a comparable legal entity is applying in the same MS or in another MS. During the pilot action the results of the authorisation process of DHL (SE) was used when DHL (UK) was assessed. The pre-audit took about 410 working hours split into 100 hours for SE Customs, 200 hours for UK Customs and about 110 hours for DHL UK.

There is a need for flexibility which allows authorising multinational economic operators in a way which is suitable for the unique situation but without allowing them for the possibility to apply in a MS which they prefer (shopping for a certificate). (See also point 2.1.1.1 "Where to apply").

2.2.1.17 Small and medium sized enterprises (SME)

The SME's situation should be taken into account in the pre-audit. The special situation of a SME will be kept in mind in the pre-audit. There is no threshold like for example how many customs declarations are needed in order to apply to become an AEO but the process takes time so all operators are recommended to perform a cost-benefit analysis before applying. On the other hand, the AEO will be considered as a quality criterion, which means that it might be beneficial even for a very small company with only few export/import activities to have AEO status.

2.3 Information and Communication

2.3.1 Information and communication; medium and long term - AEO electronic information and communication system, short term - CIRCA

A CUSTOMS2007 project group is working on a database which should contain information on all economic operators who have contact with customs authorities. The EORI (Economic Operator Registration and Identification System) is working on the registration and identification of economic operators. This information will be common for all economic operators. Specific information required for other customs purposes than for identification and registration purposes will need to be stored elsewhere. The group has defined this information as business layers to the EORI system. Therefore it is essential to identify the needs for the information and communication process for AEO's and to build an AEO electronic information and communication system for the purpose. The system should use the basic identification information which will be proposed by the EORI project group. Depending on the timeframe when the basic identification information will be available from the EORI proposal, it might be necessary during an intermediate period to store basic identification information in the AEO system. In future, the identification of an AEO through the AEO Certificate number might be replaced through an identification key that EORI might propose.

Economic operators will have limited access to the AEO system which is planned to be introduced in 2009. Economic operators will have the possibility to consult the AEO system to see if another economic operator is AEO or not.

Economic operators will not have access to CIRCA but the information on who is an AEO will be published so that economic operators can consult whether another economic operator is an AEO or not. An Excel sheet with minimum information (certificate number, name and address of the AEO) on AEO's will be published on CIRCA. MS's can download the Excel sheet for integration in their systems and for granting access to economic operators.

MS's should have a back-up for the information sent to CIRCA. Information in CIRCA can be re-created but the previous days uploaded information might be lost. The system is normally available but a back-up system is needed in case it is down for various reasons. A concept for the migration of data collected in CIRCA to the electronic AEO system has to be developed.

It is important to replace the use of CIRCA as soon as possible with the electronic AEO system as it will be difficult to handle a large number of AEO applications and certificates in CIRCA.

2.3.1.1 AEO electronic information and communication system

The AEO electronic information and communication system is needed for the following reasons:

- Customs authorities shall inform each other on AEO applications (requirement in article 14l (1) of the implementing provisions of the Regulation (EC) 648/2005).
- Customs authorities shall have the possibility to respond to the AEO application uploaded by another MS (requirement in article 14l (2) of the implementing provisions of the Regulation (EC) 648/2005).
- Competent Customs authority shall consult with other MS's if one or several criteria need to be checked in another MS (requirement in article 14m (1) of the implementing provisions of the Regulation (EC) 648/2005).
- The consulted MS shall communicate the results of checking the criteria to the issuing MS (requirement in article 14m (2) of the implementing provisions of the Regulation (EC) 648/2005).
- Customs authorities shall reject the application if the criteria are not found to be met. All MS's need to be advised about all the operators who have applied to become AEO but have had their application rejected. This will make it impossible for an operator to try to apply in another MS.
- Customs authorities shall issue the AEO certificate if the criteria are found met.
- Customs authorities shall inform each other about revoked/suspended AEO Certificates.

All MS's needs to be advised of all the operators which have become AEO's. They should be able to consult the AEO system in order to take appropriate decisions regarding benefits connected to the status (such as lower risk score and therefore generally fewer physical inspections).

The AEO information and communication system should be connected to the database on economic operators' registration and identification system which the EORI CUSTOMS2007 project group is working on. They will define the information that the EORI database should contain. EORI will give their recommendation in October 2006 and the information in annex I

of the draft implementing provisions required for AEO purposes should not be contained in the AEO information and communication system if the information has already been identified by the EORI project group. The information should then instead be stored in the EORI database. If the information is not found in the EORI database the information needs to be registered and stored in the AEO information and communication system. The features of the AEO system can be found in the AEO User Requirements, working document TAXUD 2006/1453. The role of the Commission can be found under area 2.2.4 and the role of MS's under 2.2.5 of that document.

2.3.1.2 Short term solution CIRCA

The communication needs starts when an economic operator applies to become an AEO. In article 14l of the draft implementing provisions of the Regulation 648/2005 there is a mandatory requirement that the application shall be communicated to all customs authorities in the community within 5 working days after the application was received. The competent customs authority uploads the application on CIRCA² in the application folder for the MS. When the application is uploaded on CIRCA the competent customs authority also ticks in the box "Start a newsgroup discussion on the document". Doing this allows all users to comment on the application. They also enter in the relevant box in the newsgroups the text "Please give comments, if any, on the application. Your comments will be taken into consideration in the pre-audit of the applicant".

The elements that are needed for information by the other MS's have been defined. The elements are captured in the AEO application form which is found as annex I of the draft implementing provisions. The customs authorities in the other MS's have the possibility to send their comments to the competent customs authority if they find that the economic operator has committed anything that should prevent them to become an AEO. They simply enter the box next to the application and write their comments. The comment will then automatically be sent to the person that uploaded the application. The information and communication process is visualised in annex 2 and the details are explained in annex 4 of the working document TAXUD 2006/1454.

When the application from an economic operator has been accepted by the competent customs authority they can start to check if the economic operator meets the criteria in order to become an AEO. The customs authority starts the pre-audit.

If the competent customs authority can not decide whether the economic operator meets the criteria as one or several criteria can only be checked in another MS, the competent customs authority has to contact the customs authority where the criteria can be checked. This is laid down in the implementing provisions to the Regulation EC 648/2005 article 14m. In this case there is a mandatory consultation process and the criteria need to be checked in the other MS. The competent and thus uploading customs authority should contact the relevant MS contact point and advise it of the application and point out which criteria has to be checked. The relevant customs authority responds to the uploading customs authority after checking the criteria through accessing the box next to the application and communicates the result of the examination. The result will be sent automatically to the official who uploaded the

² CIRCA is an extranet tool, developed under the **European Commission IDA programme**, and tuned towards Public Administrations needs. It enables a given community (e.g. committee, working group, project group etc.) geographically spread across Europe (and beyond) to maintain a private space on the Internet where they can share information, documents, participate in discussion fora and use other groupware functionalities. CIRCA is found on this website: <http://forum.europa.eu.int/Public/irc/taxud/Home/main>

application. If the result is positive, the authorisation process is continued; if there is a negative result, the authorisation process is stopped and the applicant has to be informed of the negative result.

When the pre-audit is finalised, the customs authority will have determined whether or not the economic operator met the criteria. This result should be communicated to all customs authorities. The information that needs to be communicated if the result is positive is laid down in annex II of the draft implementing provisions.

One member of the group underlined that it must be ensured that data put on CIRCA is covered by data protection rules.

3 Identification of an AEO

As mentioned in 2.3.1, the identification of an AEO will depend on the introduction of the proposal from the EORI project group. EORI propose to introduce an identification key as the one and only identification for all economic operators. Before this identification key is introduced there is a need to find an intermediate solution for the identification of an AEO. This solution is described below; if introduced as described above, it might be that the identification key will be used.

3.1 Recognition of the AEO certificate

An AEO Certificate will be recognised in all Member States. Consequently, the number of the certificate will enable identifying an AEO consignment at the moment customs authorities need this information. This might be when summary declarations are lodged, together with risk management, in order to determine if the shipment should be targeted for physical controls. The AEO should get a lower risk score and if the shipment is targeted for control, it should be conducted as a priority and if possible conducted in the most optimal logistic position for all involved.

3.1.1 The reasons to use the AEO certificate number:

1. To identify the consignments of an AEO once they have arrived at the customs office, in order to attribute a lower risk score to it, relevant to the type of the Certificate – even if the consignment arrives in one MS, and the AEO certificate has been issued in another MS.
2. To identify the other participants in that supply chain (i.e. consignee or carrier) related to that particular consignment: whether there are more AEOs in that supply chain, i.e. a consignment will be arriving at the office of entry, the declarant and the carrier have AEO status for Security and Safety, and the summary declaration contains data element in the name of the consignee.
3. To verify whether the person is an AEO and to verify the type of the AEO Certificate, allowing a quick assessment of:
 - which MS has issued the Certificate;
 - which type of benefits are attributed to that Certificate.

This situation occurs, for example, when a MS customs authority receives an application for a particular customs simplification from an economic operator.

3.1.2 The structure of the Certificate number

The structure of the AEO Certificate number should correspond to the objectives described above.

The former AEO project group, when analysing this issue, proposed that the certificate number should always begin with the ISO alpha-2 country code. This proposal was already included in the Annex of previous versions of the draft implementing provisions.

In order to achieve the objective for quick and comprehensive information, the following structure is proposed:

- ISO alpha-2 country code
- followed by the word: "AEO"
- followed by a letter indicating the type of the Certificate (C=customs simplifications; S=security and safety; F=full)
- followed by any other number for national purposes (i.e. a short authorisation number given by the issuing customs office)

4 Benefits

4.1 Findings and solutions

4.1.1 Authorisations

When an economic operator is applying for the AEO Certificate the assessment of criteria already examined for other customs authorisations should be taken into account. This will reduce the time needed for the pre-audit. However, the criteria already fulfilled may have to be checked to ascertain that they are still valid.

Some delegates found that an AEO could get even more benefits as he is a reliable and compliant economic operator. Customs authorities could consider f.ex. to reduce time limits for customs decisions or authorisations.

4.1.2 Certifications

The draft implementing provisions already stipulate that existing international standards shall be taken into account. It has been proposed to amend the guidelines with a column for existing standards. In the pre-audit a reference can be made to the relevant area in the standard. This would mean that the pre-audit will take less time and it will be easier for the already compliant economic operator to meet the criteria. The most relevant standards which have been identified are various ISO standards (for example 9001, 14001, 20858, 28000, 28001, 28004), ISPS, Regulated Agent (air), Secure Operator (EC intermodal transport) and C-TPAT and other comparable concepts. The standards should not be blindly taken into account but also checked by customs authorities.

4.1.3 Faster border crossing

An AEO should have a lower risk score (relevant to the type of Certificate) and if controls are to be conducted on shipments where an AEO is involved, the control should be conducted as a priority. This means that the AEO will have faster border crossings than a non-AEO. The AEO Certificate number should be made available to all customs offices in the Community so an AEO can easily be recognized and allow a faster border crossing. Both are provided for in the draft implementing provisions.

4.1.4 Lower risk score

The AEO should get a lower risk score (relevant to the type of Certificate) in all MS's as the status is recognised in all MS's. The lower risk score should be incorporated into risk management systems and the customs declaration systems in order to allow AEO's to benefit from fewer physical and documentary controls as regards their daily operations. This is provided for in the draft implementing provisions.

Risk management is already included in the audit due to the fact that the guidelines indicate risk indicators, description of risks and points for attention. The answers given by the operators should be considered by the customs authorities who need to determine if the risk is covered or not. The guidelines have also been updated with areas on customs procedures in order to cover the risks which are connected with the economic operator's daily use of the procedures. The Risk model from the COMPACT has been updated (annex 2) and can be used to determine if the risks are covered or not. In general the Risk model contains the following working method: All risk indicators in the guidelines are linked to a risk description and points for attention. The risk descriptions give a clarification whether an indicator may be of importance. The points for attention can be used to detect if risks are actually relevant for a specific individual operator and to investigate what measures that operator has taken to deal with these risks. Inventory of potential risks does not have to be repeated each time. It can be done once and then used in all subsequent cases. The risk mapping process, as described in COMPACT, consists of five basic steps: Step 1; Understanding the business (of an operator), Step 2; Clarify the Customs' objectives, Step 3; Identify risks: which risk might influence the Customs' objectives, Step 4; Assess risks; which risk is most significant, Step 5; Respond to risks; what to do about the risks.

The AEO can get a lower risk score (relevant to the type of Certificate) and when customs declarations are made this should be taken into account. Customs authorities could also take into account if the AEO itself safeguards the security of the supply chain under its own responsibility or uses business partners as described under area 2.2.1.3 – 4. The more secure the supply chain is, the lower the risk will be, which needs to be reflected in the risk scores attributed by all customs authorities. There is a need for uniform treatment of AEO's in the EC.

It could be possible for an AEO to only choose to use the status for certain customs declarations as covered by the security criteria. This question is linked with verifying the business partners. It would certainly be a sign of good co-operation from the AEO if he indicated that he could not fully guarantee the security of a certain declaration as he had had less possibility to rely on a specific business partner. Customs authorities could take that into account and make more controls in respect of that specific consignment/declaration.

The identification of AEO's is essential. Without identification a MS will not know if the shipments are connected to an AEO or not and there will be no possibility to take into account the low risk score that the AEO has been awarded. It is therefore of great importance that the AEO information and communication system is introduced soon to store and share information on AEO's. Transitional solutions such as the RIF and CIRCA are under development. See working documents "Information and communication needs" TAXUD 2006/1454 and "AEO User Requirements TAXUD 2006/1453 for further information.

Details of risks should not be shared with the operators but general information like the guidelines and the AEO COMPACT model could be shared in order to take into account that

the economic operator himself needs to have the possibility to make risk assessment, to identify risks and to introduce related security measures.

4.1.5 Service centre or client co-ordinator

In order to introduce good co-operation between customs authorities and the AEO, the AEO can have access to a service centre to which the AEO can address its questions. The service centre is a centre that is set up by the customs authority that has issued the AEO Certificate and is a contact centre between the customs authorities and the AEO. The AEO can call the service centre and ask for assistance in various matters. The service centre will not be able to provide answers on all questions but could act as the initial point of contact to the customs authorities and guide the AEO on how best to proceed and who to contact. The service centre could also undertake follow up action on the AEO after they have been authorised in order to ensure that the AEO is following the criteria and conditions. The service centre could also be involved in monitoring the daily use of the customs procedure by the AEO, preferably through analysing the goods flow in order to detect areas which need clarification from the AEO. The service centre could also give internal support to custom authorities' colleagues in AEO matters and assist when audits are to be conducted on the AEO.

Some MS's have already introduced service centres and in some cases "client co-ordinators" have been introduced. A client co-ordinator is a person in the customs authorities that has issued the AEO Certificate and has the same tasks as described in the service centre above.

4.1.6 Recognised as a safe and secure partner

The AEO who also meets the criteria regarding safety and security is considered to be a safe and secure partner in the supply chain. This means that the AEO does everything in his power to reduce threats in the supply chain. Being a safe and secure partner in the supply chain allows the economic operator to have facilitations for security measures, e.g. a lower risk score. It also identifies the economic operator as a safe and secure partner in the supply chain which will enhance his reputation and enhance his supply chain security. The AEO could therefore be chosen as a business partner, instead of a non-AEO, when another economic operator is looking for new business partners.

4.1.7 Mutual recognition

Mutual recognition, not only on AEO's but also on control standards and controls are essential. The WCO is updating the details of the SAFE Framework of Standards and is including EC criteria on compliance, records and financial solvency in the SAFE framework/part on AEO's. The fact that a high number of WCO members have committed to implement the SAFE framework, the implementation of comparable measures on a global scale and also mutual recognition will be achieved in some areas of the world.

Within the framework of EU-US expanded co-operation a comparison of the US Trade Partnership (C-TPAT) and the EU AEO was completed. The EU-US Joint Customs Co-operation Committee acknowledged in its seventh meeting that the AEO conditions, methodology and criteria as established in the EUs draft legislation will enhance supply chain security. In particular the security requirements of both trade partnership programs should achieve the same results. A final decision on recognition of the AEO by the US will depend on its further implementation.

Trade participating in the pilot action found that the mutual recognition of AEOs among the 25 Member States constituted also an important benefit. The mutual recognition would need

to lead to a uniform treatment of AEO's in all 25 Member States, in particular also as regards lower risk score and thus fewer controls.

4.1.8 Recognition of other security standards

Recognition of other security standards by the operator are also important, such as; ISO 9001, 28001, ISPS or Regulated Agents. The standards have slightly different objectives and this is the reason why they are complementary and they cannot replace each other. The draft implementing provisions, article 14k(4), stipulate therefore that if the applicant, established in the Community, is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European Standards Organisations, the criteria are deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those provided for in regulation (EC) 648/2005.

4.1.9 Enhanced security

A secure AEO will do what he can to enhance the security in the supply chain and will demand that his business partners take an active part in safeguarding the security of the supply chain. By meeting the security criteria the economic operator has successfully passed the authorisation process where the security standards in place at the economic operator have been subject to detailed checks to see if the economic operator met the criteria in the following areas; self assessment, entry and access to premises, physical security, cargo units, non-fiscal requirements, transportation-, incoming- storage-, production-, loading of goods, security requirements on business partners, personnel security and external services.

4.1.10 Priority treatment of consignments if selected for controls

The AEO's should have a lower risk score (relevant to the type of Certificate) which will allow fewer physical and paper-based controls. However, if there are indications that there is a security threat, then the consignments need to be controlled. The control should be given priority. This means that the consignment should be the first to be controlled if others are also selected from non-AEO's. This is already provided for in the draft implementing provisions. If the declaration is lodged by a business partner who is no AEO, customs can not guarantee to give a lower risk score as the supply chain might not be sufficiently secured. There is a need to continue discussions on how to treat supply chains consisting of one, two or more AEO's.

4.1.11 Possibility to perform the examination at a place which is more accommodated to the AEO's business

The control can be diverted to another place where it is deemed best to be conducted, taking into account the nature of the control but also, if possible, where it can be conducted to cause the shortest delay for the AEO. If possible, the AEO can be contacted and the AEO and customs can agree on where the control can be conducted. However customs will always decide if the AEO can be contacted and if the control can be conducted in another place.

4.1.12 Facilitations on security measures are valid all over the Community. Simplifications provided for under the Customs rules only in the issuing MS.

The AEO who has met the security criteria should have facilitations from security measures as mentioned earlier in the report. The facilitations are valid all over the Community as laid down by article 5a in the regulation (EC) 648/2005 and the AEO Certificate number (or in future the identification key) is the way to determine if it is an AEO or not. The AEO Certification number should be shown on the summary declarations. An AEO information and communication system is also planned and until it is set-up a list of all AEO's will be published. Access to this list should be available to everyone.

The AEO still has to apply for simplifications provided for under customs rules in the MS where he wants to use them. All existing simplifications will still be available for all economic operators outside the AEO status. This might change when the Modernised Customs Code enters into force.

4.1.13 Reduced data set for summary declarations

AEO's could have the possibility to submit a summary declaration with reduced data elements. The draft implementing provisions contain proposals for reduced data sets for AEO's. The reduced data will be discussed in the competent customs committee. The report does not contain any proposal on a list of reduced data, but the data required should be as few as possible without reducing the possibility to conduct a proper risk management on shipments. In the future the reduced data should be further investigated and if appropriate reduced even more.

One economic operator participating in the pilot action stressed that what is cumbersome is not to collect the data (as the data has to be provided sooner or later) but it is a question of timing and also who has access to the data, when the data can be accessed and who will submit the data.

4.1.14 Reduced time limits

The pilot concluded that once the systems for risk management and pre-arrival and pre-departure declarations would be operational, the possibility of reducing time limits for AEO's could be examined. At this stage, such additional benefit would be premature.

4.1.15 Collateral benefits

Trade participating in the pilot action stressed that the need to coordinate with many different units within the company (HR, Distribution Centre etc) would generally lead to a better understanding of internal procedures and thus, in the long run, to more streamlined internal processes. The fact that a self-assessment was necessary was generally seen as positive by trade participating in the pilot action.

The following collateral benefits are laid down in IBM special report series "Investing in Supply Chain Security: Collateral Benefits", second edition December 2005. Any applicant who meets the criteria and becomes an AEO would also have the possibility to enjoy the benefits.

The major advantage of collateral benefits for anyone who invests in enhancing the supply chain security is the facilitation of trade. The collateral benefits give positive effects in the

following areas; Visibility and Tracking, Personnel Security, Standards Development, Supplier Selection and Investment, Transportation and Conveyance Security, Building organizational Infrastructure Awareness and Capabilities, Collaboration Among Supply Chain Parties, Proactive Technology Investments and Voluntary Security Compliance.

Some of the benefits laid down in the reports are:

- Lower theft and losses
- Fewer delayed shipments
- Better planning
- Customer loyalty
- Employee commitment
- Fewer safety incidents
- Lower inspection costs of suppliers and increased co-operation
- Crime and vandalism prevented
- Problems prevention through recognition of employees
- Improved security and communication between supply chain partners

4.1.16 Release prior to physical arrival/departure

A number of economic operators participating in the pilot action found that a notification of controls of the goods prior to their physical arrival in/departure from the EC territory would be a major benefit. A number of economic operators would also see a release of the goods prior to arrival as a major benefit.

The participating customs authorities did express their concern as regards this wish that was, at least for the time being, not considered as realistic. Customs stressed that the draft implementing provisions would provide for a notification from customs to trade if customs decided that the goods would not be controlled by customs. This was also a major benefit for trade even if it did not go as far as trade would like. Release of goods prior to physical arrival/departure would only be possible if the goods are declared for a customs procedure and a customs declaration is accepted. In a local clearance procedure this is done through entering of the information related to the goods in the records of the operator (importer or exporter). This would not be possible if the summary declaration is not at the same time a customs declaration.

4.1.17 Electronic transmission of data

Trade participating in the pilot action found that the transmission of data only by electronic means would be a major benefit. This is provided for in the draft implementing provisions.

4.1.18 Further benefits

A number of economic operators participating in the pilot action found that they want further benefits connected with the AEO status.

5 Conclusions

The AEO concept means new working methods for customs authorities. Its introduction has to be carefully monitored, evaluated and updated with best practises. There is a need to appoint various tasks to both the customs authorities and to the Commission. Training needs and exchange of customs officers should be considered as important tools to ensure that the AEO concept is introduced in the same manner across the Community and to further develop the concept.

The recommendations will be taken forward (and have been taken forward during the pilot) not only by the CUSTOMS2007 committee and the e-Customs group, but also by the Customs Code Committee in order to recommend improved legislation in this area and provide advice as regards implementation of the AEO.

Multinational economic operators should be given the possibility to apply for AEO Certificate in the same MS where they will use customs authorisations. It is essential to keep a flexible approach without giving the opportunity for multinationals to shop around in MS for AEO Certificates.

Small and medium sized enterprises (SME) should also have the possibility to apply for the AEO Certificates. In the assessment of the criteria the unique situation of each economic operator will be taken into consideration. An assessment of a SME can in many cases be quicker than for a multinational economic operator as the information needed, places to visit and processes to follow will in general be easier to access and to audit.

There is a need to establish a clear definition of safety and security. This is essential in order to let the customs authorities in the MS's conduct the proper risk management and controls on the external border. Without a clear definition of safety and security there is a risk that customs authorities in the MS's will interpret the meaning of safety and security as laid down in regulation (EC) 648/2005 differently.

The AEO COMPACT model and the Guidelines give the customs authorities guidance on how to assess the applicants. In the pilot it was established that all participating MS's work with similar processes as laid down in these documents. In order to use existing established working methods in MS's the processes currently in use in MS's can be maintained and the AEO COMPACT model and the Guidelines should be seen as a support and guidance to MS's.

5.1 Customs Committee, Helpdesk and need for experience

The new security measures including the AEO concept lead to new working methods and new responsibilities for customs authorities. It also means that there is a lack of experience on how to check whether the criteria are met and on the details in the process. There is a great need to exchange experience among customs authorities and to build best practices as regards security measures including AEO. One way forward could therefore be to set up a committee to discuss all relevant issues on security measures and AEO. This could ensure a harmonised approach at EC level. Economic operators ask for a harmonised and uniform approach.

5.1.1 Customs committee (recommendation 1)

Recommendation: Create a subsection of the Customs Code Committee which should take forward and deal with all AEO related questions and all issues relating to the implementation of the AEO concept in the EC. It will have the responsibility to decide when necessary on AEO matters and related questions. Other committees would be consulted where necessary, for example on risk management issues.

Trade welcomed this recommendation as it would contribute to ensuring a uniform implementation of the concept in all Member States and to developing best practices among the 25.

5.1.2 Helpdesk (recommendation 2)

Recommendation: Install a helpdesk at TAXUD that customs authorities' officials could contact in order to obtain clarification on AEO related questions. The helpdesk could also be responsible, together with national AEO contact point, to update the guidelines and to make related materials such as information and manuals and to include AEO related questions on the relevant customs committees agenda.

5.1.3 Revise time limits for authorisation process (recommendation 3)

Recommendation: Allow for the possibility to use 300 calendar days during the transitional period and to revise the 90 +30 days time limit for authorisations after the transitional period, as customs and operators will have gained experience and will be in a better position to assess the length of time required to authorise an economic operator.

5.1.4 Revise details of the re-assessments (recommendation 4)

a. Recommendation: Allow for the possibility to revise the details of the re-assessments for authorisations after the transitional period, as customs and operators will have gained experience and will be in a better position to assess the length of time required to re-assess an economic operator.

b. The re-assessments should not mean that the Customs authorities have to check all the criteria again. The Customs authorities have instead to ascertain that the criteria and conditions for the AEO certificate continue to be met by the AEO. The Customs authorities should have a thorough control on the AEO's as they have established control plans on each AEO and it will therefore be easier to establish if the criteria and the conditions still are fulfilled.

5.1.5 Partnership approach (recommendation 5)

The authorisation should be granted in a partnership approach between the economic operator and the customs authority.

5.2 Guidelines

The AEO needs to meet the criteria as laid down in Reg. (EC) 648/2005 and its draft implementing provisions. A set of points for attention, the guidelines, has been produced in order to ensure that the criteria are interpreted in the same way across the Community. MS's have in the pilot action used the guidelines, consulted with their experts and sent in many comments on how to improve the guidelines.

5.2.1 Use the AEO COMPACT model and the Guidelines (recommendation 6)

Recommendation: Use the AEO COMPACT model and the Guidelines in the audit of the economic operator in order to determine if the criteria are met and for risk management. The use of the AEO COMPACT model should be seen as a support and guidance to the Customs authorities and they may therefore use similar working methods.

5.2.2 Adapt the guidelines (recommendation 7)

Recommendation: In order to adapt the guidelines further a small group of experts who took part in the pilot action should be appointed.

5.3 Service centre

The AEO could have access to a contact point in a service centre within the customs authorities.

5.3.1 Appoint a service centre or a client coordinator (recommendation 8)

Recommendation: The customs authorities should set up a service centre or appoint a client co-ordinator as described in 4.1.5.

5.3.2 Companies to have systematically organised structures in place that allow for efficient audit and authorisation process (recommendation 9)

Recommendation: Companies should have systematically organised structures in place that make the audit and authorisation process efficient. Management should recognise that the audit and authorisation process will in future be a normal process that will be part of the day-to-day work of employees tasked with it.

5.4 Lower risk score

The holder of an AEO Certificate is subjected to less physical and documentary based controls than other economic operators. The customs authorities may decide otherwise in order to take into account a potential risk. From the above it follows that the AEO shall benefit from a lower risk score.

5.4.1 Implementation of Risk management on AEO's (recommendation 10)

Recommendation: The AEO Certificate should be taken into account for Community Risk Management and the customs authorities should implement measures in their national risk management systems allowing the AEO to get a lower risk score. MS should treat AEO's that are secure in a uniform manner. This issue should be further examined in the appropriate forum. There is a need to further harmonise the risk management in MS as it has to be ensured that AEO's receive equivalent treatment in all Member States.

5.4.2 End to end supply chain (recommendation 11)

Recommendation: The more AEO's are involved in a supply chain, the more secure the supply chain will be. Customs should take the level of security also in account.

5.4.3 Level of risks (recommendation 12)

Recommendation: Depending on if the AEO is in control of the whole supply chain or only of a part of the supply chain there might be different levels of risks involved. Another risk indicator might be if the economic operator has been established less than three years. The issues should be further examined in the appropriate forum. There is a need to further harmonise MS' practice.

5.5 Information and consultation

All customs authorities should be informed on the AEO application and they should be informed on the AEO Certificates. Consultation is also required, when applicable. Economic operators should have limited access to information on AEO's but need at least to know the AEO Certificate number, the holder of the Certificate and the address of the holder.

5.5.1 AEO electronic information and communication system and CIRCA (recommendation 13)

Recommendation: Use the AEO electronic information and communication system as the medium and long term solution and use CIRCA as a short term solution. Agree on the process as described in working documents TAXUD 2006/1453 and 1454, "AEO User Requirements" and "The use of CIRCA". It is important that CIRCA is replaced as soon as possible with the AEO electronic information and communication system.

5.5.2 Appoint a contact point for AEO matters (recommendation 14)

Recommendation: All customs authorities should appoint at least one contact point for AEO related matters within their authority.

5.5.3 Publish names of AEO's (recommendation 15)

Recommendation: Basic information on AEO's should be published on Internet and made available for economic operators. Economic operators should have limited access to information on AEO's but need at least to know the AEO Certificate number, the holder of the Certificate and the address of the holder. The AEO's have to give permission before publication. The pilot group suggests using the VAT-number for AEO identification purposes.

5.6 Granted customs authorisations and other governmental authorities authorisations

Existing customs and other governmental authorisations could be taken into account in the pre-audit when the customs authorities determine if the criteria are met.

5.6.1 Take into account Customs and other governmental authorities authorisations (recommendation 16)

Recommendation: When an AEO application is received all customs and other governmental authorities authorisations already granted could be taken into account. In the guidelines, indication should be made of the certificates that should be taken into consideration by customs. The elaboration of such list would be one of the tasks for the future group that will up-date the guidelines.

5.7 Security certificates

Existing security certifications should be taken into account in the pre-audit when the customs authorities determine if the criteria is met.

5.7.1 Take into account security certificates (recommendation 17)

Recommendation: When an AEO application is received all security certificates already issued should be taken into account. Relevant security certificates should be referred to in the relevant chapter of the AEO guidelines and a list of relevant security certificates should be established.

5.7.2 Co-operate with other authorities (recommendation 18)

Recommendation: Customs authorities could conduct the pre-audit when necessary with other authorities and could as far as possible work together with other authorities who have similar concepts.

5.7.3 Co-operate with Commission services (recommendation 19)

Recommendation: Commission should closely work together with other DGs in order to align similar security concepts and to make other security concept information available for customs authorities.

5.8 Security declarations and contractual arrangements

In order to have an end-to-end supply chain security in the AEO concept the AEO could require security declarations from their business partners or to enter into contractual arrangements with their business partners where the business partners ensure that they safeguard the security in the supply chain within their responsibility.

5.8.1 Use security declarations (recommendation 20)

Recommendation: The AEO could require security declarations from their business partners and to follow the process as stipulated in ISO PAS 28001.

5.8.2 Enter into contractual arrangements (recommendation 21)

Recommendation: The AEO could enter into contractual arrangements with their business partners where the business partners ensure that they safeguard the security in the supply chain within their responsibility.

5.9 Mutual recognition

Mutual recognition of similar concepts is essential.

5.9.1 Achieve mutual recognition (recommendation 22)

Recommendation: All parties should work for mutual recognition of similar concepts.

5.10 Multinational economic operators

The result of the authorisation process on a legal entity can be re-used when another legal entity in the same or another MS applies for the AEO certificate.

5.10.1 Re-use the result of the authorisation process (recommendation 23)

Recommendation: MS's and economic operators should strive towards reusing the results of the authorisation process especially for multinational economic operators.

5.11 Exchange of staff and Training needs

The introduction of the AEO concept means new working methods for customs authorities. It is essential, in order to introduce and develop the concept in the same manner, to exchange staff and to address training needs. Once the concept is introduced best practises should be developed and used.

5.11.1 Exchange of staff (recommendation 24)

Recommendation: Use CUSTOMS2007/2013 or other suitable possibilities for exchange of staff between MS in order to learn from each other on how to work on AEO related questions.

5.11.2 Training needs (recommendation 25)

Recommendation: Use CUSTOMS2007/2013 for training on how to deal with AEO related questions.

5.12 Definition of safety and security

5.12.1 Need for a definition of safety and security (recommendation 26)

Recommendation: Establish a clear definition of safety and security.

5.13 Language issues

The AEO COMPACT model and the AEO Guidelines should be translated in all official languages of the EU. The AEO application form and the AEO Certificate form will also be translated to all official languages as they are annexes to the implementing provisions. The information in the AEO application form and the AEO Certificate form can therefore be entered in all official languages. It follows therefore that the AEO electronic information and consultation will contain information in all these languages. Formal consultation between MS's using similar techniques or modes of communication required for the enquiry procedure in the transit area should be carried out. However, further consultation between Member States and free text fields in the AEO electronic information and communication system should only be entered in English.

5.13.1 Translate the AEO COMPACT model and the AEO Guidelines (recommendation 27)

Recommendation: The AEO COMPACT model and the AEO Guidelines should be translated in all official languages of the EU.

5.13.2 Use English in the consultation between Member States and in free text fields in the AEO electronic information and communication system (recommendation 28)

Recommendation: Consultation between Member States and free text fields in the AEO electronic information and communication system should only be entered in English.

6 Annexes

1. Regulation (EC) 648/2005
2. Implementing provisions, working document TAXUD 1250/2005 REV 6
3. The AEO COMPACT model, working document TAXUD 2006/1452
4. Updated guidelines, working document TAXUD 2006/1450
5. The use of CIRCA, working document TAXUD 2006/1454
6. AEO User Requirements, working document TAXUD 2006/1453